

110TH CONGRESS
2D SESSION

H. R. 6992

To authorize the Secretary of the Interior to establish a program to facilitate the transfer to non-Federal ownership of appropriate reclamation projects or facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2008

Mrs. MCMORRIS RODGERS introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To authorize the Secretary of the Interior to establish a program to facilitate the transfer to non-Federal ownership of appropriate reclamation projects or facilities, 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 “Reclamation Title
5 Transfer Act of 2008”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ELIGIBLE FACILITY.—The term “eligible fa-
2 cility” means a reclamation project or facility, or a
3 portion of such a project or facility (which may in-
4 clude dams and appurtenant works, water rights, in-
5 frastructure, recreational facilities, buildings, dis-
6 tribution and drainage works, and associated lands
7 or interests in lands or water) that meets the cri-
8 teria for potential transfer established pursuant to
9 section 5.

10 (2) QUALIFYING ENTITY.—The term “quali-
11 fying entity” means an agency of a State or local
12 government or an Indian tribe, a municipal corpora-
13 tion, public agency, or other entity such as a water
14 district, that—

15 (A) held or holds a water service contract,
16 repayment contract, water rights settlement
17 contract or exchange contract providing for
18 water service from the eligible facility to be
19 transferred; and

20 (B) as determined by the Secretary has the
21 capacity to continue to manage the conveyed
22 property for the same purposes that the prop-
23 erty has been managed under reclamation law.

24 (3) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

1 (4) CONVEYED PROPERTY.—The term “con-
2 veyed property” means an eligible facility that has
3 been transferred out of Federal ownership under
4 this Act.

5 **SEC. 3. AUTHORIZATION OF TITLE TRANSFER PROGRAM.**

6 (a) TITLE TRANSFER PROGRAM.—Not later than one
7 year after the date of the enactment of this Act, the Sec-
8 retary shall establish a program to—

9 (1) identify and analyze the potential for public
10 benefits from the transfer out of Federal ownership
11 of eligible facilities, which may include an analysis of
12 the financial, operational, water supply, and environ-
13 mental characteristics of the properties proposed for
14 transfer; and

15 (2) facilitate transfer of title of eligible facilities
16 out of Federal ownership to promote more efficient
17 management of water and water-related facilities.

18 (b) AUTHORIZATION TO TRANSFER TITLE TO ELIGI-
19 BLE FACILITIES.—The Secretary, without further author-
20 ization from Congress, is authorized to convey all right,
21 title, and interest in any eligible facility to a qualifying
22 entity, provided that—

23 (1) the Secretary shall retain any mineral inter-
24 ests associated with the conveyed property, but all
25 mineral interests retained by the United States

1 under this Act shall be managed consistent with
2 Federal law in a manner so as not to interfere with
3 the purposes for which the eligible facility was au-
4 thorized;

5 (2) interests in water shall be conveyed under
6 this Act by a written Agreement between the Sec-
7 retary and the qualifying entity; and

8 (3) interests in eligible facilities shall be con-
9 veyed under this Act by a written Agreement be-
10 tween the Secretary and the qualifying entity, devel-
11 oped in consultation with the existing power cus-
12 tomers of the eligible facility.

13 **SEC. 4. COMPLIANCE WITH ENVIRONMENTAL AND HIS-**
14 **TORIC PRESERVATION LAWS.**

15 Before conveying land and facilities under this Act,
16 the Secretary shall complete all actions required under all
17 applicable laws, including—

18 (1) the National Environmental Policy Act of
19 1969 (42 U.S.C. 4321 et seq.);

20 (2) the Endangered Species Act of 1973 (16
21 U.S.C. 1531 et seq.); and

22 (3) the National Historic Preservation Act of
23 1966 (16 U.S.C. 470a et seq.).

1 **SEC. 5. ELIGIBILITY CRITERIA FOR TITLE TRANSFER**
2 **UNDER THIS ACT.**

3 Not later than one year after the date of the enact-
4 ment of this Act, the Secretary shall establish criteria for
5 determining whether facilities are eligible for title transfer
6 under this Act. The criteria shall include the following
7 minimum requirements:

8 (1) A qualifying entity agrees to accept title to
9 the property proposed for transfer.

10 (2) The proposed title transfer will not have an
11 unmitigated significant effect on the environment.

12 (3) The qualifying entity intends to use the
13 property for substantially the same purposes the
14 property is being used for at the time the Secretary
15 evaluates the potential transfer.

16 (4) The transfer is consistent with the Sec-
17 retary's responsibility to protect land and water re-
18 sources held in trust for federally recognized Indian
19 tribes.

20 (5) The transfer is consistent with the Sec-
21 retary's responsibility to ensure compliance with
22 international treaties and interstate compacts.

23 (6) The qualifying entity agrees to provide, as
24 consideration for the assets to be conveyed, com-
25 pensation to the United States worth the equivalent
26 of the net present value of any repayment obligation

1 to the United States or other income stream the
2 United States derives from the assets to be trans-
3 ferred at the time of the transfer.

4 (7) Interests in water shall only be eligible for
5 conveyance under this Act—

6 (A) in connection with a conveyance of title
7 to associated land or infrastructure; and

8 (B) when the qualifying entity already has
9 a contractual right to delivery or other interest
10 or use right in the water being considered for
11 conveyance.

12 (8) No conveyance under this Act may—

13 (A) adversely impact power rates or repay-
14 ment obligations; or

15 (B) include a Federal facility that pro-
16 duces power that is sold to or eligible to be sold
17 to power customers pursuant to section 9(c) of
18 the Reclamation Project Act of 1939 (43
19 U.S.C. 485h(c)).

20 **SEC. 6. LIABILITY.**

21 Effective upon the date of conveyance of any eligible
22 facility pursuant to this Act, the United States shall not
23 be liable under any law for damages of any kind arising
24 out of any act, omission, or occurrence based on its prior
25 ownership or operation of the conveyed property.

1 **SEC. 7. BENEFITS.**

2 After a conveyance of title under this Act—

3 (1) the conveyed property shall not be consid-
4 ered to be a part of a Federal reclamation project;
5 and

6 (2) the entity to which the property is conveyed
7 shall not be eligible to receive any benefits, including
8 project power, with respect to the conveyed property,
9 except benefits that would be available to a similarly
10 situated entity with respect to property that is not
11 part of a Federal reclamation project.

12 **SEC. 8. COMPLIANCE WITH OTHER LAWS.**

13 (a) IN GENERAL.—After a conveyance of title under
14 this Act, the entity to which the property is conveyed shall
15 comply with all applicable Federal, State, and local laws
16 and regulations in its operation of the conveyed property.

17 (b) APPLICABLE AUTHORITY.—In accordance with
18 section 213(a) and (b) of the Reclamation Reform Act of
19 1982 (96 Stat. 1269), the ownership and full-cost pricing
20 limitations of Federal reclamation law (the Act of June
21 17, 1902 (43 U.S.C. 371 et seq.), and Acts supplementary
22 thereto and amendatory thereof) shall not apply to water
23 in which an interest is conveyed to a qualifying entity
24 under this Act, except that all provisions of Federal rec-
25 lamation law shall be applicable to project water provided

1 to the entity from facilities that are part of a Federal rec-
2 lamation project.

3 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated such sums
5 as may be necessary to carry out this Act. These funds
6 may be used to carry out the investigations authorized
7 under this Act, and for other costs associated with title
8 transfer under this Act, including an appropriate Federal
9 share of the costs of compliance with the National Envi-
10 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
11 and other applicable Federal law. Expenditures made by
12 the Secretary under this Act shall not be a project cost
13 assignable to any Federal reclamation project and shall
14 be nonreimbursable.

15 **SEC. 10. REPORT.**

16 Not later than two years after the date that funds
17 are made available for this Act, the Secretary shall submit
18 a report to the Natural Resources Committee of the House
19 of Representatives and the Energy and Natural Resources
20 Committee of the Senate. The report shall—

- 21 (1) describe actions taken to implement this
22 Act;
23 (2) list conveyances made under this Act;
24 (3) state the amount of Federal funds obligated
25 or expended to carry out this Act; and

1 (4) describe factors that limit conveyances
2 under in this Act.

3 **SEC. 11. RECLAMATION LAW.**

4 This Act shall amend and supplement the Act of June
5 17, 1902 (32 Stat. 388, chapter 1093), and Acts supple-
6 mentary thereto and amendatory thereof (43 U.S.C. 371
7 et seq.).

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