

TO DIRECT THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN FACILITIES, EASEMENTS, AND RIGHTS-OF-WAY TO THE KENNEWICK IRRIGATION DISTRICT, AND FOR OTHER PURPOSES

DECEMBER 15, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 278]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 278) to direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 278 is to direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District.

BACKGROUND AND NEED FOR LEGISLATION

The U.S. Bureau of Reclamation (Reclamation) is the largest supplier and manager of water in the western United States and the nation's second largest producer of hydroelectric power. Reclamation owns and operates much of the water-related infrastructure in the American West, including hundreds of dams, canals, and other associated infrastructure. For most Reclamation projects, the federal government has historically financed the initial costs of study and construction, and beneficiaries repay their allocated share of costs over time.¹ Once relevant costs have been repaid, responsibility for operations and maintenance of the project may be transferred to project beneficiaries in some cases, but the project typi-

¹CHARLES V. STERN, CONG. RESEARCH SERV., IF10924, TITLE TRANSFER FOR BUREAU OF RECLAMATION FACILITIES (updated Feb. 6, 2019).

cally remains under federal ownership unless Congress explicitly authorizes a title transfer.² Additionally, P.L. 116–9 provided Reclamation with the authority to transfer title for certain eligible facilities to qualifying entities through an administrative process.³

Some water districts choose to pursue title transfers to gain ownership of the water facilities they use, which allows them to leverage those assets to obtain loans for upgrades or other expenses. Title transfers for some projects benefit Reclamation by divesting the agency of responsibility for operations, and maintenance, as well as liability associated with the project lands and facilities.

The Kennewick Irrigation District (KID) is a water provider that serves more than 63,000 urban and agricultural customers as part of the Yakima Project in eastern Washington State.⁴ Operation and maintenance responsibilities of the irrigation facilities serving KID water users were transferred to KID in 1953.⁵ In December 2017, KID and Reclamation entered into a Memorandum of Agreement to facilitate the title transfer of certain project facilities and lands.⁶ At a legislative hearing in the 115th Congress, KID District Manager Charles Freeman, appearing before the House Committee on Natural Resources, testified that “the transfer of title would enable the District to have more direct control of an important infrastructure asset and could provide value added service to [KID’s] operations.”⁷

H.R. 278 authorizes the Secretary of the Interior to convey all right, title, and interest in specified Reclamation facilities to KID, subject to the terms of this legislation. The transferred federal assets, referred to as “Transferred Works,” include the canals, laterals, and appurtenant works and lands that begin at KID’s head gate and extend approximately forty miles east to the Columbia River.

Before conveying land and facilities to KID, H.R. 278 requires the Secretary to complete all actions required under the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Endangered Species Act (16 U.S.C. 1531 et seq.), the National Historical Preservation Act (subtitle III of title 54, United States Code), and all other applicable laws. KID must comply with all applicable federal, state, and local laws and regulations in its operation of the Transferred Works. H.R. 278 also requires the Department of the Interior to affirm in writing to the House Committee on Natural Resources and Senate Committee on Energy and Natural Resources that certain criteria have been met before transferring the federal assets. This includes confirming that the asset transfer will not have an unmitigated negative effect on the environment or negatively impact land and water resources held in trust for federally recognized tribes.

²*Id.*

³John D. Dingell Jr. Conservation, Management, and Recreation Act, Pub. L. No. 116–9, tit. VIII, subtitle A.

⁴Submitted Testimony of Charles Freeman, General Manager, Kennewick Irrigation District, before the House Water, Power and Oceans Subcommittee, September 5, 2018.

⁵U.S. Bureau of Reclamation, Kennewick Irrigation District Title Transfer (July 1, 2020) (online at <https://www.usbr.gov/pn/programs/title/kennewick/index.html>).

⁶*Id.*

⁷*Id.*

COMMITTEE ACTION

H.R. 278 was introduced on January 8, 2019, by Representative Dan Newhouse (R-WA). The bill was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Oceans, and Wildlife. On May 1, 2019, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered. The bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearing was used to develop or consider H.R. 278: full committee markup held on May 1, 2019.

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.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 13, 2019.

Hon. RAÚL M. GRIJALVA,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 278, a bill to direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, and for other purposes.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 278, a bill to direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, and for other purposes			
As ordered reported by the House Committee on Natural Resources on May 1, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Deficit Effect	0	*	*
Spending Subject to Appropriation (Outlays)	0	*	*
Pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 278 would direct the Bureau of Reclamation (BOR) to negotiate an agreement within 2 years of enactment with the Kennewick Irrigation District located in the State of Washington to convey specific federal land and facilities to the district. Using information from BOR, CBO estimates that implementing H.R. 278 would cost about \$75,000 for staff to carry out the title transfer, which includes coordinating surveys and the National Environmental Policy Act reviews. Any spending would be subject to the availability of appropriated funds.

Under current law, the district pays the federal government about \$70,000 annually for the costs of constructing the project. The district will make its last payment in 2024. Under the bill, the district would pay the federal government an amount equal to the net present value of its payments remaining at the time of the conveyance instead of making annual payments. Those payments are recorded in the federal budget as offsetting receipts, or reductions in direct spending; however, CBO estimates that the net effect on direct spending would be insignificant.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

This bill contains no unfunded mandates.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS

None.