

Committee on Resources

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John E. Bloomquist Testimony before the House Resources Committee Subcommittee on Water and Power

Bureau of Reclamation Contract Renewal

Mr. Chairman, members of the Committee, my name is John Bloomquist. I am a shareholder in the law firm of Doney, Crowley, Bloomquist, & Uda, P.C. with offices located in Helena, Montana, and Dillon, Montana. I represent the City of Helena, Helena Valley Irrigation District, Toston Irrigation District, East Bench Irrigation District, and Clark Canyon Water Supply Company, Inc. On behalf of these water users, it is my privilege to present this testimony in support of the legislation introduced by Representative Dennis Rehburg to extend the contract renewal deadline for the contracts between the Bureau of Reclamation and these contractors (contract holders).

General Contract Background

The Bureau of Reclamation delivers water to various water users pursuant to contracts between the Bureau of Reclamation and the specific water user. Without a contract, the Bureau of Reclamation is not obligated to deliver water. Contracts entitle water users to a quantity of water or percentage of storage space in a Bureau of Reclamation project reservoir. Generally, long-term contracts have been entered for a term of 40 years.

The Pick-Sloan Missouri River Basin Program was authorized under the Flood Control Acts of 1944 and 1946 (58 Stat. 887 and 60 Stat. 641). The Canyon Ferry Unit, the Crow Creek Pump Unit, and the East Bench Unit were all constructed as part of the Missouri River Basin Project.

In Montana, there are five (5) contractors with long-term 40-year contracts that are now up for renewal. The contracts with the Helena Valley Irrigation District, the City of Helena, and the Toston Irrigation District expire December 31, 2004. The contracts with the East Bench Irrigation District and Clark Canyon Water Supply Co., Inc. expire December 31, 2005. For the current benefits to continue, the contracts must be renewed prior to expiration of the current contract. Each entity has specifically requested renewal of its contract. The contract renewal process officially began in January, 2004, when each contractor entered a Memorandum of Understanding with the Bureau of Reclamation.

Contract renewal requires compliance with the National Environmental Policy Act (NEPA). Technical information is exchanged during technical meetings, and public scoping meetings provide public input. An ability to pay study is completed if the contracts involve agricultural water. Actual contract negotiations do not begin until a Basis of Negotiation (BON) is developed by the Bureau of Reclamation and approved by the Commissioner. The length of time for the contract renewal process is variable and may be dependant on factors outside the control of the contracting parties.

Status of Contract Renewal

The purpose of the legislation being introduced is to extend the contract renewal deadlines for the five (5) Montana contractors for two (2) years. Without extension of the contracts, the contracts may expire prior to the contract renewal process being completed. In the event the contracts would expire prior to the contract renewal process being completed, the contractors would be without contracts. Without a contract, the Bureau of Reclamation has no obligation to deliver water and no obligation to renew the contracts.

On March 31, 2004, we were unofficially informed by the Bureau of Reclamation that the contractors should be prepared in the event the renewal process was delayed for any reason. Extending the current contracts, maintains the status quo during the contract renewal process. This is important because it keeps the contractors in the same position as they currently hold, i.e., with a right to renew their contracts. Other options could compromise the contractors right to renew their contract and possibly force the contractors to

develop alternate water sources and/or develop dry land farming alternatives. It is unknown whether a temporary or interim contract would preserve the contractors first right to a share of the water stored in the Reclamation project reservoirs.

Canyon Ferry Unit

The Canyon Ferry Unit is a multi-purpose project that provides flood control, irrigation, power, recreation, and municipal and industrial benefits. The principal structures include Canyon Ferry Dam and Power plant, Canyon Ferry Reservoir, the Helena Valley Pumping Plant, tunnel, and feeder canal. Water is stored in the Helena Valley Regulating Reservoir and made available to meet the seasonal irrigation demands of Helena Valley Irrigation District and the municipal and industrial needs of the City of Helena. The majority of the reservoir's yield is released to produce hydropower by Reclamation and to comply with the Coordination of Electric Operations Agreement with PPL Montana.

Helena Valley Irrigation District irrigates approximately 17,000 acres of land northwest of Canyon Ferry Dam and contracts with Reclamation for a "quantity of water not to exceed the amount that can be beneficially used within the irrigation district." Approximately, 400 families rely on the irrigation water supplied by the Helena Valley Irrigation District contract.

On average, approximately 87,000 acre-feet (AF) of water is pumped into the regulating reservoir for use by Helena Valley Irrigation District and the City of Helena. The City of Helena withdraws water from the regulating reservoir and conveys the water to the municipality by pipeline. The City of Helena has contracted with the Bureau of Reclamation for up to 5,680 AF of water per year. For the City of Helena, the following is information regarding water use and sources of water supply by the City:

- The primary source of water is Ten Mile Creek (average 5,000 AF/year)
- Current use of Missouri River water is 2,000 AF/year
- The City of Helena hopes to modify its present water use in order to keep more water in the Ten Mile Creek watershed for superfund reasons and to sustain flows for fish. Growth for the City will come from the Missouri River water.

The Crow Creek Pump Unit was developed at the request of the Broadwater County Commissioners for facilities to irrigate acreage of land equal to that inundated by Canyon Ferry Reservoir. The physical constructed features of the unit are a pumping plant, tunnel, and canals. Under contract with the Bureau of Reclamation, Toston Irrigation District supplies water for irrigation of approximately 7,000 acres located west of the Missouri River near the community of Toston, approximately 35 miles south of Canyon Ferry Dam. As many as 40 families, rely on the irrigation water of Toston Irrigation District supplied by the contract with the Bureau of Reclamation.

On average, Toston annually diverts 16,8000 AF of water. Toston Irrigation District contracts with the Bureau of Reclamation for a "quantity of water not to exceed the amount that can be beneficially used within the irrigation district." Toston Irrigation District pumps water directly from the Missouri River at a site about 1.5 miles upstream of the Toston Dam through the Crow Creek Pumping Plant and into a series of canals where the water is made available for distribution to the water users.

The draft Environmental Assessment (EA) for Helena Valley Irrigation District, the City of Helena, and Toston Irrigation District was provided to the contractors September 2, 2004. The draft EA will go to the public on September 23, 2004, for public comment. The BON's for the City of Helena, Helena Valley Irrigation District, and Toston Irrigation District were just recently approved by the Commissioner. The first round of negotiations on the renewed contracts are scheduled for the middle of October and may continue through the end of November, 2004.

It is unknown at this time whether public comment will produce any issues that the Bureau of Reclamation will need to address further in the EA. There is a hope that the renewed contracts will be completed for the City of Helena, Helena Valley Irrigation District, and Toston Irrigation District, but it is very likely that the contract renewal process will extend beyond the contract expiration date.

East Bench Unit

The East Bench Unit of the Missouri River Basin Project includes Clark Canyon Dam, Clark Canyon Reservoir, Barrett's Diversion Dam, the East Bench Canal and numerous laterals and drains. Clark Canyon

Dam was constructed at the head of the Beaverhead River to impound surplus flows of the Red Rock River and Horse Prairie Creek, which joined to form the Beaverhead River. The East Bench Unit was constructed for irrigation of lands in Beaverhead and Madison Counties, Montana.

Clark Canyon Water Supply Company, Inc. (CCWSC, Inc.) was organized to contract with the United States for regulation of the members' water rights and a supplemental supply of water. CCWSC, Inc. is an organization of ditch companies and individuals who had existing water rights for irrigation in the Beaverhead River Valley prior to construction of Clark Canyon Dam. Under contract with the Bureau of Reclamation, CCWSC, Inc. supplies water for full service irrigation of approximately 25,000 acres located in the valley on both sides of the Beaverhead River.

Irrigation of the East Bench Unit lands is from the waters stored in the Clark Canyon Reservoir. Water is diverted from the Beaverhead River at Barrett's Diversion Dam. The 53-mile East Bench Canal then provides a full service of water to approximately 21,800 acres of the East Bench Unit lands situated on a bench above and east of the Beaverhead River valley. The following describes the use of water from the East Bench Unit under contract with the Bureau of Reclamation:

- 4 AF of water for each acre of land owned by CCWSC, Inc. shareholders;
- 3.1 AF of water per acre for each irrigable acre of East Bench Irrigation District;
- Water in excess of 4 AF as can be beneficially used on lands of CCWSC, Inc. shareholders to the extent it is available.

The water supplied to East Bench Irrigation District provides irrigation water to approximately 75 families. The water supplied to Clark Canyon Water Supply Company, Inc. provides irrigation water to approximately 130 families. The economies of Beaverhead County and Madison County are dependant on agricultural production and the water supplied to the contractors via contract with the Bureau of Reclamation.

The contracts of East Bench Irrigation District and the Clark Canyon Water Supply Company, Inc. expire December 31, 2005. The contractors are currently working on updated mapping as well as providing additional technical information to the Bureau of Reclamation. Public scoping meetings have not been held, so the Environmental Assessment for these contracts has not been drafted. With only 16 months to complete the process before expiration of the contract, the contractors are requesting an extension of the current contracts to allow sufficient time to complete the contract renewal process.

Conclusion

In closing, the water users need this legislation in order to avoid expiration of the current contracts with the Bureau of Reclamation prior to the contract renewal process being completed. We ask that you support the contract extension legislation introduced by Representative Dennis Rehburg as extension authorization is vital to maintaining the status quo pending completion of the contract renewal process.