Calendar No. 659

115TH CONGRESS, 2d Session | SENATE | REPORT 115–373

CLEAN WATER FOR RURAL COMMUNITIES ACT

NOVEMBER 15, 2018.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 685]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 685) to authorize the Dry-Redwater Regional Water Authority System and the Musselshell-Judith Rural Water System in the States of Montana and North Dakota, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title, and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clean Water for Rural Communities Act".

SEC. 2. PURPOSE.

The purpose of this Act is to ensure a safe and adequate municipal, rural, and industrial water supply for the citizens of—

(1) Dawson, Garfield, McCone, Prairie, Richland, Judith Basin, Wheatland, Golden Valley, Fergus, Yellowstone, and Musselshell Counties in the State of Montana; and

(2) McKenzie County, North Dakota.

SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term "Authority" means—

(A) the Central Montana Regional Water Authority, a publicly owned nonprofit water authority formed in accordance with Mont. Code Ann. Sec. 75–6-302 (2007); and

(B) any nonprofit successor entity to the Authority described in subparagraph (A).

(2) MUSSELSHELL-JUDITH RURAL WATER SYSTEM.—The term "Musselshell-Judith Rural Water System" means the Musselshell-Judith Rural Water System authorized under section 4(a), with a project service area that includes—

(A) Judith Basin, Wheatland, Golden Valley, and Musselshell Counties in the State;

(B) the portion of Yellowstone County in the State within 2 miles of State Highway 3 and within 4 miles of the county line between Golden Valley and Yellowstone Counties in the State, inclusive of the Town of Broadview, Montana; and

(C) the portion of Fergus County in the State within 2 miles of U.S. Highway 87 and within 4 miles of the county line between Fergus and Judith Basin Counties in the State, inclusive of the Town of Moore, Montana.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE.—The term "State" means the State of Montana.

SEC. 4. MUSSELSHELL-JUDITH RURAL WATER SYSTEM.

(a) AUTHORIZATION.—The Secretary may carry out the planning, design, and construction of the Musselshell-Judith Rural Water System in a manner that is substantially in accordance with the feasibility report entitled "Musselshell-Judith Rural Water System Feasibility Report" (including any and all revisions of the report).

(b) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with the Authority to provide Federal assistance for the planning, design, and construction of the Musselshell-Judith Rural Water System.

(c) COST-SHARING REQUIREMENT.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the costs relating to the planning, design, and construction of the Musselshell-Judith Rural Water System shall not exceed 65 percent of the total cost of the Musselshell-Judith Rural Water System.

(B) LIMITATION.—Amounts made available under subparagraph (A) shall not be returnable or reimbursable under the reclamation laws.

(2) USE OF FEDERAL FUNDS.—

(A) GENERAL USES.—Subject to subparagraph (B), the Musselshell-Judith Rural Water System may use Federal funds made available to carry out this section for—

(i) facilities relating to—

(I) water pumping;

(II) water treatment;

(III) water storage;

(IV) water supply wells;

(V) distribution pipelines; and

(VI) control systems;

(ii) transmission pipelines;

(iii) pumping stations;

(iv) appurtenant buildings, maintenance equipment, and access roads;

(v) any interconnection facility that connects a pipeline of the Musselshell-Judith Rural Water System to a pipeline of a public water system;

(vi) electrical power transmission and distribution facilities required for the operation and maintenance of the Musselshell-Judith Rural Water System;

(vii) any other facility or service required for the development of a rural water distribution system, as determined by the Secretary; and

(viii) any property or property right required for the construction or operation of a facility described in this subsection.

(B) LIMITATION.—Federal funds made available to carry out this section shall not be used for the operation, maintenance, or replacement of the Musselshell-Judith Rural Water System.

(C) TITLE.—Title to the Musselshell-Judith Rural Water System shall be held by the Authority.

SEC. 5. DRY-REDWATER FEASIBILITY STUDY.

(a) DEFINITIONS.—In this section:

(1) DRY-REDWATER REGIONAL WATER AUTHORITY.—The term "Dry-Redwater Regional Water Authority" means—

(A) the Dry-Redwater Regional Water Authority, a publicly owned nonprofit water authority formed in accordance with Mont. Code Ann. 75–6–302 (2007); and

(B) any nonprofit successor entity to the Authority described in subparagraph (A).

(2) DRY-REDWATER REGIONAL WATER AUTHORITY SYSTEM.—The term "Dry-Redwater Regional Water Authority System" means the project entitled the "Dry-Redwater Regional Water Authority System", with a project service area that includes—

(A) Garfield and McCone Counties in the State;

(B) the area west of the Yellowstone River in Dawson and Richland Counties in the State;

(C) T. 15 N. (including the area north of the Township) in Prairie County in the State; and

(D) the portion of McKenzie County, North Dakota, that includes all land that is located west of the Yellowstone River in the State of North Dakota.

(3) RECLAMATION FEASIBILITY STANDARDS.—The term "reclamation feasibility standards" means the eligibility criteria and feasibility study requirements described in section 106 of the Reclamation Rural Water Supply Act of 2006 (43 U.S.C. 2405) (as in effect on September 29, 2016).

(4) SUBMITTED FEASIBILITY STUDY.—The term "submitted feasibility study" means the feasibility study entitled "Dry-Redwater Regional Water System Feasibility Study" (including revisions of the study), which received funding from the Bureau of Reclamation on September 1, 2010.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Dry-Redwater Regional Water Authority, may undertake a study, including a review of the submitted feasibility study, to determine the feasibility of constructing the Dry-Redwater Regional Water System.

(2) REQUIREMENT.—The study under paragraph (1) shall comply with the reclamation feasibility standards.

(c) COOPERATIVE AGREEMENT.—If the Secretary determines that the study under subsection (b) does not comply with the reclamation feasibility standards, the Secretary may enter into a cooperative agreement with the Dry-Redwater Regional Water Authority to complete additional work to ensure that the study complies with the reclamation feasibility standards.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $5,000,000 to carry out this section.

(e) TERMINATION.—The authority provided by this section shall expire on the date that is 5 years after the date of enactment of this Act.

SEC. 6. WATER RIGHTS.

Nothing in this Act—

(1) preempts or affects any State water law; or

(2) affects any authority of a State, as in effect on the date of enactment of this Act, to manage water resources within that State.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There is authorized to be appropriated to carry out the planning, design, and construction of the Musselshell-Judith Rural Water System, substantially in accordance with the cost estimate set forth in the feasibility report described in section 4(a), $56,650,000.

(b) COST INDEXING.—The amount authorized to be appropriated under subsection (a) may be increased or decreased in accordance with ordinary fluctuations in development costs incurred after November 1, 2014, as indicated by any available engineering cost indices applicable to construction activities that are similar to the construction of the Musselshell-Judith Rural Water System.

2. Amend the title so as to read: "A bill to authorize the construction of the Musselshell-Judith Rural Water System and study of the Dry-Redwater Regional Water Authority System in the States of Montana and North Dakota, and for other purposes.".

PURPOSE

The purpose of S. 685 is to authorize the construction of the Musselshell-Judith Rural Water System and study of the Dry-Redwater Regional Water Authority System in the States of Montana and North Dakota.

BACKGROUND AND NEED

The Rural Water Supply Act (43 U.S.C. 2405) was enacted in 2006 to authorize the Secretary of the Interior (Secretary), acting through the Bureau of Reclamation (BOR or Bureau), to work with rural communities and tribes to assess potable water supply needs, identify options to address those needs through investigations and studies, and recommend if a project should be authorized for construction. Further Congressional authorization is required for BOR to participate in or provide funding for the design and construction of a rural water project.

Project sponsors have been working through the Bureau's rural water program to assess the feasibility of the Dry-Redwater and Musselshell-Judith Rural Water Projects. The Musselshell-Judith Rural Water System is designed to provide drinking water to about 6,500 residents through the Central Montana Regional Water Authority. The population served by this project currently relies on low quality groundwater, drought-sensitive surface supplies and, in some cases, hauled water. Water quality is also poor in the service area and concentrations of total dissolved solids, sulfates, iron, and manganese exceed secondary drinking water standards.

The proposed Musselshell-Judith project would include a well field, four new buried water storage tanks, a pumping station, and distribution system. Over $3 million in Federal, State, and local funds have been spent on studies and planning, and in January 10, 2017, the Bureau of Reclamation Commissioner notified the Office of Management and Budget that the final feasibility report found the project to be feasible and met the criteria set forth in the Rural Water Supply Act.

The Dry-Red Water Authority System would treat and deliver water to communities in Eastern Montana and North Dakota. Currently, individual municipal water systems, reliant on groundwater that is high in sodium, sulfates, and fluoride, serve residents in these communities and often do not meet primary drinking water standards without expensive treatment. At least one of these systems is also out of compliance with the Clean Water Act due to high levels of sodium and dissolved solids.

The Dry-Redwater Regional Water Authority submitted a feasibility study to BOR for the Dry-Redwater Regional Water Authority System in 2012, but the Bureau found that the proposal did not meet economic feasibility requirements. That project would deliver water from the Fort Peck Reservoir and require construction of storage tanks, pump stations, and pipelines.

The Dry-Redwater Regional Water Authority has been working to revise initial plans for the system since that time, but a project meeting BOR's feasibility criteria has not been reviewed or approved at this time. Because the Rural Water Supply Act has expired, further authorization is necessary for BOR to continue working with the Dry-Redwater Regional Water Authority to find a feasible project.

LEGISLATIVE HISTORY

Senators Daines introduced S. 685 on March 21, 2017. The Subcommittee on Water and Power held a hearing on S. 685 on June 14, 2017.

Representative Gianforte introduced companion legislation, H.R. 5073, in the House of Representatives on February 20, 2017, which was referred to the Natural Resources Committee.

In the 114th Congress, Senator Daines introduced similar legislation, S. 1552, on June 11, 2015. The Subcommittee on Water and Power held a hearing on the bill on June 18, 2015.

The measure was also included in Title III of S. 2902, legislation introduced by Senators Flake, Barrasso, Daines, Heller, McCain, and Risch on May 9, 2016. The Subcommittee on Water and Power held a hearing on S. 2902 on June 18, 2016. The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 2902 favorably reported as amended.

Representative Zinke introduced companion legislation, H.R. 3867, in the House of Representatives on October 29, 2015, which was referred to the Natural Resources Committee.

The Senate Committee on Energy and Natural Resources met in an open business session on October 2, 2018, and ordered S. 685 favorably reported, as amended.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on October 2, 2018, by a majority voice vote of a quorum present, recommends that the Senate pass S. 685, if amended as described herein. Senator Lee asked to be recorded as voting no.

COMMITTEE AMENDMENTS

During its consideration of S. 685, the Committee adopted an amendment in the nature of a substitute and an amendment to the title. The substitute amendment lowered the federal cost share for the design and construction of the Musselshell-Judith project from 75 percent to 65 percent and changed the authorization of appropriations from "such sums as are necessary" to $56,650,000. The amendment also deleted the design and construction authorization for the Dry-Redwater Project and replaced it with an authorization to complete a feasibility study, and an authorization for appropriations for that action. The substitute amendment also made conforming and technical changes and is further described in the section-by-section analysis. The amendment to the title reflects the change in the authorization of the Dry-Redwater Project made by the substitute amendment.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

Section 1 sets forth the short title.

Sec. 2. Purpose

Section 2 states the bill's purpose.

Sec. 3. Definitions

Section 3 defines key terms.

Sec. 4. Musselshell-Judith Rural Water System

Subsection (a) authorizes the Secretary to plan, design and construct the Musselshell-Judith Rural Water System in substantial accordance with the Musselshell-Judith Rural Water System Feasibility Report.

Subsection (b) directs the Secretary to enter into a cooperative agreement with the Central Montana Regional Water Authority to provide Federal assistance in furtherance of subsection (a).

Subsection (c) limits the Federal cost share to 65 percent of the total project cost and makes clear that such Federal cost share funds shall not be returnable or reimbursable. The subsection further outlines the allowable uses for Federal funds, prohibits Federal funding for the operation, maintenance, and replacement of the Musselshell-Judith Rural Water System, and specifies that title to the Musselshell-Judith Rural Water System shall be held by the Central Montana Regional Water Authority.

Sec. 5. Dry-Redwater feasibility study

Subsection (a) defines key terms for the section.

Subsection (b) authorizes the Secretary, in consultation with the Dry-Redwater Regional Water Authority, to study the feasibility of constructing the Dry-Redwater Regional Water System. This subsection further states that the study must comply with reclamation feasibility standards.

Subsection (c) authorizes the Secretary to enter into a cooperative agreement with the Dry-Redwater Regional Water Authority to complete additional work to ensure that the study complies with reclamation feasibility standards.

Subsection (d) authorizes $5 million to carry out this section.

Subsection (e) terminates the authority provided under this section five years after the date of enactment.

Sec. 6. Water rights

Section 6 states that nothing in the Act preempts state water law or affects a State's authority to manage its water resources.

Sec. 7. Authorization of appropriations

Section 7 authorizes $56,650,000 to be appropriated for the planning, design and construction of the Musselshell-Judith Rural Water System and authorizes the indexing of the authorized amount based on cost fluctuations after November 1, 2014.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

Summary: S. 685 would authorize the Bureau of Reclamation (BOR) to study, plan, and construct projects to secure water supplies in rural areas in Montana and North Dakota. Using information from BOR, CBO estimates that implementing the bill would cost $52 million over the 2019–2023 period, assuming appropriation of the authorized and necessary amounts.

Enacting S. 685 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 685 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 685 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 685 is shown in the following table. The costs of the legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2019	2020	2021	2022	2023	2019–2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Musselshell-Judith Rural Water System:						
Estimated Authorization Level	5	12	12	13	13	55
Estimated Outlays	3	8	11	12	13	47
Dry-Redwater Feasibility Study:						
Estimated Authorization Level	2	2	1	0	0	5
Estimated Outlays	1	2	1	1	0	5
Total:						
Estimated Authorization Level	7	14	13	13	13	60
1Estimated Outlays	4	10	12	13	13	52

Basis of estimate: For this estimate, CBO assumes that S. 685 will be enacted in 2019. The bill would authorize the appropriation of specific amounts but does not specify in which year the appropriation should be provided. CBO has estimated how much would need to be provided each year based on historical patterns. Estimated outlays are based on historical spending patterns for similar programs. CBO estimates that implementing the bill would cost $52 million over the 2019–2023 period, assuming appropriation of the authorized and necessary amounts.

S. 685 would authorize BOR to construct the Musselshell-Judith Rural Water Project in central Montana. The project would include planning, designing, and constructing groundwater wells and distribution facilities to deliver water to rural communities. The federal share (65 percent) of costs to construct the project would total about $57 million; the project could be completed in about six years. Including adjustments for anticipated inflation as authorized by the bill, CBO estimates that the federal cost to implement those provisions would total $47 million over the 2019–2023 period; the remainder of the federal costs would occur after 2023.

The bill also would authorize BOR to study the feasibility of constructing the Dry-Redwater Rural Water Project in Montana. The project would provide water treatment and distribution facilities to deliver water to existing storage tanks in rural communities in eastern Montana and in northwestern North Dakota. CBO estimates that completing the study would cost $5 million over the 2019–2023 period, assuming the appropriation of the specified amount.

Pay-As-You-Go considerations: None.

Increase in long–term direct spending and deficits: CBO estimates that enacting S. 685 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 685 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Aurora Swanson; Mandates: Zachary Byrum.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 685. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 685, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 685, as ordered reported, authorizes $56,650,000 to be appropriated for the planning, design, and construction of the Musselshell-Judith Rural Water System in the State of Montana.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the June 14, 2017, hearing on S. 685 follows:

STATEMENT OF SCOTT CAMERON, ACTING ASSISTANT SECRETARY—WATER AND SCIENCE, U.S. DEPARTMENT OF THE INTERIOR

Chairman Flake, Ranking Member King, and members of the Subcommittee, I am Scott Cameron, Acting Assistant Secretary for Water and Science at the Department of the Interior. Thank you for the opportunity to provide the views of the Department of the Interior (Department) on S. 685, the Clean Water for Rural Communities Act, which would authorize construction of the Dry-Redwater Regional Water Authority System and the Musselshell-Judith Rural Water System in the States of Montana and North Dakota.

In the 114th Congress, Reclamation provided testimony on S. 2902 and S. 1552, which contained language identical to S. 685. My testimony today will update Reclamation's previous statements on these projects to include recent events; however, the Department's position overall on funding has not changed from these earlier testimonies.

Like the sponsors of this legislation, the Department supports the goals of encouraging a vibrant rural economy and ensuring safe, reliable sources of drinking water in Montana and North Dakota. Rural water projects help build strong, secure communities and are important to supporting the livelihood of local economies. Public Law

109–451, which expired September 30, 2016, authorized Reclamation to establish a Rural Water Supply Program to help rural communities and Tribes in the western United States analyze and develop options for meeting water supply needs through the completion of appraisal investigations and feasibility studies.

While the Department acknowledges the important functions rural water projects offer to communities across the West, we have concerns with S. 685 as currently written. We request the opportunity to work with the Committee to adequately address our concerns, as identified below.

The legislation authorizes construction of two separate projects and my statement will speak to each of those projects separately.

Dry-Redwater

Section 4(a)(1) of S. 685 applies to the planning, design, and construction of the regional Dry-Redwater Rural Water Authority System in eastern Montana and a small service area in northwest North Dakota, and would authorize the Federal Government to provide up to 75 percent of the System's overall construction cost. Reclamation estimates that this authorization would amount to Federal appropriations of at least $200 million dollars. The Department last testified before this Subcommittee on legislation related to the Dry-Redwater Project in May of 2016, and prior to that, in June 2015, May 2011, and July of 2009. Since 2016, two things have occurred; the Dry-Redwater Regional Water Authority (Authority) changed their project plans from that provided in the initial study by adding the cities of Sidney and Glendive, Montana, to the Authority's service area which changed the population served from 15,000 to over 26,500; and secondly, Reclamation's authority to continue work on rural water appraisal and feasibilities studies under P.L. 109–451 expired. Reclamation did not receive a feasibility study that was evaluated and determined to be economically feasible for the new project envisioned by the Authority.

The Department is concerned about language in the legislation authorizing a project for construction without a complete Feasibility Study. Specifically, the potential strain on Reclamation's budget that could come about from this authorization, the cost share requirement proposed in the bill, and the proposed use of power from the Pick-Sloan Missouri Basin Program (P–SMBP) for non-irrigation purposes are a problematic issues.

In 2012, the Authority submitted a Feasibility Study to Reclamation for review. Upon initial review of the Feasibility Study, Reclamation was unable to identify a technically viable water supply alternative that presented a National Economic Development (NED) plan with net positive benefits to the nation. Reclamation informed the Authority that the Feasibility Study could not be supported as being financially or economically feasible under the requirements of Reclamation's Rural Water Supply Program.

Consequently, there are significant review findings and recommendations that must be addressed to bring the Feasibility Study up to Reclamation's standards. Since project costs have not been fully developed by the Sponsor and reviewed by Reclamation, there is also the potential for this project to be financially unsustainable for the project sponsors.

Because of the importance of this issue, a Reclamation Design, Cost Estimating, and Construction (DEC) review further evaluated the Feasibility Study in 2012 in order to provide an independent analysis. The estimated cost to address the DEC Report Findings and Recommendations in 2012 was in excess of $5.5 million. Neither Reclamation nor the Authority had sufficient funding to revise the Feasibility Study to address the DEC Report Findings. The authority for Reclamation to further review the feasibility study expired in 2016. In order to maintain their original service area and related project benefits, the Authority ruled out a scaled down approach.

As a result of this decision, Reclamation entered into a Memorandum of Understanding (MOU) with the Authority on April 27, 2015, with the objective of completing a summary report that documented the current status of the draft Feasibility Study and identified the additional level of effort needed to revise the Feasibility Study technically in order to meet the requirements of Reclamation's Rural Water Supply Program. However, before a final summary report could be completed, Reclamation's authority under the program expired and Reclamation was required to generate a Feasibility Study Concluding Report (Concluding Report) since the Feasibility Study was not completed. The Concluding Report was completed in September 2016 and provided an overview of the Feasibility Study up to the point of concluding it, and identified the reasons for ending the Feasibility Study. The Concluding Report provided findings that primarily due to the economics of the proposed alternative and the incomplete level of the Feasibility Study, Reclamation is not in a position to support the project as financially viable or able to verify that the total project cost estimate is economically sound.

The Department is also concerned about the non-Federal cost share for the System. As stated above, S. 685 contemplates that the United States would fund 75 percent of the cost of constructing the System for the benefit of Montana citizens of Dawson, Garfield, McCone, Prairie, Richland Counties, and North Dakota citizens of McKenzie County. While this has been the cost share level proposed in other rural water projects enacted into law, it represents the maximum Federal cost share previously allowed under Title I of the Rural Water Supply Act of 2006 (P.L. 109–451, now expired), which included a requirement for a Feasibility Report that comprised an analysis of the sponsor's capability-to-pay and identified an appropriate contribution by the local sponsors.

Section 5 of S. 685 authorizes the delivery of 1.5 megawatts of P–SMBP pumping power to be used and delivered between May 1 and October 31 for the benefit of this System at the firm power rate. Section 5(b)(2)(A) of the bill requires that the System be operated on a "not-for-profit basis" in order to be eligible to receive power under those terms. Reclamation is not certain of the impact the bill's requirements could have on Western Area Power Administration's existing contractual power obligations. In addition to those concerns mentioned above, we have yet to verify whether or not water rights issues associated with the System have been adequately addressed.

Reclamation's authority to continue work on rural water appraisal and feasibilities studies has expired. At this time, there is no general programmatic authority for continued work by Reclamation on rural water appraisal and feasibility studies. Reclamation's review of Dry—Redwater Authority's proposed system was conducted under the authority of the Rural Water Supply Act of 2006 (Title I of Public Law 109–451) and this authority expired on September 30, 2016. Reclamation generated a Concluding Report which provided an overview of the Feasibility Study up to the point of concluding it and identified the reasons for ending the study.

If legislative authority is granted, we suggest System sponsors work with Reclamation to evaluate the System for scale and economic viability in an effort to refine the National Economic Development accounting such that the ratio of total benefits exceeds costs. The System should meet appropriate guidelines and be updated to include new infrastructure required to accommodate the large increase in population served. S. 685 allows the Authority to acquire property and existing systems. Details of these systems should be fully identified and incorporated into the new evaluation and the evaluation should incorporate recommendations from the DEC review or, if necessary, require a new DEC review be conducted. It should address all federal environmental compliance activities. There are substantial costs believed to be in the millions of dollars associated with these efforts that are outside of any costs projections previously considered. We also recommend that they work with the Western Area Power Administration and their contractors on the issues related to the System's pumping power needs.

Musselshell-Judith

Section 4(a)(2) of S. 685 would authorize the planning, design, and construction of the Musselshell-Judith Rural Water System in central Montana and would authorize appropriations of 75 percent of total project costs. Since the total estimated construction cost of the project is $87,102,000, Reclamation estimates that the total Federal contribution of 75 percent would equate to $65,327,000 (2014 dollars). While a 75 percent cost share level has been proposed in other rural water projects enacted into

law, this represents the maximum Federal cost share previously allowed under the Rural Water Supply Act of 2006.

In 2015, the Central Montana Rural Water Authority's (Authority) Musselshell-Judith Rural Water System Feasibility Study (Feasibility Study) was submitted to Reclamation for technical review under Public Law 109–451. The Department found the proposed project to be feasible and to meet the broad criteria of the program, however, the Department is concerned about our ability to fund even currently authorized rural water projects, and does not want to unreasonably raise expectations that new authorized projects would receive the desired federal funding.

Common Both Water Systems

Section 7(b) of S. 685 addresses the cost indexing for the authorization of appropriations. As previously testified, Reclamation is not aware of a specific rationale for the differing indexing dates prescribed in the legislation. For the Dry-Redwater System, appropriations are to be indexed to January 1, 2008. For the Musselshell-Judith, the appropriations are to be indexed to November 1, 2014.

Authorized rural water projects compete with a number of priorities within Reclamation's Budget, including aging infrastructure, Indian water rights settlements, environmental compliance, restoration actions, developing sustainable water supply strategies, and other priorities intended to address future water and energy related challenges.

The Department has concerns about adding to the backlog of Reclamation's authorized rural water projects seeking Federal construction funding. Discretionary rural water funding has enabled Reclamation to make progress in promoting certainty, sustainability, and resiliency in support of basic drinking water needs of rural western communities. However, Reclamation's ability to make Federal investments that match on-the-ground capabilities has its limitations. Of Reclamation's six currently authorized rural water projects under construction or funded at some level today, all of the projects pre-date Title I of the Rural Water Supply Act of 2006 (now expired). Authorizing additional rural water projects may delay rural water projects that are already under construction.

Conclusion

The Department recognizes that the people who would be served by S. 685 have legitimate needs for better quality drinking water. We are concerned, given the past history and future prospects of funding for the rural water program, not to raise unreasonable expectations for future federal funding should this bill become law.

That concludes my written statement. I am pleased to answer questions at the appropriate time.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill as ordered reported.

○