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FORT PECK RURAL COUNTY WATER SUPPLY SYSTEM ACT OF 1995

MARCH 15, 1996.—Ordered to be printed

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

REPORT

[To accompany S. 1467]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1467) to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

S. 1154 would authorize $5.8 million for the federal portion of a rural water supply system within the service area of the Fort Peck Rural County Water District.

BACKGROUND AND NEED

In September 1994, the Bureau of Reclamation and HKM Associates completed a final engineering report and alternative evaluation for the Fort Peck Rural County Water District. The Bureau participated pursuant to its general authority under the 1902 Act. The report concluded that the 562 residents of the District have an urgent need for a reliable water supply system since no public water serves the District and groundwater sources are not potable.

The 24,160 acre water district is located in southern Valley County, Montana near the town of Fort Peck. The southern portion of the district is bordered by the Fort Peck Reservoir, constructed as part of the Pick-Sloan Missouri Basin Program. Approximately

95 percent of the residents haul all or part of their water from Fort Peck Lake or Fort Peck to meet domestic needs. The process of hauling water is very expensive and difficult, particularly during bitterly cold winter months. The lake impoundment is seen as the best water source for a municipal water system since the water is considered to be of good quality, requiring only conventional treatment.

The report examined 15 alternatives and selected one that would construct a new intake in the reservoir and water treatment facility near Duck Creek. The estimated cost for the system would be $5,708,000. If the system were expanded to include fire protection, there would be an additional 15 percent cost. The report concluded that substantial capital funding assistance would be required at a minimum of 75 percent. The legislation contemplates 80 percent federal assistance.

LEGISLATIVE HISTORY

S. 1467 was introduced by Senator Burns for himself and Senator Baucus on December 11, 1995. A hearing was held before the Subcommittee on Forests and Public Land Management on December 13, 1995 on S. 1467 and an earlier version, S. 1154.

A companion measure, H.R. 2819, was introduced by Congressman Williams on December 20, 1995.

The Committee considered S. 1467 in an open business meeting on March 13, 1996 and ordered the measure reported favorably to the Senate.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on March 13, 1996, by a unanimous vote of a quorum present recommends that the Senate pass S. 1467 without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1. This section states the short title.

Section 2. This section provides a series of definitions that are self-explanatory.

Section 3. This section provides the authority for the Secretary of the Interior to enter into a cooperative agreement for the planning, design and construction of the rural water system. The federal share of the costs are limited to 80%. The provisions are self-explanatory.

Section 4. This section limits the authorization for appropriations to $5.8 million subject to adjustment for fluctuations indicated by engineering cost indices.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure and compliance with the requirements of the Unfunded Mandates Reform Act has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request that it be printed in the Congressional Record for the advice of the Senate.

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 effect which would be incurred in carrying out S. 1467.

The legislation 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 implementing the legislation. Therefore there would be no effect on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1467.

EXECUTIVE COMMUNICATIONS

On December 4, 1995, 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 views on S. 1154, similar legislation that had been introduced on August 10, 1995. S. 1467 was introduced on December 11, 1995, two days prior to the Subcommittee hearing. While formal legislative reports were not received, the Department of the Interior did present testimony at the hearing on the substance of the legislation and a copy of the prepared testimony of the Department witness follows:

STATEMENT OF THE REGIONAL DIRECTOR, GREAT PLAINS REGION, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to present the Department's views on S. 1154, the Fort Peck Rural County Water Supply System Act of 1995, and S. 1013, a bill to amend the Act of August 5, 1965 in connection with the Garrison Diversion Unit Project, and for other purposes. I appreciate the Subcommittee's as well as Senators Conrad Burns' and Senator Kent Conrad's interest in these bills.

S. 1154 would direct the Secretary of the Interior to enter into a cooperative agreement with the Fort Peck Rural County Water District, Inc. Under terms of the agreement, the District would be responsible for the planning, design and construction of a water supply system built and operated in substantial compliance with the Final Engineering Report and Alternative Evaluation for the Fort Peck Rural County Water District, dated September 1994. Taxpayers would provide 80 percent of the costs of the project. S. 1154 would authorize an appropriation of $5.8 million for the water supply system.

S. 1013 would authorize the Secretary to acquire private lands and interests in lands from willing sellers. The purpose of this new authority would be to enable the Secretary to exchange the lands and interests in lands, as well as other Federally owned lands and interests in lands for non-Federal parcels in the Kraft and Pickell Slough and Lonetree areas in North Dakota. The lands and inter-

ests in lands to be exchanged are to be generally equal in value.

The Department opposes S. 1154 and supports S. 1013. The following provides greater detail on the Department's position on both measures.

S. 1154, FORT PECK RURAL COUNTY WATER SUPPLY SYSTEM

The area served by the Fort Peck Rural County Water District, located in rural northeast Montana, does not currently have a safe, reliable and adequate water supply. Although the Fort Peck Rural County Water District is located near a large lake used primarily for recreational purposes, many homes in the area do not have their own water supply. Approximately 95 percent of the residents haul all or part of their water from Fort Peck Lake or the town of Fort Peck to meet domestic needs. The groundwater in most of the area is often poor quality or in limited supply.

Despite the need for a water supply system, the economics of the Fort Peck Rural County Water Supply System are not easy to justify. According to the Final Engineering Report and Alternative Evaluation for the Fort Peck Rural County Water District, the project will benefit 562 people living in 225 homes. The report estimates the project development costs would be $25,000 per household. We understand that some of these homes are located on property owned by the Army Corps of Engineers. The homeowners pay $160–$170 per year to lease the land for their cabins.

S. 1154 would mandate that the Federal government supply 80 percent of the project's construction costs. Given the competing demands for Reclamation's resources as well as the Federal deficit, the Administration is opposed to S. 1154.

In the past, the Administration has supported rural water supply systems such as the Mni Wiconi project in South Dakota where the needs of the Indian communities justify Federal involvement. We believe the Bureau should be involved where Federal funding is needed to encourage innovation or otherwise serve a basic national purpose.

In summary, the Department opposes S. 1154.

S. 1013

The Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–294) directed the Secretary of the Interior to acquire up to 5,000 acres of land in the Kraft and Pickell Sloughs areas of North Dakota. The acquisitions were to be managed as a component of the National Wildlife Refuge System in recognition of the unique wildlife values of the area. Additionally, the Secretary was directed to complete acquisition in the Lonetree Area.

Working with the U.S. Fish and Wildlife Service, the Bureau of Reclamation finalized an Acquisition and Development Plan for Kraft Slough in 1991. The Plan identified lands considered necessary to meet the directives in Public

Law 99–294. Under an acquisition program based on acquiring lands only from willing sellers, Reclamation has obtained approximately 1,215 acres at Kraft Slough, and a 480 acre parcel has been withdrawn from the Bureau of Land Management. In total, 1,695 acres have been acquired, an amount far short of the 5,000 acre directive in Public Law 99–294. Reclamation has also invested substantial resources in the acquisition and development of the Lonetree Area but several small inholdings remain. If these inholdings were acquired from willing sellers, the Department could better manage this increasingly popular recreation area.

The Garrison Diversion Unit Federal Advisory Council, created in Public Law 99–294 to provide continuing oversight and coordination of wildlife programs associated with the reformulated Garrison project, recommended at their April 1995 meeting that the Secretary be granted the land exchange authority in S. 1013. Comprised of Federal, State and conservation members in the Kraft and Pickell Sloughs and Lonetree Areas, the Council supported the land exchange authority concept as a means of encouraging additional willing seller transactions.

Based on the Council's recommendations, Reclamation contacted landowners within the immediate vicinity of Kraft and Pickell Slough to identify potential landowners willing to consider the acquisition or exchange of their lands. Five landowners agreed to an appraisal under the option of exchanging lands. Their land ownerships total approximately 960 acres, all within a five mile radius of Kraft Slough.

Reclamation believes enactment of S. 1013 will promote additional willing seller transactions, and the authority to negotiate for land exchanges will improve the Secretary's ability to establish a manageable unit at Kraft and Pickell Sloughs and complete development of the Lonetree Area.

The Department has no objection to an amendment which would stipulate that all lands acquired under S. 1013 must be located in the state of North Dakota.

In summary, the Department strongly supports S. 1013.

Thank you again for the opportunity to testify. I am pleased to answer any questions you may have.

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. 1467 as reported.

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