

115TH CONGRESS  
2D SESSION

# H. R. 3281

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IN THE SENATE OF THE UNITED STATES

JULY 16, 2018

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

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## AN ACT

To authorize the Secretary of the Interior 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Reclamation Title  
3 Transfer and Non-Federal Infrastructure Incentivization  
4 Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) **SECRETARY.**—The term “Secretary” means  
8 the Secretary of the Interior.

9 (2) **ELIGIBLE FACILITY.**—The term “eligible fa-  
10 cility”—

11 (A) means a reclamation project or facility,  
12 or a portion of such a project or facility (which  
13 may include dams and appurtenant works, in-  
14 frastructure, recreational facilities, buildings,  
15 distribution and drainage works, and associated  
16 lands or interests in lands or water) that meets  
17 the criteria for potential transfer established  
18 pursuant to section 4; and

19 (B) does not include a reclamation facility  
20 or separately functioning portion of such facility  
21 that generates hydropower marketed by a power  
22 marketing administration.

23 (3) **QUALIFYING ENTITY.**—The term “quali-  
24 fying entity” means an agency of a State political  
25 subdivision, joint action or powers agency, water

1 users association, Indian Tribe or Tribal utility au-  
2 thority, that—

3 (A) held or holds a water service contract,  
4 repayment contract, operation and maintenance  
5 contract, water rights settlement contract or ex-  
6 change contract providing for water service  
7 from the eligible facility to be transferred; and

8 (B) as determined by the Secretary, has  
9 the capacity to continue to manage the con-  
10 veyed property for the same purposes by which  
11 the property has been managed under reclama-  
12 tion law.

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

17 **SEC. 3. AUTHORIZATION OF TITLE TRANSFER.**

18 (a) IN GENERAL.—The Secretary may convey to a  
19 qualifying entity all right, title, and interest of the United  
20 States in and to any eligible facility, subject to subsections  
21 (b) and (c), if—

22 (1) the Secretary notifies Congress in writing of  
23 the proposed conveyance, and the reasons for the  
24 conveyance, not later than 90 days before the date  
25 on which the Secretary makes the conveyance; and

1           (2) Congress does not pass a joint resolution  
2       disapproving the conveyance before such date.

3       (b) ASSOCIATED WATER RIGHTS AND USES.—Fed-  
4       eral interests in associated water rights and uses, if in-  
5       cluded, shall be conveyed in accordance with applicable  
6       State law under this Act by a written agreement between  
7       the Secretary and the qualifying entity.

8       (c) CONSULTATION.—Interests in eligible facilities  
9       shall be conveyed under this Act by a written agreement  
10      between the Secretary and the qualifying entity, developed  
11      in consultation with any existing water and power cus-  
12      tomers affected by the eligible facility.

13      (d) RIGHT OF FIRST REFUSAL.—If the entity that  
14      operates and maintains an eligible facility at the time that  
15      the Secretary attempts to facilitate the conveyance under  
16      subsection (c) is a qualifying entity, that entity shall have  
17      the right of first refusal to receive the conveyance under  
18      this Act.

19      **SEC. 4. ELIGIBILITY CRITERIA FOR TITLE TRANSFER**  
20                                   **UNDER THIS ACT.**

21      Not later than one year after the date of the enact-  
22      ment of this Act, the Secretary shall establish criteria for  
23      determining whether facilities are eligible for title transfer  
24      under this Act. The criteria shall include the following  
25      minimum requirements:

1           (1) The qualifying entity agrees to accept title  
2 to the property proposed for transfer.

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

5           (3) The qualifying entity intends to use the  
6 property for substantially the same purposes the  
7 property is being used for at the time the Secretary  
8 evaluates the potential transfer.

9           (4) The transfer is consistent with the Sec-  
10 retary's responsibility to protect land and water re-  
11 sources held in trust for federally recognized Indian  
12 Tribes.

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

16           (6) The qualifying entity agrees to provide, as  
17 consideration for the assets to be conveyed, com-  
18 pensation to the United States worth the equivalent  
19 of the present value of any repayment obligation to  
20 the United States or other income stream the United  
21 States derives from the assets to be transferred at  
22 the time of the transfer.

1 **SEC. 5. OTHER CONDITIONS FOR CONVEYANCES.**

2 (a) POWER RATES.—No conveyance under this Act  
3 may adversely impact power rates or repayment obliga-  
4 tions.

5 (b) NEPA.—The Secretary shall apply a categorical  
6 exclusion process under the National Environmental Pol-  
7 icy Act of 1969 (42 U.S.C. 4321 et seq.) on eligible facili-  
8 ties under this Act.

9 **SEC. 6. LIABILITY.**

10 Effective upon the date of conveyance of any eligible  
11 facility pursuant to this Act, the United States shall not  
12 be liable for damages of any kind arising out of any act,  
13 omission, or occurrence based on its prior ownership or  
14 operation of the conveyed property, except for damages  
15 caused by acts of negligence committed by the United  
16 States or by its employees, agents, or contractors, prior  
17 to conveyance.

18 **SEC. 7. BENEFITS.**

19 After a conveyance under this Act—

20 (1) the conveyed property shall not be consid-  
21 ered to be a part of a Federal reclamation project;  
22 and

23 (2) in the event that a transfer of an entire  
24 project occurs, the entity to which the property is  
25 conveyed shall not be eligible to receive any benefits,  
26 including project power, with respect to the conveyed

1 property, except benefits that would be available to  
2 a similarly situated entity with respect to property  
3 that is not part of a Federal reclamation project.

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

5 After a conveyance under this Act, the entity to which  
6 the property is conveyed shall comply with all applicable  
7 Federal, State, and local laws and regulations in its oper-  
8 ation of the conveyed property.

9 **SEC. 9. NOTIFICATION.**

10 The Secretary shall submit, as part of the Secretary's  
11 annual budget submission to Congress—

12 (1) a description of the actions taken to imple-  
13 ment this Act; and

14 (2) a list of conveyances made or initiated by  
15 the Secretary or a qualifying entity under this Act.

Passed the House of Representatives July 12, 2018.

Attest:

KAREN L. HAAS,

*Clerk.*