

107TH CONGRESS
1ST SESSION

H. R. 2202

To convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the pertinent irrigation districts.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2001

Mr. REHBERG introduced the following bill; which was referred to the Committee on Resources

A BILL

To convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the pertinent irrigation districts.

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 “Lower Yellowstone
5 Reclamation Projects Conveyance Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) INTAKE IRRIGATION DISTRICT.—The term
2 “Intake Irrigation District” means the irrigation
3 district by that name that is organized under the
4 laws of the State of Montana and operates the In-
5 take Project.

6 (2) INTAKE PROJECT.—The term “Intake
7 Project” means the Federal irrigation feature oper-
8 ated by the Intake Irrigation District and authorized
9 under the Act of August 11, 1939 (chapter 717; 53
10 Stat. 1418).

11 (3) IRRIGATION DISTRICTS.—The term “irriga-
12 tion districts” means—

13 (A) the Intake Irrigation District;

14 (B) the Lower Yellowstone Irrigation Dis-
15 trict No. 1;

16 (C) the Lower Yellowstone Irrigation Dis-
17 trict No. 2; and

18 (D) the Savage Irrigation District.

19 (4) LOWER YELLOWSTONE IRRIGATION DIS-
20 TRICT NO. 1.—The term “Lower Yellowstone Irriga-
21 tion District No. 1” means the irrigation district by
22 that name that is organized under the laws of the
23 State of Montana and operates the part of the
24 Lower Yellowstone Irrigation Project located in the
25 State of Montana.

1 (5) LOWER YELLOWSTONE IRRIGATION DIS-
2 TRICT NO. 2.—The term “Lower Yellowstone Irriga-
3 tion District No. 2” means the irrigation district by
4 that name that is organized under the laws of the
5 State of North Dakota and operates the part of the
6 Lower Yellowstone Irrigation Project located in the
7 State of North Dakota.

8 (6) LOWER YELLOWSTONE IRRIGATION
9 PROJECT.—The term “Lower Yellowstone Irrigation
10 Project” means the Federal irrigation feature oper-
11 ated by Lower Yellowstone Irrigation District No. 1
12 and Lower Yellowstone Irrigation District No. 2 and
13 authorized by the Act of June 17, 1902 (chapter
14 1093; 32 Stat. 388).

15 (7) MEMORANDUM OF UNDERSTANDING.—The
16 term “Memorandum of Understanding” means the
17 memorandum of understanding dated November 16,
18 1999, between the districts and the Montana Area
19 Office, Great Plains Region, Bureau of Reclamation,
20 for the purpose of defining certain principles by
21 which the title to the projects will be transferred
22 from the United States to the districts.

23 (8) PICK-SLOAN MISSOURI BASIN PROGRAM.—
24 The term “Pick-Sloan Missouri Basin Program”
25 means the comprehensive Federal program for mul-

1 tipurpose benefits within the Missouri River Basin,
2 including irrigation authorized by section 9 of the
3 Act of December 22, 1944, commonly known as the
4 “Flood Control Act of 1944” (chapter 665; 58 Stat.
5 891).

6 (9) PICK-SLOAN MISSOURI BASIN PROGRAM
7 PROJECT USE POWER.—The term “Pick-Sloan Mis-
8 souri Basin Program Project Use Power” means
9 power generated and transmitted at a rate covering
10 operation, maintenance, and replacement expenses of
11 the Pick-Sloan power system for maintaining the ir-
12 rigation developments of the Pick-Sloan Missouri
13 Basin Program.

14 (10) PROJECTS.—The term “projects” means—

15 (A) the Lower Yellowstone Irrigation
16 Project;

17 (B) the Intake Irrigation Project; and

18 (C) the Savage Unit.

19 (11) SAVAGE IRRIGATION DISTRICT.—The term
20 “Savage Irrigation District” means the irrigation
21 district by that name that is organized under the
22 laws of the State of Montana and operates the Sav-
23 age Unit.

24 (12) SAVAGE UNIT.—The term “Savage Unit”
25 means the Savage Unit of the Pick-Sloan Missouri

1 Basin Program, a Federal irrigation feature oper-
2 ated by the Savage Irrigation District and author-
3 ized by the Act of December 22, 1944 (commonly
4 known as the “Flood Control Act of 1944”) (chapter
5 665; 58 Stat. 891).

6 (13) SECRETARY.—The term “Secretary”
7 means the Secretary of the Interior.

8 **SEC. 3. CONVEYANCE OF PROJECTS.**

9 (a) CONVEYANCES.—

10 (1) RECLAMATION WITHDRAWALS.—

11 (A) CONVEYANCE TO RICHLAND COUN-
12 TY.—The Secretary shall convey to the govern-
13 ment of Richland County, Montana, without
14 consideration, all right, title, and interest of the
15 United States in and to property in Richland
16 County described as follows: SE¹/₄NE¹/₄, sec.
17 13, T. 23 N., R. 59 E.

18 (B) CONVEYANCE TO LOWER YELLOW-
19 STONE IRRIGATION DISTRICTS NO. 1 AND 2.—
20 The Secretary shall convey to the Lower Yel-
21 lowstone Irrigation District No. 1 and the
22 Lower Yellowstone Irrigation District No. 2,
23 without consideration, all right, title, and inter-
24 est of the United States in and to property in
25 Dawson and Richland Counties described as fol-

1 lows: Lots 1 through 6 of Sec. 2, T.17N.,
2 R.56E.; NW1/4 of Sec. 6, T.17N., R.57E.;
3 SW1/4NW1/4 of Sec. 26, T.22N., R.58E.; lots
4 4 through 7 of Sec. 2 and lot 1 and lot 2 of
5 Sec. 3, T.23N., R.59E.; and lot 2 of Sec. 18,
6 T.24N., R.60E.; all in the Principal Meridian,
7 Montana.

8 (2) FEE OWNERSHIP LAND, EASEMENTS, AND
9 RIGHTS-OF-WAY.—The Secretary shall convey to the
10 respective irrigation districts by quitclaim deed all
11 fee ownership land, easements, and rights-of-way in
12 connection with the projects.

13 (3) PHYSICAL FEATURES.—The Secretary shall
14 convey to the districts all right, title, and interest of
15 the United States in and to all diversion, carriage,
16 distribution, drainage, and appurtenant physical fea-
17 tures used to serve the lands within the districts.

18 (4) WATER RIGHTS.—The Secretary shall
19 transfer to the respective irrigation districts in ac-
20 cordance with and subject to the law of the State of
21 Montana, all natural flow, wastewater, seepage, re-
22 turn flow, domestic water, stock water, and ground-
23 water rights held in part or wholly in the name of
24 the United States that are used to serve the lands
25 within the irrigation districts.

1 (b) REVOCATION OF RECLAMATION WITHDRAWALS
2 AND ORDERS.—(1) The Reclamation withdrawal estab-
3 lished by Public Land Order 4711 dated October 6, 1969,
4 for the Lower Yellowstone Irrigation Project in lots 1 and
5 2, section 3, T. 23 N., R. 59 E., is hereby revoked in its
6 entirety.

7 (2) The Secretarial Order of March 22, 1906, which
8 was issued for irrigation works on lot 3 (now lots 5, 6,
9 and 7) and lot 4, section 2, T. 23 N., R. 59 E., and the
10 Secretarial Order of August 8, 1905, which was issued for
11 irrigation works in section 2, T. 17 N., R. 56 E. and sec-
12 tion 6, T. 17 N., R. 57 E., are hereby revoked in their
13 entirety.

14 (3) The Secretarial Order of August 24, 1903, which
15 was issued in connection with the Lower Yellowstone Irri-
16 gation Project is revoked insofar as it affects the following
17 lands:

18 (A) Lot 9 of Sec. 2 and lot 2 of Sec. 30,
19 T.18N., R.57E.; lot 3 of Sec. 4, T.19N., R.58E.;
20 lots 2 and 3 and 6 and 7 of Sec. 4, T.21N., R.58E.;
21 SW1/4NW1/4 of Sec. 26, T.22N., R. 58E.; lots 1
22 and 4 and 7 and NW1/4SW1/4 of Sec. 20, T.22N.,
23 R.59E.; SE1/4NE1/4 of Sec. 13, T.23N., R.59E.;
24 and lot 2 of Sec. 18, T.24N., R.60E.; all in the
25 Principal Meridian, Montana.

1 (B) Lot 8 of Sec. 2 and lot 1 and lot 2 and lot
2 3 and NE1/4NE1/4 of Sec. 10 and lot 2 of Sec. 11
3 and lot 6 of Sec. 18 and lot 3 of Sec. 35, T.151N.,
4 R.104W.; and lot 7 of 28, T.152N., R.104W.; all in
5 the Fifth Principal Meridian, North Dakota.

6 (c) TRANSFER OF DOCUMENTS.—The Secretary shall
7 transfer to the irrigation districts all patents, land deeds,
8 court proceedings, water right abstracts, contracts, special
9 use permits, licenses, permits, and any other documents
10 of the projects executed on behalf of the Secretary.

11 (d) SAVAGE UNIT FINANCIAL OBLIGATIONS.—

12 (1) SAVAGE IRRIGATION DISTRICT OBLIGA-
13 TION.—The Secretary shall accept an amount from
14 the Savage Irrigation District equal to the current
15 value of the remaining water supply payment obliga-
16 tion of \$68,280 under Contract Number Ilr-1525,
17 as amended and as extended by Contract No. 9-07-
18 60-W0770, as full payment of the Savage Irrigation
19 District's share of the construction of the Savage
20 Unit.

21 (2) PICK-SLOAN MISSOURI BASIN PROGRAM
22 BENEFICIARIES OBLIGATION.—The Secretary shall
23 accept an amount from the Pick-Sloan Missouri
24 Basin Program power beneficiaries equal to the cur-
25 rent value of the aid-to-irrigation payment obligation

1 of \$667,702 as full payment of aid-to-irrigation as-
2 sociated with the construction of the Savage Unit.

3 (e) REPORT.—If any conveyance required under sub-
4 section (a) has not occurred within 2 years after the date
5 of the enactment of this Act, the Secretary shall submit
6 to the Congress a report on the status of the conveyance.

7 **SEC. 4. RELATIONSHIP TO EXISTING OPERATIONS.**

8 (a) IN GENERAL.—Nothing in this Act expands or
9 otherwise changes the use or operation of the projects
10 from the use and operation of the projects on the date
11 of enactment of this Act.

12 (b) RECREATION MANAGEMENT.—As a condition of
13 the conveyance of lands under section 3, the Secretary
14 shall require that Lower Yellowstone Irrigation District
15 No. 1 and Lower Yellowstone Irrigation District No. 2
16 convey a perpetual conservation easement to the State of
17 Montana, at no cost to the State, for the purposes of pro-
18 tecting, preserving, and enhancing the conservation values
19 and permitting recreation on—

20 (1) lands to be conveyed under section
21 3(a)(1)(B); and

22 (2) lands in part to be conveyed under section
23 3(a)(2);

1 as mutually agreed upon by Lower Yellowstone Irrigation
2 District No. 1 and Lower Yellowstone Irrigation District
3 No. 2, and the State of Montana.

4 (c) PICK-SLOAN MISSOURI BASIN PROGRAM
5 PROJECT PUMPING POWER SERVICE.—The Secretary
6 shall sustain the irrigation developments established by
7 the projects as components of the irrigation plan under
8 the Pick-Sloan Missouri River Basin Program and shall
9 continue to provide the irrigation districts with Pick-Sloan
10 Missouri Basin Project Use Power at the irrigation dis-
11 tricts' pumping plants (subject to section 5(a)), except
12 that there shall be no ability-to-pay adjustment for the
13 power rate.

14 **SEC. 5. YELLOWSTONE RIVER FISHERIES PROTECTION.**

15 (a) IN GENERAL.—The Secretary, in cooperation
16 with the irrigation districts, shall provide fish protection
17 devices to prevent juvenile and adult fish from entering
18 the main canal of the Lower Yellowstone Irrigation
19 Project and allow bottom dwelling fish species to migrate
20 above the intake diversion dam on the Yellowstone River
21 for that project.

22 (b) PARTICIPATION.—The Secretary and the irriga-
23 tion districts shall work cooperatively in planning, engi-
24 neering, and constructing the fish protection devices.

1 (c) MONITORING.—The Secretary, acting through the
2 Commissioner of the Bureau of Reclamation and the Di-
3 rector of the United States Fish and Wildlife Service, shall
4 establish and conduct a monitoring plan to measure the
5 effectiveness of the devices for a minimum of 2 years after
6 construction is completed. The Commissioner of the Bu-
7 reau of Reclamation shall be responsible for modifying the
8 devices as necessary to ensure proper functioning.

9 **SEC. 6. RELATIONSHIP WITH OTHER LAWS AND FUTURE**
10 **BENEFITS.**

11 Upon conveyance of the projects under this Act, the
12 irrigation districts shall not be subject to the reclamation
13 laws or entitled to receive any reclamation benefits under
14 those laws except as provided in section 4(c).

15 **SEC. 7. LIABILITY.**

16 Effective on the date of conveyance of a project under
17 this Act, the United States shall not be liable under any
18 State or Federal law for damages of any kind arising out
19 of any act, omission, or occurrence relating to the projects,
20 except for damages caused by acts of negligence com-
21 mitted by the United States or by its employees, agents,
22 or contractors prior to the date of the conveyance. Nothing
23 in this section shall be considered to increase the liability
24 of the United States beyond that currently provided in

1 chapter 171 of title 28, United States Code, popularly
2 known as the Federal Tort Claims Act.

