

115TH CONGRESS
2D SESSION

H. R. 6652

IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 2018

Received

AN ACT

To direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, 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. DEFINITIONS.**

2 In this Act:

3 (1) AGREEMENT.—The term “Agreement”
4 means the agreement required under section 2(a).

5 (2) DISTRICT.—The term “District” means the
6 Kennewick Irrigation District, located in Benton
7 County, Washington, which operates and maintains
8 a portion of the Kennewick Division of the Yakima
9 Project constructed by the United States to enable
10 the Kennewick Irrigation District to carry out au-
11 thorized purposes pursuant to the Act of June 12,
12 1948 (62 Stat. 382).

13 (3) DISTRICT’S HEAD GATE.—The term “Dis-
14 trict’s head gate” means the point of diversion for
15 the Kennewick Irrigation District, identified as the
16 KID Main Canal Headworks at the following loca-
17 tion: KID Main Canal Headworks, 200 feet east and
18 1100 feet north, more or less, from the southwest
19 corner of section 16, being within the northwest $\frac{1}{4}$
20 of the southwest $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of section
21 16, T. 9 N., 26 E.W.M.

22 (4) DIVISION.—The term “Division” means the
23 Kennewick Division, including the Transferred
24 Works.

25 (5) TRANSFERRED WORKS.—The term “Trans-
26 ferred Works” means the canals, laterals, and ap-

1 purtenant works and lands, which begin at the Dis-
2 trict's head gate and extends approximately 40 miles
3 east to the Columbia River built to serve the place
4 of use of the 20,201 acres of currently irrigated irri-
5 gable lands entitled to delivery of water within the
6 Kennewick Irrigation District.

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

9 **SEC. 2. AGREEMENT, CONVEYANCE, REPORT.**

10 (a) AGREEMENT.—Not later than 2 years after the
11 date of the enactment of this Act, the Secretary, acting
12 through the Bureau of Reclamation, shall enter into an
13 agreement with the District to determine the legal, institu-
14 tional, and financial terms related to the conveyance of
15 the Transferred Works. The Agreement shall be completed
16 after the requirements in section 5(a) are satisfied. This
17 Agreement shall be in accordance with and subject to
18 Memorandum of Agreement No: R18MA13703 between
19 the District and the Bureau of Reclamation.

20 (b) CONVEYANCE.—Subject to valid leases, permits,
21 rights-of-way, easements, and other existing rights and in
22 accordance the terms and conditions set forth in the
23 Agreement and this Act, the Secretary shall convey to the
24 District all right, title, and interest of the United States
25 in and to the Transferred Works.

1 (c) REPORT.—If the conveyance authorized by sub-
2 section (b) is not completed within 2 years after the date
3 of the enactment of this Act, the Secretary shall submit
4 to Congress a report that—

- 5 (1) describes the status of the conveyance;
6 (2) describes any obstacles to completing the
7 conveyance; and
8 (3) specifies an anticipated date for completion
9 of the conveyance.

10 **SEC. 3. LIABILITY.**

11 (a) DAMAGES.—Except as otherwise provided by law
12 and for damages caused by acts of negligence committed
13 by the United States or by its employees or agents, effec-
14 tive upon the date of the conveyance authorized by section
15 2, the United States shall not be held liable by any court
16 for damages of any kind arising out of any act, omission,
17 or occurrence relating to the Transferred Works.

18 (b) TORTS CLAIMS.—Nothing in this section in-
19 creases the liability of the United States beyond that pro-
20 vided in chapter 171 of title 28, United States Code (pop-
21 ularly known as the “Federal Tort Claims Act”).

22 **SEC. 4. BENEFITS.**

23 (a) STATUS OF LAND.—After conveyance of the
24 Transferred Works under this Act, the Transferred Works

1 shall not be considered to be a part of a Federal reclama-
2 tion project.

3 (b) BENEFITS IF ENTIRE DIVISION CONVEYED.—If
4 the entire Division is conveyed out of Federal ownership,
5 the District shall not be eligible to receive any benefits,
6 including project power, with respect to the conveyed Divi-
7 sion, except benefits that would be available to a similarly
8 situated entity with respect to property that is not part
9 of a Federal reclamation project.

10 **SEC. 5. COMPLIANCE WITH OTHER LAWS.**

11 (a) COMPLIANCE WITH ENVIRONMENTAL AND HIS-
12 TORIC PRESERVATION LAWS.—Before making the convey-
13 ance authorized by this Act, the Secretary shall complete
14 all actions required under the National Environmental
15 Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endan-
16 gered Species Act of 1973 (16 U.S.C. 1531 et seq.), sub-
17 title III of title 54, United States Code, and all other ap-
18 plicable laws.

19 (b) COMPLIANCE BY THE DISTRICT.—After convey-
20 ance of the Transferred Works under this Act, the District
21 shall comply with all applicable Federal, State, and local
22 laws and regulations in its operation of the Transferred
23 Works.

24 (c) APPLICABLE AUTHORITY.—All provisions of Fed-
25 eral reclamation law (the Act of June 17, 1902 (43 U.S.C.

1 371 et seq.), and Acts supplemental to and amendatory
2 of that Act) shall continue to be applicable to project water
3 provided to the District.

4 **SEC. 6. PAYMENT.**

5 (a) ADMINISTRATIVE COSTS.—Except as provided in
6 subsection (b), administrative costs for conveyance of the
7 Transferred Works under this Act shall be paid in equal
8 shares by the Secretary and the District.

9 (b) REAL ESTATE TRANSFER COST.—Costs of all
10 boundary surveys, title searches, cadastral surveys, ap-
11 praisals, and other real estate transactions required for
12 the conveyance of the Transferred Works shall be paid by
13 the District.

14 (c) COSTS OF COMPLIANCE WITH OTHER LAWS.—
15 Costs associated with any review required under the Na-
16 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
17 et seq.), the Endangered Species Act of 1973 (16 U.S.C.
18 1531 et seq.), subtitle III of title 54, United States Code,
19 and all other applicable laws for conveyance of the Trans-
20 ferred Works shall be paid in equal shares by the Sec-
21 retary and the District.

22 **SEC. 7. MISCELLANEOUS.**

23 (a) APPLICABILITY OF OTHER LAW.—Section 1212
24 of Public Law 103–434 shall apply to and be incorporated
25 into this Act.

1 (b) STATUTORY CONSTRUCTION.—Nothing in this
2 Act shall or shall be construed for any purpose—

3 (1) to transfer, affect, reduce, modify, or impair
4 the water rights of any person;

5 (2) to affect, reduce, modify, or impair the
6 United States’ authority to regulate and manage
7 water in the Yakima Basin, including water diverted
8 into the Chandler Power Canal and Prosser Dam
9 through and including the Kennewick Irrigation Dis-
10 trict’s head gate;

11 (3) to change how water is diverted at Prosser
12 Dam and delivered to the Kennewick Irrigation Dis-
13 trict through the Chandler pumps through the Dis-
14 trict’s head gate; and

15 (4) to affect reduce, modify, or impair the
16 United States’ control, management, and ownership
17 of the “Reserved works” as defined in the United
18 States Bureau of Reclamation and Kennewick Irri-
19 gation District Amendatory Repayment Contract
20 (1953) (Contract No. 14–06–W–56) as amended, at
21 pp. 2–3, which Reserved works include but are not
22 limited to Prosser Dam, the Chandler Power Canal
23 and hydroelectric and pumping plant, all Yakima
24 Project facilities, and the siphon under the Yakima
25 River to the District’s head gate.

1 **SEC. 8. LIMITATIONS.**

2 After completing the requirements of the National
3 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
4 seq.), the Secretary of the Interior shall convey title, if
5 the Secretary affirms in writing to the House Committee
6 on Natural Resources and the Senate Committee on En-
7 ergy and Natural Resources that the following criteria
8 have been met:

9 (1) The Kennewick Irrigation District agrees to
10 accept title to the property proposed for transfer.

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

13 (3) The transfer is consistent with the Sec-
14 retary's responsibility to protect land and water re-
15 sources held in trust for federally recognized Indian
16 Tribes.

17 (4) The transfer is consistent with the Sec-
18 retary's responsibility to ensure compliance with
19 international treaties and interstate compacts.

20 (5) The Kennewick Irrigation District agrees to
21 provide, as consideration for the assets to be con-
22 veyed, compensation to the United States worth the
23 equivalent of the present value of any repayment ob-
24 ligation to the United States or other income stream

1 the United States derives from the assets to be
2 transferred at the time of the transfer.

Passed the House of Representatives December 19,
2018.

Attest:

KAREN L. HAAS,

Clerk.