

PILOT BUTTE POWER PLANT CONVEYANCE ACT

JANUARY 30, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 3415]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3415) to direct the Secretary of the Interior to convey to the Midvale Irrigation District the Pilot Butte Power Plant in the State of Wyoming, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 3415 is to direct the Secretary of the Interior to convey to the Midvale Irrigation District the Pilot Butte Power Plant in the State of Wyoming, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3415, the Pilot Butte Power Plant Conveyance Act, requires the Bureau of Reclamation (Reclamation) to enter good faith negotiations to convey the Pilot Butte Power Plant (Power Plant) to the Midvale Irrigation District (District) under Reclamation's Title Transfer Program. The Title Transfer Program allows for Reclamation to transfer authority over water infrastructure to a project's beneficiary. This process, designed to give greater local control and autonomy to a project beneficiary, has historically required an indi-

vidual act of Congress. From 1995 to 2019, Reclamation has conveyed all or part of thirty projects over to project beneficiaries.¹

In 2019, the John D. Dingell, Jr. Conservation, Management and Recreation Act (P.L. 116–9) gave Reclamation the authority to transfer certain projects to beneficiaries without an act of Congress. However, P.L. 116–9 excluded certain “reserved works,” or infrastructure that is owned, operated, or maintained by Reclamation. Since the Power Plant was removed from service in 2008, Reclamation is responsible for all costs associated with maintenance and inspection; given that the Power Plant is still considered a “reserved work,” an act of Congress is required to transfer this structure to the District.

This legislation would give the District the ability to rehabilitate a power plant that has been shut down for more than a decade. The District has expressed interest in producing hydroelectric power during its six-month irrigation season, providing additional electricity generation to the District’s 940 water users.² Additionally, Reclamation has incurred increased annual maintenance and inspection costs as the plant remains shut down; a future demolition plan was estimated at roughly \$5 million, and the Wyoming Water Development Office has projected that the Power Plant’s needed repairs will cost between \$4.4 million and \$8.3 million.³ Transferring authority of the Power Plant from Reclamation to the District presents an opportunity to unlock additional electricity generation for the District and its water users, give the District greater control over the Power Plant’s upgrades and overall resource management, and eases the financial burden on both the District and Reclamation by sharing the costs associated with this project.

COMMITTEE ACTION

H.R. 3415 was introduced on May 17, 2023, by Rep. Harriet M. Hageman (R–WY). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Wildlife and Fisheries. On September 28, 2023, the Subcommittee on Water, Wildlife and Fisheries held a hearing on the bill. On October 25–26, the Committee on Natural Resources met to consider the bill. The Subcommittee on Water, Wildlife and Fisheries was discharged from further consideration of H.R. 3415 by unanimous consent. H.R. 3415 was ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Water, Wildlife and Fisheries held on September 28, 2023.

¹“Statement of Camille Calimlim Touton.” Senate Energy and Natural Resources Committee. July 19, 2023. <https://www.energy.senate.gov/services/files/8B0FC197-6740-485F-A24C-2AFABD64D158>.

²“Statement of Steve J. Lynn.” House Committee on Natural Resources, Subcommittee on Water, Wildlife, and Fisheries. September 28, 2023. https://naturalresources.house.gov/uploadedfiles/testimony_lynn.pdf.

³“Statement of Camille Calimlim Touton.” Senate Energy and Natural Resources Committee. July 19, 2023. <https://www.energy.senate.gov/services/files/8B0FC197-6740-485F-A24C-2AFABD64D158>.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the bill as the “Pilot Butte Power Plant Conveyance Act.”

Section 2. Definitions

Section 2 defines key terms used throughout the Act in outlining the process of transferring authority of the Power Plant from Reclamation to the District.

Section 3. Agreement, conveyance, and report

Section 3 requires that not later than two years after enactment of this Act, the Secretary of the Interior (Secretary), acting through the Commissioner of Reclamation, shall enter into negotiations with the District to determine the terms of conveyance. Conveyance will require the District to assume all liability for administration, operation, maintenance, and replacement of the Power Plant. At the date of effective conveyance, the Power Plant will no longer be considered part of a Federal Reclamation project. If conveyance is not completed within 1 year of enactment, the Secretary shall submit a report to the House Committee on Natural Resources and the Senate Committee on Natural Resources a report describing the status of conveyance, obstacles to completing conveyance, and an anticipated date of completing conveyance.

Section 4. Liability

Section 4 mandates that, effective on the date of conveyance, the United States or employees or agents of the United States are no longer to be held liable for any act, omission, or occurrence relating to the power plant.

Section 5. Compliance with other laws

Section 5 requires that, prior to making the conveyance, the Secretary shall complete all actions required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), National Preservation Programs under Subtitle III of Title 54, U.S.C., and any other applicable laws. The District shall comply with all Federal, State, and local laws in operating the Power Plant, effective on the date of conveyance.

Section 6. Payment of costs

Section 6 establishes that administrative costs for the conveyance of the Power Plant, real estate transfer costs, and cost of compliance with review under the National Environmental Policy Act, the Endangered Species Act, or Subtitle III of Title 54 U.S.C. shall be paid in equal shares by the Secretary and the District.

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:

H.R. 3415, Pilot Butte Power Plant Conveyance Act			
As ordered reported by the House Committee on Natural Resources on October 26, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	*	*	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	*	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? Yes	
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate? No	
		Contains private-sector mandate? No	
* = between -\$500,000 and \$500,000.			

H.R. 3415 would require the Bureau of Reclamation (BOR) to negotiate an agreement within two years with the Midvale Irrigation District located in Pavillion, Wyoming, to convey the Pilot Butte Power Plant and related facilities to the district.

Under current law, BOR holds title to the power plant and related facilities, and ownership of the power plant cannot be transferred unless authorized by the Congress. The plant has not produced electricity since 2008 when BOR determined that increasing operation and maintenance costs made electricity generation at the plant economically infeasible. The district has expressed interest in taking ownership and rehabilitating and operating the power plant and related facilities to provide power to the district's water users.

Using information from BOR, CBO estimates that total costs to implement the bill would be less than \$20,000 for staff to coordinate surveys, complete reviews under the National Environmental Policy Act, and transfer the title to the district. Under the bill, those costs would be split equally with the district. Spending by BOR for those costs would be subject to the availability of appropriated funds.

CBO estimates that enacting the bill would insignificantly increase offsetting receipts, which are recorded as reductions in direct spending, from amounts transferred to the government to pay for the district's share of the cost of administrative activities to complete the transfer. The spending of those receipts would increase direct spending and any excess contributions would be returned to the district. Thus, CBO estimates that by the end of 2033 there would be no net effect on direct spending under H.R. 3415.

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

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. *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 direct the Secretary of the Interior to convey to the Midvale Irrigation District the Pilot Butte Power Plant in the State of Wyoming, and for other purposes.

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

According to the Congressional Budget Office, H.R. 3415 contains no unfunded mandates as defined in the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

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

As ordered reported by the Committee on Natural Resources, H.R. 3415 makes no changes in existing law.