

ALBUQUERQUE BIOLOGICAL PARK TITLE CLARIFICATION
ACT

NOVEMBER 18, 2005.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany S. 229]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 229) to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 229 is to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The federal Middle Rio Grande Project was authorized in 1948 to control Rio Grande River flooding and to rehabilitate the Middle Rio Grande Conservancy District's water conveyance facilities. As a result of the 1948 authorization, the District and the Bureau of Reclamation of the Department of the Interior entered into a 50 year repayment contract. The District believed that under the contract the United States had only an easement interest in the Project property. The District has completed its repayment of the Project.

As a result of its reading of the repayment contract, the District sold two properties associated with the Middle Rio Grande Project to the City of Albuquerque, New Mexico, in 1997. The City of Albuquerque bought the properties, Tingley Beach and San Gabriel

Park, for \$3.8 million to develop a biological park. The Tingley Beach property is approximately 25 acres and the San Gabriel Park property is approximately 40 acres.

In 2000, however, the Bureau of Reclamation notified Albuquerque that it actually owned the properties based upon the federal agency's reading of the 1951 repayment contract. The Bureau of Reclamation challenged the legitimacy of Albuquerque's 1997 land transaction with the District, but both the City and the District disputed Reclamation's claim. As a result of litigation on this issue, a federal court ruled that the Bureau of Reclamation holds title to the land unless Congress specifically directs conveyance of the property.

This legislation directs the Secretary of the Interior to issue a quit claim deed conveying any right, title, and interest that the United States may have in the two properties to the City of Albuquerque. This would resolve the title dispute only as it pertains to the two properties.

The House companion measure to this bill is H.R. 2873, authored by Congresswoman Heather Wilson (R-NM).

COMMITTEE ACTION

S. 229 was introduced on February 1, 2005, by Senator Jeff Bingaman (D-NM). It was passed by the Senate by unanimous consent on July 26, 2005. In the House of Representatives, the bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On October 19, 2005, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from further consideration of the bill by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites the bill as "Albuquerque Biological Park Title Clarification Act."

Section 2. Purpose

This section provides the purpose of the bill.

Section 3. Definitions

This section defines various terms in the bill.

Section 4. Clarification of property interest

This section requires the Secretary of the Interior issue a quit-claim deed conveying any right, title and interest that the United States may have in and to Tingley Beach and San Gabriel Park. The deed must be issued as soon as practicable after enactment of the legislation and would require no additional payment from the City of Albuquerque.

Section 5. Other rights, title, and interest unaffected

Section 5 expressly states that this legislation does not impact any portion of the Middle Rio Grande Project other than Tingley

Beach and San Gabriel Park. In addition, this section ensures that the bill has no effect on *Rio Grande Silvery Minnow v. John W. Keys, III*, a lawsuit currently pending in the Federal court system.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. **Congressional Budget Act.** As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. **General Performance Goals and Objectives.** This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. **Congressional Budget Office Cost Estimate.** Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

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CBO estimates that implementing S. 229 would have no significant impact on the Federal budget. This bill would direct the Secretary of the Interior to issue a quitclaim deed conveying all right, title, and interest of the Federal government in two pieces of property in New Mexico, to the city of Albuquerque, New Mexico. The properties are known as Tingley Beach and San Gabriel Park.

The Federal government currently does not generate any income from these two pieces of property, nor does it spend any funds to operate or maintain them. Tingley Beach and San Gabriel Park are part of a larger reclamation project called the Middle Rio Grande Project, which is operated primarily by the Middle Rio Grande Conservancy District. The Federal government and the district are currently involved in a lawsuit regarding title to all of the lands in the Middle Rio Grande Project. S. 229 would settle the title of the two pieces of property by conveying them to the city of Albuquerque.

The government would not receive any compensation from the city for these lands.

Enacting S. 229 would not affect direct spending or revenues. This legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments. Enacting this legislation would benefit the city of Albuquerque.

On February 11, 2005, CBO transmitted a cost estimate for S. 229, the Albuquerque Biological Park Title Clarification Act, as ordered reported by the Senate Committee on Energy and Natural Resources on February 9, 2005. The House and Senate versions of this legislation are identical, as are the two cost estimates.

The CBO staff contact for this estimate is Rachel Milberg. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

