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.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. DEFINITIONS.

In this Act:

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

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

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

(B) does not include a reclamation facility or separately functioning portion of such facility that generates hydropower marketed by a power marketing administration.
(3) Qualifying Entity.—The term “qualifying entity” means an agency of a State political subdivision, joint action or powers agency, water users association, Indian Tribe or Tribal utility authority, that—

(A) held or holds a water service contract, repayment contract, operation and maintenance contract, water rights settlement contract or exchange contract providing for water service from the eligible facility to be transferred; and

(B) as determined by the Secretary, has the capacity to continue to manage the conveyed property for the same purposes by which the property has been managed under reclamation law.

(4) Conveyed Property.—The term “conveyed property” means an eligible facility that has been transferred out of Federal ownership under this Act.

SEC. 3. AUTHORIZATION OF TITLE TRANSFER.

(a) In general.—The Secretary may convey to a qualifying entity all right, title, and interest of the United States in and to any eligible facility, subject to subsections (b) and (c), if—
(1) the Secretary notifies Congress in writing of
the proposed conveyance, and the reasons for the
conveyance, not later than 90 days before the date
on which the Secretary makes the conveyance; and

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

(b) Associated Water Rights and Uses.—Federal
interests in associated water rights and uses, if in-
cluded, shall be conveyed in accordance with applicable
State law under this Act by a written agreement between
the Secretary and the qualifying entity.

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

(d) Right of First Refusal.—If the entity that
operates and maintains an eligible facility at the time that
the Secretary attempts to facilitate the conveyance under
subsection (c) is a qualifying entity, that entity shall have
the right of first refusal to receive the conveyance under
this Act.
SEC. 4. ELIGIBILITY CRITERIA FOR TITLE TRANSFER UNDER THIS ACT.

Not later than one year after the date of the enactment of this Act, the Secretary shall establish criteria for determining whether facilities are eligible for title transfer under this Act. The criteria shall include the following minimum requirements:

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

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

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

(4) The transfer is consistent with the Secretary’s responsibility to protect land and water resources held in trust for federally recognized Indian Tribes.

(5) The transfer is consistent with the Secretary’s responsibility to ensure compliance with international treaties and interstate compacts.

(6) The qualifying entity agrees to provide, as consideration for the assets to be conveyed, compensation to the United States worth the equivalent of the present value of any repayment obligation to
the United States or other income stream the United States derives from the assets to be transferred at the time of the transfer.

SEC. 5. OTHER CONDITIONS FOR CONVEYANCES.

(a) Power Rates.—No conveyance under this Act may adversely impact power rates or repayment obligations.

(b) NEPA.—The Secretary shall apply a categorical exclusion process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on eligible facilities under this Act.

SEC. 6. LIABILITY.

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

SEC. 7. BENEFITS.

After a conveyance under this Act—

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

SEC. 8. COMPLIANCE WITH OTHER LAWS.

After a conveyance under this Act, the entity to which the property is conveyed shall comply with all applicable Federal, State, and local laws and regulations in its operation of the conveyed property.

SEC. 9. NOTIFICATION.

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

(1) a description of the actions taken to implement this Act; and

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

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SEPTEMBER 27, 2017

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