

Calendar No. 128

112TH CONGRESS } 1st Session }	SENATE	{ REPORT 112-48
-----------------------------------	--------	-----------------------

C.C. CRAGIN DAM AND RESERVOIR PROJECT

AUGUST 30 (legislative day AUGUST 2), 2011.—Ordered to be printed

Filed, under authority of the order of the Senate of AUGUST 2, 2011

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 201]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 201) 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, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 201 is to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir in the State of Arizona.

BACKGROUND AND NEED

The C.C. Cragin Project (“Cragin Project”) is a component of the Bureau of Reclamation’s Salt River Project and is located on approximately 512 acres of land within the Coconino and Tonto National Forests in Arizona. The Cragin Project consists of the C.C. Cragin Dam and Reservoir, an 11.5-mile utility corridor containing an electric transmission line and a water pipeline, and other associated facilities. The Cragin Project was acquired by the United States pursuant to section 213(i) of the Arizona Water Settlements Act of 2004, Public Law 108-451, which authorized the Secretary of the Interior to accept title to the C.C. Cragin Dam and Reservoir and directed the Salt River Valley Water Users’ Association and the Salt River Project Agricultural Improvement and Power Dis-

trict (“District”) to be responsible for the care, operation, and maintenance of the Cragin Project pursuant to a 1917 contract between the United States and the Association.

The Bureau of Reclamation and the Forest Service generally coordinate the administration of National Forest System land on which Bureau of Reclamation projects are located pursuant to a 1948 Memorandum of Understanding. The District, the Forest Service, and the Bureau of Reclamation entered into a more specific agreement in 1979 relating to the management of the Salt River Project within the Tonto National Forest. However, the acquisition of the Cragin Project pursuant to the 2004 Act resulted in a unique situation prompting legislation on the subject to clarify the respective jurisdiction of the Forest Service and the Bureau of Reclamation.

LEGISLATIVE HISTORY

Senator McCain introduced S. 201 on January 26, 2011. The bill is co-sponsored by Senator Kyl. The Committee on Energy and Natural Resources held a hearing on S. 201 on May 19, 2011 and considered the bill its business meeting on July 14, 2011. The Committee ordered S. 201 favorably reported without amendment.

A similar bill, H.R. 489, was reported by the Committee on Natural Resources of the House of Representatives on July 20, 2011 (H. Rpt. 112–160).

During the 111th Congress, the Committee considered identical legislation, S. 1080, sponsored by Senators McCain and Kyl. The Subcommittee on Water and Power held a hearing on S. 1080 on July 23, 2009 (S. Hrg. 111–91) and the Committee ordered S. 1080 favorably reported with an amendment in the nature of a substitute on June 21, 2010 (S. Rpt. 111–255).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 14, 2011, by voice vote of a quorum present, recommends that the Senate pass S. 201.

SECTION-BY-SECTION ANALYSIS

Section 1(a) defines key terms used in the bill.

Subsection (b) permanently withdraws the covered land, subject to valid existing rights, from all forms of entry, appropriation, or disposal under the public land laws, entry and patent under the mining laws, and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

Subsection (c) requires the Secretary of the Interior, in coordination with the Secretary of Agriculture, to prepare a map and legal description of the covered land.

Subsection (d) confers exclusive administrative jurisdiction, except as provided in subsection (e), to the Secretary of the Interior, acting through the Commissioner of Reclamation, to manage the Project on the covered land. Included in the Secretary of the Interior’s administrative jurisdiction is authority to control Project access by the District on the covered land. This subsection also states that the Secretary of the Interior and the District shall ensure com-

pliance with applicable Federal environmental laws and regulations in operating, maintaining, or replacing the Project.

Subsection (e) confers administrative jurisdiction to the Secretary of Agriculture over specific land management activities on the covered land that do not conflict with or adversely affect the operation, maintenance, or replacement of the Project. Paragraph (2) authorizes the Secretaries to enter into an agreement regarding additional management activities that may be undertaken by the Secretary of Agriculture, including emergency activities such as fire suppression.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 201—A bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir

S. 201 would clarify that the Secretary of the Interior has exclusive jurisdiction to manage the C.C. Cragin Dam and Reservoir, an area including about 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 enacting 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.

S. 201 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.

On June 24, 2011, CBO transmitted a cost estimate for 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, as ordered reported by the House Committee on Natural Resources, on June 15, 2011. The two pieces of legislation are similar and CBO's cost estimates are the same.

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

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 201.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 201, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 201, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Reclamation at the May 19, 2011, Subcommittee on Water and Power hearing on S. 201 follows:

STATEMENT OF DAVID MURILLO, DEPUTY COMMISSIONER, OPERATIONS, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairman and Members of the Subcommittee, I am David Murillo, Deputy Commissioner of Operations of the Bureau of Reclamation (Reclamation). Thank you for the opportunity to provide the views of the U.S. Department of the Interior (Department) on S. 201, legislation specific to lands underlying the C.C. Cragin Dam, Reservoir and utility corridor (C.C. Cragin project) in Arizona. The legislation seeks to clarify federal jurisdiction with respect to the C.C. Cragin project, which includes a dam, reservoir, and 11.5-mile utility corridor containing a transmission line and high-pressure pipeline. The project is located nearly entirely within the Coconino National Forest in north-central Arizona.

Language included in the Arizona Water Settlements Act (AWSA, Public Law 108-451) created questions about the respective jurisdiction of the U.S. Forest Service (Forest Service) and Reclamation related to the C.C. Cragin project. We have come to an agreement that we think can resolve this issue. This legislation is consistent with that arrangement. We look forward to continue working with the Committee on reaching a resolution.

Reclamation and the Forest Service worked closely with the Salt River Project Agricultural Improvement and Power District (SRP), the entity that operates and maintains the C.C. Cragin project under the AWSA, and reached agreement in mid-2010 on legislation to clarify jurisdiction of the Federal agencies. The legislation, S. 1080, was considered during the 2nd session of the 111th Congress. The bill was not enacted during the last Congress, but both S. 201 and its companion bill, H.R. 489, contain the same provisions as S. 1080, as reported.

This legislation accommodates the needs of Reclamation and SRP by ceding exclusive administrative jurisdiction

over the lands underlying the C.C. Cragin project to Reclamation and by expressly acknowledging SRP's responsibility for operating and maintaining the C.C. Cragin project pursuant to the AWSA and the 1917 agreement between the Department and SRP. This is a unique situation due to the AWSA. In addition, this approach accommodates the Forest Service by allowing the agency to manage the lands underlying the utility corridor with respect to recreation, wildfire, law enforcement, and other activities consistent with the Forest Service's authorities, responsibilities, and expertise; the AWSA; the 1917 agreement; and the existing right-of-way over the utility corridor held by another party. This approach would allow for integrated management of tens of thousands of acres of ecosystems across National Forest System lands underlying and adjacent to the C.C. Cragin project, including watershed, wildlife habitat, range, and vegetation management. S. 201 allows for a workable agreement for both day-to-day activities and other activities that will improve the management and safety of the covered land. The Administration believes that this legislation provides a sound approach for future management of the C.C. Cragin project. Both Reclamation and the Forest Service are committed to working diligently with SRP to ensure needed work for the C.C. Cragin project can be accomplished expeditiously, including any necessary emergency and non-emergency repairs and replacement of improvements, in full compliance with applicable law, including the National Environmental Policy Act and the Endangered Species Act, as provided in the AWSA.

Reclamation's long-standing experience working with SRP over nearly a century has been very productive. SRP has proven to be a responsible and reliable operator and caretaker of U.S. interests and resources. Reclamation and SRP have nearly a century of responsible stewardship in regard to both the technical operation of dams and reservoirs and protection of natural resources. It is our hope that combining that history with the Forest Service's land management authorities and expertise would result in even more effective stewardship.

This concludes my testimony. I will be pleased to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 201, as ordered reported.

