

## HUMBOLDT PROJECT CONVEYANCE ACT

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SEPTEMBER 9, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. HANSEN, from the Committee on Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 5039]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 5039) to direct the Secretary of the Interior to convey title to certain irrigation project property in the Humboldt Project, Nevada, to the Pershing County Water Conservation District, Pershing County, Lander County, and the State of Nevada, 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 “Humboldt Project Conveyance Act”.

#### SEC. 2. DEFINITIONS.

For purposes of this Act:

- (1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (2) STATE.—The term “State” means the State of Nevada.
- (3) PCWCD.—The term “PCWCD” means the Pershing County Water Conservation District, a public entity organized under the laws of the State of Nevada.
- (4) PERSHING COUNTY.—The term “Pershing County” means the Pershing County government, a political subunit of the State of Nevada.
- (5) LANDER COUNTY.—The term “Lander County” means the Lander County government, a political subunit of the State of Nevada.

#### SEC. 3. AUTHORITY TO CONVEY TITLE.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after the date of enactment of this Act, convey, all right, title, and interest in and to the lands and features of the Humboldt Project, including all water rights for storage and diversion, to PCWCD, the State, Pershing County, and Lander County, consistent with the

terms and conditions set forth in the Memorandum of Agreement between PCWCD and Lander County dated January 24, 2000, the Conceptual Agreement between PCWCD and the State dated October 18, 2001, and the Letter of Agreement between Pershing County and the State dated April 16, 2002.

(b) **COMPLIANCE WITH AGREEMENTS.**—All parties to the conveyance under subsection (a) shall comply with the terms and conditions of the agreements cited in subsection (a).

(c) **REPORT.**—If the conveyance required by this section has not been completed within 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that describes—

- (1) the status of the conveyance;
- (2) any obstacles to completion of the conveyance; and
- (3) the anticipated date for completion of the conveyance.

#### **SEC. 4. PAYMENT.**

(a) **IN GENERAL.**—As consideration for any conveyance required by section 3, PCWCD shall pay to the United States the net present value of miscellaneous revenues associated with the lands and facilities to be conveyed.

(b) **WITHDRAWN LANDS.**—As consideration for any conveyance of withdrawn lands required by section 3, the entity receiving title shall pay the United States (in addition to amounts paid under subsection (a)) the fair market value for any such lands conveyed that were withdrawn from the public domain pursuant to the Secretarial Orders dated March 16, 1934, and April 6, 1956.

(c) **ADMINISTRATIVE COSTS.**—Administrative costs for conveyance of any land or facility under this Act shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility, except costs identified in subsections (d) and (e).

(d) **REAL ESTATE TRANSFER COSTS.**—As a condition of any conveyance of any land or facility required by section 3, costs of all boundary surveys, title searches, cadastral surveys, appraisals, and other real estate transactions required for the conveyance shall be paid by the entity receiving title to the land or facility.

(e) **NEPA COSTS.**—Costs associated with any review required under the National Environmental Policy Act of 1969 for conveyance of any land or facility under section 3 shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility.

(f) **STATE OF NEVADA.**—The State shall not be responsible for any payments for land or facilities under this section. Any proposal by the State to reconvey to another entity land conveyed by the Secretary under this Act shall be pursuant to an agreement with the Secretary providing for fair market value to the United States for the lands, and for continued management of the lands for recreation, wildlife habitat, wetlands, or resource conservation.

#### **SEC. 5. COMPLIANCE WITH OTHER LAWS.**

Following the conveyance required by section 3, the district, the State, Pershing County, and Lander County shall, with respect to the interests conveyed, comply with all requirements of Federal, State, and local law applicable to non-Federal water distribution systems.

#### **SEC. 6. REVOCATION OF WITHDRAWALS.**

Effective on the date of the conveyance required by section 3, the Secretarial Orders dated March 16, 1934, and April 6, 1956, that withdrew public lands for the Rye Patch Reservoir and the Humboldt Sink, are hereby revoked.

#### **SEC. 7. LIABILITY.**

Effective on the date of the conveyance required by section 3, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the Humboldt Project, except for damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance. Nothing in this section shall be considered to increase the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act.

#### **SEC. 8. NATIONAL ENVIRONMENTAL POLICY ACT.**

Prior to conveyance the Secretary shall complete all actions as may be required under the National Environmental Policy Act of 1969 (U.S.C. 4321 et seq.).

#### **SEC. 9. FUTURE BENEFITS.**

Upon conveyance of the lands and facilities by the Secretary under this Act, the Humboldt Project shall no longer be a Federal reclamation project and the district

shall not be entitled to receive any future reclamation benefits with respect to that project, except those benefits that would be available to other nonreclamation districts.

#### PURPOSE OF THE BILL

The purpose of H.R. 5039, is to direct the Secretary of the Interior to convey title to certain irrigation project property in the Humboldt Project, Nevada to the Pershing County Water Conservation District, Pershing County, Lander County, and the State of Nevada.

#### BACKGROUND AND NEED FOR LEGISLATION

The Bureau of Reclamation began work on the Humboldt Project in 1933. Rye Patch Dam, the main feature of the Humboldt Project, was completed in 1936 and has a capacity of 213,000 acre-feet of water. The Pershing County Water Conservation District (PCWCD) provides water to approximately 38,000 acres of irrigated crop and pasture land located in the Lovelock Valley. PCWCD has operated and maintained the facilities associated with the Humboldt Project since January 15, 1941. The project has been completely repaid including the 1976 rehabilitation of Rye Patch Dam.

H.R. 5039 provides for the transfer of lands and facilities to the PCWCD, Pershing County, Lander County and the State of Nevada. It requires that the title transfer shall be consistent with terms and conditions of several existing agreements. If the transfer is not completed within a specified time frame, H.R. 5039 requires that a report be submitted to the appropriate committees of the Congress describing the current status.

#### COMMITTEE ACTION

H.R. 5039 was introduced on June 27, 2002, by Congressman Jim Gibbons. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On July 9, 2002, the Subcommittee held a hearing on the bill. On July 24, 2002, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from further consideration of the bill by unanimous consent. Congressman Gibbons offered an amendment to address cost share issues and the time frame for the transfer to occur. It was agreed to by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This Act may be cited as the “Humboldt Project Conveyance Act”.

##### *Section 2. Definitions*

This section defines terms utilized in the Act.

##### *Section 3. Authority to convey title*

This Section authorizes the secretary to transfer the property as soon as practicable following completion of all associated surveys and requirements of the National Environmental Policy Act.

#### *Section 4. Payment*

This section calls for payment of the net present value of lands and facilities to be conveyed. Administrative costs for conveyance shall be paid in equal share by the Secretary and the entity receiving title to the land or facility. Costs of all boundary surveys, title searches, cadastral surveys, appraisals, and other real estate transaction costs shall be paid by the entity receiving title. All costs associated with compliance with the National Environmental Policy Act shall be paid in equal amounts by the Secretary and the receiving entity. The State of Nevada shall not be responsible for any of the above costs.

#### *Section 5. Compliance with other laws*

This section specifies that the receiving entities shall comply with all Federal, State and local law applicable to non-Federal water distribution systems.

#### *Section 6. Revocation of withdrawals*

Effective on the date of conveyance, the Secretarial orders that withdrew public lands of the Rye Patch Reservoir and the Humboldt Sink are revoked.

#### *Section 7. Liability*

Effective on the date of conveyance, the United States shall not be held liable for damages of any kind arising out of any act, omission, or occurrence relating to the Humboldt Project, except for damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance.

#### *Section 8. Existing rights not affected*

Nothing in this Act shall affect the rights of any person except as provided in the Act. Nothing in the Act shall affect or abrogate any provision of any contract regarding any person's right to use water.

#### *Section 9. National Environmental Policy Act*

Prior to conveyance the Secretary shall complete all actions as may be required under the National Environmental Policy Act of 1969.

#### 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 compari-

son 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, the lands being transferred produce a few hundred dollars a year to the federal government, however, enacting H.R. 5039 would have no significant effect on the federal budget.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to convey title to certain irrigation project property in the Humboldt Project, Nevada to the Pershing County Water Conservation District, Pershing County, Lander County, and the State of Nevada.

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,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 5, 2002.*

Hon. JAMES V. HANSEN,  
*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. 5039, the Humboldt Project Conveyance Act.

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

Sincerely,

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

Enclosure.

*H.R. 5039—Humboldt Project Conveyance Act*

H.R. 5039 would direct the Secretary of the Interior to transfer title to the lands and facilities that make up the Humboldt Project to the Pershing County Water Conservation District, the state of Nevada, and Pershing and Lander counties. As a condition of conveyance, the district, the state, and the counties would pay the federal government the net present value of miscellaneous receipts associated with the lands and facilities they would receive.

CBO estimates that enacting H.R. 5039 would have no significant effect on the federal budget. Based on information from the Bureau of Reclamation, CBO estimates that costs of transferring the real estate, conducting environmental reviews, and other ad-

ministrative expenses would be less than \$500,000. Because enacting H.R. 5039 would affect direct spending, pay-as-you-go procedures would apply, but CBO estimates that any such impact would be negligible. The government currently collects a few hundred dollars a year from these lands for grazing permits and leases for utility rights to way. A receipt of the net present value of those amounts would be negligible.

H.R. 3509 contains no intergovernment or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The conveyance authorized by this bill would benefit the state of Nevada and the local governments that would receive title to lands and facilities. Any costs that these governments would incur to meet the conditions imposed by the bill would be voluntary.

The CBO staff contact for this estimate is Mark Hadley. This estimate was 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 would make no changes in existing law.

