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SOUTH UTAH VALLEY ELECTRIC CONVEYANCE ACT

JANUARY 13, 2012.—Ordered to be printed

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

REPORT

[To accompany H.R. 461]

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

PURPOSE

The purpose of H.R. 461 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

The Strawberry Valley Project in Utah was initiated by the Bureau of Reclamation in 1906 and currently includes the Strawberry Dam and Reservoir, diversion dams, canals, several power plants, and an electric transmission and distribution system. The Strawberry Valley Project is connected to the Bonneville Unit of the Central Utah Project and comprises about 45,000 irrigable acres in the area of Spanish Fork, Utah. The Strawberry Water Users Association operates and maintains the project and is responsible for generation and transmission of power on the project. Two of the power plants were constructed by the water users association and later transferred to the Bureau of Reclamation. Approximately 1,550 kilowatts of power are developed in three power plants on the

project. All three power plants are operated by the Strawberry Water Users Association. In 1986, the association conveyed its interest in the electric distribution system fixtures, lands, and power poles to the South Utah Valley Electric Service District. The purpose of this legislation is to clarify certain issues that were not sufficiently resolved in connection with the prior transfer.

LEGISLATIVE HISTORY

Representatives Chaffetz and Bishop introduced H.R. 461 on January 26, 2011. The Subcommittee on Water and Power of the House Committee on Natural Resources held a hearing on H.R. 461 on June 23, 2011. The Committee on Natural Resources ordered H.R. 461 favorably reported, as amended, at its business meeting on September 23, 2011 (H. Rept. 112–217). H.R. 461, as amended, passed the House of Representatives on October 24, 2011. A similar bill, S. 500, was introduced by Senator Hatch on March 7, 2011. S. 500 was co-sponsored by Senator Lee. The Committee on Energy and Natural Resources ordered reported both S. 500, as amended to conform to H.R. 461 as passed by the House, and H.R. 461, without amendment, at its business meeting on November 11, 2011.

During the 111th Congress, similar legislation was introduced by Representative Chaffetz in the House, H.R. 6271, and Senator Hatch in the Senate, S. 3917. No further actions were taken.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 10, 2011, by a voice vote of a quorum present, recommends that the Senate pass H.R. 461.

SECTION-BY-SECTION ANALYSIS

Section 1 identifies the short title of the bill as the "South Utah Valley Electric Conveyance Act".

Section 2 defines key terms used in the bill.

Section 3(a) directs the Secretary of the Interior to convey all right, title, and interest currently owned by the United States to the District. Subsection (b) requires that the conveyance of land shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). Subsection (c) excludes the Strawberry Valley Project power generation system and the Federally-owned portions of the 46 kilovolt transmission system, except for uses granted by license in Shared Power Poles described under section 3(a)(2), from being conveyed to the District.

Section 4 specifies that the land and facilities conveyed by H.R. 461 shall no longer be part of a Federal reclamation project, that the District shall not be entitled to any future Bureau of Reclamation benefits for the conveyed land and facilities, and that the United States shall not be liable for damages related to the land and facilities, including the 1986 transaction between Strawberry Water Users Association and the South Utah Valley Electric Service District.

Section 5 requires that if the conveyance under section 3 is not completed within one year of enactment of H.R. 461, the Secretary

of the Interior shall submit a report to Congress that describes the states of the conveyance, any obstacles preventing completion of the conveyance, and specifies an anticipated new date for completion of the conveyance.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by 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 legislation 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 separated from the South Utah Valley Electric Service District, and the Bureau of Reclamation transferred financial responsibility for operating and maintaining the system to the district. Under current law, the bureau oversees those activities.

Under the act, 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 no longer oversee the facilities or collect licensing fees from utilities seeking easements. Based on information from the bureau, CBO estimates that the loss of those collections would have no significant net impact on the federal budget.

On August 26, 2011, CBO transmitted a cost estimate for H.R. 461, the South Utah Valley Electric Conveyance Act, as ordered reported by the House Committee on Natural Resources on July 20, 2011. On November 29, 2011, CBO transmitted a cost estimate for S. 500, the South Utah Valley Electric Conveyance Act, as ordered reported by the Senate Committee on Energy and Natural Resources on November 10, 2011. All three pieces of legislation and CBO's cost estimates are the same.

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 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 H.R. 461.

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 H.R. 461, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 461, as 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 U.S. Department of the Interior, Bureau of Reclamation at the June 23, 2011, Senate Subcommittee on Water and Power hearing on S. 500, the Senate companion bill to H.R. 461, follows:

STATEMENT OF GRAYFORD F. PAYNE, DEPUTY COMMISSIONER FOR POLICY, ADMINISTRATION AND BUDGET, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairman and Members of the Subcommittee, I am Grayford Payne, Deputy Commissioner for Policy, Administration and Budget at the Bureau of Reclamation (Reclamation). I am pleased to provide the views of the Department of the Interior (Department) regarding S. 500, legislation authorizing the transfer of the Federal portion of the Strawberry Valley Project Electric Distribution System to the South Utah Valley Electric Service District (District). Reclamation supports the title transfer contemplated by this bill and recommends revisions be made to the bill, which I describe below.

The Strawberry Valley Project (Project) is one of Reclamation's earliest projects, and all Federal obligations associated with the Project are fully repaid. Reclamation developed hydropower generation from the beginning because electricity was required to build the Project. Early in the Project's history, Reclamation transferred the operation and maintenance of most of the Project, including the Power System, to the Strawberry Water Users Association (Association).

The Strawberry Valley Project Power System has three parts: the powerplants are the Generation System, the high-voltage lines running from the powerplants to the substations are the Transmission System, and the low-voltage lines running from the substations to the customers are the Distribution System.

In 1986, the Association spun off the District—creating an independent service district with the capability to operate and maintain the Transmission and Distribution Systems. At the same time, the Association proposed selling the Distribution System to the District. Reclamation approved the proposed sale on the condition that the Association not transfer any Federal facilities. At the time, Reclamation required that the sale be limited to those portions of the Distribution System owned by the Association—those parts that were not completed as part of the original Strawberry Valley Project; constructed with Strawberry Valley Project revenues; and constructed on Federal lands or interests in lands. The District paid approximately $2.7 million for the non-Federal portions of the Distribution System. Reclamation approved the sale.

In 1986, Reclamation, the Association, and the District believed that most of the Distribution System was non-Federal. Later, it was determined that this was not accurate.

The 1940 Repayment Contract between the United States and the Association states clearly that all additions to the Power System are Federal facilities; little or none of the Distribution System was owned by the Association. The District is chagrined at having paid the Association for facilities it did not receive. The purpose of this Act is to convey to the District what all parties believed the District acquired in 1986.

The Act would likely have little effect on operation of the Strawberry Valley Project. The District would receive fee interest in those Federal lands on which the Distribution System is the only Federal feature. On Federal lands sharing both Distribution System and other Strawberry Valley Project facilities, the legislation grants the District an easement for access to perform maintenance on the Distribution System fixtures. This provision preserves the interest of the United States and the public in the other Strawberry Valley Project facilities. As for the rest of the Project, the organizations would remain responsible for operating and maintaining the Generation System and the Transmission System on behalf of the United States.

Because the Strawberry Valley Project is a paid-out Reclamation project, there is no outstanding repayment obligation associated with it. For this reason, the Act does not require any payment from the District in exchange for title to the Distribution facilities. In addition, the Act eliminates Reclamation's obligations to oversee the maintenance of the Distribution System and to administer the associated lands. The result may be a slight reduction in Reclamation expenditures.

The change in ownership under the bill will be relatively invisible to the public. Because the District has been operating and maintaining the Distribution System for several years, the public will witness a change in ownership but should not experience any change in operation. The Act will eliminate uncertainty about ownership and obligations

associated with the Distribution System—which will likely lead to more efficient and effective operation of the Distribution System.

The Department recognizes that there are benefits to be achieved by the proposed title transfer and has worked closely and cooperatively with the interested parties. Before the Department can support S. 500, we recommend two revisions: First, Section 3(a), directing that "the Secretary . . . shall convey and assign" the facilities to be transferred, should be changed to "the Secretary . . . is authorized to convey and assign", thereby allowing for completion of the necessary public input and scoping pursuant to the National Environmental Policy Act (NEPA). And second, language should be added to state that the District shall hold the United States harmless for any claim arising from the 1986 sale of the Distribution System and from actions under this legislation.

In recent days, we have had discussions with the District about accelerating the NEPA process and making modifications to the legislation to address the concerns described in this testimony. As such, I am confident that we can work with the District, Senator Hatch, Representative Chaffetz, and the Subcommittee to reach our goal of supporting this legislation and transferring title to these facilities in a timely manner.

This concludes my written statement. I am 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 H.R. 461, as ordered reported.

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