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106TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 106–829

CONVEYANCE OF THE ASSETS OF THE MIDDLE LOUP DIVISION OF THE MISSOURI RIVER BASIN PROJECT, NEBRASKA

SEPTEMBER 7, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

REPORT

[To accompany H.R. 2984]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2984) to direct the Secretary of the Interior, through the Bureau of Reclamation, to convey to the Loup Basin Reclamation District, the Sargent River Irrigation District, and the Farwell Irrigation District, Nebraska, property comprising the assets of the Middle Loup Division of the Missouri River Basin Project, Nebraska, 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 out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. CONVEYANCE OF THE ASSETS OF THE MIDDLE LOUP DIVISION OF THE MISSOURI RIVER BASIN PROJECT, NEBRASKA.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after the date of enactment of this Act and in accordance with all applicable law, convey all right, title, and interest in and to the property comprising the assets of the Missouri River Basin Project, Middle Loup Division, Nebraska, in accordance with the Memorandum of Understanding.

(b) SALE PRICE.—The Secretary may accept payment as provided for in the Memorandum of Understanding as consideration for the conveyance of the assets.

(c) FUTURE BENEFITS.—Upon payment by the Districts of consideration for the conveyance in accordance with the Memorandum of Understanding, the Middle Loup Division of the Missouri River Basin Project—

(1) shall not be treated as a Federal reclamation project; and

(2) shall not be subject to the reclamation laws or entitled to receive any reclamation benefits under those laws.

(d) LIABILITY.—Except as otherwise provided by law, effective on the date of conveyance of the assets under this section, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the assets.

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(e) DEFINITIONS.—In this section:

(1) ASSETS.—The term "assets" has the meaning that term has in the Memorandum of Understanding.

(2) DISTRICTS.—The term "Districts" means the Loup Basin Reclamation District, the Sargent River Irrigation District, and the Farwell Irrigation District, Nebraska.

(3) MEMORANDUM OF UNDERSTANDING.—The term "Memorandum of Understanding" means Bureau of Reclamation memorandum of understanding number 99AG601285, entitled "MEMORANDUM OF UNDERSTANDING BETWEEN UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION GREAT PLAINS REGION NEBRASKA-KANSAS AREA OFFICE AND LOUP BASIN RECLAMATION DISTRICT FARWELL IRRIGATION DISTRICT SARGENT IRRIGATION DISTRICT CONCERNING PRINCIPLES AND ELEMENTS OF PROPOSED TRANSFER OF TITLE TO WORKS, FACILITIES AND LANDS IN THE MIDDLE LOUP DIVISION".

PURPOSE OF THE BILL

The purpose of H.R. 2984 is to direct the Secretary of the Interior, through the Bureau of Reclamation, to convey to the Loup Basin Reclamation District, the Sargent River Irrigation District, and the Farwell Irrigation District, Nebraska, property comprising the assets of the Middle Loup Division of the Missouri River Basin Project, Nebraska.

BACKGROUND AND NEED FOR LEGISLATION

For the last six years the Subcommittee on Water and Power has pursued legislation to shrink the size and scope of the federal government through the defederalization of Bureau of Reclamation assets. H.R. 2984 continues this defederalization process by conveying certain works, facilities, and titles of the Middle Loup Division to the Farwell Irrigation District, the Sargent Irrigation District, and the Loup Basin Reclamation District, all of Nebraska.

The Loup Basin Reclamation District was organized in 1950 to promote and complete the construction of the Sargent and Farwell Units in the Loup Basin area of Nebraska. The Sargent District formed in 1952 and the Farwell District was created in 1954. A 40–year water service contract was signed in 1957 between the Bureau of Reclamation and the Loup Basin Reclamation District. This was followed by repayment contracts signed by the irrigation districts. Construction of the Sargent Unit was completed in 1959 while construction of the Farwell Unit was not complete until 1966.

The Sargent Unit serves approximately 14,000 acres in Custer and Valley Counties of Nebraska by providing irrigation water for corn, soybeans and alfalfa. The Farwell Unit serves approximately 50,000 acres in Howard and Sherman Counties by providing irrigation water for corn, soybeans, alfalfa and some milo.

Under the original construction financing for the Middle Loup Division project, power users have an obligation to repay a portion of the Middle Loup construction costs as a component expense in the federal power they purchase from the Western Area Power Administration (WAPA). To meet their obligation, power users have arranged with WAPA to accelerate their payments. WAPA will in turn provide the money to the Secretary of the Interior as part of the funding necessary to make the U.S. Treasury whole through this transaction.

It is the understanding of the Committee that the Secretary, in accordance with a Memorandum of Understanding referenced in the bill, would accept payment from the power users, through

WAPA, as complete repayment by the power customers of the aid to irrigation costs associated with the facilities. This payment by the power users, combined with the three Districts' final payment, will constitute the total payment by the Districts for the right, title, and interest in the property which makes up the assets of the Missouri River Basin Project, Middle Loup Division in Nebraska.

COMMITTEE ACTION

H.R. 2984 was introduced on September 30, 1999, by Congressman Bill Barrett (R–NE). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On October 7, 1999, the Subcommittee held a hearing on the bill. On June 15, 2000, the Subcommittee met to mark up the bill. Congressman John Doolittle (R–CA) offered an amendment that clarified when the Secretary shall transfer the project, and how the payment would be accepted. The amendment was adopted by voice vote. The bill, as amended, was then ordered to be reported to the Full Committee by voice vote. On June 21, 2000, the Full Resources Committee met to consider the bill. No further amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Conveyance of the assets of the Middle Loup Division of the Missouri River Basin Project, Nebraska

This section decrees that the Secretary of the Interior shall convey to the Districts all right, title, and interest of the United States in and to the property comprising the assets of the Missouri River Basin Project, Middle Loup Division, Nebraska. At that time, the assets shall not be treated as a federal reclamation assets and consequently they shall not be subject to the reclamation laws nor entitled to receive the benefits under the reclamation laws. At the completion of the transfer the United States shall not be liable for damages arising from its previous ownership.

This section also provides definitions of terms used in the bill including: "assets", "Districts", and "Memorandum of Understanding".

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. However, clause 3(d)(3)(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.

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. According to the Congressional Budget Office, enactment of this bill would result in net receipts of approximately $1.3 million over the 2001–2005 time period.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

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 received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESS BUDGET OFFICE,
Washington, DC, September 1, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2984, a bill to direct the Secretary of the Interior, through the Bureau of Reclamation, to convey to the Loup Basin Reclamation District, the Sargent River Irrigation District, and the Farwell Irrigation District, Nebraska, property comprising the assets of the Middle Loup Division of the Missouri River Basin Project, Nebraska.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lisa Cash Driskill.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2984—A bill to direct the Secretary of the Interior, through the Bureau of Reclamation, to convey to the Loup Basin Reclamation District the Sargent River Irrigation District, and the Farwell Irrigation District, Nebraska, property comprising the assets of the Middle Loup Division of the Missouri River Basin Project, Nebraska

Summary: H.R. 2984 would direct the Secretary of the Interior to convey certain facilities, lands, and rights to the Farwell Irrigation District, the Sargent Irrigation District, and the Loup Basin Reclamation District, in the state of Nebraska. Under the bill,

these districts would pay the federal government about $2.8 million for the Sherman Reservoir, Milburn Diversion Dam, Arcadia Diversion Dam, related canals and lands, and other associated rights and interests currently owned by the United States.

Based on information from the Bureau of Reclamation, CBO estimates that enacting H.R. 2984 would result in net receipts of about $1.3 million over the 2001–2005 period: $2.8 million in asset sale receipts, offset by $1.5 million of forgone offsetting receipts over that period.

Because enacting H.R. 2984 would affect direct spending, pay-as-you-go procedures would apply. CBO estimates a net pay-as-you-go cost of $1.5 million over the 2001–2005 period, reflecting the forgone offsetting receipts. The asset sale receipts would not count for pay-as-you-go purposes because the sale of assets under H.R. 2984 would result in a net financial cost (on a present value basis) to the federal government.

CBO estimates that implementing this bill would have no net effect on discretionary spending in 2001, but would result in a very small decrease in discretionary spending each year thereafter.

H.R. 2984 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The conveyance provided for in this bill would be voluntary on the part of the districts, and all costs incurred by them as a result of the conveyance also would be voluntary.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2984 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars				
	2001	2002	2003	2004	2005
CHANGES IN DIRECT SPENDING					
Asset sale receipts:					
Estimated budget authority	−2.8	0	0	0	0
Estimated outlays	−2.8	0	0	0	0
Forgone offsetting receipts:					
Estimated budget authority	0.3	0.3	0.3	0.3	0.3
Estimated outlays	0.3	0.3	0.3	0.3	0.3
Net changes:					
Estimated budget authority	−2.5	0.3	0.3	0.3	0.3
Estimated outlays	−2.5	0.3	0.3	0.3	0.3

Basis of estimate: For this estimate, CBO assumes that H.R. 2984 will be enacted near the start of fiscal year 2001. We expect that the project will be conveyed to the districts in fiscal year 2001. The bill would require the water districts to pay about $2.8 million for the facilities that would be conveyed.

Currently, those districts have fixed repayment and water service contracts with the Bureau. Those contracts result in payments of about $300,000 a year through 2016 and about $130,000 a year over the remaining life of the contract (through 2042). Once the assets are conveyed to the districts, those repayments would no longer occur, and would result in a loss of offsetting receipts to the federal government. CBO assumes that once the assets are conveyed, the customers of the Western Area Power Administration (WAPA) would no longer pay the federal government $29 million over the 2036–2042 period. Under current law, WAPA customers

would make such payments to assist with the repayment of the cost of these facilities. Enactment of H.R. 2984 would lead to a loss of these receipts as well.

Based on information from the Bureau of Reclamation, CBO estimates that the agency currently spends less than $60,000 each year for expenses related to the projects to be conveyed under H.R. 2984. After the projects are conveyed, these expenses would be longer be incurred, resulting in a small savings to the government. However, in the year of the conveyance, CBO expects that the bureau would spend about that amount to administer the conveyance, resulting in no net change to discretionary spending in 2001.

Pay-as-you-go consideration: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Enactment of H.R. 2984 would result in the loss of offsetting receipts of $0.3 million annually over the 2001–2010 period, and additional amounts later. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Changes in receipts	Not applicable										

Under the Balanced Budget Act (BBA), proceeds from nonroutine asset sales (sales that are not authorized under current law) may be counted for pay-as-you-go purposes only if the sale would entail no financial cost to the government. Under BBA, "financial cost to the government" is defined in terms of the present value of all cash flows associated with an asset sale. CBO estimates that the sale of Sherman Reservoir, Milburn Diversion Dam, Arcadia Diversion Dam, and all other associated rights and interests as specified in H.R. 2984 would result in a net cost to the federal government of about $0.4 million. Therefore, the proceeds of the sale would not be counted for pay-as-you-go purposes. The forgone offsetting receipts resulting from this asset sale—less than $500,000 annually—would be counted for purposes of enforcing pay-as-you-go procedures.

Estimated impact on State, local, and tribal governments: H.R. 2984 contains no intergovernmental mandates as defined in UMRA. The bill would require the districts to pay approximately $2.8 million to receive title to federal facilities, and would impose a number of other conditions. The conveyance would be voluntary on the part of the districts, however, and all costs incurred by them as a result would be voluntary. The bill would impose no costs on any other state, local, or tribal governments.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On September 1, 2000, CBO transmitted a cost estimated for S. 1612, Missouri River Basin, Middle Loup Division Facilities Conveyance Act, as reported by the Senate Committee on Energy and Natural Resources on August 25, 2000. These two pieces of legislation are similar, and our cost estimates are the same.

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Estimate prepared by: Federal Costs: Lisa Cash Driskill; Impact on State, Local, and Tribal Governments: Majorie Miller; and Impact on the Private Sector: Sarah Sitarek.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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 makes no changes in existing law.

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