

105TH CONGRESS  
2D SESSION

# S. 2142

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 1998

Referred to the Committee on Resources

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## AN ACT

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, and all

1 amendments and additions thereto, including the Act  
2 of July 27, 1954 (68 Stat. 534), covering the Pine  
3 River Project and certain lands acquired in support  
4 of the Vallecito Dam and Reservoir pursuant to  
5 which the Pine River Irrigation District has as-  
6 sumed operation and maintenance responsibilities  
7 for the dam, reservoir, and water-based recreation in  
8 accordance with existing law.

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

11 (5) The term “Secretary” means the Secretary  
12 of the Interior.

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

17 (7) The term “Pine River Irrigation District”  
18 or “District” means a political division of the State  
19 of Colorado duly organized, existing, and acting pur-  
20 suant to the laws thereof with its principal place of  
21 business in the City of Bayfield, La Plata County,  
22 Colorado and having an undivided  $\frac{5}{6}$  right and in-  
23 terest in the use of the water made available by  
24 Vallecito Reservoir for the purpose of supplying the  
25 lands of the District, pursuant to the Repayment

1 Contract, and the decree in Case No. 1848–B, Dis-  
2 trict Court, Water Division 7, State of Colorado, as  
3 well as an undivided  $\frac{5}{6}$  right and interest in the  
4 Pine River Project.

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

6 (a) CONVEYANCE.—The Secretary is authorized to  
7 convey, without consideration or compensation to the Dis-  
8 trict, by quitclaim deed or patent, pursuant to section 6,  
9 the United States undivided  $\frac{5}{6}$  right and interest in the  
10 Pine River Project under the jurisdiction of Reclamation  
11 for the benefit of the Pine River Irrigation District. No  
12 partition of the undivided  $\frac{5}{6}$  right and interest in the Pine  
13 River Project shall be permitted from the undivided  $\frac{1}{6}$   
14 right and interest in the Pine River Project described in  
15 subsection (b) and any quitclaim deed or patent evidencing  
16 a transfer shall expressly prohibit partitioning. Effective  
17 on the date of the conveyance, all obligations between the  
18 District and the Bureau of Indian Affairs on the one hand  
19 and Reclamation on the other hand, under the Repayment  
20 Contract or with respect to the Pine River Project are ex-  
21 tinguished. Upon completion of the title transfer, said Re-  
22 payment Contract shall become null and void. The District  
23 shall be responsible for paying 50 percent of all costs asso-  
24 ciated with the title transfer.

1       (b) BUREAU OF INDIAN AFFAIRS INTEREST.—At the  
2 option of the Tribe, the Secretary is authorized to convey  
3 to the Tribe the Bureau of Indian Affairs' undivided  $\frac{1}{6}$   
4 right and interest in the Pine River Project and the water  
5 supply made available by Vallecito Reservoir pursuant to  
6 the Memorandum of Understanding between the Bureau  
7 of Reclamation and the Office of Indian Affairs dated Jan-  
8 uary 3, 1940, together with its Amendment dated July  
9 9, 1964 ('MOU'), the Repayment Contract and decrees  
10 in Case Nos. 1848-B and W-1603-76D, District Court,  
11 Water Division 7, State of Colorado. In the event of such  
12 conveyance, no consideration or compensation shall be re-  
13 quired to be paid to the United States.

14       (c) FEDERAL DAM USE CHARGE.—Nothing in this  
15 Act shall relieve the holder of the license issued by the  
16 Federal Energy Regulatory Commission under the Fed-  
17 eral Power Act for Vallecito Dam in effect on the date  
18 of enactment of this Act from the obligation to make pay-  
19 ments under section 10(e)(2) of the Federal Power Act  
20 during the remaining term of the present license. At the  
21 expiration of the present license term, the Federal Energy  
22 Regulatory Commission shall adjust the charge to reflect  
23 either (1) the  $\frac{1}{6}$  interest of the United States remaining  
24 in the Vallecito Dam after conveyance to the District; or  
25 (2) if the remaining  $\frac{1}{6}$  interest of the United States has

1 been conveyed to the Tribe pursuant to subsection (b),  
 2 then no Federal dam charge shall be levied from the date  
 3 of expiration of the present license.

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

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

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

21 (2) for Project acquired lands (approximately  
 22 230 acres) above the 7,765-foot reservoir water sur-  
 23 face elevation level, Reclamation and the Bureau of  
 24 Indian Affairs shall transfer their interests to the  
 25 Forest Service.

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

10       (c) ADMINISTRATION.—Following the Jurisdictional  
11 Transfer:

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

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

23           (3) The Forest Service shall issue perpetual  
24 easements to the District and the Bureau of Indian  
25 Affairs, at no cost to the District or the Bureau of

1 Indian Affairs, providing adequate access across all  
2 lands subject to Forest Service jurisdiction to insure  
3 the District and the Bureau of Indian Affairs the  
4 ability to continue to operate and maintain the Pine  
5 River Project.

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

11 (5) The District and the Bureau of Indian Af-  
12 fairs shall issue perpetual easements to the Forest  
13 Service, at no cost to the Forest Service, from Na-  
14 tional Forest System lands to Vallecito Reservoir to  
15 assure continued public access to Vallecito Reservoir  
16 when the Reservoir level drops below the 7,665-foot  
17 water surface elevation.

18 (6) The District and the Bureau of Indian Af-  
19 fairs shall issue a perpetual easement to the Forest  
20 Service, at no cost to the Forest Service, for the re-  
21 construction, maintenance, and operation of a road  
22 from La Plata County Road No. 501 to National  
23 Forest System lands east of the Reservoir.

24 (d) VALID EXISTING RIGHTS.—Nothing in this Act  
25 shall affect any valid existing rights or interests in any



1 existing land use authorization, except that any such land  
2 use authorization shall be administered by the agency hav-  
3 ing jurisdiction over the land after the Jurisdictional  
4 Transfer in accordance with subsection (c) and other ap-  
5 plicable law. Renewal or reissuance of any such authoriza-  
6 tion shall be in accordance with applicable law and the  
7 regulations of the agency having jurisdiction, except that  
8 the change of administrative jurisdiction shall not in itself  
9 constitute a ground to deny the renewal or reissuance of  
10 any such authorization.

11 **SEC. 5. LIABILITY.**

12       Effective on the date of the conveyance of the remain-  
13 ing undivided  $\frac{1}{6}$  right and interest in the Pine River  
14 Project to the Tribe pursuant to subsection 3(b), the  
15 United States shall not be held liable by any court for  
16 damages of any kind arising out of any act, omission, or  
17 occurrence relating to such Project, except for damages  
18 caused by acts of negligence committed by the United  
19 States or by its employees, agents, or contractors prior  
20 to the date of conveyance. Nothing in this section shall  
21 be deemed to increase the liability of the United States  
22 beyond that currently provided in the Federal Tort Claims  
23 Act (28 U.S.C. 2671 et seq.).

1 **SEC. 6. COMPLETION OF CONVEYANCE.**

2 (a) IN GENERAL.—The Secretary's completion of the  
3 conveyance under section 3 shall not occur until the fol-  
4 lowing events have been completed:

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

8 (2) The submission of a written statement from  
9 the Southern Ute Indian Tribe to the Secretary indi-  
10 cating the Tribe's satisfaction that the Tribe's In-  
11 dian Trust Assets are protected in the conveyance  
12 described in section 3.

13 (3) Execution of an agreement acceptable to the  
14 Secretary which limits the future liability of the  
15 United States relative to the operation of the  
16 Project.

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

22 (5) The development of an agreement between  
23 the Bureau of Indian Affairs and the District to pre-  
24 scribe the District's obligation to so operate the  
25 Project that the  $\frac{1}{6}$  rights and interests to the  
26 Project and water supply made available by Vallecito

1       Reservoir held by the Bureau of Indian Affairs are  
2       protected. Such agreement shall supercede the  
3       Memorandum of Agreement referred to in section  
4       3(b) of this Act.

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 within 18 months from  
23      the date of enactment of this Act, the Secretary, in coordi-  
24      nation with the District, shall promptly provide a report  
25      to the Committee on Resources of the House of Represent-

1 atives and to the Committee on Energy and Natural Re-  
 2 sources of the Senate on the status of the transfer de-  
 3 scribed in section 3(a), any obstacles to completion of such  
 4 transfer, 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 attributable to its status as a Reclama-  
 8 tion project pursuant to the Reclamation Act of June 17,  
 9 1902, and Acts supplementary thereto or amendatory  
 10 thereof.

Passed the Senate October 7 (legislative day, Octo-  
 ber 2), 1998.

Attest:

GARY SISCO,  
*Secretary.*