

## Calendar No. 606

107TH CONGRESS }  
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SENATE

{ REPORT  
107-287

### LEASE LOT CONVEYANCE ACT OF 2002

SEPTEMBER 17, 2002.—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 H.R. 706]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 706) to direct the Secretary of the Interior to convey certain properties in the vicinity of the Elephant Butte Reservoir and the Caballo Reservoir, New Mexico, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

#### PURPOSE OF THE MEASURE

The purpose H.R. 706 is to direct the Secretary of the Interior to convey, for fair market value, property comprising 403 cabin sites within the Rio Grande Reclamation Project to the Elephant Butte/Caballo Leaseholders Association, Inc., so that the properties can then be conveyed to individual leaseholders.

#### BACKGROUND AND NEED

The Rio Grande Reclamation Project was authorized by Congress in 1905 (33 Stat. 814) as one of the first projects initiated under the Reclamation Act of 1902. In the late 1940s, the Bureau of Reclamation, which had acquired and reserved a large amount of land for the project, began to lease a number of small lots along the shoreline of Elephant Butte and Caballo Reservoirs to the public on a short-term basis. Ultimately, the leaseholders began to make significant and permanent improvements to the land in order to secure the right to continued use of the lots. The leaseholders, in order to ensure their continued use of the lots and to protect the value of their improvements, now seek to acquire their respective properties for the fair market value. H.R. 706 would address this

concern by enabling the leased parcels to be conveyed to the individual lessees.

#### LEGISLATIVE HISTORY

H.R. 706 was introduced by Representative Skeen on February 14, 2001. The bill was passed by the House of Representatives on March 19, 2002. The Subcommittee on Water and Power held a hearing on H.R. 706 on June 6, 2002. At the business meeting on July 31, 2002, the Committee on Energy and Natural Resources ordered H.R. 706, favorably reported.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 31, 2002, by a voice vote of a quorum present, recommends that the Senate pass H.R. 706, as described herein.

#### SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the “Lease Lot Conveyance Act of 2002.”

Section 2 contains three findings by Congress related to the Act.

Section 3 defines terms used in the Act.

Section 4, subsection (a) directs the Secretary of the Interior to convey to the Elephant Butte/Caballo Leaseholders Association, Inc. (purchaser), all right, title, and interest of the United States in and to all real property (easements included), comprising 403 cabin sites under the administrative jurisdiction of the Bureau of Reclamation and located along the Elephant Butte and Caballo Reservoirs.

Subsection (b) requires the purchaser to pay the United States the fair market value of the properties conveyed under the Act.

Section 5, subsection (a) requires the Secretary to impose certain conditions for the conveyance including: (1) the purchaser shall grant to each individual lessee an option to purchase the property at fair market value or to continue leasing the property; and (2) the purchaser shall pay reasonable administrative costs incurred by the Secretary that are incident to the conveyance.

Section (b) directs the Secretary to establish certain use restrictions to maintain the unique character of the area in the vicinity of the Reservoirs that are appurtenant to, and run with each property, and are binding upon each subsequent owner of each property. The restrictions must ensure that existing public access to and along the Reservoirs’ shoreline is not obstructed; that adequate public access to and along the Reservoirs’ shoreline is maintained; and that the Secretary and Irrigation Districts’ operation of the Reservoirs does not result in liability for either the United States or the Irrigation Districts for damages incurred as a result of such operation including damages for any loss of or enjoyment of the property; and damages resulting from modifications or construction of any Reservoir dam.

Subsection (c) directs the Secretary to convey the properties under this Act as soon as possible after the date of enactment and in accordance with all applicable law. If the conveyance is not completed within one year of the date of enactment of this Act, the Secretary shall submit a report to the Congress explaining the reasons

for not completing the conveyance and the proposed date of completion.

Subsection (d) states that the terms of the conveyance shall authorize the purchaser to require each lessee to reimburse the purchaser for a proportionate share of the costs incurred in completing the transactions, including any interest charges.

Section 6 requires any lessee having a claim against the purchaser after the conveyance, to promptly give written notice of the claim to the purchaser within 20 days after the date the lessee knew or should have known of such claim, or lose any right to relief under the claim. If the lessee and purchaser are unable to resolve the claim by mediation, the matter shall be resolved by binding arbitration.

Section 7 states that no conveyance under the Act will limit the authority or ability of the Secretary to fulfill the duties of the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 6, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 706, the Lease Lot Conveyance Act of 2002.

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

Sincerely,

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

Enclosure.

#### *H.R. 706—Lease Lot Conveyance Act of 2002*

Summary: H.R. 706 would direct the Secretary of the Interior to convey 403 cabin sites that are located along the shores of the reservoirs in Elephant Butte State Park and Caballo State Park in New Mexico to the Elephant Butte/Caballo Leaseholders Association. As a condition of conveyance, the association would pay the fair market value of the 403 sites, minus any structural improvements that have been made by current leaseholders. In addition, the association would have to reimburse the federal government for administrative costs associated with the conveyance.

Based on information from the Bureau of Reclamation, CBO estimates that selling the properties under H.R. 706 would result in additional receipts of about \$20 million over the 2003–2007 period. Because the legislation would affect direct spending, pay-as-you-go procedures would apply.

H.R. 706 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The state of New Mexico manages these leases and retains the lease payments to cover their costs. Should the property be sold, the state would lose the lease income but also would benefit from reduced costs. The net impact to the state probably would not be substantial.

**Estimated cost to the Federal Government:** The estimated budgetary impact of H.R. 706 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
CHANGES IN DIRECT SPENDING						
Estimated budget authority .....	0	0	– 20	0	0	0
Estimated outlays .....	0	0	– 20	0	0	0

**Basis of estimate:** For this estimate, CBO assumes that H.R. 706 will be enacted by the start of fiscal year 2003 and that the conveyance of the properties would occur in 2004. According to both the Elephant Butte/Caballo Leaseholders Association and the Bureau of Reclamation, it will take at least one year to survey and appraise the property before the land would convey.

Based on information provided by the Bureau of Reclamation, CBO estimates that the association would purchase the property, including easements and roads, from the federal government for about \$40,000 to \$60,000 per lot, for a total of about \$20 million for the 403 cabin sites.

Currently, these properties do not generate any receipts for the federal government. The state of New Mexico manages the property for recreation and leases the cabin sites to individuals for temporary occupancy. The state uses the revenue generated from the leases for administration and management of the cabin sites and other types of park operations.

**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:

	By fiscal year, in millions of dollars—										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays .....	0	0	— 20	0	0	0	0	0	0	0	0
Changes in receipts .....	Not applicable										

**Intergovernmental and private-sector impact:** H.R. 706 contains no intergovernmental or private-sector mandates as defined in UMRA. The state of New Mexico manages these leases and retains the lease payments to cover their costs. Should the property be sold, the state would lose the lease income but also would benefit from reduced costs. The net impact to the state probably would not be substantial.

**Previous CBO estimate:** On March 5, 2002, CBO prepared a cost estimate for H.R. 706 as ordered reported by the House Committee

on Resources on February 27, 2002. The two versions of this legislation are identical, as are our cost estimates.

Estimate prepared by: Federal costs: Julie Middleton; impact on state, local, and tribal governments: Marjorie Miller; impact on the private sector: Lauren Marks.

Estimate 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 H.R. 706. 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. 706.

#### EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendation relating to H.R. 706 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, DC, August 8, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This letter responds to your request for the views of the Department of the Interior on H.R. 706, the Elephant Butte Lease Lot Conveyance Act, as passed by the House of Representatives and referred to the Senate (RFS). This confirms the testimony of Mark A. Limbaugh, Director, External & Intergovernmental Affairs, Bureau of Reclamation, before the Committee on June 6, 2002.

The Department has no objections to H.R. 706 as passed by the House of Representatives and referred to the Senate (RFS).

H.R. 706 provides for the transfer and disposal of 403 residential leased lots located on federal properties at Elephant Butte and Caballo Reservoirs near Truth or Consequences, New Mexico. In the late 1940s, small quarter-acre and half-acre lots along the shoreline of Elephant Butte and Caballo Reservoirs were made available for the public to lease and occupy on a short-term basis. Individuals were permitted to place tents, campers, or construct temporary structures on the site for the duration of their stay. Although the original intent of the lease lot program was to provide lots for part-time recreational use, over time permanent structures and other improvements have replaced initial recreational facilities with many of the structures now used as full-time residences.

The Department supports efforts to convey certain Reclamation lands and facilities to private entities—in particular, those that are no longer necessary for managing either the dam or the recreation

areas. However, the Department did not support H.R. 706 as introduced. In testimony before the House Resources Committee on December 10, 2001, we raised several concerns with H.R. 706 as introduced; for example, the method by which fair market value would be determined, disposition of proceeds from the sale of the leased lots, and compliance with applicable laws prerequisite to conveyance.

Reclamation staff subsequently worked with the House Resources Committee to develop acceptable legislative language. The resulting Amendment in the Nature of a Substitute, offered by Representative Calvert, addressed our most significant concerns. Ultimately, those changes were adopted and passed by the House of Representatives on March 19, 2002, and are reflected in H.R. 706(RFS).

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN W. KEYS III,  
*Commissioner, Bureau of Reclamation.*

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 H.R. 706, as ordered reported.