
MISCELLANEOUS WATER & POWER BILLS

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

SECOND SESSION

ON

S. 1812	S. 1965
S. 2129	S. 2470
S. 2502	S. 3404
H.R. 2383	H.R. 4204

JUNE 28, 2006



Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

30-834 PDF

WASHINGTON : 2006

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WEDNESDAY JUNE 28, 2006

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

The subcommittee met, pursuant to notice, at 2:30 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. This hearing will come to order. I'd like to welcome you all this afternoon to the Water and Power Subcommittee.

We have eight bills that are before the subcommittee this afternoon: S. 1812, sponsored by Senator Hatch, which authorizes the participation in a conjunctive use project in Utah; S. 1965, sponsored by Senator Cantwell, which conveys certain buildings and land of the Yakima Project; S. 2129, sponsored by Senator Crapo, conveying certain land and improvements on the Minidoka Project; S. 2470, sponsored by Senator Craig, authorizing the early repayment of construction costs within the A&B Irrigation District; S. 2502, sponsored by Senator Smith, which amends the repayment contract between the Secretary of the Interior and the North Unit Irrigation District; S. 3404, sponsored by Senator Johnson, extending the date of the authorization for the Mni Wiconi Rural Water Supply Project; H.R. 2383, sponsored by Representative Nunes, renaming the Tracy Pumping Plant; and H.R. 4204, sponsored by Representative Doolittle, transferring ownership of the American River Pump Station Project.

I'd like to welcome the administration witnesses: Mr. William Rinne, the Acting Commissioner of the Bureau of Reclamation, and Mr. Jason Peltier, the Deputy Assistant Secretary of Water and Science. And we have some additional witnesses that will be joining us on the second panel.

The subcommittee has received some written testimony on several of the bills before the subcommittee today, and that testimony will be made part of the official record.

So with that, why don't we invite up our two administration witnesses.

Mr. Rinne, am I pronouncing your name correctly?

Mr. RINNE. Yes.

Senator MURKOWSKI. Makes it easier, doesn't it? Nice to have you here, and you, as well, Mr. Peltier.

With that, why don't we go ahead and start off with you, Mr. Rinne.

[The prepared statement of Senator Hatch follows:]

PREPARED STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM UTAH,
ON S. 1812

Thank you, Mr. Chairman, for holding this hearing today. And thank you for giving me the opportunity to express my support for S. 1812, the Juab County Surface and Ground Water Study and Development Act of 2005. S. 1812, if enacted, would amend the Reclamation Projects Authorization and Adjustment Act of 1992 (P.L. 102-575) to allow Juab County, Utah to receive Central Utah Project (CUP) funds. Mr. Chairman, as you know, the House of Representatives approved a companion bill (H.R. 4013) earlier this month.

Under the original plan for the Bonneville Unit of the Central Utah Project, several counties in central Utah, including Juab, were to be delivered supplemental water through an irrigation and drainage delivery system. Over the years, however, the planning requirements for the Bonneville Unit have changed and, presently, most of the water allocated to the Bonneville Unit of the Central Utah Project is planned for use in Wasatch, Salt Lake, and Utah Counties.

Many central Utah counties have elected not to participate in the plan and no longer pay the requisite taxes to the Central Utah Water Conservancy District, the political division of the State of Utah established to manage CUP activities in the state. But, unlike other central Utah counties, Juab County remained active in the Central Utah Water Conservancy District's efforts and has paid millions in property taxes to the district. Unfortunately, the County has yet to reap any of the benefits of its membership.

My bill would simply allow Juab County to use Central Utah Project funds to complete water resource development projects. It will enable the County to better utilize their existing water resources and will ensure that farmers, ranchers, and other citizens of Juab County have a reliable water supply. It will give the citizens of Juab County the opportunity to benefit from the system they have financially supported for so many years.

Once again, Mr. Chairman, thank you for considering this important measure today. I urge the committee to swiftly approve the measure and send it to the full Senate for further consideration.

**STATEMENT OF WILLIAM E. RINNE, ACTING COMMISSIONER,
BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR**

Mr. RINNE. Thank you, Madam Chairwoman.

I'm Bill Rinne, Acting Commissioner for the Bureau of Reclamation. I'm pleased to present the Department of the Interior's views on seven bills before the subcommittee today.

Madam Chairwoman, I would request my full statement on each of these bills be submitted for the record, and I'll also do my best and stay within the 5-minute time allotment here.

Senator MURKOWSKI. Your full statement will be included as part of the record.

Mr. RINNE. Just a minute or two over here. S. 1965 would authorize the Secretary of the Interior to convey buildings and lands of the Yakima Project in Washington to the Yakima-Tieton Irrigation District. Reclamation supports S. 1965. The transfer proposed in the bill is the culmination of a collaborative process and should be a model for other districts. The full cost of the land and the facilities to be transferred under this bill have been repaid pursuant to the district's original repayment contract. All the lands were acquired by Reclamation and the repayment contract incorporated their value and the costs of construction. This title transfer will

give the district more local control of buildings for their use and eliminate duplicative administrative obligations for the district.

Turning to S. 2129, Reclamation also supports this legislation, which would authorize the Secretary to convey facilities and lands of the Gooding Division of the Minidoka Project in Idaho to the American Falls Reservoir District No. 2. The primary feature of the proposed transfer is the Milner-Gooding Canal. Reclamation and the district have collaborated to enter into a transfer agreement, and have also worked with the bill sponsors on the legislation under consideration today.

This title transfer will eliminate periodic facilities reviews and paperwork that currently requires significant staff time. In addition, Reclamation can improve public management of remaining properties by transferring specific parcels to other governmental units.

S. 2470 would authorize early repayment to Reclamation for works within the Minidoka Project's A&B Irrigation Districts in Idaho. Reclamation supports this bill with some minor modifications.

The A&B Irrigation District is the only district in the Minidoka Project that remains subject to the acreage limitation provisions of the Federal Reclamation law. In order to provide consistency for the landowners in the A&B Irrigation District, we support S. 2470's approach to allow early repayment. However, we recommend that the bill be amended in order to ensure consistency for all landowners within the project. There's Reclamation's policy to require landowners who want to pay early to pay out all their land in the subject district, and not just a portion of their land. This concept is included in the recently enacted Southern Oregon Bureau of Reclamation Repayment Act of 2005, which provided early payout authority for two districts in Oregon.

As currently written in S. 2470, it can be interpreted to provide the opportunity for landowners to pay out either all of their land or only a portion of that land. The latter is a benefit that other landowners do not enjoy and would inject inconsistency into the administration of the acreage limitation provisions. We believe our concerns can be addressed with a simple revision to S. 2470, and we stand ready to provide revised language.

S. 2502 will resolve limitations on the North Unit Irrigation District's contract with the Deschutes Project, enabling the district to be—to more efficiently manage its water supplies. Because Congress approved the district's contract, and contracts which are beyond the scope of the contracting officer's authority must also be approved by Congress. In order for the district to be eligible for State-financed water conservation funds, Oregon law requires districts to dedicate a portion of conserved water to in-stream flows.

Currently, the project authorization and the district's contract do not allow it to dedicate water to in-stream uses. The district has self-financed over \$8 million of these conservation activities and would like to be eligible for the State program. S. 2502 amends a district contract to make this possible. The bill would also allow the district to deliver the Deschutes Project water to families who are irrigating approximately 9,000 acres of land in the district with non-project water diverted by the district's Crooked River pumping

plant. These lands exceed the current contract ceiling of the 49,818 acres that are within the district's boundary and have pertinent water rights issued by the State. Using the Deschutes Project water on these lands will allow the district to devote less Crooked River water and leave more water in-stream. Reclamation supports this bill.

S. 3404 recognizes the Mni Wiconi Rural Water System by—re-authorizes the Mni Wiconi Rural Water System by extending the sunset for completion of project construction from 2008, as currently authorized, until 2012. With construction expected to be nearly 70 percent complete by the end of the fiscal year 2006, we are committed to completing project construction in a timely manner. However, given the amount of work yet to be completed, we believe a more appropriate extension date would be 2013, and we recommend that the bill be amended accordingly. We support the legislation to extend the sunset date, and look forward to working with the sponsors and the committee to address these issues.

Turning to H.R. 2383, Reclamation is neutral on the proposed bill to rename the Tracy Pumping Plant to the C.W. "Bill" Jones Pumping Plant. However, Mr. Jones' contribution to Central Valley agriculture are well known. We believe that Mr. Jones contributed greatly to the building of common understanding between Reclamation and its customers.

Finally, the Department also supports H.R. 4204, which would build and transfer ownership of the American River Pump Station Project to the Placer County Water Agency—PCWA—upon completion of construction. PCWA constructed a permanent pumping plant on the north fork of the American River in the late 1960's. In 1967, Reclamation initiated construction of Auburn Dam, which was halted in 1975. Reclamation removed the PCWA Pumping Plant, located upstream of the proposed dam site, at the beginning of construction. The agreement between Reclamation and PCWA obligated Reclamation to deliver 25,000 acre-feet of water per year to PCWA until Auburn Dam was completed, at which time PCWA would divert all of its water from the reservoir.

We currently install a temporary pump station every April and remove it in November because of high winter flows that typically inundate the site. Because of urbanization in Placer County, PCWA will soon require year-round access to its full water supply from the Middle Fork Project. Demands substantially exceed the capacity of the temporary facility and configuring the pump station each year is becoming increasingly costly.

In 2003, Reclamation and PWCA entered into a cost-share agreement for the construction of a permanent pumping plant, and under the agreement, PCWA will pay all costs for a permanent pumping plant that provides for delivery of water at a capacity greater than Reclamation's obligations, and the title will be transferred to PCWA upon completion of the permanent pumping plant, scheduled for 2008. Legislation is necessary to complete the title transfer, and we support its passage.

Thank you again for the opportunity to testify today, and I'm pleased to answer any questions the subcommittee may have on any bills.

[The prepared statements of Mr. Rinne follow:]

PREPARED STATEMENTS OF WILLIAM E. RINNE, ACTING COMMISSIONER,
BUREAU OF RECLAMATION

S. 1965

Madam Chairwoman, members of the Subcommittee, I am Bill Rinne, Acting Commissioner of Reclamation for the Bureau of Reclamation. I am pleased to provide the Department of the Interior's views on S. 1965, legislation to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project in Washington to the Yakima-Tieton Irrigation District. We support this legislation and thank the committee for considering it today.

The transfer proposed in S. 1965 is the culmination of a collaborative and cooperative process and should be a model for other districts and groups interested in title transfer.

What we experienced in this case, and what has made other title transfers successful, is that Reclamation and the non-Federal entities interested in title transfer followed a simple plan—identifying obstacles and dealing with them at the local or regional level before drafting legislation.

S. 1965 would authorize the title transfer of federally owned buildings and lands to the Yakima-Tieton Irrigation District. Reclamation and the Yakima-Tieton Irrigation District have worked collaboratively and efficiently to lay the groundwork for this title transfer. Thanks to the cooperative efforts of the District, the process has successfully addressed all the elements of Reclamation's policy framework that guides our title transfers.

One of the Administration's goals in title transfer is to protect the financial interest of the United States, that is, to make sure that the United States is no worse off financially following title transfer. In this case, the full costs of the lands, buildings and facilities to be transferred have already been repaid pursuant to the district's original repayment contract. All the lands to be transferred under this legislation were acquired by Reclamation when the project was built. Thus the original repayment contract incorporated their value together with the costs associated with the construction of the facilities and buildings. There are no ongoing revenue streams associated with these lands and facilities, and the value of all the assets has been repaid. The district has fulfilled its repayment obligation under the contract and thus no payment is required.

On December 6, 2004, Reclamation and the District entered into a title transfer agreement for the federally owned facilities (Contract No. 5-07-10-L1658) which spells out the terms and conditions for this title transfer and which is the basis for the transfer of the facilities in the legislation. Subsequently, Reclamation worked with the District and with Representative Hastings and Senator Cantwell on how to structure the legislation to authorize the implementation of the title transfer agreement.

We believe that this title transfer will give the District more local control of buildings that were constructed for their use. It will also eliminate the need for duplicative and unnecessary administrative obligations that exist for the District based on the fact that title to the buildings and associated properties is held by the United States. For example, the District currently has to seek approval for utility work, building improvements, and similar activities by virtue of the fact that the buildings and properties are Federally owned.

For Reclamation, the title transfer will obviate the periodic facility reviews and processing of paperwork that currently consumes significant staff time.

In summary, we support passage of S. 1965. It is a good bill, a good title transfer, and reflects a cooperative and cost effective process that will provide a benefit to the District and to Reclamation.

That concludes my testimony; I would be pleased to answer any questions.

S. 2129

Madam Chairwoman and members of the Subcommittee, I am Bill Rinne, Acting Commissioner of the Bureau of Reclamation. I am pleased to provide the Department of the Interior's views on S. 2129, legislation to authorize the Secretary of the Interior to convey certain facilities, buildings and lands of the Gooding Division of the Minidoka Project in Idaho to the American Falls Reservoir District #2. We support this legislation and thank the committee for considering it today.

The transfer proposed in S. 2129 is the culmination of a collaborative and cooperative process and should be a model for other districts and groups interested in title transfer. What we experienced in this case, and what has made other title transfers successful, is that Reclamation and the non-Federal entities interested in title trans-

fer followed a simple plan—identifying obstacles and dealing with them at the local or regional level before drafting legislation.

S. 2129 would authorize the title transfer of federally owned facilities, buildings, and lands to the American Falls Reservoir District #2. The primary feature of the proposed title transfer is the Milner-Gooding Canal. Reclamation and the American Falls Reservoir District #2 have worked collaboratively and efficiently to successfully address all the elements of Reclamation's title transfer policy framework.

One of the Administration's goals in title transfer is to protect the financial interest of the United States, that is, to make sure that the United States is in the same or better financial position following title transfer. In this case, the full costs of all facilities, buildings, and acquired lands to be transferred, including the Milner-Gooding Canal, have already been repaid pursuant to the District's amendatory repayment contract. The District has also identified some withdrawn lands for which they would like to gain title and have agreed to pay the fair market appraised value for these lands. There are no ongoing revenue streams associated with the facilities, buildings, and lands. Because the District has fulfilled its repayment obligation under its contract, payment is required only for the additional withdrawn lands that the District has proposed for title transfer.

On October 3, 2005, Reclamation and the District entered into a title transfer agreement for the federally owned facilities (Contract No. 5-07-10-L1688) that spells out the terms and conditions for this title transfer and that is the basis for the transfer of the facilities in the legislation. Subsequently, Reclamation worked with the District and the bill sponsors regarding how to structure the legislation to authorize the implementation of the title transfer agreement.

We believe that this title transfer will give the District more local control of facilities that were constructed for its use. The bill will also eliminate the need for duplicative and unnecessary administrative obligations that exist for the District because title to the facilities, buildings, and lands is held by the United States. For example, the District currently has to seek approval from Reclamation for certain canal maintenance, utility work, and building improvement.

For Reclamation, the title transfer will eliminate the periodic facility reviews and processing of paperwork that currently consumes significant staff time. In addition, with the proposed transfer of the Milner-Gooding Canal and other Gooding Division facilities to the District, Reclamation can improve public management of remaining dispersed properties by transferring specific parcels to other governmental agencies. Accordingly, the legislation directs Reclamation to transfer title for specific smaller parcels to the National Park Service, the State of Idaho, and the City of Gooding, since those entities currently manage the relevant lands. Regarding the transfer of 39.72 acres of land to the Idaho Department of Fish and Game, we note that existing law codified at 16 U.S.C. 667b authorizes the General Services Administration to transfer land to States for conservation purposes. This authority has been used to transfer other Federal lands to State ownership.

The title transfer also involves Reclamation relinquishing title for withdrawn lands to the Bureau of Land Management (BLM). These associated transfers will place those properties more directly under the administrative control of the appropriate governmental entities and will allow Reclamation to better focus on its core mission of delivering water and power. Further, Reclamation has worked closely with the National Park Service, the State of Idaho, the City of Gooding, and the BLM to craft the language that appears in the transfer agreement. We look forward to continuing those close and cooperative relationships once this legislation has been adopted to implement the agreement in a timely manner.

In summary, we support passage of S. 2129. It is a good bill, a good title transfer, and reflects a cooperative and cost effective process that will provide a benefit to the District and to Reclamation.

That concludes my testimony; I would be pleased to answer any questions.

S. 2470

Madam Chairwoman and members of the Subcommittee, I am Bill Rinne, Acting Commissioner of the Bureau of Reclamation. Thank you for the opportunity to provide the Administration's views on S. 2470, the Southern Idaho Bureau of Reclamation Repayment Act. The bill, which we support with some modifications, would authorize early repayment of obligations to the Bureau of Reclamation within the A&B Irrigation District of Idaho.

The A&B Irrigation District is the only district in the Minidoka Project that remains subject to the acreage limitation provisions of Federal reclamation law. Under section 213 of the Reclamation Reform Act of 1982 (RRA), early repayment of a district's construction costs is prohibited unless the district's repayment contract with

Reclamation included a provision allowing for early repayment when the RRA was enacted.

At one time, over 50 districts in the Minidoka Project were subject to the acreage limitation provisions and many of those districts had an early repayment provision in their contracts. In order to provide consistency for the landowners in the remaining district, we support S. 2470's approach to allow early repayment in A&B Irrigation District. However, we recommend that the bill be amended in order to ensure consistency for all landowners within the project.

In general, early repayment authority in contracts is limited to landowners. In other words, a district cannot pay out early; rather, each landowner can decide if his or her land should be paid out early. It is Reclamation policy to require landowners who want to pay early to pay out all of their land in the subject district and not just a portion of their land. This concept was included in the recently enacted "Southern Oregon Bureau of Reclamation Repayment Act of 2005," which provided early payout authority for two districts in Oregon (Public Law 109-138).

As currently written, S. 2470 can be interpreted to provide the opportunity for landowners to pay out either all of their land in A&B Irrigation District or a portion of that land. The latter is a benefit that other landowners who are subject to the acreage limitation provisions simply do not enjoy and would inject inconsistency into the administration of the acreage limitation provisions. Early payout would accelerate the repayment of these project costs to the United States Treasury. Where these repayment obligations are not accompanied by interest, early repayment has a net positive impact on overall repayment to the Treasury and we are highly confident that this will be the case under this bill. However, we should note that a small number of landowners hold in excess of 960 acres and therefore pay full cost. Since full cost has an interest component, if these landowners opt to pay out early, this could result in slightly lower repayment from those landowners.

We believe our concerns can be addressed with a simple revision to S. 2470 and we stand ready to provide revised language. This concludes my testimony and I would be pleased to answer any questions you may have.

S. 2502

Madam Chairwoman and members of the Subcommittee, I am William Rinne, Acting Commissioner of the Bureau of Reclamation. Thank you for the opportunity to testify on S 2502. The Department supports S 2502.

The North Unit Irrigation District receives water from the Bureau of Reclamation's Deschutes Project and the District's privately developed Crooked River pumping plant in Oregon. Over 900 small farm and ranch families in Oregon's Deschutes Basin rely upon the District for the delivery of irrigation water. Since the District's formation a century ago, these families have shifted from dryland wheat to alfalfa hay, grass seed, garlic seed, and carrot seed, as well as raising cattle, sheep, horses, and other livestock.

In the mid-1950s, Reclamation and the District renegotiated the District's repayment contract in accordance with section 7, subsection (a), of the Reclamation Project Act of 1939. Pursuant to the Act of August 10, 1954, Congress approved the contract along with an authorization for the construction of Haystack Dam and regulating reservoir. The contract established the maximum irrigable acreage that can receive Reclamation project water at 49,818 acres.

S. 2502 will resolve several limitations in the District's contract, enabling the District to more efficiently manage its water supplies. Because Congress approved the District's contract, changes to the contract which are beyond the scope of the Contracting Officer's authority must also be approved by Congress.

Oregon law requires irrigation districts that participate in a publicly financed "conserved water project" to dedicate a portion of conserved water resulting from the project to instream flows for fish, wildlife or other purposes (ORS 537.455 et seq.). The District has self financed over \$8 million in conservation activities, and would like to consider participation in a publicly financed program. Unfortunately, the underlying Project authorization and the District's contract do not allow it to dedicate water to instream uses. S. 2502 amends the District's contract so the District can comply with State law if it chooses to participate in a conserved water project.

A related change to the District's contract would allow the District to deliver Deschutes Project water to families who are irrigating approximately 9,000 acres of land in the District with non-project water diverted by the District's Crooked River pumping plant. All of these lands are within the District's present boundary, have been irrigated for decades, and have appurtenant water rights issued by the State, but they exceed the current contract's ceiling of approximately 49,818 acres. Using

Deschutes Project water on these lands will allow the District to divert less Crooked River water and leave more water instream.

S. 2502 will benefit fish and wildlife by enabling the District to use less water from the Crooked River, and participate in State conserved water projects that return a portion of the conserved water to the Deschutes River. The United States would also realize financial benefits in the form of accelerated repayment of Project construction costs through the annual participation of an additional 9,000 acres in Project repayment. The District's current contract is based on a variable repayment plan, which means that rather than paying fixed annual installments, the District's annual payments vary based on factors such as crop production. Thus it is difficult or impossible to predict when the District would pay out its contract if this bill is not enacted. This legislation not only increases the number of acres in Project repayment, but also requires the District to pay its remaining obligation of \$6,649,371 in fixed annual installments.

The Administration also supports the language that this bill inserts at the end of the bill, in section 4 to be inserted into the underlying act. This provision gives the Secretary the authority to renegotiate this contract upon mutually agreeable terms without having to have Congress approve of changes agreed upon between the District and the Secretary. This provision reflects the general rule that repayment contracts do not require Congressional approval.

The legislation is specific to the District; it would not affect any other district in the Deschutes Project, their patrons, or any others in Oregon. The District will continue to comply with all applicable state and federal laws including the Reclamation Reform Act of 1982.

On behalf of the Department, I would like to compliment the District on its proactive approach to addressing the water management issues it is facing, as well as obtaining the support of other interested parties in the local community. We are pleased to support this legislation.

I am happy to respond to any questions.

S. 3404

Madam Chairman and members of the Subcommittee, I am Bill Rinne, Acting Commissioner of the Bureau of Reclamation. Thank you for the opportunity to testify on S. 3404.

S. 3404 reauthorizes the Mni Wiconi Rural Water System by amending Section 10(a) of the Mni Wiconi Project Act of 1988. Specifically, S. 3404 extends the sunset date for the completion of project construction from 2008, as currently authorized, until 2012. Reclamation supports the need for this amendment, but would prefer that the sunset be extended through the end of 2013.

Reclamation is committed to completing project construction in a timely manner, and should be nearing 70% completion by the end of fiscal year 2006. Reclamation is supportive of extending the authorization for the project. However, given the amount of remaining construction work needing to take place prior to full completion, Reclamation feels a more appropriate date for extending the authorization would be 2013. Consequently, Reclamation would ask that the sponsors and the committee consider extending the sunset date through 2013 rather than 2012 as currently proposed.

We support the amendment to extend the sunset date for completing construction of the Mni Wiconi Project and look forward to working with the sponsors and the Committee to address issues concerning the appropriate length for extending the authorization.

That concludes my testimony and I would be pleased to answer any questions.

H.R. 2383

Madam Chairwoman, and members of the Subcommittee, my name is Bill Rinne, Acting Commissioner for the Bureau of Reclamation. I appreciate the opportunity to appear before you today to discuss the proposed name change for the Tracy Pumping Plant in Byron, California, to the "C.W. 'Bill' Jones Pumping Plant."

As you know, Reclamation's Mid-Pacific Region operates the Central Valley Project (CVP)—the Nation's largest water delivery project. The CVP is a system of 20 dams and reservoirs, 500 miles of major canals, power plants, and other facilities located mainly in the Sacramento and San Joaquin Valleys of California. The CVP develops or manages about 9 million acre-feet of water and delivers about 7 million acre-feet for urban, industrial, agricultural, and environmental uses annually; produces electrical power; and provides flood protection, water for navigation, fish and wildlife, recreation and water quality benefits.

A major facility of the CVP is the Tracy Pumping Plant in the southern portion of the Sacramento-San Joaquin River Delta. The function of the pumping plant is to move water into the Delta-Mendota Canal. Up to approximately 2.5 million acre-feet of water is delivered to highly productive agricultural lands in the Central Valley annually.

The San Luis & Delta-Mendota Water Authority has had responsibility for the operation and maintenance of the Tracy Pumping Plant since 1993 through various agreements with Reclamation.

Mr. Jones served as the Chairman of the San Luis & Delta-Mendota Water Authority. He had a career that spanned more than 40 years in the water industry, and was instrumental in promoting the need for a reliable water supply to keep Central Valley agriculture economically viable for the state of California.

While Reclamation remains neutral on the proposal to change the name of the Tracy Pumping Plant to the "C.W. 'Bill' Jones" Pumping Plant," Mr. Jones' contribution to the Central Valley's agricultural viability through his leadership of the Water Authority and his numerous other contributions to the water industry in the Central Valley are recognized by the Department and are well known. In addition, Mr. Jones contributed greatly to the building of common understanding between Reclamation and its customers.

That concludes my testimony and I would be happy to answer any questions you might have.

H.R. 4204

Madam Chairwoman and members of the Subcommittee, I am Bill Rinne, Acting Commissioner of the Bureau of Reclamation. Thank you for the opportunity to appear before you today. The Department supports H.R. 4204, a bill to transfer ownership of the American River Pump Station Project to Placer County Water Agency (PCWA) upon completion of construction.

The American River Pump Station replaces a permanent pumping plant constructed by PCWA in the late 1960's on the North Fork of the American River. The principal function of the original pumping plant was to convey water supply from PCWA's Middle Fork Project to the Auburn Ravine Tunnel for use in Placer County, California.

Reclamation initiated construction of Auburn Dam in 1967. Construction of the dam was authorized by the Act of September 2, 1965 (P.L. 89-161, 79 Stat. 615). At the time construction of the dam was beginning, PCWA maintained a pumping station just upstream from the proposed dam site. The pumping station could not remain in place during construction of the Auburn Dam.

In lieu of condemnation by the United States, PCWA entered into a Land Purchase Agreement with Reclamation in 1972, transferring PCWA's land and facilities in the American River canyon to the United States, but not their water rights. The Land Purchase Agreement obligated Reclamation to deliver 25,000 acre-feet of Middle Fork Project water annually to PCWA until Auburn Dam was completed, at which time PCWA would divert all their water from the reservoir. To fulfill this obligation under terms of the Land Purchase Agreement, every year since 1972 Reclamation has installed a temporary pump station each April. The temporary facility remains in service until November when it is removed because of high winter flows that typically inundate the site.

Construction of Auburn Dam was halted in 1975 and has yet to be resumed. In the interim, Placer County has become increasingly urbanized. Consequently, PCWA will soon require year-round access to its full water supply from the Middle Fork Project. This demand substantially exceeds the capacity of the temporary facility. In addition, installation and removal of the temporary pump station each year is becoming increasingly costly.

Considering the circumstances, Reclamation and PCWA determined that a new permanent pumping plant was the best long-term solution for providing PCWA access to its water. PCWA further determined that it had needs for a higher-capacity pump than Reclamation would be obligated to provide. In 2003, Reclamation and PCWA entered into a cost-share agreement for the construction of a permanent pumping plant which stipulates that PCWA will pay all incremental costs of materials and construction necessary to enable the pumping plant to deliver water above the capacity negotiated to meet Reclamation's obligations to PCWA and that title will be transferred to PCWA upon completion of the permanent pumping plant, currently scheduled for 2008. The title transfer is contingent upon statutory authority, as provided in H.R. 4204.

H.R. 4204 would not impact other Central Valley Project (CVP) water or power contractors. The completed project will not be operationally or financially integrated

with the CVP, nor will it provide benefits to other CVP water and power contractors. Georgetown Divide Public Utility District could potentially access water through agreements with PCWA. Total costs for the completed project are projected to be approximately \$55 million, and the cost share agreement provides that the Federal share for construction is approximately 70 percent. Although the payment of fair market value is normally a requirement for transfer of facilities from Federal ownership, given the circumstance that Reclamation is responsible for the destruction of PCWA's original pumping plant and obligated to provide equivalent water deliveries, and the expense of annually installing annual pump stations, the cost share agreement protects the interest of taxpayers in this case. Transferring title will also relieve the Federal Government of the obligations and liabilities of operating and maintaining the facility.

That concludes my testimony. I am pleased to answer any questions.

Senator MURKOWSKI. Thank you, Mr. Rinne.
Mr. PELTIER.

STATEMENT OF JASON PELTIER, DEPUTY ASSISTANT SECRETARY FOR WATER AND SCIENCE, DEPARTMENT OF THE INTERIOR

Mr. PELTIER. Thank you. My name is Jason Peltier. I'm Deputy Assistant Secretary for Water and Science, and it's my pleasure to be here to testify in support of S. 1812, introduced by Senator Hatch.

It's a rather simple bill. It will simply add Juab County, in Utah, to the list of preexisting counties which were eligible to participate in conjunctive water programs. It makes all the sense in the world for Juab County to have the access to this program that the other counties do. They have some creative ideas, they have some needs, and we're pleased to support the bill.

[The prepared statement of Mr. Peltier follows:]

PREPARED STATEMENT OF JASON PELTIER, DEPUTY ASSISTANT SECRETARY FOR WATER AND SCIENCE, U.S. DEPARTMENT OF THE INTERIOR, ON S. 1812

Madam Chairwoman and members of the Subcommittee, my name is Jason Peltier. I am a Deputy Assistant Secretary for Water and Science in the Department of the Interior. I appreciate the opportunity to appear before you to express the Administration's support for S. 1812, which would amend the Reclamation Projects Authorization and Adjustment Act of 1992, or more specifically the Central Utah Project Completion Act. The proposed legislation would provide the opportunity for conjunctive use of surface and groundwater in Juab County, Utah.

The Central Utah Project Completion Act provides for the completion of the construction of the Central Utah Project by the Central Utah Water Conservancy District. The Act also authorizes programs for fish, wildlife, and recreation mitigation and conservation; establishes an account in the Treasury for deposit of appropriations and other contributions; establishes the Utah Reclamation Mitigation and Conservation Commission to coordinate mitigation and conservation activities; and provides for the Ute Indian Water Rights Settlement.

Section 202(a)(2) of the Central Utah Project Completion Act provides authorization to develop conjunctive use projects involving groundwater recharge, management and conjunctive use of surface water and groundwater in five counties within Utah. S. 1812 would allow conjunctive use funds currently restricted for use in Salt Lake, Utah, Davis, Wasatch, and Weber counties to also be used in Juab County. To date, only one project in Salt Lake County has participated in the conjunctive use program, leaving approximately \$8.5 million of authorized appropriations for the program. No other counties have requested to participate in the conjunctive use program.

The conjunctive use program was originally limited to five counties that had been part of the Bureau of Reclamation's High-Plains States Groundwater Demonstration Program. The Central Utah Project (CUP) as it was originally planned would have provided Juab County with sufficient water supplies. However, this project has evolved over time. Under current plans, CUP water will be used in more populated areas of Utah. East Juab County is now planning to meet its water needs without

CUP water, and this bill will provide it with an opportunity to develop needed water resources.

This bill would not increase the level of authorized appropriations for the Central Utah Project Completion Act, but would allow Juab County to compete for funds in the same way that its five sister counties do today.

Madam Chairwoman, this bill would allow Juab County to efficiently develop its water resources, and the Administration is pleased to support it. This concludes my testimony. I am happy to answer any questions.

Senator MURKOWSKI. Thank you very much.

Mr. PELTIER. Thank you.

Senator MURKOWSKI. At this time, I'd ask either Senator Johnson or Senator Smith if you care to comment on either of the—I guess any of the legislation we have which have been sponsored by Senator Johnson.

**STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR
FROM SOUTH DAKOTA**

Senator JOHNSON. Well, if I may. Thank you, Madam Chairman.

On June 6th, I introduced legislation that extends the project authorization to the Mni Wiconi Rural Water System. Senator John Thune joined me in introducing S. 3404. The legislation is necessary because the current authority to appropriate funds from this vital world water project expires after 2008. I want to thank the Bureau of Reclamation for working with my staff to help us understand how best to complete this vital project. It's my hope that the Congress can act on the legislation this year in order to provide the certainty, and continuity, and funding necessary to fulfill the promise of clean and reliable drinking water.

When the Mni Wiconi Rural Water System is completed, the Bureau of Reclamation, along with the four local South Dakota projects' sponsors, will have constructed one of the largest and most ambitious public works projects in the American West, designed to deliver clean drinking water over a vast geographic area. Water from the Missouri River will be pumped and transported hundreds of miles to serve some of the most impoverished communities in the United States.

Importantly, the system will serve three Indian reservations: The Oglala Sioux tribe, the Lower Brule Sioux tribe, and the Rosebud Sioux tribe. The residents of these tribes utilize route-of-entry drinking water networks that would be significantly improved with new water transmission and distribution systems. The system will also serve the West River/Lyman-Jones Rural Water System in southwestern South Dakota as well.

Since the project's original authorization in 1988, the Congress has had to amend the project to expand the service territory, and increase authorized project cost. S. 3404 does not change the service territory or increase the cost authorization to the project, but simply provides for the necessary authority to expend funds for the project past fiscal year 2008.

After 12 years of construction activities, the project is now 70 percent complete, but important aspects of the project remain unfinished. Mni Wiconi is roughly translated to mean "Water is life". Certainly, in the West and on the prairies of South Dakota, the ability to secure clean and reliable water supplies is critical for

public health, economic development, and the lives of our communities.

S. 3404 will provide for the full completion of the project, and I appreciate the Committee's favorable consideration of the legislation. I also appreciate the observation that we will work with the bill relative to what final date that is. The bill provides for 2012, and a suggestion is that 2013 might be the more appropriate number, but we will be in conversation about that, and if there are adjustments, we will be open to making that happen.

But the remaining portion of the Mni Wiconi Water Project that remains to be constructed is the portion that goes into the Pine Ridge Indian Reservation of the Oglala Sioux. There are other areas in which the construction will take place as well, but this is principally what remains to be done.

And this is truly among the poorest of the poor in America. I've been to the Pine Ridge repeatedly. I've seen the multiple families living in the same shack, with a garbage barrel out at the end of the gravel road where the tribe occasionally comes by and fills it with water. But no electricity, no drinking water, and no paved roads. Sub-par housing is characteristic of the lives of a great many people in this part of the country. This is truly a Third World situation and it exists right here in the United States, in my home State of South Dakota. So it's my hope that while the annual funding, because of the limited allocations we've had, has forced us to stretch out this project more than we'd like, I hope that we can re-authorize the timeframe on this to allow us to finally get this water to the people who need it in such desperate fashion.

Thank you, Madam Chairman.

Senator MURKOWSKI. Thank you, Senator Johnson.

Senator SMITH.

**STATEMENT OF HON. GORDON SMITH, U.S. SENATOR
FROM OREGON**

Senator SMITH. Thank you, Madam Chairwoman.

I appreciate you holding this hearing today on several bills. One of the bills is S. 2502. I appreciate the administration's support of the bill. It's legislation that I've sponsored with my colleague, Senator Wyden. It will provide a win-win for the environment, and for farmers and ranchers who receive their irrigation water from the North Unit Irrigation District in central Oregon.

Companion legislation introduced in the House by Congressman Greg Walden has also been reported out of the House Resources Committee. I'd like to put in the record the balance of my statement, and also ask that there be included the testimony of Richard Macy regarding this bill, S. 2502. It explains it in full and will help complement the record of this hearing.

[The prepared statements of Senator Smith and Mr. Macy follow:]

PREPARED STATEMENT OF HON. GORDON H. SMITH, U.S. SENATOR FROM OREGON,
ON S. 2502

Madam Chairman, I appreciate your holding this legislative hearing today on several bills pending before the subcommittee. One of the bills, S. 2502, is legislation I have sponsored that will provide a win-win for the environment and for the farmers and ranchers who receive their irrigation water from the North Unit Irrigation

District in central Oregon. My colleague, Senator Ron Wyden, joins me in cosponsoring this bill. Companion legislation, introduced in the House by Congressman Greg Walden, has been reported out of the House Resources Committee. I would like to submit, for the record, written testimony from Richard Macy, the chairman of the North Unit Irrigation District.

This legislation represents an opportunity to benefit nearly nine hundred farm and ranch families, as well as the fish and wildlife resources of the Deschutes and Crooked Rivers. It will do so by removing a limitation in North Unit's federal water contract with the Bureau of Reclamation. This limitation prevents the District and its patrons from participating in a conserved water project pursuant to the laws of the State of Oregon.

Removing this contract restriction will enable North Unit to conserve its water supplies further through the implementation of conserved water projects. In order to comply with state law, the District would return a specific percentage of the "conserved" water back to the Deschutes River permanently as instream flows for fish, wildlife, or other purposes. A related change would enable the District to use Deschutes Project water on acreage in its service area that is currently irrigated with Crooked River water. The savings from these two changes could ultimately allow the District to reduce its reliance on its privately developed Crooked River supplies.

Located in central Oregon's Deschutes Basin, the farm and ranch families of the North Unit Irrigation District are the embodiment of the federal Reclamation program. Working small and medium parcels of land, they raise grass seed, carrot seed, and alfalfa hay, as well as cattle, sheep, and horses. The overriding limitation to their ability to compete successfully in the International marketplace is a shortage of water. For these families, conservation is the most efficient means to alleviate their shortage and succeed in the market.

After self-financing over eight million dollars in canal lining and other measures to increase the efficiency of their limited water supplies, North Unit would like to participate in a state water conservation program. Unfortunately, the District's federal contract prevents it from doing so. This point has been confirmed to me by officials with the Bureau of Reclamation, an agency of the Department of the Interior. Therefore, North Unit's contract must be amended. Since Congress actually legislatively executed the District's contract in a 1954 statute, it is Congress, and not the Department of the Interior, that must remove this contract restriction.

These targeted contract changes are specific to the North Unit Irrigation District's contract. For the landowners served by the District, these changes will enable them to use their water resources more efficiently, maintain their competitiveness in the market, and benefit the fish and wildlife resources of both the Deschutes and Crooked Rivers. Our efforts are supported by the Oregon Water Resources Department, which has jurisdiction over state water rights issues.

I look forward to hearing from the witnesses here today. I also look forward to working with the Chairman to enact S. 2502 in the near future.

PREPARED STATEMENT OF RICHARD MACY, CHAIRMAN, NORTH UNIT IRRIGATION DISTRICT, MADRAS, OR, ON S. 2502

INTRODUCTION

Madam Chairwoman, Senator Smith, Senator Wyden, and members of the Subcommittee, thank you for scheduling today's hearing on S. 2502, the North Unit Irrigation District Act of 2006. I am pleased to submit this written testimony in support of this legislation, and I respectfully request it be included in the hearing record.

The enactment of S. 2502 will benefit nearly 900 farm and ranch families in our District, as well as the fish and wildlife resources of the Deschutes and Crooked Rivers. The legislation will provide these benefits by amending North Unit's amendatory repayment contract with the United States. The contract prevents the District from participating in conserved water projects pursuant to Oregon State law and further prevents the District from providing Deschutes Project water to a limited amount of land within the present District boundary. Our contract, which has served North Unit and the United States relatively well for fifty years, today has the unintended effect of restricting the District's ability to conserve water and reduce its reliance on the Crooked River.

Background and History

Located in Oregon's Deschutes Basin, the North Unit Irrigation District lies southeast of Mt. Hood. It is east of the Deschutes River and north of the Crooked River, and surrounds the cities of Madras, Culver, and Metolius. The District was

first established in 1916 as the Jefferson Water Conservancy District, and later became the North Unit Irrigation District. Like other irrigation districts in Central Oregon, North Unit was formed to address the serious water shortages confronting individual farmers and ranchers around the turn of the century.

North Unit receives its irrigation water from the Deschutes River (through storage facilities) and Crooked Rivers (through diversion facilities). This water is conveyed through federal facilities that comprise part of the Deschutes Project. The District has an amendatory repayment contract with the Bureau of Reclamation (Reclamation) for its Deschutes Project supplies. Based upon its 1913 Deschutes River water rights, the District is entitled to approximately 406,000 acre-feet of water, when such water is available. In 1955, the District obtained Crooked River water rights to supplement those acres irrigated under the District's Deschutes River water right. In 1968, the District developed additional water rights to irrigate certain lands, referred to as the Crooked River lands. The Crooked River lands are covered by State of Oregon Water Right Certificates (Certificate Nos. 72283 and 72284). With these two Crooked River water rights, the District is entitled to a 200 cubic feet per second (cfs) right during the irrigation season; in the past decade, the District has annually diverted an average of 23,000 acre-feet from the Crooked River.

Despite these water rights and supplemental supplies, the District's water shortage continues to be a problem for the 900 farmers and ranchers who irrigate approximately 59,000 acres. Roughly 9,000 acres of these lands are irrigated primarily with our Crooked River supplies. Since the District's formation nearly a century ago, local farmers and ranchers have shifted from primarily dry land wheat to irrigated alfalfa hay, carrot seed, garlic seed, and grass seed. They also raise cattle, sheep, horses, and other livestock. Because of significant conveyance losses, due to a 26-mile long section of the main canal that passes through porous, volcanic soils, local farmers and ranchers rely on less than 2 acre-feet of water per acre. This amount of water is inadequate for agricultural production in today's competitive international markets. For North Unit, conservation is the most efficient means to alleviate this shortage so our farmers and ranchers can succeed in the market.

Congressional Authorization

In the mid-1950s, Reclamation and North Unit renegotiated North Unit's repayment contract. In 1954, Congress authorized Reclamation to execute the contract, and more importantly, Congress actually approved the contract, along with an authorization for the construction of the Haystack Dam and regulating reservoir (Act of August 10, 1954, ch. 663, 68 Stat. 679). For nearly 50 years, the contract served the United States and the District relatively well.

Now, after self-financing over \$8 million in canal lining and other conservation measures, the District would like to participate in a State of Oregon publicly cost-shared, conserved water project. Unfortunately, North Unit's contract with the United States prevents it from doing so, because it does not allow the District to dedicate a portion of the savings to instream use, which is a requirement of State law. Importantly, the underlying authorization for the federal Deschutes Project also prevents the District from complying with State law. This point was confirmed in a January 11, 2006 letter from Reclamation's Pacific Northwest Regional Director, J. William McDonald, to Senator Gordon Smith, Senator Ron Wyden, and Congressman Greg Walden.

Accordingly, North Unit's contract must be amended. Because Congress actually authorized the District's contract, however, Congress must amend our contract to remove these limitations.

Specific Contract Amendments

S. 2502 proposes several amendments to North Unit's contract. First, it authorizes the District to comply with Oregon law with regard to conserved water projects authorized by State statute. Under Oregon's conserved water statute, an irrigation district that participates in a conserved water project is required to dedicate a minimum of 25 percent of its "saved" water to instream purposes, such as fish and wildlife. North Unit must comply with these requirements, whether it implements its own conserved water project or leases conserved water from another district to serve its existing lands.

Reclamation has stated that North Unit's contract, and the underlying authorization for the Deschutes Project, do not authorize the District to dedicate water to instream flow purposes—even for the purpose of complying with State law governing conserved water projects. A specific amendment to the District's contract to authorize the District to dedicate water to instream flow purposes as required by a State conserved water project will remove this limitation.

We understand it may appear easier to authorize Reclamation to renegotiate North Unit's contract. Unfortunately, this will not solve our problem or that of the United States because it will not address the restriction in the underlying authorization for the Deschutes Project. North Unit and the United States need legislation directly authorizing the District to place water instream in conjunction with a conserved water project consistent with the requirements of Oregon law. This will enable the District to achieve all of the benefits we anticipate additional conservation will provide our local economy and environment.

The second amendment will authorize the District to deliver Deschutes Project water to the Crooked River lands. The District's present contract allows it to deliver Deschutes Project water to a maximum of 50,000 acres within the District's boundary. Approximately 9,000 acres of land, known as the Crooked River lands, are irrigated with Crooked River water supplies through the District's own diversion facilities, pursuant to existing and valid water rights issued by the State of Oregon. The legislation will authorize the District to deliver Deschutes Project water to the Crooked River lands, for a total of 59,000 acres, instead of 50,000 acres. All of the Crooked River lands are within the District's existing boundary, have been irrigated for decades, and have appurtenant water rights issued by the State of Oregon.

These changes to North Unit's contract will not increase the District's allocation of Deschutes Project water. For example, if North Unit were to participate in a State of Oregon conserved water project—following the passage of this legislation—by replacing open canal with pipe, and thereby eliminating 10 cfs of ditch loss, North Unit would be required by State law to leave a minimum of 2.5 cfs of this 10 cfs savings instream. The remaining 7.5 cfs would then be available for irrigation. This 7.5 cfs is not a new or additional allocation. It is water the District is entitled and for which the District is paying, but it is losing due to open, unlined canals.

An additional benefit of water conservation in this case is energy conservation. If the District were to deliver this 7.5 cfs of conserved Deschutes River water to the Crooked River lands (through energy conserving gravity flow distribution), the District would avoid the cost of the electricity normally used to pump this same amount of water up from the Crooked River. In essence, the District seeks to replace natural flow from the Crooked River that comes with a significant pumping cost with conserved Deschutes Project water that is available without the same pumping costs. An additional benefit is that North Unit's reduced energy consumption would occur during peak usage periods.

The changes to North Unit's contract only authorize the District to comply with State instream flow requirements if it chooses to participate in an Oregon State conserved water project, and to supply Deschutes Project water to all of its lands including the Crooked River lands. North Unit will continue to comply with all applicable state and federal laws, including the Reclamation Reform Act, National Environmental Policy Act, and Endangered Species Act in its pursuit of any given conserved water project.

Economic and Environmental Benefits

Amending the District's contract will result in real benefits to our patrons and the environment. District participation in a State conserved water project will improve efficiency for local farmers and ranchers, and lead to a dedication of a portion of the District's Deschutes Project water for Deschutes River fisheries. With the passage of this legislation and implementation of a conserved water project, the District plans to diminish its use of Crooked River water—leaving more instream for the Crooked River's fisheries resources and recreation purposes.

These amendments will also benefit the federal government. Under this legislation, the United States has no financial obligations. More importantly the legislation will accelerate the District's repayments to the United States. All of the District's patrons eligible to receive Deschutes Project water will be charged equally for the capital repayment portion of North Unit's obligations for the Deschutes Project. The legislation will also increase the District's annual per acre charge, accelerating its capital repayment obligation of approximately \$6.6 million.

The District is pleased that S. 2502 is supported by the State of Oregon's Water Resources Department, Jefferson County Board of Commissioners, Oregon Farm Bureau, Deschutes River Conservancy, Oregon Water Resources Congress, Arnold Irrigation District, Central Oregon Irrigation District, Ochoco Irrigation District, Swalley Irrigation District, Three Sisters Irrigation District, and Tumalo Irrigation District.

Senator MURKOWSKI. Thank you. And both your testimony and that of Mr. Macy will be included as part of the record. Thank you for participating this afternoon.

A couple questions for you this afternoon, gentlemen.

I appreciate your efforts in explaining in pretty abbreviated detail a number of these measures, Commissioner Rinne. Let's start out with S. 1965. This is the Yakima-Tieton Irrigation District conveyance. In terms of annual cost that could be saved by Reclamation if we're to enact this legislation, what are we looking at? What kind of a savings are anticipated?

Mr. RINNE. Madam Chairwoman, I don't actually have the actual—

Senator MURKOWSKI. You can give round figures, certainly.

Mr. RINNE. I can get back to you.

Senator MURKOWSKI. OK. That's fine.

And then in the same vein, in terms of any administrative obligations that might be reduced if this bill was enacted, do you have that information?

Mr. RINNE. Of what would be reduced?

Senator MURKOWSKI. Right.

Mr. RINNE. Yes. There are several things, Madam Chairwoman, that I would suggest, right now, the district would have to—when ever they make any changes, there's always approval through Reclamation, so it kind of works in both ways. It works to reduce the Federal burden, but it certainly works in the case of the district. So if they want to make changes to building or come in and do things like that, they're going to have to check in with Reclamation. So it just takes out a layer of that kind of that administrative duplication which is just not necessary. And I think the fact that they are paid out—fully paid out at this time, and all of the construction costs are repaid, and that was figured in to the bill, it's just a real good deal to move ahead that way.

Senator MURKOWSKI. Then we'll look for information on the cost savings.

With regards to S. 2129—this is the Minidoka Project—you mentioned the title transfer; are there any issues associated with that title transfer that this committee should be aware of? Anything that would cause the transfer to be held up in any way? Anything that we should be aware of?

Mr. RINNE. Not that I'm aware of, Madam Chairwoman. I mean, there's the normal stuff to work through. I was just trying to think here. You know there will be, after the title's transferred, where there's withdrawn land and Muriel Land Management becomes involved, but those are not—they're not obstacles and what you just process, it has to go through.

Senator MURKOWSKI. What about any other governmental entities that may be involved with the transfer; are they in agreement that this legislation is something that needs to move forward?

Mr. RINNE. We know of no opposition that would impact that.

Senator MURKOWSKI. OK. Let's move to S. 2470. This is the A&B Irrigation. You mentioned that the Bureau supports this with some minor modifications. I guess the first question would be, why this irrigation—why the A&B Irrigation District is the only remaining district in the project that's subject to this acreage limitation?

Mr. RINNE. Why we're just dealing with this district?

Senator MURKOWSKI. Right.

Mr. RINNE. All the other districts in the Minidoka Project have either—have been relieved of RIA responsibilities. In other words, they've been fully paid out, they've met the criteria, and they've had in their contracts—they had the ability within their contract to do early payout. And under the Reclamation format, that would have not been in this particular A&B District's contract. So what has to happen, if you don't have that, they can't do early payout. So this would just make an equitable situation. It's the one remaining unit, it's the Minidoka Project. So on that particular project, the other one's out, so it allows landowners within that district, should they choose to, to go ahead and do an early payout.

Senator MURKOWSKI. And with this early payout, landowners can opt for—does this bring more money to the Treasury?

Mr. RINNE. If you do an early payout, it does. It can benefit the Treasury, because what would happen is, over time, according to the contracts, you have interest on top of it. So it can benefit the Treasury in that regard.

Senator MURKOWSKI. Good. Let's see. I don't really have a question about Senator Smith's legislation, S. 2502, I wanted to ask about the status of the—I've been mispronouncing it—it's Mni Wiconi.

Mr. PELTIER. Wiconi.

Senator MURKOWSKI. Mni Wiconi. Senator Johnson, I think you indicated that the project is about 70 percent complete?

Senator JOHNSON. That is correct.

Senator MURKOWSKI. That's kind of where we are with it. And then, if we are to move forward with the extension of the sunset date, as you have proposed, did I understand correctly that that doesn't increase the authorized appropriations that would be needed for the project?

Senator JOHNSON. At this time, the feeling is it is adequate at this time to complete the project. So it's our—

Senator MURKOWSKI. Even if we have to bump that date out a year or two?

Senator JOHNSON. Yes, particularly if you moved it. And again, as the Senator said, I guess we can talk and decide whether it's 2004 over 2013, but if it were to move out a year, we still feel we would be OK on that. We are not required authorization to increase the ceiling.

Senator MURKOWSKI. OK. And then the last one, a question for you. This is H.R. 4204, the American River Pump Station Project. What's the cost to Reclamation for installing the temporary pump station there?

Senator JOHNSON. The total—well, the temporary station—I may have to go back—but I would tell you every year they're doing it, we might be around—I think the last time I looked, maybe it was a—roughly like—as I recall, a couple million dollars a year. This is on a temporary that we would have as our operating costs.

Senator MURKOWSKI. And then the permanent pumps then would be—that project would be complete in 2008?

Senator JOHNSON. 2008, that's right. It's substantially underway, and the construction's been going on. I just spoke with our Regional Director today, and he affirmed again that it's on schedule.

Senator MURKOWSKI. Good. Good. And then, Mr. Peltier, as it relates to S. 1812, the Juab County Conjunctive Use Projects, why do you believe that only one of the five communities participated in this conjunctive use project or program?

Mr. PELTIER. The Central Utah Project was passed in 1992, and since then, only Salt Lake County has participated in developing a conjunctive use program. My guess is that the other counties primarily focus on surface development of surface water and surface water systems and that eventually their needs will turn to ground water and conjunctive use projects. So it's more—I think it's because they're viewed more as something in the future.

Senator MURKOWSKI. OK. But you believe that Juab County will need the assistance that's going to be provided by the bill?

Mr. PELTIER. Yes. They are interested in pursuing work in part because in the early days of the Central Utah Project, it was envisioned that water from the project would flow toward them. Over the decades, the view has shifted, so the project is focusing more on this for industrial water supplies, and we'll be north to the more urbanized areas.

Senator MURKOWSKI. Do you know what they plan to do with the assistance then?

Mr. PELTIER. I'm sorry.

Senator MURKOWSKI. Do you know what they plan to do with the assistance?

Mr. PELTIER. No, I don't know the specific project, but development of a conjunctive use project would allow them to operate and manage their existing surface water supplies in conjunction with the more developed and more managed ground water system.

Senator MURKOWSKI. Thank you. I appreciate it.

Senator Johnson, if you had questions—and Senator Craig, would like to make a comment on your legislation?

Senator JOHNSON. Thank you. Well, I do have some questions, if Senator Craig wants to make a—

Senator CRAIG. No, go ahead.

Senator JOHNSON. OK. All right. Well, for Acting Commissioner Rinne, relative to S. 1965, your testimony notes Reclamation and the Yakima-Tieton Irrigation District entered into a title transfer agreement prior to legislation being introduced. The question that—and how to ask it, I'm sure Senator Cantwell would have—do you know how long it took to negotiate the agreement with YTID, and what types of issues were addressed and resolved, and has this been the model you'd suggest for all title transfers?

Mr. RINNE. Senator, I think from that standpoint, we feel that on the second part—we do think it's a good model or at least a good example of the way we should work through these kinds of title transfer agreements. And I think the key reason I say that is, it has a very clarity in the sense of both back and forth with the district and Reclamation. So we truly had kind of agreements done up front before we then moved forward with the legislation. And I think, in the big picture, it probably saved some time and possibly saved some costs in that too.

Senator JOHNSON. Well, this legislation states the expectation the title transfer will occur within 1 year of enactment of the bill; is that a realistic timeframe in your view?

Mr. RINNE. My understanding is that it is. And I know that sometimes in other transfer bills—title transfer bills generally may be difficult because of prerequisites and things you have to go through. I think that the thought here is that the front work that's been done on this, and in the memorandum agreement that's between the district and Reclamation, that that'll help shorten that. Some of the times, it stretches the time out, and to meet the compliance—meeting the compliance in this is not a major issue, I think. In fact, I think there might be an environmental assessment completed on it. So that's the type of thing that—sometime you stretch them out.

Senator JOHNSON. The transfer in 1965 appears to be relatively straightforward, and I guess the question would be, has Reclamation transferred title to any facilities which served multiple entities and different purposes, and are such transfers currently being negotiated?

Mr. RINNE. From memory, I would tell you that I think we have probably about 70 title transfers that would have occurred, and we have had some that do have—we try to go into ones that make sense and you get through. But many of these have had a lot of issues with them and a lot of interest and we continue to work. We continue to think the title transfers where they make sense to the parties or—I'm not saying it happens in all cases.

Senator JOHNSON. I have a couple questions relative to S. 2129 and S. 2470, which I'm sure my colleague from Idaho would have interest in.

On S. 2129, the bill involves not only the proposed sale of land and improvements to entities in Idaho, but also directs the Bureau of Land Management and the National Park Service to assume responsibility for sizable parcels of land. Were those agencies parties to the title transfer agreement, and do they support the addition of land that will add to the agencies' management responsibilities?

Mr. RINNE. It's my understanding on that, as far as the title transfer agreement, they would not be part of the one between us and the district. However, the land then that would free us up, enable us to make that available, it will go through the Bureau of Land Management, so we can actually do a title transfer to those States. I guess it would be Fish and Game and National Park Service intervention. I think what city bidding—I think there's three of them that I am aware of that are involved.

My understanding is that, for example, the city of Gooding, I think they have a site for an airport that they're interested in. The State Fish and Game, they're already managing this area for wildlife purposes, so it's consistent with that. And the Park Service, I think, is interested in taking the one site, it's like a 10-acre tract. So the answer then would be, yes, I think that in most cases, they are.

Senator JOHNSON. Relative to S. 2129, has there been an estimate to the fair market value of the properties to be conveyed under the bill?

Mr. RINNE. If there has, I'm not aware of the value. I can check back with you, but I do know that fair market value will be applied, and there's an agreement that it must be—the lands must be conveyed at fair market value. So that part, I confirm to you. Whether the estimate had been completed, my sense is that it maybe has not. And I'm not saying there hasn't been some work done. We'd be happy to get back to you with that.

Senator JOHNSON. Relative to S. 2470, which my colleague has sponsored, let me ask you, the bill establishes that upon repayment of all construction costs allocated to each parcel of land within the irrigation district, that those parcels will not be subject to Reclamation law. Is that result unique to this bill or is that the typical effect of satisfying the repayment obligation in the construction cost repayment contract?

Mr. RINNE. That is typical of the Reclamation Reform Act of 1982. It's when they are fully paid—when the construction costs are fully paid out, then they're not subject anymore to section 213 of the Reclamation Reform Act.

Senator JOHNSON. Let me ask you, relative to my own legislation and Senator Thune's, S. 3404, 2006 appropriations, as well as the 2007 budget, provide about \$23 million for continuing construction activity in the Mni Wiconi Project. Does that \$23 million represent the maximum amount of annual work that Reclamation is capable of in constructing the remaining features of the project? And if not, what is the maximum extent of Reclamation's capabilities on an annual basis?

Mr. RINNE. As I think you're aware, Senator, on that point you made, it is completed by contractors, on the West River/Lyman-Jones, and others. Their capability—their current capability, I'm not sure whether they could do more or not then about the \$23 million. I can tell you from the history, and I'm sure you're aware of this, the million dollar benefit, that's fairly consistent with about where they've been over the last few years. That tells me it's like everything else. When there's a lot of pipe being put in the ground, if they can get more contracts in place, possibly there could be more capability.

Senator JOHNSON. I guess that's where we are because that's how large the appropriations have been. There was a time, a number of years ago, when Mni Wiconi was receiving well over \$30 million in construction each and every year.

Let me ask you, on the 2007 budget, it indicates that the balance to complete the project in 2008 and beyond is \$106 million; is that \$106 million still accurate? And if so, it would appear that Reclamation could complete the project by 2012, assuming that appropriations for construction remains at about the \$23 million level; is there a particular reason why your testimony suggests 2013?

Mr. RINNE. I think the numbers are still good and accurate. I think our thinking behind the extension is based on the work that's remaining to be done, and it would probably be, in some part, a judgment—somewhat of a judgment call. It would just—it's going to take that much time to get through.

I think what we're concerned about, Senator, is if it didn't get done, and officially had to be authorized—excuse me—extended to 2012, and we were not able to get there, we're trying to make sure

we have just a little cushion, in case, so we wouldn't have to come back and request another extension. So I think it's close, and that's our best feeling, just being up front, that we think we're going to be there.

Senator JOHNSON. One last question relative to H.R. 4204: As I understand it, this bill would free Reclamation from having to install, operate, and take down a temporary pumping facility each year. Do you have an estimate of how much that operation costs on an annual basis?

Mr. RINNE. Well, earlier, when I—Senator, when I was trying to respond to the chairwoman, I said I wasn't exactly sure. But I remember I was looking at some of the budget documents, and I may be off on this just a little bit, so I'd like to confirm this. But I'd say it is in the area of \$2 million, but it might be a little more. The reason I say that is I looked at the operating part of it, and it may be that it's a little more than that. But it's not—it's not inexpensive.

Senator JOHNSON. Madam Chairman, thank you.

Senator MURKOWSKI. Thank you.

Senator CRAIG.

**STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR
FROM IDAHO**

Senator CRAIG. Madam Chairman, thank you very much for convening the hearing of this Subcommittee.

I'll speak briefly only to S. 2470 and S. 2129. I appreciate the Committee reviewing both of these bills at one time. And Senator Johnson has asked a question of S. 2470. In the 1982 Reclamation Act, when we increased the acreage limitation to 960 acres in this particular project in south-central Idaho, the Minidoka Project, for some reason the A&B Irrigation District didn't fall into it at that time. So what is obviously sought is equity for this irrigation district.

And what oftentimes happens out there, beyond the original owners and the original intent, once the construction costs are paid off—you know, it's happening in your State, and it's happening in mine—that's consolidation of acreages, and farms get larger instead of smaller. And these acreage limitations, prior to you and I coming, got battled out pretty robustly in the 1960's and into the 1970's, because the limitation was substantially less, and there was argument that some large operators were operating on, if you will, subsidized Federal water. Those differences have been worked out.

This is simply to bring equity to that irrigation district, as it is elsewhere across the Minidoka Project. It is not precedence setting, and the commissioner responded to that, as I understand it, appropriately to what the law is currently. We're just asking that these members of this particular district have the same advantage. And we also understand there may be the dotting of I's and crossing of T's. We'll work closely with the bill to make sure all of that happens appropriately.

The other one is an interesting anomaly in my State, a World War II anomaly, and one that we look back on not with fond memory, and that was the internment of both Japanese and Japanese-Americans. During World War II, some of those locations were de-

tention centers. One of these that housed some 13,500 Japanese and Japanese-Americans is in that same area, and it was called the Minidoka Internment Camp. The bill will convey a small acreage to, I understand, the National Park Service so that this can be recognized and sustained as part of our national history.

That's what the intent of this is. It makes economic sense to be a law, and I think it's important to the local communities involved. So S. 2129 is a conveyance of—do we know the total acreage involved?

Senator JOHNSON. I think it's around 10 or less acres.

Senator CRAIG. I think it's 10 or less acres, something around that nature. And again, we'll work cooperatively obviously with the Bureau to make sure that the appropriate language—that if there's some difference in the language, it is worked out, so that we can move these pieces of legislation.

Madam Chairman, thank you for doing this.

Senator MURKOWSKI. Thank you.

Senator CRAIG. 10.18 acres. Thank you.

Senator MURKOWSKI. Is that right on?

Senator CRAIG. Yes.

Senator MURKOWSKI. OK, any further questions of our witnesses on the first group? With that, we thank you very much and appreciate your testimony.

We'll call forward our second group of witnesses. We have Mr. Rick Dieker, the secretary-manager of the Yakima-Tieton Irrigation District in Yakima, WA, and Mr. Einar Maisch, the director of strategic affairs, Placer County Water Agency, out of Auburn, CA.

Welcome, gentlemen, to the subcommittee. We appreciate you traveling all the way from the West Coast to join us on this soggy East Coast. You could use a little bit of the water we've got here back on the coast.

Gentlemen, you've heard the statements from our two previous witnesses on the questions. We'd be delighted to entertain your statements.

Mr. Dieker, if you want to proceed.

**STATEMENT OF RICHARD DIEKER, SECRETARY-MANAGER,
YAKIMA-TIETON IRRIGATION DISTRICT**

[Inaudible. Prepared statement follows:]

PREPARED STATEMENT OF RICHARD DIEKER, SECRETARY-MANAGER, YAKIMA-TIETON IRRIGATION DISTRICT, ON S. 1965

Good afternoon, my name is Richard Dieker. I am the Secretary-Manager of the Yakima-Tieton Irrigation District. I am here today on behalf of the Board of Directors and water users of the Yakima-Tieton Irrigation District to provide background and information in support of S. 1965, legislation to authorize the Secretary of the Interior to convey certain lands and buildings of the Yakima Project in Washington to the Yakima-Tieton Irrigation District. We strongly support this legislation and thank the committee for considering it today.

YAKIMA-TIETON IRRIGATION DISTRICT

The District is located in Central Washington and is part of the Yakima Project. The District has a long history of involvement with the United States dating back to 1906 when construction began on project facilities. The delivery of irrigation water began in 1910. The District assumed operation and maintenance of delivery facilities in 1947 and were the first reclamation project to repay our construction indebtedness to the United States in that year. In 1988 after completion of a reha-

bilitation and betterment project, the District again repaid its obligations to the United States. The District delivers water to approximately 28,000 acres.

S. 1965, THE YAKIMA-TIETON IRRIGATION DISTRICT CONVEYANCE ACT OF 2005

The act would authorize the Secretary of Interior to convey title of federally owned lands and buildings to the Yakima-Tieton Irrigation District. The title would be conveyed to approximately nine acres of land, two houses and associated structures, the headquarters office building and a warehouse. The houses and property are used to accommodate district employees who maintain and inspect delivery facilities. The headquarters office building is the base of operation for the District. On November 15, 2005 the House of Representatives approved H.R. 1564 containing the same language as S. 1965. This is a great example of the bipartisan support for this bill.

TITLE TRANSFER PROCESS

It has been the desire of the District to obtain title to buildings and lands outlined in the legislation and owned by the United States for many years. In 1995 when the Bureau of Reclamation policy framework for title transfer began the District began to investigate the process to complete title transfer. The Bureau and the District worked cooperatively and successfully to address all of the elements necessary to bring this legislation forward. We then worked with Senator Cantwell to introduce the legislation.

BENEFITS OF THIS TITLE TRANSFER

The title transfer will give the District more local control of buildings which were constructed for our use. There will be one less administrative layer caused by the United States ownership when changes or improvements of the property and buildings are needed. The Bureau of Reclamation will no longer need to complete periodic facility reviews of these transferred buildings and properties. They can direct personnel to more important activities.

CONCLUSION

In conclusion, I would like to thank several people who have made this transfer possible. Within the Bureau of Reclamation I would like to thank former Commissioner Keys for his support as Commissioner and also when he was Regional Director in the Pacific Northwest Region. Next is Mike Reif of the Pacific Northwest Regional Office and Keith Angwin from the Upper Columbia Area Office who worked hard to make the process successful. Finally, I would like to thank and acknowledge Senator Cantwell and her staff who worked closely with us to move this legislation forward.

In summary, S. 1965 is a good bill, a good title transfer and shows a cooperative process of benefit to both Reclamation and the District. I urge the Committee to move this legislation forward so that the title transfer process for the District can be completed.

This concludes my testimony; I would be pleased to answer any questions.

Senator MURKOWSKI. Thank you, Mr. Dieker.
Mr. Maisch.

**STATEMENT OF EINAR L. MAISCH, DIRECTOR OF STRATEGIC
AFFAIRS, PLACER COUNTY WATER AGENCY**

[Inaudible. Prepared statement follows:]

PREPARED STATEMENT OF EINAR L. MAISCH, DIRECTOR OF STRATEGIC AFFAIRS,
PLACER COUNTY WATER AGENCY, ON H.R. 4204

INTRODUCTION

Chairman Domenici and members of the committee, thank you for the opportunity to testify today in strong support of H.R. 4204, a Bill to Direct the Secretary of the Interior to transfer ownership of the American River Pump Station Project to the Placer County Water Agency upon completion of the project's construction.

My name is Einar Maisch and I am the Director of Strategic Affairs for the Placer County Water Agency, located in Auburn, California. Placer County ranks as one of the fastest growing counties in California and currently the Agency provides

water delivery and power generation to more than 150,000 customers covering an area from the Sacramento Valley to Lake Tahoe.

It is a privilege to be here before you today to support this transfer legislation and highlight the positive partnership we have enjoyed with the U.S. Bureau of Reclamation on this project. The Agency and the USBR Regional Office in northern California have worked very closely over the years on this project and we both enthusiastically support the facilities transfer.

While many parties brought us here, I would like to single out my Board of Directors, Chairman Alex Ferreira, and Directors Pauline Rocucci, Mike Lee, Lowell Jarvis and Otis Wollan for the leadership and vision they have consistently shown on this issue; the indefatigable spirit and drive of our General Manager David Breninger; and the hard work of my staff. I also wish to commend Kirk Rodgers, Mid Pacific Regional Director, Mike Finnegan Central California Area Manager, and their respective teams within the USBR for their cooperation and strong support. They are real pros and have been a pleasure to work with on this project.

And on behalf of our Agency and customers, I would like to share our gratitude with our Congressman, John Doolittle, for introducing this legislation and to Senator Diane Feinstein for her continued support for this project and regional water solutions in northern California. The Agency and our customers are fortunate indeed to have such representation here in Washington, DC.

There are three primary points I wish to make in urging your support for this transfer:

1. *All parties are in agreement.* Reclamation is not interested in being in the O&M business for a facility that only serves one agency and we feel we can better operate the facility to deliver a reliable water supply to our customers. The project meets Reclamation's framework for the transfer of title to facilities that can be more effectively and efficiently managed by non-federal entities;

2. *Congressional consistency.* This transfer is consistent with actions the Congress has taken historically in such situations—with the authorization of transfers such as Sugar Pine Dam (Foresthill PUD) and Sly Park Reservoir (El Dorado Irrigation District).

3. *Completes a Four Decade Long Cycle.* The Placer County Water Agency (Agency) constructed a pump station on the American River at Auburn in 1966 to access its Middle Fork Project water rights. When Congress authorized and appropriated funds for the construction of the Auburn Dam, Reclamation acquired the Agency's pump station property and removed the pump station. In return Reclamation agreed to maintain responsibility to provide water to the Agency until such time as the Auburn Dam was completed—pursuant to the 1972 Land Purchase Contract.

A temporary pump station was installed in 1977 by Reclamation to meet the Agency water supply needs and then annually since 1990 as Agency water supply demands increased. This temporary fix proved to be very costly: it is incapable of meeting the Agency's needs; and, as all parties have agreed, it does not satisfy Reclamation's responsibilities under the 1972 Land Purchase Contract.

Working in collaboration, Reclamation and the Agency designed a permanent pump station to meet the Agency's needs and executed Contract No. 02-LC-20-7790 that details the facilities to be constructed, cost sharing and ownership. The project has successfully completed all environmental review requirements and is currently under construction. Under this contract Reclamation is obligated to pay the costs of replacing the original pump station with a 100 cfs capacity facility as compensation for the land it acquired in 1972 and the pump station the federal government first removed, and the Agency is obligated to pay the cost of any over-sizing above 100 cfs.

Passage of H.R. 4204 will enable Reclamation to transfer the American River Pump Station to the Placer County Water Agency, upon completion and under the terms of Contract No. 02-LC-20-7790.

BACKGROUND

Placer County Water Agency

Placer County Water Agency (Agency) was created by an act of the California State Legislature in 1957. The boundaries of the Agency are coterminous with the County of Placer, an area of approximately 1500 square miles that extends roughly along the I-80 corridor from Roseville to Lake Tahoe. The Agency is governed by an independently elected five member Board of Directors. The Agency is functionally

divided into three business units; those being Agency Wide; Power System and Water System.

The American River Pump Station

In 1972, under threat of condemnation, the Agency entered into a Land Purchase Contract with the Bureau of Reclamation (Reclamation) to convey its property and pump station on the American River at Auburn to Reclamation to make way for the construction of the Auburn Dam. This contract provides that Reclamation will provide water to the Agency through a temporary pump station, when needed, at a rate of 50 cfs and 25,000 acre-feet per year until the Auburn Dam is completed. Construction work on the Auburn Dam was halted in 1975 and never restarted.

The first time that the Agency needed to access its MFP water rights was during the drought of 1977. Previously, and for several years after, the Agency was able to acquire sufficient water to meet its customers needs from its PG&E contracts for Yuba/Bear River water. By 1990 growth within the Agency's service area was using nearly all of the available PG&E water and the Agency began to request that Reclamation install pumps annually to allow the Agency to access its MFP water rights.

Reclamation used the original pumps installed by the Agency in 1966 for their temporary pump station; by constructing a channel through a sand bar to an inlet screen a few hundred feet upstream of the Auburn Coffey Dam and Diversion Tunnel. The pumps are only a few feet above the summer water level and are subject to flooding in the winter, so they must be removed each fall and cannot be installed again until April or May.

At first the pumps were only needed during the annual PG&E canal maintenance period which begins in mid October. But with continued urban growth the Agency currently operates the pumps at maximum capacity during the peak summer period. Unfortunately, the maximum capacity of the temporary pump station is less than 50 cfs (due to piping restrictions) and the maximum annual usable diversion capacity is only about 13,000 acre-feet per year (due to the limited time of the year that the pumps are operable) which are less than required under the Land Purchase Contract.

Early in the 1990's the Agency and Reclamation staff agreed that the current temporary pumping arrangement was unsatisfactory for both parties and began work on the design and environmental elements of a new permanent pump station.

Excerpts from Reclamation's Record of Decision for the project

"The Project is the subject of the Final Environmental Impact Statement/ Environmental Impact Report (FEIS/EIR), American River Pump Station Project, dated July 2002, developed in compliance with the National Environmental Policy Act (NEPA), and the California Environmental Quality Act (CEQA).

The FEIS/EIR was prepared jointly by Reclamation (Reclamation) and the Placer County Water Agency (PCWA). The purpose of the Project is threefold: (1) to provide facilities to allow PCWA to convey its Middle Fork Project (MFP) water entitlement to the Auburn Ravine Tunnel to meet demands within its service area; (2) to eliminate the safety issue associated with the Auburn Dam bypass tunnel; and (3) to allow for all pre-construction beneficial uses of water in what is now the dewatered river channel, including recreation, navigation, and other instream beneficial uses.

Prior to the onset of construction, Reclamation and PCWA would approve and execute Contract No. 02-LC-20-7790, entitled "Contract Between the United States and Placer County Water Agency Related to American River Pumping Plant and Associated Facilities" (Contract).

Reclamation would construct the Project facilities, and pursuant to the Contract, transfer the ownership of the pump station and appurtenances to PCWA for operation and maintenance.

The decision is to implement the Proposed Project, identified and discussed in the FEIS/EIR as the Mid-Channel Diversion Alternative."

Contract No. 02-LC-20-7790

Contract No. 02-LC-20-7790 (2003 contract) was executed by Reclamation on September 11, 2003 after adoption of the Record of Decision for the project. The 2003 contract provides in relevant parts:

"Project Facilities to be Constructed

3. (a) Project facilities to be constructed pursuant to this Contract shall enable the AGENCY to divert water from the American River near Auburn, California into its Auburn Ravine Tunnel on a year-round basis. Project facilities shall . . . include, but not be limited to: A screened intake struc-

ture of sufficient size to allow diversion of not less than 225 cubic feet per second ("cfs") of water from the American River; A year-round pipeline of sufficient capacity to convey to the Pump Station such water as is diverted from the intake; A pumping station of sufficient capacity to allow future increase of diversions to an instantaneous rate of 225 cfs; Pumps of sufficient capacity to allow instantaneous diversion of 100 cfs of water from the American River, with adequate backup electrical power and pumping facilities as may be dictated by prudent design guidelines; A discharge pipe capable of delivering up to 100 cfs from the Pump Station into the Auburn Ravine Tunnel; All-weather roads sufficient to enable the AGENCY to conduct all necessary operation, maintenance, repair and reconstruction of the Project and the Auburn Ravine Tunnel. Such roads, adjacent slopes and associated surface water runoff control facilities shall be designed and constructed so that the roads remain unobstructed.

Project Costs

4. (a) Except where costs are made the responsibility of the AGENCY under the express terms of this contract, the UNITED STATES shall be responsible for the reasonable and necessary costs associated with the Project, including: The design of the Project facilities; The preparation of all necessary environmental documentation and implementation and monitoring of any necessary mitigation measures; All required construction, management, construction inspection and construction engineering services; All on site grading, road construction, stabilization work, runoff control, restoration and re-vegetation work; Required river gradient control structures; All safety facilities; and The cost of the diversion structure, conveyance pipeline to the Pump Station, the Pumps, the Pump Station and the discharge pipeline to the Auburn Ravine Tunnel, all sized for 100 cfs capacity. The AGENCY shall pay the incremental costs of materials and construction necessary to enable the facilities to deliver water at rates in excess of 100 cfs. Such payments by the AGENCY shall be made in advance of construction of any such facilities by the UNITED STATES.

Operations and Maintenance

7. (a) Upon approval by the AGENCY of the Notice of Completion of Construction issued by the UNITED STATES, the AGENCY, without expense to the UNITED STATES, shall care for, operate, and maintain the Project facilities.

Grant of Real Property Interest

8. Within 12 months of the AGENCY's approval of the UNITED STATES' Notice of Completion of Construction of the Project facilities, or as soon thereafter as practicable, the UNITED STATES shall grant to AGENCY title to the Project facilities, and a recordable indefeasible easement, easements, or other interest in lands, in a form acceptable to the County of Placer, sufficient to provide AGENCY with permanent, year-round access to all Project facilities and to the Auburn Ravine Tunnel, for maintenance, operation, enlargement, repair, reconstruction, and, if necessary for continued reliable operation, for relocation of Project facilities, and for electrical power lines necessary to operate and maintain the Project. Said real property interests shall include sufficient rights to allow the AGENCY access to the river for future construction and operation of facilities to divert water pursuant to its appropriative rights under its Middle Fork Project."

Following the completion of the final EIR/EIS, issuance of a Biological Opinion of no jeopardy, adoption of the ROD, execution of the 2003 contract and commencement of construction, Reclamation determined that Congressional authorization would be required in order for it to properly affect the transfer of the pump station and easements to the Agency.

	\$ in millions
<i>Construction Costs</i>	
Reclamation share (per the 2003 contract)	37.42
PCWA oversizing	12.80
Total estimated construction cost	49.60
PCWA contributed funds	17.00
PCWA oversizing	12.80
Total PCWA cost for construction	29.80
Total Reclamation cost for construction	20.42

BUREAU OF RECLAMATION,
MID-PACIFIC REGIONAL OFFICE,
Sacramento, CA, September 11, 2006.

Mr. DAVID A. BRENINGER,
Placer County Water Agency, Auburn, CA.

Subject: Transmittal of Executed Contract No. 02-LC-20-7790, Contract Between the United States and Placer County Water Agency (Agency) Related to American River Pumping Plant and Associated Facilities

DEAR MR. BRENINGER: Enclosed is an executed original of the contract between the Agency and Bureau of Reclamation, Contract Number 02-LC-20-7790, for the construction and operation of the American River Pumping Plant. We appreciate all the time and effort your Agency has put into working out this contract. We also appreciate your Agency's willingness to agree in Article 9(a) of the contract to assume all responsibility—for any damage caused by any previous disturbance to the American River Canyon related to the construction of Auburn Dam.

We also wish to remind the Agency that this contract does not convey to Reclamation any responsibility for additional work outside that specifically related to construction of the pumping facility, or for making any payment for such work. Specifically, Reclamation will not be responsible for the construction, maintenance, operation, or for any costs associated with the proposed equestrian/pedestrian bridge or alternative trail system across the American River at the Auburn Dam site. Additionally, Reclamation will not be responsible for any costs associated with any item assigned to the Agency in the Mitigation Monitoring and Reporting Program/Environmental Compliance Plan as approved in the Agency's Resolution No. 02-25.

If you have any questions, please contact Rick Johnson at 916-989-7181 (TDD 989-7285). Sincerely,

KIRK C. RODGERS,
Regional Director.

[Enclosure.]

Contract No. 02-LC-20-7790

DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL VALLEY PROJECT, CALIFORNIA

Contract Between the United States and Placer County Water Agency Related to American River Pumping Plant and Associated Facilities

THIS CONTRACT, made this 11th day of September, 2003, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended

and supplemented, all collectively hereinafter referred to as the Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the UNITED STATES, and Placer County Water Agency, hereinafter referred to as the AGENCY, a political subdivision of the State of California, duly organized, existing and acting pursuant to the laws thereof, including, but not limited to, the Placer County Water Agency Act; with its principal place of business in Auburn, California; WITNESSETH, That:

EXPLANATORY RECITALS

WHEREAS, the UNITED STATES has constructed and is operating the Central Valley Project, California for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

WHEREAS, in 1963, the AGENCY obtained the right to divert certain flows of the American River pursuant to water right permits for the AGENCY's Middle Fork Project, which permits were issued by the California State Water Rights Board, which has been succeeded by the State Water Resources Control Board; and

WHEREAS, pursuant to those rights, the AGENCY secured land and constructed diversion, year-round pumping and conveyance facilities in the American River canyon near Auburn, California for the purposes of diverting water under its permits and conveying it to and through the Auburn Ravine Tunnel, also known as the Auburn Tunnel or Ophir Tunnel, for use within the AGENCY's Service Area; and

WHEREAS, in 1965, the UNITED STATES authorized a water project known as the Auburn-Folsom South Unit ("Auburn Dam"), and, in furtherance of said project, desired to acquire the land upon which the AGENCY's pumps and conveyance facilities were located; and

WHEREAS, the UNITED STATES has modified the American River canyon to construct the Auburn-Folsom South Unit ("Auburn Dam"), and some of those modifications have created unstable land features; and

WHEREAS, under threat of condemnation by the UNITED STATES, the AGENCY entered into a Land Purchase Contract (14-06-859-308) with the UNITED STATES, transferring the AGENCY's land and facilities in the American River canyon to the UNITED STATES, and as partial consideration for the taking of this property, the UNITED STATES agreed to provide a water supply to the AGENCY until the Auburn Dam was completed; and

WHEREAS, at the time the Land Purchase Contract was negotiated and executed, the Auburn Dam project, as then designed, was expected to enable the AGENCY to obtain water from the American River by gravity flow through the Auburn Ravine Tunnel, without the necessity of pumping; and

WHEREAS, pursuant to the Land Purchase Contract (14-06-859-308A), UNITED STATES has, for many years, annually installed a seasonal pumping station and conveyance facilities to enable the AGENCY to pump water from the American River into the Auburn Ravine Tunnel during summer months, and

WHEREAS, the AGENCY has determined that it now requires year-round pumping to meet its water supply obligations to its customers; and

WHEREAS, the parties have recognized that yearly installation of seasonal pumps and facilities no longer satisfies the UNITED STATES' obligation under the Land Purchase Contract; and

WHEREAS, the parties have recognized that yearly installation of seasonal pumps and facilities is inefficient and costly to the UNITED STATES; and

WHEREAS, the parties now propose to construct a year-round pumping facility which fully satisfies the UNITED STATES' obligations under the Land Purchase Agreement, to replace the AGENCY's original pumping facility; and

WHEREAS, the parties now desire to enter into a new contract, which will supersede the Land Purchase Agreement regarding issues of cost-sharing, operations and maintenance of the new pump station to deliver 50 cfs which is the obligation of The UNITED STATES, and up to a total of 100 cfs, the remainder of which would be the responsibility of the AGENCY.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

Definitions

1. When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof, the term:

(a) "Auburn Ravine Tunnel" shall mean that existing 12-foot diameter tunnel through the ridge separating Auburn, California from the American River and used to convey water from the American River to the tunnel's outlet in Auburn Ravine. The Auburn Ravine Tunnel is also referred to from time to time as the Ophir Tunnel or Auburn Tunnel.

(b) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(c) "Land Purchase Contract" shall mean the agreement entered into between the UNITED STATES and the AGENCY, identified as Contract No. 14-06-859-308 and dated July 25, 1972, as amended, modified and supplemented by the Supplemental Agreement to Land Purchase Contract, identified as Contract No. 14-06-859-308a and dated May 25, 1979;

(d) "Project" shall mean the installation of a permanent diversion intake, pumping station, electric facilities, electric transmission lines, water conveyance facilities, access roads, and all ancillary facilities necessary to allow the AGENCY to divert the water of the American River to the Auburn Ravine Tunnel, on a year-round basis, until the Auburn Dam is completed;

(e) "Service Area" shall mean the area to which the AGENCY is entitled to deliver its water rights water from the American River for beneficial use;

(f) "Secretary" or "Contracting Officer" shall mean the Secretary of the 98 UNITED STATES Department of the Interior or her duly authorized representative;

(g) "Year" shall mean the period from and including March 1 of each too Calendar Year through the last day of February of the following Calendar Year.

Organization of Contract

2. Upon execution of this Contract by both parties, and until the AGENCY approves a Notice of Completion of Construction of the Project facilities, Articles 1 and 2 and Sections A and D shall apply. Upon approval by the Agency of a Notice of Completion of Construction issued by the UNITED STATES and until the AGENCY accepts title to the Project facilities and the related real property interests, Section A shall no longer be applicable; instead, Articles 1 and 2 and Sections B and D shall apply. Upon transfer of title to the Project facilities and the related real property interests to the AGENCY and thereafter, Section B shall no longer apply; instead, Articles 1 and 2 and Sections C and D shall apply for the remaining life of this contract

SECTION A. CONSTRUCTION OF PROJECT FACILITIES

Upon execution of this contract by both parties and until such time as the AGENCY has approved a Notice of Completion of Construction of the Project facilities, the following provisions shall apply:

Project Facilities to be Constructed

3. (a) Project facilities to be constructed pursuant to this Contract shall enable the AGENCY to divert water from the American River near Auburn, California into its Auburn Ravine Tunnel on a year-round basis. Project facilities shall be defined by the drawings and technical specifications for the construction of the Placer County Water Agency American River Pump Station ("Pump Station"), once they are approved by the parties, and shall include, but not be limited to:

(1) A screened intake structure of sufficient size to allow diversion of not less than 225 cubic feet per second ("cfs") of water from the American River;

(2) A year-round pipeline of sufficient capacity to convey to the Pump Station such water as is diverted from the intake;

(3) A pumping station of sufficient capacity to allow future increase of diversions to an instantaneous rate of 225 cfs;

(4) Pumps of sufficient capacity to allow instantaneous diversion of 100 cfs of water from the American River, with adequate backup electrical power and pumping facilities as may be dictated by prudent design guidelines.

(5) A discharge pipe capable of delivering up to 100 cfs from the Pump Station into the Auburn Ravine Tunnel;

(6) All-weather roads sufficient to enable the AGENCY to conduct all necessary operation, maintenance, repair and reconstruction of the Project and the Auburn Ravine Tunnel. Such roads, adjacent slopes and associated surface water runoff control facilities shall be designed and constructed so that the roads remain unobstructed.

(b) All Project facilities shall be designed to meet both parties' specifications, at a minimum.

(c) (1) The UNITED STATES shall be responsible for construction of all Project facilities and their proposed locations.

(2) The AGENCY shall review and approve the proposed locations of all Project facilities and shall approve the configuration and designs of any Project facilities; and any submissions, change orders and the Notice of Completion of Construction issued by the United States for the Project facilities.

Project Costs

4. (a) Except where costs are made the responsibility of the AGENCY under the express terms of this contract, the UNITED STATES shall be responsible for the reasonable and necessary costs associated with the Project, including:

- (1) The design of the Project facilities;
- (2) The preparation of all necessary environmental documentation and implementation and monitoring of any necessary mitigation measures;
- (3) All required construction, management, construction inspection and construction engineering services;
- (4) All on site grading, road construction, stabilization work, runoff control, restoration and revegetation work;
- (5) Required river gradient control structures;
- (6) All safety facilities; and
- (7) The cost of the diversion structure, conveyance pipeline to the Pump Station, the Pumps, the Pump Station and the discharge pipeline to the Auburn Ravine Tunnel, all sized for 100 cfs capacity. The AGENCY shall pay the incremental costs of materials and construction necessary to enable the facilities to deliver water at rates in excess of 100 cfs. Such payments by the AGENCY shall be made in advance of construction of any such facilities by the UNITED STATES.

(8) The cost of parallel facilities as detailed in Article 5, herein.

UNITED STATES' Obligation to Continue Water Deliveries

5. Reclamation shall sequence construction of Project facilities and/or construct parallel temporary facilities as required to continue American River water deliveries during the period from June 15 through September 15 and during scheduled PG&E maintenance outage periods.

Notice of Completion

6. Upon substantial completion of construction of all Project facilities, the UNITED STATES shall issue a Notice of Completion of Construction. Upon the AGENCY's approval of said Notice, which approval shall not be unreasonably withheld, Section A of this contract shall no longer apply.

End of Section A.

SECTION B. OPERATIONS AND MAINTENANCE OF PROJECT FACILITIES

Upon approval by the AGENCY of a Notice of Completion of Construction of Project facilities issued by the UNITED STATES, and until the transfer of Project facilities and related property interests to the AGENCY, the provisions in Section A, "Construction of Project Facilities," shall no longer be applicable. Instead, provisions of Articles 1 and 2 and Sections B and D shall apply:

Operations and Maintenance

7. (a) Upon approval by the AGENCY of the Notice of Completion of Construction issued by the UNITED STATES, the AGENCY, without expense to the UNITED STATES, shall care for, operate, and maintain the Project facilities in full compliance with the terms of this contract and regulations and instructions furnished by the Contracting Officer, and in such manner that said Project facilities will remain in good and efficient conditions.

(b) The AGENCY shall promptly make any and all repairs to the Project facilities being operated by the AGENCY which are necessary for proper care, operation, and maintenance. In case of neglect or failure of the AGENCY to make such repairs within 60 days following written notification, the Contracting Officer may cause the repairs to be made, and the cost thereof shall be paid by the AGENCY as prescribed by the Contracting Officer.

(c) No substantial change shall be made by the AGENCY in any of the Project facilities without first obtaining the written consent of the Contracting Officer.

(d)(1) The AGENCY agrees to indemnify the UNITED STATES for, and hold the UNITED STATES and all of its representatives harmless from, all damages resulting from suits, actions, or claims, of any character brought on account of any injury

to any person or property arising out of any act, omission, neglect, or misconduct in the manner or method of performing any construction, care, operation, maintenance, supervision, examination, inspection, or other duties of the AGENCY required under this Article 5 regardless of who performs those duties.

(2) Within thirty (30) days of receipt by either party of any claim for liability arising from actions within the scope of this contract, the party receiving the claim shall notify the other party of such claim and provide a copy of the claim to the other party, if it is in written form. Nothing in this article shall be construed to limit the right of either party to assert such affirmative defenses and file such cross complaints as may be appropriate in relation to any claim affecting the liability of such party.

(e) In the event the AGENCY is found to be operating the Project facilities in violation of this contract, then upon the election of the Contracting Officer, the UNITED STATES may take over from the AGENCY the care, operation, and maintenance of the transferred facilities by giving written notice to the AGENCY of such election and of the effective date thereof. Thereafter, during the period of operation by the UNITED STATES, the AGENCY shall pay to the UNITED STATES annually, in advance, the cost of operation and maintenance of such facilities as prescribed in notices from the Contracting Officer to the AGENCY. Such facilities may be retransferred to the AGENCY in the manner originally transferred.

Grant of Real Property Interest

8. Within 12 months of the AGENCY's approval of the UNITED STATES' Notice of Completion of Construction of the Project facilities, or as soon thereafter as practicable, the UNITED STATES shall grant to AGENCY title to the Project facilities, and a recordable indefeasible easement, easements, or other interest in lands, in a form acceptable to the County of Placer, sufficient to provide AGENCY with permanent, year-round access to all Project facilities and to the Auburn Ravine Tunnel, for maintenance, operation, enlargement, repair, reconstruction, and, if necessary for continued reliable operation, for relocation of Project facilities, and for electrical power lines necessary to operate and maintain the Project. Said real property interests shall include sufficient rights to allow the AGENCY access to the river for future construction and operation of facilities to divert water pursuant to its appropriative rights under its Middle Fork Project, and also to allow diversion and conveyance of a total of 25 cfs. of American River flows to Georgetown Divide Public Utility District, pursuant to PL 101-514, from the Project intake, diversion, conveyance and pumping facilities if and when such conveyance is necessary.

End of Section B.

SECTION C. TRANSFER OF PROJECT FACILITIES

Upon acceptance by the AGENCY of Title to the Project facilities, the provisions in Section A. "Construction of Project Facilities" and Section B. "Operations and Maintenance of Project Facilities," shall no longer be applicable. Instead, the provisions of Articles 1 and 2 and Sections C and D will be effective throughout the remaining life of this Contract.

Obligations of the Parties Following Transfer of Project Facilities

9. (a) Upon acceptance of title to Project facilities and easements by the AGENCY, the AGENCY shall have sole responsibility for operation, maintenance, repair and reconstruction of such Project facilities, including any damage caused by any previous disturbance to the American River canyon related to construction of Auburn Dam. The UNITED STATES shall be relieved of its obligation to provide pumping of water to the AGENCY as set forth in the Land Purchase Contract.

(b) The UNITED STATES shall cooperate and assist the AGENCY in the AGENCY's efforts to fully access, divert and utilize its water entitlements under its water rights.

(c) The UNITED STATES shall retain, beyond the date on which AGENCY accepts title to Project facilities, all responsibility for ensuring public safety associated with public access to the lands it acquired or which were withdrawn for the Auburn Dam project and/or use of the water within such lands.

Future Projects

10. (a) In the event that the UNITED STATES makes or permits changes to the course or channel of the American River or to the American River canyon slopes, features or improvements other than as provided for in Article 9 above, which change or impair the AGENCY's ability to divert or pump water from the American River, UNITED STATES shall assist AGENCY in AGENCY's efforts to modify, construct or adjust, as necessary and to AGENCY's satisfaction, the Project facilities

constructed pursuant to this Agreement so that the AGENCY shall continue to have access to American River water in the same amount, and at the same rate, as it had prior to such changes. Such assistance shall include any necessary modification to AGENCY's real property rights granted pursuant to Article 8 herein above, expeditious design review of proposed facilities, and assistance in obtaining prompt environmental review and permits as may be needed to avoid or minimize disruption in AGENCY's water supply.

(b) In the event that, after completion of the Project, the UNITED STATES transfers title or possession to its lands within the American River canyon to a third party it shall either require that the transferee assume the obligations of the UNITED STATES to the AGENCY under this Agreement, or the UNITED STATES shall retain such obligations.

(c) Notwithstanding the provisions of Article 9 (a), in the event that the UNITED STATES constructs a dam and reservoir in the American River canyon that inundates or otherwise impairs the operation of the Project facilities, the UNITED STATES shall have the obligation, without cost to the AGENCY, to relocate, replace or modify the Project facilities to assure their continued enjoyment and use by the AGENCY. If a dam is constructed, the AGENCY may salvage any structures or equipment from Project Facilities without payment to the UNITED STATES. The UNITED STATES shall cooperate and assist the AGENCY in AGENCY's efforts to fully access, divert and utilize its water entitlements under its water rights,

SECTION D. GENERAL PROVISIONS

Hazardous Material

11. (a) The AGENCY shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and instructions, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in lands, waters, or facilities owned by the UNITED STATES or administered by Reclamation.

(b) "Hazardous material" means any substance, pollutant or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 43 U.S.C. § 1901, *et seq.*, and the regulations promulgated pursuant to that Act.

(c) To the extent provided by law, the AGENCY may not allow contamination of lands, waters or facilities owned by the UNITED STATES or administered by Reclamation by hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, pesticides (including but not limited to, the misuse of pesticides), pesticide containers, or any other pollutants.

(d) The AGENCY shall report to Reclamation, within 24 hours of becoming aware of its occurrence, any event which may or does result in pollution or contamination adversely affecting lands, water or facilities owned by the UNITED STATES or administered by Reclamation.

(e) Any intentional violation of any of the provisions of this Article shall constitute grounds for initiation of the procedure for immediate termination of this contract and shall make the AGENCY liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

(f) The AGENCY agrees to include the provision contained in paragraphs (a) through (e) of this Article in any subcontract or third party contract it may enter into pursuant to this contract.

(g) The UNITED STATES agrees to provide information necessary for the AGENCY, using reasonable diligence, to comply with this Article.

Notices

12. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the AGENCY, when mailed, postage prepaid, or delivered to the Area Manager, Central California Area Office, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, California 95630-1799, and on behalf of the UNITED STATES, when mailed, postage prepaid, or delivered to the Board of Directors of the Placer County Water Agency, P.O. Box 6570, Auburn, California 95604. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

Contingent on Appropriation or Allotment of Funds

13. The expenditure or advance of any money or the performance of any obligation of the UNITED STATES under this contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not re-

lieve the AGENCY from any obligations under this contract. No liability shall accrue to the UNITED STATES in case funds are not appropriated or allotted.

Officials not to Benefit

14. No Member of Congress or official of the AGENCY shall benefit from this contract other than as a water user or landowner in the same manner as other water users or landowners.

Assignment Limited—Successors and Assigns Obligated

15. The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest therein shall be valid until approved in writing by the Contracting Officer.

Books Records, and Reports

16. The AGENCY shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including the AGENCY's financial transactions and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this contract.

Clean Air and Water

17. (a) The AGENCY agrees as follows:

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*, as amended by Public Law 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*, as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the execution of this contract.

(2) That no portion of the work required by this contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was executed unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use its best efforts to comply with clean air standards and clean water standards at the facility where the contract work is being performed.

(4) To insert the substance of the provisions of this article into any non-exempt subcontract, including this paragraph (a)(4).

(b) The terms used in this article have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*, as amended by Public Law 91-604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, as amended by Public Law 92-500).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "comply" means compliance with clean air or water standards. Comply shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protec-

tion Agency or an air or water pollution control agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, to be utilized in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

Equal Employment Opportunity

18. During the performance of this contract, the AGENCY agrees as follows:

(a) The AGENCY will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The AGENCY will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The AGENCY agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The AGENCY will, in all solicitations or advertisements for employees placed by or on behalf of the AGENCY, state that all qualified applicants will receive consideration for employment without discrimination because of race, color, religion, sex, disability, or national origin.

(c) The AGENCY will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contracting Officer, advising the said labor union or worker's representative of the AGENCY's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The AGENCY will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The AGENCY will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the AGENCY's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the AGENCY may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The AGENCY will include the provisions of paragraphs (a) through (f) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The AGENCY will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, That in the event the AGENCY becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the AGENCY may request the UNITED STATES to enter into such litigation to protect the interests of the UNITED STATES.

Compliance with Civil Rights Laws and Regulations

19. (a) The AGENCY shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, *et seq.*), Title II of the Americans with Disabilities Act of 1990 if the entity is a State or local government entity [Title III if the entity is a non-government entity], and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes require that no person in the UNITED STATES shall, on the grounds of race, color, national origin, disability, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation. By executing this contract, the AGENCY agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the UNITED STATES to inspect premises, programs, and documents.

(c) The AGENCY makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the AGENCY by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The AGENCY recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this article and that the UNITED STATES reserves the right to seek judicial enforcement thereof.

(d) Complaints of discrimination against the AGENCY shall be investigated by the Contracting Officer's Office of Civil Rights.

Certification of Nonsegregated Facilities

20. The AGENCY hereby certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained. The AGENCY agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, disability, or otherwise. The AGENCY further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Employment Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually). Note: The penalty for making false statements in offers is prescribed in U.S.C. 1001.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written.

RESOLUTION NO. 02-25 OF THE BOARD OF DIRECTORS OF THE PLACER COUNTY WATER AGENCY MAKING FINDINGS CONCERNING THE AMERICAN RIVER PUMP STATION PROJECT, ADOPTING THE MITIGATION MONITORING PROGRAM, AND APPROVING CONTRACT 02-LC-20-7790 WITH THE UNITED STATES BUREAU OF RECLAMATION

WHEREAS, the Final Environmental Impact Statement/ Final Environmental Impact Report ("FEIS/FEIR") for the American River Pump Station Project has been presented to, reviewed and considered by the Board of Directors of the Placer County Water Agency; and

WHEREAS, this Board has certified the Final Environmental Impact Report and Environmental Impact Statement prepared for the American River Pump Station Project to be in compliance with the requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, this Board, in reviewing the FEIS/FEIR and taking tile action set forth in this Resolution is hereby exercising its independent judgment and analysis; and

WHEREAS, this Board has considered all written and oral comments presented to it at its meeting held July 11, 2002 and at this August 1, 2002 meeting;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PLACER COUNTY WATER AGENCY that:

1. The Board hereby makes and adopts each of the Findings set forth in the document entitled "CEQA Findings and Statement of Overriding Considerations of Placer County Water Agency for American River Pump Station, July 2002" ("Findings") attached hereto as Exhibit A;

2. The commitments set forth in the Mitigation Monitoring Plan to be implemented by, the Placer County Water Agency, including the Conservation Measures described therein, are hereby accepted as binding on the Agency;

3. The Board finds that in light of the mitigation measures that the Agency will undertake, all significant environmental effects that can feasibly be mitigated by Agency action will be mitigated;

4. Some significant environmental impacts identified and described in the FEIS/FEIR, cannot be mitigated by action of the Agency, but rather must be and are expected to be mitigated by actions of the United States Bureau of Reclamation and California Department of Parks and Recreation, or other public agencies, in implementing the American River Pump Station Project;

5. The Board finds that each of the overriding considerations set forth in Section XII of the Findings justifies the decision to approve Contract No. 02-LC-20-7790 and authorize its execution despite the significant impacts identified in the FEIS/FEIR. Those overriding considerations are set forth in the Findings attached hereto and explain why the benefit of the American River Pump Station Project outweighs the potential for significant environmental effects;

6. Contract No. 02-LC-20-7790, attached hereto as Exhibit B, is hereby approved.

The foregoing resolution was duly passed at a regular meeting of the Board of Directors of the Placer County Water Agency held on August 1, 2002, by the following vote on roll call:

AYES: DIRECTORS Ferreira, Lee, Rocucci, Wollan, and Chair Jarvis.

NOES: DIRECTORS None.

ABSENT: DIRECTORS None.

Signed and approved by me after its passage this 1st day of August 2002.

LOWELL M. JARVIS,

Chair, Board of Directors, Placer County Water Agency

Senator MURKOWSKI. Thank you, Mr. Maisch.

Just a couple questions for you this afternoon, gentlemen. Mr. Dieker, when you mentioned the area that we're talking about the transfer, you mentioned 9 acres and the buildings and offices that would be included with this transfer. Does the Yakima-Tieton Irrigation District currently perform the upkeep of these buildings at this time?

Mr. MAISCH. Yes, they do.

Senator MURKOWSKI. OK. So you've already factored in the cost of operation and maintenance. How much cost savings do you anticipate realizing with this transfer to the district?

Mr. MAISCH. [Inaudible.]

Senator MURKOWSKI. But really it's more savings in terms of the administrative efficiency that would be gained?

Mr. MAISCH. Possibly. I think it's possibly more—

Senator MURKOWSKI. Thank you. Mr. Maisch, you had stated in your written testimony that the Placer County Water Agency is responsible for any construction costs for a pump capacity that exceeds 100 cfs. Is the agency constructing a facility that provides for more than that, more than a 100 cfs? And then, if they are, how do you pay for this cost?

You mentioned a little bit about the cost sharing, but if you could just explain it a little bit more.

Mr. MAISCH. [Inaudible.]

Senator MURKOWSKI. What about the annual operation and maintenance costs of the new pump station; is the agency able to take those on?

And you had also stated in your written testimony that Placer County is one of the fastest growing counties in California. How do you anticipate that this new pumping facility—pumping station will help to meet this area's watering?

Mr. MAISCH. [Inaudible.]

Senator JOHNSON. Mr. Maisch, your testimony summarizes the construction costs associated with the pump project, and I understand that your agency is paying for capacity in excess of 100 cfs, which is \$12.8 million. But there also appears to be a contribution of \$17 million, and I'll ask for a little elaboration of your response to Mr. Sherman's questions.

Is it correct that the PCWA is contributing then \$29.8 million in total? And if that's the case, could you explain to me then the additional \$17 million, and what that's for?

Mr. MAISCH. [Inaudible.]

Senator JOHNSON. OK. Mr. Dieker, the panel's transfer process that you've worked on with Reclamation sounds like a successful one. Are you currently interested in or already pursuing the transfer of title to any other facilities that serve your District?

Mr. DIEKER. No. We're not interested in any.

Senator JOHNSON. OK. Very good.

Madam Chairman, that's all that I have.

Senator MURKOWSKI. Thank you for completing your questions and I appreciate the testimony of you gentlemen. Again, thank you for traveling the distance to come and present before the subcommittee.

With that, we stand adjourned.

[Whereupon, at 3:30 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

STATEMENT OF ALEX WHITE PLUME, VICE CHAIRMAN, ON BEHALF OF THE OGLALA SIOUX TRIBE, ON S. 3404

By resolution dated June 12, 2006, the Oglala Sioux Tribe fully supports the Reauthorization of the Mni Wiconi Rural Water Supply Project as proposed by S. 3404, which extends the completion date for construction from FY 2008 through FY 2012.

The Oglala Sioux Tribe supports the extension recognizing that the history of appropriation levels for the project will not provide sufficient funding to complete the project in FY 2008 and that an additional four years of appropriations will be needed to provide the necessary funding. The need for extension of time is driven entirely by appropriations and not the capability of the Oglala Sioux Tribe or other sponsors to complete the project in FY 2008 if adequate funding were available.

The concerns of the Oglala Sioux Tribe with respect to the additional four years necessary to fund the project are as follows:

1. Human health benefits on the Pine Ridge Indian Reservation will be delayed. The Pine Ridge Indian Reservation has not yet received Missouri River water to replace unsafe supplies, and the Oglala Sioux Tribe will be last to build its distribution system.
2. Overhead costs of the project will increase due solely to the extension of the number of years required to complete construction and cause the project costs to exceed the currently authorized construction funding ceiling.
3. Inflation will cause the remaining authorized construction funding needs to increase and create a moving target for future appropriation committees.

Delay in Human Health Benefits

The Oglala Sioux Tribe has deep concerns that the project has not yet delivered Missouri River water to the Pine Ridge Indian Reservation after 12 years of construction. Residents in the No Flesh area and across much of the central and eastern areas of the reservation are waiting for a transition from groundwater to Missouri River water to relieve them of arsenic concentrations well above the EPA drinking water standard adopted this year. The arsenic standards are taken seriously by the Tribal Council due to the connection between arsenic and the risk of lung and bladder cancer.

The inability to deliver the Missouri River water to the Pine Ridge Indian Reservation after years of constructing the water treatment plant and Oglala off-Reservation core pipelines is due, in part, to the policy of the Bureau of Reclamation that required sequential construction of the pipelines. It has long been the policy of the Tribe to build pipelines from Pine Ridge toward the Missouri River while building concurrently from the Missouri River toward Pine Ridge. Had the Tribe been able to build pipelines as it proposed, all sponsors would have benefited from project water at the same time.

Currently all sponsors are receiving Missouri River water except the Oglala Sioux Tribe. We are still waiting. Other sponsors have either finished their distribution systems or have completed most of their . . . system. The Oglala Sioux Tribe, however, has only been able to build 40% of the necessary pipelines, only those pipelines that deliver safe and adequate groundwater from our wells in the Arickaree formation of the Ogallala Aquifer. We will build the balance of our distribution system (60%) after Missouri River water reaches the Reservation near Wanblee. Because we are the last sponsor to be served and find ourselves largely alone to justify future appropriations, anxiety remains high that project support will diminish and that the distribution system on the Pine Ridge Indian Reservation will never be

built as expected by the Tribe and as foreseen by the congressional delegation in the early years.

The arsenic problem is not to be taken lightly. Maximum contaminant level (MCL) for arsenic was reviewed by EPA and lowered, from 50 to 10 micrograms per liter ($\mu\text{g}/\text{l}$) on October 31, 2001.¹ Water systems were to Comply by January 2006. The revision for arsenic followed a request for comment by EPA on 3 $\mu\text{g}/\text{l}$ (feasibility level), 5 $\mu\text{g}/\text{l}$ (proposed June 2000), 10 $\mu\text{g}/\text{l}$ (January 2001 rule) and 20 $\mu\text{g}/\text{l}$.² The National Research Institute concluded that:

. . . The results of this subcommittee's assessment are consistent with the results presented in the NRC's 1999 Arsenic in Drinking Water Report and suggest that the risks for bladder and lung cancer incidence are greater than the risk on which the EPA based its January 2001 pending rule . . .³

Earlier concerns with arsenic that influenced the adoption of the older standard at 50 μg per liter were related to a risk assessment for skin cancer based on Taiwanese studies involving a low-income population with poor diets and low quality of medical care exposed to high concentrations of arsenic. More recently, studies have been conducted on the same Taiwanese population in combination with evidence from Chile and Argentina related to the risk of bladder and lung cancers. On the basis of a cost and benefit analysis, as reproduced in Table 1, EPA concluded that the feasible level for arsenic regulation was 3 μg per liter, but EPA proposed an arsenic MCL of 5 μg per liter.

At the 3 μg per liter level (Table 1), total national costs to community water systems to remove arsenic were estimated by EPA to range between \$643 and \$753 million.⁴ Bladder cancer benefits (reduced incidence and associated costs) were estimated to range between \$43.6 and \$104.2 million, and lung cancer benefits were estimated to range between \$47.2 and \$448 million.⁵ If the upper level of costs were used (\$753 million) and the upper level of benefits in reduction of the cost of cancer incidence were used (\$552.2 million), the benefit to cost ratio of removing arsenic would be calculated at .73 or the equivalent of \$0.73 in benefits for each \$1.00 in cost to remove arsenic. As shown in Table 1, the benefit to cost ratio increases for decreasing levels of arsenic removal. The EPA conclusion of feasibility at the 3 μg per liter level was based on a calculation of benefit to cost ratio using the upper limit of benefits and the lower limit of costs.

Table 2 also presents the risk of lifetime incidence of bladder and lung cancer per 100,000 members of the population for each of the arsenic MCL levels under consideration. There are numerous analyses presented by EPA of risk factors based on a variety of assumptions and methods, and only a single set of conclusions is presented in Table 2, The conclusions are illustrative of the benefits of lowering the arsenic MCL from 20 micrograms (μg) per liter with 84 lifetime incidences per 100,000 persons to 3 μg per liter with 24 lifetime incidences per 100,000 persons.⁶ Note that the estimates of lung cancer incidence are comparable to those of bladder cancer, leading EPA to conclude that ". . . based upon this most recent risk information . . . the combined risk of excess cases of lung and bladder cancer attributable to arsenic in drinking water could be at least twice that of bladder cancer alone . . ."⁷

¹ Letter of October 31, 2001, from EPA Administrator, Christine Todd Whitman, to The Honorable C. W. Young, Chairman, Committee on Appropriations, House of Representatives.

² Federal Register, Vol. 66, No. 194, Oct. 5, 2001, p. 50761.

³ Subcommittee to Update the 1999 Arsenic in Drinking Water Report, September 2000, Pre-publication Copy, *Arsenic and Drinking Water: 2001 Update*, Committee on Toxicology, National Research Institute, p. 12.

⁴ Federal Register, October 20, 2000, *National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring*, Vol. 65, No. 204, p. 63031, *et seq.*

⁵ *Ibid.*

⁶ *Ibid.*, p. 63032

⁷ *Ibid.*

Table 1.—ESTIMATED COSTS AND BENEFITS FROM REDUCING ARSENIC IN DRINKING WATER

[1999 \$ in millions]

Arsenic Level (µg/l)	Total National Costs to CWSs	Total Bladder Cancer Benefits	“What If” Lung Cancer Benefits	Cost Upper Limit	Benefit Upper Limit	Benefit to Cost Ratio
3	\$643.1–753	\$43.6–104.2	\$47.2–448	753.0	552.2	0.73
5	377.3–441.8	31.7–89.9	35.0–384	441.8	473.9	1.07
10	163.3–191.8	17.9–52.1	19.6–224	191.8	276.1	1.07
20	61.6–72.9	7.9–29.8	8.8–128	72.9	102.7	1.44

Based on EPA in Federal Register; October 20, 2000

Table 2.—LIFETIME INCIDENCE, RISKS PER 100,000 POPULATION, 90TH PERCENTILE

[1999 \$ in millions]

Arsenic Level (µg/l)	Morales Risk Bladder Cancer	Morales Risk Lung Cancer	Upper Limit Combined Risk
3	10–12	10–12	24
5	18–20	17–21	41
10	26–31	27–31	62
20	35–41	34–43	84

Based on EPA in Federal Register, October 20, 2000

Arsenic in groundwater in many parts of the Pine Ridge Indian Reservation is at concentrations between 20 and 50 µg per liter, and Missouri River water will reduce concentrations below 3 µg per liter. Therefore, the Tribal Council and membership are anxiously awaiting Missouri River water to lower cancer risks from arsenic alone by well over 60 lifetime incidences per 100,000 persons or 6 lifetime incidences per 10,000 members of our population. Our future generations will benefit greatly by the improvement in arsenic concentrations stemming from the delivery of Missouri River water.

A similar analysis can be presented to demonstrate the human health impacts from uranium concentrations in our groundwater. Both uranium and arsenic are naturally occurring elements in our groundwater and are unavoidable absent delivery of water from the Missouri River as intended by the Mni Wiconi project.

There are additional human health benefits to be derived from improvements in the quality of our drinking water and an adequate supply for economic development brought by the Mni Wiconi Project. The Mni Wiconi Project and the industry that will follow will raise our income levels, which, in turn, will lower the extraordinary rates of mortality among the Indian population of our Reservation. Information has been compiled in the Great Plains to show that high mortality rates are related to low income and that the present value of Indian health-care costs in our region over the next 50 years will be as much as \$0.8 to \$1.6 billion *higher than non-Indian health care costs* for heart disease, cancer and diabetes in each 24,000 members of the Indian population. Improvement in the economy of the Pine Ridge Indian Reservation, coming from the Mni Wiconi Project, will lower these extraordinary costs.

The Mni Wiconi Project has success stories on the Pine Ridge Indian Reservation. Before the project was authorized, for example, high nitrate contamination, and the risk to newborns was a concern of the Women of All Red Nations. Dr. Thomas Welty wrote extensively about water borne diseases and hepatitis-C on the Reservation. Upon project authorization, the (Vida Sioux Tribe immediately built the emergency pipeline from wells with good water quality to the community of Oglala. This was followed additional well development and pipelines to the areas around Slim Buttes, along American Horse Creek, north of Kyle, from Kyle to Sharp's Corner, from Sharp's Corner to Rocky Ford and Red Shirt, and to the communities of Manderson and Porcupine. This brought high-quality groundwater where it could be developed to many rural households and to several small communities. Since implementation of these projects, waterborne diseases have diminished or been eliminated, hepatitis-C has not occurred, and infants have not been lost to nitrogen contamination.

There is much more to be done, but these steps have been effective. The delivery of Missouri River water as soon as possible to the Pine Ridge Indian Reservation

will alleviate other extreme health conditions and greatly improve the quality of life of our members, actions which are within the original goals of the Act.

An Additional Four Years of Direct and Overhead Costs

While we are fully supportive of the extension of the construction schedule from FY 2008 through FY 2012, each year of additional extension results in new costs for necessary activities that cannot be eliminated. These activities will be continued with minimal staff in numbers only adequate to continue necessary functions. Costs will include the following:

- 1) Salaries and fringes for personnel to:
 - a) administer design and construction contracts
 - b) inspect construction
 - c) acquire easements
 - d) prepare as-built drawings for operation, maintenance and replacement
 - e) coordinate with other sponsors, the Bureau of Reclamation, public and other federal agencies
- 2) Non-salary costs for administrative functions
 - a) utilities and communications
 - b) travel and vehicles
 - c) office costs (photocopy, mail, other normal office expenses)
 - d) establish permanent record system consisting of electronic filing systems and project portfolios
- 3) Reclamation Oversight Costs
- 4) Indefinite quantities for interconnecting new homes to the Project distribution system after FY 2008. (The population on the Pine Ridge Indian Reservation is increasing at a rate of 27% per decade, which is equivalent to about 1,650 persons in the period between 2008 and 2012. The new population during the period of construction extension will require connections to the Mni Wiconi Project for household uses).

The costs during an extended construction schedule are real costs. Funds are necessary to retain staff and functions to carry on design and construction. The additional costs for the additional construction extension can only be estimated at this time at about \$12 million. Actual costs will become more clear and definable by 2009 and 2010. Without an amendment of the construction ceiling to include these costs, it will be necessary to reduce the miles of pipeline built to cover the unavoidable costs. There is a need to coordinate and implement strategic planning to ensure overall project activities are completed in a satisfactory manner. The Oglala Sioux Tribe will seek a future adjustment of the construction ceiling to ensure that the original intent of the Mni Wiconi Project Act and the Final Engineering Report, approved by the Secretary of interior, is realized and that the distribution system within the PiAe Ridge Indian Reservation is not left incomplete.

Appropriation Levels after FY 2006 Must Increase to Complete the Project in FY 2012

A matter of serious concern to the Oglala Sioux Tribe, last sponsor to be served with water from the Missouri River to replace toxic groundwater, is the need for an increased level of appropriations to complete the project by FY 2012. Irrespective of the degree of future inflation, the level of appropriations needs significant increase above the \$23 million level in recent years if the project is to be completed by FY 2012.

Table 3 presents construction cost indices compiled by the Bureau of Reclamation for several tracking items since 1992 (pumping plants, drains and laterals and a composite construction trend).⁸ Average construction cost increases for pumping stations for naming 5-years ranged from 1.81% (5-years ending in 2000) to 4.20% (5 years ending in 2005). Average construction cost increases for pipelines in rural water systems (Bureau of Reclamation uses laterals and drains to measure pipeline cost trends) ranged from 2.99% to 7.37%. The average annual rate of increase was lowest for the 5-year period ending in 2000 and 2001 and highest for the 5-year period ending in 2005 for all categories. Figure 1* displays the 5-year running cost trends from Table 3.

The Oglala Sioux Tribe is extremely concerned about the construction cost trend in 2004 and 2005 with pipeline construction costs increasing at 5.65% and 6.60%, respectively. Bidding experience in 2006 is confirming a significant upward trend. Therefore, looking forward, construction cost increases trending above 7%, particu-

⁸Bureau of Reclamation Construction Cost Trends, http://www.usbr.gov/pmts/estimate/cost_trend.html.

* Figure 1 has been retained in committee files.

larly for pipelines, the largest component in the project, may be reasonably likely. Table 4 presents the impact of 7% inflation on levels of appropriation needed to complete the project by FY 2012, and demonstrates that an average annual appropriation of \$29.8 million would be required. Table 5 summarizes the levels of appropriation, ranging from \$280 million to \$37.5 million on the average, needed to overcome inflation ranging from 5% to 15% respectively.

Table 3.—AVERAGE ANNUAL CONSTRUCTION COST INDEXING
BASED ON RECLAMATION TRENDS

	Index			Annual Increase, %			Previous 5-Year Average, %		
	Pump- ing Plants	Laterals & Drains	Com- posite	Pump- ing Plants	Laterals & Drains	Com- posite	Pump- ing Plants	Laterals & Drains	Com- posite
1992	188	169	188						
1993	192	176	194	2.13%	4.14%	3.19%			
1994	197	182	199	2.60%	3.41%	2.58%			
1995	206	190	207	4.57%	4.40%	4.02%			
1996	215	202	212	4.37%	6.32%	2.42%	3.41%	4.56%	3.05%
1997	218	216	218	1.40%	6.93%	2.83%	3.23%	5.25%	2.96%
1998	222	220	221	1.83%	1.85%	1.38%	3.03%	4.85%	2.66%
1999	226	226	227	1.80%	2.73%	2.71%	2.34%	4.43%	2.33%
2000	231	238	233	2.21%	5.31%	2.64%	1.81%	4.19%	2.39%
2001	235	243	236	1.73%	2.10%	1.29%	1.89%	2.99%	2.00%
2002	241	251	242	2.55%	3.29%	2.54%	2.07%	3.35%	2.30%
2003	247	262	250	2.49%	4.38%	3.31%	2.25%	3.76%	2.44%
2004	263	303	274	6.48%	15.65%	9.60%	3.30%	6.22%	4.14%
2005	277	323	288	5.32%	6.60%	5.11%	4.20%	7.37%	5.10%

Table 4.—APPROPRIATION LEVEL NEEDED TO COMPLETE THE MNI WICONI
PROJECT IN FY 2012, 7% INFLATION

Remaining Costs after FY 2006	\$130,000,000
Added Direct and Overhead Costs after FY 2008, 2005 Dollars	12,000,000
Total Costs	142,000,000
Historic Rate of Appropriations	22,900,000
Authorized Completion Date	2,008
Appropriations Schedule	6
Assumed Cost Indexing (inflation)	7%

	Fiscal Year	Appropriations		
		Remaining Amount	Complete 2012	Uniform
1	2007	\$151,040,000	\$24,987,943	\$29,791,004
2	2008	130,699,426	26,737,099	29,791,004
3	2009	107,972,012	28,608,606	29,791,004
4	2010	83,653,679	30,611,305	29,791,004
5	2011	57,633,063	32,754,096	29,791,004
6	2012	29,791,004	35,046,883	29,791,004
7	2013	0		
Total			178,746,021	178,746,021

Table 5.—ANNUAL APPROPRIATIONS AND TOTAL COSTS TO COMPLETE MNI WICONI PROJECT BY FY 2012 FOR RANGE OF INFLATION RATES

Current Sunset Date	2008
October 2006 Remaining Federal Cost	\$142,000,000

Annual Cost Indexing (Inflation) Rate	Appropriations Needed thru 2012	
	Total	Average Annual
5	\$167,859,000	\$27,976,000
7	178,746,000	29,791,000
10	195,625,000	32,604,000
15	225,130,000	37,522,000

Additional Concerns

The declining performance of the Bureau of Indian Affairs in the processing of easements is a concern to the Oglala Sioux Tribe and affects our ability to complete the project within the Pine Ridge Indian Reservation. In the early years of the project the enthusiasm of the Bureau of Indian Affairs was high, and the processing of our easements had a priority. Today the processing of easements is extremely tedious and slow. The Tribe is currently waiting for Bureau of Indian Affairs to process easements for the Wanblee North powerline upgrade, the Wanblee to Hisle function pipeline and the Hisle Junction to Kyle pipeline. Construction will be delayed until these easements are processed. Designs have been approved. Bidding and award of construction projects should be ongoing, but our cooperative agreement with the Bureau of Reclamation requires that easements must be acquired throughout the construction area before bidding.

Our Sincere Appreciation

The South Dakota delegation has been highly supportive of the Oglala Sioux Tribe and other sponsors during the course of this project, and their efforts are sincerely appreciated. We understand that the delegation supports (1) the formation of a task force to investigate the high rates of mortality and morbidity associated with heart, cancer, diabetes and other prominent diseases on the Pine Ridge Indian Reservation and (2) a congressional hearing to report the task force findings. The task force can hopefully be comprised of individuals from the National Institute of Health, Center for Disease Control or comparable organizations that have credentials and background to compare and correlate the level of poverty, incidence of disease, human costs and costs to the United States Treasury for health care of populations on and off the Indian Reservations in the Great Plains. The Oglala Sioux Tribe intends to be heavily engaged in the implementation of the task force and preparation for the hearing.

The subcommittee's action to extend the project from FY 2008 through FY 2012, the highest priority for successful completion of this project, is greatly appreciated by the Oglala Sioux Tribe. We are hopeful that the subcommittee will examine our testimony carefully and can take cognizance of the additional steps needed to complete the project and realize the benefits intended and expected by Congress and the Tribe.

STATEMENT OF DON CHRISTIANSEN, GENERAL MANAGER, CENTRAL UTAH WATER CONSERVANCY DISTRICT, ON S. 1812

My name is Don Christiansen and as the General Manager of the Central Utah Water Conservancy District, I appreciate the opportunity to express my support for S. 1812 before this Subcommittee. The Central Utah Water Conservancy District, as a subdivision of the state of Utah, was designated in 1964 to be the local entity to manage the construction, operation and the financing for the Central Utah Project (CUP). The purpose of the CUP is to be sure that the state of Utah maximizes the use of water allotted from the Colorado River based on the Colorado River Compact. In addition, the District serves as a wholesaler of water to other cities and agencies.

The Central Utah Project includes five specific units. Each unit consists of a series of dams, pipelines, reservoirs, tunnels, and aqueducts designed to assist in meeting the water needs of ten counties. The Bonneville Unit of the CUP was

planned to develop and export water from the High Uinta Mountains in the eastern part of the state and bring it through a series of reservoirs, tunnels and pipelines to the populated Wasatch Front. Early on water was planned to be delivered as far south as the Sevier River Drainage through an Irrigation and Drainage delivery system. Under that early plan Juab County would have received a large amount of project water.

However, the original planning requirements for the Bonneville Unit water have been altered over time. Millard and Sevier counties in central Utah have withdrawn from the Central Utah Water Conservancy District and now virtually all of the water is planned to remain along the Wasatch Front for use in Wasatch, Utah and Salt Lake Counties to meet the water needs of the increasing population growth in those areas. Utah, as a whole, grew nearly 30 percent in the last decade and some urban areas within those counties are growing at a rate of double digits per year. Juab County has remained part of the Central Utah Water Conservancy District and has paid about \$3,000,000 in property taxes into the District and continues to pay property taxes each year with the expectation of receiving benefits from maintaining membership in the District.

The Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575), which included the authorization of the Central Utah Project construction, has been a huge success in Utah. Completed projects include the Wasatch County Water Efficiency Project, Completion of the Diamond Fork System, thirty five water conservation projects which last year conserved over 90,000 acre-feet of water, a conjunctive use project in Salt Lake County, and the eleven million dollar East Juab Water Efficiency Project in Juab County. Projects currently under construction include the Uinta Basin Replacement Project, five additional water conservation projects, and ten local development projects under section 206 of P.L. 102-575. A Record of Decision has been signed for the Utah Lake System which when completed will deliver an additional 60,000 acre-feet per year of municipal water to the rapid growing parts of Utah in Salt Lake and Utah Counties.

Passage of S. 1812 will give Juab County an additional opportunity to benefit from P.L. 102-575 by making Juab County eligible for participation in conjunctive use funding to enable the county to study and construct conjunctive use projects. This process of "conjunctive use" will allow Juab County to maximize surface water flows and groundwater sources in a coordinated manner by storing surplus surface flows in existing groundwater aquifers, which results in increasing the benefit of both their respective water resources. Currently, this program is limited to the Wasatch Front counties of Salt Lake, Utah, Davis, Wasatch, and Weber. Juab County should be made eligible to receive funds for projects to develop comprehensive conjunctive use water management in their county.

In conclusion, as the second driest state in the nation, Utah faces unique challenges with inadequate existing water supplies compounded with high growth rates and widely varying annual precipitation. In light of these circumstances, the Central Utah Water Conservancy District fully supports the addition of Juab County to the conjunctive use program. The coordination of water resources is vital to developing an efficient system that will better utilize and maximize existing water resources. This bill will only enhance Juab County's ability to meet the water needs of its citizens.

Thank you.

STATEMENT OF BILL JONES & THE C.W. "BILL" JONES FAMILY, ON H.R. 2383

Senators:

Thank you for taking time to consider this recognition of a great leader that helped build California's water infrastructure. As many of you are aware, the area of California water is a very difficult and often time's contentious place to develop solutions. Yet our father was instrumental in bringing people together to generate consensus for all of California's benefit. He had a great gift of always being able to put himself in the other parties' position to try and understand problems when they occurred. We saw him many times sacrifice his own position for the good of California as a whole.

He was a pioneer in the area of California Water and development in the San Joaquin Valley as well as the State for over 25 years. Our father was the President of the San Luis and Delta-Mendota Water Association/Authority for over 20 yrs. While serving as President of the San Luis and Delta-Mendota Water Authority, he was directly involved with the Central Valley Project as well as the State Water Project in numerous capacities. He was also President of the Firebaugh Resource Conservation District, the Las Deltas Mutual Water Company, the Silver Creek

Drainage District and also Vice President of the Firebaugh Canal Water District. He was also appointed by Gov. Ronald Reagan to the California State Water Commission. In recognition of the years of dedicated and hard work performed by C.W. "Bill" Jones, he was presented with California State Senate Resolution No. 1198 on August 22, 1997

We would appreciate Senator Domenici & the Committee's support for this measure, which redesignates the facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California known as the Tracy Pumping Plant to be known as the "C.W. 'Bill' Jones Pumping Plant."

Thank You.

