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SENATE

{ REPORT
{ 106-177

CENTRAL UTAH PROJECT COMPLETION ACT

OCTOBER 6, 1999.—Ordered to be printed

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

REPORT

[To accompany S. 1377]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1377) to amend the Central Utah Project Completion Act regarding the use of funds for water development for the Bonneville Unit, 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:

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

That the first sentence of Section 202(c) of the Central Utah Project Completion Act (Public Law 102-575, 106 Stat. 4600, 4611) is revised to read as follows:

“(c) The Secretary is authorized to utilize any unexpended budget authority provided in title II up to \$60,000,000 and such funds as may be provided by the Commission for fish and wildlife purposes, to provide 65 percent Federal share pursuant to section 204, to acquire water and water rights for project purposes including instream flows, to complete project facilities authorized in Titles II and III, to implement water conservation measures, and for the engineering, design, and construction of Hatchtown dam in Garfield County and associated facilities to deliver supplemental project water from Hatchtown dam.”

PURPOSE OF THE MEASURE

The purpose of S. 1377 is to amend the Central Utah Project Completion Act (CUPCA) to permit the transfer of unused spending authority between CUPCA programs.

BACKGROUND AND NEED

The CUPCA which was enacted as part of the Reclamation Projects Authorization and Adjustment Act of 1992 (PL 102-575), authorized \$900 million to complete the Central Utah Project. This

authorization was broken down into numerous feature or program-specific authorizations. These features or program-specific authorization levels were based on original estimates from the Bureau of Reclamation. CUPCA also transferred construction responsibility for the CUP from the Bureau to the Central Utah Water Conservancy District, the state sponsoring agency for the project. Oversight of the District's planning and construction activities is provided by the Department of the Interior.

Since 1992, the District has reformulated the CUP in a number of significant ways. Several project features, including the irrigation and drainage system, have been eliminated, and other programs have been redesigned to be more cost-effective. In addition, CUPCA's water conservation program has met with great acceptance and is expected to fully use its program-specific authorization. The District's program to purchase water rights to meet minimum stream flow needs is also in need of additional funding. Further, certain water delivery features have been redesigned. For example, the Diamond Fork System was redesigned to eliminate the controversial Monks Hollow dam. This redesign, however, increased the overall cost of the Diamond Fork System beyond the authorization limit contained in CUPCA.

S. 1377 would expand the authority given the Secretary of the Interior in section 202(c) of CUPCA to use unexpended budget authority for water conservation projects, water rights acquisition, and other specifically authorized project features in Title II of CUPCA. S. 1377 does not increase the total overall authorization for the Central Utah Project.

LEGISLATIVE HISTORY

S. 1377 as introduced by Senator Bennett on July 15, 1999. A hearing was held before the Water and Power Subcommittee on July 28, 1999. At the business meeting on September 22, 1999, the Committee on Energy and Natural Resources ordered S. 1377, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 22, 1999, by a unanimous vote of a quorum present, recommends that the Senate pass S. 1377, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 1377, the Committee adopted a substitute amendment that makes technical corrections and also responds to concerns expressed by the Administration at the July 28, 1999 Subcommittee hearing, including limiting the total amount of funds that may be transferred and deleting authority regarding recreation expenditures.

SUMMARY OF THE MEASURE

As ordered reported, S. 1377 authorizes the Secretary of the Interior to transfer unexpended budget authority between CUPCA programs for purposes specified in the measure.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office cost estimate report had not been received at the time the report was filed. When the report becomes 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 impact which would be incurred in carrying out S. 1377. 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. 1377, as ordered reported.

EXECUTIVE COMMUNICATIONS

On September 15, 1999, 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. 1377. These reports had not been received at the time the report on S. 1377 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 Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF U.S. DEPARTMENT OF THE INTERIOR

This statement provides the Administration's testimony on S. 1377. Section 202(c) of the Central Utah Project Completion Act (Public Law 102-575, 106 Stat. 4600, 4611) originally authorized the Secretary to utilize any unappropriated funding authority for the engineering, design, and construction of the Hatchtown Dam in Utah. S. 1377 amends section 202(c) by expanding the Secretary's authority to utilize unappropriated funding authority to also acquire water rights, to complete project facilities, and to implement water conservation measures.

While the Department is willing to consider a limited and specified increase in authorized funding for water rights acquisition, water conservation, and efficient completion of project facilities, it opposes this legislation as currently drafted because it is overly broad and inadequately defined. The bill leaves unclear exactly how much total funding it intends to make available for these purposes and its allocation among purposes. Furthermore recreation is not a top priority of the Central Utah Completion Act and we would suggest deletion of the reference to recreational enhancement. We would welcome the opportunity to work with the Committee to develop language to address these concerns.

In early 1993, following the enactment of the Central Utah Project Completion Act (Act), a Program Office in Provo, Utah was established to carry out the Secretary's responsibilities under the Act and to coordinate the implementation of the Act with the Central Utah Water Conservancy District (District) and the Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission). This has been a very successful arrangement, and the implementation of the project has made substantial progress over the past 6 years. The Department is proud of its role in implementing the Act and coordinating with the District and the Mitigation Commission.

During this period, it has become apparent that key issues such as the endangered June sucker, water conservation, and minimum flows in the lower Provo River are items that must be considered and addressed as the project is completed. This amendment would provide the Secretary with additional budget authority to more easily address alternative solutions to these issues.

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. 1377, 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):

PUBLIC LAW 102-575 (106 STAT. 4600, 4611)

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

* * * * *

SEC. 202.

(c) **[**The Secretary is authorized to utilize any unexpended budget authority provided in title II and such funds as may be provided by the Commission for fish and wildlife purposes, to provide 65 percent Federal share pursuant to section 204, of engineering, design, and construction of Hatchtown dam in Garfield County and associated facilities to deliver supplemental project water from Hatchtown dam.**]** *The Secretary is authorized to utilize any unexpended budget authority provided in title II up to \$60,000,000 and such funds as may be provided by the Commission for fish and wildlife purposes, to provide 65 percent Federal share pursuant to section 204, to acquire water and water rights for project purposes including instream flows, to complete project facilities authorized in Titles II and III, to implement water conservation measures, and for the engineering, design, and construction of Hatchtown dam in Garfield County and associated facilities to deliver supplemental project water from Hatchtown dam.* The District shall establish a viable minimum conservation pool in Hatchtown dam and shall ensure maintenance of viable instream flow in the Sevier River between Hatchtown dam and the Piute dam with the concurrence of the Commission and in consultation with the Division of Wildlife Resources of the State of Utah. The District shall comply with the

provisions of section 202(a)(1) with respect to the features to be provided for in this subsection.

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