

TO CLARIFY THE JURISDICTION OF THE SECRETARY OF
THE INTERIOR WITH RESPECT TO THE C.C. CRAGIN
DAM AND RESERVOIR, AND FOR OTHER PURPOSES

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JULY 20, 2011.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 489]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 489) to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir, 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 H.R. 489 is to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir.

BACKGROUND AND NEED FOR LEGISLATION

Phelps Dodge, a large mining company, built what is now the Cragin Project (Project) in the 1960's to supply water to its Morenci Mine Complex. Phelps Dodge transferred ownership of the Project to the Salt River Project (SRP) after the former realized it was not necessary for mining operations. At the request of SRP and with the support of Phelps Dodge and the Bureau of Reclamation (Reclamation), the Arizona Water Rights Settlement Act (P.L. 108-451) authorized transfer of title of the Project and associated lands from

SRP to Reclamation in 2005. Even though the federal government owns the Project, SRP still operates and maintains it pursuant to a 1917 contract between SRP and the United States.

The Project consists of a number of facilities, including a 147-foot high dam, a 15,000 acre-foot reservoir, diversion tunnel and pump shaft, pumping plant, priming reservoir, a 10-mile long pipeline, electrical transmission line, and small generating plant which supplies power to the Project's pumping plant. The project helps SRP supply water to the Phoenix metropolitan area and to the town of Payson and neighboring communities in northern Gila County.

Implementation of the title transfer under P.L. 108-45 has been controversial due to misunderstandings between the U.S. Forest Service, Reclamation and SRP. The operation of the Project is like that of all other Salt River Project-managed Reclamation facilities located on U.S. Forest Service lands. For those projects, Reclamation approves SRP's work plans, environmental compliance, and other regulatory permitting requirements associated with the project. The U.S. Forest Service's responsibilities under those projects mainly include recreation and fire suppression. However, with this Project, the U.S. Forest Service also requires Reclamation to obtain a special use permit to operate, maintain and repair the water facilities.

This added permit requirement led to untimely delays and cost increases when it came to a recent repair of the pipeline. In light of these delays and out of concern for future activities, SRP and Reclamation attempted to reach an administrative agreement with the U.S. Forest Service to resolve the jurisdictional dispute. However, these efforts were not successful. This bill resolves this dispute and follows the permitting and approval precedents by which other Salt River federal Reclamation Project facilities are managed on U.S. Forest Service lands consistent with the 1987 Interagency Agreement between Reclamation and U.S. Forest Service concerning all water resource related Reclamation projects within or adjacent to U.S. Forest Service lands.

COMMITTEE ACTION

H.R. 489 was introduced on January 26, 2011, by Congressman Paul Gosar (R-AZ). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittees on Water and Power and National Parks, Forests and Public Lands. On May 12, 2011, the Subcommittee on Water and Power held a hearing on the bill. On June 15, 2011, the Full Resources Committee met to consider the bill. The Subcommittees on Water and Power and National Parks, Forests and Public Lands were discharged by unanimous consent. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

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 Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) 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)(2)(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. 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:

H.R. 489—A bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir

H.R. 489 would clarify that the Secretary of the Interior has exclusive jurisdiction to manage the C.C. Cragin Dam and Reservoir, an area consisting of approximately 512 acres of land within the Coconino and Tonto National Forests in northern Arizona. Based on information from the Bureau of Reclamation and the Forest Service, CBO estimates that the legislation would have no significant impact on the federal budget. Because the legislation would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

The Arizona Water Settlements Act of 2004 transferred administrative authority for the C.C. Cragin Dam, Reservoir, and 10 miles of existing pipeline to the Bureau of Reclamation. The legislation did not explicitly divest the Forest Service from managing the underlying National Forest lands, resulting in uncertainty over which agency has the authority to approve management activities for the Cragin Project. The Cragin Project involves operating and maintaining 10 miles of pipeline and constructing 14.5 miles of additional pipeline to deliver water to Northern Gila County. Currently, the project is subject to the approval requirements of both agencies. The legislation would clarify the authority of the Bureau of Reclamation to be the sole manager of the project.

H.R. 489 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.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of 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. CBO estimates that the legislation would have no significant impact on the federal budget. Because the legislation would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

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.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

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.

ADDITIONAL VIEWS

H.R. 489 would specify that the Bureau of Reclamation is authorized to approve necessary operation and maintenance activity for the C.C. Cragin Project on National Forest System land. Last Congress, the Forest Service expressed concern regarding the possibility that this legislation would set a harmful precedent for management of other utility corridors on Forest Service lands. Through negotiations with the U.S. Bureau of Reclamation, the Forest Service, the Salt River Project, and Congress, amendments were made to the legislation in the 111th Congress that addressed the Forest Service's concerns. Those changes are reflected in H.R. 489 as introduced.

EDWARD J. MARKEY,
Ranking Member.

