

PROVO RIVER PROJECT TRANSFER ACT

OCTOBER 4, 2004.—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 H.R. 3391]

The Committee on Resources, to whom was referred the bill (H.R. 3391) to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project, 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 “Provo River Project Transfer Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term “Agreement” means the contract numbered 04-WC-40-8950 and entitled “Agreement Among the United States, the Provo River Water Users Association, and the Metropolitan Water District of Salt Lake & Sandy to Transfer Title to Certain Lands and Facilities of the Provo River Project”.

(2) ASSOCIATION.—The term “Association” means the Provo River Water Users Association, a nonprofit corporation organized under the laws of the State.

(3) DISTRICT.—The term “District” means the Metropolitan Water District of Salt Lake & Sandy, a political subdivision of the State.

(4) PLEASANT GROVE PROPERTY.—

(A) IN GENERAL.—The term “Pleasant Grove Property” means the 3.79-acre parcel of land acquired by the United States for the Provo River Project, Deer Creek Division, located at approximately 285 West 1100 North, Pleasant Grove, Utah, as in existence on the date of enactment of this Act.

(B) INCLUSIONS.—The term “Pleasant Grove Property” includes the office building and shop complex constructed by the Association on the parcel of land described in subparagraph (A).

(5) PROVO RESERVOIR CANAL.—The term “Provo Reservoir Canal” means the canal, and any associated land, rights-of-way, and facilities acquired, constructed, or improved by the United States as part of the Provo River Project,

Deer Creek Division, extending from, and including, the Murdock Diversion Dam at the mouth of Provo Canyon, Utah, to and including the Provo Reservoir Canal Siphon and Penstock, as in existence on the date of enactment of this Act.

(6) SALT LAKE AQUEDUCT.—The term “Salt Lake Aqueduct” means the aqueduct and associated land, rights-of-way, and facilities acquired, constructed or improved by the United States as part of the Provo River Project, Aqueduct Division, extending from, and including, the Salt Lake Aqueduct Intake at the base of Deer Creek Dam to and including the Terminal Reservoirs located at 3300 South St. and Interstate Route 215 in Salt Lake City, Utah, as in existence on the date of enactment of this Act.

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

(8) STATE.—The term “State” means the State of Utah.

SEC. 3. CONVEYANCE OF LAND AND FACILITIES.

(a) CONVEYANCES TO ASSOCIATION.—

(1) PROVO RESERVOIR CANAL.—

(A) IN GENERAL.—In accordance with the terms and conditions of the Agreement and subject to subparagraph (B), the Secretary shall convey to the Association, all right, title, and interest of the United States in and to the Provo Reservoir Canal.

(B) CONDITION.—The conveyance under subparagraph (A) shall not be completed until the Secretary accepts future arrangements entered into by the Association, the District, the Central Utah Water Conservancy District, and the Jordan Valley Water Conservancy District providing for the operation, ownership, financing, and improvement of the Provo Reservoir Canal.

(2) PLEASANT GROVE PROPERTY.—In accordance with the terms and conditions of the Agreement, the Secretary shall convey to the Association, all right, title, and interest of the United States in and to the Pleasant Grove Property.

(b) CONVEYANCE TO DISTRICT.—

(1) IN GENERAL.—In accordance with the terms and conditions of the Agreement, the Secretary shall convey to the District, all right, title, and interest of the United States in and to Salt Lake Aqueduct.

(2) EASEMENTS.—

(A) IN GENERAL.—As part of the conveyance under paragraph (1), the Secretary shall grant to the District permanent easements to—

(i) the National Forest System land on which the Salt Lake Aqueduct is located; and

(ii) land of the Aqueduct Division of the Provo River Project that intersects the parcel of non-Federal land authorized to be conveyed to the United States under section 104(a) of Public Law 107–329 (116 Stat. 2816).

(B) PURPOSE.—The easements conveyed under subparagraph (A) shall be for the use, operation, maintenance, repair, improvement, or replacement of the Salt Lake Aqueduct by the District.

(C) LIMITATION.—The United States shall not carry out any activity on the land subject to the easements conveyed under subparagraph (A) that would materially interfere with the use, operation, maintenance, repair, improvement, or replacement of the Salt Lake Aqueduct by the District.

(D) BOUNDARIES.—The boundaries of the easements conveyed under subparagraph (A) shall be determined by the Secretary, in consultation with the District.

(E) REVOCATION OF WITHDRAWALS.—On conveyance of the easement to the land described in subparagraph (A)(i), the Secretary, subject to the easement and any terms and conditions of the Agreement, shall revoke any public land orders withdrawing National Forest System land for the Aqueduct Division of the Provo River Project.

(F) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(i) IN GENERAL.—On conveyance of the easement to the land described in subparagraph (A)(ii), the Secretary, subject to the easement, shall transfer to the Secretary of Agriculture administrative jurisdiction over the land.

(ii) ADMINISTRATIVE SITE.—The land transferred under clause (i) shall be administered by the Secretary of Agriculture as an administrative site.

(G) ADMINISTRATION.—The easements conveyed under subparagraph (A) shall be administered by the Secretary of Agriculture in accordance with section 501(b)(3) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761(b)(3)).

(c) CONSIDERATION.—

(1) ASSOCIATION.—

(A) IN GENERAL.—In exchange for the conveyance under subsection (a)(1), the Association shall pay the Secretary an amount that is equal to the sum of—

(i) the net present value of any remaining debt obligation of the United States with respect to the Provo Reservoir Canal; and

(ii) the net present value of any revenues from the Provo Reservoir Canal that, based on past history—

(I) would be available to the United States but for the conveyance of the Provo Reservoir Canal under subsection (a)(1); and

(II) would be deposited in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391), and credited under the terms of Reclamation Manual/Directives and Standards PEC 03–01.

(B) DEDUCTION.—In determining the net present values under clauses (i) and (ii) of subparagraph (A), the Association may deduct from the net present value such sums as are required for the reimbursement described in the Agreement.

(2) DISTRICT.—

(A) IN GENERAL.—In exchange for the conveyance under subsection (b)(1), the District shall pay the Secretary an amount that is equal to the sum of—

(i) the net present value of any remaining debt obligation of the United States with respect to the Salt Lake Aqueduct; and

(ii) the net present value of any revenues from the Salt Lake Aqueduct that, based on past history—

(I) would have been available to the United States but for the conveyance of the Salt Lake Aqueduct under subsection (b)(1); and

(II) would be deposited in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391), and credited under the terms of Reclamation Manual/Directives and Standards PEC 03–01.

(B) DEDUCTION.—In determining the net present values under clauses (i) and (ii) of subparagraph (A), the District may deduct from the net present value such sums as are required for the reimbursement described in the Agreement.

(d) PAYMENT OF COSTS.—In addition to amounts paid to the Secretary under subsection (c), the Association and the District shall, in accordance with the Agreement, pay the Secretary—

(1) any necessary and reasonable administrative and real estate transfer costs incurred by the Secretary in carrying out the conveyance; and

(2) ½ of any necessary and reasonable costs associated with complying with—

(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)(i) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and
(ii) any other Federal cultural resource laws.

(e) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

(1) IN GENERAL.—Before conveying land and facilities under subsections (a) and (b), 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.).

SEC. 4. EXISTING CONTRACTS.

(a) DEER CREEK DIVISION CONSTRUCTION CONTRACT.—Notwithstanding the conveyances under subsections (a) and (b)(1) of section 3, any portion of the Deer Creek Division, Provo River Project, Utah, that is not conveyed under that section shall continue to be operated and maintained by the Association, in accordance with the contract numbered 11r–874, dated June 27, 1936, and entitled the “Contract Between the United States and Provo River Water Users Association Providing for the Construction of the Deer Creek Division of the Provo River Project, Utah”.

(b) PROVO RIVER PROJECT AND JORDAN AQUEDUCT SYSTEM CONTRACTS.—Any written contract of the United States in existence on the date of enactment of this Act

relating to the operation and maintenance of any division or facility of the Provo River Project or the Jordan Aqueduct System is confirmed and declared to be a valid contract of the United States that is enforceable in accordance with the express terms of the contract.

(c) **USE OF CENTRAL UTAH PROJECT WATER.**—

(1) **IN GENERAL.**—Subject to paragraph (2), any entity with contractual Provo Reservoir Canal or Salt Lake Aqueduct capacity rights in existence on the date of enactment of this Act may, in addition to the uses described in the existing contracts, use the capacity rights, without additional charge or further approval from the Secretary, to transport Central Utah Project water on behalf of the entity or others.

(2) **LIMITATIONS.**—An entity shall not use the capacity rights to transport Central Utah Project water under paragraph (1) unless—

(A) the use is expressly authorized by the entity responsible for operation and maintenance of the Central Utah Project water facility; and

(B) carrying Central Utah Project water through Provo River Project facilities would not—

(i) materially impair the ability of the Central Utah Water Conservancy District or the Secretary to meet existing express environmental commitments for the Bonneville Unit; or

(ii) require the release of additional Central Utah Project water to meet those environmental commitments.

(d) **AUTHORIZED MODIFICATIONS.**—The Agreement may provide for—

(1) the modification of the 1936 Repayment Contract for the Deer Creek Division of the Provo River Project to reflect the partial prepayment, the adjustment of the annual repayment amount, and the transfer of the Provo Reservoir Canal and the Pleasant Grove Property; and

(2) the modification or termination of the 1938 Repayment Contract for the Aqueduct Division of the Provo River Project to reflect the complete payout and transfer of all facilities of the Aqueduct Division.

(e) **EFFECT OF ACT.**—Nothing in this Act impairs any contract (including subscription contracts) in effect on the date of enactment of this Act that allows for or creates a right to convey water through the Provo Reservoir Canal.

SEC. 5. EFFECT OF CONVEYANCE.

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

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

(2) the Association and the District shall not be entitled to receive any future reclamation benefits with respect to the land and facilities, except for benefits that would be available to other nonreclamation 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, but shall continue to be liable for damages caused by acts of negligence committed by the United States or by any employee or agent of the United States before the date of conveyance, consistent with chapter 171 of title 28, United States Code.

SEC. 6. REPORT.

If a conveyance required under subsection (a) or (b)(1) of section 3 is not completed by the date that is 18 months after the date of enactment of this Act, 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. 3391 is to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project.

BACKGROUND AND NEED FOR LEGISLATION

The Bureau of Reclamation holds the title of the Provo River Project. The Project provides approximately 100,000 acre-feet of supplemental irrigation and domestic water each year to water districts, cities, irrigation interests, private companies, and individuals in Wasatch, Summit, Utah, and Salt Lake Counties in Utah.

Key features of the Project include Deer Creek Dam and Reservoir, the Salt Lake Aqueduct and Terminal Reservoir, the Murdock Diversion Dam, the Provo Reservoir Canal, and several transbasin diversion and conveyance facilities. As many as one million people receive some portion of their water supply from the Project.

The bill transfers two water conveyance facilities and a 3.79 acre property to the local water users. The Provo Reservoir Canal is currently operated by the Provo River water users Association under a contract with the Bureau. The Pleasant Grove property, consisting of 3.79 acres of land in north Pleasant Grove, Utah, is currently used by the Provo River Water Users Association for its maintenance shop and yard, vehicle storage, and office buildings. The Salt Lake Aqueduct is currently operated by the Metropolitan Water District of Salt Lake and Sandy under a contract with the Bureau. The Provo River Water users Association and the Metropolitan Water District of Salt Lake and Sandy are seeking title transfer of these facilities and property primarily to obtain low-interest, tax-exempt financing to improve their facilities and to address human safety concerns. A cost-sharing agreement between the Bureau and these agencies has been finalized for completing the necessary environmental compliance work as required for a title transfer.

COMMITTEE ACTION

H.R. 3391 was introduced by Congressman Chris Cannon (R-UT) on October 29, 2003. The bill was referred to the Committee on Resources and within the Committee to the Subcommittee on Water and Power. On October 30, 2003, the Subcommittee held a hearing on the bill. On July 8, 2004, the Subcommittee met to consider the bill. Subcommittee Chairman Ken Calvert (R-CA) offered an amendment in the nature of a substitute. The amendment was adopted by unanimous consent and the bill as amended was forwarded to the Full Resources Committee by unanimous consent. On September 22, 2004, the Resources Committee met to consider the bill. Congressman Ken Calvert offered an amendment in the nature of a substitute which safeguarded the environment, allowed Central Utah Project water to flow through the appropriate facilities, confirmed existing federal contracts, and made a number of technical changes to improve the underlying bill. It was adopted by unanimous consent. The bill, as amended, was then 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 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. The Committee concludes that enacting this bill would result in short-term revenue to the United States from the consideration paid for the Provo River Project facilities. However, the United States will forego future payments from the Project beneficiaries. In addition, all administrative expenses associated with the Project transfer will be paid by the Association and the District, saving the Bureau of Reclamation these costs.

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 tax expenditures. As noted above, the United States will receive revenues from the Association and the District for the conveyance.

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 requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office.

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.

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