

105TH CONGRESS
2D SESSION

S. 2142

To authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 1998

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pine River Project
5 Conveyance Act”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “Jurisdictional Map” means the
4 map entitled “Transfer of Jurisdiction—Vallecito
5 Reservoir, United States Department of Agriculture,
6 Forest Service and United States Department of the
7 Interior, Bureau of Reclamation and the Bureau of
8 Indian Affairs” dated March, 1998.

9 (2) The term “Pine River Project” or the
10 “Project” means Vallecito Dam and Reservoir
11 owned by the United States and authorized in 1937
12 under the provisions of the Department of the Inte-
13 rior Appropriation Act of June 25, 1910, 36 Stat.
14 835; facilities appurtenant to the Dam and Res-
15 ervoir, including equipment, buildings, and other im-
16 provements; lands adjacent to the Dam and Res-
17 ervoir; easements and rights-of-way necessary for ac-
18 cess and all required connections with the Dam and
19 Reservoir, including those for necessary roads; and
20 associated personal property, including contract
21 rights and any and all ownership or property inter-
22 est in water or water rights.

23 (3) The term “Repayment Contract” means Re-
24 payment Contract #I1r-1204, between Reclamation
25 and the Pine River Irrigation District, dated April
26 15, 1940, and amended November 30, 1953, cover-

1 ing the Pine River Project and certain lands ac-
2 quired in support of the Vallecito Dam and Res-
3 ervoir pursuant to which the Pine River Irrigation
4 District has assumed operation and maintenance re-
5 sponsibilities for the dam, reservoir, and water-based
6 recreation in accordance with existing law.

7 (4) The term “Reclamation” means the Depart-
8 ment of the Interior, Bureau of Reclamation.

9 (5) The term “Secretary” means the Secretary
10 of the Interior.

11 (6) The term “Southern Ute Indian Tribe” or
12 “Tribe” means a federally recognized Indian tribe,
13 located on the Southern Ute Indian Reservation, La
14 Plata County, Colorado.

15 (7) The term “Pine River Irrigation District”
16 or “District” means a political division of the State
17 of Colorado duly organized, existing, and acting pur-
18 suant to the laws thereof with its principal place of
19 business in the City of Bayfield, La Plata County,
20 Colorado and having an undivided $\frac{5}{6}$ right and in-
21 terest in the use of the water made available by
22 Vallecito Reservoir for the purpose of supplying the
23 lands of the District, pursuant to the Repayment
24 Contract, and the decree in Case No. 1848–B, Dis-
25 trict Court, Water Division 7, State of Colorado, as

1 well as an undivided $\frac{5}{6}$ right and interest in the
2 Pine River Project.

3 **SEC. 3. TRANSFER OF THE PINE RIVER PROJECT.**

4 (a) CONVEYANCE.—The Secretary is authorized to
5 convey, without consideration or compensation, except as
6 provided in this section, to the District, by quitclaim deed
7 or patent, pursuant to section 6, the United States' undi-
8 vided $\frac{5}{6}$ right and interest in the Pine River Project under
9 the jurisdiction of Reclamation for the benefit of the Pine
10 River Irrigation District. The quitclaim deed or patent
11 shall expressly provide that the undivided $\frac{5}{6}$ right and in-
12 terest transferred cannot be subject to partition from the
13 undivided $\frac{1}{6}$ right and interest retained under the juris-
14 diction of the Bureau of Indian Affairs.

15 (b) PRICE.—The sale price for the undivided $\frac{5}{6}$ right
16 and interest to the Project to be transferred to the Pine
17 River Irrigation District shall be Four Hundred Ninety-
18 two Thousand and 00/100 Dollars (\$492,000) (the “Sale
19 Price”). Concurrently with the conveyance, the Sale Price
20 shall be deposited as miscellaneous receipts into the Rec-
21 lamation Fund of the United States. Payment of the Sale
22 Price shall extinguish all obligations between the District
23 and the Bureau of Indian Affairs on the one hand and
24 Reclamation on the other hand, under the Repayment
25 Contract or with respect to the Pine River Project. Upon

1 completion of the title transfer, said Repayment Contract
2 shall become null and void.

3 (c) TRANSACTION COSTS.—Pursuant to the April 1,
4 1998, Memorandum of Understanding between Reclama-
5 tion and the District, the District is responsible for paying
6 all costs associated with the title transfer. The Secretary
7 shall credit 50 percent of all costs incurred to fulfill the
8 requirements of the National Environmental Policy Act
9 and other Federal laws toward the Sale Price due under
10 section 3(b) herein, such credit not to exceed the Sale
11 Price.

12 (d) BUREAU OF INDIAN AFFAIRS INTEREST.—At the
13 option of the Tribe, the Secretary is authorized to convey
14 to the Tribe the Bureau of Indian Affairs' undivided $\frac{1}{6}$
15 right and interest in the Pine River Project and the water
16 supply made available by Vallecito Reservoir pursuant to
17 the Memorandum of Understanding between the Bureau
18 of Reclamation and the Office of Indian Affairs dated Jan-
19 uary 3, 1940, together with its Amendment dated July
20 9, 1964 (“MOU”), the Repayment Contract and decrees
21 in Case Nos. 1848–B and W–1603–76D, District Court,
22 Water Division 7, State of Colorado. In the event of such
23 conveyance, no additional consideration or compensation
24 shall be required to be paid to the United States.

1 (e) **FEDERAL DAM USE CHARGE.**—Conveyance of
 2 Reclamation’s $\frac{5}{6}$ interest in the facilities under this Act
 3 shall result in a $\frac{5}{6}$ reduction in the Federal dam use
 4 charge assessed under section 10(e) of the Federal Power
 5 Act for use of the hydropower potential of the facilities.

6 **SEC. 4. JURISDICTIONAL TRANSFER OF LANDS.**

7 (a) **INUNDATED LANDS.**—To provide for the consoli-
 8 dation of lands associated with the Pine River Project to
 9 be retained by the Forest Service and the consolidation
 10 of lands to be transferred to the District, the administra-
 11 tive jurisdiction of lands inundated by and along the
 12 shoreline of Vallecito Reservoir, as shown on the Jurisdic-
 13 tional Map, shall be transferred, as set forth below (the
 14 “Jurisdictional Transfer”), concurrently with the convey-
 15 ance described in section 3(a). Except as otherwise shown
 16 on the Jurisdictional Map—

17 (1) for withdrawn lands (approximately 260
 18 acres) lying below the 7,765-foot reservoir water sur-
 19 face elevation level, the Forest Service shall transfer
 20 an undivided $\frac{5}{6}$ interest to Reclamation and an un-
 21 divided $\frac{1}{6}$ interest to the Bureau of Indian Affairs
 22 in trust for the Tribe; and

23 (2) for Project acquired lands (approximately
 24 230 acres) above the 7,765-foot reservoir water sur-
 25 face elevation level, Reclamation and the Bureau of

1 Indian Affairs shall transfer their interests to the
2 Forest Service.

3 (b) MAP.—The Jurisdictional Map and legal descrip-
4 tions of the lands transferred pursuant to subsection (a)
5 above shall be on file and available for public inspection
6 in the offices of the Chief of the Forest Service, Depart-
7 ment of Agriculture, the Commissioner of Reclamation,
8 Department of the Interior, appropriate field offices of
9 those agencies, and the Committee on Resources of the
10 House of Representatives and the Committee on Energy
11 and Natural Resources of the Senate.

12 (c) ADMINISTRATION.—Following the Jurisdictional
13 Transfer:

14 (1) All lands that, by reason of the Jurisdic-
15 tional Transfer, become National Forest System
16 lands within the boundaries of the San Juan Na-
17 tional Forest, shall be administered in accordance
18 with the laws, rules, and regulations applicable to
19 the National Forest System.

20 (2) Reclamation withdrawals of land from the
21 San Juan National Forest established by Secretarial
22 Orders on November 9, 1936, October 14, 1937,
23 and June 20, 1945, together designated as Serial
24 No. C-28259, shall be revoked.

1 (3) The Forest Service shall issue perpetual
2 easements to the District and the Bureau of Indian
3 Affairs, at no cost to the District or the Bureau of
4 Indian Affairs, providing adequate access across all
5 lands subject to Forest Service jurisdiction to insure
6 the District and the Bureau of Indian Affairs the
7 ability to continue to operate and maintain the Pine
8 River Project.

9 (4) The undivided $\frac{5}{6}$ interest in National For-
10 est System lands that, by reason of the Jurisdic-
11 tional Transfer is to be administered by Reclama-
12 tion, shall be conveyed to the District pursuant to
13 section 3(a).

14 (5) The District and the Bureau of Indian Af-
15 fairs shall issue perpetual easements to the Forest
16 Service, at no cost to the Forest Service, from Na-
17 tional Forest System lands to Vallecito Reservoir to
18 assure continued public access to Vallecito Reservoir
19 when the Reservoir level drops below the 7,765-foot
20 water surface elevation.

21 (6) The District and the Bureau of Indian Af-
22 fairs shall issue a perpetual easement to the Forest
23 Service, at no cost to the Forest Service, for the re-
24 construction, maintenance, and operation of a road

1 from La Plata County Road No. 501 to National
2 Forest System lands east of the Reservoir.

3 (d) VALID EXISTING RIGHTS.—Nothing in this sec-
4 tion shall affect any valid existing rights or interests in
5 any existing land use authorization, except that any such
6 land use authorization shall be administered by the agency
7 having jurisdiction over the land after the Jurisdictional
8 Transfer in accordance with subsection (c) and other ap-
9 plicable law. Renewal or reissuance of any such authoriza-
10 tion shall be in accordance with applicable law and the
11 regulations of the agency having jurisdiction, except that
12 the change of administrative jurisdiction shall not in itself
13 constitute a ground to deny the renewal or reissuance of
14 any such authorization.

15 **SEC. 5. LIABILITY.**

16 Effective on the date of the conveyance of an undi-
17 vided $\frac{5}{6}$ right and interest in the Pine River Project to
18 the District, the United States shall not be held liable by
19 any court for damages of any kind arising out of any act,
20 omission, or occurrence relating to such undivided $\frac{5}{6}$ right
21 and interest, except for damages caused by acts of neg-
22 ligence committed by the United States or by its employ-
23 ees, agents, or contractors prior to the date of conveyance.
24 Nothing in this section shall be deemed to increase the
25 liability of the United States beyond that currently pro-

1 vided in the Federal Tort Claims Act (28 U.S.C. 2671
2 et seq.)

3 **SEC. 6. COMPLETION OF CONVEYANCE.**

4 (a) IN GENERAL.—The Secretary’s completion of the
5 conveyances under section 3 shall occur promptly after the
6 following events:

7 (1) Compliance with the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
9 and other applicable Federal and State laws.

10 (2) A written statement from the Southern Ute
11 Indian Tribe indicating the Tribe’s satisfaction that
12 the Tribe’s Indian Trust Assets are protected in the
13 conveyance described in section 3.

14 (3) The issuance by the Federal Energy Regu-
15 latory Commission of an amendment to license
16 #3174–001 which revises annual charges and other-
17 wise reflects the conveyance described in section 3.

18 (4) The submission of a statement by the Sec-
19 retary to the District, the Bureau of Indian Affairs,
20 and the State of Colorado on the existing condition
21 of Vallecito Dam based on Bureau of Reclamation’s
22 current knowledge and understanding.

23 (5) The development of an agreement between
24 the Bureau of Indian Affairs and the District to pre-
25 scribe the District’s obligation to so operate the

1 Project that the $\frac{1}{6}$ rights and interests to the
2 Project and water supply made available by Vallecito
3 Reservoir held by the Bureau of Indian Affairs are
4 protected.

5 (6) The submission of a plan by the District to
6 manage the Project in a manner substantially simi-
7 lar to the manner in which it was managed prior to
8 the transfer and in accordance with applicable Fed-
9 eral and State laws, including management for the
10 preservation of public access and recreational values
11 and for the prevention of growth on certain lands to
12 be conveyed hereunder, as set forth in an Agreement
13 dated March 20, 1998, between the District and
14 residents of Vallecito Reservoir. Any future change
15 in the use of the water supplied by Vallecito Res-
16 ervoir shall comply with applicable law.

17 (7) The development of a flood control plan by
18 the Secretary of the Army acting through the Corps
19 of Engineers which shall direct the District in the
20 operation of Vallecito Dam for such purposes.

21 (b) REPORT.—If the transfer authorized in section
22 3 is not substantially completed, the Secretary, in coordi-
23 nation with the District, shall provide a report to the Com-
24 mittee on Resources of the House of Representatives and
25 to the Committee on Energy and Natural Resources of

1 the Senate within 18 months from the date of enactment
2 of this Act on the status of the transfer described in sec-
3 tion 3(a), any obstacles to completion of such transfer,
4 and the anticipated date for such transfer.

5 (c) FUTURE BENEFITS.—Effective upon transfer, the
6 District shall not be entitled to receive any further Rec-
7 lamation benefits pursuant to the Reclamation Act of
8 June 17, 1902, and Acts supplementary thereto or amend-
9 atory thereof.

○