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DOUGLAS COUNTY, WASHINGTON, PUD CONVEYANCE ACT

JUNE 16, 2008.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 523]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 523) to require the Secretary of the Interior to convey certain public land located wholly or partially within the boundaries of the Wells Hydroelectric Project of Public Utility District No. 1 of Douglas County, Washington, to the utility district, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 523 is to require the Secretary of the Interior to convey certain public land within the boundaries of the Wells Hydroelectric Project of Public Utility District No. 1 of Douglas County, Washington, to the utility district.

BACKGROUND AND NEED

The Wells Hydroelectric Project, operated by Public Utility District (PUD) #1 of Douglas County, Washington, provides electricity to approximately 17,000 customers in Washington State. The central feature of the project is a dam on the Columbia River.

The PUD is in the early stages of the Federal Energy Regulatory Commission (FERC) hydroelectric dam relicensing process. The project was first licensed for 50 years in 1962. That license expires May 31, 2012 and an application for relicensing must be submitted by 2010. According to the PUD, consolidation of ownership of several federal parcels located within the project's boundaries would assist in the relicensing.

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H.R. 523 directs the Secretary of the Interior to convey, for fair market value, approximately 622 acres of federal land to the PUD. The bill requires the PUD to pay for any administrative costs of the conveyance.

LEGISLATIVE HISTORY

H.R. 523, sponsored by Rep. Hastings, passed the House on October 22, 2007 by a vote of 377–0. The Subcommittee on Public Lands and Forests held a hearing on H.R. 523 on February 27, 2008. The Committee on Energy and Natural Resources ordered the bill favorably reported on May 7, 2008.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 7, 2008, by a voice vote of a quorum present, recommends that the Senate pass H.R. 523.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title.

Section 2 defines several key terms used in the legislation.

Section 3(a) requires the Secretary of the Interior to convey all right, title, and interest of the United States in the land identified in the bill to the PUD. This section states that the PUD has 45 days after completion of an appraisal to make an offer to purchase the land. The Secretary is then required to make the conveyance within 30 days of receiving the offer.

Subsection (b) requires the Secretary, not later than 60 days after the date of enactment of this Act, to complete an appraisal of the public land. This subsection states that the appraisal must be conducted in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions" and the "Uniform Standards of Professional Appraisal Practice."

Subsection (c) requires the PUD to pay the Secretary an amount equal to the appraised value of the public land as determined under subsection (b).

Subsection (d) requires the Secretary to finalize legal descriptions of the public land to be conveyed. This subsection also states that the map and legal descriptions shall be on file and available for public inspection in appropriate offices of the Bureau of Land Management.

Subsection (e) requires that the PUD pay any costs related to the conveyance.

Subsection (f) requires the Secretary to deposit the proceeds from the sale in the Federal Land Disposal account.

Section 4(a) withdraws, subject to valid existing rights, the public land from all forms of entry, appropriation, or disposal under the public land laws; location, entry, and patenting under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing laws.

Subsection (b) states that this section expires two years after the date of enactment of this Act or on the date of the completion of the conveyance under section 3, whichever is earlier.

Section 5 states that the Secretary shall retain the authority to place conditions on the license to insure adequate protection and

utilization of the public land granted to the Secretary in section 4(e) of the Federal Power Act until the Federal Energy Regulatory Commission has issued a new license for the Wells Hydroelectric Project.

COST AND BUDGETARY CONSIDERATIONS

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

H.R. 523—Douglas County, Washington, PUD Conveyance Act

H.R. 523 would authorize the Secretary of the Interior to convey, at fair market value, 622 acres of federal land to the Douglas County Public Utility District No. 1 (PUD). Any administrative costs of the conveyance would be borne by the PUD. CBO estimates that any net budgetary impact from enacting this legislation would be negligible.

Four percent of the proceeds of the conveyance, classified as offsetting receipts, would be transferred to the state of Washington for education expenses or to build public infrastructure. The remaining receipts would be deposited into the Federal Land Deposit Account, which was created by the Federal and Transaction Facilities Act. Those receipts would be available, without further appropriation, to the Secretary of the Interior and the Secretary of Agriculture to purchase land inholdings (parcels of land that are entirely surrounded by federally owned land).

The sale of Federal land could result in forgone offsetting receipts if, under current law, those lands would generate income from activities such as mineral leasing and mining. According to the Bureau of Land Management (BLM), that land currently generates no significant receipts and BLM does not anticipate any receipts from it over the next 10 years.

H.R. 523 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. Enacting this act would benefit the PUD, and any costs that it might incur in association with the conveyance of land would be incurred voluntarily.

On October 18, 2007, CBO published a cost estimate for H.R. 523, the Douglas County, Washington, PUD Conveyance Act, as ordered reported by the House Committee on Natural Resources on October 10, 2007. The versions of the legislation are identical, as are the estimated costs.

The CBO staff contact for this estimate is Ted Kruzich. This 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. 523. The Act 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. 523, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 523, 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 views of the Administration were included in testimony received by the Committee at a hearing on H.R. 523 on February 27, 2008.

STATEMENT OF LUKE JOHNSON, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT

Thank you for the opportunity to testify on H.R. 523. This legislation directs the Secretary of the Interior to convey certain public lands located wholly or partially within the boundaries of the Wells Dam Hydroelectric Project [Federal Energy Regulatory Commission Project No. 2149–19795] (Project) to Public Utility District No. 1 of Douglas County, WA (PUD). The Bureau of Land Management (BLM) supports this conveyance. During consideration of H.R. 523 by the House Committee on Natural Resources in the 1st session of this Congress, the BLM raised several concerns. These were resolved to our satisfaction in the legislation passed by the House of Representatives on October 22, 2007, and referred to the Senate. The BLM therefore supports H.R. 523.

Since 1998, the PUD has expressed a strong desire to purchase all BLM-managed public lands within the Project boundaries. Some of the public lands the PUD wishes to acquire are located within the boundaries of the Project. These were reserved for power site purposes by order of the Federal Power Commission (FPC Order dated July 12, 1962, for Power Project No. 2149). Also, the PUD has requested some public lands that lie outside (but contiguous to) the designated project boundary. The PUD's 50-year license for the project expires on May 31, 2012. Its application for relicensing must be filed with the Federal Energy Regulatory Commission (FERC) by 2010. The BLM, with management responsibilities for land located within Project boundaries, is in the initial stages of preparing to participate in the section 4(e) [Federal Power Act, 16 U.S.C. 797(e)] relicensing process.

In testimony on H.R. 523 before the House Natural Resources Subcommittee on National Parks, Public Lands, and Forests (May 10, 2007), the BLM raised two concerns. The Subcommittee subsequently adopted an amendment in the nature of a substitute that addressed our concerns, as follows:

• Resource safeguards. BLM had encouraged the sponsor and the Subcommittee to provide safeguards to protect the known resource values on these lands, which include

Bald Eagle roosts and approximately two miles of Columbia River shoreline currently open to the public. The amendment adopted by the Subcommittee assures this protection will be provided through the relicensing process. The amendment added a new "Retained Authority" provision under which the Secretary of the Interior's role and participation in the relicensing action for the PUD is preserved even though the Federal government would no longer own land within the Project boundary. The BLM does not object to Section 5; as noted previously, we are already in the initial stages of preparing for the relicensing process and will fulfill that obligation.

• Disposition of Funds. BLM recommended that Section 3(f) of the legislation be amended to direct that the proceeds from the sales be deposited in the "Federal Land Disposal Account" established by P.L. 106–248, the Federal Land Transaction Facilitation Act (FLTFA). This recommendation was adopted.

Thank you for the opportunity to testify. I will be glad to answer 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 the Act, H.R. 523, as ordered reported.

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