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SENATE

{ REPORT
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LEWIS AND CLARK RURAL WATER SYSTEM ACT OF 1997

OCTOBER 8, (legislative day, OCTOBER 2), 1998.—Ordered to be printed

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

REPORT

[To accompany S. 777]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 777) to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Page 3, line 15–16, revise definition (7) to read as follows: “(7) System Funding Agencies.—The term ‘System Funding Agencies’ means the Environmental Protection Agency and the Department of Agriculture.”
2. Page 4, line 3, delete “Secretary” and insert “System Funding Agencies”.
3. Page 4, line 23, delete “Secretary” and insert “System Funding Agencies”.
4. Page 5, line 12, delete “Secretary” and insert “System Funding Agencies”.
5. Page 6, line 18, strike “Secretary” and insert “Secretary of the Interior”.
6. Page 9, line 17, delete “Secretary” and insert “System Funding Agencies”.
7. Page 10, line 7, delete “Secretary” and insert “System Funding Agencies”.
8. Page 10, line 21, after “Secretary” and before “may” insert “of the interior”.
9. Page 11, line 3, delete “planning and construction” and insert “oversight and other technical assistance”.

PURPOSE OF THE MEASURE

S. 777 authorizes grants for the construction of the Lewis and Clark Rural Water System in South Dakota, Minnesota, and Iowa and for the provision of Pick-Sloan power for the operation of the system. The legislation includes components for wetlands and wild-life enhancement (sec. 4) and for water conservation (sec. 5).

BACKGROUND AND NEED

The Lewis and Clark Rural Water System (the "System") is designed to provide replacement or supplemental water supplies from the Missouri River to areas in southeastern South Dakota, northwestern Iowa, and southwestern Minnesota serving about 180,000 people. The estimated cost of the project is \$283 million, with a twenty percent local cost share based on an ability to pay analysis. Funding for the Sioux Falls component is limited to 50–50. Annual operating costs are estimated at \$4.7 million. Although the Bureau of Reclamation participated in the planning and ability to pay analyses and agreed with the need for a project to meet both supply and water quality needs, the Bureau opposed the legislation in the 103rd, 104th and 105th Congresses due to the cost share, overall cost, and the inclusion of Sioux Falls within the project.

The members of the System collectively provide an average of about 30 million gallons per day (78% in South Dakota) and the proposal would provide an average of 16.5 million gallons of supplemental supply (with a maximum delivery of 23.5 million gallons). The raw water would be diverted from the Missouri near Vermilion, South Dakota, treated and distributed through 400 miles of piping with a series of storage reservoirs and pumping stations. The project is estimated to take about 8 years to complete.

LEGISLATIVE HISTORY

S. 777 was introduced on May 21, 1997 by Senators Johnson, Daschle, Wellstone, Grams, Harkin and Grassley. A similar measure, H.R. 1688, was introduced by Congressman Thune on May 21, 1997. A hearing was held by the Subcommittee on Water and Power on October 7, 1997.

At the business meeting on September 23, 1998, the Committee on Energy and Natural Resources ordered S. 777 favorably reported as amended.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 23, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 777, as amended.

COMMITTEE AMENDMENTS

During the consideration of S. 777, the Committee adopted a series of amendments that limit the role of the Bureau of Reclamation to technical assistance in engineering, planning, and construction oversight while assigning the primary responsibility for providing financial assistance to the Lewis and Clark project to the Administrator of the Environmental Protection Agency and the Secretary of Agriculture in light of their ongoing responsibilities for both rural and municipal water supply grant and loan programs.

The Committee is concerned over the extent to which the Bureau should participate in a project extending outside of the Reclamation States and over a project that is not a traditional Reclamation project. Given the need for the system to address water quality needs in the area, as well as supply needs, a combination of fund-

ing from the USDA and EPA appears to be a reasonable alternative.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title.

Section 2 provides a series of definitions that are self-explanatory. The term "System Funding Agencies" is defined as the Environmental Protection Agency and the Department of Agriculture, the agencies charged with providing financial assistance for construction to the Lewis and Clark Rural Water System.

Section 3 generally provides the conditions for Federal financial assistance and is self-explanatory.

Section 4 provides for funding of the initial development of the environmental enhancement component of the System and is self-explanatory.

Section 5 provides for a water conservation program and is self-explanatory.

Section 6 provides standard language on mitigation for fish and wildlife losses.

Section 7 provides for the use of Pick-Sloan Power for the System and is self-explanatory.

Section 8 provides that this legislation does not limit any other authorization for water projects in South Dakota, Iowa, or Minnesota.

Section 9 is self-explanatory.

Section 10 provides a cost-share formula and is self-explanatory.

Section 11 defines the role of the Bureau of Reclamation and is self-explanatory.

Section 12 authorizes \$226,320,000 for the System of which not less than \$8,487,000 is for the initial development of the environmental enhancement component.

COST AND BUDGETARY CONSIDERATIONS

An estimate of the cost of this measure has been requested from the Congressional Budget Office, but has not been received as of the date of filing of this report. When the estimate is received, the Chairman will have it printed in the Congressional Record for the advice of the Senate. The legislation authorizes \$226.3 million as the Federal share of the costs of the system.

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. 777. 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. 777, as ordered reported.

EXECUTIVE COMMUNICATIONS

On June 5, 1998, 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. 777. These reports had not been received at the time the report on S. 777 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, Department of the Interior, at the Subcommittee hearing follows:

STATEMENT OF ELUID MARTINEZ, COMMISSIONER, U.S.
BUREAU OF RECLAMATION

My name is Eluid Martinez, I am Commissioner of the U.S. Bureau of Reclamation. I am pleased to be here today to provide the Administration's view on S. 777.

S. 777, THE LEWIS AND CLARK RURAL WATER SYSTEM ACT OF
1997

Reclamation opposes S. 777 in its current form.

S. 777, the Lewis and Clark Rural Water System Act of 1997, authorizes the Secretary of the Interior to make grants and provide project construction oversight to the Lewis and Clark Rural Water System, Inc. for the planning and construction of a water supply system that would serve over 180,000 persons in southeastern South Dakota, including to the City of Sioux Falls with a metropolitan population of 153,466, southwestern Minnesota and northwestern Iowa for domestic and industrial purposes. The project would provide a reliable and good quality drinking water supply to meet the current and future needs of the project beneficiaries. A small part of the project's construction budget would be dedicated to fish, wildlife, and wetland enhancement features.

The bill authorizes the appropriation of \$226.3 million, of which not less than \$8.4 million would be used for the environmental enhancement component set forth in Section 4. With the exception of the City of Sioux Falls component, the Federal Government would fund 80 percent of the project planning and construction costs, and non-Federal interests would provide the remaining 20 percent. For the City of Sioux Falls component, non-Federal interests would provide 50 percent.

The Bureau of Reclamation has worked closely with proponents of the Lewis and Clark Rural Water System. Reclamation believes the project would meet an important local need. We recognize the need for a safe and adequate water supply for the residents of the rural and urban areas that would be served by the proposed project. However, we cannot support this bill as drafted due to the cost share requirement in Section 10 directing the Federal government to provide 80 percent of the design and construc-

tion costs through grants (50 percent for the Sioux Falls component). We support the authorization of single-purpose rural, municipal and industrial water supply projects only where the needs of Native Indian communities require the involvement of the Department of the Interior and then only where the non-Federal interests repay—at current interest rates—100 percent of all project construction, operation, and maintenance costs allocated to them. In addition, the City of Sioux Falls, the largest user on the proposed system, cannot be viewed as a rural community. Urban areas like Sioux Falls should have a sufficient population base and economic resources to finance their own water system. This makes it difficult to justify any Federal assistance for the portion of the project serving Sioux Falls.

In summary, Reclamation recognizes that this project would improve the water supply in the region. However, that does not necessarily mean the project has merit as a Federal project. It is difficult to justify S. 777 with its minimal cost sharing, especially considering the already tight competition for funding of ongoing projects in the region.

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. 777, as ordered reported.

