

Union Calendar No. 242

115TH CONGRESS
1ST SESSION

H. R. 3281

[Report No. 115-334]

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.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2017

Mr. LAMBORN introduced the following bill; which was referred to the
Committee on Natural Resources

SEPTEMBER 27, 2017

Additional sponsor: Mr. COSTA

SEPTEMBER 27, 2017

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 (2) ELIGIBLE FACILITY.—The term “eligible fa-
12 cility”—

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

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

1 (3) QUALIFYING ENTITY.—The term “quali-
2 fying entity” means an agency of a State political
3 subdivision, joint action or powers agency, water
4 users association, Indian Tribe or Tribal utility au-
5 thority, that—

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

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

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

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

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

1 (1) the Secretary notifies Congress in writing of
2 the proposed conveyance, and the reasons for the
3 conveyance, not later than 90 days before the date
4 on which the Secretary makes the conveyance; and

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

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

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

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

1 **SEC. 4. 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) The qualifying entity agrees to accept title
9 to 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 present value of any repayment obligation to

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

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

5 (a) POWER RATES.—No conveyance under this Act
6 may adversely impact power rates or repayment obliga-
7 tions.

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

12 **SEC. 6. LIABILITY.**

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

21 **SEC. 7. BENEFITS.**

22 After a conveyance under this Act—

23 (1) the conveyed property shall not be consid-
24 ered to be a part of a Federal reclamation project;
25 and

1 (2) in the event that a transfer of an entire
2 project occurs, the entity to which the property is
3 conveyed shall not be eligible to receive any benefits,
4 including project power, with respect to the conveyed
5 property, except benefits that would be available to
6 a similarly situated entity with respect to property
7 that is not part of a Federal reclamation project.

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

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

13 **SEC. 9. NOTIFICATION.**

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

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

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

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