

**Statement of Kris Polly
Deputy Assistant Secretary for Water and Science
United States Department of the Interior
Before the House Committee on Natural Resources**

**On
HR 883
Oglala Sioux Tribe Angostura Irrigation Project Rehabilitation and Development Act
and
HR 6992
The Reclamation Title Transfer Act of 2008**

September 25, 2008

Madam Chairwoman, I am Kris Polly, Deputy Assistant Secretary for Water and Science at the Department of the Interior. I am pleased to provide the Department's views on HR 883, the Oglala Sioux Tribe Angostura Irrigation Project Modernization and Development Act. The Administration cannot support the bill, and has several serious concerns, which I will discuss here today.

Section 4 of HR 883 would direct the Secretary to rehabilitate and improve the facilities of the Angostura Project, a component of the multi-state Pick Sloan Missouri Basin Program, on a nonreimbursable basis. Section 4 of H.R. 883 provides that the cost of the modernization and improvement of these facilities at the Angostura Unit shall not be reimbursable. Under this arrangement, the Federal government would be responsible for paying for all of the costs associated with the proposed project, which is initially estimated to cost between \$3.25 million and \$4.66 million, plus interest. The Administration opposes the substantial Federal cost commitment and the lack of adequate cost-sharing partners authorized in H.R. 883.

Furthermore, Section 4 of the bill would provide that the Secretary shall, to the maximum extent practicable, deliver water saved through the rehabilitation and improvement of the facilities of the Angostura Project to the Pine Ridge Indian reservation, and provide that the water be used for environmental restoration on the reservation.

Current state of South Dakota water law cannot protect water saved on the Angostura Project once it enters the Cheyenne River as a conveyance to the Reservation for use as an instream flow. Once the water enters the Cheyenne River, it would be subject to other uses and prior rights claims until such time as the Tribe adjudicates its water rights.

In August 2002, Reclamation completed the Final Environmental Impact Statement (FEIS) for Contract Negotiation and Water Management of the Angostura Unit. The FEIS was prepared in cooperation with:

- the Angostura Irrigation District;
- Oglala Sioux Tribe;
- Cheyenne River Sioux Tribe;
- Lower Brule Sioux Tribe;
- South Dakota Department of Game, Fish, and Parks;
- U.S. Geological Survey;

- U.S. Natural Resources Conservation Service;
- U.S. Bureau of Indian Affairs; and
- the South Dakota Department of Environment and Natural Resources.

Since completion of the FEIS in August 2002, significant on-farm conservation improvements have been completed at the expense of current landowners. As a result, potential water savings proposed under this legislation are currently estimated at less than half of the quantities cited in the FEIS. Section 5 of the bill would also create a Tribal Development Trust Fund to “promote economic development, infrastructure development, [and] the education, health, recreational, and social welfare objectives of the Tribe and members of the Tribe.”

While the Department of the Interior recognizes the economic challenges that many Tribes in Indian Country face, the establishment of a Trust Fund to address these issues is not warranted at this time. The bill infers there “may be...negative effects” associated with the development of the Angostura Unit of the Pick-Sloan Project, yet this conflicts with the data presented in the FEIS which shows that the concerns cited by the Tribe during preparation of the FEIS were not related to development of the Angostura Unit. Unlike other legislative propositions regarding compensation for land impacted by the Pick-Sloan Project, no specific impacts have been cited here nor any evaluation of appropriate compensation completed. The Department has helped fund analysis of current conditions in the watershed under the Cheyenne River Watershed Assessment in efforts to analyze and establish baseline data with regard to water quality and quantity in the Cheyenne River. The Department shares the concern of the Tribe about the need to improve economic, educational, and health systems on the reservation and will continue to work with the Tribe to seek solutions to promote these reforms

In addition, Section 5 establishes a Trust Fund and requires that the Secretary of the Treasury deposit \$92.5 million in the fund in the 11th year following enactment of HR 883, outside of the 10-year window of the Congressional budgetary scoring process. This type of funding arrangement would delay the assessment of the full cost of the legislation. The Department is concerned with the precedent that this may set. The Department of the Interior is also concerned that the Department of the Treasury would be required to invest the proposed Trust Fund rather than the Department of the Interior. Further, Section 2 of the bill states that the national economic development benefits from irrigation are \$3,410,000 annually which conflicts with FEIS values indexed from the 1996 Angostura Reservoir Resource Appraisal and places those benefits at \$540,000 annually. We would like to work with the Committee, the Tribe, and the sponsor to clarify the economic figures in the bill.

The Department of the Interior is also concerned that the proposal would exclude all the stakeholders, other than the Oglala Sioux Tribe, from the ongoing public process collaboratively developed during the FEIS process to recommend the most beneficial use of saved water. In addition, we do not support the blanket authorization for such sums that may be necessary included in this bill.

In January 2003 the Record of Decision (ROD) was signed for renewal of a long-term water service contract for the Angostura Unit, Cheyenne River Basin, South Dakota. Reclamation is concerned that provisions of Section 4 are inconsistent with understandings spelled out in the ROD that involved input from many key stakeholders. These provisions include the requirement that the Secretary deliver saved water for the purposes of environmental restoration on the Pine

Ridge Indian Reservation, and the finding that the Angostura Unit may be associated with negative effects on water quality and riparian vegetation in the Cheyenne River on the Reservation.

With regard to the directive in Section 4 to carry out rehabilitation and improvement at the Angostura Project, Reclamation already has authority to undertake such work, and thus this directive is unnecessary.

While the Department cannot support HR 883, we share the sponsor's goal of finding innovative solutions for economic, education, health, recreational and social welfare improvements on the Reservation. Indeed, the Department has already committed significant resources to the ongoing construction of the Mni Wiconi rural water project, which addresses many of the needs identified in this legislation. The Department stands ready to work with the Tribe, the Committee, and the South Dakota delegation on these activities.

H.R. 6992, the "Reclamation Title Transfer Act of 2008"

The Department is unable to provide a position on H.R. 6992, the "Reclamation Title Transfer Act of 2008", since the legislation was not introduced at least a week prior to the hearing.

This concludes my written statement.