

## Calendar No. 231

110TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
110-101

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### BAINBRIDGE ISLAND JAPANESE AMERICAN MONUMENT ACT OF 2007

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JUNE 26, 2007.—Ordered to be printed

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

### R E P O R T

[To accompany H.R. 161]

The Committee on the Energy and Natural Resources, to which was referred the Act (H.R. 161), to adjust the boundary of the Minidoka Internment National Monument to include the Nidoto Nai Yoni Memorial in Bainbridge Island, Washington, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Minidoka National Historic Site Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—BAINBRIDGE ISLAND JAPANESE AMERICAN MEMORIAL

Sec. 101. Boundary adjustment.

Sec. 102. Administration of memorial.

#### TITLE II—ESTABLISHMENT OF MINIDOKA NATIONAL HISTORIC SITE

Sec. 201. Definitions.

Sec. 202. Establishment.

Sec. 203. Boundary of Historic Site.

Sec. 204. Land transfers and acquisition.

Sec. 205. Administration.

Sec. 206. Disclaimer of interest in land.

TITLE III—CONVEYANCE OF AMERICAN FALLS RESERVOIR DISTRICT  
NUMBER 2

- Sec. 301. Definitions.
- Sec. 302. Authority to convey title.
- Sec. 303. Compliance with other laws.
- Sec. 304. Revocation of withdrawals.
- Sec. 305. Liability.
- Sec. 306. Future benefits.
- Sec. 307. National Environmental Policy Act.
- Sec. 308. Payment.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

- Sec. 401. Authorization of appropriations.

**SEC. 2. DEFINITIONS.**

In this Act:

- (1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (2) STATE.—The term “State” means the State of Idaho.

**TITLE I—BAINBRIDGE ISLAND JAPANESE  
AMERICAN MEMORIAL**

**SEC. 101. BOUNDARY ADJUSTMENT.**

(a) IN GENERAL.—The boundary of the Minidoka Internment National Monument, located in the State and established by Presidential Proclamation 7395 of January 17, 2001, is adjusted to include the Nidoto Nai Yoni (“Let it not happen again”) memorial (referred to in this title as the “memorial”), which—

- (1) commemorates the Japanese Americans of Bainbridge Island, Washington, who were the first to be forcibly removed from their homes and relocated to internment camps during World War II under Executive Order No. 9066; and
- (2) consists of approximately 8 acres of land owned by the City of Bainbridge Island, Washington, as depicted on the map entitled “Bainbridge Island Japanese American Memorial”, numbered 194/80,003, and dated September, 2006.

(b) MAP.—The map referred to in subsection (a) shall be kept on file and made available for public inspection in the appropriate offices of the National Park Service.

**SEC. 102. ADMINISTRATION OF MEMORIAL.**

(a) IN GENERAL.—The memorial shall be administered as part of the Minidoka Internment National Monument.

(b) AGREEMENTS.—To carry out this title, the Secretary may enter into agreements with—

- (1) the City of Bainbridge Island, Washington;
- (2) the Bainbridge Island Metropolitan Park and Recreational District;
- (3) the Bainbridge Island Japanese American Community Memorial Committee;
- (4) the Bainbridge Island Historical Society; and
- (5) other appropriate individuals or entities.

(c) IMPLEMENTATION.—To implement an agreement entered into under subsection (a), the Secretary may—

- (1) enter into a cooperative management agreement relating to the operation and maintenance of the memorial with the City of Bainbridge Island, Washington, in accordance with section 3(l) of Public law 91–383 (16 U.S.C. 1a–2(l)); and
- (2) enter into cooperative agreements with, or make grants to, the City of Bainbridge Island, Washington, and other non-Federal entities for the development of facilities, infrastructure, and interpretive media at the memorial, if any Federal funds provided by a grant or through a cooperative agreement are matched with non-Federal funds.

(d) ADMINISTRATION AND VISITOR USE SITE.—The Secretary may operate and maintain a site in the State of Washington for administrative and visitor use purposes associated with the Minidoka Internment National Monument.

## TITLE II—ESTABLISHMENT OF MINIDOKA NATIONAL HISTORIC SITE

### SEC. 201. DEFINITIONS.

In this title:

(1) **HISTORIC SITE.**—The term “Historic Site” means the Minidoka National Historic Site established by section 202(a).

(2) **MINIDOKA MAP.**—The term “Minidoka Map” means the map entitled “Minidoka National Historic Site, Proposed Boundary Map”, numbered 194/80,004, and dated December 2006.

### SEC. 202. ESTABLISHMENT.

(a) **NATIONAL HISTORIC SITE.**—In order to protect, preserve, and interpret the resources associated with the former Minidoka Relocation Center where Japanese Americans were incarcerated during World War II, there is established the Minidoka National Historic Site.

(b) **MINIDOKA INTERNMENT NATIONAL MONUMENT.**—

(1) **IN GENERAL.**—The Minidoka Internment National Monument (referred to in this title as the “Monument”), as described in Presidential Proclamation 7395 of January 17, 2001, is abolished.

(2) **INCORPORATION.**—The land and any interests in the land at the Monument are incorporated within, and made part of, the Historic Site.

(3) **FUNDS.**—Any funds available for purposes of the Monument shall be available for the Historic Site.

(c) **REFERENCES.**—Any reference in a law (other than in this title), map, regulation, document, record, or other paper of the United States to the “Minidoka Internment National Monument” shall be considered to be a reference to the “Minidoka National Historic Site”.

### SEC. 203. BOUNDARY OF HISTORIC SITE.

(a) **BOUNDARY.**—The boundary of the Historic Site shall include—

(1) approximately 292 acres of land, as depicted on the Minidoka Map; and

(2) approximately 8 acres of land, as described in section 101(a)(2).

(b) **AVAILABILITY OF MAP.**—The Minidoka Map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

### SEC. 204. LAND TRANSFERS AND ACQUISITION.

(a) **TRANSFER FROM BUREAU OF RECLAMATION.**—Administrative jurisdiction over the land identified on the Minidoka Map as “BOR parcel 1” and “BOR parcel 2”, including any improvements on, and appurtenances to, the parcels, is transferred from the Bureau of Reclamation to the National Park Service for inclusion in the Historic Site.

(b) **TRANSFER FROM BUREAU OF LAND MANAGEMENT.**—Administrative jurisdiction over the land identified on the Minidoka Map as “Public Domain Lands” is transferred from the Bureau of Land Management to the National Park Service for inclusion in the Historic Site, and the portions of any prior Secretarial orders withdrawing the land are revoked.

(c) **ACQUISITION AUTHORITY.**—The Secretary may acquire any land or interest in land located within the boundary of the Historic Site, as depicted on the Minidoka Map, by—

(1) donation;

(2) purchase with donated or appropriated funds from a willing seller; or

(3) exchange.

### SEC. 205. ADMINISTRATION.

(a) **IN GENERAL.**—The Historic Site shall be administered in accordance with—

(1) this Act; and

(2) laws (including regulations) generally applicable to units of the National Park System, including—

(A) the National Park Service Organic Act (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(b) **INTERPRETATION AND EDUCATION.**—

(1) **IN GENERAL.**—The Secretary shall interpret—

(A) the story of the relocation of Japanese Americans during World War II to the Minidoka Relocation Center and other centers across the United States;

(B) the living conditions of the relocation centers;

(C) the work performed by the internees at the relocation centers; and

(D) the contributions to the United States military made by Japanese Americans who had been interned.

(2) ORAL HISTORIES.—To the extent feasible, the collection of oral histories and testimonials from Japanese Americans who were confined shall be a part of the interpretive program at the Historic Site.

(3) COORDINATION.—The Secretary shall coordinate the development of interpretive and educational materials and programs for the Historic Site with the Manzanar National Historic Site in the State of California.

(c) BAINBRIDGE ISLAND JAPANESE AMERICAN MEMORIAL.—The Bainbridge Island Japanese American Memorial shall be administered in accordance with section 102.

(d) CONTINUED AGRICULTURAL USE.—In keeping with the historical use of the land following the decommission of the Minidoka Relocation Center, the Secretary may issue a special use permit or enter into a lease to allow agricultural uses within the Historic Site under appropriate terms and conditions, as determined by the Secretary.

**SEC. 206. DISCLAIMER OF INTEREST IN LAND.**

(a) IN GENERAL.—The Secretary may issue to Jerome County, Idaho, a document of disclaimer of interest in land for the parcel identified as “Tract No. 2”—

(1) in the final order of condemnation, for the case numbered 2479, filed on January 31, 1947, in the District Court of the United States, in and for the District of Idaho, Southern Division; and

(2) on the Minidoka Map.

(b) PROCESS.—The Secretary shall issue the document of disclaimer of interest in land under subsection (a) in accordance with section 315(b) of Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745(b)).

(c) EFFECT.—The issuance by the Secretary of the document of disclaimer of interest in land under subsection (a) shall have the same effect as a quit-claim deed issued by the United States.

## **TITLE III—CONVEYANCE OF AMERICAN FALLS RESERVOIR DISTRICT NUMBER 2**

**SEC. 301. DEFINITIONS.**

In this title:

(1) AGREEMENT.—The term “Agreement” means Agreement No. 5-07-10-L1688 between the United States and the District, entitled “Agreement Between the United States and the American Falls Reservoir District No. 2 to Transfer Title to the Federally Owned Milner-Gooding Canal and Certain Property Rights, Title and Interest to the American Falls Reservoir District No. 2”.

(2) DISTRICT.—The term “District” means the American Falls Reservoir District No. 2, located in Jerome, Lincoln, and Gooding Counties, of the State.

**SEC. 302. AUTHORITY TO CONVEY TITLE.**

(a) IN GENERAL.—In accordance with all applicable law and the terms and conditions set forth in the Agreement, the Secretary may convey—

(1) to the District all right, title, and interest in and to the land and improvements described in Appendix A of the Agreement, subject to valid existing rights;

(2) to the city of Gooding, located in Gooding County, of the State, all right, title, and interest in and to the 5.0 acres of land and improvements described in Appendix D of the Agreement; and

(3) to the Idaho Department of Fish and Game all right, title, and interest in and to the 39.72 acres of land and improvements described in Appendix D of the Agreement.

(b) COMPLIANCE WITH AGREEMENT.—All parties to the conveyance under subsection (a) shall comply with the terms and conditions of the Agreement, to the extent consistent with this Act.

**SEC. 303. COMPLIANCE WITH OTHER LAWS.**

(a) IN GENERAL.—On conveyance of the land and improvements under section 302(a)(1), the District shall comply with all applicable Federal, State, and local laws (including regulations) in the operation of each facility transferred.

(b) APPLICABLE AUTHORITY.—Nothing in this title modifies or otherwise affects the applicability of Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)) to project water provided to the District.

**SEC. 304. REVOCATION OF WITHDRAWALS.**

(a) **IN GENERAL.**—The portions of the Secretarial Orders dated March 18, 1908, October 7, 1908, September 29, 1919, October 22, 1925, March 29, 1927, July 23, 1927, and May 7, 1963, withdrawing the approximately 6,900 acres described in Appendix E of the Agreement for the purpose of the Gooding Division of the Minidoka Project, are revoked.

(b) **MANAGEMENT OF WITHDRAWN LAND.**—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the withdrawn land described in subsection (a) subject to valid existing rights.

**SEC. 305. LIABILITY.**

(a) **IN GENERAL.**—Subject to subsection (b), upon completion of a conveyance under section 302, the United States shall not be liable for damages of any kind for any injury arising out of an act, omission, or occurrence relating to the land (including any improvements to the land) conveyed under the conveyance.

(b) **EXCEPTION.**—Subsection (a) shall not apply to liability for damages resulting from an injury caused by any act of negligence committed by the United States (or by any officer, employee, or agent of the United States) before the date of completion of the conveyance.

(c) **FEDERAL TORT CLAIMS ACT.**—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code.

**SEC. 306. FUTURE BENEFITS.**

(a) **RESPONSIBILITY OF THE DISTRICT.**—After completion of the conveyance of land and improvements to the District under section 302(a)(1), and consistent with the Agreement, the District shall assume responsibility for all duties and costs associated with the operation, replacement, maintenance, enhancement, and betterment of the transferred land (including any improvements to the land).

(b) **ELIGIBILITY FOR FEDERAL FUNDING.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the District shall not be eligible to receive Federal funding to assist in any activity described in subsection (a) relating to land and improvements transferred under section 302(a)(1).

(2) **EXCEPTION.**—Paragraph (1) shall not apply to any funding that would be available to a similarly situated nonreclamation district, as determined by the Secretary.

**SEC. 307. NATIONAL ENVIRONMENTAL POLICY ACT.**

Before completing any conveyance under this title, the Secretary shall complete all actions required under—

- (1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
- (2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
- (3) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and
- (4) all other applicable laws (including regulations).

**SEC. 308. PAYMENT.**

(a) **FAIR MARKET VALUE REQUIREMENT.**—As a condition of the conveyance under section 302(a)(1), the District shall pay the fair market value for the withdrawn lands to be acquired by them, in accordance with the terms of the Agreement.

(b) **GRANT FOR BUILDING REPLACEMENT.**—As soon as practicable after the date of enactment of this Act, and in full satisfaction of the Federal obligation to the District for the replacement of the structure in existence on that date of enactment that is to be transferred to the National Park Service for inclusion in the Minidoka National Historic Site, the Secretary, acting through the Commissioner of Reclamation, shall provide to the District a grant in the amount of \$52,996, in accordance with the terms of the Agreement.

## **TITLE IV—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

2. Amend the title so as to read: “To include the Japanese American Memorial in Bainbridge Island, Washington, in the Minidoka Internment National Monument, to establish the Minidoka Na-

tional Historic Site, to convey the Gooding Division of the Minidoka Project, and for other purposes.”.

#### PURPOSE OF THE MEASURE

As ordered reported, the purposes of H.R. 161 are to designate the 8-acre Nidoto Nai Yoni (“let it not happen again”) memorial located on Bainbridge Island, Washington, as an addition to the Minidoka Internment National Monument in Idaho; to redesignate the monument as the Minidoka National Historic Site; and to authorize the Bureau of Reclamation to transfer title to certain lands in Idaho to the American Falls Reservoir District No. 2.

#### BACKGROUND AND NEED

The Minidoka Internment National Monument was established by President Clinton by presidential proclamation on January 17, 2001, under the authority of the Antiquities Act. The 75-acre monument, which is located in south-central Idaho, protects historic structures and sites related to the internment of Japanese Americans during World War II.

On February 19, 1942, President Franklin Roosevelt signed Executive Order 9066, which authorized the War Department to establish areas in the United States “from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion.” The War Department established Military Areas No. 1 and 2, which encompassed the western coastal States and the southern half of Arizona, from which Japanese Americans were forced to leave their homes. Initially voluntary resettlement to areas outside the exclusion zones was encouraged, but mandatory incarceration soon followed.

From 1942 to 1945, the Minidoka site was a War Relocation Authority facility, which incarcerated nearly 13,000 Nikkei (Japanese American citizens and legal resident aliens of Japanese ancestry) from Washington, Oregon, California, and Alaska. In total, nearly 120,000 Nikkei were forced into 10 of these facilities located in rural areas throughout the west and in Arkansas.

In 2002, Congress enacted Public Law 107-363, which directed the National Park Service to conduct a study of the Eagledale Ferry Dock site on Bainbridge Island, Washington, located across the Puget Sound from Seattle. It was from this site in 1942 that Japanese Americans from Bainbridge Island were taken against their will from their homes and sent to internment camps in accordance with Executive Order 9066. Because of the military importance of the Puget Sound region, the 227 Japanese American residents of the island were the first Nikkei who were placed in internment camps during World War II. The study was completed in November 2005, and concluded that the Bainbridge Island memorial is a nationally important resource that provides an important component of the two park units that commemorate the internment of Japanese Americans during World War II. The study recommended that the memorial be designated as a satellite site to the Minidoka Internment National Monument, which is the designation made by H.R. 161.

Title III of H.R. 161, as ordered reported, provides for a conveyance of property from the United States to the American Falls Reservoir District Number 2 in Idaho. In 2005, the American District and the United States entered into an agreement to transfer title for federally-owned facilities and land associated with the Gooding Division of the Minidoka Project from the United States to the District. This agreement was the result of years of work by the Bureau of Reclamation and the District. The District contends that transfer of the facility and lands will simplify the administrative actions associated with the operations and maintenance of the facilities. The District has met its repayment obligation for costs relating to the construction of facilities, roads, canals and fees associated with the acquisition of land. The District also identified a parcel of land currently owned by the United States to which it would like to obtain title. H.R. 161 directs the Secretary of Interior to transfer the parcel after the District pays fair market value for the parcel. The bill also directs the Secretary of the Interior to transfer various other parcels of land identified in the Agreement to other governmental entities.

#### LEGISLATIVE HISTORY

H.R. 161, sponsored by Representative Inslee, passed the House of Representatives by a voice vote on February 6, 2007. A companion measure, S. 916, was introduced by Senators Craig, Cantwell, Crapo, and Murray on March 19, 2007. In the 109th Congress, Senators Cantwell and Murray introduced S. 3905, the "Bainbridge Island Japanese American Monument Act of 2006," although no further action was taken on that bill. Also in the 109th Congress, Senators Crapo and Craig introduced S. 2129, the "American Falls Reservoir District Number 2 Conveyance Act." The Subcommittee on Water and Power held a hearing on S. 2129 on June 28, 2006 (S. Hrg. 109-677).

The Subcommittee on National Parks held a hearing on H.R. 161 and S. 916 on May 15, 2007.

At its business meeting on May 23, 2007, the Committee on Energy and Natural Resources ordered H.R. 161 favorably reported, with an amendment in the nature of a substitute.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on May 23, 2007, by a unanimous voice vote of a quorum present, recommends that the Senate pass H.R. 161, if amended as described herein.

#### COMMITTEE AMENDMENT

During its consideration of H.R. 161, the Committee adopted an amendment in the nature of a substitute. As passed by the House of Representatives, H.R. 161 provided for the addition of the Nidoto Nai Yoni Memorial on Bainbridge Island, Washington, as a satellite unit of the Minidoka Internment National Monument. S. 916 redesignated the National Monument as the Minidoka National Historic Site and provided for the conveyance of certain Bureau of Reclamation lands in Idaho to the American Falls Reservoir District Number 2.

The substitute amendment combines the provisions of H.R. 161 and the Senate companion measure, S. 916, and incorporates recommendations made by the National Park Service at the Subcommittee hearing.

The amendment is explained in detail in the section-by-section analysis, below.

#### SECTION-BY-SECTION ANALYSIS

*Section 1(a)* provides the short title, the “Minidoka National Historic Site Act.”

Subsection (b) lists the table of contents.

*Section 2* defines the terms “Secretary” to mean the Secretary of the Interior and “State” to mean the State of Idaho.

#### Title I—Bainbridge Island Japanese American Memorial

*Section 101(a)* adjusts the boundary of the Minidoka Internment National Monument in Idaho to include approximately 8 acres on Bainbridge Island, Washington, as the Nidoto Nai Yoni (“Let it not happen again”) memorial, as depicted on the referenced map.

Subsection (b) provides that the map referred to in subsection (a) shall be kept on file and available for public inspection in the appropriate offices of the National Park Service.

*Section 102(a)* provides that the memorial shall be administered as part of the Minidoka Internment National Monument (redesignated in title II as the Minidoka National Historic Site).

Subsection (b) authorizes the Secretary of the Interior to carry out the administration of the memorial through cooperative agreements with the city of Bainbridge Island, the Bainbridge Island Metropolitan Park and Recreation District, the Bainbridge Island Japanese American Community Memorial Committee, the Bainbridge Island Historical Society, and other appropriate individuals or entities.

Subsection (c) states that the Secretary may implement a cooperative agreement relating to the operation and maintenance of the memorial in accordance with section 3(l) of Public Law 91–383, commonly referred to as the National Park System General Authorities Act. The subsection also authorizes the Secretary to enter into cooperative agreements with, or make grants to, the city of Bainbridge Island and other non-Federal entities for the development of facilities, infrastructure, and interpretive media at the memorial, as long as any Federal funding is matched with non-Federal funds.

Subsection (d) authorizes the Secretary to operate and maintain an administrative and visitor center associated with the National Monument (and redesignated as a National Historic Site) in the State of Washington.

#### Title II—Minidoka National Historic Site

*Section 201* defines the terms “historic site” to mean the Minidoka National Historic Site and “Minidoka Map” to mean the boundary map referenced by the bill.

*Section 202(a)* establishes the Minidoka National Historic Site in Idaho. The historic site consists of the previously designated

Minidoka Internment National Monument plus additional lands added by this Act.

Subsection (b) abolishes the Minidoka Internment National Monument established under Presidential Proclamation 7395 on January 17, 2001. The monument lands are incorporated into and made part of the National Historic Site.

Subsection (c) provides that any reference in law to the Minidoka Internment National Monument shall be considered to be a reference to the National Historic Site.

*Section 203(a)* states that the boundary of the National Historic Site shall include approximately 292 acres in Idaho and 8 acres in Washington (the memorial on Bainbridge Island authorized in title I).

Subsection (b) requires that the park boundary map be on file and available for public inspection in the appropriate offices of the National Park Service.

*Section 204(a)* transfers administrative jurisdiction over two parcels of land from the Bureau of Reclamation to the National Park Service, for inclusion in the National Historic Site. The two parcels total approximately 10 acres.

Subsection (b) transfers administrative jurisdiction over an 80-acre parcel from the Bureau of Land Management to the National Park Service, for inclusion in the National Historic Site.

Subsection (c) authorizes the Secretary of the Interior to acquire lands or interests therein within the National Historic Site by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

*Section 205(a)* provides that the National Historic Site shall be administered in accordance with this Act and laws generally applicable to units of the National Park System, including the National Park Service Organic Act and the Historic Sites Act of 1935.

Subsection (b) directs the Secretary, in administering the National Historic Site, to interpret the story of the relocation of Japanese Americans during World War II, the living conditions at the relocation centers, the work performed by the internees at the relocation centers and the contributions to the United States made by Japanese Americans who had been interned. To the extent feasible, oral histories and testimonials are to be part of the interpretive program.

Subsection (c) directs that the Bainbridge Island Japanese American Memorial shall be administered in accordance with section 102.

Subsection (d) authorizes the Secretary to allow for continued agricultural uses within the National Historic Site under appropriate terms and conditions.

*Section 206* authorizes the Secretary to issue a disclaimer of interest in approximately 8.7 acres of land to Jerome County, Idaho, in accordance with section 315(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745(b)). The disclaimer shall have the same effect as a quit-claim deed issued by the United States.

Title III—Conveyance of Lands to American Falls Reservoir District Number 2

*Section 301* defines the terms “agreement” to mean an identified numbered agreement between the United States and the American Falls Reservoir District Number 2 to transfer title to the federally-owned Milner-Gooding Canal, and the term “District” to mean the American Falls Reservoir District Number 2.

*Section 302(a)* authorizes the Secretary of the Interior to convey, in accordance with the agreement, the land and facilities to the District, as well as 5 acres to the city of Gooding, Idaho, and approximately 40 acres to the Idaho Department of Fish and Game.

Subsection (b) requires that all parties to the conveyances listed in subsection (a) comply with the terms and conditions of the agreement, to the extent consistent with this Act.

*Section 303(a)* requires the District to comply with all applicable Federal, State, and local laws in the operation of the transferred facility.

Subsection (b) clarifies that nothing in this title modifies or otherwise affects the applicability of Federal reclamation law to project water provided to the District.

*Section 304* revokes certain Secretarial withdrawals to approximately 6,900 acres of land for Gooding Division of the Minidoka Project, as described in the appendix to the agreement. The Bureau of Land Management is directed to manage the land, subject to valid existing rights.

*Section 305(a)* provides that the United States shall not be liable for damages of any kind with respect to the transferred lands, upon completion of the transfer.

Subsection (b) contains an exception to subsection (a), concerning damage resulting from an injury caused by any act of negligence committed by the United States or any of its employees or agents before the completion of the conveyance.

*Section 306(a)* requires the District to assume responsibility for all duties and costs associated with the operation, maintenance, and improvement of the transferred facilities after the completion of the conveyance.

Subsection (b) states that the District shall not be entitled to receive Federal funding relating to the transferred land and improvements, unless the funding would be available to a similarly situated non-reclamation district.

*Section 307* requires the Secretary to complete all actions required under the National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, and other applicable laws, prior to completing the conveyance to the District.

*Section 308(a)* requires the District to pay fair market value for the withdrawn lands acquired by them as a condition of the conveyance.

Subsection (b) directs the Secretary, as soon as practicable after the date of enactment of this Act, to provide the District a \$52,996 grant for the replacement of an existing structure transferred to the National Park Service under this Act.

## Title IV—Authorization of Appropriations

*Section 401* authorizes the appropriation of such sums as are necessary to carry out this Act.

## COST AND BUDGETARY CONSIDERATIONS

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

*H.R. 161—Bainbridge Island Japanese American Monument Act of 2007*

H.R. 161 would adjust the boundary of the Minidoka Internment National Monument in Idaho to include the Nidoto Nai Yoni memorial, an eight-acre site on Bainbridge Island, Washington. CBO estimates that implementing this legislation would cost about \$1.5 million over the next five years, assuming the availability of appropriated funds. Enacting H.R. 161 would have no effect on revenues or direct spending.

The bill 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 city of Bainbridge Island would benefit from the federal assistance authorized by this legislation, and any costs incurred by the city or by other public agencies to match these federal funds would be incurred voluntarily.

Under H.R. 161, the Nidoto Nai Yoni memorial would be administered by the National Park Service (NPS) as part of the Minidoka unit but would continue to be owned and operated by the city of Bainbridge Island. The act would authorize the NPS to make grants to the city and other nonfederal entities for the development of administrative and interpretive facilities. Finally, the act would authorize the agency to assist the city in operating the memorial.

Based on information provided by the NPS and assuming the availability of appropriated funds, CBO estimates that the agency would spend about \$500,000 over the next year or two to finance about half of the cost of facility construction at the memorial. We estimate that the agency would spend an additional \$200,000 annually for additional park staff and other operating costs at the memorial and at nearby NPS facilities beginning in 2008.

The CBO staff contact for this estimate is Deborah Reis. This 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 H.R. 161. The Act 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. 161, as ordered reported.

## EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the May 15, 2007 Subcommittee hearing follows:

STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to provide the Department of the Interior's views on S. 916 and H.R. 161. Both bills would authorize the addition of the Nidoto Nai Yoni Memorial on Bainbridge Island, Washington to the boundary of the Minidoka Internment National Monument in Idaho. S. 916 would also authorize the conveyance of certain facilities, buildings and lands of the Gooding Division of the Minidoka Project in Idaho to the American Falls Reservoir District #2.

The Department supports the goals of both S. 916 and H.R. 161.

Minidoka Internment National Monument, in southern Idaho, was established by Presidential Proclamation in 2001 to provide opportunities for public education and interpretation of the internment of Japanese Americans during World War II. It is one of two units (the other being Manzanar National Historic Site in California) where the National Park Service documents and describes the experiences of the almost 120,000 Japanese Americans who were forced from their homes on the West Coast and in southern Arizona during World War II under Executive Order 9066. Most spent the next three years in one of ten "relocation centers" across the country run by the War Relocation Authority. More than 13,000 Japanese Americans were incarcerated at the Minidoka Relocation Center, which was in operation from August 10, 1942 to October 28, 1945.

H.R. 161, which was passed by the House on February 6, 2007, and Title I of S. 916 would include the Bainbridge Island Japanese American Memorial in Washington in the boundary of the Minidoka Internment National Monument. The legislation would implement the recommendations of the study that the National Park Service conducted in accordance with Public Law 107-363, the Bainbridge Island Japanese American Memorial Study Act of 2002.

The official name of the Japanese American memorial is "Nidoto Nai Yoni," which means "let it not happen again." It commemorates the Bainbridge Island residents who were the first group of Japanese Americans to be forcibly removed from their homes and relocated to internment camps. On the morning of March 30, 1942, 227 Bainbridge Island Nikkei were assembled at the Eagledale Ferry Dock on Bainbridge Island and transported to Seattle, where they were placed on a train that sent them to the Owens Valley Reception Center located at Manzanar, California. Most subsequently requested transfer to the Minidoka Re-

location Center to join other Nikkei being sent there from Seattle, Portland, and other Pacific Northwest areas. The addition of the Bainbridge Island Memorial to the Minidoka Internment National Monument would make this direct connection between the two sites, and provide more context and depth to the broader story of Japanese American internment.

The Nidoto Nai Yoni Memorial site consists of approximately 8 acres of land owned by the City of Bainbridge Island, Washington. Under S. 916 and H.R. 161, as called for by the National Park Service's study, the site would be managed through a partnership arrangement between the National Park Service and other public and private entities, and costs would be shared among the partners. The estimate for the one-time cost to the National Park Service for development is \$350,000 to \$400,000 for facility construction and interpretive media, using a 50/50 match with non-federal partners. Additionally, the National Park Service would contribute to the operational costs for the site by funding one permanent and up to three seasonal interpretive employees at an annual cost of up to \$200,000 included in Minidoka Internment National Monument's operating budget. The principal role of the National Park Service at the Nidoto Nai Yoni Memorial site would be in the area of public interpretation and education.

Title II of S. 916 would authorize the title transfer of federally owned facilities, buildings, and lands that are part of the Gooding Division of the Minidoka Project from the Bureau of Reclamation to the American Falls Reservoir District #2.

Reclamation law and policy contemplate the transfer of projects to local entities where and when such transfer is appropriate. In 1995, the Bureau of Reclamation began an effort to facilitate the transfer of title to Reclamation projects and facilities in a consistent and comprehensive way. Reclamation developed a process known as the Framework for the Transfer of Title—a process whereby interested non-federal entities would work with and through Reclamation to identify and address all of the issues that would enable the title transfer to move forward. Once completed, Reclamation and the entity interested in taking title would work with the Congress to gain the necessary authorization for such a title transfer. In the case of the transfer authorized by this bill, Reclamation and the American Falls Reservoir District #2 have worked collaboratively and efficiently to successfully address all the elements of Reclamation's title transfer policy framework.

One of the Administration's goals in title transfer is to protect the financial interest of the United States. In this case, the full costs of all facilities, buildings, and acquired lands to be transferred, including its central feature, the Milner-Gooding Canal, have already been repaid pursuant to the District's amendatory repayment contract. The District has also identified some withdrawn lands for which

they would like to gain title and have agreed to pay the fair market appraised value for these lands. There are no ongoing revenue streams associated with the facilities, buildings, and lands. Because the District has fulfilled its repayment obligation under its contract, payment is required only for the additional withdrawn lands that the District has proposed for title transfer.

While the focus of Title II is the transfer of the Reclamation facilities to the American Falls Reservoir District #2, it also directs Reclamation to transfer title for specific smaller parcels to the National Park Service, the Bureau of Land Management, the State of Idaho, and the City of Gooding, since those entities currently manage the relevant lands. Reclamation has worked closely with the National Park Service and the other entities to craft the language that appears in the transfer agreement.

Two of the smaller parcels, equaling 10.18 acres, would be added to the boundary of Minidoka Internment National Monument, as called for in the monument's recently approved General Management Plan (GMP). The smaller parcel is located in the historic warehouse area and contains three buildings from the historic period as well as numerous warehouse foundations. This area would be used as the primary site for visitor orientation and information. An existing historic warehouse would be adapted to serve as a visitor contact station and central trailhead for visitor self-guided walking tours. The larger parcel on the east end of the national monument was part of the original Relocation Center and was never developed. It would be used as an overflow parking area and for special events.

The reason the smaller parcel was not included in the original boundary for the Minidoka Internment National Monument is because the American Falls Reservoir District #2 occupied the buildings. After the monument was established, however, the National Park Service, Reclamation, and American Falls Reservoir District #2 entered into an agreement to move the District's operations to a site outside the national monument's boundary, and that relocation is now nearly complete. The National Park Service has obligated \$250,000 to the Bureau of Reclamation for relocation costs. The payment of \$52,996 that S. 916 provides for Reclamation to make to the District represents the final portion of the agreed-upon payment that originated with the National Park Service.

Mr. Chairman, that concludes my testimony. We would be pleased to work with the Committee and the sponsors of S. 916 and H.R. 161 as the legislation moves forward. I would be happy to answer any questions you or other members of the Committee may have.

#### 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 Act H.R. 161, as ordered reported.



