

Calendar No. 646

115TH CONGRESS
2D SESSION

S. 3001

[Report No. 115–359]

To authorize the Secretary of the Interior to convey certain land and facilities of the Central Valley Project.

IN THE SENATE OF THE UNITED STATES

JUNE 6, 2018

Mrs. FEINSTEIN (for herself and Ms. HARRIS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

NOVEMBER 14, 2018

Reported by Ms. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To authorize the Secretary of the Interior to convey certain land and facilities of the Central Valley Project.

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 “Contra Costa Canal
5 ~~Transfer Act~~”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ACQUIRED LAND.**—The term “acquired
4 land” means land in Federal ownership and land
5 over which the Federal Government holds an interest
6 for the purpose of the construction and operation of
7 the Contra Costa Canal, including land under the ju-
8 risdiction of—

9 (A) the Bureau of Reclamation;

10 (B) the Western Area Power Administra-
11 tion; and

12 (C) the Department of Defense in the case
13 of the Clayton Canal diversion traversing the
14 Concord Naval Weapons Station.

15 (2) **CONTRA COSTA CANAL.**—

16 (A) **IN GENERAL.**—The term “Contra
17 Costa Canal” means the Contra Costa Canal
18 Unit of the Central Valley Project, which exclu-
19 sively serves the Contra Costa Water District in
20 an urban area of Contra Costa County, Cali-
21 fornia.

22 (B) **INCLUSIONS.**—The term “Contra
23 Costa Canal” includes pipelines, conduits,
24 pumping plants, aqueducts, laterals, water stor-
25 age and regulatory facilities, electric sub-
26 stations, related works and improvements, and

1 all interests in land associated with the Contra
 2 Costa Canal Unit of the Central Valley Project
 3 in existence on the date of enactment of this
 4 Act.

5 (C) EXCLUSION.—The term “Contra Costa
 6 Canal” does not include the Rock Slough fish
 7 screen facility.

8 (3) CONTRACTS.—The term “contracts” means
 9 the existing water service contract between the Dis-
 10 trict and the United States, Contract No. 175r-
 11 3401A-LTR1 (2005), Contract No. 14-06-200-
 12 6072A (1972, as amended), and any other contract
 13 or land permit involving the United States, the Dis-
 14 trict, and Contra Costa Canal.

15 (4) DISTRICT.—The term “District” means the
 16 Contra Costa Water District, a political subdivision
 17 of the State of California.

18 (5) ROCK SLOUGH FISH SCREEN FACILITY.—

19 (A) IN GENERAL.—The term “Rock
 20 Slough fish screen facility” means the fish
 21 screen facility at the Rock Slough intake to the
 22 Contra Costa Canal.

23 (B) INCLUSIONS.—The term “Rock Slough
 24 fish screen facility” includes the screen struc-
 25 ture, rake cleaning system, and accessory struc-

1 tures integral to the screen function of the
 2 Rock Slough fish screen facility, as required
 3 under the Central Valley Project Improvement
 4 Act (Public Law 102-575; 106 Stat. 4706).

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

7 **SEC. 3. CONVEYANCE OF LAND AND FACILITIES.**

8 (a) IN GENERAL.—Not later than 180 days after the
 9 date of enactment of this Act, in consideration for the Dis-
 10 trict assuming from the United States all liability for the
 11 administration, operation, maintenance, and replacement
 12 of the Contra Costa Canal, subject to valid existing rights
 13 and existing recreation agreements between the Bureau of
 14 Reclamation and the East Bay Regional Park District for
 15 Contra Loma Regional Park and other local agencies with-
 16 in the Contra Costa Canal, the Secretary shall offer to
 17 convey and assign to the District—

18 (1) all right, title, and interest of the United
 19 States in and to—

20 (A) the Contra Costa Canal; and

21 (B) the acquired land; and

22 (2) all interests reserved and developed as of
 23 the date of enactment of this Act for the Contra
 24 Costa Canal in the acquired land, including existing
 25 recreation agreements between the Bureau of Rec-

1 lamation and the East Bay Regional Park District
2 for Contra Loma Regional Park and other local
3 agencies within the Contra Costa Canal.

4 (b) ROCK SLOUGH FISH SCREEN FACILITY.—

5 (1) IN GENERAL.—On mutual agreement be-
6 tween the Secretary and the District regarding safe
7 and reliable operations of the Rock Slough fish
8 screen facility, the Secretary shall convey and assign
9 to the District all right, title, and interest of the
10 United States in and to the Rock Slough fish screen
11 facility.

12 (2) COOPERATION.—The Secretary is encour-
13 aged to work cooperatively with the District to ac-
14 complish the conveyance and assignment under
15 paragraph (1).

16 (c) PAYMENT OF COSTS.—The District shall pay to
17 the Secretary any administrative and real estate transfer
18 costs incurred by the Secretary in carrying out the convey-
19 ances and assignments under subsections (a) and (b), in-
20 cluding the cost of any boundary survey, title search, ea-
21 dastral survey, appraisal, and other real estate transaction
22 required for the conveyances and assignments.

23 (d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

24 (1) IN GENERAL.—Before carrying out the con-
25 veyances and assignments under subsections (a) and

1 (b); the Secretary shall comply with all applicable re-
2 quirements under—

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

5 (B) the Endangered Species Act of 1973
6 (16 U.S.C. 1531 et seq.); and

7 (C) any other law applicable to the Contra
8 Costa Canal or the acquired land.

9 (2) EFFECT.—Nothing in this Act modifies or
10 alters any obligations under—

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

13 (B) the Endangered Species Act of 1973
14 (16 U.S.C. 1531 et seq.).

15 **SEC. 4. RELATIONSHIP TO EXISTING CENTRAL VALLEY**
16 **PROJECT CONTRACTS.**

17 (a) IN GENERAL.—Nothing in this Act affects—

18 (1) the application of the reclamation laws to
19 water delivered to the District pursuant to any con-
20 tract with the Secretary; or

21 (2) subject to subsection (b), the contracts.

22 (b) AMENDMENTS TO CONTRACTS.—The Secretary
23 and the District may modify the contracts as necessary
24 to comply with this Act.

25 (c) LIABILITY.—

1 (1) **IN GENERAL.**—Except as provided in para-
2 graph (2), the United States shall not be liable for
3 damages arising out of any act, omission, or occur-
4 rence relating to the Contra Costa Canal or the ac-
5 quired land.

6 (2) **EXCEPTION.**—The United States shall con-
7 tinue to be liable for damages caused by acts of neg-
8 ligence committed by the United States or by any
9 employee or agent of the United States before the
10 date of the conveyance and assignment under section
11 3(a), consistent with chapter 171 of title 28, United
12 States Code (commonly known as the “Federal Tort
13 Claims Act”).

14 (3) **LIMITATION.**—Nothing in this Act increases
15 the liability of the United States beyond the liability
16 provided under chapter 171 of title 28, United
17 States Code.

18 **SEC. 5. REPORT.**

19 If the conveyance and assignment authorized by sec-
20 tion 3(a) is not completed by the date that is 1 year after
21 the date of enactment of this Act, the Secretary shall sub-
22 mit to Congress a report that—

23 (1) describes the status of the conveyance and
24 assignment;

1 ~~(2)~~ describes any obstacles to completing the
2 conveyance and assignment; and

3 ~~(3)~~ specifies an anticipated date for completion
4 of the conveyance and assignment.

5 **SECTION 1. SHORT TITLE.**

6 *This Act may be cited as the “Contra Costa Canal*
7 *Transfer Act”.*

8 **SEC. 2. DEFINITIONS.**

9 *In this Act:*

10 (1) *ACQUIRED LAND.*—*The term “acquired land”*
11 *means land in Federal ownership and land over*
12 *which the Federal Government holds an interest for*
13 *the purpose of the construction and operation of the*
14 *Contra Costa Canal, including land under the juris-*
15 *isdiction of—*

16 (A) *the Bureau of Reclamation;*

17 (B) *the Western Area Power Administra-*
18 *tion; and*

19 (C) *the Department of Defense in the case*
20 *of the Clayton Canal diversion traversing the*
21 *Concord Naval Weapons Station.*

22 (2) *CONTRA COSTA CANAL AGREEMENT.*—*The*
23 *term “Contra Costa Canal Agreement” means an*
24 *agreement between the District and the Bureau of*
25 *Reclamation to determine the legal, institutional, and*

1 *financial terms surrounding the transfer of the*
2 *Contra Costa Canal, including but not limited to*
3 *compensation to the reclamation fund established by*
4 *the first section of the Act of June 17, 1902 (32 Stat.*
5 *388, chapter 1093), equal to the net present value of*
6 *miscellaneous revenues that the United States would*
7 *otherwise derive over the 10 years following enactment*
8 *of this Act from the eligible lands and facilities to be*
9 *transferred, as governed by reclamation law and pol-*
10 *icy and the contracts.*

11 (3) *CONTRA COSTA CANAL.—*

12 (A) *IN GENERAL.—The term “Contra Costa*
13 *Canal” means the Contra Costa Canal Unit of*
14 *the Central Valley Project, which exclusively*
15 *serves the Contra Costa Water District in an*
16 *urban area of Contra Costa County, California.*

17 (B) *INCLUSIONS.—The term “Contra Costa*
18 *Canal” includes pipelines, conduits, pumping*
19 *plants, aqueducts, laterals, water storage and*
20 *regulatory facilities, electric substations, related*
21 *works and improvements, and all interests in*
22 *land associated with the Contra Costa Canal*
23 *Unit of the Central Valley Project in existence on*
24 *the date of enactment of this Act.*

1 (C) *EXCLUSION.*—*The term “Contra Costa*
2 *Canal” does not include the Rock Slough fish*
3 *screen facility.*

4 (4) *CONTRACTS.*—*The term “contracts” means*
5 *the existing water service contract between the Dis-*
6 *trict and the United States, Contract No. 175r-*
7 *3401A-LTR1 (2005), Contract No. 14-06-200-6072A*
8 *(1972, as amended), and any other contract or land*
9 *permit involving the United States, the District, and*
10 *Contra Costa Canal.*

11 (5) *DISTRICT.*—*The term “District” means the*
12 *Contra Costa Water District, a political subdivision*
13 *of the State of California.*

14 (6) *ROCK SLOUGH FISH SCREEN FACILITY.*—

15 (A) *IN GENERAL.*—*The term “Rock Slough*
16 *fish screen facility” means the fish screen facility*
17 *at the Rock Slough intake to the Contra Costa*
18 *Canal.*

19 (B) *INCLUSIONS.*—*The term “Rock Slough*
20 *fish screen facility” includes the screen structure,*
21 *rake cleaning system, and accessory structures*
22 *integral to the screen function of the Rock Slough*
23 *fish screen facility, as required under the Central*
24 *Valley Project Improvement Act (Public Law*
25 *102-575; 106 Stat. 4706).*

1 (7) *ROCK SLOUGH FISH SCREEN FACILITY TITLE*
 2 *TRANSFER AGREEMENT.*—*The term “Rock Slough fish*
 3 *screen facility title transfer agreement” means an*
 4 *agreement between the District and the Bureau of*
 5 *Reclamation to—*

6 (A) *determine the legal, institutional, and*
 7 *financial terms surrounding the transfer of the*
 8 *Rock Slough fish screen facility; and*

9 (B) *ensure the continued safe and reliable*
 10 *operations of the Rock Slough fish screen facility.*

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

13 **SEC. 3. CONVEYANCE OF LAND AND FACILITIES.**

14 (a) *IN GENERAL.*—*Not later than 180 days after the*
 15 *date of enactment of this Act, in consideration for the Dis-*
 16 *trict assuming from the United States all liability for the*
 17 *administration, operation, maintenance, and replacement*
 18 *of the Contra Costa Canal, consistent with the terms and*
 19 *conditions set forth in the Contra Costa Canal Agreement*
 20 *and subject to valid existing rights and existing recreation*
 21 *agreements between the Bureau of Reclamation and the*
 22 *East Bay Regional Park District for Contra Loma Re-*
 23 *gional Park and other local agencies within the Contra*
 24 *Costa Canal, the Secretary shall offer to convey and assign*
 25 *to the District—*

1 (1) *all right, title, and interest of the United*
2 *States in and to—*

3 (A) *the Contra Costa Canal; and*

4 (B) *the acquired land; and*

5 (2) *all interests reserved and developed as of the*
6 *date of enactment of this Act for the Contra Costa*
7 *Canal in the acquired land, including existing recre-*
8 *ation agreements between the Bureau of Reclamation*
9 *and the East Bay Regional Park District for Contra*
10 *Loma Regional Park and other local agencies within*
11 *the Contra Costa Canal.*

12 (b) *ROCK SLOUGH FISH SCREEN FACILITY.—*

13 (1) *IN GENERAL.—The Secretary shall convey*
14 *and assign to the District all right, title, and interest*
15 *of the United States in and to the Rock Slough fish*
16 *screen facility pursuant to the Rock Slough fish*
17 *screen facility title transfer agreement.*

18 (2) *COOPERATION.—No later than 180 days after*
19 *the conveyance of the Contra Costa Canal, the Sec-*
20 *retary and the District shall enter into good faith ne-*
21 *gotiations to accomplish the conveyance and assign-*
22 *ment under paragraph (1).*

23 (c) *PAYMENT OF COSTS.—The District shall pay to the*
24 *Secretary any administrative and real estate transfer costs*
25 *incurred by the Secretary in carrying out the conveyances*

1 *and assignments under subsections (a) and (b), including*
 2 *the cost of any boundary survey, title search, cadastral sur-*
 3 *vey, appraisal, and other real estate transaction required*
 4 *for the conveyances and assignments.*

5 *(d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—*

6 *(1) IN GENERAL.—Before carrying out the con-*
 7 *veyances and assignments under subsections (a) and*
 8 *(b), the Secretary shall comply with all applicable re-*
 9 *quirements under—*

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

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

14 *(C) any other law applicable to the Contra*
 15 *Costa Canal or the acquired land.*

16 *(2) EFFECT.—Nothing in this Act modifies or*
 17 *alters any obligations under—*

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

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 21 *U.S.C. 1531 et seq.).*

22 **SEC. 4. RELATIONSHIP TO EXISTING CENTRAL VALLEY**
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24 *(a) IN GENERAL.—Nothing in this Act affects—*

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2 *water delivered to the District pursuant to any con-*
3 *tract with the Secretary; or*

4 (2) *subject to subsection (b), the contracts.*

5 (b) *AMENDMENTS TO CONTRACTS.—The Secretary and*
6 *the District may modify the contracts as necessary to com-*
7 *ply with this Act.*

8 (c) *LIABILITY.—*

9 (1) *IN GENERAL.—Except as provided in para-*
10 *graph (2), the United States shall not be liable for*
11 *damages arising out of any act, omission, or occur-*
12 *rence relating to the Contra Costa Canal or the ac-*
13 *quired land.*

14 (2) *EXCEPTION.—The United States shall con-*
15 *tinue to be liable for damages caused by acts of neg-*
16 *ligence committed by the United States or by any em-*
17 *ployee or agent of the United States before the date*
18 *of the conveyance and assignment under section 3(a),*
19 *consistent with chapter 171 of title 28, United States*
20 *Code (commonly known as the “Federal Tort Claims*
21 *Act”).*

22 (3) *LIMITATION.—Nothing in this Act increases*
23 *the liability of the United States beyond the liability*
24 *provided under chapter 171 of title 28, United States*
25 *Code.*

1 **SEC. 5. REPORT.**

2 *If the conveyance and assignment authorized by sec-*
3 *tion 3(a) is not completed by the date that is 1 year after*
4 *the date of enactment of this Act, the Secretary shall submit*
5 *to Congress a report that—*

6 *(1) describes the status of the conveyance and as-*
7 *ignment;*

8 *(2) describes any obstacles to completing the con-*
9 *veyance and assignment; and*

10 *(3) specifies an anticipated date for completion*
11 *of the conveyance and assignment.*

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