

LAND EXCHANGE WITH CITY OF GREELEY, COLORADO,
AND THE WATER SUPPLY AND STORAGE COMPANY

APRIL 22, 1998.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 1309]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1309) to provide for an exchange of lands with the city of Greeley, Colorado, and The Water Supply and Storage Company to eliminate private inholdings in wilderness areas, 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. 1309 is to provide for an exchange of lands with the city of Greeley, Colorado, and the Water Supply and Storage Company to eliminate private inholdings in wilderness areas, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The bill would direct the Secretary of Agriculture to exchange certain National Forest System lands in the Arapaho and Roosevelt National Forests in Colorado. More specifically, the Secretary would convey approximately 1,176 acres of national forest lands, currently encumbered by or adjacent to existing water storage reservoirs, to the City of Greeley, Colorado, and the Water Supply and

Storage Company if the City and Company offer to convey 708 acres of land, including 42 acres within and approximately 480 acres adjacent to existing wilderness areas in these national forests. The Forest Service has cited these land holdings as a primary obstacle which prevents expansion of existing wilderness areas in these locations. It would adjust the boundaries of these forests to encompass the lands conveyed to the United States in the exchange.

The City and the Company operate eight reservoirs in the Roosevelt National Forest. The City and the Company provide water for both agriculture and municipal users. The reservoirs have been operated for many years under land use authorizations from the Forest Service. Because of the need for regulatory certainty in the exercise of their water rights associated with these structures, the City and the Company would like to secure fee ownership of the lands under and immediately around the reservoirs. The bill conditions the exchange on the City and the Company continuing an existing Joint Operations Plan which provides for the coordinated release from the reservoirs during winter to enhance aquatic habitat.

COMMITTEE ACTION

H.R. 1309 was introduced on April 10, 1997, by Congressman Bob Schaffer (R-CO). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Forests and Forest Health. On July 22, 1997, the Subcommittee held a hearing on H.R. 1309, where the Administration testified that the proposed exemptions from environmental laws provided in the bill outweigh the benefits to the public. On October 7, 1997, the Subcommittee met to mark up H.R. 1309. No amendments were offered and the bill was ordered favorably reported to the Full Committee by voice vote. On November 5, 1997, the Full Resources Committee met to consider H.R. 1309. No amendments were offered and the bill was then ordered favorably reported by voice vote to the House of Representatives.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X 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 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 1309.

COST OF THE LEGISLATION

Clause 7(a) 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 H.R. 1309. However, clause 7(d) 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 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1309 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, enactment of H.R. 1309 would result in a loss of payments from the City of Greeley and the Water Supply and Storage Company for its easements to operate the reservoirs. These payments are estimated to be \$15,000 a year.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1309.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI 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 H.R. 1309 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 12, 1997.

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. 1309, a bill to provide for an exchange of lands with the city of Greeley, Colorado, and the Water Supply and Storage Company to eliminate private inholdings in wilderness areas, and for other purposes.

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

Sincerely,

JAMES F. BLUM
(For June E. O'Neill, Director).

Enclosure.

H.R. 1309—A bill to provide for an exchange of lands with the city of Greeley, Colorado, and the Water Supply and Storage Company to eliminate private inholdings in wilderness areas, and for other purposes

CBO estimates that enacting this bill would have no significant impact on the federal budget. Because H.R. 1309 would affect direct spending, pay-as-you-go procedures would apply; however, CBO estimates that such effects would total less than \$15,000 per year. H.R. 1309 contains no intergovernmental or private-sector

mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments. The exchange authorized by this bill would be voluntary on the part of the city and the company.

H.R. 1309 provides that if the city of Greeley, Colorado, and the Water Supply and Storage Company offer to transfer their interest in 708 acres of land described in the bill to the United States, then within one year the Secretary of Agriculture would convey to the city and company in exchange 1,176 acres of federal land, including eight reservoirs. The city and company now occupy 447 acres of that federal land to operate the reservoirs under perpetual easements. Once the exchange is completed, H.R. 1309 would rescind all special use permits and easements on the federal land conveyed to the city and company. Land acquired by the United States in the exchange would be added to the Roosevelt National Forest.

Under current law, the city and company are making annual payments over a 50-year period for the perpetual easements. By rescinding the easements, enacting H.R. 1309 would result in a loss of those receipts. Based on information from the Forest Service, CBO estimates the loss would total less than \$15,000 per year.

The CBO staff contact for this estimate is Victoria V. Heid. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1309 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 1309 would make no changes in existing law.

DISSENTING VIEWS

I am opposed to H.R. 1309 because the legislation would undermine the management of important national forest lands and resources.

H.R. 1309 directs the Secretary of Agriculture to exchange approximately 1,176 acres of national forest land currently under permit or easement as reservoir sites to the City of Greeley, Colorado and The Water Supply and Storage Company, for 708 acres of lands within the adjacent to the Arapaho/Roosevelt National Forest that are owned by the city and the company.

Both this bill and the underlying land exchange are controversial because they would eliminate the Forest Service's authority to require the city and water company to provide at least minimal instream flows in the streams and rivers that flow through Federal lands below the reservoirs. In order to prevent the dewatering of streams, protect fish and wildlife habitats, and follow other requirements of Federal law, the Forest Service is currently taking steps to rewrite expiring special use permits to require that those operating dams and diversions on national forest lands provide at least minimal instream flows—"bypass flows"—in the streams and rivers below the reservoirs they manage. The Forest Service's actions have proven unpopular with the city and water company who would like to retain complete control of the water at the expense of the National Forest and its resources.

The Administration and others oppose H.R. 1309 because the bill would prematurely undercut efforts to find a mutually agreeable solution to the issue of instream flows. They are also concerned about the impacts the bill would have on fish and other National Forest resources.

In testimony on H.R. 1309, the Forest Service stated that the bill "would provide inadequate protection to downstream resources, including National Forest Systems lands and federally-protected threatened and endangered species." The bill would also release the reservoir operators from interim ESA recovery responsibilities; prohibit any additional conditions, consultations or mitigation measures that might be required for completion of the exchange; and waive further inventory and consultation under the Historic Preservation Act. I am especially troubled by the release of the reservoir operators from their responsibility under current law. If such action were to be permitted, it would unfairly increase the obligations of other entities and individuals to see that environmental laws are followed in this area.

Given the scope of problems with this bill, I believe any action by the House on H.R. 1309 is unwise and unwarranted. I must oppose this bill and urge my colleagues to do likewise.

MAURICE HINCHEY.

