

Calendar No. 625

105TH CONGRESS
2D Session

S. 2142

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.

SEPTEMBER 25, 1998

Reported with an amendment

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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

SEPTEMBER 25, 1998

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Pine River Project
3 Conveyance Act”.

4 **SEC. 2. DEFINITIONS.**

5 For purposes of this Act:

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

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

1 (3) The term “Repayment Contract” means Re-
2 payment Contract #11r-1204, between Reclamation
3 and the Pine River Irrigation District, dated April
4 15, 1940, and amended November 30, 1953, cover-
5 ing the Pine River Project and certain lands ac-
6 quired in support of the Vallecito Dam and Res-
7 ervoir pursuant to which the Pine River Irrigation
8 District has assumed operation and maintenance re-
9 sponsibilities for the dam, reservoir, and water-based
10 recreation in accordance with existing law.

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

13 (5) The term “Secretary” means the Secretary
14 of the Interior.

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

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

1 Vallecito Reservoir for the purpose of supplying the
 2 lands of the District, pursuant to the Repayment
 3 Contract, and the decree in Case No. 1848-B, Dis-
 4 trict Court, Water Division 7, State of Colorado, as
 5 well as an undivided $\frac{5}{6}$ right and interest in the
 6 Pine River Project.

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

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

19 (b) PRICE.—The sale price for the undivided $\frac{5}{6}$ right
 20 and interest to the Project to be transferred to the Pine
 21 River Irrigation District shall be Four Hundred Ninety-
 22 two Thousand and 00/100 Dollars (\$492,000) (the “Sale
 23 Price”). Concurrently with the conveyance, the Sale Price
 24 shall be deposited as miscellaneous receipts into the Ree-
 25 clamation Fund of the United States. Payment of the Sale

1 Price shall extinguish all obligations between the District
 2 and the Bureau of Indian Affairs on the one hand and
 3 Reclamation on the other hand, under the Repayment
 4 Contract or with respect to the Pine River Project. Upon
 5 completion of the title transfer, said Repayment Contract
 6 shall become null and void.

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

16 (d) BUREAU OF INDIAN AFFAIRS INTEREST.—At the
 17 option of the Tribe, the Secretary is authorized to convey
 18 to the Tribe the Bureau of Indian Affairs' undivided $\frac{1}{6}$
 19 right and interest in the Pine River Project and the water
 20 supply made available by Vallecito Reservoir pursuant to
 21 the Memorandum of Understanding between the Bureau
 22 of Reclamation and the Office of Indian Affairs dated Jan-
 23 uary 3, 1940, together with its Amendment dated July
 24 9, 1964 (“MOU”), the Repayment Contract and decrees
 25 in Case Nos. 1848-B and W-1603-76D, District Court,

1 Water Division 7, State of Colorado. In the event of such
 2 conveyance, no additional consideration or compensation
 3 shall be required to be paid to the United States.

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

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

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

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

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

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

15 (c) ADMINISTRATION.—Following the Jurisdictional
16 Transfer:

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

23 (2) Reclamation withdrawals of land from the
24 San Juan National Forest established by Secretarial
25 Orders on November 9, 1936, October 14, 1937,

1 and June 20, 1945, together designated as Serial
2 No. C-28259, shall be revoked.

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

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

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

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

1 construction, maintenance, and operation of a road
2 from La Plata County Road No. 501 to National
3 Forest System lands east of the Reservoir.

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

16 **SEC. 5. LIABILITY.**

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

1 liability of the United States beyond that currently pro-
 2 vided in the Federal Tort Claims Act (28 U.S.C. 2671
 3 et seq.)

4 **SEC. 6. COMPLETION OF CONVEYANCE.**

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

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

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

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

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

24 (5) The development of an agreement between
 25 the Bureau of Indian Affairs and the District to pre-

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

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

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

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

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

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

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Pine River Project Con-*
 13 *veyance Act”.*

14 **SEC. 2. DEFINITIONS.**

15 *For purposes of this Act:*

16 (1) *The term “Jurisdictional Map” means the*
 17 *map entitled “Transfer of Jurisdiction—Vallecito*
 18 *Reservoir, United States Department of Agriculture,*
 19 *Forest Service and United States Department of the*
 20 *Interior, Bureau of Reclamation and the Bureau of*
 21 *Indian Affairs” dated March, 1998.*

22 (2) *The term “Pine River Project” or the*
 23 *“Project” means Vallecito Dam and Reservoir owned*
 24 *by the United States and authorized in 1937 under*
 25 *the provisions of the Department of the Interior Ap-*

1 *appropriation Act of June 25, 1910, 36 Stat. 835; fa-*
2 *cilities appurtenant to the Dam and Reservoir, in-*
3 *cluding equipment, buildings, and other improve-*
4 *ments; lands adjacent to the Dam and Reservoir;*
5 *easements and rights-of-way necessary for access and*
6 *all required connections with the Dam and Reservoir,*
7 *including those for necessary roads; and associated*
8 *personal property, including contract rights and any*
9 *and all ownership or property interest in water or*
10 *water rights.*

11 (3) *The term “Repayment Contract” means Re-*
12 *payment Contract #I1r-1204, between Reclamation*
13 *and the Pine River Irrigation District, dated April*
14 *15, 1940, and amended November 30, 1953, and all*
15 *amendments and additions thereto, including the Act*
16 *of July 27, 1954 (68 Stat. 534), covering the Pine*
17 *River Project and certain lands acquired in support*
18 *of the Vallecito Dam and Reservoir pursuant to which*
19 *the Pine River Irrigation District has assumed oper-*
20 *ation and maintenance responsibilities for the dam,*
21 *reservoir, and water-based recreation in accordance*
22 *with existing law.*

23 (4) *The term “Reclamation” means the Depart-*
24 *ment of the Interior, Bureau of Reclamation.*

1 (5) *The term “Secretary” means the Secretary of*
 2 *the Interior.*

3 (6) *The term “Southern Ute Indian Tribe” or*
 4 *“Tribe” means a federally recognized Indian tribe, lo-*
 5 *cated on the Southern Ute Indian Reservation, La*
 6 *Plata County, Colorado.*

7 (7) *The term “Pine River Irrigation District” or*
 8 *“District” means a political division of the State of*
 9 *Colorado duly organized, existing, and acting pursu-*
 10 *ant to the laws thereof with its principal place of*
 11 *business in the City of Bayfield, La Plata County,*
 12 *Colorado and having an undivided $\frac{5}{6}$ right and in-*
 13 *terest in the use of the water made available by*
 14 *Vallecito Reservoir for the purpose of supplying the*
 15 *lands of the District, pursuant to the Repayment*
 16 *Contract, and the decree in Case No. 1848–B, District*
 17 *Court, Water Division 7, State of Colorado, as well*
 18 *as an undivided $\frac{5}{6}$ right and interest in the Pine*
 19 *River Project.*

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

21 (a) *CONVEYANCE.—The Secretary is authorized to con-*
 22 *vey, without consideration or compensation to the District,*
 23 *by quitclaim deed or patent, pursuant to section 6, the*
 24 *United States undivided $\frac{5}{6}$ right and interest in the Pine*
 25 *River Project under the jurisdiction of Reclamation for the*

1 *benefit of the Pine River Irrigation District. No partition*
 2 *of the undivided $\frac{5}{6}$ right and interest in the Pine River*
 3 *Project shall be permitted from the undivided $\frac{1}{6}$ right and*
 4 *interest in the Pine River Project described in subsection*
 5 *3(b) and any quit claim deed or patent evidencing a trans-*
 6 *fer shall expressly prohibit partitioning. Effective on the*
 7 *date of the conveyance, all obligations between the District*
 8 *and the Bureau of Indian Affairs on the one hand and Rec-*
 9 *lamation on the other hand, under the Repayment Contract*
 10 *or with respect to the Pine River Project are extinguished.*
 11 *Upon completion of the title transfer, said Repayment Con-*
 12 *tract shall become null and void. The District shall be re-*
 13 *sponsible for paying 50 percent of all costs associated with*
 14 *the title transfer.*

15 (b) *BUREAU OF INDIAN AFFAIRS INTEREST.*—*At the*
 16 *option of the Tribe, the Secretary is authorized to convey*
 17 *to the Tribe the Bureau of Indian Affairs' undivided $\frac{1}{6}$*
 18 *right and interest in the Pine River Project and the water*
 19 *supply made available by Vallecito Reservoir pursuant to*
 20 *the Memorandum of Understanding between the Bureau of*
 21 *Reclamation and the Office of Indian Affairs dated Janu-*
 22 *ary 3, 1940, together with its Amendment dated July 9,*
 23 *1964 ('MOU'), the Repayment Contract and decrees in Case*
 24 *Nos. 1848-B and W-1603-76D, District Court, Water Di-*
 25 *vision 7, State of Colorado. In the event of such conveyance,*

1 *no consideration or compensation shall be required to be*
 2 *paid to the United States.*

3 (c) *FEDERAL DAM USE CHARGE.*—*Nothing in this Act*
 4 *shall relieve the holder of the license issued by the Federal*
 5 *Energy Regulatory Commission under the Federal Power*
 6 *Act for Vallecito Dam in effect on the date of enactment*
 7 *of this Act from the obligation to make payments under sec-*
 8 *tion 10(e)(2) of the Federal Power Act during the remain-*
 9 *ing term of the present license. At the expiration of the*
 10 *present license term, the Federal Energy Regulatory Com-*
 11 *mission shall adjust the charge to reflect either (1) the $\frac{1}{6}$*
 12 *interest of the United States remaining in the Vallecito*
 13 *Dam after conveyance to the District; or (2) if the remain-*
 14 *ing $\frac{1}{6}$ interest of the United States has been conveyed to*
 15 *the Tribe pursuant to section 3(b), then no federal dam*
 16 *charge shall be levied from the date of expiration of the*
 17 *present license.*

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

19 (a) *INUNDATED LANDS.*—*To provide for the consolida-*
 20 *tion of lands associated with the Pine River Project to be*
 21 *retained by the Forest Service and the consolidation of*
 22 *lands to be transferred to the District, the administrative*
 23 *jurisdiction of lands inundated by and along the shoreline*
 24 *of Vallecito Reservoir, as shown on the Jurisdictional Map,*
 25 *shall be transferred, as set forth below (the “Jurisdictional*

1 *Transfer*”), concurrently with the conveyance described in
2 section 3(a). Except as otherwise shown on the Jurisdic-
3 tional Map—

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

10 (2) for Project acquired lands (approximately
11 230 acres) above the 7,765-foot reservoir water surface
12 elevation level, Reclamation and the Bureau of In-
13 dian Affairs shall transfer their interests to the Forest
14 Service.

15 (b) *MAP.*—The Jurisdictional Map and legal descrip-
16 tions of the lands transferred pursuant to subsection (a)
17 above shall be on file and available for public inspection
18 in the offices of the Chief of the Forest Service, Department
19 of Agriculture, the Commissioner of Reclamation, Depart-
20 ment of the Interior, appropriate field offices of those agen-
21 cies, and the Committee on Resources of the House of Rep-
22 resentatives and the Committee on Energy and Natural Re-
23 sources of the Senate.

24 (c) *ADMINISTRATION.*—Following the Jurisdictional
25 Transfer:

1 (1) *All lands that, by reason of the Jurisdic-*
2 *tional Transfer, become National Forest System lands*
3 *within the boundaries of the San Juan National For-*
4 *est, shall be administered in accordance with the*
5 *laws, rules, and regulations applicable to the National*
6 *Forest System.*

7 (2) *Reclamation withdrawals of land from the*
8 *San Juan National Forest established by Secretarial*
9 *Orders on November 9, 1936, October 14, 1937, and*
10 *June 20, 1945, together designated as Serial No. C-*
11 *28259, shall be revoked.*

12 (3) *The Forest Service shall issue perpetual ease-*
13 *ments to the District and the Bureau of Indian Af-*
14 *fairs, at no cost to the District or the Bureau of In-*
15 *dian Affairs, providing adequate access across all*
16 *lands subject to Forest Service jurisdiction to insure*
17 *the District and the Bureau of Indian Affairs the*
18 *ability to continue to operate and maintain the Pine*
19 *River Project.*

20 (4) *The undivided $\frac{5}{6}$ interest in National Forest*
21 *System lands that, by reason of the Jurisdictional*
22 *Transfer is to be administered by Reclamation, shall*
23 *be conveyed to the District pursuant to section 3(a).*

24 (5) *The District and the Bureau of Indian Af-*
25 *fairs shall issue perpetual easements to the Forest*

1 *Service, at no cost to the Forest Service, from Na-*
2 *tional Forest System lands to Vallecito Reservoir to*
3 *assure continued public access to Vallecito Reservoir*
4 *when the Reservoir level drops below the 7,665-foot*
5 *water surface elevation.*

6 *(6) The District and the Bureau of Indian Af-*
7 *fairs shall issue a perpetual easement to the Forest*
8 *Service, at no cost to the Forest Service, for the recon-*
9 *struction, maintenance, and operation of a road from*
10 *La Plata County Road No. 501 to National Forest*
11 *System lands east of the Reservoir.*

12 *(d) VALID EXISTING RIGHTS.—Nothing in this section*
13 *shall affect any valid existing rights or interests in any ex-*
14 *isting land use authorization, except that any such land*
15 *use authorization shall be administered by the agency hav-*
16 *ing jurisdiction over the land after the Jurisdictional*
17 *Transfer in accordance with subsection (c) and other appli-*
18 *cable law. Renewal or reissuance of any such authorization*
19 *shall be in accordance with applicable law and the regula-*
20 *tions of the agency having jurisdiction, except that the*
21 *change of administrative jurisdiction shall not in itself con-*
22 *stitute a ground to deny the renewal or reissuance of any*
23 *such authorization.*

1 **SEC. 5. LIABILITY.**

2 *Effective on the date of the conveyance of the remain-*
 3 *ing undivided $\frac{1}{6}$ right and interest in the Pine River*
 4 *Project to the Tribe pursuant to subsection 3(b), the United*
 5 *States shall not be held liable by any court for damages*
 6 *of any kind arising out of any act, omission, or occurrence*
 7 *relating to such Project, except for damages caused by acts*
 8 *of negligence committed by the United States or by its em-*
 9 *ployees, agents, or contractors prior to the date of convey-*
 10 *ance. Nothing in this section shall be deemed to increase*
 11 *the liability of the United States beyond that currently pro-*
 12 *vided in the Federal Tort Claims Act (28 U.S.C. 2671 et*
 13 *seq.)*

14 **SEC. 6. COMPLETION OF CONVEYANCE.**

15 *(a) IN GENERAL.—The Secretary’s completion of the*
 16 *conveyance under section 3 shall not occur until the follow-*
 17 *ing events have been completed:*

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

21 *(2) The submission of a written statement from*
 22 *the Southern Ute Indian Tribe to the Secretary indi-*
 23 *cating the Tribe’s satisfaction that the Tribe’s Indian*
 24 *Trust Assets are protected in the conveyance described*
 25 *in section 3.*

1 (3) *Execution of an agreement acceptable to the*
2 *Secretary which limits the future liability of the*
3 *United States relative to the operation of the Project.*

4 (4) *The submission of a statement by the Sec-*
5 *retary to the District, the Bureau of Indian Affairs,*
6 *and the State of Colorado on the existing condition of*
7 *Vallecito Dam based on Bureau of Reclamation's cur-*
8 *rent knowledge and understanding.*

9 (5) *The development of an agreement between the*
10 *Bureau of Indian Affairs and the District to prescribe*
11 *the District's obligation to so operate the Project that*
12 *the $\frac{1}{6}$ rights and interests to the Project and water*
13 *supply made available by Vallecito Reservoir held by*
14 *the Bureau of Indian Affairs are protected. Such*
15 *agreement shall supercede the Memorandum of Agree-*
16 *ment referred to in section 3(b) of this Act.*

17 (6) *The submission of a plan by the District to*
18 *manage the Project in a manner substantially similar*
19 *to the manner in which it was managed prior to the*
20 *transfer and in accordance with applicable Federal*
21 *and State laws, including management for the preser-*
22 *vation of public access and recreational values and*
23 *for the prevention of growth on certain lands to be*
24 *conveyed hereunder, as set forth in an Agreement*
25 *dated March 20, 1998, between the District and resi-*

1 *dents of Vallecito Reservoir. Any future change in the*
 2 *use of the water supplied by Vallecito Reservoir shall*
 3 *comply with applicable law.*

4 *(7) The development of a flood control plan by*
 5 *the Secretary of the Army acting through the Corps*
 6 *of Engineers which shall direct the District in the op-*
 7 *eration of Vallecito Dam for such purposes.*

8 *(b) REPORT.—If the transfer authorized in section 3*
 9 *is not substantially completed within 18 months from the*
 10 *date of enactment of this Act, the Secretary, in coordination*
 11 *with the District, shall promptly provide a report to the*
 12 *Committee on Resources of the House of Representatives*
 13 *and to the Committee on Energy and Natural Resources*
 14 *of the Senate on the status of the transfer described in sec-*
 15 *tion 3(a), any obstacles to completion of such transfer, and*
 16 *the anticipated date for such transfer.*

17 *(c) FUTURE BENEFITS.—Effective upon transfer, the*
 18 *District shall not be entitled to receive any further Rec-*
 19 *lamation benefits attributable to its status as a Reclama-*
 20 *tion project pursuant to the Reclamation Act of June 17,*
 21 *1902, and Acts supplementary thereto or amendatory there-*
 22 *of.*

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