

Committee on Resources

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**Statement of Mark Limbaugh
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On
H.R. 4588
before the House Committee on Resources
Subcommittee on Water & Power

July 8, 2004

Mr. Chairman, I am Mark Limbaugh, Deputy Commissioner of Reclamation, and I am pleased to present the Administration's views on H.R. 4588, Representative Hinojosa's bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Act) to authorize additional projects and activities. For reasons I will discuss below, the Administration cannot support the bill at this time.

The bill authorizes an additional 19 water conservation projects, which include the replacement of canals and laterals with pipelines, the lining of canals and laterals, the installation of water measurement and telemetry systems, the renovation and replacement of pumping plants, and other activities that will result in the conservation of water. The legislation would enable the Secretary to participate in the funding of these projects, up to 50% of the total project cost, once they had met the review criteria and project requirements in the Act.

H.R. 4588 aims to provide water saving measures to areas in Texas that have recently suffered from a drought. The Department lauds local and state efforts to improve and encourage water efficiency and to responsibly manage water quantity in the border region. The Department testified in general support (with some suggested revisions) of the original legislation that became P.L. 106-576 and of the subsequent amendment (P.L. 107-351). Together, these laws authorized 19 projects with a cost ceiling of \$47,000,000. The amendments offered in H.R. 4588 appear to maintain the intent of the existing bill while authorizing an additional 19 projects with a cost ceiling of \$42,356,145. Reclamation has several concerns with how the legislation is drafted, and would be happy to work with this Committee and Rep. Hinojosa to address these concerns. However, with the need to direct resources toward constructing ongoing projects, and in operating, maintaining, and rehabilitating existing projects, we cannot support adding these additional projects to the long list of already authorized projects awaiting Federal funding.

Implementation of P.L. 106-576

Since late December of 2000, when P.L. 106-576 was enacted, Reclamation has been working successfully and cooperatively with local entities in the Lower Rio Grande Valley, the Texas Water Development Board, and the Texas Agricultural Extension Service of Texas A&M University. The first requirement of the public law was issuance of criteria by which Reclamation would administer the law and determine project eligibility for federal funding. These criteria were prepared, shared with state, local and other federal entities and issued in late June 2001, within the six month timeframe required by the law.

Next, the irrigation districts involved with the 19 projects currently authorized and the Texas Water Development Board have worked with Reclamation to begin planning, designing and construction of authorized projects. To date, Reclamation has approved 12 Project Reports and 11 of the projects have executed cost-sharing agreements. As of June 30, 2004, eight projects were under construction. The 19 presently authorized projects, if constructed, could save a projected 80,000 acre-feet of water, 5.5 million kilowatt hours of energy, and \$650,000 of operation and maintenance expense annually.

Reclamation is administering this program on a reimbursable basis, with each District submitting quarterly requests for payment. To date, Congress has appropriated \$6,000,000 for implementation of this program (\$1.5 million in FY 2003 and \$4.5 million in FY 2004). Of this amount, Reclamation has obligated a total of

\$4,377,000 to reimburse Districts for project costs, and expects to obligate an additional \$676,000 by the end of this fiscal year.

Project Definition

As with the previous two bills, H.R. 4588 defines each of the authorized projects by identifying the irrigation district, summarizing the project and citing the source engineering report. This information is essential to Reclamation in determining the intent of Congress as to the location and scope of each authorized project. However, for three of the projects identified in Section 4(a) of H.R. 4588 (namely, numbers 24, 28 and 38), this information is either missing or incomplete. Reclamation would welcome clarification as to the location and scope of these three projects by the Committee.

Project Scope and Cost

The emphasis placed by the Act on the initial 19 authorized projects is primarily on a project's scope, not upon its costs. For example, the scope of each authorized project is defined by the language in the Act itself and in the cited engineering report. In some cases, the specificity of this language has limited the authorization of (and therefore Reclamation's participation in) a project to only a portion of what an irrigation district has proposed to construct. The total project costs of each of these projects are not, however, specified in the legislation or in the cited engineering reports, but are determined once the authorized components are sufficiently developed in the Project Report and a project budget developed. In accordance with Section 4(b) of the Act, the Federal share of each project is then determined to be 50 percent of this total project cost.

In contrast, the emphasis that would be placed by H.R. 4588 on the second 19 projects considered for authorization would be on the project's cost, not upon its scope. Without changing the conditions for implementation of the first 19 projects, H.R. 4588 imposes different conditions for implementation on the proposed 19 projects. For example, unlike the previous two bills, Section 2(b) of H.R. 4588 would amend the Act to authorize virtually any project component that would "result in the conservation of water or an improved supply of water," whether or not this component lies within the scope of the cited engineering report for that project. Also unlike the Act, H.R. 4588 would identify a maximum total cost for each project, half of the sum of which equals the identified ceiling. Furthermore, Section 3 of H.R. 4588 maintains separate ceilings for each of the groups of projects; namely, \$47,000,000 (2001 dollars) for projects 1 thru 19, and \$42,356,145 (2004 dollars) for projects 20 thru 38.

These differences, while not affecting the requirements for project qualification, would require somewhat different treatment of projects with regard to determining scope and cost, depending upon specific project authorizations.

Project Planning

The proposed legislation pre-authorizes projects that have had limited, if any, involvement from the Bureau of Reclamation in the project planning and development process, and which have not undergone Administration review. Although the Administration supports the efforts of local project beneficiaries to address their local water needs, we cannot support either authorization or funds for projects that have not undergone rigorous Administration review.

Transfers Among Projects

If it is the Committee's intent to allow transfers of funding of up to 10 percent among just those projects authorized by H.R. 4588, Reclamation recommends that Section 2(b) of H.R. 4588 be revised as follows: the proposed language "(h) TRANSFERS AMONG PROJECTS – Of amounts made available for a project referred to in any of paragraphs (2) through (38) of subsection (a)..." should be replaced with "(h) TRANSFERS AMONG PROJECTS – Of amounts made available for a project referred to in any of paragraphs (20) through (38) of subsection (a)..."

Inclusion of Activities

It is unclear what section of the Act is intended to be amended by Section 2(b) of H.R. 4588, which states that Section 4 of the Act is to be amended. The subsections referenced do not occur in Section 4 of the Act, but in Section 3. Reclamation would welcome clarification from the Committee on this section.

Conclusion

Mr. Chairman, we recognize the importance of improving the efficiency of use and delivery of water in this part of the country, especially in light of the droughts they have experienced. However, given the numerous other requirements on Reclamation's budget, such as funding the ongoing operation, maintenance, and rehabilitation of our current projects, we are currently unable to fund the obligations that are already authorized and waiting for Federal funding.

In addition to the specific provisions identified in this testimony, Reclamation would be happy to work with Representative Hinojosa and the Committee to address any questions that may arise through the legislative process.

Mr. Chairman, this concludes my testimony. I am pleased to answer any questions.