

Calendar No. 71

115TH CONGRESS }
1st Session }

SENATE

{ REPORT
115-58

BOLTS DITCH ACCESS AND USE ACT

MAY 9, 2017.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 689]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 689) to insure adequate use and access to the existing Bolts Ditch headgate and ditch segment within the Holy Cross Wilderness in Eagle County, Colorado, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 689 is to ensure adequate use and access to the existing Bolts Ditch headgate and ditch segment within the Holy Cross Wilderness in Eagle County, Colorado.

BACKGROUND AND NEED

When Congress authorized and designated the Holy Cross Wilderness Area in 1980, Bolts Ditch was inadvertently not included on the list of existing water facilities. Bolts Lake is an existing water facility in Minturn, Colorado, outside of the Wilderness Area which can only be filled using the Bolts ditch and headgate. H.R. 689 would allow for a special use permit to be granted to the Town of Minturn, Colorado, for access to the ditch and headgate within the Wilderness Area.

LEGISLATIVE HISTORY

H.R. 689 was introduced in the House of Representatives by Representative Polis on January 24, 2017. H.R. 689 was passed on a vote of 409–1 in the House of Representatives on February 6, 2017.

S. 285, an identical bill to H.R. 689, was introduced by Senator Gardner on February 2, 2017 and referred to the Committee on Energy and Natural Resources.

In the 114th Congress, a similar measure, S. 2524, was introduced by Senators Gardner and Bennet on February 9, 2016. On May 17, 2016, the Subcommittee on Water and Power held a hearing on S. 2524. The Senate Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 2524 favorably reported as amended.

A companion measure, H.R. 4510, was introduced in the House of Representatives by Representatives Polis, Lamborn, and Tipton on February 9, 2016. On February 25, 2016, the House Natural Resources Committee Subcommittee on Federal Lands held a hearing on H.R. 4510.

The Committee on Energy and Natural Resources met in open business session on March 30, 2017, and ordered H.R. 689 and S. 285 favorably reported without amendment.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 30, 2017, by a majority voice vote of a quorum present, recommends that the Senate pass H.R. 689.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides a short title.

Section 2. Bolts Ditch Access

Section 2 grants access and use by special use authorization to Bolts Ditch and the Bolts Ditch Headgate within the Holy Cross Wilderness, Colorado as designated by Public Law 96–560 and as depicted on the referenced map for the purposes of the diversion of water and use, maintenance, and repair of such ditch and headgate to the Town of Minturn, Colorado.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

Bolts Ditch Access and Use Act

H.R. 689 would require the Forest Service to provide a special use authorization to the town of Minturn, Colorado, to allow the town to manage and maintain a headgate used to divert water to Bolts Lake. Based on an analysis of information from the Forest Service, CBO estimates the enacting the legislation would increase offsetting receipts from annual fees associated with the authorization by about \$150 a year; therefore pay-as-you-go procedures apply. Enacting the legislation would not affect revenues.

CBO estimates that enacting H.R. 689 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 689 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would benefit the town of Minturn, Colorado; it would give the town easier access to the Bolts Ditch headgate so that it could repair and maintain the town's water supply.

On April 7, 2017, CBO transmitted a cost estimate for S. 285, the Bolts Ditch Access and Use Act, as ordered reported by the Senate Committee on Energy and Natural Resources on March 30, 2017. H.R. 689 and S. 285 are similar and CBO's cost estimate for each piece of legislation is the same.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 689. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 689, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 689, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

Because H.R. 689 is similar to legislation considered by the Committee in the 114th Congress, the Committee did not request Executive Agency views. The testimony provided by the U.S. Forest Service at the hearing before the Subcommittee on Water and Power hearing on May 17, 2016, follows:

STATEMENT OF LESLIE WELDON DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

S. 2524 Bolts Ditch Access and Use Act

S. 2524 seeks to resolve issues associated with the use and maintenance of Bolts Ditch near the Town of Minturn, Colorado. The headgate and approximately 450 lineal feet of the ditch are located within the Holy Cross Wilderness on the White River National Forest. The United States opposed two water rights application cases associated with this ditch in 2006 and 2007. Subsequently, the United States and the applicants reached a stipulated agreement

and settlement in both cases; where it was agreed that the point of diversion would be removed from the Holy Cross Wilderness unless (1) the point of diversion in the Holy Cross Wilderness is specifically authorized by the President, (2) the Holy Cross Wilderness boundary is altered to exclude the point of diversion from the Wilderness area, or (3) the point of diversion is confirmed by Congress to be specifically included as a part of the authorization of the Homestake Reservoir Project within the Holy Cross Wilderness Area.

S. 2524 would direct the Secretary of Agriculture to issue a special use permit to the Town of Minturn authorizing non-motorized access to use and perform routine maintenance on the Bolts Ditch headgate and 450 lineal feet of Bolts Ditch in accordance with US Forest Service wilderness regulation. This bill does not authorize new construction or reconstruction.

S. 2524 has the support of Eagle County, the Colorado River District, and local and national wilderness advocacy organizations.

The Department does not oppose S. 2524.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill as ordered reported.

