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YAKIMA-TIETON IRRIGATION DISTRICT CONVEYANCE ACT OF 2007

FEBRUARY 16, 2007.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 235]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 235) to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 235 is to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District.

BACKGROUND AND NEED

The Yakima Project provides irrigation water for approximately 464,000 acres of land along 175 miles of the Yakima River in south-central Washington. The Yakima-Tieton Irrigation District (District) is one of the main beneficiaries of the Project, delivering water to 28,000 acres of land. The Yakima Project began providing water to the District in 1910. In 1947, the District assumed operations and maintenance of water conveyance works benefiting the District and fulfilled its capital repayment obligations to Reclamation. In 1988, the District repaid its obligations to Reclamation for a rehabilitation and betterment project. The District is seeking title to federally-owned buildings and lands, including a warehouse, an office building, approximately nine acres of land, and two houses and appurtenant structures. According to the District, it has sought

ownership of these structures and land for many years. Since 1995, when Reclamation promulgated policies for title transfer, Reclamation and the District have worked to advance the title transfer. S. 235 will effectuate a transfer of title from the United States to the District of the identified buildings and lands of the Yakima Project.

LEGISLATIVE HISTORY

S. 235 was introduced by Senator Cantwell on January 10, 2007 and referred to the Committee on Energy and Natural Resources. At its business meeting on January 31, 2007, the Committee on Energy and Natural Resources ordered S. 235 favorably reported.

During the 109th Congress, the Committee considered similar legislation, S. 1965, introduced by Senator Cantwell on November 11, 2005. The Subcommittee on Water and Power held a hearing on S. 1965 on June 28, 2006. S. Hrg. 109–677. No further action occurred on S. 1965 prior to the sine die adjournment of the 109th Congress. A companion measure, H.R. 1564, was considered by the House of Representatives under suspension of the rules, and passed by a voice vote on November 15, 2005.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business meeting on January 31, 2007, by voice vote of a quorum present, recommends that the Senate pass S. 235.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2(a) directs the Secretary of the Interior to convey to the Yakima-Tieton Irrigation District all right, title, and interest of the United States to certain buildings and lands of the Yakima Project, Washington, in accordance with an existing agreement between the District and the United States.

Section 2(b) provides that upon the date that title is conveyed, the United States is not liable for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed buildings and lands, except for damages caused by acts of negligence committed by the United States or its employees or agents before the conveyance. Nothing in the section increases the United States' liability beyond that provided by the Federal Tort Claims Act.

Section 2(c) provides that after conveyance of the buildings and lands, they will no longer be considered part of the Federal reclamation project, and that the District shall not be eligible to receive any benefits, except those available to persons similarly situated.

Section 2(d) contains a reporting requirement for the Secretary in the event the conveyance is not completed within 12 months following the enactment of S. 235.

COST AND BUDGETARY CONSIDERATIONS

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

S. 235—Yakima-Tieton Irrigation-District Conveyance Act of 2007

S. 235 would direct the Secretary of the Interior to convey certain lands and buildings comprising a portion of the Yakima Project in Yakima County, Washington, to the Yakima-Tieton Irrigation District. Based on information from the Bureau of Reclamation, CBO estimates that enacting S. 235 would have no significant effect on the federal budget.

This bill would transfer title for approximately nine acres of land and several buildings to the irrigation district. Other parts of the project, including the Tieton diversion dam and associated canals, would not be affected. The district has fully complied with all repayment agreements associated with the project, and currently makes only small payments to reimburse the bureau for the operation and maintenance of the Yakima-Tieton facilities. Such payments are recorded as offsetting receipts (a credit against direct spending), and would no longer be made if this bill were enacted, resulting in a negligible loss of receipts to the U.S. Treasury. Under the bill, the bureau would no longer be responsible for the minor discretionary costs associated with operations and maintenance of the conveyed facilities.

S. 235 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. The land conveyance authorized by this bill would be voluntary on the part of the Yakima-Tieton Irrigation District. Any costs they might incur to comply with the conditions of the conveyance would be incurred voluntarily.

The CBO staff contact for this estimate is Julie Middleton. The estimate was approved by Peter H. Fontaine, 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 S. 235. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant responsibilities on private individuals and business.

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 S. 235, as ordered reported.

EXECUTIVE COMMUNICATIONS

Because S. 235 is similar to legislation considered in the 109th Congress, the Committee did not request Executive Agency views. The testimony provided by the Bureau of Reclamation at the Subcommittee hearing on S. 1965 in the 109th Congress follows:

STATEMENT OF WILLIAM E. RINNE, ACTING COMMISSIONER,
BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairwoman, members of the Subcommittee, I am Bill Rinne, Acting Commissioner of Reclamation for the Bureau of Reclamation. I am pleased to provide the

Department of the Interior's views on S. 1965, legislation to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project in Washington to the Yakima-Tieton Irrigation District. We support this legislation and thank the committee for considering it today.

The transfer proposed in S. 1965 is the culmination of a collaborative and cooperative process and should be a model for other districts and groups interested in title transfer.

What we experienced in this case, and what has made other title transfers successful, is that Reclamation and the non-Federal entities interested in title transfer followed a simple plan identifying obstacles and dealing with them at the local or regional level before drafting legislation.

S. 1965 would authorize the title transfer of federally owned buildings and lands to the Yakima-Tieton Irrigation District. Reclamation and the Yakima-Tieton Irrigation District have worked collaboratively and efficiently to lay the groundwork for this title transfer. Thanks to the cooperative efforts of the District, the process has successfully addressed all the elements of Reclamation's policy framework that guides our title transfers.

One of the Administration's goals in title transfer is to protect the financial interest of the United States, that is, to make sure that the United States is no worse off financially following title transfer. In this case, the full costs of the lands, buildings and facilities to be transferred have already been repaid pursuant to the district's original repayment contract. All the lands to be transferred under this legislation were acquired by Reclamation when the project was built. Thus the original repayment contract incorporated their value together with the costs associated with the construction of the facilities and buildings. There are no ongoing revenue streams associated with these lands and facilities, and the value of all the assets has been repaid. The district has fulfilled its repayment obligation under the contract and thus no payment is required.

On December 6, 2004, Reclamation and the District entered into a title transfer agreement for the federally owned facilities (Contract No. 5-07-10-L1658) which spells out the terms and conditions for this title transfer and which is the basis for the transfer of the facilities in the legislation. Subsequently, Reclamation worked with the District and with Representative Hastings and Senator Cantwell on how to structure the legislation to authorize the implementation of the title transfer agreement.

We believe that this title transfer will give the District more local control of buildings that were constructed for their use. It will also eliminate the need for duplicative and unnecessary administrative obligations that exist for the District based on the fact that title to the buildings and associated properties is held by the United States. For example, the District currently has to seek approval for

utility work, building improvements, and similar activities by virtue of the fact that the buildings and properties are Federally owned.

For Reclamation, the title transfer will obviate the periodic facility reviews and processing of paperwork that currently consumes significant staff time.

In summary, we support passage of S. 1965. It is a good bill, a good title transfer, and reflects a cooperative and cost effective process that will provide a benefit to the District and to Reclamation.

That concludes my testimony; I would be pleased to answer any questions.

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 S. 235, as ordered reported.

