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REPORT
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MCGEE CREEK PROJECT PIPELINE AND ASSOCIATED FACILITIES CONVEYANCE ACT

DECEMBER 4, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 2085]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2085) to authorize the Secretary of the Interior to convey to the McGee Creek Authority certain facilities of the McGee Creek Project, Oklahoma, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2085 is to authorize the Secretary of the Interior to convey to the McGee Creek Authority certain facilities of the McGee Creek Project, Oklahoma, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The McGee Creek Project, near Atoka, Oklahoma, was authorized in Title VII of the Reclamation Authorizations Act of 1976 for the propose of storing, regulating, and conveying water for municipal and industrial use. Oklahoma City, Soda, Atoka County, and the City of Atoka are provided with a supplemental municipal and industrial water supply from the McGee Project.

The McGee Creek Authority (Authority) was established to develop, finance, operate and maintain the water supply in the McGee Creek Reservoir. The Authority became responsible for the operation and maintenance of the project on September 1, 1990.

H.R. 2085 seeks to transfer ownership of certain facilities of the McGee Creek Project, currently held by the United States through

the Bureau of Reclamation, to the McGee Creek Authority. The title transfer includes 23.83 acres of land, 17 miles of raw water pipeline, all control structures and related appurtenances, as well as the Rate of Flow Control Station at Lake Atoka. This transfer does not include the Dam or Reservoir.

Public Law 101–514, Title II section 205(a) authorized the Secretary to enter into a contract with the McGee Creek Authority to accept final payment of the original repayment obligation for the McGee Creek Project. Title II, Section 205(c) of Public Law 101–514 specifically states that the title to the McGee Creek project facilities shall remain with the United States, even if the repayment obligation has been satisfied.

The Authority's repayment obligation was satisfied on October 30, 1992 with a final payment of $88,600,000. The Authority participants are still obligated to pay or provide for the operation and maintenance of the project.

In April 2006, a Memorandum of Agreement (MOA) was signed by the Bureau of Reclamation and the Authority in which they agreed to seek legislation to authorize transfer of facilities to the Authority. The MOA also outlined the responsibilities of the Bureau and the Authority, including payment agreements. The MOA is in effect for two years after the signing date.

The Bureau of Reclamation has not always implemented facility transfers in a timely manner. The Committee will exercise its oversight responsibilities with respect to the implementation of this legislation. The Committee specifically expects the Bureau of Reclamation to follow through on its testimony that it will carry out the transfer as expeditiously as possible within current law.

COMMITTEE ACTION

H.R. 2085 was introduced on May 1, 2007 by Rep. Mary Fallin (R–OK). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On September 18, 2007, the Subcommittee held a hearing on the bill. On October 16, 2007, the Subcommittee met to mark up the bill. The bill was then forwarded to the Full Committee on Natural Resources. On November 15, 2007, the Full Natural Resources Committee met to consider the bill. The bill was favorably reported without amendment to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 designates the short title of the bill as the "McGee Creek Project Pipeline and Associated Facilities Conveyance Act."

Section 2. Definitions

Section 2 defines certain terms used in the bill.

Section 3. Conveyance of McGee Creek Project Pipeline and Associated Facilities

Section 3(a)(1) authorizes the Secretary of the Interior to convey all right, title and interest of the United States to the McGee Creek Authority for several specific McGee Creek Project facilities.

Section 3(a)(2) excludes from conveyance any mineral estates associated with the McGee Creek Project facilities described in Sec. 3(a)(1).

Section 3(a)(3) requires all parties involved with the conveyance of facilities to comply with any and all applicable laws, including the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the National Historic Preservation Act.

Section 3(b) requires all operation of transferred facilities to comply with all applicable federal, state and local laws, and transfers the operation and maintenance costs of the transferred facilities to the Authority. The Authority is not eligible to receive federal funding for operation and maintenance costs.

Section 3(c) releases the United States from liability for damages on the transferred facilities and adds no additional liability under 28 U.S.C. 2674.

Section 3(d) requires that the contract between the Authority and the United States remain in effect, except as amended, and amends the contract to reflect the transfer of facilities to the McGee Creek Authority.

Section 3(e) requires that reclamation laws still be applied to any project water provided to the Authority.

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 Natural 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. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

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:

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H.R. 2085 would authorize the Secretary of the Interior to convey a pipeline and associated water facilities to the McGee Creek Authority of Oklahoma City, Oklahoma. The Authority would be responsible for all operation and maintenance costs of the pipeline and facilities after the conveyance.

CBO estimates that implementing H.R. 2085 would have no significant effect on the federal budget. The Authority has repaid the federal government its obligation for building the pipeline and related facilities. Under the bill, any administrative costs to the federal government for conveying the facilities would be paid by the McGee Creek Authority. Enacting H.R. 2085 would not affect direct spending or revenues.

H.R. 2085 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 state of Oklahoma and certain local governments would benefit from the conveyances authorized in this bill. Any costs to those governments would be incurred voluntarily.

The CBO staff contact for this estimate is Tyler Kruzich. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

HR 2085 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

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.

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