

113TH CONGRESS  
1ST SESSION

# S. 284

To transfer certain facilities, easements, and rights-of-way to Fort Sumner  
Irrigation District, New Mexico.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2013

Mr. UDALL of New Mexico (for himself and Mr. HEINRICH) introduced the  
following bill; which was read twice and referred to the Committee on En-  
ergy and Natural Resources

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## A BILL

To transfer certain facilities, easements, and rights-of-way  
to Fort Sumner Irrigation District, New Mexico.

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 “Fort Sumner Project  
5 Title Conveyance Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) DISTRICT.—The term “District” means the  
9 Fort Sumner Irrigation District, located in De Baca  
10 County, New Mexico.

1           (2) FORBEARANCE AGREEMENT.—The term  
2           “Forbearance Agreement” means the contract be-  
3           tween the United States and the District for the for-  
4           bearance of exercising priority water rights num-  
5           bered 08–WC–40–292 and dated August 21, 2009  
6           (including any amendments to that contract).

7           (3) PROJECT.—The term “Project” means the  
8           Fort Sumner reclamation project.

9           (4) REPAYMENT CONTRACT.—The term “Re-  
10          payment Contract” means the contract between the  
11          United States and the District numbered Ilr–1524  
12          and dated November 5, 1948 (including any supple-  
13          ments and amendments to that contract).

14          (5) SECRETARY.—The term “Secretary” means  
15          the Secretary of the Interior.

16          (6) MEMORANDUM OF AGREEMENT.—The term  
17          “Memorandum of Agreement” means the agreement  
18          entitled “Memorandum of Agreement between the  
19          United States and the Fort Sumner Irrigation Dis-  
20          trict Concerning Principles and Elements of Pro-  
21          posed Transfer of Title to Fort Sumner Irrigation  
22          District Facilities” and numbered 11–WC–40–406  
23          (including any amendments to that agreement).

24          (7) TRANSFER AGREEMENT.—The term  
25          “Transfer Agreement” means the agreement be-

1       tween the United States and the Fort Sumner Irrigation District that identifies the specific terms and  
2       irrigation District that identifies the specific terms and  
3       conditions of the title transfer. This document will  
4       be completed after the requirements described in  
5       section 3(d) are satisfied.

6       **SEC. 3. CONVEYANCE.**

7       (a) IN GENERAL.—The Secretary is authorized to  
8       convey to the District all right and title of the United  
9       States in and to all works, land, and facilities of the  
10      Project, in accordance with the terms and conditions es-  
11      tablished in the Transfer Agreement.

12      (b) VALID EXISTING RIGHTS.—The conveyance  
13      under this section shall be subject to all valid existing  
14      leases, permits, rights-of-way, easements, and other rights  
15      appurtenant to the property conveyed.

16      (c) COSTS OF CONVEYANCE.—The costs of the con-  
17      veyance under this section, including the costs of environ-  
18      mental compliance, may be shared between the United  
19      States and the District, in accordance with the Memo-  
20      randum of Agreement.

21      (d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

22              (1) IN GENERAL.—Before carrying out the con-  
23      veyance under subsection (a), the Secretary shall as-  
24      sure compliance with all applicable requirements  
25      under—

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

3 (B) the Endangered Species Act of 1973  
4 (16 U.S.C. 1531 et seq.); and

5 (C) any other law applicable to the prop-  
6 erty conveyed.

7 (2) EFFECT.—Nothing in this Act modifies or  
8 alters any obligation under—

9 (A) the National Environmental Policy Act  
10 of 1969 (42 U.S.C. 4321 et seq.); or

11 (B) the Endangered Species Act of 1973  
12 (16 U.S.C. 1531 et seq.).

13 (e) FAILURE TO CONVEY.—If the Secretary fails to  
14 complete the conveyance under this section by the date  
15 that is 2 years after the date of completion of the require-  
16 ments described in subsection (d), the Secretary shall sub-  
17 mit to Congress a report that—

18 (1) explains the reasons why the conveyance  
19 has not been completed; and

20 (2) states the date by which the conveyance will  
21 be completed.

22 **SEC. 4. LIABILITY.**

23 (a) IN GENERAL.—Effective on the date of the con-  
24 veyance under section 3, the United States—

1           (1) shall have no further interest in, and shall  
2           have no responsibility for operating or maintaining,  
3           the Project; and

4           (2) shall not be liable for damages of any kind  
5           arising out of any act, omission, or occurrence relat-  
6           ing to the conveyed property, except for damages  
7           caused by acts committed by the United States or  
8           employees, agents, or contractors of the United  
9           States before the date of the conveyance.

10          (b) EFFECT OF SECTION.—Nothing in this section  
11          increases the liability of the United States beyond the li-  
12          ability provided under chapter 171 of title 28, United  
13          States Code (commonly known as the “Federal Tort  
14          Claims Act”).

15          **SEC. 5. TERMINATION OF REPAYMENT CONTRACT.**

16          Effective beginning on the date of the conveyance  
17          under section 3—

18                 (1) the Repayment Contract shall terminate;  
19                 and

20                 (2) the United States and the District shall  
21                 have no obligations under the Repayment Contract.

22          **SEC. 6. FORBEARANCE AGREEMENT.**

23                 (a) PAYMENT OBLIGATION.—In accordance with  
24                 paragraph 4(a) of the Forbearance Agreement, effective  
25                 beginning on the date of termination of the Repayment

1 Contract under section 5, the United States shall have no  
2 payment obligation under paragraph 4(a) of the Forbear-  
3 ance Agreement.

4 (b) OTHER TERMS AND CONDITIONS.—All other  
5 terms and conditions of the Forbearance Agreement shall  
6 remain in full force and effect on termination of the Re-  
7 payment Contract under section 5.

8 (c) TERM.—The term of the Forbearance Agreement  
9 shall be not less than 10 years after the date of enactment  
10 of this Act, as set forth in the Memorandum of Agreement.

11 **SEC. 7. FUTURE BENEFITS.**

12 After conveyance of title under this Act—

13 (1) the conveyed property shall not be consid-  
14 ered to be a part of a Federal reclamation project;  
15 and

16 (2) the entity to which the property is conveyed  
17 shall not be eligible to receive any benefits, including  
18 Federal project power, with respect to the conveyed  
19 property, except for benefits that would be available  
20 to a similarly situated entity with respect to prop-  
21 erty that is not part of a Federal reclamation  
22 project.

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