

FREMONT-MADISON CONVEYANCE ACT

SEPTEMBER 5, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 4708]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4708) to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fremont-Madison Conveyance Act.”

SEC. 2. CONVEYANCE OF FACILITIES.

(a) CONVEYANCE REQUIREMENT.—The Secretary of the Interior shall convey to the Fremont-Madison Irrigation District, Idaho, as soon as practicable after the date of enactment of this Act and in accordance with all applicable law and pursuant to the terms of the memorandum of agreement between the District and the Secretary (Contract No. 1425-01-MA-10-3310). The Secretary shall include in the facilities conveyed under this section all right, title, and interest of the United States in and to the canals, laterals, drains, and other components of the water distribution and drainage system that is operated or maintained by the District for delivery of water to and drainage of water from lands within the boundaries of the District as they exist upon the date of enactment of this Act, consistent with section 7.

(b) REPORT.—If the Secretary has not completed any conveyance required under this Act by September 13, 2003, the Secretary shall, by no later than that date, submit a report to the Congress explaining the reasons that conveyance has not been completed and stating the date by which the conveyance will be completed.

SEC. 3. COSTS.

(a) IN GENERAL.—The Secretary shall require, as a condition of the conveyance under section 2, that the District pay the administrative costs of the conveyance and related activities, including the costs of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as described in Contract No. 1425-01-MA-10-3310.

(b) **VALUE OF FACILITIES TO BE TRANSFERRED.**—In addition to subsection (a) the Secretary shall also require, as condition of the conveyance under section 2, that the District pay to the United States the lesser of the net present value of the remaining obligations owed by the District to the United States with respect to the facilities conveyed, or \$280,000. Amounts received by the United States under this subsection shall be deposited into the reclamation fund.

SEC. 4. TETON EXCHANGE WELLS.

(a) **CONTRACTS AND PERMIT.**—In conveying the Teton Exchange Wells under section 2, the Secretary shall also convey to the District—

(1) Idaho Department of Water Resources permit number 22-7022, including drilled wells under the permit, as described in Contract No. 1425-01-MA-10-3310; and

(2) all equipment appurtenant to such wells.

(b) **EXTENSION OF WATER SERVICE CONTRACT.**—The water service contract between the Secretary and the District (Contract No. 7-07-10-W0179, dated September 16, 1977) is hereby extended and shall continue in full force and effect until all conditions described in this Act are fulfilled.

SEC. 5. NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.

Prior to conveyance the Secretary shall complete all actions as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 6. LIABILITY.

Effective on the date of the conveyance of the facilities described in section 2, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section may be deemed to increase the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act.

SEC. 7. WATER SUPPLY TO DISTRICT LANDS.

The Secretary shall increase the number of acres within the District that are eligible to receive water from the Minidoka Project and the Teton Basin Projects to reflect the number of acres within the District as of the date of enactment of this Act, which includes lands annexed into the District prior to enactment of this Act as intended by the Teton Basin Project. This section does not in any way authorize the use of any additional Federal Reclamation project water beyond that which is currently authorized under their existing water storage contracts and as allowed by State water law.

SEC. 8. EXISTING RIGHTS NOT AFFECTED.

Nothing in this Act affects the rights of any person except as provided in this Act. Any conveyance under this Act shall not affect or abrogate any provision of any contract executed by the United States or State law regarding any irrigation district's right to use water developed in the facilities conveyed.

SEC. 9. DEFINITIONS.

In this Act:

(1) **DISTRICT.**—The term “District” means the Fremont-Madison Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

PURPOSE OF THE BILL

The purpose of H.R. 4708, is to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District.

BACKGROUND AND NEED FOR LEGISLATION

The Fremont-Madison Irrigation District was created under the laws of the State of Idaho in 1935 to enter into a repayment contract with the Bureau of Reclamation for facilities constructed. The repayment contract was paid out in 1979; and now the district provides supplemental water to approximately 150,000 acres.

The Cross Cut Diversion Dam, completed in 1938, is a 17 ft. high concrete gravity weir that diverts Snake River water into the Last Chance and Cross Cut canals. The Cross Cut Canal conveys water to users on the Teton River, and also conveys natural flow water to some of the lands within the Fall River Irrigation Company system.

Five Teton Exchange Wells were constructed by the Bureau of Reclamation in the early 1970s as part of the Teton Reservoir system. After the Teton Dam failure, Fremont-Madison Irrigation District requested use of the wells as a backup water supply in drought years. The resulting contract allowed use of the wells, pumps, motors, and appurtenant facilities for 25 years. Water from the five wells is now pumped into the Henry's Fork river system to augment natural flows downstream in exchange for use of water higher in the system during dry years.

H.R. 4708 will transfer all right, title, and interest of the United States in and to the canals, laterals, drains, and other components of the water distribution and drainage system that are operated and maintained by the District.

The Committee expects the Bureau of Reclamation to work with FMID in developing a budget for the NEPA and administrative costs to include as part of the Memorandum of Agreement. The Committee anticipates that the projected budget for such costs should not exceed \$200,000.

COMMITTEE ACTION

H.R. 4708 was introduced on May 9, 2002 by Congressman Michael K. Simpson (R-ID). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On July 9, 2002, the Subcommittee held a hearing on the bill. On July 24, 2002, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from further consideration of the bill by unanimous consent. Congressman Calvert offered an amendment in the Nature of a Substitute to address the time frame for the transfer, administrative costs, and NEPA costs. It was agreed to by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the "Fremont-Madison Conveyance Act".

Section 2. Conveyance of facilities

This Section specifies that the Secretary of the Interior shall convey to the Fremont-Madison Irrigation District, Idaho by not later than the termination date (September 13, 2003) of the Memorandum of Agreement (Contract No. 1425-01-MA-10-3310) all right, title, and interest of the United States in and to the Cross Cut Diversion Dam, the Cross Cut Canal and the Teton Exchange Wells. All applicable laws and terms of the MOA are to be adhered to. All right, title, and interest of the United States in and to the canals, laterals, drains, and other components of the water dis-

tribution system and drainage system that is operated or maintained by the District for delivery of water to and drainage of water from lands within the boundaries of the District as they exist upon the date of enactment shall be transferred. If the Secretary has not completed the conveyance by the end of 1-year from date of enactment of this Act, the Secretary shall submit a report on the Congress explaining the reasons the conveyance has not been completed and stating the date by which the conveyance shall be completed.

Section 3. Costs

The District shall participate in paying for the administrative costs of the conveyance and related activities, including the costs of any review under the National Environmental Policy Act. The Committee anticipates that the costs for these activities will not exceed \$200,000. The District will be responsible for one-half of the final amount.

In addition to the costs described above, the Secretary shall also require as condition of the conveyance, that the District pay to the United States the lesser of the net present value of the remaining obligations owed by the District to the United States with respect to the facilities conveyed, or \$280,000. Amounts received by the United States shall be deposited in the reclamation fund.

Section 4. Teton Exchange Wells

In conveying the Teton Exchange Wells, the Secretary shall also convey to the District the Idaho Department of Water Resources permit number 22-7022, including drilled wells under the permit, as described in Contract No. 1425-01-MA-10-3310 and all equipment appurtenant to such wells.

Section 5. National Environmental Policy Act of 1969

Prior to conveyance the Secretary shall complete all actions as may be required under the Act.

Section 6. Liability

Effective on the date of conveyance, the United States shall not be held liable for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance.

Section 7. Water supply to District lands

This Section Authorizes the Secretary to increase the number of acres within the District that are eligible to receive water from the Minidoka Project and Teton Basin Projects to reflect the number of acres within the District as of the date of enactment of this Act, which includes lands annexed into the District prior to enactment of this Act as intended by the Teton Basin Project.

Section 8. Existing rights not affected

Nothing in this Act affects the rights of any person except as provided in the Act.

Section 9. Definitions

This section defines several terms used in the legislation.

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 tax expenditures. According to the Congressional Budget Office, enacting H.R. 4708 would result in an insignificant increase in offsetting receipts to the government and offset by the loss of future offsetting receipts of about \$10,000 a year over the 2003–2030 period.

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:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 12, 2002.

Hon. JAMES V. HANSEN,
*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. 4708, the Fremont-Madison Conveyance Act.

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

Sincerely,

ROBERT A. SUNSHINE
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4708—Fremont-Madison Conveyance Act

H.R. 4708 would direct the Secretary of the Interior through the Bureau of Reclamation to convey certain components of a water distribution and drainage system to the Fremont-Madison Irrigation District in Idaho by September 2003. These components include a dam, a canal, and several wells, which are currently operated and maintained by the district and used for irrigation. The transfer would occur after the district meets its outstanding obligations under an existing repayment contract with the federal government. In addition, H.R. 4708 would require the federal government to pay half of the costs associated with the conveyance, including a review under the National Environmental Policy Act.

CBO estimates that enacting H.R. 4708 would result in an insignificant increase in offsetting receipts to the government. Since 1977, the district has repaid \$225,000 of the cost of constructing several water wells. As a condition of conveyance, CBO estimates that the federal government would receive about \$135,000 from the district in 2003 as the final payment under the existing repayment contract for those wells. This amount represents the net present value of the remaining obligations owed by the district. This near-term cash savings would be offset by the loss of future offsetting receipts of about \$10,000 a year over the 2003–2030 period. Because enacting H.R. 4708 would affect offsetting receipts (a form of direct spending), pay-as-you-go procedures would apply. CBO also estimates that the Bureau of Reclamation would spend about \$80,000 for its share of the administrative costs associated with this conveyance, assuming the availability of appropriated funds.

H.R. 4708 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. This conveyance would be voluntary on the part of the district as would any costs it would incur to comply with the conditions set by the bill.

The CBO staff contact for this estimate is Julie Middleton. 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.

