

HOUSE BILL REPORT

SJM 8014

As Reported By House Committee On:
Agriculture & Ecology

Brief Description: Petitioning Congress regarding water adjudication.

Sponsors: Senators Fraser, Morton, Winsley and Rasmussen.

Brief History:

Committee Activity:

Agriculture & Ecology: 3/20/95, 3/30/95 [DPA].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass as amended. Signed by 17 members: Representatives Chandler, Chairman; Koster, Vice Chairman; McMorris, Vice Chairman; Mastin, Ranking Minority Member; Chappell, Assistant Ranking Minority Member; Boldt; Clements; Delvin; R. Fisher; Honeyford; Johnson; Kremen; Poulsen; Regala; Robertson; Rust and Schoesler.

Staff: Kenneth Hirst (786-7105).

Background: With the adoption of the McCarran Amendment in 1952, Congress authorized federal water rights to be adjudicated in state courts conducting general adjudication proceedings for water rights. However, it also prohibited a judgment for costs from being entered against the United States in such a suit. The U. S. Supreme Court has found that federally reserved rights, including those held in trust by the United States for Indian reservations, are subject to adjudication under the McCarran Amendment.

The State's Surface Water Code establishes such a comprehensive, or general, adjudication procedure. Such a proceeding is conducted in the Superior Court, with the Department of Ecology serving as the referee for the court. Each person filing a statement of claim in the proceeding must pay the court a filing fee of \$25. The department takes testimony and files a report with the court of its findings regarding the water rights of all of the entities claiming water rights in the proceeding. The expenses incurred by the state in such a proceeding, or upon an appeal involving the proceeding, are borne by the state.

Summary of Amended Bill: Congress is requested to: (1) require federal agencies to pay state adjudication fees to the same extent as required of other claimants; (2) require the Bureau of Indian Affairs to pay state adjudication fees for Indian reserved claims to the same extent as required by other claimants; and (3) appropriate moneys for payments to states that have incurred costs as a result of federal or Indian reserved claims or objections to private claims in a state general stream adjudication for services that the respective states have provided to the federal government in quantifying its water rights.

Amended Bill Compared to Original Bill: The amendment removes a statement indicating that a federal suit to prohibit the collection from the federal government of certain costs is contrary to the intent of the McCarran Amendment.

Appropriation: None.

Fiscal Note: Not requested.

Testimony For: Western states are asking for federal financial support for general adjudication actions.

Testimony Against: None.

Testified: Senator Fraser (prime sponsor).