

Calendar No. 817

110TH CONGRESS
2D SESSION**H. R. 2085****[Report No. 110-385]**

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2007

Received; read twice and referred to the Committee on Energy and Natural
Resources

JUNE 16, 2008

Reported by Mr. BINGAMAN, without amendment

AN ACT

To authorize the Secretary of the Interior to convey to the McGee Creek Authority certain facilities of the McGee Creek Project, Oklahoma, 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 “McGee Creek Project
5 Pipeline and Associated Facilities Conveyance Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) AGREEMENT.—The term “Agreement”
2 means the agreement numbered 06–AG–60–2115
3 and entitled “Agreement Between the United States
4 of America and McGee Creek Authority for the Pur-
5 pose of Defining Responsibilities Related to and Im-
6 plementing the Title Transfer of Certain Facilities
7 at the McGee Creek Project, Oklahoma”.

8 (2) AUTHORITY.—The term “Authority” means
9 the McGee Creek Authority located in Oklahoma
10 City, Oklahoma.

11 (3) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 **SEC. 3. CONVEYANCE OF MCGEE CREEK PROJECT PIPE-**
14 **LINE AND ASSOCIATED FACILITIES.**

15 (a) AUTHORITY TO CONVEY.—

16 (1) IN GENERAL.—In accordance with all appli-
17 cable laws and consistent with any terms and condi-
18 tions provided in the Agreement, the Secretary may
19 convey to the Authority all right, title, and interest
20 of the United States in and to the pipeline and any
21 associated facilities described in the Agreement, in-
22 cluding—

23 (A) the pumping plant;

1 (B) the raw water pipeline from the McGee
2 Creek pumping plant to the rate of flow control
3 station at Lake Atoka;

4 (C) the surge tank;

5 (D) the regulating tank;

6 (E) the McGee Creek operation and main-
7 tenance complex, maintenance shop, and pole
8 barn; and

9 (F) any other appurtenances, easements,
10 and fee title land associated with the facilities
11 described in subparagraphs (A) through (E), in
12 accordance with the Agreement.

13 (2) EXCLUSION OF MINERAL ESTATE FROM
14 CONVEYANCE.—

15 (A) IN GENERAL.—The mineral estate
16 shall be excluded from the conveyance of any
17 land or facilities under paragraph (1).

18 (B) MANAGEMENT.—Any mineral interests
19 retained by the United States under this Act
20 shall be managed—

21 (i) consistent with Federal law; and

22 (ii) in a manner that would not inter-
23 fere with the purposes for which the
24 McGee Creek Project was authorized.

1 (3) COMPLIANCE WITH AGREEMENT; APPLICA-
2 BLE LAW.—

3 (A) AGREEMENT.—All parties to the con-
4 veyance under paragraph (1) shall comply with
5 the terms and conditions of the Agreement, to
6 the extent consistent with this Act.

7 (B) APPLICABLE LAW.—Before any con-
8 veyance under paragraph (1), the Secretary
9 shall complete any actions required under—

10 (i) the National Environmental Policy
11 Act of 1969 (42 U.S.C. 4321 et seq.);

12 (ii) the Endangered Species Act of
13 1973 (16 U.S.C. 1531 et seq.);

14 (iii) the National Historic Preserva-
15 tion Act (16 U.S.C. 470 et seq.); and

16 (iv) any other applicable laws.

17 (b) OPERATION OF TRANSFERRED FACILITIES.—

18 (1) IN GENERAL.—On the conveyance of the
19 land and facilities under subsection (a)(1), the Au-
20 thority shall comply with all applicable Federal,
21 State, and local laws (including regulations) in the
22 operation of any transferred facilities.

23 (2) OPERATION AND MAINTENANCE COSTS.—

24 (A) IN GENERAL.—After the conveyance of
25 the land and facilities under subsection (a)(1)

1 and consistent with the Agreement, the Author-
2 ity shall be responsible for all duties and costs
3 associated with the operation, replacement,
4 maintenance, enhancement, and betterment of
5 the transferred land and facilities.

6 (B) LIMITATION ON FUNDING.—The Au-
7 thority shall not be eligible to receive any Fed-
8 eral funding to assist in the operation, replace-
9 ment, maintenance, enhancement, and better-
10 ment of the transferred land and facilities, ex-
11 cept for funding that would be available to any
12 comparable entity that is not subject to rec-
13 lamation laws.

14 (c) RELEASE FROM LIABILITY.—

15 (1) IN GENERAL.—Effective beginning on the
16 date of the conveyance of the land and facilities
17 under subsection (a)(1), the United States shall not
18 be liable for damages of any kind arising out of any
19 act, omission, or occurrence relating to any land or
20 facilities conveyed, except for damages caused by
21 acts of negligence committed by the United States
22 (including any employee or agent of the United
23 States) before the date of the conveyance.

24 (2) NO ADDITIONAL LIABILITY.—Nothing in
25 this subsection adds to any liability that the United

1 States may have under chapter 171 of title 28,
2 United States Code.

3 (d) CONTRACTUAL OBLIGATIONS.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), any rights and obligations under the con-
6 tract numbered 0-07-50-X0822 and dated October
7 11, 1979, between the Authority and the United
8 States for the construction, operation, and mainte-
9 nance of the McGee Creek Project, shall remain in
10 full force and effect.

11 (2) AMENDMENTS.—With the consent of the
12 Authority, the Secretary may amend the contract de-
13 scribed in paragraph (1) to reflect the conveyance of
14 the land and facilities under subsection (a)(1).

15 (e) APPLICABILITY OF THE RECLAMATION LAWS.—
16 Notwithstanding the conveyance of the land and facilities
17 under subsection (a)(1), the reclamation laws shall con-
18 tinue to apply to any project water provided to the Author-
19 ity.

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