

SOUTH UTAH VALLEY ELECTRIC CONVEYANCE ACT

SEPTEMBER 23, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 461]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 461) to direct the Secretary of the Interior to convey certain Federal features of the electric distribution system to the South Utah Valley Electric Service District, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “South Utah Valley Electric Conveyance Act”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **DISTRICT.**—The term “District” means the South Utah Valley Electric Service District, organized under the laws of the State of Utah.

(2) **ELECTRIC DISTRIBUTION SYSTEM.**—The term “Electric Distribution System” means fixtures, irrigation, or power facilities lands, distribution fixture lands, and shared power poles.

(3) **FIXTURES.**—The term “fixtures” means all power poles, cross-members, wires, insulators and associated fixtures, including substations, that—

(A) comprise those portions of the Strawberry Valley Project power distribution system that are rated at a voltage of 12.5 kilovolts and were constructed with Strawberry Valley Project revenues; and

(B) any such fixtures that are located on Federal lands and interests in lands.

(4) **IRRIGATION OR POWER FACILITIES LANDS.**—The term “irrigation or power facilities lands” means all Federal lands and interests in lands where the fixtures are located on the date of the enactment of this Act and which are encumbered by other Strawberry Valley Project irrigation or power features, including lands underlying the Strawberry Substation.

(5) **DISTRIBUTION FIXTURE LANDS.**—The term “distribution fixture lands” means all Federal lands and interests in lands where the fixtures are located on the date of the enactment of this Act and which are unencumbered by other Strawberry Valley Project features, to a maximum corridor width of 30 feet on each side of the centerline of the fixtures’ power lines as those lines exist on the date of the enactment of this Act.

(6) **SHARED POWER POLES.**—The term “shared power poles” means poles that comprise those portions of the Strawberry Valley Project Power Transmission System, that are rated at a voltage of 46.0 kilovolts, are owned by the United States, and support fixtures of the Electric Distribution System.

(7) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

**SEC. 3. CONVEYANCE OF ELECTRIC DISTRIBUTION SYSTEM.**

(a) **IN GENERAL.**—Inasmuch as the Strawberry Water Users Association conveyed its interest, if any, in the Electric Distribution System to the District by a contract dated April 7, 1986, and in consideration of the District assuming from the United States all liability for administration, operation, maintenance, and replacement of the Electric Distribution System, the Secretary shall, as soon as practicable after the date of the enactment of this Act and in accordance with all applicable law convey and assign to the District without charge or further consideration—

(1) all of the United States right, title, and interest in and to—

(A) all fixtures owned by the United States as part of the Electric Distribution System; and

(B) the distribution fixture land;

(2) license for use in perpetuity of the shared power poles to continue to own, operate, maintain, and replace Electric Distribution Fixtures attached to the shared power poles; and

(3) licenses for use and for access in perpetuity for purposes of operation, maintenance, and replacement across, over, and along—

(A) all project lands and interests in irrigation and power facilities lands where the Electric Distribution System is located on the date of the enactment of this Act that are necessary for other Strawberry Valley Project facilities (the ownership of such underlying lands or interests in lands shall remain with the United States), including lands underlying the Strawberry Substation; and

(B) such corridors where Federal lands and interests in lands—

(i) are abutting public streets and roads; and

(ii) can provide access that will facilitate operation, maintenance, and replacement of facilities.

(b) **COMPLIANCE WITH ENVIRONMENTAL LAWS.**—

(1) **IN GENERAL.**—Before conveying lands, interest in lands, and fixtures under subsection (a), the Secretary shall comply with all applicable requirements under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) any other law applicable to the land and facilities.

(2) **EFFECT.**—Nothing in this Act modifies or alters any obligations under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(c) **POWER GENERATION AND 46kV TRANSMISSION FACILITIES EXCLUDED.**—Except for the uses as granted by license in Shared Power Poles under section 3(a)(2), nothing in this Act shall be construed to grant or convey to the District or any other party, any interest in any facilities shared or otherwise that comprise a portion of the Strawberry Valley Project power generation system or the federally owned portions of the 46 kilovolt transmission system which ownership shall remain in the United States.

**SEC. 4. EFFECT OF CONVEYANCE.**

On conveyance of any land or facility under section 3(a)(1)—

(1) the conveyed and assigned land and facilities shall no longer be part of a Federal reclamation project;

(2) the District shall not be entitled to receive any future Bureau or Reclamation benefits with respect to the conveyed and assigned land and facilities, except for benefits that would be available to other non-Bureau of Reclamation facilities; and

(3) the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the land and facilities, including the transaction of April 7, 1986, between the Strawberry Water Users Association and Strawberry Electric Service District.

**SEC. 5. REPORT.**

If a conveyance required under section 3 is not completed by the date that is 1 year after the date of the enactment of this Act, not later than 30 days after that date, the Secretary shall submit to Congress a report that—

- (1) describes the status of the conveyance;
- (2) describes any obstacles to completing the conveyance; and
- (3) specifies an anticipated date for completion of the conveyance.

PURPOSE OF THE BILL

The purpose of H.R. 461, as ordered reported, is to direct the Secretary of the Interior to convey certain Federal features of the electric distribution system to the South Utah Valley Electric Service District.

BACKGROUND AND NEED FOR LEGISLATION

The Bureau of Reclamation (Reclamation) initiated the development of the Strawberry Valley Project (SVP) in Utah in 1906. Today, the SVP includes the Strawberry Dam and Reservoir, several diversion dams, canals, three power plants and a 296-mile long electric transmission and distribution system. The Strawberry Water Users Association (SWUA), which operated the SVP until 1986 and repaid all applicable construction costs of the electricity distribution system to the federal government, also owned a portion of that system.

In 1986, SWUA sold its portion of the electric distribution system to the South Utah Valley Electric Service District (SESD). Since there was a mix of federal and non-federal ownership of the electricity distribution system, Reclamation approved the sale only on the condition that the sale be limited to those portions that were not part of the original SVP or were not constructed on federal lands or easements. At the time, Reclamation, SWUA and the SESD believed that most of the distribution system was non-federal. However, Reclamation recently determined that most of the distribution system was built on federal easements acquired early in the SVP history. Reclamation, as a result, now believes that most of the distribution system still belongs to the federal government. It has not quantified how much of the system it owns, however, due to inadequate paperwork. The federal government's determination has created system management and ownership uncertainty since it is unclear to either SESD or Reclamation what entity owns which portions of the electric distribution system. H.R. 461's title transfer resolves this confusion by placing the entire system in local ownership.

In general, title transfers benefit both local communities and the federal government. The transfer of title will divest Reclamation of federal liability while providing the non-federal entity with greater autonomy and flexibility to manage facilities in a manner that best meets its needs. Non-federal ownership also gives a local entity the ability to leverage private equity in the event of needed repairs or for other reasons. Each Reclamation title transfer requires specific Congressional authorization and Presidential signature. Since

1996, titles to portions of 27 Reclamation projects have been transferred.

Reclamation generally agreed with the need for H.R. 461 at a June 23, 2011, Water and Power Subcommittee hearing, but expressed some concerns over National Environmental Policy Act review and federal liability. Those concerns have been addressed in a fashion similar to Public Law 109–321, which the 109th Congress passed without dissent.

#### COMMITTEE ACTION

H.R. 461 was introduced on January 26, 2011, by Congressman Jason Chaffetz (R–T). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On June 23, 2011, the Subcommittee on Water and Power held a hearing on the bill. On July 20, 2011, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged by unanimous consent. Congressman Tom McClintock (R–CA) offered an amendment; the amendment was adopted by unanimous consent. The bill, as amended, 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. 461—South Utah Valley Electric Conveyance Act*

H.R. 461 would direct the Secretary of the Interior, acting through the Bureau of Reclamation, to transfer the title of the electric distribution system located in Spanish Fork, Utah, to the South Utah Valley Electric Service District. Based on information from the Bureau of Reclamation, CBO estimates that enacting the bill would have no significant net impact on the federal budget. Enacting H.R. 461 would have an insignificant impact on direct spending; therefore, pay-as-you-go procedures apply. The legislation would not affect revenues.

The electric distribution system was developed as part of the Strawberry Valley Project in the 1920s. The Strawberry Water

Users Association (SWUA), the nonfederal sponsor of the project, satisfied all federal repayment obligations associated with the project in 1974. In 1986, the SWUA spun off the South Utah Valley Electric Service District and the Bureau of Reclamation transferred financial responsibility for the operation and maintenance of the electric distribution system to the district. Under current law, the Bureau of Reclamation oversees those operation and maintenance activities.

Under the bill, transfer of the title of the electric distribution system to the district would include all federally owned fixtures and the underlying federal land not shared by other facilities. In instances where the underlying federal land is also occupied by other facilities and in the case of shared power poles, permanent access and licensing privileges would be granted to the district to perform the required maintenance.

Under H.R. 461, the Bureau of Reclamation would discontinue oversight of the facilities. In addition, the Bureau of Reclamation would no longer collect licensing fees from utilities seeking easements to cross those federal lands. Based on information from the Bureau of Reclamation, CBO estimates that the loss of those collections would have no significant net impact on the federal budget.

H.R. 461 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 Peter H. Fontaine, 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. Based on information from the Bureau of Reclamation, CBO estimates that enacting the bill would have no significant net impact on the federal budget. Enacting H.R. 461 would have an insignificant impact on direct spending; therefore, pay-as-you-go procedures apply. The legislation would not affect revenues.

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.

