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DENVER WATER REUSE PROJECT

SEPTEMBER 29, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 1848]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1848) to amend the reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. DENVER WATER REUSE PROJECT.

(a) AUTHORIZATION.—The Secretary of the Interior, in cooperation with the appropriate State and local authorities, may participate in the design, planning, and construction of the Denver Water Reuse Project ("Project") to reclaim and reuse water in the service area of the Denver Water Department of the city and county of Denver, Colorado.

(b) COST SHARE.—The Federal share of the cost of the Project shall not exceed 25 percent of the total cost.

(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation or maintenance of the Project.

(d) FUNDING.—Funds appropriated pursuant to section 1615 of the Reclamation Wastewater and Groundwater Study and Facilities Act may be used for the Project.

SEC. 2. RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT.

Design, planning, and construction of the Project authorized by the Act shall be in accordance with, and subject to the limitations contained in, the Reclamation

Wastewater and Groundwater Study and Facilities Act (106 Stat. 4663–4669, 43 U.S.C. 390h et seq.), as amended.

2. Amend the title so as to read: "To authorize the Secretary of the Interior, pursuant to the provisions of the Reclamation Wastewater and Groundwater to participate in the design, planning, and construction of the Denver Water Reuse project."

PURPOSE OF THE MEASURE

The purpose of S. 1848 is to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse Project.

BACKGROUND AND NEED

Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (P.L. 102–575, 106 Stat. 4006) authorized a program of wastewater reclamation and reuse feasibility and demonstration projects within the Reclamation States. The Federal share of costs was limited to 50 percent. In addition, several individual studies were directed as well as 5 projects (San Jose, Phoenix, San Diego, Los Angeles, and San Gabriel Basin) for which funding was limited to 25 percent. The legislation was directed at reuse of existing supplies and did not address desalination, although title XI did authorize a program to research and demonstrate methods for control of salinity at the Salton Sea in California with 50 percent Federal cost-sharing. Partially in response to the number of requests for participation in the program and the costs, P.L. 104–266 modified the program to limit Federal contributions to 25 percent of the total cost, with a maximum of $20 million, and required a feasibility analysis prior to the expenditure of any funds for construction. The new requirements were not made applicable to the several very large projects, mainly in California, authorized under title XVI. The 1996 Act also included authorization for 18 additional water reclamation and reuse projects in California, Utah, New Mexico, Nevada, and Texas. Title XVI was again amended in October 1998 by P.L. 105–321 to include authorization for the Willow Lake Natural Treatment System Project in Oregon.

The use of reclaimed water in the arid West is significant, especially in areas experiencing groundwater overdraft or facing reduced freshwater supplies. While municipal uses are the primary benefits of the program, there can be significant indirect benefits for other consumptive uses, such as agriculture, and non-consumptive uses, such as augmenting in-stream flows or reducing depletions.

The Denver Nonpotable Reuse Project will treat secondary wastewater for irrigation and industrial uses around the Denver International Airport and Rocky Mountain Wildlife Refuge. The project ultimately is designed to provide 15,000 acre feet, freeing up potable supplies for 30,000 homes. The reuse will also aid Denver in complying with the Blue River Decree, signed by the Secretary of the Interior, under which Denver conveys water from Colorado's western slope to its eastern slope customers. The total project cost for all three phases is about $100 million. Under the cost-share limitations of Public Law 104–566, the Federal funding contribu-

tion will be limited to $20 million, notwithstanding the 25 percent limitation in the legislation.

LEGISLATIVE HISTORY

S. 1848 was introduced by Senator Campbell on November 3, 1999. The Subcommittee on Water and Power held a hearing on June 21, 2000. At the business meeting on September 20, 2000, the Committee on Energy and Natural Resources ordered S. 1848, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 20, 2000, by a unanimous voice vote with a quorum present, recommends that the Senate pass S. 1848, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 1848, the Committee adopted an amendment in the nature of a substitute that rewrites the legislation to make it a freestanding bill, rather than amending title 16 of Public Law 102–575, which established the Wastewater reclamation program. The title of the bill was also amended to reflect that change.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to 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 impact which would be incurred in carrying out S. 1848. 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. 1848, as ordered reported.

EXECUTIVE COMMUNICATIONS.

On June 16, 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. 1848. These reports had not been received at the time the report on S. 1848 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 appear today to provide the Administration's views on S. 1848, concerning the Denver Water Reuse Project. My name is Eluid Martinez. I am Commissioner of the U.S. Bureau of Reclamation (Reclamation).

S. 1848 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) [Title XVI of P.L. 102–575 (1992)] to authorize the Secretary of the Interior (Secretary) to participate in the design, planning, and construction of the Denver Water Reuse Project in the service area of the Denver Water Department in the city and County of Denver, Colorado. S. 1848 limits the Federal share of project costs to 25 percent of the total costs and restricts the Secretary from providing funding for the operation and maintenance of this project. While Reclamation strongly encourages local water recycling efforts, we must oppose authorizing this additional Federal recycling project for the reasons descried below.

Mr. Chairman, in 1992, Congress adopted, and the President signed, the Reclamation Projects Authorization and Adjustment Act (Public Law 192–575). Title XVI of this Act, the Wastewater and Groundwater Study and Facilities Act, authorized the construction of five water reclamation and reuse projects. Four of these projects are in California and the fifth is in Arizona. The Secretary was also authorized to undertake a program to identify other water recycling opportunities throughout the 17 western United States, and to conduct appraisal level and feasibility level studies to determine if those opportunities are worthy of implementation. The Bureau of Reclamation has been administering a grant program to fund these Title XVI projects since FY 1994.

In 1996, Public Law 104–266, the Reclamation Recycling and Water Conservation Act was enacted into law. This Act amended Title XVI and authorized the Secretary to participate in the planning, design, and construction of 18 additional projects, including two desalination research and development projects. These new projects are distributed within five states, including California, Nevada, Utah, Texas, and New Mexico. Title XVI of Public Law 102–575 was further amended in 1998 by Public Law 105–321 to authorize Reclamation to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project in Salem, Oregon. To date, Congress has provided funding to construct 14 of these projects, and to conduct feasibility studies on an additional three projects.

Municipal, industrial, domestic, and agricultural wastewater reuse efforts can assist states and local communities in solving contemporary water supply problems. However the Department opposes authorizing additional projects in

the absence of feasibility studies to determine whether these particular projects warrant Federal funding. In general, Reclamation places priority on funding new projects that (1) are economically justified and environmentally acceptable in a watershed context; (2) are not eligible for funding under another Federal program; and (3) directly address Administration priorities of the Reclamation program, such as reducing the demand on existing Federal water supply facilities.

The Department also opposes enactment of this legislation because authorizing new projects is likely to place an additional burden on Reclamation's already tight budget. To date, Reclamation has been unable to provide the full authorized funding amounts for any of the water reclamation and reuse projects presently authorized by Title XVI. At current funding levels, it will take Reclamation more than 10 years to complete funding of the 24 currently authorized projects.

For all of the above reasons, the Department of the Interior cannot support authorizing this new construction request.

This concludes my prepared testimony. I would be happy 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. 1848, as ordered reported.

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