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BEND FEED CANAL PIPELINE PROJECT ACT OF 2000

JULY 24, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 2425]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2425) to authorize the Bureau of Land Management to participate in the planning, design, and construction of the Bend Feed Canal Pipeline Project, Oregon, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 2, strike paragraph (g), line 21 through 24.

PURPOSE OF THE MEASURE

The purpose of S. 2425 is to authorized the Bureau of Reclamation to participate in the planning, design, and construction of the Bend Feed Canal Pipeline Project, Oregon, for other purposes.

BACKGROUND AND NEED

The Tumalo Irrigation District (TID) was founded in 1914. It serves an area of about 28 square miles with 8,100 irrigated acres, between Bend and Sisters, Oregon, on the east slope of the Cascade Mountains. TID was originally designed to deliver water to large commercial farms. Because of growth and urbanization in Central Oregon, water is being delivered to an increasing number of small farms and ranchettes over a large geographic area.

The area's geology of fractured basalt and lava tubes in combination with long canal lengths cause high water loss. TID has been aggressively converting open distribution canals to underground pressurized pipelines to eliminate seepage, reduce delivery time, provide enough water to meet irrigation requirements, and guarantee minimum water levels in Tumalo Creek. Other benefits of

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piping are increased public safety by enclosing canals, and system durability in the harsh Central Oregon climate.

Conservation project expenditures from 1995–2000 totaled $2,620,500. Comparatively, TID's annual operating budget is just over $500,000. The TID has funded previous projects largely through excess property sales. Projected conservation project cost for the Bend Feed Canal Project Group is $4,000,000. TID contemplates replacing 6 sections of open canal with pipeline, including replacing an elevated flume with buried steel pipeline. The work would be done between 2000 and 2003 and anticipated benefits include water conservation, increased system reliability, a substantial increase in safety, and operation and maintenance savings.

S. 2425 would authorize the Secretary of the Interior to participate in the planning, design and construction of the Project. Federal costs shall not exceed 50% of the total and shall be non-reimbursable. The bill authorizes $2.5 million for the Federal share of the activities authorized.

LEGISLATIVE HISTORY

S. 2425 was introduced by Senator Smith of Oregon on April 13, 2000. The Subcommittee on Water and Power held a hearing on the bill on May 24, 2000. After the business meeting on June 7, 2000, the Committee on Energy and Natural Resources ordered S. 2425, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on June 7, 2000, by a unanimous vote with a quorum present, recommends that the Senate pass S. 2425, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 2425, the Committee adopted an amendment to strike section 2(g) which limited administrative expenses to one percent. Because of the nature of this project, the Committee expects that the administrative expenses will be minimal. In this case, the irrigation district has done the bulk of the work and the Bureau of Reclamation does not anticipate participating in planning, design or construction of the Project. Instead, the agency will only be acting as a pass-through for the federally funded portion of the project.

SECTION-BY-SECTION

Section 1 is a short title.

Section 2 authorizes the Secretary of the Interior to participate in planning, design, and construction of the Bend Feed Canal Pipeline Project. The Federal share of the costs shall not exceed 50 percent and shall be nonreimbursable. Funds received shall not be considered a supplemental or additional benefit; title of facilities constructed shall be held by the District, and O&M shall be the responsibility of the District. This section also authorizes $2.5 million for the Federal share of authorized activities.

COST AND BUDGETARY CONSIDERATIONS

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

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S. 2425 would direct the Secretary of the Interior, in cooperation with the Tumalo Irrigation District, to participate in the planning design, and construction of the Bend Feed Canal Pipeline Project in Oregon. The bill would limit the federal share of total project costs to 50 percent. Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 2425 would cost $2.5 million over the 2001–2003 period. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 2425 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act. Enactment of this bill would benefit the Tumalo Irrigation District. The district probably would incur costs to match the authorized federal funds and to operate and maintain the project, but these costs would be voluntary. The bill would impose no costs on other state, local, or tribal government.

The CBO staff contacts are Rachel Applebaum and Ali Aslam (for federal costs), and Marjorie Miller (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2425. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

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

Little, if any, additional paperwork would result from the enactment of S. 2425, as ordered reported.

EXECUTIVE COMMUNICATIONS

On, May 10, 2000, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 2425. These reports had not been received at the time the report on S. 2425 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Commissioner of the Bureau of Reclamation at the Subcommittee hearing follows:

STATEMENT OF ELUID L. MARTINEZ, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on S. 2425, the Bend Feed Canal Pipeline Project Act. I am Eluid L. Martinez, Commissioner of the Bureau of Reclamation (Rec-

lamation). The legislation authorizes the Secretary of the Interior (Secretary), in cooperation with the Tumalo Irrigation District (District) to participate in the planning, design, and construction of the Bend Feed Canal Pipeline Project in Oregon. By returning water to a stream that is seasonally dewatered, the project will enhance instream flows for resident fish, improve water quality, and conserve water. Reclamation assisted the Tumalo Irrigation District's efforts to plan and design this project under several programs, including the Efficiency Incentives Program that helps local entities achieve their water conservation objectives. However, the Administration believes there is sufficient authority under the Deschutes Basin Ecosystem Restoration Act (Public Law 104–333 and Public Law 104–208) to complete this project. Therefore, the Administration does not support this legislation to authorize Reclamation to participate in construction of the Bend Feeder Canal Pipeline.

The Tumalo Irrigation District is located near Bend, Oregon, in the Deschutes River basin. The District has two diversions points on Tumalo Creek: the Tumalo Feed Canal and the Bend Feed Canal. The last 2.5 miles of Tumalo Creek lack sufficient flow in later summer to allow fish passage between the Deschutes River and Tumalo Creek above the Tumalo Feed Canal Diversion. The District want to pipe the Bend Feed Canal to the point where it meets the Tumalo Feed Canal. The piping will line the canal and reduce the amount of water seepage in the canal. The saved water will be used to improve reliability of water supply to the District and streamflows to benefit resident fish and wildlife in Tumalo Creek.

The legislation would authorize $2.5 million for the Federal share (50 percent) of the costs of planning, design, and construction of the Bend Feeder Canal Pipeline Project. S. 2425 would authorize the Secretary to credit the District's near-term outlays for design, planning and construction work completed prior to the enactment of this legislation toward the District's cost-share requirements under this bill.

In March of this year, Reclamation, the District, and the Oregon Water Resources Department (Oregon) entered into a water rights transfer agreement that specifies how the saved water will be allocated under Oregon water law. Oregon is now processing a water right action through its administrative processes to implement the agreement. Reclamation assisted the State of Oregon in its construction of a water measuring station just downstream of the Tumalo Creek diversion so that the State can monitor and enforce the agreement in accordance with state water law.

In addition, the Administration is concerned about explicit, legislative exemptions from the Reclamation Reform Act as it contained in Section 2(b). I would like to point out that subsection 2(g), which limits Reclamation's administrative expenses to no more than one percent of project cost, is inappropriate and unworkable.

This concludes my statement. I will be glad to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2425, as ordered reported.

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