

Calendar No. 645

107TH CONGRESS
2^D SESSION**S. 2556**

To authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

 IN THE SENATE OF THE UNITED STATES

MAY 23, 2002

Mr. CRAPO (for himself and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

OCTOBER 8, 2002

Reported by Mr. BINGAMAN, 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 certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

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 "~~Fremont-Madison Con-~~
5 ~~veyance Act~~".

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ~~AGREEMENT.~~—The term “Agreement”
4 means the memorandum of agreement between the
5 Secretary and the District identified as Contract No.
6 ~~1425-01-MA-10-3310~~, and dated September 13,
7 2001.

8 (2) ~~DISTRICT.~~—The term “District” means the
9 Fremont-Madison Irrigation District, an irrigation
10 district organized under State law.

11 (3) ~~FACILITY.~~—The term “facility” means—

12 (A) the Cross Cut Diversion Dam, the
13 Cross Cut Canal, and the Teton Exchange
14 Wells in the State;

15 (B) any canal, lateral, drain, or other com-
16 ponent of the water distribution and drainage
17 system that, on the date of enactment of this
18 Act, is operated or maintained by the District
19 to deliver water to and drainage of water from
20 land within the boundaries of the District; and

21 (C) with respect to the Teton Exchange
22 Wells—

23 (i) Idaho Department of Water Re-
24 sources permit number ~~22-7022~~, including
25 drilled wells under the permit, as described
26 in the Agreement; and

1 (ii) any appurtenant equipment.

2 (4) SECRETARY.—The term “Secretary” means
3 the Secretary of the Interior.

4 (5) STATE.—The term “State” means the State
5 of Idaho.

6 **SEC. 3. CONVEYANCE OF FACILITIES.**

7 (a) IN GENERAL.—As soon as practicable after the
8 date of enactment of this Act, but not later than Sep-
9 tember 13, 2003, subject to applicable laws and in accord-
10 ance with the Agreement, the Secretary shall convey to
11 the District all right, title, and interest of the United
12 States in and to the facilities.

13 (b) CONSIDERATION.—

14 (1) IN GENERAL.—In exchange for the convey-
15 ance of the facilities under subsection (a), the Dis-
16 trict shall pay to the Secretary an amount equal to
17 the lesser of—

18 (A) the net value of any remaining obliga-
19 tions owed to the United States by the District
20 with respect to the facilities conveyed, as deter-
21 mined on the date of the conveyance; or

22 (B) \$280,000.

23 (2) ADMINISTRATIVE COSTS.—

24 (A) IN GENERAL.—In addition to amounts
25 paid to the Secretary under paragraph (1), the

1 District shall pay to the Secretary, subject to
2 subparagraph (B), any administrative costs in-
3 curred by the Secretary in conveying the facili-
4 ties, including the costs of carrying out a review
5 under the National Environmental Policy Act of
6 1969 (42 U.S.C. 4321 et seq.).

7 (B) LIMITATION.—The District shall pay
8 to the Secretary not more than \$40,000 in ad-
9 ministrative costs under subparagraph (A).

10 (3) DEPOSIT.—Amounts received by the Sec-
11 retary under paragraph (1) or (2) shall be deposited
12 in the reclamation fund established under the first
13 section of the Act of June 17, 1902 (43 U.S.C.
14 391).

15 (c) CONDITION.—As a condition of the conveyance
16 under subsection (a), the Secretary shall, not later than
17 the date on which the facilities are conveyed, comply with
18 any applicable requirements of the National Environ-
19 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

20 **SEC. 4. LIABILITY.**

21 (a) IN GENERAL.—Beginning on the date on which
22 the facilities are conveyed under section 3(a), the United
23 States shall not be liable, except as provided in subsection
24 (b), under any Federal or State law for damage from any
25 act, omission, or occurrence relating to the facilities.

1 (b) EXCEPTION.—Notwithstanding subsection (a),
2 the United States shall be liable for damage caused by
3 acts of negligence committed by the United States or by
4 an employee, agent, or contractor of the United States,
5 before the date on which the facilities are conveyed under
6 section 3(a).

7 (c) FEDERAL TORT CLAIMS.—Nothing in this section
8 increases the liability of the United States beyond that
9 provided in chapter 171 of title 28, United States Code
10 (commonly known as the “Federal Tort Claims Act”) as
11 in effect on the date of enactment of this Act.

12 **SEC. 5. WATER SUPPLY TO DISTRICT LAND.**

13 (a) IN GENERAL.—The Secretary shall increase, by
14 a quantity equal to the number of acres that are in the
15 District on the date of enactment of this Act, the number
16 of acres in the District that are eligible to receive water
17 from the Minidoka Project and the Teton Basin Project.

18 (b) EXTENSION OF WATER SERVICE CONTRACT.—
19 The water service contract between the Secretary and the
20 District, numbered ~~7-07-10-W0179~~, and dated Sep-
21 tember ~~16, 1977~~, is extended until the date on which the
22 conditions of this Act are fulfilled, as determined by the
23 Secretary.

24 (c) EFFECT.—This section does not authorize the use
25 of any additional water from a project carried out under

1 Federal reclamation law (the Act of June 17, 1902 (32
2 Stat. 388, chapter 1093), and Acts supplemental to and
3 amendatory of that Act (43 U.S.C. 371 et seq.)) beyond
4 that which is authorized on the date of enactment of this
5 Act under—

6 (1) water storage contracts; and

7 (2) State water law.

8 **SEC. 6. EFFECT.**

9 Except as specifically provided in this Act, nothing
10 in this Act affects—

11 (1) the rights of any person with respect to the
12 facilities; or

13 (2) any contract executed by the United States
14 or under State law with respect to any right of an
15 irrigation district to use water made available by the
16 facilities conveyed under this Act.

17 **SEC. 7. REPORT.**

18 If the Secretary has not conveyed the facilities to the
19 District by the date that is 1 year after the date of enact-
20 ment of this Act, the Secretary shall, not later than that
21 date, submit to Congress a report that—

22 (1) explains the reasons why the conveyance
23 has not been completed; and

24 (2) specifies the date by which the conveyance
25 is proposed to be completed.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Fremont-Madison Con-*
3 *veyance Act”.*

4 **SEC. 2. DEFINITIONS.**

5 *In this Act:*

6 (1) *DISTRICT.*—*The term “District” means the*
7 *Fremont-Madison Irrigation District, an irrigation*
8 *district organized under the law of the State of Idaho.*

9 (2) *SECRETARY.*—*The term “Secretary” means*
10 *the Secretary of the Interior.*

11 **SEC. 3. CONVEYANCE OF FACILITIES.**

12 (a) *CONVEYANCE REQUIREMENT.*—*The Secretary of*
13 *the Interior shall convey to the Fremont-Madison Irrigation*
14 *District, Idaho, pursuant to the terms of the memorandum*
15 *of agreement (MOA) between the District and the Secretary*
16 *(Contract No. 1425–0901–09MA–0910–093310), all right,*
17 *title, and interest of the United States in and to the canals,*
18 *laterals, drains, and other components of the water distribu-*
19 *tion and drainage system that is operated or maintained*
20 *by the District for delivery of water to and drainage of*
21 *water from lands within the boundaries of the District as*
22 *they exist upon the date of enactment of this Act, consistent*
23 *with section 8.*

24 (b) *REPORT.*—*If the Secretary has not completed any*
25 *conveyance required under this Act by September 13, 2003,*
26 *the Secretary shall, by no later than that date, submit a*

1 *report to the Congress explaining the reasons that convey-*
2 *ance has not been completed and stating the date by which*
3 *the conveyance will be completed.*

4 **SEC. 4. COSTS.**

5 (a) *IN GENERAL.*—*The Secretary shall require, as a*
6 *condition of the conveyance under section 3, that the Dis-*
7 *trict pay the administrative costs of the conveyance and re-*
8 *lated activities, including the costs of any review required*
9 *under the National Environmental Policy Act of 1969 (42*
10 *U.S.C. 4321 et seq.), as described in Contract No. 1425-*
11 *0901-09MA-0910-093310.*

12 (b) *VALUE OF FACILITIES TO BE TRANSFERRED.*—*In*
13 *addition to subsection (a) the Secretary shall also require,*
14 *as a condition of the conveyance under section 2, that the*
15 *District pay to the United States the lesser of the net present*
16 *value of the remaining obligations owed by the District to*
17 *the United States with respect to the facilities conveyed, or*
18 *\$280,000. Amounts received by the United States under this*
19 *subsection shall be deposited into the Reclamation Fund.*

20 **SEC. 5. TETON EXCHANGE WELLS.**

21 (a) *CONTRACTS AND PERMIT.*—*In conveying the Teton*
22 *Exchange Wells referenced in section 3, the Secretary shall*
23 *also convey to the District—*

24 (1) *Idaho Department of Water Resources permit*
25 *number 22-097022, including drilled wells under the*

1 *permit, as described in Contract No. 1425-0901-*
2 *09MA-0910-093310; and*

3 *(2) all equipment appurtenant to such wells.*

4 *(b) EXTENSION OF WATER SERVICE CONTRACT.—The*
5 *water service contract between the Secretary and the Dis-*
6 *trict (Contract No. 7-0907-0910-09W0179, dated Sep-*
7 *tember 16, 1977) is hereby extended and shall continue in*
8 *full force and effect until all conditions described in this*
9 *Act are fulfilled.*

10 **SEC. 6. ENVIRONMENTAL REVIEW**

11 *Prior to conveyance the Secretary shall complete all*
12 *environmental reviews and analyses as set forth in the*
13 *MOA.*

14 **SEC. 7. LIABILITY.**

15 *Effective on the date of the conveyance the United*
16 *States shall not be liable for damages of any kind arising*
17 *out of any act, omission, or occurrence relating to the con-*
18 *veyed facilities, except for damages caused by acts of neg-*
19 *ligence committed by the United States or by its employees,*
20 *agents, or contractors prior to the date of conveyance. Noth-*
21 *ing in this section may increase the liability of the United*
22 *States beyond that currently provided in chapter 171 of*
23 *title 28, United States Code.*

1 **SEC. 8. WATER SUPPLY TO DISTRICT LANDS.**

2 *The acreage within the District eligible to receive water*
3 *from the Minidoka Project and the Teton Basin Projects*
4 *is increased to reflect the number of acres within the Dis-*
5 *trict as of the date of enactment of this Act, including lands*
6 *annexed into the District prior to enactment of this Act*
7 *as contemplated by the Teton Basin Project. The increase*
8 *in acreage does not alter deliveries authorized under their*
9 *existing water storage contracts and as allowed by State*
10 *water law.*

11 **SEC. 9. DROUGHT MANAGEMENT PLANNING.**

12 *Within 60 days of enactment of this Act, in collabora-*
13 *tion with stakeholders in the Henry's Fork watershed, the*
14 *Secretary shall initiate a drought management planning*
15 *process to address all water uses, including irrigation and*
16 *the wild trout fishery, in the Henry's Fork watershed.*
17 *Within 18 months of enactment of this Act, the Secretary*
18 *shall report to Congress with a final drought management*
19 *plan.*

20 **SEC. 10. EFFECT.**

21 *(a) IN GENERAL.—Except as provided in this Act,*
22 *nothing in this Act affects—*

23 *(1) the rights of any person; or*

24 *(2) any right in existence on the date of enact-*
25 *ment of this Act of the Shoshone-Bannock Tribes of*
26 *the Fort Hall Reservation to water based on a treaty,*

1 *compact, executive order, agreement, the decision in*
2 *Winters v. United States, 207 U.S. 564 (1908) (com-*
3 *monly known as the “Winters Doctrine”), or law.*

4 **(b) CONVEYANCES.**—*Any conveyance under this Act*
5 *shall not affect or abrogate any provision of any contract*
6 *executed by the United States or State law regarding any*
7 *irrigation district’s right to use water developed in the fa-*
8 *cilities conveyed.*

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To authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

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