

DUCHESNE CITY WATER RIGHTS CONVEYANCE ACT

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JULY 17, 2000.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 3468]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3468) to direct the Secretary of the Interior to convey to certain water rights to Duchesne City, Utah, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The H.R. 3468 directs the Secretary of the Interior to convey certain water rights to Duchesne City, Utah.

BACKGROUND AND NEED FOR LEGISLATION

The Duchesne City Water Rights Conveyance Act, sponsored by Congressman Chris Cannon, gives water rights, previously appropriated to the United States Indian Service to the City of Duchesne. This is essentially a technical change, giving Duchesne rights to water it has always used. In exchange, the Ute Indian Tribe and any affiliates will connect to the Duchesne City municipal water system without any water impact or connection fee. The bill also provides that the Tribe or any affiliates must not be required to transfer any water or water rights in exchange for the connection.

When the City of Duchesne was established in 1905, the Secretary of the Interior directed the Commissioner of Indian Affairs to select certain tracts of land in the Uintah Indian Reservations to be reserved under the Townsite Act. Shortly thereafter, the Acting Indian Agent for the Uintah Indian Reservation filed two applications for appropriate water for municipal and domestic uses in

the City of Duchesne. The holder of these rights is the U.S. Indian Service and it provides that the water is to be used by the City for domestic and municipal uses. The City has always used the water. However, since the U.S. Indian Service no longer exists, there is no ability to transfer the water right to the City of Duchesne. This bill would convey those rights.

With regard to the historical situation, the Committee understands that:

(1) in 1861, President Lincoln established the Uintah Valley Reservation by Executive Order, Congress confirmed the Executive Order in 1864 (13 Stat. 63), and additional lands were added to form the Uintah Indian Reservation (now known as the Uintah and Ouray Indian Reservation);

(2) pursuant to subsequent acts of Congress, lands were allotted to the Indians of the reservation, and unallotted lands were restored to the public domain to be disposed of under homestead and townsite laws;

(3) in July 1905, President Theodore Roosevelt reserved lands for the townsite of Duchesne by Presidential proclamation and pursuant to the applicable townsite laws;

(4) in July 1905, the United States, through the "Acting U.S. Indian Agent in behalf of the Indians of the Uintah Indian Reservation, Utah," filed two applications, 43-180 and 43-203, under the laws of the State of Utah to appropriate certain waters;

(5) the stated purposes of the water appropriation applications respectively "for irrigation and domestic supply for townsite purposes in the lands herein described," and "for the purpose of irrigating Indian allotments on the Uintah Indian Reservation, Utah . . . and for an irrigating and domestic water supply for townsite purposes in the lands herein described";

(6) the United States subsequently filed change applications which provided that the entire appropriation would be used for "municipal and domestic purposes" in the town of Duchesne;

(7) the State Engineer approved the change application, and the State of Utah issued water rights certificates, identified as Certificate Number 1034 and 1056, in the name of the United States Indian Service in 1921, pursuant to the applications filed, for domestic and municipal uses in the town of Duchesne;

(8) non-Indians settled the town of Duchesne, and the inhabitants have utilized the waters appropriated by the United States for townsite purposes;

(9) pursuant to Title V of Public Law 102-575, Congress ratified the quantification of the reserved water rights of the Ute Indian Tribe, subject to re-ratification of the water compact by the State of Utah and the Tribe;

(10) the Ute Indian Tribe does not oppose legislation which will convey the water rights appropriated by the United States in 1905 to the City of Duchesne because the appropriations do not serve the purposes, rights, or interests of the Tribe or its members, because the full amount of the reserved water rights of the Tribe will be quantified in other proceedings, and because the Tribe and its members will receive substantial benefits through such legislation; and

(11) the Secretary of the Interior requires additional authority to clear title to those appropriations made by the United States in 1905 for the City of Duchesne to continue to enjoy the use of those water rights and to provide additional benefits to the Ute Indian Tribe and its members as originally envisioned by the 1905 appropriations.

The Committee recognizes that in carrying out the conveyance authorized by section 2 of the bill, the Secretary of the Interior shall comply with any applicable environmental laws and regulations. Additionally, except as provided in section 2, nothing in this bill may be construed as a relinquishment or reduction of any water rights reserved, appropriated, or otherwise secured by the United States under the laws of the State of Utah on or before the date of enactment of H.R. 3468. Nothing in this bill may be construed as establishing a precedent for conveying or otherwise transferring water rights held by the United States. Finally, nothing in this bill may be construed to affect or modify any treaty or other right of the Ute Indian Tribe or any other Indian Tribe.

COMMITTEE ACTION

H.R. 3468 was introduced on November 18, 1999, by Congressman Chris Cannon (R-UT). The bill was referred to the Committee on Resources. On April 4, 2000, the Committee held a hearing on the bill. On May 24, 2000, the Full Resources Committee met to mark up the bill. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by voice vote.

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 revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Com-

mittee 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,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 8, 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. 3468, the Duchesne City Water Rights Conveyance Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Applebaum, who can be reached at 266-2860.

Sincerely,

STEVEN M. LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3468—Duchesne City Water Rights Conveyance Act

H.R. 3468 would direct the Secretary of the Interior to convey certain water rights to Duchesne City, Utah. In 1905, the federal government obtained certificates for these water rights under Utah state laws. In practice, Duchesne City has always used the water rights for its water supply. As a result, CBO estimates that implementing S. 3468 would have no significant impact on the federal budget.

H.R. 3468 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act. As a condition of receiving these water rights, the bill would require Duchesne City to allow the Ute Tribe or members of that tribe to access the municipal water system without paying water impact or connection fees.

The CBO staff contracts for this estimate are Rachel Applebaum (for federal costs), and Marjorie Miller (for the state, local, and tribal impact). 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.

