

EASTERN NEW MEXICO RURAL WATER SYSTEM
AUTHORIZATION ACT

—————
JUNE 17, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 5710]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5710) to authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 5710 is to authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The proposed Eastern New Mexico Rural Water System Project would deliver potable water for municipal and industrial use to the cities of Clovis, Portales, Texico, Melrose, Elida, and Grady, and the Counties of Curry, Roosevelt and Quay. Water is also proposed to be delivered to Cannon Air Force Base in Eastern New Mexico. Currently, most of these communities in Eastern New Mexico rely on groundwater from the Entrada aquifer, part of the larger Ogallala Aquifer to the south, as the main source of water. Water

levels in the vicinity of Clovis have declined in excess of 100 feet, with an estimated recharge of only ½ inch per year. At current pumping rates, the aquifers near the cities of Clovis and Portales will not be able to sustain existing water demand from the aquifers after 40 years.

In 1959, the New Mexico State Legislature enacted legislation instructing the State Engineer to create a reservoir on the Canadian River that could be used for future water demands in the region. The Interstate Stream Commission (ISC) completed the construction of the Ute Dam and Reservoir in 1962, and the State is allowed to store up to 200,000 acre feet of water for use in New Mexico.

The Ute Dam and Reservoir stores approximately 200,000 acre feet of water. The Ute Water Commission (UWC) was first organized in 1987 for the purposes of contracting with the Interstate Stream Commission for purchase, acquisition, and distribution of water from the Ute Reservoir. In 1997, UWC and ISC entered into the agreement for sale and purchase of 24,000 acre feet annually from the Ute Reservoir.

The proposed Eastern New Mexico Rural Water System Project would use Ute Reservoir water to deliver 16,500 acre feet of water annually via 94.8 miles of lateral pipelines. The water would be centrally treated and delivered to the communities through a “take or pay” program, where participating member agencies use or pay for their reserved allocation of Ute water annually. The Eastern New Mexico Rural Water Authority was formed in November 2001 by members from the three participating counties and will be responsible for the operation, maintenance and replacement costs associated with the proposed Eastern New Mexico Rural Water System Project.

COMMITTEE ACTION

H.R. 5710 was introduced on April 3, 2008, by Rep. Tom Udall (D-NM). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On May 8, 2008, the Subcommittee held a hearing on the bill.

On May 22, 2008, the Subcommittee met to mark up the bill. H.R. 5710 was forwarded to the Full Committee with no amendments. On June 11, 2008, the Full Natural Resources Committee met to consider the bill. H.R. 5710 was ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that this Act may be cited as the “Eastern New Mexico Rural Water System Authorization Act.”

Section 2. Definitions

Section 2 provides definitions for the terms used in the bill.

Section 3. Eastern New Mexico Rural Water System

Section 3 specifies the federal cost share, the purposes for which the financial and technical assistance for the project can be used,

and ownership of the project infrastructure. The Secretary of the Interior may provide technical and financial assistance to the Eastern New Mexico Rural Water Authority (Authority), limited to the Eastern New Mexico Rural Water System Project (System). The federal cost share under this Act is limited to 75 percent of the total System costs. The total system costs include funds incurred by the State and the Authority on or after October 1, 2003. No funds can be used until an operation, maintenance and replacement plan is developed by the Authority in consultation with the Secretary of the Interior. Environmental compliance must also be completed before funds can be used. The title of the infrastructure will be held by the Authority.

The Committee expects the Bureau of Reclamation and other relevant planning authorities to obtain landowner permission before entering private property that could be affected by the pipeline route.

Section 4. Operation, maintenance and replacement costs

Section 4 specifies the Authority's responsibility for all operation, maintenance and replacement costs associated with the System. The Authority must also develop an operation, maintenance and replacement plan.

Section 5. Administrative provisions

Section 5 outlines the details and provisions of the cooperative agreement for financial and technical assistance. The Secretary shall also consult with the Authority in preparing any biological assessment under the Endangered Species Act.

Section 6. Authorization of appropriations

Section 6 authorizes \$327,000,000 to carry out this Act, adjusted to reflect changes in construction costs after January 1, 2007. The funds made available to the Authority are non-reimbursable and nonreturnable to the United States and any funds not used at the end of the fiscal year is retained for use on this project.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill pre-

pared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 5710—Eastern New Mexico Rural Water System Authorization Act

Summary: H.R. 5710 would authorize the Secretary of the Interior to provide financial and technical assistance to the Eastern New Mexico Rural Water Authority to help plan, design, and construct a water delivery project.

Based on information from the Bureau of Reclamation and assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 5710 would cost \$348 million over the 2009–2013 period. Enacting the legislation would not affect direct spending or revenues.

H.R. 5710 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.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5710 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—					
	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	80	100	100	80	0	360
Estimated Outlays	48	80	97	88	35	348

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the start of fiscal year 2009 and that the necessary amounts will be appropriated for each year.

H.R. 5710 would authorize the appropriation of \$327 million, plus additional amounts to reflect changes in construction costs after January 1, 2007. Under the bill, the Secretary would not be able to provide federal funds for operation and maintenance costs of the project. The maximum federal share of any activity related to the project would be limited to 75 percent. Any federal funds contributed to construct the project would be non-reimbursable.

Based on information from the Bureau of Reclamation and assuming appropriation of the necessary amounts, CBO estimates that implementing the legislation would cost \$348 million over the 2009–2013 period, and an additional \$12 million thereafter.

Intergovernmental and private-sector impact: H.R. 5710 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Funds authorized in the bill to design, plan, and construct a system for delivering water would benefit the Eastern New Mexico Rural Water Authority. Any costs the authority might incur would result from complying with conditions for receiving federal assistance.

Previous estimate: On June 11, 2008, CBO transmitted a cost estimate for S. 2814, the Eastern New Mexico Rural Water System Authorization Act as ordered reported by the Senate Committee on Energy and Natural Resources on May 7, 2008. The bills are similar, and the estimated costs of implementing them are identical.

Estimate prepared by: Federal Costs: Tyler Kruzich; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 5710 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

