

## Calendar No. 525

111TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 111-255

### C.C. CRAGIN DAM AND RESERVOIR

AUGUST 5, 2010.—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. 1080]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1080) to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends 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. LAND WITHDRAWAL AND RESERVATION FOR CRAGIN PROJECT.

(a) DEFINITIONS.—In this section:

(1) COVERED LAND.—The term “covered land” means the parcel of land consisting of approximately 512 acres, as generally depicted on the Map, that consists of—

(A) approximately 300 feet of the crest of the Cragin Dam and associated spillway;

(B) the reservoir pool of the Cragin Dam that consists of approximately 250 acres defined by the high water mark; and

(C) the linear corridor.

(2) CRAGIN PROJECT.—The term “Cragin Project” means—

(A) the Cragin Dam and associated spillway;

(B) the reservoir pool of the Cragin Dam; and

(C) any pipelines, linear improvements, buildings, hydroelectric generating facilities, priming tanks, transmission, telephone, and fiber optic lines, pumps, machinery, tools, appliances, and other District or Bureau of Reclamation structures and facilities used for the Cragin Project.

(3) DISTRICT.—The term “District” means the Salt River Project Agricultural Improvement and Power District.

(4) LAND MANAGEMENT ACTIVITY.—The term “land management activity” includes, with respect to the covered land, the management of—

(A) recreation;

(B) grazing;

- (C) wildland fire;
  - (D) public conduct;
  - (E) commercial activities that are not part of the Cragin Project;
  - (F) cultural resources;
  - (G) invasive species;
  - (H) timber and hazardous fuels;
  - (I) travel;
  - (J) law enforcement; and
  - (K) roads and trails.
- (5) LINEAR CORRIDOR.—The term “linear corridor” means a corridor of land comprising approximately 262 acres—
- (A) the width of which is approximately 200 feet;
  - (B) the length of which is approximately 11.5 miles;
  - (C) of which approximately 0.7 miles consists of an underground tunnel;
- and
- (D) that is generally depicted on the Map.
- (6) MAP.—The term “Map” means sheets 1 and 2 of the maps entitled “C.C. Cragin Project Withdrawal” and dated June 17, 2008.
- (7) SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.
- (b) WITHDRAWAL OF COVERED LAND.—Subject to valid existing rights, the covered land is permanently withdrawn from all forms of—
- (1) entry, appropriation, or disposal under the public land laws;
  - (2) location, entry, and patent under the mining laws; and
  - (3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.
- (c) MAP.—
- (1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, in coordination with the Secretary, shall prepare a map and legal description of the covered land.
  - (2) FORCE AND EFFECT.—The map and legal description prepared under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors.
  - (3) AVAILABILITY.—The map and legal description prepared under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service and Bureau of Reclamation.
- (d) JURISDICTION AND DUTIES.—
- (1) JURISDICTION OF THE SECRETARY OF THE INTERIOR.—
    - (A) IN GENERAL.—Except as provided in subsection (e), the Secretary of the Interior, acting through the Commissioner of Reclamation, shall have exclusive administrative jurisdiction to manage the Cragin Project in accordance with this Act and section 213(i) of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3533) on the covered land.
    - (B) INCLUSION.—Notwithstanding subsection (e), the jurisdiction under subparagraph (A) shall include access to the Cragin Project by the District.
  - (2) RESPONSIBILITY OF SECRETARY OF THE INTERIOR AND DISTRICT.—In accordance with paragraphs (4)(B) and (5) of section 213(i) of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3533), the Secretary of the Interior and the District shall—
    - (A) ensure the compliance of each activity carried out at the Cragin Project with each applicable Federal environmental law (including regulations); and
    - (B) coordinate with appropriate Federal agencies in ensuring the compliance under subparagraph (A).
- (e) LAND MANAGEMENT ACTIVITIES ON COVERED LAND.—
- (1) IN GENERAL.—The Secretary shall have administrative jurisdiction over land management activities on the covered land and other appropriate management activities pursuant to an agreement under paragraph (2) that do not conflict with, or adversely affect, the operation, maintenance, or replacement (including repair) of the Cragin Project, as determined by the Secretary of the Interior.
  - (2) INTERAGENCY AGREEMENT.—The Secretary and the Secretary of the Interior, in coordination with the District, may enter into an agreement under which the Secretary may—
    - (A) undertake any other appropriate management activity in accordance with applicable law that will improve the management and safety of the covered land and other land managed by the Secretary if the activity does not conflict with, or adversely affect, the operation, maintenance, or re-

placement (including repair) of the Cragin Project, as determined by the Secretary of the Interior; and

(B) carry out any emergency activities, such as fire suppression, on the covered land.

#### PURPOSE

The purpose of S. 1080 is to clarify the administrative jurisdiction of the Secretaries of the Interior and Agriculture with respect to certain Federal land in the State of Arizona.

#### BACKGROUND AND NEED

The C.C. Cragin Project (“Project”) is a reclamation project located on approximately 512 acres of land within the Coconino and Tonto National Forests in Arizona. The Project consists of the C.C. Cragin Dam and Reservoir, an approximately 11.5-mile utility corridor containing an electric transmission line and a water pipeline, and other associated facilities. The project was acquired by the United States pursuant to section 213(i) of the Arizona Water Settlements Act of 2004, Public Law 108–451, which authorized the Secretary of the Interior to accept title to the C.C. Cragin Dam and Reservoir and directed the Salt River Valley Water Users’ Association and the Salt River Project Agricultural Improvement and Power District (“District”) to be responsible for the care, operation, and maintenance of the Project pursuant to a 1917 contract between the United States and the Association.

The Bureau of Reclamation and the Forest Service generally coordinate the administration of National Forest System land on which Bureau of Reclamation projects are located pursuant to a 1948 Memorandum of Understanding. The District, the Forest Service, and the Bureau of Reclamation entered into a more specific agreement in 1979 relating to the management of the Salt River Project within the Tonto National Forest. However, the acquisition of the Project pursuant to the 2004 Act resulted in a unique situation that neither document adequately addressed.

Legislation is needed to clarify the respective roles of the Bureau of Reclamation and the Forest Service with respect to the management of the Project and the Federal lands it occupies. S. 1080 confers exclusive administrative jurisdiction to the Bureau of Reclamation to manage the Project, while conferring administrative jurisdiction over certain land management activities on the Federal lands occupied by the Project to the Forest Service.

#### LEGISLATIVE HISTORY

On May 19, 2009, Senator McCain and Senator Kyl introduced S. 1080. The subcommittee on Water and Power held a hearing on S. 1080 on July 23, 2009 (S. Hrg. 111–91). The Committee on Energy and Natural Resources considered the bill and adopted an amendment in the nature of a substitute at its business meeting on June 16, 2010. The Committee ordered S. 1080 favorably reported with an amendment in the nature of a substitute at its business meeting on June 21, 2010.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on June 21, 2010, by voice vote of a quorum present,

recommends that the Senate pass S. 1080, if amended as described herein.

#### COMMITTEE AMENDMENT

During its consideration of S. 1080, the Committee adopted an amendment in the nature of a substitute. The amendment includes a number of technical changes and new provisions that specifically define the administrative jurisdiction of the Forest Service. The amendment is explained in detail in the section-by-section analysis, below.

#### SECTION-BY-SECTION ANALYSIS

*Section 1(a)* defines key terms used in the bill.

Subsection (b) permanently withdraws the covered land, subject to valid existing rights, from all forms of entry, appropriation, or disposal under the public land laws, entry and patent under the mining laws, and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

Subsection (c) requires the Secretary of the Interior, in coordination with the Secretary of Agriculture, to prepare a map and legal description of the covered land.

Subsection (d) confers exclusive administrative jurisdiction, except as provided in subsection (e), to the Secretary of the Interior, acting through the Commissioner of Reclamation, to manage the Project on the covered land. Included in the Secretary of the Interior's administrative jurisdiction is authority to control Project access by the District on the covered land. This subsection also states that the Secretary of the Interior and the District shall ensure compliance with applicable Federal environmental laws and regulations in operating, maintaining, or replacing the Project.

Subsection (e) confers administrative jurisdiction to the Secretary of Agriculture over specific land management activities on the covered land that do not conflict with or adversely affect the operation, maintenance or replacement of the Project. Paragraph (2) authorizes the Secretaries to enter into an agreement regarding additional management activities that may be undertaken by the Secretary of Agriculture, including emergency activities such as fire suppression.

#### COST AND BUDGETARY CONSIDERATIONS

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

*S. 1080—A bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir*

S. 1080 would clarify the exclusive administrative jurisdiction of the Secretary of the Interior to manage the C.C. Cragin Dam and Reservoir, an area consisting of approximately 512 acres of land within the Coconino and Tonto National Forests in northern Arizona. Based on information from the Bureau of Reclamation and the Forest Service, CBO estimates that enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

The Arizona Water Settlements Act of 2004 transferred the C.C. Cragin Dam, Reservoir, and 10 miles of pipeline to the Bureau of Reclamation. The legislation did not explicitly divest the Forest Service from managing the underlying National Forest lands, resulting in uncertainty over which agency has the authority to approve management activities for the Cragin Project. The Cragin project involves the operation and maintenance of 10 miles of pipeline and the construction of 14.5 miles of additional pipeline to deliver water to Northern Gila County. Currently, the project is subject to the approval requirements of both agencies. The legislation would clarify the authority of the Bureau of Reclamation to manage the project.

S. 1080 contains no intergovernmental mandates or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was approved by Peter H. Fontaine, 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. 1080.

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 S. 1080, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 1080, 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

The views of the Administration were included in testimony received by the Committee at the hearing on S. 1080 on July 23, 2009, which is printed below.

#### STATEMENT OF MICHAEL L. CONNOR, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairwoman and Members of the Subcommittee, I am Mike Connor, Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to be here today on behalf of the Department of the Interior (Department) to discuss S. 1080, the Land Withdrawal and Reservation for C.C. Cragin Dam and Reservoir. The legislation seeks to clarify Federal jurisdiction with respect to the C.C. Cragin project, which includes a dam, reservoir, and 11.5-mile utility corridor containing a transmission line and high-

pressure pipeline. The project is located nearly entirely within the Coconino National Forest in north-central Arizona.

The Administration appreciates the interest of the Salt River Project Agricultural Improvement and Power District (SRP) to reach prompt resolution of the management responsibilities of the Departments of Agriculture and the Interior, and understands SRP's interest in promoting this legislation. However, the Administration would like to pursue an administrative resolution among the parties. The two federal agencies (Reclamation and the Forest Service) have recently reengaged on this issue and would like an opportunity to explore further discussions with SRP to that end. As this effort proceeds, we would commit to keep the Committee updated on the progress of those discussions.

Reclamation and the Forest Service hope to be able to negotiate and enter into an agreement with SRP for operation and maintenance of the Cragin project in a manner that will fulfill the roles, obligations, and responsibilities of all three parties. This approach would accommodate Reclamation and SRP by ceding full control of the lands underlying the dam and reservoir to Reclamation and by expressly acknowledging SRP's right to operate and maintain the dam, reservoir, and utility corridor pursuant to the Arizona Water Settlement Act (AWSA, Public Law 108-451) and the 1917 agreement between the Department of the Interior and SRP. In addition, this approach would accommodate the Forest Service by allowing the agency to manage the lands underlying the utility corridor for recreation, wildfire, law enforcement, and other activities consistent with the Forest Service's authorities and responsibilities, the AWSA, the 1917 agreement, and the existing right-of-way over the corridor held by another party. In particular, this approach would allow for integrated management of tens of thousands of acres of ecosystems across National Forest System lands underlying and adjacent to the Cragin project, including watershed, wildlife habitat, range, and vegetation management.

The Administration recognizes that S. 1080 is intended to hasten the development of a workable management agreement. The Administration believes, however, that a sound approach for future management of the project could be arrived upon through further negotiations. Both Departments are committed to working expeditiously with SRP to ensure needed work for the project, including both emergency and non-emergency repairs and replacement of improvements.

Reclamation's long-standing experience working with SRP over nearly a century has been very productive. SRP has proven to be a responsible and reliable operator and caretaker of U.S. interests and resources. Reclamation and SRP have nearly a century of responsible stewardship in regard to both the technical operation of project works and protection of the ancillary natural resources. It is our hope

that combining that history with the Forest Service's land management authorities and expertise would result in even more effective stewardship.

That concludes my prepared remarks. 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 S. 1080, as ordered reported.

