

# Calendar No. 110

113TH CONGRESS  
1ST SESSION

# S. 284

[Report No. 113-56]

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

JUNE 27, 2013

Reported by Mr. WYDEN, without amendment

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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”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

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

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

14 (4) REPAYMENT CONTRACT.—The term “Re-  
15 payment Contract” means the contract between the  
16 United States and the District numbered Ilr–1524  
17 and dated November 5, 1948 (including any supple-  
18 ments and amendments to that contract).

19 (5) SECRETARY.—The term “Secretary” means  
20 the Secretary of the Interior.

21 (6) MEMORANDUM OF AGREEMENT.—The term  
22 “Memorandum of Agreement” means the agreement  
23 entitled “Memorandum of Agreement between the  
24 United States and the Fort Sumner Irrigation Dis-  
25 trict Concerning Principles and Elements of Pro-  
26 posed Transfer of Title to Fort Sumner Irrigation

1 District Facilities” and numbered 11–WC–40–406  
2 (including any amendments to that agreement).

3 (7) TRANSFER AGREEMENT.—The term  
4 “Transfer Agreement” means the agreement be-  
5 tween the United States and the Fort Sumner Irri-  
6 gation District that identifies the specific terms and  
7 conditions of the title transfer. This document will  
8 be completed after the requirements described in  
9 section 3(d) are satisfied.

10 **SEC. 3. CONVEYANCE.**

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

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

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

25 (d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

1           (1) IN GENERAL.—Before carrying out the con-  
2           veyance under subsection (a), the Secretary shall as-  
3           sure compliance with all applicable requirements  
4           under—

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

7                   (B) the Endangered Species Act of 1973  
8                   (16 U.S.C. 1531 et seq.); and

9                   (C) any other law applicable to the prop-  
10                  erty conveyed.

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

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

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

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

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

24                   (2) states the date by which the conveyance will  
25                   be completed.

1 **SEC. 4. LIABILITY.**

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

4 (1) shall have no further interest in, and shall  
5 have no responsibility for operating or maintaining,  
6 the Project; and

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

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

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

19 Effective beginning on the date of the conveyance  
20 under section 3—

21 (1) the Repayment Contract shall terminate;  
22 and

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

1 **SEC. 6. FORBEARANCE AGREEMENT.**

2 (a) PAYMENT OBLIGATION.—In accordance with  
3 paragraph 4(a) of the Forbearance Agreement, effective  
4 beginning on the date of termination of the Repayment  
5 Contract under section 5, the United States shall have no  
6 payment obligation under paragraph 4(a) of the Forbear-  
7 ance Agreement.

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

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

15 **SEC. 7. FUTURE BENEFITS.**

16 After conveyance of title under this Act—

17 (1) the conveyed property shall not be consid-  
18 ered to be a part of a Federal reclamation project;  
19 and

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



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