

**WATER RECLAMATION IN THE TULAROSA BASIN; NEW MEX-
ICO WATER PLANNING ASSISTANCE ACT; REDESIGNATE
RIDGES BASIN RESERVOIR, COLORADO; CHIMAYO WATER
SUPPLY SYSTEM, ESPAÑOLA, NEW MEXICO; AND EASTERN
NEW MEXICO WATER FINANCIAL ASSISTANCE**

HEARING
BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

S. 1211 **S. 2460**
S. 2508 **S. 2511**
S. 2513

JUNE 17, 2004



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**WATER RECLAMATION IN THE TULAROSA
BASIN; NEW MEXICO WATER PLANNING
ASSISTANCE ACT; REDESIGNATE RIDGES
BASIN RESERVOIR, COLORADO; CHIMAYO
WATER SUPPLY SYSTEM, ESPAÑOLA, NEW
MEXICO; AND EASTERN NEW MEXICO
WATER FINANCIAL ASSISTANCE**

THURSDAY, JUNE 17, 2004

U.S. SENATE,
SUBCOMMITTEE ON WATER AND POWER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:32 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Lisa Murkowski presiding.

**OPENING STATEMENT OF HON. LISA MURKOWSKI,
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Good afternoon. I call to order the hearing of the Subcommittee on Water and Power. It is my pleasure to welcome everyone to the subcommittee this afternoon. We have a total of five bills before the subcommittee today.

We will be taking up: S. 1211, the Reclamation Wastewater and Groundwater Study and Facilities Act, introduced by Senator Domenici; S. 2460, the New Mexico Water Planning Assistance Act, introduced also by Senator Domenici; S. 2508, a bill to redesignate the Ridges Basin Reservoir in Colorado as Lake Nighthorse, also introduced by Senator Domenici; S. 2511, the Chimayo Water Supply System and Española Filtration Facility Act of 2004, introduced by Senators Domenici and Bingaman; and S. 2513, the Eastern New Mexico Rural Water System Act of 2004, introduced by Senator Bingaman.

I would like to extend a special welcome to our administration witnesses. On the first panel we have Commissioner Keys from the Bureau of Reclamation and Commissioner Keys will testify on S. 1211, S. 2460, S. 2511, and S. 2513. We will look forward to your testimony, as we always do, Commissioner.

I would also like to welcome the witnesses who will testify before the subcommittee's second panel this afternoon. We have John D'Antonio, the New Mexico State Engineer, who will testify on S. 2460, S. 2511, and S. 2513. We also have David Lansford, the

Mayor of Clovis, New Mexico, and the Chairman of the Eastern New Mexico Rural Water Authority.

The remaining bill on the subcommittee's agenda will be addressed via statements submitted for the record. The subcommittee has already received written testimony from Senator Allard in support of S. 2508 and letters from the cities of Chimayo and Española in support of S. 2511. These statements will be made an official part of the hearing record.

Once again, I look forward to the testimony of the witnesses. Before we do that, Senator Bingaman, do you have any opening comments that you would like to make at this time?

[The prepared statement of Senator Allard follows:]

PREPARED STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR
FROM COLORADO

Thank you, Madam Chairman and thank you for allowing me to participate. It is an honor for me today to extend my support in recognizing the hard work and dedication of my fellow friend and colleague Colorado Senator Ben Nighthorse Campbell. It is a privilege to honor him through re-designating Ridges Basin Reservoir as "Lake Nighthorse" in recognition of his unwavering commitment to the citizens of Colorado.

The Ridges Basin Reservoir was originally constructed under the Colorado Ute Indian Water Rights Settlement Act of 1988, as part of a resolution to end an ongoing water dispute between the Ute Indian tribe and the federal government. However, it wasn't until 2000, when the historic Animas-LaPlata agreement brought the end to over three decades of conflict in Colorado. Now, four years later, and thanks to the efforts of Senator Campbell, ground has been broken, and the Ute Tribes are finally seeing their water treaties being fulfilled.

The results of the ALP agreement were due much in part to the hard work of Senator Campbell, in bringing both parties to the table. Senator Campbell was at the forefront of negotiations and was instrumental in facilitating open-minded, rational and progressive discussions. His relentless pursuit of ensuring the fulfillment of our treaties with the Ute Tribe was beyond compare. It would only be suiting to recognize Senator Campbell's valiant efforts in resolving these conflicts by naming a portion of the project in memory of Senator Campbell's innumerable services to Colorado.

But Senator Campbell's efforts are not limited to the Animas-LaPlata project. Through his many dedicated years of service, Senator Campbell worked on several other environmental issues in Colorado including the Black Canyon of the Gunnison, tamarisk control, and farm and ranch drought assistance to name a few. Senator Campbell also fought hard to bring about POW awareness and created a welcoming atmosphere in Washington for his Colorado constituents. I am proud to call Ben Nighthorse Campbell my friend.

Thank you Madam Chairman.

**STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR
FROM NEW MEXICO**

Senator BINGAMAN. Thank you very much, Madam Chairwoman, for holding this hearing.

I would just like to say a few words, particularly about the legislation with regard to eastern New Mexico, S. 2513, which I recently introduced. The other bills I certainly support and have co-sponsored several of them. I also join in welcoming Mayor Lansford from Clovis and also John D'Antonio, our State Engineer in New Mexico, and thank them for coming to testify.

This S. 2513 would authorize planning, design, and construction of the Eastern New Mexico Rural Water System. It is a system designed to serve nine communities in three counties in eastern New Mexico. I know that the administration position is in opposition to this bill. I regret that. I think rural water projects have generally

not been highly supported by the administration. There was a proposal to zero out funding for those projects in the 2004 budget, and although we have restored some of that funding, the 2005 request is still significantly less than what we have had in the previous 3 years.

I do think that the Bureau of Reclamation has an important role to play in assisting with rural water programs throughout the West and in my view this New Mexico Rural Water Authority, Eastern New Mexico Rural Water Authority Project, is certainly one that deserves support. So I hope very much that we can gain the administration's support as we go through the process and I look forward to the testimony.

Thank you.

Senator MURKOWSKI. Thank you, Senator Bingaman.

I understand that Senator Domenici is in the Appropriations markup, but will be joining us later in this hearing.

So with that, let us turn to Commissioner Keys. Welcome and good afternoon.

STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Mr. KEYS. Madam Chairman, it is an absolute pleasure to be here today. Before I get into the legislation in the testimony, let me tell you that this is a momentous day. June 17, 102 years ago, President Roosevelt signed the Reclamation Act of 1902 that established the Reclamation Service as part of the Geological Survey in the Department of the Interior. This committee at that time was the Committee on Public Lands, but it was this committee that actually had worked the Reclamation Act and made it ready for the President to sign on June 17, 1902. So it is a good day to be here.

Senator MURKOWSKI. Happy birthday.

Mr. KEYS. Thank you.

With your approval and for the record, I would submit four separate testimonies for those four bills that we are testifying on today: S. 1211, S. 2460, S. 2511, and S. 2513.

Senator MURKOWSKI. Those will all be included as part of the record.

Mr. KEYS. Thank you.

Madam Chairman, let me first discuss S. 1211, the Tularosa desalination facility. The project is already authorized for construction, and we are scheduled to break ground for construction of the test facility later this month. In our view, if desalination can be made more economic it could contribute significantly to water supply solutions in the West. We are actively engaged in several desalination projects already. In particular, desalination of brackish inland water needs research, development, and demonstration that might not otherwise occur without the Tularosa test facility.

There are a couple of aspects of that legislation that we would like to work further with the committee on, particularly with Senator Domenici, who has already invested a great deal of effort in this area. First, while we welcome opportunities to partner with other Federal agencies, we are concerned that as originally drafted our research role under the bill could be reduced to merely a funding path through the Department of the Interior to other govern-

ment agencies and laboratories. We would like to take more direct stewardship for the underlying work associated with the lab.

Likewise, if we are to build, manage, and maintain the facility, as provided in section 1(a) of the bill, we think that the legislation should also clarify that we will have more than a physical custodial role. In other words, our underlying program responsibilities should be clarified there.

Madam Chairman, desalination is a new and dynamic policy area for Congress and the administration. It has a significant role in the Water 2025 effort that we have under way in Reclamation and Interior at this time. Our thinking on it will continue to grow and mature as the research field does. Applying the Federal research and development investment criterion, in other words relevance, quality, performance, and addressing industry issues, should help to guide all of us in our efforts on desalination.

We welcome the opportunity to work closely with your committee as that process unfolds.

Turning to the New Mexico Water Planning Assistance Act, S. 2460, S. 2460 represents a long-term response to those challenges by starting with actual scientific measurements for managing on the ground water resource issues in New Mexico. We commend Chairman Domenici for his vision to develop a more comprehensive scientific and technical foundation for water resource planning in New Mexico.

The bill directs Reclamation and the U.S. Geological Survey to provide technical assistance and grants to the State for the development of comprehensive State water plans, conduct water resource mapping in the State, and conduct a comprehensive study of groundwater resources to assess the quantity, quality, and interaction of groundwater and surface water resources in New Mexico.

The technical assistance role that this bill identifies for the Geological Survey matches their leadership role in interpretation, research, and assessment of the earth and its biological resources. Reclamation conducts the most extensive water and river storage and delivery operations and related research in the West. So the bill comes to the right agencies for the work.

However, the administration does have a few concerns with S. 2460. First, the Department is concerned about the financial resources required for Reclamation and the Geological Survey to carry out S. 2460 in the context of the availability of resources overall for administration programs.

Second, the requirement that any assistance or grants not be cost-shared is inconsistent with the funding requirements for similar Reclamation and Geological Survey programs. We believe the non-Federal cost share for work performed under this legislation should be a minimum of 50 percent and that section 3(d) in the bill should be modified to reflect 50 percent cost-sharing.

A third concern is that section 3(e) seems to give the State the authority to direct the transfer of funds appropriated under this act to other Federal agencies. This could prevent Interior from meeting its stewardship responsibilities in a lot of other areas. We believe that the bill should authorize the funds for one agency or the other and not make them subject to a State Governor's decision to trans-

fer them after appropriation across Federal agency lines. We recommend that subsection 3(e) be deleted from that bill.

Also, we think that other Western States should have a chance to compete for this technical and financial assistance as they do in our Water 2025 program.

For these reasons, the administration cannot support S. 2460 as written.

With regard to S. 2511, we view both the Chimayo and Española projects as case studies for why we need to enact rural water legislation. While our familiarity with the Chimayo especially is limited, we think both projects might benefit from a systematic rural water program within Reclamation, such as the bill that we have previously testified to in this subcommittee.

Rural water legislation would help Reclamation help communities as they shape proposals for rural water solutions based on sound economics and best practices. All three rural water bills before the Senate agree that the Federal cost for rural water legislation would help Reclamation help communities as they shape proposals for rural water solutions based on sound economics and best practices.

All three rural water bills before the Senate agree that the Federal cost for rural water project planning should generally not exceed 50 percent. S. 2511 specifies a Federal cost share of 75 percent for the Chimayo feasibility study.

With regard to the Española filtration project, Reclamation is cooperating with the city of Española on a feasibility study. So far we have contributed \$400,000, but we have not yet received that study. We need it to determine whether the plan for the proposed filtration facility is comprehensive and viable.

For example, if it does not contemplate providing water to Chimayo it may need to be expanded. After reviewing the feasibility study provided by Española, we would be in a far better position to advise the committee. Until then it is not ready for construction authorization.

Finally, Madam Chairman, let me comment on S. 2513, the Eastern New Mexico Rural Water System. Again, we commend Senator Bingaman for putting so much effort into meeting the needs of his rural constituents and we commend the local sponsors for bringing the project as far as they have since 1972, when the first of four reports on it were completed.

Eastern New Mexico faces an impending water shortage and with continued effort we hope a successful project for these communities can be formulated. However, whenever we examine a project proposal at the appraisal or even feasibility study phase, we ask several questions about the project. Many of these questions are the same ones that Congress asks and local sponsors ask when considering a project: Is the proposal the most economic alternative? Have we included everything in the construction cost estimate? Have the right materials been selected? Have the studies been adequately peer reviewed? Do communities have an accurate idea of how much their cost share will come to, both for the initial construction and the operation and maintenance of that facility? And is the construction schedule realistic?

These are some of the questions we need to explore in depth with the Eastern New Mexico Rural Water System before we know whether we can support construction authorization. In addition, the cost share percentage set forth in the legislation is beyond the Federal cost share for rural water projects contemplated in our rural water legislation now pending in the Senate. We hope the local sponsors can resolve these concerns and we would be happy to work with them, Senator Bingaman, and the committee toward getting that done.

Thank you, Madam Chairman, for the opportunity to be here and present this testimony. I would certainly try to answer any questions that you might have at this time.

[The prepared statements of Mr. Keys regarding S. 1211, S. 2460, S. 2511, and S. 2513 follow:]

PREPARED STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF
RECLAMATION, DEPARTMENT OF THE INTERIOR

ON S. 1211

Madam Chairman and members of the Subcommittee, I am John Keys, Commissioner of Reclamation. I am pleased to be here today to present the Department of Interior's views on S. 1211, a bill to undertake a demonstration program for desalination of brackish, inland groundwater in the Tularosa Basin of New Mexico, as well as to provide Reclamation additional authority to undertake desalination research through a variety of institutional arrangements, or outside the United States.

The Tularosa desalination test and evaluation facility will be capable of processing at least 100,000 gallons of water per day at the Tularosa Basin in New Mexico. In the FY 2002 Energy and Water Appropriations Act, Congress directed the Bureau of Reclamation, in cooperation with Sandia National Laboratories, to evaluate the potential for developing such a desalination research facility in the Tularosa Basin of New Mexico. The facility study began in January 2002. Reclamation entered a phased design/build contract with Laguna Construction Company, Inc. in July 2003. Congress provided \$4 million for the continuation of this project in fiscal year 2004. Construction will begin this month.

The Administration supports Congressional interest in pursuing avenues of research that look at potential long-term methods of augmenting scarce water supplies, including both technical and market approaches. We are interested in working with the Congress to determine whether the research program identified in S. 1211 meets the federal Research and Development Investment Criteria. These criteria were developed over several years through a process of intense, thorough consultation with the research community. They include four main elements:

- Relevance;
- Quality;
- Performance; and
- Criteria for R&D Programs Developing Technologies That Address Industry Issues.

Applying the criteria to the proposed research will help determine the appropriate federal R&D role, if any. As the Administration considers the appropriate level of federal involvement, there are a few provisions of the bill that we would like to work with the Committee on.

Reclamation's Science & Technology program, which plans and coordinates the bulk of our research activities, is our main program for identifying and implementing our research priorities. This program received a high rating during its recent evaluation under the Administration's Program Assessment Rating Tool (PART), which rated it as 'Effective'. This recently revamped program should play a central role in the determination of which research priorities the Bureau should pursue. We are concerned that the bill as currently written does not make use of this well-established expertise. If we are to build, manage, and maintain the facility, as provided for in Section 1(a) of the bill, the legislation should also clarify that we will have more than a physical custodial role, i.e., our underlying program responsibility should be delineated, and that should include a central role in determining

research priorities. Our process, in turn, is subject to the federal R&D Criteria sketched out above.

Additionally, while we welcome opportunities to partner with other agencies of the federal government, particularly where we have complementary missions and capabilities, we are concerned that, as originally drafted, our role under the bill could be reduced to a funding path through the Department of the Interior to other government agencies and laboratories. If funds are ultimately appropriated to Interior, we want to take more direct stewardship responsibility for the underlying work. We suggest that funds for other agencies should be appropriated directly to those agencies, for there is no compelling reason to funnel them through Reclamation.

The Administration suggests that the portion of the bill that would provide treated water to local communities at no cost be rewritten to say that any such sale of water must be for fair market value.

Furthermore, facility operation and maintenance should be based on user fees. Larger demonstration projects, in most cases, would be conducted off-site at urban and rural locations under field conditions, and are not contemplated in the construction of Tularosa.

While some facility users would be funded out of Reclamation's research budget, supplemental fees could come from the many other agencies currently funding desalination research, such as the Office of Naval Research or the Department of Energy when they perform work at Tularosa. In the future we would hope that additional agencies would join the list of desalination researchers using the facility.

We would be happy to work with the Subcommittee to further develop these concepts.

Madam Chairman, our thinking on desalination will continue to grow and mature as the research field does, and as the federal government further subjects desalination research to scrutiny under the federal R&D criteria. We welcome the opportunity to work closely with the Committee as that process unfolds, beginning with adjustments to S. 1211.

Madam Chairman, this concludes my remarks and I would be happy to answer any questions.

ON S. 2460

Madam Chair, my name is John W. Keys, III, Commissioner of Reclamation (Reclamation). I am pleased to be here today to present the views of the Department of the Interior (Department) regarding S. 2460, which would authorize assistance to be provided to the State of New Mexico for the development of comprehensive State water plans, and for other purposes.

We share the views of the sponsor of this bill, Senator Domenici, that is, the importance of sound science for use by water resource planners. However, the Department is concerned about the financial resources that would be required for Reclamation and the United States Geological Survey (USGS) to carry out S. 2460 in the context of the availability of resources overall for Administration programs. Further, the provision for any assistance or grants to be made on a non-reimbursable basis and without a cost-sharing requirement is inconsistent with the funding arrangements that Reclamation and the USGS have for similar activities in other states. For these reasons, the Administration cannot support the bill as currently written.

The bill directs the Secretary of the Interior, acting through Reclamation and the USGS, to (1) provide technical assistance and grants to the State for the development of comprehensive State water plans; (2) conduct water resources mapping in the State; and (3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) to assess the quantity, quality, and interaction of groundwater and surface water resources in the State. This would be accomplished through technical assistance and grants.

The technical assistance role identified for the Department in this bill is consistent with the USGS's leadership role in interpretation, research, and assessment of the earth and biological resources of the nation. It is likewise consistent with the Reclamation's leadership role in water resources research, modeling, analysis, assessment and management. However, the direction to provide these grants to the State on a noncompetitive basis is not in harmony with the Administration's efforts, such as through Water 2025, to use a competitive process to focus our existing resources in those areas where future water conflicts are most likely to occur. Even though some New Mexico projects would likely be very competitive in that process, the Administration would prefer that New Mexico's needs compete on an equal footing with other meritorious projects that apply for assistance. Let me briefly describe the activities of the USGS and Reclamation in this context.

As the nation's largest water, earth, biological science, and civilian mapping agency, USGS conducts the most extensive groundwater and surface water investigations in the nation in conjunction with state and local partners. The USGS New Mexico District currently operates 209 streamflow stations and routinely measures groundwater levels at 1,658 well sites through cooperative programs with several local, state, tribal, and federal agencies. In addition to hydrologic monitoring programs, the USGS is providing hydrologic understanding to water agencies through the Cooperative Water Program by conducting several investigative projects that include describing the interaction of surface water and ground water in the Mesilla and Middle Rio Grande basins, evaluating modeling approaches in the Santa Fe Embayment and La Cienega areas of the Española Basin, and quantifying streamflow gains and losses in the Española Basin along the Rio Grande mainstem and its tributaries. In support of all water agencies within New Mexico, USGS technical specialists participate on work groups and committees each year. Currently, USGS personnel are involved in the New Mexico Brackish Water Task Force, the Rio Grande Environmental Assessment for Upper Rio Grande water operations, and the Department of the Interior's Southwest Strategy.

Reclamation, as the nation's largest western water and hydroelectric power supplier and water management agency, conducts the most extensive river storage and delivery operations and related research in the seventeen western states in conjunction with tribal, state and local partners. Reclamation has provided technical and monetary assistance to two of the New Mexico state regional water plans, reviewed and commented on the draft State Water Plan, and provided water resource-related technical assistance through Reclamation's Technical Assistance to States planning program. In addition, Reclamation is actively involved in several Indian water supply projects within New Mexico, and has developed and maintains state-of-the-art, internet-delivered decision support data on evapotranspiration depletions to the Rio Grande system, and conducts daily river system modeling for water accounting, contracted deliveries and endangered species support.

In summary, the goals of the bill are commendable, and the bill contains provisions that are within the scope and expertise of Reclamation and the USGS. However, it is the position of the Administration that funding for the activities in this bill be pursued through existing authorities and procedures, and not through specific Congressional direction that supersedes established processes, competitive or otherwise. Also, we believe that the cost-sharing provisions of this bill should conform to other similar programs undertaken by Reclamation and the USGS, such as Reclamation Title XVI program, which requires a 50 percent local share, or the USGS Cooperative Water Program, which requires a dollar for dollar match of federal and non-federal funds. Requiring these cost-shares not only stretches limited federal funds, but also emphasizes that States are primarily responsible for managing the water resources within their borders, and not the Federal government. Finally, we find that S. 2460 is sufficiently vague regarding the relative roles and functions of Reclamation and the USGS, which could cause significant delay in implementation, as well as the fact that the bill, as written, duplicates some existing agency programs and authorizations and sets a major precedent of providing federal funding for State water plans.

Thank you, Madam Chair, for the opportunity to present this testimony. I will be pleased to answer questions you and other Members of the Subcommittee might have.

ON S. 2511

Madam Chairman, I am John W. Keys III, Commissioner of Reclamation. I am pleased to be here today to present the views of the Department of the Interior regarding S. 2511 which would authorize a feasibility study for a Chimayo water supply system, and for planning, design, and construction of a water supply, reclamation, and filtration facility for Española, New Mexico.

We share the views of the sponsor of this bill, Senator Domenici, regarding the importance of safe and reliable water supplies for cities, towns, and villages. The goals of the bill are commendable. While the Administration cannot support S. 2511 in its current form, we do think that it points out the urgency for Congress to enact rural water legislation now pending before the Senate. Both the Española and Chimayo communities may directly benefit from establishment of a systematic rural water program within Reclamation.

Rural water legislation would provide Reclamation with authority and guidelines to assist rural communities as they develop proposals for rural water solutions based on sound economics and best practices. Among three separate versions of

rural water legislation now pending before the U.S. Senate, there is bipartisan, interbranch consensus that the federal cost share should not exceed 50% for planning on rural water projects, at least until a capability-to-pay analysis that is consistently utilized indicates that a different cost-share is more equitable.

The rural water legislation would provide a mechanism for Reclamation and the communities to calculate that capability to pay for both construction and operation and maintenance. This helps in two ways. Reclamation and Congress will be able to identify fair construction cost-sharing requirements, and local sponsors will be able to objectively assess whether they will have the resources to properly operate and maintain projects constructed under the program.

By contrast, Title I of S. 2511 provides that any assistance or grants for Chamayo would be made on a non-reimbursable basis, and with only a 25 percent local cost-sharing requirement.

Title II of the bill directs the Secretary of the Interior, acting through the Bureau of Reclamation to provide financial assistance to the city of Española, New Mexico, for the construction of an Española water filtration facility.

Reclamation has already provided financial assistance of about \$400,000 to the City of Española to perform a feasibility study, including environmental reviews under the National Environmental Policy Act. However, Reclamation has not yet received the feasibility study from the City of Española required under Section 1604 for review and acceptance. We believe this is a critical step that should precede construction authorization of the proposed filtration facility for three reasons: 1) Reclamation has not yet reviewed the feasibility study for adequacy; 2) the feasibility report never contemplated providing water to Chimayo; and 3) the Española feasibility study may need to be expanded to include these additional concerns.

Until these questions are resolved, construction authorization is not appropriate. Reclamation believes that after reviewing the feasibility study provided by Española, we would be in a far better position to help shape legislation to authorize construction. Furthermore, regarding the Chimayo project, with which we are only minimally familiar, the needs of the Community may be better met by one of the other numerous Federal rural water programs.

Thank you, Madam Chairman, for the opportunity to present this testimony. I will be pleased to answer questions you and other members of the subcommittee might have.

ON S. 2513

Madam Chair, I am John W. Keys III, Commissioner of Reclamation, and I am pleased to be here today to present the views of the Department of the Interior regarding S. 2513, which would authorize the planning, design, and construction of the Eastern New Mexico Rural Water System.

We commend the Eastern New Mexico Rural Water Authority (ENMRWA) for bringing this project as far as it has since 1972 when the first of four reports on it was completed. Eastern New Mexico needs to address an impending water shortage and, with continued effort, additional reports can be developed to ensure a successful project for these communities. However, because of several questions and issues discussed below, the Administration cannot support this bill as written.

The communities that form the ENMRWA, the local sponsor of the Eastern New Mexico Rural Water System, need a long-term renewable water supply. All of these communities take water from the Ogallala aquifer which is experiencing water quantity and quality problems. The viability of the Ogallala is hard to predict and heavily reliant on agricultural use in the area. Estimates on when it will be fully drawn down range from 20 to 40 years at current consumption rates. The Eastern New Mexico Rural Water System is proposed to provide a long-term renewable water supply and includes a wastewater treatment facility. In general, participation in the design and development of wastewater systems is beyond the purview of Reclamation's mission, and detracts resources from core activities.

Reclamation received authorization to develop a feasibility study for the Eastern New Mexico Water Supply Project in 1966, P.L. 89-561. The 1972 feasibility study was followed by special reports developed in 1989 and 1993. The most recent report, dated August 2003, the Conceptual Design Report (CDR), was developed by Smith Engineering Incorporated with funds provided through Reclamation at the direction of Congress.

Madam Chairman, anytime that Reclamation undertakes appraisal and then feasibility phase planning on a proposed project we ask ourselves a series of critical questions. We feel examination is even more important when Reclamation, itself,

did not perform the appraisal or feasibility work. Here are some of the questions that we ask:

- Have the most economic alternatives been considered?
- Does the construction cost estimate include all likely items and anticipate items that may not yet be listed?
- How do estimates for services such as design and construction management compare with our experience with comparable projects?
- Have the right materials been selected?
- Do assumptions in the construction estimate match assumptions in the operation, maintenance, and replacement costs?
- Have the studies supporting a proposal to proceed with a project been adequately peer reviewed?
- Do communities who will be sharing project costs have an accurate estimate of how much those costs might be, and do they have agreement on how to apportion those costs among themselves?
- Is the proposed construction project schedule realistic given the design uncertainties and the backlog of already authorized Bureau of Reclamation rural water projects?
- Does the work otherwise meet the Administration's principals and guidelines for construction authorization?

Madam Chairman, we would like to sit down with the project sponsors and the consultants who are working on Eastern New Mexico and carefully go over each of these questions. Until then, we are not prepared to support authorization of construction as currently contemplated by the Conceptual Design Report.

In general, the Administration will not support authorization of a project that has not undergone a thorough review, which is necessary to ensure sound stewardship of taxpayer funds, and to help both the Administration and Congress in developing the budget. The Administration must have full oversight of the development and final review of reports that could form the basis for any authorized project.

Finally, the cost share percentage set forth in the legislation is beyond the normal federal cost share for rural water projects. Legislation proposed by the Administration to establish a systematic rural water program in Reclamation would base the non-federal cost-share for a project such as the Eastern New Mexico Rural Water System on a capability-to-pay calculation, but in no event less than 35%.

The Eastern New Mexico Rural Water Authority has plans to develop additional studies, including a pipe corrosion evaluation, bench and pilot water treatment testing, energy management, threat assessment, an operation and maintenance plan, and a storage assessment. All of the studies planned by the Eastern New Mexico Rural Water Authority will impact the accuracy of cost estimates for construction as well as OM&R. Because the CDR currently does not meet Reclamation standards for a feasibility level study, it is impossible to estimate construction costs accurately enough to warrant project authorization. While the Administration cannot support this bill at this time, we pledge to work more closely than ever with the project sponsors and Senator Bingaman to develop answers to our questions.

Thank you, Madam Chairman, for the opportunity to present this testimony. I will be pleased to answer questions you and other members of the subcommittee might have.

Senator MURKOWSKI. We are dealing with the fact that we have got a roll call vote that has just started and I am told that we will have three more roll call votes immediately following that. So we are going to have a little bit of difficulty getting all of the testimony in. What we may want to do, since we have three—just two witnesses, we could take the testimony from the witnesses now so that we can get that before us.

I know that I have some questions of you, Commissioner, and I know that Senator Bingaman does as well. But if we could get the testimony in and perhaps then have an opportunity to either question you or to present our questions to you in writing, we are going to proceed that way.

Mr. KEYS. Madam Chairman, I would be glad to do that and I would be glad to stand by until you return, if that is the best thing.

Senator MURKOWSKI. Well, let us ask you to stand by if you would not mind.

Mr. KEYS. I would be glad to do that.

Senator MURKOWSKI. While we bring up the other two gentlemen for their testimony so that we can get that on the record.

[Pause.]

Senator MURKOWSKI. Gentlemen, thank you for joining us. I apologize that we might not have the opportunity for questions afterwards, but maybe that gets you off the hook. I am sure we will have the questions in writing.

Mr. D'Antonio, if you would like to present first we would appreciate it.

**STATEMENT OF JOHN R. D'ANTONIO, JR., PE, NEW MEXICO
STATE ENGINEER, SANTA FE, NM**

Mr. D'ANTONIO. Sure. Thank you, Madam Chair. The order of my presentation will be—I have three that I am going to provide testimony for. Does it matter the order? Okay, I have S. 2460, S. 2511, and S. 2513, in that order.

Thank you for the opportunity to submit testimony on S. 2460. It is a bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans and for other purposes as well. As State Engineer and on behalf of the State of New Mexico, we support this bill with enthusiasm as it is critical to assist both the State and the Federal agencies in response to the drought in New Mexico. The State Engineer is tasked with investigating the numerous stream systems and groundwater basins located within New Mexico to assist New Mexico's available water supply. The State Engineer does this through completing hydrographic surveys and developing hydrologic models.

Federal agencies who have a long history of cooperation with New Mexico in State water management will have available current information that is essential to making informed decisions based on current hydrologic conditions, such as flood assessment, land management, tribal water resource assessment, and Federal water project management.

The New Mexico Office of the State Engineer lacks adequate resources to perform comprehensive hydrologic models and data collection in a manner that is required for the State to respond to its citizens' needs during this protracted period of drought. Additional resources will aid the State Engineer's ability to make informed decisions concerning the State's water resources, participate in State-Federal water management decisions, effectively perform water rights administration, and comply with New Mexico's compact deliveries.

S. 2460 would provide Federal financial and technical assistance through the Secretary of the Interior acting through the Bureau of Reclamation and the USGS, U.S. Geological Survey, to New Mexico so New Mexico may expeditiously develop comprehensive water management plans as a response to the drought.

S. 2460 would provide \$12.5 million to the State of New Mexico to undertake statewide digital orthophotography mapping, develop hydrologic models, and acquire associated equipment for those ground and surface water systems having priority within the State. S. 2460 would also authorize \$2.5 million per year for each fiscal year from 2005 through 2009. That is the total of \$12.5 million.

The State of New Mexico supports this bill. I believe it will provide New Mexico and Federal agencies the best opportunity to continue their collaborative efforts to efficiently manage New Mexico's water and to do so at a point never more critical to the State and Federal interests.

That concludes testimony for S. 2460.

S. 2511 is the Chimayo Water Supply System and Española Filtration Act. Madam Chair and members of the subcommittee: Again, thank you for the opportunity to submit testimony on S. 2511. It is a bill to direct the Secretary of the Interior to conduct a feasibility study of Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for the city of Española, New Mexico, and for other purposes.

As New Mexico State Engineer, I supervise all diversion and uses of New Mexico's water supply. The magnitude of water availability and quality have become serious problems for New Mexico and its communities. Given its limited tax base, these problems could become insurmountable if preventive action is not taken now.

While water quality is not my direct responsibility, its degradation is directly impacting on my duties. Additionally, in my role with the New Mexico Water Quality Control Commission I have first-hand knowledge of the water quantity and quality challenges confronting New Mexico. Most Western States unfortunately are the same and are similarly challenged.

The unincorporated community of Chimayo, New Mexico, is an example of a type of water quality problem confronting small communities throughout New Mexico and the West. Chimayo residents rely on individual wells for their potable drinking water and septic systems to dispose of that wastewater. This picturesque canyon setting limits water supply availability and septic system sitings, causing the degradation of water supply, with the deterioration of septic systems resulting in 75 percent of the wells sampled having significant contamination in both total coliform and fecal coliform and high levels of total dissolved solids.

There exists no community-wide supply and-or treatment infrastructure, so many residents have resorted to the use of free-flowing irrigation ditch water for drinking. Yet it also contains high levels of fecal coliform contamination. Since 2001 the region has been declared an emergency area, necessitating the National Guard to provide potable water to the areas with tanker trucks.

Chimayo's situation remains unchanged. While the city of Española has its own water quality challenges, the more important immediate challenge is to address its current situation, which is a water system that produces approximately 1,000 gallons per minute less than is needed to provide for its current population. This has resulted in inadequate water pressure throughout the city, which is especially problematic for Española Hospital that serves the region. The lack of adequate water and water pressure has twice led to declared states of emergency. Like in Chimayo, the National Guard has been called to supply water to the hospital.

The city of Española has an allocation of 1,000 acre-feet per year of San Juan-Chama water by contract with the Bureau of Reclamation. This bill will aid the city in developing the infrastructure nec-

essary if it is to divert this water, as the existing infrastructure is inadequate. Until it can use its San Juan-Chama water, the city will continue to deplete its limited groundwater supplies and continue to suffer from water pressure and water supply problems.

S. 2511 would direct the Secretary of the Interior, in cooperation with the State and local authorities, to conduct a feasibility study of constructing a water supply system for Chimayo. In conducting the feasibility study, the Secretary is to consider various options for supplying water, long-term operation and maintenance costs, and local water resources. S. 2511 would authorize \$2 million at a 75 percent Federal cost share for the feasibility study.

Senator MURKOWSKI. Mr. D'Antonio, I hate to cut you off, but in order to get to Mr. Lansford before we have to go to the vote, are you just about done with your summation on S. 2511?

Mr. D'ANTONIO. Yes.

Senator MURKOWSKI. Because what we might want to do is for your third, the third bill that you are testifying to, just submit that written testimony for the record. So are you just about complete with S. 2511?

Mr. D'ANTONIO. Yes, I have two short paragraphs and I will be done and I will give it over to the Mayor.

The bill would direct the Secretary to provide emergency water assistance to Chimayo, which may include water treatment, installation of an emergency water supply system, and installation of transmission and distribution lines. S. 2511 would authorize \$3 million at a 75 percent Federal cost share for emergency water assistance. It would also authorize the Secretary of the Interior to provide financial assistance to the city of Española for the construction of a water filtration facility and also authorize the Secretary to provide financial assistance to the Pueblos of Santa Clara and San Juan for water infrastructure as a component of the facility. The bill authorizes \$3 million at a 25 percent Federal cost share for the filtration facility and associated pueblo infrastructure.

This is the type of legislation that is essential to the viability of rural and small communities throughout not only New Mexico but the western States.

Madam Chair, with that I will let Mayor Lansford talk about the next, Eastern New Mexico.

[The prepared statements of Mr. D'Antonio on S. 2460, S. 2511, and S. 2513 follow:]

PREPARED STATEMENT OF JOHN R. D'ANTONIO, JR., PE,
NEW MEXICO STATE ENGINEER

ON S. 2460

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to submit testimony on the S. 2460, a bill to provide assistance to the State of New Mexico for the development of comprehensive State Water Plans, and for other purposes as well.

As State Engineer and on behalf of the State of New Mexico, we support this bill with enthusiasm as it is a critical measure that will assist both the state and federal agencies respond to the drought. The State Engineer is tasked with investigating the numerous stream systems and ground water basins located within New Mexico to assess New Mexico's available water supply. The State Engineer does this through completing hydrographic surveys and developing hydrologic models. Federal agencies, who have a long history of cooperation with New Mexico in state water management, will have available current information that is essential to making in-

formed decisions based on current hydrologic conditions, such as flood assessment, land management, tribal water resources assessment and Federal water project management. The New Mexico Office of the State Engineer lacks adequate resources to perform comprehensive hydrologic models and data collection in a manner that is required for the state to respond to its citizens needs during this protracted period of drought. Additional resources will aid the State Engineer's ability to make informed decisions concerning the state's water resources, participate in State-Federal water management decisions, effectively perform water rights administration, and comply with New Mexico's compact deliveries.

S. 2460 would provide federal financial and technical assistance (through the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geologic Survey) to New Mexico so New Mexico may expeditiously develop comprehensive water management plans in response to the drought.

S. 2460 would provide \$12.5 million to the State of New Mexico to undertake statewide digital orthophotography mapping, develop hydrologic models and acquire associated equipment for those ground and surface water systems having priority within the state. S. 2460 would authorize \$2.5 million per year for each fiscal year of 2005 through 2009.

The State of New Mexico supports this bill. I believe it will provide New Mexico and federal agencies the best opportunity to continue their collaborative efforts to efficiently manage New Mexico's water, and do so at a point never more critical to state and federal interests.

Note: S. 2460 was introduced by Senator Pete Domenici on May 20, 2004 and was referred to the Committee on Energy and Natural Resources.

ON S. 2511

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to submit testimony on the S. 2511, a bill to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for the City of Española, New Mexico, and for other purposes.

As New Mexico State Engineer, I supervise all diversions and uses of New Mexico's water supply. The magnitude of water availability and quality have become serious problems for New Mexico and its communities. Given its limited tax base, these problems could become insurmountable if preventative action is not taken now. While water quality is not my direct responsibility, its degradation is directly impacting on my duties. Additionally, in my role with the New Mexico Water Quality Control Commission, I have first hand knowledge of the water quantity and quality challenges confronting New Mexico. Most western states, unfortunately, are or will be similarly challenged.

The unincorporated community of Chimayo, New Mexico is an example of the type of water quality problems confronting small communities throughout the New Mexico and the west. Chimayo residents rely on individual wells for their potable water to drink and septic systems to dispose of waste water. This picturesque canyon setting limits water supply availability and septic system sitings causing the degradation of the water supply with the deterioration of septic systems resulting in 75 percent of wells sampled having significant contamination of both total coliform and fecal coliform and high levels of total dissolved solids. There exists no community water supply and/or treatment infrastructure, so some residents have resorted to the use of free-flowing irrigation ditch water for drinking, yet it also contains high levels of fecal coliform contamination. Since 2001, the region has been declared an emergency area necessitating the National Guard to provide potable water to the area with tanker trucks. Chimayo's situation remains unchanged.

While the City of Española has its own water quality challenges, the more important immediate challenge is to address its current situation, which is a water system that produces approximately 1,000 gallons per minute less than is needed to provide for its current population. This has resulted in inadequate water pressure throughout the city, which is especially problematic for the Española Hospital that serves the region. The lack of adequate water and water pressure has twice led to declared states of emergency. Like Chimayo, the National Guard was called in to supply water to the hospital. The City of Española has an allocation of 1,000 acre-feet per annum of San Juan-Chama Project water by contract with the Bureau of Reclamation. This bill will aid the City develop the infrastructure necessary if it is to divert this water as the existing infrastructure is inadequate water. Until it can use its San Juan-Chama water, the City will continue to deplete its limited ground-

water supplies and continue to suffer from water pressure and water supply problems.

S. 2511 would direct the Secretary of Interior, in cooperation with State and local authorities to conduct a feasibility study of constructing a water supply system for Chimayo. In conducting the feasibility study, the Secretary is to consider various options for supplying water, long-term operation and maintenance costs and local water resources. S. 2511 would authorize \$2 million at a 75 percent federal cost share for the feasibility study. The bill would also direct the Secretary to provide emergency water assistance to Chimayo which may include water treatment, installation of an emergency water supply system and installation of transmission and distribution lines. S. 2511 would authorize \$3 million at a 75 percent federal cost share for emergency water assistance. S. 2511 would authorize the Secretary of Interior to provide financial assistance to the City of Española for the construction of a water filtration facility. It would also authorize the Secretary to provide financial assistance to the Pueblos of Santa Clara and San Juan for water infrastructure as a component of the facility. The bill authorizes \$3 million at a 25 percent federal cost share for the filtration facility and associated Pueblo infrastructure.

This is the type of legislation that is essential to the viability of rural and small communities throughout, not only New Mexico, but the western states.

Note: S. 2511 was introduced by Senator Pete Domenici on June 8, 2004 and was referred to the Committee on Energy and Natural Resources.

ON S. 2513

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to submit testimony on the S. 2513, a bill supporting an Eastern New Mexico Rural Water System pipeline.

This bill would authorize the Secretary of Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, and for other purposes.

The New Mexico Interstate Stream Commission completed construction of Ute Dam and Reservoir in 1962 at a cost in today's dollars of over \$125 Million. The Interstate Stream Commission owns and operates the dam and reservoir for the benefit of New Mexico pursuant to the Canadian River Compact and the 1993 U.S. Supreme Court Stipulated Judgment. The reservoir was constructed for the specific purpose of providing a sustainable water supply to the communities of eastern New Mexico.

In 1997, the Interstate Stream Commission entered into an agreement with Eastern New Mexico communities and counties for the purchase of 24,000 acre-feet per year of Ute Reservoir water. The Eastern New Mexico Rural Water Authority will manage the pumping and storage facilities and delivery of Ute water through the Eastern New Mexico Rural Water System (ENMRWS) pipeline.

The development of this Ute Reservoir water is critical. Communities in eastern New Mexico rely on non-renewable groundwater from the Entrada aquifer and Southern High Plains Ogallala aquifer for their municipal and industrial water supply. Historical pumping in the area has resulted in water level declines exceeding 100 feet. Both aquifers are deteriorating in water quality. The remaining saturated thickness of the aquifer in some locations near Clovis and Portales cannot sustain demand for more than 10 to 20 years, even at current usage levels.

The rapid depletion of these aquifers places the economic viability and perhaps the very existence of these eastern New Mexico communities at risk. Ute Reservoir provides the only significant source of renewable water supply in the region. Without the ENMRWS pipeline, Eastern New Mexico Communities cannot access their only sustainable water supply.

Saline aquifers have been considered as potential sources of additional water supply in the area. We have limited knowledge regarding the quantity and characteristics of saline aquifers in the area. Reliable, cost-effective production from these saline sources is likely decades away and in any event is not renewable.

In December 2003, the Interstate Stream Commission solicited an independent peer review of the updated ENMRWS Conceptual Design Report (CDR). The report findings correlated well with the review conducted by the ENMRWA and we feel there should be little or no unforeseen costs.

Interstate Stream Commission staff completed preliminary ecological surveys and document collection in 2004 in anticipation of the NEPA process. These studies revealed no anticipated significant environmental impacts. The inclusion into the

project of the Logan Sewer Project and Tucumcari Advanced Wastewater Treatment facility is an important feature that will protect the project source water supply.

The Interstate Stream Commission completed a sediment survey in 2003 that indicated the pipeline project will be viable for at least the next eighty years. Completion of this project will provide the eastern New Mexico communities in Curry, Quay, and Roosevelt counties a reliable and renewable source of water to support economic development and current and future needs. In March 2004, the New Mexico Water Trust Board approved \$2 million for the ENMRWS. The communities in Eastern New Mexico provide option payments of \$36,000 per year. We believe the communities can pay for their share of this project economically and support the OM&R Plan language in the draft legislation requiring the ENMRWA to consult with the Secretary and develop a framework of rates and fees that will finance their share of the project.

Madam Chair, the State of New Mexico, the Office of the State Engineer, and the Interstate Stream Commission support the development of the ENMRWS and endorse the federal authorization request. I appreciate the opportunity to address the Committee on this important water project.

Senator MURKOWSKI. We will include all of the testimony part of the record.

Mr. Lansford.

STATEMENT OF DAVID M. LANSFORD, MAYOR OF CLOVIS, NM, AND CHAIRMAN, EASTERN NEW MEXICO RURAL WATER AUTHORITY, CLOVIS, NM, ACCOMPANIED BY SCOTT VERHINES, CIVIL ENGINEER, PROGRAM MANAGER, ENMRWA

Mr. LANSFORD. Thank you, Madam Chair.

I am David Lansford. I am the mayor of the city of Clovis and in addition I serve as the chairman of the Eastern New Mexico Rural Water Authority. The city of Clovis represents over 50 percent of the population served by the Eastern New Mexico Rural Water System. In addition, the city of Clovis serves as the fiscal agent for the project.

Along with me is Scott Verhines. Mr. Verhines is a civil engineer and he is also the program manager for the Water Authority.

Again, thank you for the opportunity to be before you today to make a presentation regarding the need and support for the Eastern New Mexico Rural Water System Project.

Today, because of the prospect of the Eastern New Mexico Rural Water System, we are very optimistic about the long-term sustainability of the water supply in eastern New Mexico. This project is not new. It was first conceived in the 1950's when the New Mexico legislature appropriated funding to construct a dam on the Canadian River near Logan, New Mexico, to create Ute Reservoir. Following the completion of the dam, the first feasibility study was conducted to determine the steps necessary to deliver surface water to eastern New Mexico for the principal purposes of supplying domestic and industrial water to the region.

Water is the most vital of all resources and New Mexicans have consistently ranked the availability of quality water as the most important issue facing those who make public policy. This is evidenced by Governor Bill Richardson's efforts under the direction of the Interstate Stream Commission to develop the New Mexico State Water Plan, which consists of 16 planning regions. In addition, the New Mexico legislature created the Water Trust Board to fund water projects which principally are regional in nature and will leverage local, State, and Federal dollars to the fullest extent possible.

On the local level, many communities throughout the State are developing and implementing water conservation measures, which clearly demonstrate that stewardship of our water supply is of paramount importance to New Mexico's economic future.

This project is viewed by many as the only long-term sustainable source of water for eastern New Mexico. There are currently no viable alternatives to this project. Eastern New Mexico sits above and at the west end of the Ogallala Aquifer. The aquifer is declining at a rapid rate relative to its recharge rate. No one can know with certainty how long this aquifer can provide our water supply, but estimates range from 15 to 25 years based on current demand.

The prospect of not having a sustainable water supply has clearly given rise to the widespread belief that this project is needed. Support for this project exists at all levels of government as well as from the citizens which the project will benefit.

The current initiative for the Eastern New Mexico Rural Water System Project began 5½ years ago. The Ute Water Commission and the Eastern New Mexico Rural Water Authority have conducted over 50 public meetings around the region. In August 2003 the conceptual design report was completed and since then has been subjected to two peer reviews. We have consistently asked the question, have we developed the project to a level at or exceeding other similarly authorized projects. The answers have all been yes.

We recognize the financial burdens that would be placed on all levels of government for this project to be completed and on the local governments' financial responsibility for the system to be maintained and operated. Considerable work is being done to develop financial plans for the member communities and develop cost pro-ration methods and water rates that are affordable to all members of the authority. Many member communities are acting proactively by passing gross receipts taxes dedicated to this project.

Much discussion has taken place regarding the member communities' ability and willingness to pay for this project, can we afford the cost. The more pressing question to me is not can we afford to do this project, but rather can we afford not to.

Again, I want to thank you for the opportunity to make these comments today in this presentation and will be happy to answer any questions when it is convenient for your committee.

[The prepared statement of Mr. Lansford follows:]

PREPARED STATEMENT OF DAVID M. LANSFORD, MAYOR OF CLOVIS, NM, AND
CHAIRMAN, EASTERN NEW MEXICO RURAL WATER AUTHORITY, CLOVIS, NM

INTRODUCTION

The purpose of this project is to address an established critical need. The Eastern New Mexico Rural Water System (ENMRWS) will, when implemented, provide east-central New Mexico communities, counties, and a military base with a sustainable source of water for municipal and industrial use. The project is not new and the need for a renewable water supply has not diminished. On the contrary, the need for potable water grows annually as existing supplies are depleted.

Groundwater reserves in the east-central New Mexico region represent a limited resource that is both declining in quantity and deteriorating in quality. Two groundwater basins generally serve the region, the Entrada Aquifer to the north and the Southern High Plains (Ogallala) Aquifer to the south. The western edge of the Ogallala formation extends from Texas into eastern New Mexico with relatively shallow saturated thickness. The formation was discovered in 1912.

Water levels in the vicinity of Clovis have declined in excess of 100 feet in the ensuing period with estimated recharge being on the order of only ½ inch per year.

Even though voluntary conservation efforts and continued improvements in agricultural water use efficiency can extend the available supply of groundwater, the depletion problem in most of the area makes sustainability over the next 15-25 years a virtual impossibility.

Groundwater hydrologists in the Office of the NM State Engineer (Musharrafi, May 2004) recently reported to the ENMRWA that average annual water level decline in the Clovis area is 1.8 ft., approximately 1.2 ft. in the Portales area, and 1.8 ft. in the Tucumcari region. Saturated aquifer thickness remaining in the Ogallala formation in the vicinity of Clovis is less than 50 ft. and less than 20 ft. in the Portales area. Precipitation is the primary source of recharge to the aquifer, and only a small portion of precipitation infiltrates.

The New Mexico Legislature recognized the water supply problems in eastern New Mexico when it passed an Act authorizing the State Engineer to construct a dam on the Canadian River near Logan in 1959. At the time, it was recognized that existing groundwater supply sources were declining and demand from Texas for more water was coming from both the Canadian and Pecos River basins. In 1964, almost 40 years ago, a major feasibility study was completed by a Consulting Engineering firm to furnish water from the newly constructed Ute Reservoir to communities in eastern New Mexico as a supplemental source of water. In 1975, 1978 and 1981, the New Mexico Legislature authorized and funded improvements to the spillway to increase storage at Ute Reservoir. A 1994 study by the New Mexico Interstate Streams Commission (ISC) estimated the *firm annual yield* to be 24,000 acre-feet per year in all but extreme drought years.

Regional water planning in eastern New Mexico is an active and involved program and the ENMRWS serves as the cornerstone of the planning efforts. Decline in water availability to the region will constitute a major economic impact. Local officials have consistently ranked water as the most serious long-term development issue facing the area. Inaction with respect to implementation of the ENMRWS project will result in lost opportunity for economic development and may result in serious losses to the existing economic base.

Bi-partisan Congressional and Legislative support, and Federal Agency support for the ENMRWS has been ongoing since the completion of Ute dam in the late 1950's. The United States Bureau of Reclamation (USBR) has participated with a number of studies since the 1970's to help advance the project and has served as the federal sponsor for funding of ongoing project development activities.

The project has received the support of Governor Richardson and bipartisan support from the New Mexico State Legislature. The most recent examples include the creation and implementation of the New Mexico Water Trust Fund (WTF) and Water Project Fund (WPF) specifically to advance projects such as the ENMRWS, and dedication of 10% of the State's severance tax backed bonding capacity to the WTF. The 2002 NM State Legislature appropriated \$2 million under HB.88a specifically to provide state assistance to the ENMRWA. Locally, members of the ENMRWA are committed to moving forward with project development activities and have taken steps to finance their share of capital funding in advance of the project. Each of the twelve member entities are currently preparing financial plans specific to their community. In addition, members of the Ute Water Commission (UWC) have spent in excess of \$400,000 in local funds legally reserving water under the terms of the purchase agreement with the ISC since 1983.

A team of Consultants began their activities in February 1999, under contract to the Eastern Plains Council of Governments (EPCOG), and on behalf of the participating member agencies, to prepare a plan to advance the ENMRWS project to a final conceptual and fundable stage. The resulting document, the *October 2003 Conceptual Design Report (CDR)*, serves as the project roadmap.

Subsequently, the ENMRWA solicited a Peer Review of the CDR that was completed in December 2003. The PRT validated the project as detailed in the CDR as "a sound, well thought-out project. It provides the structure of a reliable and appropriate water supply system". The Peer Review team's recommendations resulted in an approximate increase in actual construction costs of \$26.2 million. The additional \$26.1 million increase includes \$16.3 million in nonconstruction activities and \$9.8 million in expected "premium" costs necessitated by building the project over several years in smaller construction packages. The ENMRWA took action at their Dec. 2003 regular meeting to adopt the recommendations of the Peer Review Team (PRT), and the associated financial ramifications, in moving forward with the project. Those recommendations are included in ongoing project development efforts, and reflected in the cost estimates and implementation plan detailed herein.

Participating agencies making up the UWC, and the ENMRWA, include the communities of Clovis, Elida, Grady, Logan, Melrose, Portales, San Jon, Texico, and Tucumcari; and the counties of Curry, Roosevelt, and Quay. The City of Clovis and

Cannon Air Force Base (CAFB) have a water lease/purchase agreement in place, since 1996, for a portion of Clovis' reservation. The UWC was formed by Joint Powers Agreement (JPA) in 1987 for the purpose of contracting with the NM Interstate Stream Commission for the purchase, acquisition and distribution of water from Ute Reservoir. The ENMRWA was formed subsequent to the UWC, initially in November 2001, for the purpose of advanced planning, financing, design, construction and operation of the facilities. The USBR has a long history of involvement in the project and is the cooperating federal agency for funding and technical support.

Specifically, the scope of work associated with the CDR included:

- Research, review and update of prior study efforts.
- Data collection and review relative to mapping availability, land ownership, availability of water quality data, existing and projected water usage, existing community water systems and their operation, existing water rate structures, pertinent environmental process and status, assessment of current applicable materials and technologies, identification of comparable facilities, and water yield from Ute Reservoir.
- Development of a conceptual design for the project and associated documentation. It is intended that the CDR report be used as the basis for pursuing local, state and federal funding, and as the basis for detailed design of the facilities once funding is secured.
- Evaluation of funding/financing mechanisms and availability for the project.
- A determination of water needs and uses for the individual participating entities.
- Development of a plan for staffing and administration of the system once operational.
- Development of an implementation plan and schedule for the project.
- Development of a plan for operation and maintenance of the facilities to deliver the water.

DEMOGRAPHICS

The need for the project stems from both a declining and deteriorating water supply and the rural environment of eastern New Mexico. Population density associated with the area represented by the ENMRWA ranges from 0.5 to 30 persons per square mile and averages less than 4.5 persons per square mile. The current population within the three county service area (2000 census) is 73,000 and is approximately 32% Hispanic and 68% Non-Hispanic.

The land area used for agricultural purposes, ranching, farming, feedlots, and dairies accounts for approximately 93 percent of the total area. Approximately 68 percent of the region's population resides within the municipalities and the remainder reside in non-urban incorporated and unincorporated communities or the farms and ranches in the area. The ENMRWA members in the region to be served by the project are geographically remote. The pipeline system that will connect them all extends approximately 100 miles north-south and 40 miles east-west.

On average, the current cost of producing water from existing groundwater sources accounts for 30 to 50% of the total cost of system operation for the members. Approximately 30 to 50% of current water sales are to commercial and industrial users, and 50 to 70% to residential customers.

OPTIONS PREVIOUSLY CONSIDERED

The initial study phase of the CDR was completed in October 1999, and addressed the supply of Ute Reservoir water to the Quay Working Group (QWG) members of the UWC including the communities of Logan, San Jon, and Tucumcari, and Quay County—the nearest neighbors to the Reservoir. That effort evaluated three water system alternatives defined for the QWG. They were the outcome of a number of public meetings with input from the QWG members, prior work by the USBR and EPCOG, newly enacted groundwater storage and recovery legislation (GWSRA), completion of an extensive data collection effort, and site visits to similar surface water supply projects in South Dakota, Texas, and Arkansas. The three previously considered options were as follows:

- QWG Option A—Conventional Treatment and Pumping (CTP) with the QWG as an initial phase of a full UWC project. Option A, initially sized to deliver to the QWG communities, included:
 - A lakeside intake structure and raw water pumping station.
 - Raw water storage tanks.
 - A water treatment plant.
 - A treated water pump station.

- Treated water elevated storage.
- A main transmission pipeline, which would be extended in future phases to serve the remaining agencies of the UWC.
- Lateral pipelines to each of the QWG communities.
- QWG Option B—Conventional Treatment and Pumping (CTP) serving the QWG as a stand-alone project. Option B includes:
 - A lakeside intake structure and raw water pumping station.
 - Raw water storage tanks.
 - A water treatment plant.
 - A treated water pump station.
 - Direct transmission pipelines to each of the QWG communities.
- QWG Option C—Aquifer Storage and Recovery (ASR). Option C was made possible by the recently (at the time) passed GWSRA legislation, and includes:
 - A lakeside intake structure and raw water pumping station.
 - Raw water storage tanks.
 - A water filtration plant.
 - A filtered water pump station.
 - Direct transmission pipelines to each of the QWG communities.
 - Infiltration basins above the existing well fields at each member community that would serve to recharge the existing groundwater basin.
 - Existing water well and transmission infrastructure would be used to extract and distribute water stored in the underground aquifer.

Of the previously considered options, Option A was found to be the most cost effective for the QWG and formed the framework for the ENMRWS to serve the entire UWC membership. The possibility of significant state and federal funding assistance, and the economies of scale realized by the distribution of common facilities costs over 24,000 ac-ft of total reservation, by inclusion of the entire UWC membership, favored QWG—Option A. Since QWG—Option A was the only option that considered expansion to a regional water supply project, this option also helps solve the regional water supply problem. In November 1999, both the QWG and the UWC voted unanimously to expand the scope of Option A to address the full UWC membership. The extension of Option A to serve the full UWC membership is the focus of the Conceptual Design Report and includes analysis of the water system to deliver 24,000 acre-feet per annum to all twelve UWC members.

While ASR is not considered as a primary system configuration for the ENMRWS project, it is certainly considered as a long-term adjunct to the system as a means to store water that would otherwise spill from the reservoir in years of abundant rainfall. During 1999 while the outlet works were being repaired on Ute Dam, the ISC estimates that 150,000 acre-feet overflowed the spillway. According to the USBR Special Environmental Report of 1993, it is estimated that in the forty-seven years from 1943 to 1989, a total of 874,000 acre feet in excess of the regular project withdrawals would have spilled during fifteen of these years.

With this ENMRWS project in place, the existing well fields at each delivery point may be configured to periodically inject these spill waters to effectively increase the yield by a factor of 1.8 times 24,000 acre-feet/year over forty seven years.

Logan's proximity to the lake affords it a unique alternative. An excellent case may be made that the existing geohydrologic connection between the reservoir and Logan's well field already recharges Logan's localized aquifer. If so, Logan could file with the Office of the State Engineer Office (OSE) to extract its reservation from its existing well fields without the need for significant additional infrastructure. However, as a backup source, to take advantage of treated water associated with future water quality regulations, and to potentially provide service to the south side of the reservoir, a connection from the project to Logan is included and associated costs developed.

KEY PROJECT ASSUMPTIONS

The following underlying assumptions are pertinent to this report:

- Water delivery to ENMRWA members is based on satisfying *peak-day demand*, and 24,000 ac-ft annual delivery.
- Water is centrally-treated and potable water is delivered to the members.
- Water will be delivered in bulk (wholesale) to members.
- County reservations will be available for future wholesale delivery to currently unincorporated areas—for fire protection, livestock taps and for redistribution as domestic water supply.

- The infrastructure has been sized, and associated costs developed, assuming that each participating member uses or pays for their reserved allocation of Ute water annually (“take or pay”).
- Pipeline easements will be donated. Single payment damages could be reimbursed where warranted. Fee simple property will be purchased.
- The expanding development of wind energy resources in the region is potentially key to maintaining affordable operation and maintenance project costs. New Mexico’s renewable wind energy resources rank 12th among the 50 states in value.
- Water costs have been developed for each member agency on the basis of possible funding arrangements described in the following section.
- It is intended that the system will deliver potable water for domestic, commercial and industrial uses, and it will not be used for the purposes of irrigated agriculture.

KEY PROJECT FEATURES

- A lakeside intake structure and raw water pump station.
- 1.7 million gallon raw water storage (equalization) tanks.
- 39 million gallon per day (mgd) capacity central water treatment, administration and maintenance facility.
- A high service pump station at the water treatment facility.
- Treated water elevated storage—Quay Co. storage and pressure control.
- Approximately 87.5 miles of main transmission pipeline ranging in size from 30” dia. to 54” dia.
- A booster pump station at the base of the Caprock.
- 2.4 million gallon ground storage at the top of the Caprock.
- Gravity flow from the top of the Caprock to all downstream members in Curry and Roosevelt Counties.
- Approximately 94.8 miles of lateral pipelines to serve individual communities and county demand, ranging in size from 8” dia. to 36” dia.
- Telemetry and control systems.
- Infrastructure security enhancements.
- The ENMRWA has endorsed three (3) infrastructure projects as adjuncts to the core water project, as follows:
 - \$100,000 Energy recovery at Portales (PRT recommendation)
 - \$3,000,000 Advanced wastewater treatment at Tucumcari (PRT recommendation).
 - \$6,000,000 Logan wastewater collection and treatment project.

The first item listed above takes advantage of the amount of energy available in the trunkline opposite Portales. In lieu of using a pressure reducing valve, or similar appurtenance to reduce the pressure to a match Portales’ distribution system, the PRT recommends a small “hydropower” system that will accomplish a similar pressure reduction while generating usable power at the same time. An initial investment in the associated infrastructure will pay for itself many times over in energy recovered.

The second and third items above are directly related to helping ensure long-term water quality in the reservoir for the benefit of all the authority members. Effluent from Tucumcari’s wastewater treatment plant discharges to Ute Reservoir. These funds would be used to add tertiary treatment to improve effluent water quality, or alternatively for effluent reuse back to the City of Tucumcari reducing or eliminating discharge to Ute Reservoir. Tucumcari is presently studying these options. Logan’s project will reduce or eliminate the potential for discharge from existing septic tanks and cesspools along the north shore into the reservoir. Since the reservoir is intended to become the primary source for municipal and commercial water supply to the water authority membership protection of its long-term water quality, and quantity, is paramount.

FUNDING AND COST PRORATION

Fiscal evaluation of the feasibility of the ENMRWS is predicated on an 80-10-10 funding mechanism for capital costs: 80% Federal assistance in the form of grant, 10% State matching funds, and 10% Local members share. This is based on an evaluation of the members’ ability and willingness to pay, on experience drawn from the successes of rural water supply projects in South Dakota and other mid-western and western states, and the fact that the ENMRWS is similar in both size and in demographics of the population served by those projects. Estimated costs are prorated to the members on the basis of these primary considerations:

- “Common facility” capital costs, core to and necessary for the water supply system to function, are prorated on the basis of the amount of water reserved on the system. Examples of common facilities are the intake structure at Ute Reservoir, raw water pumping facilities, and the water treatment facility.
- Infrastructure capital costs specific to serving each member entity are accounted for and the associated costs applied to the respective entity. For example, the lateral pipelines from the main transmission trunk pipeline to the member communities. In the case of the three counties, where specific locations for water demand are not completely identified at this time, county level capital costs were prorated for the common facilities, along the transmission pipeline, and along lateral lines to member communities.
- Fixed non-construction costs necessary to implement the project, such as engineering, special studies, funding and programmatic activities, NEPA level environmental documentation and permitting, public involvement programs and construction management are prorated to the member entities on the basis of their relative share of construction costs (including pro-rata share of the common facilities).
 - The main transmission trunk pipeline is prorated on the basis of Ute water reservation and pipeline length from treatment plant.
 - Operation, maintenance and replacement costs are prorated on the basis of member’s relative share of the construction cost, and are adjusted for anticipated phasing of the improvements.
- 100% of recurring costs will be born by ENMRWA members and associated water users over the project life. Recurring costs are included in computed *wholesale* water rates. Recurring costs include the cost of raw water, system operation and maintenance, ISC Ute Reservoir operation and maintenance fee, debt retirement on capital cost, and replacement costs.

PROBABLE PROJECT COST

The total core project cost estimate is \$296.6 million, including construction and nonconstruction items. The three adjunct projects added by the ENMRWA take the total project cost to \$305.7 million. The population potentially served is approximately 73,000 and the total project cost per capita is \$4,188. The average *wholesale* cost to ENMRWA members, considering a 10% cost share plus 100% of operation and maintenance, is \$1.92 per 1,000 gallons. Four major project phases are anticipated. Assuming the proposed funding model, it is expected that the four major phases will encompass approximately twelve (12) separate construction packages over seven to eight years. The following graph* approximates the local, state and federal funding necessary to meet the aggressive goals defined in the implementation plan and schedule for the project over the next 11 years.

CAPABILITY TO PAY AND REGIONAL ECONOMIC BENEFITS

The USBR Denver Technical Service Center prepared an economic analysis of the project. The analysis includes an estimate of the capability of water users to pay for construction of a Ute Reservoir pipeline, the potential willingness to pay of water users for water supply improvements associated with the pipeline, and the potential regional economic impacts and tax impacts from building the pipeline.

The estimates of payment capability include both households and commercial water users. The capability of households to pay for water supply improvements is based on an analysis of household income, expenses, and residential water payments made in similar areas. The payment capability of commercial water users is based on the results of previous rural water system studies and current business activity in eastern New Mexico.

The total net payment capability was estimated to range from \$2.8 million to \$11.3 million annually for all households in the study area and \$1.6 million to \$4.9 million annually for commercial establishments. The most likely range of net payment capability is \$10 million to \$11 million annually for households and \$2.6 million to \$4.9 million for commercial establishments. The most likely range of estimates is based on the maximum payment capability factors observed for comparable water suppliers used in the payment capability analysis. The payment capability estimates would cover operation, maintenance, repair, raw water costs, and operation and maintenance fees associated with the proposed pipeline project.

The willingness to pay estimates measure the amount water users would be willing to pay to improve the water supply under current conditions. The willingness

*All graphs and tables have been retained in subcommittee files.

to pay of households is estimated to be \$2,278,600 annually and the willingness to pay of commercial water users is estimated to be \$425,000 annually, for a total willingness to pay of a little over \$2.7 million each year given current levels of population and commercial development. Both of the willingness to pay estimates are based on the benefits transfer method, which can result in a significant level of error.

The eastern New Mexico region has experienced a decline in groundwater levels over recent years. If this trend were to continue over time without planning for future use, it is very likely that the cost of providing water supplies would increase significantly in the future. As a result, the true benefit from providing water through an alternate surface water supply will be greater than the estimated willingness to pay. Assuming future water payments without an alternative water source double, the benefits from the pipeline could be \$5 million annually.

Construction and operation expenditures associated with the proposed eastern New Mexico Rural Water System will generate regional economic impacts. It is estimated that the project would generate an estimated \$100 million in regional output, \$25 million in employee compensation, and a little over 1,500 jobs during construction. Annual impacts from operation and maintenance activities would be about \$16.5 million worth of regional output, \$3.6 million in employee compensation, and 170 jobs.

It should also be recognized that any commercial activity attributable to the water supply project, either through the attraction of businesses due to improved water supplies or through the retention of businesses that would have left if water supplies became worse in the future, would also generate positive regional economic impacts. The magnitude of these impacts cannot be estimated with any certainty because the extent to which business activity is affected is not known.

Construction of the pipeline will also generate tax revenues. It is estimated that the project will generate as much as \$8.5 million in gross receipts tax revenues. Gross receipt tax revenues from operation and maintenance expenditures to all levels of government are estimated to be over \$450,000 annually. Pipeline construction will also have an impact on state income tax payments. Income tax payments are estimated to increase by \$360,000 as a result of construction and \$53,000 annually from operation and maintenance expenditures. Implementation of an additional gross receipts tax could increase the financial resources available to pay for a pipeline significantly.

IMPLEMENTATION AND SCHEDULE

The proposed approach to project development and implementation is anticipated to take approximately 11 years, from the delivery of the Conceptual Design Report in October 2003, to the completion of construction of Phase 4 improvements in October 2014. A copy of the detailed Implementation Plan and Schedule presented in Section 7 of the CDR is included at the end of this brief. The main activities envisioned are as follows:

- *Project Development Activities*—July 2004 through January 2012.
 - Funding and supporting activities
 - Pilot treatment testing
 - Public involvement activities
 - Environmental Investigations and Documentation (NEPA)
 - Preliminary and Final Design
- *Construction Activities*—November 2007 through October 2014
 - Phases 1 through 4

Based on the detailed analysis presented in the CDR, the ENMRWA concludes that:

1. The ENMRWS is a feasible solution to the regional water supply problem. From an engineering standpoint, the system as conceptually conceived is viable. From a funding and project cost standpoint, it is the potential leverage of local and state funds with significant federal participation that makes the project feasible with respect to the regional users ability to pay for and operate the system.

2. The formation of the ENMRWA (the "Authority" as was recommended in the October 2000 Conceptual Design Report) representing the interests of the UWC members is a prudent step, and provides the mechanism for establishing operating procedures, seeking federal and state funding, and initiating planning and design efforts. The ENMRWA hired a Program Manager to serve as the point of contact for the Authority and to represent the membership in subsequent project development activities.

3. It should immediately concentrate its efforts on seeking federal authorization and subsequent funding support, working with the State of New Mexico within the framework of the Water Project Fund for dedication of a state match to the project, and on initiating a public awareness/education program.

4. The Authority should initiate negotiations with Farmer's Electric Co-op over a satisfactory long-term power rate. Additionally, the Authority should continue to strongly pursue renewable energy from wind power development in the region as a potential long-term operation and maintenance cost shaving measure.

5. The Authority should initiate the appropriate selection of consultants to assist the members with funding, planning, design, construction and public awareness activities in support of project development. The consultant team's efforts should initiate pilot testing to finalize the water treatment program, preliminary property owner contacts to identify property acquisition opportunities and constraints, and NEPA investigations and documentation.

6. Planning efforts should include development of detailed operating and administrative procedures to be followed, and a process for intra-authority interim water transfers between members within the operating procedures of the Authority.

7. The Authority, in collaboration with the ISC and the Village of Logan, must remain committed to long-term water quality monitoring and source water protection at Ute Reservoir.

8. A great deal of work and background has been developed in support of the ENMRWS over a 40-year period. A healthy, participative, and collaborative effort between the project sponsors and stakeholders is crucial to ensuring that the surface water resource will be put to beneficial use in a timely and cost-effective manner.

CURRENT AND ONGOING EFFORTS

- Studies are nearing completion regarding development of individual ENMRWA member financial plans.
- Studies are nearing completion on an update to water rate setting and cost proration.
- The Authority has established a Public Involvement Committee, developed a structured public involvement program and initiated the public education component.
- The Authority has established a By-Laws Committee that is actively developing operating rules and procedures.
- The Program Manager is currently updating the 2003 CDR Implementation Plan and Schedule to reflect ongoing activities at the local, state and federal level.
- The Program Manager, in conjunction with the Authority's consultants working on financial plans and water rate setting, is developing a temporal cost estimate showing costs incurred by the member entities and the associated impact to water rates on an annual basis.
- The Authority has approved a plan to solicit and select consultants for Preliminary Design of the entire project, associated special studies, and NEPA investigations and documentation.

Senator MURKOWSKI. Thank you.

I appreciate the testimony of both gentlemen. We will have to depart to go vote. I do understand, though, that Senator Domenici has already voted and is perhaps on his way back here and wants an opportunity to pose about 5 minutes of questions. So if I can ask, Commissioner, you to hold tight, and gentlemen, if you can stay with us, we will hold the record open for Senator Domenici to come. It is correct he is coming?

So Senator Bingaman, if you wanted to make a couple of comments.

Senator BINGAMAN. Let me just thank you again for having the hearing. Sorry these votes have interrupted our hearing. I do not know if I will get back or not, but we will submit a couple of questions for the record for both Commissioner Keys and for these witnesses. I know they have come a great distance, these two wit-

nesses have, to testify today and we very much appreciate it. We will continue to move ahead with this legislation.

Thank you very much.

Senator MURKOWSKI. Thank you.

I also have questions that will be submitted for the record in the event that we do not get to all of them. But if we can just take an at-ease here until Senator Domenici is able to join the group and that allows us to vote. Thank you. Again, thank you for making the commitment to come all this way. We do appreciate it.

[Recess from 3:02 p.m. to 3:38 p.m.]

The CHAIRMAN [presiding]. Mr. Keys, why do you not come and join at the table. I want to go rather quickly. I first want to apologize to all of you. This has just been one of those days. I would have let you go and called off the meeting, let it go at the sub-committee level. But there are things here that are very important to New Mexico and so I wanted to get a couple of them out on the record and make sure.

Has Senator Bingaman been here? OK, so I imagine he got the issues.

First, from New Mexico, I want to thank you, Mr. D'Antonio, for coming. You have a tough job in New Mexico. From the last time I have seen you, you look slimmer, your eyes look a little bit more indented in your head. But I assume you still like it, is that right?

Mr. D'ANTONIO. Yes, Senator Domenici. I am loving my job. It needs to snow and rain more, but yes.

The CHAIRMAN. You got it.

Let me talk for a minute to you, Commissioner. New Mexico, as many other Western States, has limited fresh water but abundant brackish water, as you know. We plan to have a groundbreaking later this month for a Bureau desalination research and development facility in New Mexico. I thank you for agreeing to attend that event.

Does the Tularosa facility fit well within the Bureau's existing desalinization research program? I am asking you.

Mr. KEYS. I am sorry. Say again, sir?

The CHAIRMAN. Does the Tularosa Basin facility fit within the Bureau's existing desalinization research programs?

Mr. KEYS. Mr. Chairman, our existing program runs out at the end of 2004 and certainly would need to be reauthorized. It extends that program and we think that the bill that you have proposed here is a good way to extend that to include Tularosa.

The CHAIRMAN. What role do you foresee the Bureau having in advancing desalinization technology as it pertains to addressing our Nation's depleting water, fresh water resources?

Mr. KEYS. Mr. Chairman, we think that the Bureau of Reclamation has a lot to offer to the desalination effort. Our comments on the bill that is before us today actually ask that we be put into a better role with that facility than just being a caretaker, in other words to define the effort that Reclamation can do to be part of that research and development effort to forward desalinization.

We have several programs under way that we are working with now. We have some of the experts in the field working for us. It is a significant part of the Water 2025 effort that we have going. We certainly want to be part of that.

The CHAIRMAN. Now, let me move a minute to the S. 2460. This is the New Mexico Water Planning Assistance Act. Commissioner Keys, assessments have been made by the New Mexico Office of the State Engineer assisting the Federal agencies, including the Bureau, providing important information on hydraulic conditions, important for flood assessments, flood management, tribal water resources.

My staff has taken great care to solicit the administration's concerns on S. 2460. As a result, my staff has addressed an amendment to be offered at markup that would make the grants to the State subject to a 50 percent cost share. Would the administration support S. 2460 with such an amendment?

Mr. KEYS. Mr. Chairman, that is one of the problems that we had addressed in our comments, this cost share. That would be acceptable to us. We still have a couple of other hesitations about the bill. One is section 3(e) that says that the Governor of New Mexico could actually redirect Interior funding to someone else, and we would request that section 3(e) be dropped from that bill also.

Other than the general concern about it being a drain on our budgets and so forth, those are our concerns.

The CHAIRMAN. Well, we are going to have to decide what is most important around here. I can take the case to the Senate that there is nothing more important out there in the West. They tell us now that these have not been exceptionally dry years, that we are kind of in the middle. That is what I hear. I do not know what John has heard, but this drought is not going away next year. It is going to be here pretty long, which is very, very tough.

Let me ask you, Mr. D'Antonio. The subject matter is S. 2460, the Water Planning Assistance. Will S. 2460, the Senate bill, help New Mexico make decisions about limited water resources? Does S. 2460 better equip the office to deal with years of drought?

Mr. D'ANTONIO. Senator, yes, S. 2460 would greatly enable and enhance our ability to assess our water resources in the State of New Mexico, both groundwater and surface water. We are in probably a 5-year drought cycle right now and with no end in sight and no rains in April or May. The drought—we are going to be in a severe—most of the entire State is going to be in a severe drought condition as the new data comes out. And yes, this funding is critical for us to do our active water resource management in New Mexico.

The CHAIRMAN. Mayor Lansford, would you please understand that I fully support the importance of the Eastern New Mexico pipeline as far as the future of that part of the State. I commend you and others who have been involved for all the hard work that you put in the project. I have some concerns about the ability of some of the communities to raise their portion of the moneys.

What are the findings of the financial assessments to investigate the ability of the beneficiary communities to pay for the non-Federal portion?

Mr. LANSFORD. Thank you, Senator, for your comments. The study that we have looked at in general says that as a region, as 12 member communities, collectively we have the ability to pay. But individually there is a few communities that do not, and as a

result of that analysis we are looking at some pro-rationing and some rates that will make it affordable for all.

An example would be the people of Clovis paying an additional penny per thousand gallons would reduce the rate in a neighboring community by as much as 7 to 8 dollars per thousand gallons. So doing a little bit of cost-sharing and so forth, I think we can come up with some formulas to make it affordable to all the member entities.

The CHAIRMAN. Well, I thank you for that. I think we can apply a little ingenuity, maybe give more flexibility to how you can put that together, so it does not have to be exact if you can meld it together. In doing that, we have got to make sure that the result is fair, and if we can work on that in putting it together we will.

I do not want to keep you any longer. I just want to thank you. Some of these are not thought to be important bills, Chimayo and the others, but anything we can do, a little bit here and there, is helpful.

With that, we stand adjourned at the call of the Chair. Thank you so much.

[Whereupon, at 3:47 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

DEPARTMENT OF THE INTERIOR,
OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS,
Washington, DC, August 27, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed are responses prepared by the Bureau of Reclamation to questions submitted following the June 17, 2004, hearing before the Subcommittee on Water and Power on S. 2513, "To authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System."

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

JANE M. LYDER,
Legislative Counsel.

[Enclosure.]

S. 2513

Question 1. Your testimony on S. 2513 states that "the cost share percentage set forth in the legislation is beyond the normal federal cost share for rural water projects." That statement is not correct. The cost-share set out in the legislation is well-established by recent precedent—for example:

- The Lewis & Clark Rural Water System in South Dakota was authorized in 2000 at an 80% Federal cost-share (\$214 million);
- The Dry Prairie Rural Water System in Montana was authorized in 2000 at a 76% Federal costshare (\$51 million); and
- The Rocky Boys Rural Water System in Montana was authorized in 2002 at an 80% Federal cost-share (\$203 million).

Moreover, Reclamation's own capability and willingness to pay study questions whether the communities in Eastern New Mexico can absorb any more costs.

Isn't an 80% Federal cost-share appropriate under these circumstances?

Answer. The three projects you mention were all authorized at the high levels you stated. Nevertheless, as we have previously testified, the Administration does not believe an 80% Federal cost-share is appropriate for any rural water project. On March 25, 2004, I appeared before the Energy and Natural Resources Subcommittee to discuss the merits of S. 1732, S. 1085 and S. 2218. S. 2218 is the Reclamation Rural Water Supply Act of 2004, which was introduced by Senator Domenici on behalf of the Administration. S. 2218 would require the use of a well-established Reclamation methodology for identifying the "capability to pay" of rural communities to determine the appropriate level of their contribution for development and construction costs and would establish a 35% minimum non-Federal contribution. Reclamation's rural water activities were assessed in 2002 under the Program Assessment Rating Tool (PART), a method of assessing the performance of program activities across the Federal government. The conclusions of the review were clear—stronger controls for rural water project development are needed and lack of Reclamation involvement during project development increases the probability of

projects that are not successful according to the Federal program assessment measurements. So even though the two Montana projects and the one South Dakota project were all authorized at, or close to, an 80% Federal cost-share, the Administration's objective with respect to rural water projects is to follow the policies that would be mandatory under S. 2218 and require a minimum non-Federal contribution of at least 35%.

Question 2. I agree with your assessment that the communities participating in the Eastern New Mexico project need to have an accurate estimate of the annual costs and an agreement on how to apportion those costs. S. 2513 requires just such a plan to be in place prior to initiating construction of the Project.

Doesn't this contingency in the legislation address Reclamation's concerns?

Answer. As stated in my testimony, Reclamation has questions about the construction and Operation, Maintenance and Replacement Plan (OM&R) costs. The URS Corporation, which was hired by the State of New Mexico to review the project Conceptual Design Report (CDR), raised many of the same questions. Few of these lingering questions were addressed in the August 2003 CDR developed by Smith Engineering, Inc. or the Jarnis Consultants peer review conducted in December 2003.

Additionally, the Eastern New Mexico Rural Water Authority (ENMRWA) is planning studies that will further refine construction and OM&R cost estimates. Whether the additional studies will increase or decrease the cost estimate is unknown at this time. If either the construction or OM&R cost estimate changes significantly, the ability of the ENMRWA to afford the project will also change. If the cost estimates increase, the ENMRWA may not be able to afford the project, even with an 80 percent federal grant. If the cost estimates decrease, the ENMRWA may be able to afford a larger portion of the construction cost. The contingency in the legislation only addresses one of Reclamation's questions: Do the communities have agreement on how to apportion the construction and OM&R costs among themselves? The question of ability to pay cannot be answered with certainty until more definite cost estimates are developed.

We would like to work with the ENMRWA to obtain firmer estimates of construction and OM&R costs as well as to establish a clear breakdown of how these costs are to be apportioned among participating communities, in order to eliminate the contingency in the legislation. We note, however, that Reclamation's authority to participate in developing this project, as with any other rural water project, is severely limited by our lack of authority to develop rural water projects.

Question 3. You also note the need to peer review the conceptual design report for the Eastern New Mexico project. Both the Authority and the New Mexico Interstate Stream Commission conducted a peer review of the design report.

Does Reclamation have objections to the findings of those two peer review efforts?

Answer. A cursory review of the peer review report commissioned by the New Mexico Interstate Stream Commission reveals that a large majority of comments made by URS Corporation were not addressed by the ENMRWA. For example, the URS recommended project contingencies of 30 to 35 percent, engineering design of 8 percent, unidentified item allowance of 10 to 15 percent, a contingency applied to Operation Maintenance and Replacement (OM&R) of 30 to 35 percent, and included costs for rock excavation and pipe bedding. The costs provided in the Jarnis peer review and the Final CDR contain only a 25 percent contingency, 5 percent for engineering design, no unidentified item allowance, no identifiable contingency applied to the OM&R costs, and no costs for rock excavation and pipe bedding. The Jarnis peer review also contains OM&R line items that are disproportionate with the construction costs.

In light of the inconsistencies between the two peer reports and the Final CDR, we would like an opportunity to perform our own detailed independent review and to work with the ENMRWA to develop a final report that incorporates appropriate recommendations from each peer review report. A full Administration review is necessary to ensure that the project is in line with the best interests of the federal taxpayer, and to help both the Administration and Congress assess what priority this project should have, relative to other projects all awaiting limited federal resources.

Question 4. The Administration is objecting to the design and development of wastewater systems as "beyond the purview of Reclamation's mission and detract[ing] resources from core activities."

The wastewater systems included in the project are a small part of the project (\$9 million) and key to protecting the quality of the source water. Has Reclamation implemented source water protection with respect to other water projects that it is associated with?

Answer. Reclamation has constructed small sewage systems for recreational or office use around various reservoirs, typically small collection systems and septic

tanks. Reclamation is also involved in the Jicarilla Apache Nation Municipal Water and Wastewater Project. Reclamation's involvement is the result of special circumstances that posed a health hazard to the Nation in and around Dulce, New Mexico. P.L. 106-243 (July 2000) directed the Secretary of the Interior to do a study and submit a report on this problem. The Jicarilla Project is a non-traditional Reclamation water project, and is not supported in the Administration's budget.

One example of sewage handling for the purposes of source water protection is the Arbuckle Project near Sulphur, Oklahoma. Effluent from the Sulphur, Oklahoma sewage disposal plant is pumped four miles to a different drainage than the Arbuckle Dam, avoiding possible contamination of water stored at Arbuckle Dam.

The term source water protection can be viewed broadly and applying a more expansive definition, Reclamation has implemented several source water protection projects. These include the Colorado River Basin Salinity Control Project and the Leadville hazardous waste treatment plant. However, most of these projects are associated with Reclamation Projects and are considered "issue-related" to any core activities. Our position is that wastewater systems are appropriately the responsibility of local and State stakeholders and that Reclamation can leverage its funding most effectively when our activities focus on water storage and supply augmentation.

DEPARTMENT OF THE INTERIOR,
OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS,
Washington, DC, October 7, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed are responses prepared by the Bureau of Reclamation to questions submitted following the June 17, 2004, hearing before the Subcommittee on Water and Power on S. 1211, S. 2460, and S. 2511.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

JANE M. LYDER,
Legislative Counsel.

[Enclosure.]

S. 1211, RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT

Question 1. Commissioner Keys, Title 16 directs the Secretary of the Interior to develop programs to "investigate and identify" opportunities to reclaim and reuse naturally impaired ground and surface water. Do you feel that the Tularosa facility will further this statutory mandate?

Answer. Construction and operation of the Tularosa facility is in line with Section 1605 of Title XVI, which authorizes Reclamation to conduct research and demonstration projects.

The focus of work at the Tularosa facility will be research on desalination of naturally impaired groundwater as well as investigation of means of disposal of the concentrate stream that is produced by almost any desalination process.

Question 2. What do you believe the appropriate role of the federal government is in helping communities make use of desalination technology to meet their water needs?

Answer. The federal government has a history of involvement in desalination research. The Administration is currently reconsidering the appropriate role of the federal government in conducting research in this area, which worldwide is linked to a multi-billion dollar industry.

S. 2460, THE NEW MEXICO WATER PLANNING ASSISTANCE ACT

Question 1. Last time that you and Director Groat testified before this subcommittee, Director Groat said that we need a more detailed assessment of our water resources. S. 2460 would enlist the expertise of the USGS, in collaboration with the New Mexico Office of the State Engineer in surveying and modeling stream systems in New Mexico.

Do you feel that the aim of S. 2460 is consistent with Director Groat's testimony before this subcommittee on May 17 that we need a more detailed assessment of our water resources?

Answer. Yes, the stated purpose of S. 2460, the New Mexico Water Planning Assistance Act, "to provide assistance to the State of New Mexico for the development

of comprehensive State water plans,” is consistent with Dr. Groat’s testimony on May 19, 2004, in which he states:

Water quantity and quality will most likely be the determining and limiting factors that ultimately control future economic development, population growth, and human health. . . . the lack of basic inventory and monitoring information pertaining to border water resources and water resources environments prevents a comprehensive understanding of watershed and regional processes and issues, and hinders the ability of science to provide the essential predictive capability to characterize or describe potential cause and effect relations associated with alternative land and water use and management actions.

While the stated purpose of S. 2460 is consistent with Dr. Groat’s testimony this past May, the Administration does not believe that S. 2460, as currently drafted, is an appropriate vehicle for improving knowledge about New Mexico’s water resources. As noted in my testimony, funding for these activities should be pursued through existing authorities and procedures. Also, cost-sharing provisions should conform to other similar programs undertaken by Reclamation and the USGS Cooperative Water Program. S. 2460 is too vague regarding the relative roles and functions of Reclamation and USGS to promote efficient implementation. Finally, the bill duplicates some existing agency programs and authorizations and sets a major precedent of funneling funds through the Department of the Interior for State water plans.

Question 2. Do you believe that the federal government should contribute to data gathering that benefits federal agencies?

Answer. Yes, in fact, it is within the missions of both USGS and Reclamation to provide data to Federal agencies, and appropriate local cost sharing is a normal part of this process. However, for the reasons stated above, I do not believe that S. 2460 is the appropriate vehicle to accomplish these objectives.

Question 3. Do you believe that the data that would be produced as a result of this bill would help State and Federal governments plan to ensure a sustainable water supply for the State?

Answer. Many local, State, and tribal New Mexico water agencies are already using information produced through cooperative work with Reclamation and USGS. Data produced as a result of this bill could potentially help New Mexico and the Federal government plan for the development of a sustainable water supply. But again I emphasize that S. 2460 is not the appropriate vehicle towards this end.

Question 4. Do you agree that the Bureau, the USGS, and local entities should work in concert to assess the region’s groundwater needs?

Answer. Yes, it is important that the Bureau, USGS, and local entities work in concert to bring their collective expertise to understanding and managing the region’s groundwater resources. Reclamation and the USGS have a history of working with local governments regarding groundwater resources. The High Plains States Groundwater Recharge and Demonstration Act (P.L. 98-434) legislation authorized Reclamation, as lead agency, in conjunction with the USGS and the EPA, to investigate opportunities and methods for enhancing groundwater resources in the seventeen western states. The Bureau, the USGS, and local entities should work in concert to assess the region’s groundwater needs. But assessment is only the first step toward the development of reliable water supplies.

Question 5. As you know, this bill would direct the USBR and USGS to provide technical and financial assistance to the State of New Mexico for hydrologic modeling. Do you agree that this bill would help plan for effective water management in times of drought?

Answer. The goals of S. 2460 are commendable. Clearly, water management is primarily a matter for State authority, and the State of New Mexico has invested significant state effort and resources for this purpose. A key facet of Reclamation’s support for local water management strategies is in our Water 2025 program by which we make grants to local water resource managers on a competitive, cost-shared basis. Projects supported by Water 2025 are not only valuable for their own local areas but can often become models for others.

On the other hand, we are not sure that S. 2460, as currently drafted, will necessarily yield optimum water management for New Mexico in times of drought. We would hope that the uncertainty as to the respective roles of USGS and Reclamation, and the extent to which S. 2460 seems to overlap other existing authorities, would not complicate our mutual effort to focus directly on the most pressing area for information collection and action.

S. 2511, THE CHIMAYO WATER SUPPLY SYSTEM AND
 ESPAÑOLA FILTRATION FACILITY ACT OF 2004

Question 1. S. 2511 authorizes small projects that would provide a clean, reliable water supply where it is desperately needed. Since 1980, Congress has approved and the Bureau of Reclamation has built numerous rural water supply projects.

Do you feel that providing assistance for communities that are in emergency water status is an appropriate use of the Bureau's resources?

Answer. With respect to municipal water supplies, the Bureau of Reclamation's traditional role has been to develop water supplies in the western states on a large scale for the benefit of multiple communities. Once the Bureau's facilities are constructed and water is stored, the allocation of that water must proceed in accordance with state water law, compacts, sales contracts, power contracts and other obligations. After a water supply has been developed, small communities, such as Chimayo, have access, on an individual basis, to other federal programs and agencies that can assist in the design and construction of the smaller, community-specific, water systems for transmission and distribution of water. However, if drought is causing a true emergency, those traditional roles can be set aside and the Bureau would be prepared to act under our drought authority.

Question 2. Do you believe that the federal government should contribute to data gathering that benefits federal agencies?

Answer. Yes, in fact, it is within the missions of both USGS and Reclamation to provide data to Federal agencies, and appropriate local cost sharing is a normal part of this process (as is work done on a reimbursable basis for other agencies). As I stated in my testimony, among the three separate versions of rural water legislation now pending before the U.S. Senate, there is bipartisan, inter-branch consensus that the federal cost share should not exceed 50% for planning on rural water projects, at least until a capability-to-pay analysis that is consistently utilized indicates that a different cost-share is more equitable. By contrast, Title 1 of S. 2511 provides that any assistance or grants for the Chimayo water supply system would be made on a non-reimbursable basis, with only a 25 percent local cost-share. In addition, Title 2 of S. 2511 directs the Secretary of the Interior, acting through Reclamation, to provide financial assistance to the City of Española for construction of an Española water filtration facility. Reclamation has provided the City with \$400,000 to perform a feasibility study, including environmental reviews under NEPA, which did not contemplate providing water to Chimayo. The feasibility report has yet to be received from the City.

Question 3. Do you believe that the data that would be produced as a result of this bill would help State and Federal governments plan to ensure a sustainable water supply for the State?

Answer. Many local, State, and tribal New Mexico water agencies are already using information produced through cooperative work with Reclamation and USGS. Data produced as a result of this bill could potentially help New Mexico and the Federal government plan for the development of a sustainable water supply. However, because of issues discussed in the previous question concerning cost sharing requirements for the Chimayo water supply system, and problems with the scope of the feasibility study for the Española water filtration facility, along with the fact that it has not been received by Reclamation yet, the Administration does not feel that S. 2511, as drafted, will help State and Federal governments plan to ensure a sustainable water supply for the State of New Mexico.

Question 4. Do you agree that the Bureau, the USGS, and local entities should work in concert to assess the region's groundwater needs?

Answer. Yes, it is important that the Bureau, USGS, and local entities work in concert to bring their collective expertise to understanding and managing the region's groundwater resources. Reclamation and the USGS have a history of working with local governments regarding groundwater resources. The High Plains States Groundwater Recharge and Demonstration Act (P.L. 98-434) legislation authorized Reclamation, as lead agency, in conjunction with the USGS and the EPA, to investigate opportunities and methods for enhancing groundwater resources in the seventeen western states. The Bureau, the USGS, and local entities should work in concert to assess the region's groundwater needs. But assessment is only the first step toward the development of reliable water supplies.

APPENDIX II

Additional Material Submitted for the Record

CITY OF ESPAÑOLA,
OFFICE OF THE MAYOR,
Española, NM, June 9, 2004.

Hon. LISA MURKOWSKI,
Chairperson, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: The City of Española is in the process of developing a new Water Filtration Facility (WFF) on property that it has acquired in order to address current and future water system demands for the City and surrounding communities. The City of Española proposes to implement this project to capitalize on the availability of the 1,000 acre-ft per year (AFY) of consumptive water rights that the City owns contractually with the U.S. Bureau of Reclamation for San Juan-Chama Project water.

The City of Española is considered a regional community to the surrounding area, capable of extending community services to outlying communities. The completed Water Filtration Facility will allow the City to expand its service area and infrastructure to allow surrounding communities' access to the regional water system. The Community of Chimayo is one of those surrounding communities that is in dire need of a water supply system and currently relies on potable water from the City of Española through deliveries from the National Guard.

The City of Española is in full support of "The Chimayo Water Supply System and Española Water Filtration Facility Act of 2004 (S. 2511) introduced by Senator Pete Domenici and cosponsored by Senator Jeff Bingaman. This legislation includes a \$3.0 million authorization for the City's water filtration facility that will conclude the necessary funding needed to complete the project.

Sincerely,

RICHARD L. LUCERO,
Mayor.

GREATER CHIMAYO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION,
June 11, 2004

Hon. PETE DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. LISA MURKOWSKI,
Chairperson, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: The Greater Chimayo Mutual Domestic Water Consumers Association would like to extend our sincere gratitude for holding a hearing on bill 2511. The development of a reliable water system is vital to the sustainability of our community. As you are aware, the New Mexico Department of Health and the New Mexico Environment Department identified fecal and total coliform contamination in our water supplies in August 2001. Since then, the New Mexico National Guard has been supplying potable water to our residents using a portable water tank or "water buffalo."

We have been diligently working on behalf of our community to implement a community water system. We have initiated discussions with the City of Española and Quatro Villas Mutual Domestic Water Consumers Association, which would link a distribution system to the City of Española's water system to ensure a continuous reliable supply of water for our community. We need to prepare a Preliminary Engineering Report (PER) and conduct an environmental assessment to determine the

feasibility of linking our system to the City of Española and to evaluate site locations for system components, such as water storage facilities, pipelines, and pump stations.

We have completed preliminary plans and specifications for design of a Phase I of the Community Water System. We will require additional funding to extend the distribution system to other areas of Chimayo. Our service area encompasses approximately 6 square miles with an estimated population of 5,500. We have funding to address the most critical areas of the community, which will serve 175 residential connections.

We look forward to working with you to establish a long-term, reliable water supply for our community. If we can provide you with further information, please contact me by phone at (505) 351-4311 or via email at *ilean__m@hotmail.com*.

Sincerely,

ILEAN MARTINEZ,
President.

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