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WICHITA PROJECT EQUUS BEDS DIVISION AUTHORIZATION ACT OF 2005

DECEMBER 8, 2005.—Ordered to be printed

Filed under authority of the order of the Senate of November 18, 2005

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

R E P O R T

[To accompany S. 1025]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1025) to amend the Act entitled "An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes" to authorize the Equus Beds Division of the Wichita Project, 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 3, lines 14 and 15, strike ", including principles and guidelines used in preparing feasibility level project studies".

PURPOSE OF MEASURE

The purpose of S. 1025 is to authorize the Secretary of the Interior to assist in the funding and implementation of the Equus Beds Aquifer Storage and Recharge Project as a division of the Wichita Federal reclamation project.

BACKGROUND AND NEED

Since the 1940s, the Equus Beds Aquifer has supplied water to the city of Wichita, Kansas. The water supplied from the aquifer is used as follows: 55 percent for irrigation; 39 percent for municipal needs; and six percent for industrial purposes. Excessive pumping from the aquifer has resulted in a groundwater decline of up to 40 feet. The aquifer is further threatened by saltwater con-

tamination from oilfield brine contamination left over from a 1930s development project and natural saltwater from the Arkansas River.

In 1993, Wichita prepared a Water Supply Plan designed to meet the city's future water supply needs through the year 2050—when it is estimated that such water needs will have doubled from today's requirements. The Equus Beds Aquifer Storage and Recharge Project (Project) is an integral component of the city's Plan.

Because water rights in the Little Arkansas River have already been allocated, the proposed Project would capture the excess river flows after it rains or snows. This captured water would in turn be used to recharge the groundwater in the Equus Beds Aquifer. The recharge would enhance the aquifer's water quality and protect it from saltwater plumes. The proposed Project would also increase the storage and supply capability of the Bureau of Reclamation's (Bureau) Wichita Project, for the benefit of the city's municipal and industrial water customers. According to the bill's proponents, the Little Arkansas River will also benefit, because base flows in the river will improve as water levels in the aquifer rise.

Together with the Bureau and the U.S. Geological Survey, the city completed a five-year Demonstration Project on its capture and recharge proposal. The city has also completed a Draft Environmental Impact Statement for the Water Supply Plan.

LEGISLATIVE HISTORY

S. 1025 was introduced by Senator Roberts on May 12, 2005, and referred to the Committee on Energy and Natural Resources. The Water and Power Subcommittee held a hearing on S. 1025 on October 6, 2005. At the business meeting on November 16, 2005, the Committee on Energy and Natural Resources ordered S. 1025 favorably reported, with an amendment.

H.R. 1327, companion legislation to S. 1025, was introduced by Representative Tiahrt on March 15, 2005, and referred to the House Committee on Resources.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on November 16, 2005, by unanimous voice vote of a quorum present, recommends that the Senate pass S. 1025, if amended as described herein.

COMMITTEE AMENDMENT

An amendment was adopted to eliminate redundant language.

SECTION-BY-SECTION ANALYSIS

Section 1 sets forth the short title.

Section 2 amends "An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes" (P.L. 86–787) by adding the following new section 10 to the Act regarding the Equus Beds Division:

Section 10 (a) authorizes the Secretary of the Interior to assist in the funding and implementation of Equus Beds Aquifer Recharge and Recovery Component of the city of Wichita's Water Sup-

ply Plan. The Project's construction is to be done in substantial accordance with the plans and designs.

Subsection (b) assigns sole responsibility for the Project's operation, maintenance, and replacement, including any associated costs for those functions, to the city of Wichita and specifies that such operations shall be done in accordance with applicable laws and regulations.

Subsection (c) authorizes the Secretary to enter into cooperative agreements or other appropriate agreements, including any amendments thereto, to carry out this Project.

Subsection (d) authorizes the Secretary to charge an appropriate share of administrative costs from available funds.

Subsection (e) directs the Secretary, before obligating any funds for design or construction, to work cooperatively with the city of Wichita in an attempt to use any plans, designs, and engineering and environmental analyses that have already been prepared by the city for the Project. The use of such information must be in accordance with applicable Federal laws and regulations.

Subsection (f) makes clear that the United States will not hold title to the Project.

Subsection (g) authorizes appropriations in an amount not to exceed 25 percent of the Project's total cost or $30 million (using January 2003 prices), whichever is less.

This includes any amounts that may be justified due to construction cost fluctuations. These sums are nonreimbursable.

Subsection (h) terminates the Secretary's authority to carry out these duties 10 years after the date of enactment of the Act.

COST AND BUDGETARY CONSIDERATIONS

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

DECEMBER 7, 2005.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1025, the Wichita Project Equus Beds Division Authorization Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Milberg.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 1025—Wichita Project Equus Beds Division Authorization Act of 2005

Summary: S. 1025 would authorize the Secretary of the Interior to participate in the funding and implementation of the Equus Beds Aquifer Recharge project in Wichita, Kansas. This aquifer is a primary source of water for the city of Wichita, along with the Cheney Reservoir. The legislation would limit the federal share of

the project's cost to 25 percent of total costs, or a maximum of $30 million, plus adjustments for inflation.

Assuming appropriation of the authorized amount, CBO estimates that implementing this bill would cost $15 million over the 2007–2010 period and another $20 million after 2010, including adjustments for anticipated inflation. Enacting S. 1025 would not affect direct spending or revenues.

S. 1025 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. The funds authorized in the bill would benefit the city of Wichita. Any costs incurred by the city for operating and maintaining the project would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1025 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	0	5	5	5	5
Estimated outlays	0	1	3	5	6

Basis of estimate: For this estimate, CBO assumes that S. 1025 will be enacted in fiscal year 2006 and that the authorized amount—including adjustments for inflation—will be appropriated in equal amounts over the 2007–2013 period.

Currently, the estimate of the project's total cost is $120 million; therefore, under S. 1025, the federal share of the project's current cost (before adjusting for inflation) would equal the maximum level of $30 million specified in the bill. After adjusting for anticipated inflation, CBO estimates that the federal share of the project would cost $35 million.

Based on information from the Bureau of Reclamation and historical spending patterns of similar projects, CBO estimates that implementing this bill would cost $15 million over the 2007–2010 period and another $20 million after 2010.

Intergovernmental and private-sector impact: S. 1025 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The funds authorized in the bill would benefit the city of Wichita. Any costs incurred by the city for operating and maintaining the project would be incurred voluntarily.

Estimate prepared by: Federal costs: Rachel Milberg, impact on state, local, and tribal governments: Lisa Ramirez-Branum; impact on the private sector: Page Piper/Bach.

Estimate 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. 1025.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant 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. 648.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the Subcommittee hearing on S. 1025 follows:

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

Madam Chairman, I am William E. Rinne, Deputy Commissioner of the Bureau of Reclamation. I am pleased to present the Administration's views on S. 1025, Senator Roberts's bill to authorize the Equus Beds Division of the Wichita Project. Although the project has merit, budgetary constraints prevent the Administration from supporting the bill at this time.

For water management purposes, S. 1025 would authorize this project as a division of the existing Wichita Project. The Equus Beds Division would recharge the groundwater in the Equus Beds Aquifer and would provide significant new underground water storage capacity for municipal and industrial water customers in the city of Wichita, Kansas without inundating large surface areas. This project would enhance the storage and supply capability of the Wichita Project, an above-ground reservoir built and owned by the Bureau of Reclamation.

As a supplement to the existing Reclamation project, the Equus Beds Division is consistent with Reclamation's current mission. The fact that S. 1025 caps the ultimate Federal cost at 25 percent, or $30 million whichever is less, limits uncertainty as to the ultimate federal share of the costs.

Having partnered with the City of Wichita on an earlier groundwater recharge demonstration, Reclamation is familiar with the current proposal to recharge the groundwater in the Equus Beds Aquifer. Recharging the Equus Beds Aquifer has the potential to efficiently expand the effective amount of stored water that is ultimately available, because it significantly reduces losses due to surface evaporation.

S. 1025 would require the city to pay 75 percent of the cost of development and 100 percent of operations and maintenance costs. The Federal government would not hold title to the facilities.

Water rights for this project have been resolved. In 1998, the State issued the City of Wichita a conjunctive use

water rights permit that replaced and combined two previous city permits, one for the Wichita Project, the other for the Equus Beds Groundwater Aquifer. By combining the permits for these two resources into a single, integrated operation, the city can more effectively and economically deliver water to municipal and industrial customers.

Madam Chairman, throughout the city's planning process, including extensive public involvement with input from State and Federal agencies, no significant opposition to Equus Beds surfaced. However, given Reclamation's already tight budget, we are not in a position to support the addition of this project to the list of unfunded projects already authorized and awaiting Federal funding.

Madam Chairman, this concludes my testimony and I am pleased to answer any questions the Committee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1025, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

AN ACT To provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes (P.L. 86–787)

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SEC. 10. EQUUS BEDS DIVISION.

(a) AUTHORIZATION.—The Secretary of the Interior may assist in the funding and implementation of the Equus Beds Aquifer Recharge and Recovery Component which is a part of the 'Integrated Local Water Supply Plan, Wichita, Kansas' (referred to in this section as the 'Equus Beds Division'). Construction of the Equus Beds Division shall be in substantial accordance with the plans and designs.

(b) OPERATION, MAINTENANCE, AND REPLACEMENT.—Operation, maintenance, and replacement of the Equus Beds Division, including funding for those purposes, shall be the sole responsibility of the City of Wichita, Kansas. The Equus Beds Division shall be operated in accordance with applicable laws and regulations.

(c) AGREEMENTS.—The Secretary of the Interior may enter into, or agree to amendments of, cooperative agreements and other appropriate agreements to carry out this section.

(d) ADMINISTRATIVE COSTS.—From funds made available for this section, the Secretary of the Interior may charge an appropriate share related to administrative costs incurred.

(e) PLANS AND ANALYSES CONSISTENT WITH FEDERAL LAW.—Before obligating funds for design or construction under this section, the Secretary of the Interior shall work cooperatively with the City of Wichita, Kansas, to use, to the extent possible, plans, designs, and engineering and environmental analyses that have already been prepared by the City for the Equus Beds Division. The Secretary of the

Interior shall assure that such information is used consistent with applicable Federal laws and regulations.

(f) TITLE; RESPONSIBILITY; LIABILITY.—Nothing in this section or assistance provided under this section shall be construed to transfer title, responsibility, or liability related to the Equus Beds Division (including portions or features thereof) to the United States.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated as the Federal share of the total cost of the Equus Beds Division, an amount not to not exceed 25 percent of the total cost or $30,000,000 (January, 2003 prices), whichever is less, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein, whichever is less. Such sums shall be nonreimbursable.

(h) TERMINATION OF AUTHORITY.—The authority of the Secretary of the Interior to carry out any provision of this section shall terminate 10 years after the date of enactment of this section.

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