

WELLTON-MOHAWK TRANSFER ACT

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JULY 26, 1999.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 841]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 841) to authorize the Secretary of the Interior to convey certain works, facilities, and titles of the Gila Project, and designated lands within or adjacent to the Gila Project, to the Wellton-Mohawk Irrigation and Drainage District, and for other purposes, 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 out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be referred to as the “Wellton-Mohawk Transfer Act”.

SEC. 2. TRANSFER.

The Secretary of the Interior (“Secretary”) is directed to carry out the terms of the Memorandum of Agreement No. 8-AA-34-WAO14 (“Agreement”) dated July 10, 1998, between the Secretary and the Wellton-Mohawk Irrigation and Drainage District (“District”) providing for the transfer of works, facilities, and lands to the District, including conveyance of Acquired Lands, Public Lands, and Withdrawn Lands, as defined in the Agreement.

SEC. 3. WATER AND POWER CONTRACTS.

Notwithstanding the transfer, the Secretary and the Secretary of Energy shall provide for and deliver Colorado River water and Parker-Davis Project Priority Use Power to the District in accordance with the terms of existing contracts with the District, including any amendments or supplements thereto or extensions thereof and as provided under section 2 of the Agreement.

SEC. 4. SAVINGS.

Nothing in this Act shall affect any obligations under the Colorado River Basin Salinity Control Act (Public Law 93-320; 43 U.S.C. 1571 et seq.).

SEC. 5. REPORT.

If transfer of works, facilities, and lands pursuant to the Agreement has not occurred by July 1, 2000, the Secretary shall report on the status of the transfer as provided in section 5 of the Agreement.

SEC. 6. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

PURPOSE OF THE BILL

The purpose of H.R. 841 is to authorize the Secretary of the Interior to convey certain works, facilities, and titles of the Gila Project, and designated lands within or adjacent to the Gila Project, to the Wellton-Mohawk Irrigation and Drainage District, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Bureau of Reclamation (BOR) facility transfers has been of particular interest to Congress, local irrigation districts, and the Administration in recent years. Facility transfers represent an effort to shrink the federal government and shift the responsibilities for ownership into the hands of those who can more efficiently operate and maintain them. As a result of the National Performance Review (Reinventing Government II), BOR, which is part of the Department of the Interior, initiated a program in 1995 to transfer ownership of some of its facilities to non-federal entities. However, to date, the Administration has not presented a legislative proposal for project transfers. During the 105th Congress, two legislatively initiated BOR transfers bills were signed into law that directed the Secretary of the Interior to convey all right, title, and interest of the United States in and to specified project facilities.

Much of the momentum for these transfers comes from local irrigation districts that are seeking title to these projects. The federal government holds title to more than 600 BOR water projects throughout the West. A growing number of these projects are now paid out and operated and maintained by local irrigation districts. The districts seek to have the facilities transferred to them since many of the districts now have the expertise needed to manage the systems and can do so more efficiently than the federal government. BOR has already transferred operation and maintenance responsibilities for about 400 of the projects to local irrigation districts. Under the provisions of Section VI of the Reclamation Act of 1902, title to project facilities remain with the United States unless otherwise provided by Congress, even if project beneficiaries have completed their repayment obligation. Section VI of the Reclamation Act of 1902 states:

The Secretary of the Interior is hereby authorized and directed to use the reclamation fund for the operation and maintenance of all reservoirs and irrigation works constructed under the provisions of this act: *Provided*, That when the payments required by this act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at

their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior: *Provided*, That the title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress.

32 Stat. 389; 43 U.S.C. §§ 491, 498

Many of these projects were constructed in remote locations and at a time when there were no local communities and utilities near the BOR project. Furthermore, many of the States in which the projects were built did not have a sufficient tax base to fund them. However, as the West became more populated, and with the urbanization of these areas, the BOR now owns and operates public facilities that would be owned, operated, and funded by private corporations or local government agencies if they were constructed today.

Legislative initiatives to transfer the title of BOR facilities have been in play for many years. Two bills enacted during the 105th Congress and signed into law directed the Secretary of Interior to convey all right, title, and interest of the United States in and to selected project features to the Burley Irrigation District and the Canadian River Project. See Public Law 105–351 and Public Law 105–316. In addition, Title XIV of Public Law 102–575 directed the Secretary to transfer the Rio Grande Project in New Mexico to the local irrigation district, once the local irrigation district consented to amend a contract.

Background of the Gila Project

The Gila Project in western Arizona was originally authorized for construction under a finding of feasibility approved by the President on June 21, 1937, pursuant to section 4 of the Act of June 25, 1910 (36 Stat. 836), and subsection B of section 4 of the Act of December 5, 1924 (43 Stat. 701). It was reauthorized and reduced in area to 115,000 acres by the Act of July 30, 1947 (61 Stat. 628). Further reduction in irrigable acreage of the Wellton-Mohawk Division was authorized by the Colorado River Basin Salinity Control Act of June 24, 1974 (88 Stat. 266). Project construction was begun in 1936, and the first water was available for irrigation from the Gila Gravity main canal on November 4, 1943. Construction of the Wellton-Mohawk Division features was started in August 1949. On May 1, 1952, water from the Colorado River was turned onto the Wellton-Mohawk fields for the first time. The project was essentially complete by June 30, 1957. The Wellton-Mohawk Irrigation and Drainage District operates the irrigation facilities in the Wellton-Mohawk Division.

Wellton-Mohawk has fully repaid its project costs and was provided a certificate of discharge on November 27, 1991. On July 10, 1998, the District and BOR signed a Memorandum of Agreement that covers the details of the transfer of title. It includes transfer of lands between the federal government and the District, including the acquisition of additional lands for exchange. All transfers will be at fair market value. No change in project operation is contemplated by the transfer and the District will continue to limit ir-

rigated acreage to 62,875 as provided in Public Law 93-320. The transfer would include all facilities and works for which full repayment has been made.

COMMITTEE ACTION

H.R. 841 was introduced on February 24, 1999, by Congressman Ed Pastor (D-AZ). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On March 11, 1999, the Subcommittee met to mark up the bill. Congressman John Doolittle offered an amendment to the bill that would direct the Secretary of Interior, rather than authorize, to transfer the project works. The amendment was adopted by voice vote. The bill was then ordered favorably reported to the Full Committee by voice vote. On March 17, 1999, the Full Resources Committee met to consider the bill. No amendments were offered and the bill was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of the bill is the Wellton-Mohawk Transfer Act.

Section 2. Transfer

The section directs the Secretary of Interior to convey certain facilities of the Gila Project, Arizona, to the Wellton-Mohawk Irrigation and Drainage District pursuant to a Memorandum of Agreement (MOA) between the Bureau and the District that was signed on July 10, 1998. The MOA states:

The goal of Reclamation and the District is that within one hundred eighty days of the execution of the Title Transfer Contract, the Secretary shall convey to the District all right, title and interest of the United States to the facilities, works and lands to be conveyed and transferred to the District; provided, that such transfer is not otherwise directed by Congress.

Furthermore, pursuant to the MOA, the bill authorizes the Secretary to sell adjacent withdrawn lands and related lands to the District based on a fair market valuation. No change in project operation is contemplated by the transfer and the District will continue to limit irrigated acreage to 62,875 as provided in Public Law 93-320. The transfer would include all facilities and works for which full repayment has been made. On November 7, 1991, the Bureau certified that full repayment had been made for all water delivery and drainage works.

Additionally, the Committee expects that title transfer should occur in an open and fair public process within the affected community. The Committee does not want to establish a one size fits all statutory procedure that would limit a State, or community from developing a process to address issues surrounding each individual project, and how it should be transferred. Furthermore, it is not the intent of the Committee to use the National Environmental Policy Act as a means to stall, or halt a project from transferring

to a local entity. If environmental documentation is needed to facilitate a transfer, it is the intent of the Committee to have it done in a timely manner.

Section 3. Water and power contracts

This section requires the Secretary of the Interior and the Secretary of Energy to continue to provide water and power as provided under existing contracts and as provided under the MOA.

Section 4. Savings

This Section clarifies the application of the Colorado River Basin Salinity Control Act (43 U.S.C. 1571 et seq.).

Section 5. Report

This Section requires the Secretary to issue a report if the transfer has not occurred by July 1, 2000.

Section 6. Authorization

This Section authorizes an appropriation of such sums as may be necessary.

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 and Article IV, Section 3 of the Constitution of the United States grant 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, enactment of the bill would increase offsetting receipts by approximately \$2 million from the sale of federal land.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII 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 on this bill.

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, March 18, 1999.

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. 841, the Wellton-Mohawk Transfer Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Gary Brown (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 841—Wellton-Mohawk Transfer Act

Summary: H.R. 841 would authorize the appropriation of such sums as are necessary to implement a memorandum of agreement between the Bureau of Reclamation (the bureau) and the Wellton-Mohawk Irrigation and Drainage District (the district) regarding transfer of the federally owned Gila Irrigation Project to the district. The bill would give each party the discretion to exchange with each other, or purchase at fair market value, lands relating to the project.

CBO estimates that implementing this bill would result in additional spending of about \$500,000 by the bureau over the 2000-2001 period, assuming appropriation of the necessary amounts. In addition, CBO estimates that the district would pay a minimum of about \$2 million in 2002 for certain federally owned lands. Because the bill would affect direct spending by increasing offsetting receipts from the sale of federal land, pay-as-you-go procedures would apply.

H.R. 841 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Local governments might incur some costs as a result of the bill's enactment, but these costs would be voluntary.

Estimated cost to the federal government: The estimated budgetary impact of H.R. 841 is shown in the following table. The cost of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
Changes in direct spending: ¹						
Estimated budget authority	0	0	0	-2	0	0
Estimated outlays	0	0	0	-2	0	0

¹Implementing the bill would also affect spending subject to appropriation, but in amounts less than \$500,000 a year (for 2000 and 2001).

Basis of estimate: For the purpose of this estimate, CBO assumes that H.R. 841 will be enacted by the end of fiscal year 1999 and that the estimated amounts necessary to implement the bill will be appropriated for fiscal year 2000. Based on information from the bureau, CBO estimates that the federal share of costs for implementing the transfer of the federally owned irrigation project would be about \$500,000, spread over fiscal years 2000 and 2001. These funds would pay for necessary environmental studies and legal transactions. The estimate of outlays is based on historical rates of spending for these activities.

H.R. 841 would give the district and the bureau the discretion to exchange, or purchase at fair market value, lands relating to the project. Based on information provided by the bureau, CBO estimates that the district would pay a minimum of about \$2 million in 2002 for certain lands. That payment would be recorded as offsetting receipts (a credit against direct spending). Based on information provided by the bureau, CBO estimates that the government would not forgo any income by completing these transactions. In addition, we estimate that completing the land transfers would have no significant impact on spending subject to appropriation.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	0	0	0	-2	0	0	0	0	0	0	0
Changes in receipts	Not applicable										

Under the Balanced Budget Act of 1997, proceeds from nonroutine asset sales (sales that are not authorized under current law) may be counted for pay-as-you-go purposes only if the sale would entail no financial cost to the government. Based on information provided by the bureau, CBO estimates that the sale proceeds would exceed any net revenues currently projected to accrue from these lands; therefore, selling these assets would result in a net savings for pay-as-you-go purposes.

Estimated impact on state, local and tribal governments: H.R. 841 contains no intergovernmental mandates as defined in UMRA. The district has agreed to pay a share of the costs to implement this transfer as part of its memorandum of agreement with the bureau. These costs, which CBO estimates would equal about \$1 mil-

lion, were voluntarily accepted by the district as part of that agreement. The decision to purchase land from the federal government also would be voluntary on the part of the district.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On March 11, 1999, CBO prepared an estimate for S. 356, the Wellton-Mohawk Transfer Act, as ordered reported by the Senate Committee on Energy and Natural Resources on March 4, 1999. The two bills are similar and the estimates are the same.

Estimate prepared by: Federal costs: Gary Brown. Impact on State, local, and tribal governments: Marjorie Miller.

Estimate approved by: Robert A. Sunshine, 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 State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

