

The original documents are located in Box 10, folder “10/20/74 HR3903 Land Conveyance Michigan” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Exact duplicates within this folder were not digitized.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

APPROVED

OCT 20 1974

OCT 16 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 3903 - Land conveyance,
Michigan
Sponsor - Rep. Ruppe (R) Michigan

*Postal (D. Johnson)
10/22
To archive
10/21*

Last Day for Action

October 23, 1974 - Wednesday

Purpose

Directs the Secretary of the Interior to convey, at fair market value, certain public land in the State of Michigan to the Wisconsin Michigan Power Company.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Interior
Federal Power Commission

No objection
No objection

Discussion

In 1917, the Wisconsin Michigan Power Company, a public utility, acquired certain riparian lands along the Brule River in Iron County, Michigan, for the purpose of constructing and operating a dam and hydroelectric power plant on the river. The Company apparently assumed that these lands included a 3.11 acre island which was located along that section of the river and therefore used the island as site for part of the dam and hydroelectric facility.

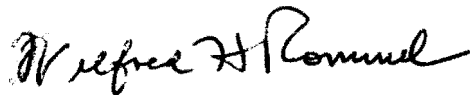


However, in 1965, a Bureau of Land Management survey found the island to be Federal land. Subsequently, the Company has exercised all available administrative channels within the Department of the Interior in an unsuccessful effort to gain fee title to the island. Transfer of title cannot be realized under present law.

H.R. 3903 would direct the Secretary of the Interior to convey title to the island described above to the Wisconsin Michigan Power Company. Conveyance would be subject to payment of administrative costs plus the fair market value of the property exclusive of any increased value resulting from the development or improvement of the lands by the Company.

In reporting on H.R. 3903 to the Congress, Interior stated:

"It is the policy of this Department, as set forth in the Department's proposed National Resource Land Management Act, to manage the public lands so that they are utilized to best serve the American people without undue damage to irreplaceable resources. The island is essential for continued operation of the hydroelectric power plant. Since the island is in a remote location and is therefore of limited value for public use, we would not oppose a transfer of title to the Company. The present use of the island and the proposed transfer conform with Department policy."



Assistant Director for
Legislative Reference

Enclosures

To Warren Handwritten
10-17-74
9:15 a.m.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 16 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 3903 - Land conveyance,
Michigan
Sponsor - Rep. Ruppe (R) Michigan

Last Day for Action

October 23, 1974 - Wednesday

Purpose

Directs the Secretary of the Interior to convey, at fair market value, certain public land in the State of Michigan to the Wisconsin Michigan Power Company.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Interior

No objection

Federal Power Commission

No objection

Discussion

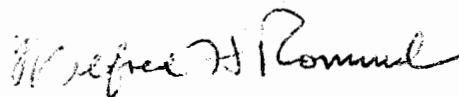
In 1917, the Wisconsin Michigan Power Company, a public utility, acquired certain riparian lands along the Brule River in Iron County, Michigan, for the purpose of constructing and operating a dam and hydroelectric power plant on the river. The Company apparently assumed that these lands included a 3.11 acre island which was located along that section of the river and therefore used the island as site for part of the dam and hydroelectric facility.

However, in 1965, a Bureau of Land Management survey found the island to be Federal land. Subsequently, the Company has exercised all available administrative channels within the Department of the Interior in an unsuccessful effort to gain fee title to the island. Transfer of title cannot be realized under present law.

H.R. 3903 would direct the Secretary of the Interior to convey title to the island described above to the Wisconsin Michigan Power Company. Conveyance would be subject to payment of administrative costs plus the fair market value of the property exclusive of any increased value resulting from the development or improvement of the lands by the Company.

In reporting on H.R. 3903 to the Congress, Interior stated:

"It is the policy of this Department, as set forth in the Department's proposed National Resource Land Management Act, to manage the public lands so that they are utilized to best serve the American people without undue damage to irreplaceable resources. The island is essential for continued operation of the hydroelectric power plant. Since the island is in a remote location and is therefore of limited value for public use, we would not oppose a transfer of title to the Company. The present use of the island and the proposed transfer conform with Department policy."



Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day - October 23

October 18, 1974

MEMORANDUM FOR:

THE PRESIDENT

FROM:

KEN COLLE

SUBJECT:

Enrolled Bill H.R. 3903
Land Conveyance, Michigan

Attached for your consideration is House bill, H.R. 3903, sponsored by Representative Ruppe, which directs the Secretary of the Interior to convey, at fair market value, certain public land in the State of Michigan to the Wisconsin Michigan Power Company.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with Secretary Morton, the Counsel's office (Chapman) and Bill Timmons who also recommend approval.

RECOMMENDATION

That you sign House bill H.R. 3903 (Tab B).

MEMORANDUM

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day - October 23



MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 3903
Land Conveyance, Michigan.

Attached for your consideration is House bill, H.R. 3903, sponsored by Representative Ruppe, which directs the Secretary of the Interior to convey, at fair market value, certain public land in the State of Michigan to the Wisconsin Michigan Power Company.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with Secretary Morton, the Counsel's office (Chapman) and Bill Timmons who also recommend approval.

RECOMMENDATION

That you sign House bill H.R. 3903 (Tab B).



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 11 1974

Dear Mr. Ash:

This responds to your request for this Department's views on H.R. 3903, an enrolled bill "To direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Michigan Power Company", which is before the President for approval.

We have no objection to Presidential approval of the bill.

H.R. 3903 would direct the Secretary of the Interior to convey to the Wisconsin Michigan Power Company of Milwaukee, Wisconsin, all right, title and interest of the United States in an island comprising approximately 3.11 acres of land in Iron County, Michigan. The conveyance would be made upon payment of administrative costs plus the fair market value of the property, exclusive of any increased value resulting from the development or improvement of the lands by the Power Company, all as determined by the Secretary.

The enrolled bill conforms in all respects to the recommendations of this Department contained in our reports of September 28, 1973, and August 13, 1974, and we know of no reason to alter those views.

Sincerely yours,

Acting Assistant Secretary of the Interior

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D.C.



Save Energy and You Serve America!

FEDERAL POWER COMMISSION
WASHINGTON, D.C. 20426

ENROLLED BILL
H.R. 3903 - 93d Congress

OCT 11 1974

Honorable Roy L. Ash
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Mrs. Louise Garziglia
Legislative Reference Division
Room 7201, New Executive Office Building

Dear Mr. Ash:

This is in response to Mr. Rommel's request of October 10, 1974, for views on H.R. 3903, an Enrolled Bill, "To direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Michigan Power Company."

The enrolled bill pertains to a 3.11 acre island in the Brule River which is a part of Wisconsin Michigan Power Company's licensed Brule Plant Project, and is now described as lands of the United States. The license for this development was issued by the Commission for a period effective April 1, 1962 and terminating December 31, 1993 (FPC Proj. No. 2431).

The Commission has no objection to the sale of Brule Island to the licensee since it will remain within the project area and be subject to the provisions of the license. The enactment of H.R. 3903 would in effect terminate the withdrawal of this parcel of land under Section 24 of the Federal Power Act and result in the transfer of the land to private ownership, thereby exempting the licensee from payment of annual charges for the use of such land pursuant to Section 10(e) of the Act.



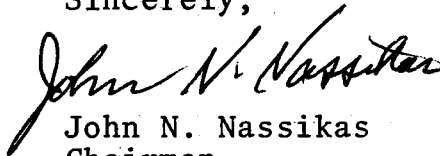
Honorable Roy L. Ash

- 2 -

The enactment of H.R. 3903 would not significantly affect the Commission's budget requirements.

The Commission offers no objection to approval of the enrolled bill.

Sincerely,

A handwritten signature in cursive script, reading "John N. Nassikas".

John N. Nassikas
Chairman

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 670

Date: October 17, 1974

Time: 9:30 a.m.

FOR ACTION: Michael Duval
✓ Phil Buchen
Bill Timmons

cc (for information): Norm Boss
Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Monday, October 21, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 3903 - Land conveyance,
Michigan

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 670

Date: October 17 1974

Time: 9:30 a.m.

FOR ACTION: ✓ Michael Duval
Phil Buchen
Bill Timmons

cc (for information): Norm Ross
Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Monday, October 21, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 3903 - Land conveyance,
Michigan

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

OK
M. Duval 10/17

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 670

Date: October 17, 1974

Time: 9:30 a.m.

FOR ACTION: Michael Duval
✓ Phil Buchen
Bill Timmons

cc (for information): Norm Ross
Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Monday, October 21, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 3903 - Land conveyance,
Michigan

ACTION REQUESTED:

_____ For Necessary Action

XX For Your Recommendations

_____ Prepare Agenda and Brief

_____ Draft Reply

_____ For Your Comments

_____ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

*No objection
W.C.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

October 18, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS *P. M. for AO*

SUBJECT: Action Memorandum - Log No. 670
Enrolled Bill H. R. 3903 - Land Conveyance,
Michigan

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

Last Day - October 23

October 18, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 3903
Land Conveyance, Michigan

Attached for your consideration is House bill, H.R. 3903, sponsored by Representative Ruppe, which directs the Secretary of the Interior to convey, at fair market value, certain public land in the State of Michigan to the Wisconsin Michigan Power Company.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with Secretary Morton, the Counsel's office (Chapman) and Bill Timmons who also recommend approval.

RECOMMENDATION

That you sign House bill H.R. 3903 (Tab B).

DIRECTING THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN PUBLIC LAND IN THE STATE OF MICHIGAN TO THE WISCONSIN-MICHIGAN POWER CO.

JULY 1, 1974.—Committed to the Committee of the Whole House and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 3903]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 3903) to direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin-Michigan Power Co., having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, line 5, strike out "in the amount of \$200," and insert in lieu thereof "as determined by the Secretary,".

PURPOSE

The purpose of H.R. 3903, as amended by the Committee on Interior and Insular Affairs, is to authorize and direct the Secretary of the Interior to convey to the Wisconsin Michigan Power Company of Milwaukee, Wisconsin, all right, title and interest of the United States in an island comprising approximately 3.11 acres of land in Iron County, Michigan. The conveyance would be conditional upon payment of the fair market value of the land, exclusive of any increased value resulting from the development or improvement by the Company, plus administrative costs as determined by the Secretary.

H.R. 3903 was introduced by Mr. Ruppe.

BACKGROUND

In 1917, the Wisconsin Michigan Power Company, a public utility, acquired title to land in Iron County, Michigan, which included fee

interests or flowage rights in riparian lands along the Brule River. The Power Company purchased the land for the purpose of constructing and operating a dam and hydroelectric power plant. The Company assumed that the purchase included title to the island described in H.R. 3903 as Lot 6, section 17, township 41 north, range 31 West, Michigan Meridian, Iron County, Michigan, and therefore used the island as a site for part of the dam and power plant. In 1965, at the request of the Federal Power Commission, the island was resurveyed by the Bureau of Land Management and was found to be public land.

The Power Company subsequently filed a Color of Title application for the island pursuant to the Act of December 22, 1928, as amended 43 U.S.C. 1068 (1970). The application was denied by the New Orleans office of the Bureau of Land Management because of a lack of basis for color of title. On appeal, the denial was upheld in 1968 by the Assistant Solicitor, Land Appeals of the Department of the Interior. After the appellate procedure in the Department was reorganized, the matter was considered anew and upheld by the Board of Land Appeals of the Office of Hearings and Appeals on March 19, 1971.

The Power Company is operating under a license issued by the Federal Power Commission in July 1967. The license authorizes continued operation and maintenance of the project until December 31, 1993, and describes the project as including all lands constituting the project area. The Assistant Solicitor, Land Appeals, suggested in his 1968 opinion that the Power Company explore possibilities of acquiring the island.

NEED

Enactment of H.R. 3903, as amended, will authorize the Department of the Interior to convey a small island in Iron County, Michigan to the Wisconsin Michigan Power Company upon payment of the fair market value of the land, exclusive of any increased value resulting from development or improvement by the Company, plus administrative costs. The Company felt in good faith that it held clear title to the island from the time it took possession in 1917 until the Bureau of Land Management survey in 1965. At the time that it purchased the riparian rights for the project, the Company assumed that its acquisition included not only title to the bed of the Brule River to the thread of the stream, but also title to the island lying within that portion of the bed. With this understanding, the Company over the years has constructed power generation facilities on the island totaling nearly \$900,000. The Company has paid substantial Michigan and Wisconsin ad valorem property taxes on both the land and improvements on the island. The power plant stood in full view of the public for nearly 50 years without any challenge to the Company's title. Since 1965, when the Bureau of Land Management survey found the island to be federal land, the Power Company has pursued every available administrative channel within the Department of the Interior to gain acquisition of title to the island. Existing statutes have been found unsatisfactory to permit a transfer of title. H.R. 3903 has been introduced as a final measure to permit the Secretary of the Interior to transfer title to the Company.

The Department of the Interior has recommended passage of H.R. 3903 with an amendment changing the payment of administrative costs from \$200.00 to whatever costs may ensue as determined by the Secretary of the Interior. The Committee has adopted this amendment. In its views on H.R. 3903, the Department of the Interior stated:

It is the policy of this Department, as set forth in the Department's proposed National Resource Land Management Act, to manage the public lands so that they are utilized to best serve the American people without undue damage to irreplaceable resources. The island is essential for continued operation of the hydroelectric power plant. Since the island is in a remote location and is therefore of limited value for public use, we would not oppose a transfer of title to the Company. The present use of the island and the proposed transfer conform with Department policy.

It is the Committee's opinion that enactment of H.R. 3903 will provide an equitable settlement to a good faith claim to a small parcel of public land.

COMMITTEE AMENDMENT

The amendment adopted by the Committee has already been discussed. The amendment strikes language in the bill setting administrative costs at \$200 and provides that the costs be determined by the Secretary of the Interior.

COST

Enactment of H.R. 3903, as amended, will not require an authorization for an appropriation.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 3903, as amended. The motion ordering the bill reported favorably was adopted by voice vote.

DEPARTMENTAL REPORTS

The Department of the Interior reported favorably on H.R. 3903, as amended. The Department of Agriculture deferred to the Department of the Interior. These reports follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 28, 1973.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for this Department's views on H.R. 3903, a bill to direct the Secretary of the Interior to convey public land in the State of Michigan to the Wisconsin Michigan Power Company.

We have no objection to enactment of the bill, if amended as set forth herein.

H.R. 3903 would direct the Secretary of the Interior to convey to the Wisconsin Michigan Power Company of Milwaukee, Wisconsin all right, title and interest of the United States in an island comprising approximately 3.11 acres of land in Iron County, Michigan. The conveyance would be made upon payment of administrative costs of \$200, plus the fair market value of the property, as determined by the Secretary, exclusive of any increased value resulting from the development or improvement of the lands by the Power Company.

In 1917 the Wisconsin Michigan Power Company, a public utility, acquired title to land in Iron County, Michigan, which included fee interests or flowage rights in riparian lands along the Brule River. The Power Company purchased the land for the purpose of constructing and operating a dam and hydroelectric power plant on the River. The company apparently assumed that the purchase included the island described in the bill and therefore used the island as a site for part of the dam and power plant. In 1965, at the request of the Federal Power Commission, the island was surveyed by the Bureau of Land Management and was found to be public land.

The Power Company subsequently filed a Color of Title application for the island pursuant to the Act of December 22, 1928, as amended 43 U.S.C. 1068 (1970). The application was denied by the New Orleans office of the Bureau of Land Management because of a lack of basis for color of title. On appeal the denial was upheld a first time in 1968 by the Assistant Solicitor, Land Appeals of the Department of the Interior. After the appellate procedure in the Department was reorganized, the matter was considered anew and upheld by the Board of Land Appeals of the Office of Hearings and Appeals on March 19, 1971.

The Power Company is operating under a license issued by the Federal Power Commission in July 1967. The license authorizes continued operation and maintenance of the project until December 31, 1993, and describes the project as including all lands constituting the project area. The Assistant Solicitor, Land Appeals commented in his 1968 opinion that the license appears to protect the Power Company's investment. He also suggested that the Power Company explore possibilities of acquiring the island.

It is the policy of this Department, as set forth in the Department's proposed National Resource Land Management Act, to manage the public lands so that they are utilized to best serve the American people without undue damage to irreplaceable resources. The island is essential for continued operation of the hydroelectric power plant. Since the island is in a remote location and is therefore of limited value for public use, we would not oppose a transfer of title to the Company. The present use of the island and the proposed transfer conform with Department policy.

As noted, the bill calls for payment of the fair market value of the island plus administrative costs in the amount of \$200. Since the administrative costs of appraisal and transfer of the property are estimated at over \$1000, we recommend that the bill be amended by de-

leting the words "in the amount of \$200" in line 5, page 2, and substituting therefor the words "as determined by the Secretary".

Since the bill so amended would provide for payment at the fair market value of the island plus administrative costs, we would not object to its enactment.

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

Sincerely yours,

STEPHEN A. WAKEFIELD,
Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 7, 1973.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of Representatives.

DEAR MR. CHAIRMAN: As you requested, here is the report of the Department of Agriculture on H.R. 3903, a bill to direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Michigan Power Company.

The Department of Agriculture defers to the Department of the Interior since the provisions of this bill do not affect our responsibilities or operations.

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,

ROBERT W. LONG,
Assistant Secretary for Conservation, Research, and Education.

○

DIRECTING THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN PUBLIC LAND IN THE STATE OF MICHIGAN TO THE WISCONSIN MICHIGAN POWER CO.

OCTOBER 4, 1974.—Ordered to be printed

Mr. NELSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 3903]

The Committee on Interior and Insular Affairs, to which was referred the Act (H.R. 3903) to direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Michigan Power Company, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

H.R. 3903, as ordered reported, is as follows:

That (a) subject to the provisions of subsection (c), the Secretary of the Interior (hereafter referred to in this Act as the "Secretary") is authorized and directed to convey to the Wisconsin Michigan Power Company of Milwaukee, Wisconsin, all right, title, and interest of the United States in and to the real property described in subsection (b).

(b) The property referred to in subsection (a) consists of 3.11 acres, more or less, and is described as follows: Lot 6, section 17, township 41 north, range 31 west, Michigan Meridian, Iron County, Michigan.

(c) The Secretary shall convey such property to the said Wisconsin Michigan Power Company upon the payment of administrative costs as determined by the Secretary, plus the fair market value of the property. The fair market value shall be determined by the Secretary on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement of the lands by Wisconsin Michigan Power Company.

I. PURPOSE

The purpose of H.R. 3903 is to authorize and direct the Secretary of the Interior to convey to the Wisconsin Michigan Power Company of Milwaukee, Wisconsin, all right, title and interest of the United States in an island comprising approximately 3.11 acres of land in Iron County, Michigan. The conveyance would be conditional upon payment of the fair market value of the land, exclusive of any increased value resulting from the development or improvement by the Company, plus administrative costs as determined by the Secretary.

II. BACKGROUND

In 1917, the Wisconsin Michigan Power Company, a public utility, acquired title to land in Iron County, Michigan, which included fee interests or flowage rights in riparian lands along the Brule River. The Power Company purchased the land for the purpose of constructing and operating a dam and hydroelectric power plant. The Company assumed that the purchase included title to the island described in H.R. 3903 as Lot 6, section 17, township 41 north, range 31 West, Michigan Meridian, Iron County, Michigan, and therefore used the island as a site for part of the dam and power plant. In 1965, at the request of the Federal Power Commission, the island was resurveyed by the Bureau of Land Management and was found to be public land.

The Power Company subsequently filed a Color of Title application for the island pursuant to the Act of December 22, 1928, as amended 43 U.S.C. 1068 (1970). The application was denied by the New Orleans office of the Bureau of Land Management because of a lack of basis for color of title. On appeal, the denial was upheld in 1968 by the Assistant Solicitor, Land Appeals of the Department of the Interior. After the appellate procedure in the Department was reorganized, the matter was considered anew and upheld by the Board of Land Appeals of the Office of Hearings and Appeals on March 19, 1971.

The Power Company is operating under a license issued by the Federal Power Commission in July 1967. The license authorizes continued operation and maintenance of the project until December 31, 1993, and describes the project as including all lands constituting the project area. The Assistant Solicitor, Land Appeals, suggested in his 1968 opinion that the Power Company explore possibilities of acquiring the island.

III. NEED

Enactment of H.R. 3903 will authorize the Department of the Interior to convey a small island in Iron County, Michigan to the Wisconsin Michigan Power Company upon payment of the fair market value of the land, exclusive of any increased value resulting from development or improvement by the Company, plus administrative costs. The Company felt in good faith that it held clear title to the island from the time it took possession in 1917 until the Bureau of Land Management survey in 1965. At the time that it purchased the riparian rights for the project, the Company assumed that its acquisition included not only title to the bed of the Brule River,

but also title to the island lying within the bed. With this understanding, the Company over the years has constructed power generation facilities on the island totalling nearly \$900,000. The Company has paid substantial Michigan and Wisconsin ad valorem property taxes on both the land and improvements on the island. The power plant stood in full view of the public for nearly 50 years without any challenge to the Company's title. Since 1965, when the Bureau of Land Management survey found the island to be federal land, the Power Company has pursued every available administrative channel within the Department of the Interior to gain acquisition of title to the island. As existing statutes have been found unsatisfactory to permit a transfer of title to the Company, H.R. 3903 has been introduced as a final measure to permit the Secretary of the Interior to effect that transfer.

As noted by Mr. Cornelius Young, Attorney for the Wisconsin Michigan Power Company, in the Subcommittee on Public Lands hearing on H.R. 3903, August 15, 1974:

Wisconsin-Michigan is not a large public utility. This cloud on the title of one million dollars worth of its property does, of course, affect its financing.

IV. ADMINISTRATION'S POSITION

The Department of the Interior recommends enactment of H.R. 3903. The Department's August 13, 1974 report on H.R. 3903, as passed the House, contains the following statement:

It is the policy of this Department, as set forth in the Department's proposed National Resource Land Management Act, to manage the public lands so that they are utilized to best serve the American people without undue damage to irreplaceable resources. The island is essential for continued operation of the hydroelectric power plant. Since the island is in a remote location and is therefore of limited value for public use, we would not oppose a transfer of title to the Company. The present use of the island and the proposed transfer conform with Department policy.

V. LEGISLATIVE HISTORY

H.R. 3903, introduced by Congressman Ruppe, passed the House of Representatives on July 16, 1974. It was the subject of a hearing of the Subcommittee on Public Lands on August 15, 1974. The Subcommittee on Public Lands and the full Committee ordered the Act reported by unanimous voice votes in open mark-up sessions on September 26, 1974, and October 1, 1974, respectively.

VI. COST

In accordance with subsection (a) of section 255 of the Legislative Reorganization Act, the following is a statement of estimated costs which would be incurred in the implementation of H.R. 3903.

Enactment of H.R. 3903 will not result in any expenditure of Federal funds.

VII. COMMITTEE RECOMMENDATION

The Committee, by unanimous voice vote, in open mark-up session on October 1, 1974, recommended that H.R. 3903 be enacted.

VIII. TABULATION OF VOTES CAST

The unanimous voice votes on the orders to report the measure in Subcommittee and full Committee were taken in open public session. As these votes were previously announced by the Committee in accord with the provisions of section 133(b) of the Legislative Reorganization Act of 1946, as amended, tabulation of the votes in this Committee Report is unnecessary.

IX. EXECUTIVE COMMUNICATIONS

The reports of Federal agencies to the Committee concerning H.R. 3903 are set forth in full, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY.
Washington, D.C., August 13, 1974.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for this Department's views on H.R. 3903, a bill "To direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Michigan Power Company", which has passed the House of Representatives.

We have no objection to enactment of the bill.

H.R. 3903 would direct the Secretary of the Interior to convey to the Wisconsin Michigan Power Company of Milwaukee, Wisconsin, all right, title and interest of the United States in an island comprising approximately 3.11 acres of land in Iron County, Michigan. As passed by the House, the bill provides that the conveyance would be made upon payment of administrative costs plus the fair market value of the property, both as determined by the Secretary and exclusive of any increased value resulting from the development or improvement of the lands by the Power Company.

In 1917 the Wisconsin Michigan Power Company, a public utility, acquired title to land in Iron County, Michigan, which included fee interests or flowage rights in riparian lands along the Brule River. The Power Company purchased the land for the purpose of constructing and operating a dam and hydroelectric power plant on the River. The company apparently assumed that the purchase included the island described in the bill and therefore used the island as a site for part of the dam and power plant. In 1965, at the request of the Federal Power Commission, the island was surveyed by the Bureau of Land Management and was found to be public land.

The Power Company subsequently filed a Color of Title application for the island pursuant to the Act of December 22, 1928, as amended

43 U.S.C. 1068 (1970). The application was denied by the New Orleans office of the Bureau of Land Management because of a lack of basis for color of title. On appeal the denial was upheld a first time in 1968 by the Assistant Solicitor, Land Appeals of the Department of the Interior. After the appellate procedure in the Department was reorganized, the matter was considered anew and upheld by the Board of Land Appeals of the Office of Hearings and Appeals on March 19, 1971.

The Power Company is operating under a license issued by the Federal Power Commission in July 1967. The license authorizes continued operation and maintenance of the project until December 31, 1993, and describes the project as including all lands constituting the project area. The Assistant Solicitor, Land Appeals commented in his 1968 opinion that the license appears to protect the Power Company's investment. He also suggested that the Power Company explore possibilities of acquiring the island.

It is the policy of this Department, as set forth in the Department's proposed National Resource Land Management Act, to manage the public lands so that they are utilized to best serve the American people without undue damage to irreplaceable resources. The island is essential for continued operation of the hydroelectric power plant. Since the island is in a remote location and is therefore of limited value for public use, we would not oppose a transfer of title to the Company. The present use of the island and the proposed transfer conform with Departmental policy.

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

Sincerely yours,

JACK HORTON,
Assistant Secretary of the Interior.

X. CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, the Committee states that no changes in existing law would be made by H.R. 3903.

○

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Michigan Power Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to the provisions of subsection (c), the Secretary of the Interior (hereafter referred to in this Act as the "Secretary") is authorized and directed to convey to the Wisconsin Michigan Power Company of Milwaukee, Wisconsin, all right, title, and interest of the United States in and to the real property described in subsection (b).

(b) The property referred to in subsection (a) consists of 3.11 acres, more or less, and is described as follows: Lot 6, section 17, township 41 north, range 31 west, Michigan Meridian, Iron County, Michigan.

(c) The Secretary shall convey such property to the said Wisconsin Michigan Power Company upon the payment of administrative costs as determined by the Secretary, plus the fair market value of the property. The fair market value shall be determined by the Secretary on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement of the lands by Wisconsin Michigan Power Company.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

October 11, 1974

Dear Mr. Director:

The following bills were received at the White House on October 11th:

- | | |
|-----------------|--------------|
| H.J. Res. 898 ✓ | H.R. 11510 ✓ |
| H.R. 3903 ✓ | H.R. 13113 ✓ |
| H.R. 9075 ✓ | H.R. 13861 ✓ |

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.