

**Statement of Bill Long,
President of the Board of Directors,
Southeastern Colorado Water Conservancy District**

**Submitted to the
Subcommittee on Water and Power,
Committee on Energy and Natural Resources,
U.S. Senate**

**Regarding S. 2616, 114th Congress --
A Bill Concerning the Arkansas Valley Conduit
Fryingpan-Arkansas Project, Colorado**

May 17, 2016

Introduction

This statement is submitted by the Southeastern Colorado Water Conservancy District (District). The District is the repayment entity for the Bureau of Reclamation's Fryingpan-Arkansas Project (Fry-Ark Project) in Colorado. The Fry-Ark Project is a multi-purpose water supply project (for irrigation, municipal and industrial (M&I), power, and fish and wildlife purposes) consisting of several features. The Arkansas Valley Conduit (AVC) is an authorized, but yet to be constructed, M&I feature of the project which will deliver treated domestic water to rural communities east of Pueblo, Colorado, whose current sources do not meet federal safe drinking water standards.

Summary of the District's Testimony

The District strongly supports S. 2616. We urge your favorable consideration of the bill and respectfully request that you pass it out of subcommittee expeditiously.

Need for the Arkansas Valley Conduit – Violation of Federal Drinking Water Standards

The AVC was included in the original 1962 authorizing legislation for the Fry-Ark Project. It is a regional surface water supply project which will deliver treated drinking water to nearly 40 small water providers serving farming and ranching communities in the lower Arkansas River Valley from east of Pueblo, Colorado, to the Colorado/Kansas state line. It will replace existing groundwater sources, the quality of which is inadequate.

Lower Arkansas River communities currently use groundwater to supply some or all of their drinking water. More and more towns have found that their groundwater contains naturally occurring cancer-causing radioactive contaminants, such as radium and uranium. Fourteen towns have water supplies containing radioactive elements in concentrations that exceed primary drinking water standards as mandated by the federal Safe Drinking Water Act.

The Colorado Department of Health and Environment (CDPHE) has notified these 14 water providers (via enforcement actions) that they must treat water supplies to remove these contaminants or find a better quality water source. Seven additional water providers have elevated levels of naturally occurring radioactive elements, but do not currently violate CDPHE standards.

In addition, water providers in the lower Arkansas are generally having difficulty meeting non-mandatory secondary drinking water standards for salts and sulfate. The median salts concentration over the past 40 years has been about 3,400 mg/L in lower Arkansas River Basin groundwater, which is nearly 7 times greater than the secondary drinking water standard.

Finally, some AVC water providers also are not meeting the secondary drinking water standard for iron. Meeting this standard requires the addition of iron removal filters to the treatment process. However, this may create a catch-22 situation, as one water provider was notified by CDPHE in 2014 that it has "Industrial Wastewater Unpermitted Discharges" and that a Colorado Discharge Permit may be required for its discharge of backwash water from iron removal filters.

Radionuclides, salts, and sulfate are not removed by conventional water treatment methods. It would be prohibitively expensive for each individual community to undertake the special upgrades in treatment systems which would be required. On the other hand, simply replacing contaminated groundwater supplies with local surface water from the Arkansas River is problematic because the river downstream of Pueblo also contains high levels of selenium, sulfates, uranium, and salts. The AVC is the regional solution to these problems.

Status of On-Going Work on the AVC

Reclamation prepared appraisal level plans and completed an EIS which evaluated several alternatives. A record of decision (ROD) was issued in February, 2014. It concluded that individual community systems diverting from the Arkansas River would not secure a reliable long-term water supply for water providers to help meet projected future demands. Thus, a regional system was selected to take advantage of existing water treatment facilities at the City of Pueblo and of economies of scale. The selected regional system will be less costly than any of the alternatives in the draft EIS.

Following the issuance of the ROD, Reclamation initiated the process of preparing feasibility-level engineering designs and cost estimates. A feasibility level engineering report is to be completed by the end of this fiscal year.

Section 9115, P.L. 111-11

As originally enacted in 1962, section 1(c) of the Project's authorizing legislation provided that the District would have to repay to Reclamation 100 percent of the cost, with interest, of any single purpose M&I feature of the Fry-Ark Project. Monies for such repayment would have had to come from the District's revenue sources.

Section 9115 of P.L. 111-11, which was enacted in 2009, amended the authorizing legislation to provide that the District would be obligated to pay only 35 percent of the AVC's cost, with interest. Furthermore, P.L. 111-11 provides that monies for repayment could come from two revenue sources:

- 1) Charges paid to Reclamation for the use of excess capacity in Project facilities to store or convey non-project water, which charges are levied pursuant to contracts between Reclamation and the District or other local, non-federal Colorado water users, and
- 2) District revenue sources (i.e., charges for water or other participant charges).

Revenues from the first of these sources, typically referred to by Reclamation as "miscellaneous revenues," are to be credited by Reclamation in its financial records to repay the 35 percent of the AVC's costs, with interest, for which the District is responsible. If these revenues prove to be insufficient to repay the 35 percent within 50 years, as required by section 1(c) of the authorizing legislation, as amended, then the District would have to make up the difference from its own revenue sources. These payments, if needed, would be made pursuant to a repayment contract between Reclamation and the District.

While P.L. 111-11 caps the District's repayment obligation at 35 percent of the AVC's cost, it has always been anticipated that miscellaneous revenues will continue to be collected by Reclamation even after the 35 percent is reached. Such revenues would be available under P.L. 111-11 for Reclamation to credit against the remaining construction costs of the AVC not assigned to the District. Therefore, P.L. 111-11 implicitly anticipates that the entire cost of the AVC will in fact be repaid using miscellaneous revenues arising from payments made by local water users, even though the District's repayment obligation is capped at 35 percent.

Financing the Construction of the AVC

The original authorizing legislation for the Project, and the amendments made by P.L. 111-11, anticipated that the entire cost of single purpose M&I facilities, including the AVC, would be paid for with monies appropriated by Congress (i.e., the cost of planning and constructing the AVC would be federally financed, with those costs repaid, with interest, to Reclamation). However, in the recently completed negotiation of a contract between Reclamation and the District for the use of excess capacity in Pueblo Reservoir, it was agreed that under current law miscellaneous revenues are available without having to be appropriated by Congress and would be used by Reclamation to help finance the construction of the AVC as it was occurring.

While at this time there is no statutory requirement for non-federal financing of construction, the District is mindful of the budgetary constraints which Congress faces. Accordingly, the District has been in discussions with Reclamation and the Department of the Interior regarding the possibility of the District providing about \$100 million in non-federal financing toward the construction costs of the AVC. The District anticipates obtaining non-federal financing by borrowing money from the Colorado Water Conservation Board, which is a state agency.

The Board has already approved a \$60 million loan to the District. What now needs to be addressed is the means for repaying such a loan, together with applicable interest charges.

What S. 2616 Does

S. 2616 does five things. Specifically, it:

1. Clarifies and confirms that Reclamation can, and is directed to, use miscellaneous revenues to pay for costs incurred during construction without those revenues having to be appropriated by Congress. This confirms the agreement reached in the recent negotiation of the contract between the District and Reclamation referred to above.
2. Authorizes and directs Reclamation to pay to the District, without appropriation, the miscellaneous revenues which it collects to the extent needed by the District to repay the money which the District will borrow to provide non-federal financing for a portion of the cost of constructing the AVC. This revision is needed since P.L. 111-11 assumed that the cost of the AVC would be financed entirely by federal appropriations with no funds contributed by the District during construction. Thus, P.L. 111-11 does not make miscellaneous revenues available to the District to repay a loan from the Colorado Water Conservation Board.
3. Provides that miscellaneous revenues will still be used to repay, with interest, 35 percent of the federal appropriations for the project.
4. Directs Reclamation to enter into one or more agreements with the District that specify the distribution of miscellaneous revenues, in amount and timing, as among the three foregoing uses of those revenues.
5. Confirms that all miscellaneous revenues will be credited against the costs of the Ruedi Dam and Reservoir, the Fountain Valley Pipeline, and the South Outlet Works at Pueblo Dam and Reservoir, plus interest, until those costs are fully repaid. This ensures that the current effect of P.L. 111-11 on the repayment of these three features of the Fry-Ark Project is still realized, with miscellaneous revenues not available for the AVC until repayment of the cost of those projects is completed.

The amendments which would be made by S. 2616 will substantially reduce the Congressional appropriations needed for the construction of the AVC. The budgetary effects are as follows:

1. As compared to P.L. 111-11, the “on budget” federal outlays for construction will be reduced by: (a) the amount of miscellaneous revenues used during construction, and (b) the amount contributed to Reclamation by the District during construction from the loan the District obtains from the state.
2. The District will remain obligated to repay 35 percent of the federal appropriations for the AVC, with repayment to come from District sources if miscellaneous revenues are insufficient for that purpose.

3. As allowed by P.L. 111-11, miscellaneous revenues will continue to be available to repay the entire cost of the AVC, although those costs will now be partly financed by the District (via the money it will borrow) and partly by congressional appropriations.
4. There will be no change in the timing or amount of miscellaneous revenues used to repay the cost of Ruedi Dam and Reservoir, the Fountain Valley Pipeline, and the South Outlet Works at Pueblo Dam and Reservoir as compared to the current situation.

In summary, S. 2616 will achieve the goal of significantly reducing federal outlays while providing a reliable, safe drinking water supply to the rural communities in the Lower Arkansas River Valley. The alternative – contaminated supplies which pose a significant threat to public health and prohibitive costs for individual system improvements – is unacceptable.