

Statement of William E. Rinne
Deputy Commissioner of Reclamation
U.S. Department of the Interior

Before the
Subcommittee on Water and Power
Committee on Resources

On H.R. 2978, Montana Indian Tribes Agreement with Dry Prairie Rural Water Association, Inc.

December 7, 2005

Mr. Chairman and Members of the Subcommittee, I am William Rinne, Deputy Commissioner for the Bureau of Reclamation. I am pleased to provide the Administration's views on H.R. 2978, legislation to authorize certain tribes in the State of Montana to enter into a lease or other temporary conveyance of water rights to meet the needs of the Dry Prairie Rural Water Association, Inc.

The Fort Peck Reservation Rural Water System Act of 2000 (Public Law 106-382; 114 Stat. 1454) was enacted in October, 2000. The project is comprised of the Fort Peck Reservation and Dry Prairie Rural Water Authority which are located in northeastern Montana. The Reservation has a total population of approximately 10,700 people, of which approximately 5,800 are members of the Assiniboine and Sioux Tribes. The water system will serve Reservation populations in or around the towns of Wolf Point, Poplar, Brockton, Fort Kipp, Oswego, and Frazer. Towns not on the Reservation include Glasgow, Scobey, Plentywood, and Culbertson which will be served by the Dry Prairie Rural Water Association. The project is authorized to provide municipal, rural, and industrial water to the Reservation and surrounding areas.

This legislation would provide authority for the Tribes of the Fort Peck Indian Reservation, Montana to enter into a lease or otherwise make a temporary conveyance of a portion of the Tribes' current right to use water to Dry Prairie to meet the off-Reservation water supply needs of the Fort Peck Reservation Rural Water System without monetary compensation to the Tribes. The bill further provides that the life of such lease or conveyance shall not exceed 100 years, and that the Secretary is not liable for any claim relating to any lease or transfer terms.

Nothing in this bill authorizes a permanent alienation or separation of any waters by the Tribes to Dry Prairie Rural Water Association, Inc. or any other non-Federal entity meeting the water needs of the Association. The ability of the Tribes to lease or convey rights to other entities is recognized under the Fort Peck-Montana Compact (Montana Code Annotated 85-20-201). Additionally, the Final Engineering Report required by PL 106-382 calls for the Tribes to lease water to the Dry Prairie Rural Water Association at no cost.

The Administration supports this bill, but recommends a few changes. First, given that this bill explicitly contemplates the possibility of a lease at zero cost to Dry Prairie, we recommend stronger language to establish that the Secretary will not be held liable for any losses to the Tribes arising from these lease terms. We propose that section 1(b) of the bill be amended to provide that the Secretary of the Interior shall not be "liable to any party (including any Indian tribe) for any term of, or any loss or other detriment resulting from, a lease or conveyance entered into pursuant to paragraph (a)." Second, we recommend removing the requirement for Secretarial approval of the lease. The Tribes are in the best position to determine what lease terms are in their interests, and Secretarial review would not serve its intended purpose in these circumstances. Third, we recommend that section 1(b) of the bill be amended to provide for a lease or conveyance term of up to 50 years, rather than up to 100 years, consistent with the discussion of such leases in the Fort Peck-Montana Compact (Montana Code Annotated 85-20-201, Article XIIB). We would be happy to work with the committee to address these concerns.

Because the legislation would assure a reliable, long term water supply to Dry Prairie while protecting the water rights of the Tribes, the Administration is pleased to support it with the above-mentioned changes.

That concludes my statement. I would be pleased to answer any questions.