

Calendar No. 52

110TH CONGRESS }
1st Session }

SENATE

{ REPORT
110-26

SOUTHERN IDAHO BUREAU OF RECLAMATION REPAYMENT ACT OF 2007

FEBRUARY 16, 2007.—Ordered to be printed

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

R E P O R T

[To accompany S. 220]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 220) to authorize early repayment of obligations to the Bureau of Reclamation within the A&B Irrigation District in the State of Idaho, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 220 is to authorize early repayment of obligations to the Bureau of Reclamation within the A&B Irrigation District in the State of Idaho.

BACKGROUND AND NEED

Pursuant to section 213 of the Reclamation Reform Act of 1982 (13 U.S.C. 390aa et seq.), prepayment of reimbursable construction costs associated with a Reclamation project is prohibited unless the repayment contract between the District and the United States allowed for prepayment of the contract at the time the Reclamation Reform Act was enacted. While many construction cost repayment contracts associated with the Minidoka Project had provisions providing for early repayment, the contract associated with the A&B Irrigation District did not. Additionally, the District is the only irrigation district in the Minidoka Project subject to acreage limitations under Federal reclamation law. S. 220 will provide consistency between landowners within the A&B Irrigation District and those within other districts served by the Minidoka Project.

LEGISLATIVE HISTORY

S. 220 was introduced by Senator Craig on January 9, 2007 and referred to the Committee on Energy and Natural Resources. At its business meeting on January 31, 2007, the Committee on Energy and Natural Resources ordered S. 220 favorably reported.

During the 109th Congress, the Committee considered similar legislation, S. 2470, introduced by Senator Craig on March 29, 2006. The Subcommittee on Water and Power held a hearing on S. 2470 on June 28, 2006 (S. Hrg. 109–677). No further action on S. 2470 occurred prior to the *sine die* adjournment of the 109th Congress. A companion measure, H.R. 5666, was considered by the House of Representatives under suspension of the rules, and passed by a voice vote on December 5, 2006.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business meeting on January 31, 2007, by voice vote of a quorum present, recommends that the Senate pass S. 220.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2(a) authorizes land owners within the A&B Irrigation District to prepay, at any time, construction costs allocable to that landowner.

Section 2(b) declares that upon full repayment of the construction costs allocable to all lands that a landowner owns within the District, that those lands will not be subject to the ownership and full-cost pricing limitations under Federal reclamation law.

Section 2(c) provides that upon the request of a landowner that has fully repaid the construction costs allocable to that landowner, the Secretary of the Interior shall provide a certificate described in section 213(b)(1) of the Reclamation Reform Act of 1982.

Section 2(d) declares that nothing in the Act modifies any contractual rights under, or amends or reopens, the existing reclamation contract between the District and the United States. Furthermore, nothing modifies any rights, obligations, or relationships between the A&B District and the landowners in the District under state law.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at www.cbo.gov.

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. 220. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant responsibilities on private individuals and business.

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. 220.

EXECUTIVE COMMUNICATION

Because S. 220 is similar to legislation considered in the 109th Congress, the Committee did not request Executive Agency Views. The testimony provided by the Bureau of Reclamation at the Subcommittee hearing on S. 2470 in the 109th Congress follows:

STATEMENT OF WILLIAM E. RINNE, ACTING COMMISSIONER,
BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairwoman and members of the Subcommittee, I am Bill Rinne, Acting Commissioner of the Bureau of Reclamation. Thank you for the opportunity to provide the Administration's views on S. 2470, the Southern Idaho Bureau of Reclamation Repayment Act. The bill, which we support with some modifications, would authorize early repayment of obligations to the Bureau of Reclamation within the A&B Irrigation District of Idaho.

The A&B Irrigation District is the only district in the Minidoka Project that remains subject to the acreage limitation provisions of Federal reclamation law. Under section 213 of the Reclamation Reform Act of 1982 (RRA), early repayment of a district's construction costs is prohibited unless the district's repayment contract with Reclamation included a provision allowing for early repayment when the RRA was enacted.

At one time, over 50 districts in the Minidoka Project were subject to the acreage limitation provisions and many of those districts had an early repayment provision in their contracts. In order to provide consistency for the landowners in the remaining district, we support S. 2470's approach to allow early repayment in A&B Irrigation District. However, we recommend that the bill be amended in order to ensure consistency for all landowners within the project.

In general, early repayment authority in contracts is limited to landowners. In other words, a district cannot pay out early; rather, each landowner can decide if his or her land should be paid out early. It is Reclamation policy to require landowners who want to pay early to pay out all of their land in the subject district and not just a portion of their land. This concept was included in the recently enacted "Southern Oregon Bureau of Reclamation Repayment Act of 2005," which provided early payout authority for two districts in Oregon (Public Law 109-38).

As currently written, S. 2470 can be interpreted to provide the opportunity for landowners to pay out either all of their land in A&B Irrigation District or a portion of that land. The latter is a benefit that other landowners who are subject to the acreage limitation provisions simply do not enjoy and would inject inconsistency into the administration of the acreage limitation provisions. Early payout would accelerate the repayment of these project costs to

the United States Treasury. Where these repayment obligations are not accompanied by interest, early repayment has a net positive impact on overall repayment to the Treasury and we are highly confident that this will be the case under this bill. However, we should note that a small number of landowners hold in excess of 960 acres and therefore pay full cost. Since full cost has an interest component, if these landowners opt to pay out early, this could result in slightly lower repayment from those landowners.

We believe our concerns can be addressed with a simple revision to S. 2470 and we stand ready to provide revised language. This concludes my testimony and I would be pleased to answer any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 220, as ordered reported.

