

*Tribes of the Fort Hall Reservation to water based on a treaty, compact, executive order, agreement, the decision in Winters v. United States, 207 U.S. 564 (1908) (commonly known as the "Winters Doctrine"), or law.*

(b) *CONVEYANCES.—Any conveyance under this Act shall not affect or abrogate any provision of any contract executed by the United States or State law regarding any irrigation district's right to use water developed in the facilities conveyed.*

Mrs. FEINSTEIN: Mr. President, I rise today in support of legislation to authorize the Secretary of the Interior and other Federal agency heads to carry out activities during fiscal years 2003 through 2005 to implement the Calfed Bay-Delta Program. This program is of tremendous importance to my home State of California. Its mission is to develop and implement a long-term comprehensive plan that will improve water management for the Bay-Delta and restore its ecological health. The program has several goals: improving water supply reliability, including additional water storage and conveyance; protecting drinking water quality; restoring ecological health; and protecting Delta levees.

Mr. President, on August 28, 2000, the Federal Government and the State of California entered into a Record of Decision (ROD) which selects a preferred program alternative for the Calfed Bay-Delta Program, setting forth the overall direction of this program. Under the ROD, the Calfed agencies (comprised of both Federal and State agencies) will proceed with the specific actions in Stage 1, which covers the first 7 years of this program. This legislation authorizes those Stage 1 actions which are to take place in fiscal years 2003 through 2005 for which there are appropriations. A fundamental tenet of this program is that all program elements proceed in a balanced manner. The Record of Decision explicitly requires balance in carrying out the program.

While the provision that the Senate is considering today is scaled back from the bills that I have previously introduced on this matter, the intent of the legislation is the same: to provide that the Calfed Program be carried out in a balanced manner consistent with the Record of Decision of August 28, 2000, including the principles and schedules stated therein, and other applicable law. I want to clarify that this provision in no way affects or modifies any other authority that an agency has to carry out activities related to, or in furtherance of, the Calfed Program.

Finally, this legislation would provide authority to the Secretary of the Interior and the other Federal agency heads identified in the ROD to participate in the Calfed Bay-Delta Authority established by the California Bay-Delta Authority Act, to the extent not inconsistent with other law.

Mr. President, early next Congress, Senator KYL and I plan to introduce additional Calfed authorizing legisla-

tion on which we have collaborated that would provide greater specificity. I thank Senator KYL for his willingness to work with me on this important matter.

Mr. President, I am pleased that the Senate is favorably considering this legislation today. The Calfed Bay-Delta Program enjoys broad-based support in California and is vital to the future of the State.

Mrs. BOXER. Mr. President, I am pleased today that the Senate is passing legislation to authorize the Secretary of the Interior and other Federal agency heads to participate in the implementation of the CALFED Bay-Delta Program.

For decades, water allocation in California was conducted through endless appeals, lawsuits, and divisive ballot initiatives. Such battles were painful and they prevented us from finding real solutions to our state's very real water problems. In 1994, a new state-federal partnership program called CALFED promised a better way. Through a plan to provide reliable, clean water to farms, businesses, and millions of Californians while at the same time restoring our fish, wildlife and environment, CALFED was committed to identifying a solution that all water users could share.

Over the years, what has made CALFED work is that it employs a consensus approach that balances the needs of the various interests competing for California's scarce water resources. This balance is most clearly articulated in the Record of Decision (ROD) that was agreed to on August 28, 2000 by the Federal Government and the State of California. The CALFED ROD outlines clearly the CALFED Bay-Delta Programs' goals and repeatedly reiterates the need to move forward with these goals in a balanced manner.

This legislation authorizes the federal agencies to undertake the actions and activities identified in the ROD. It is our intent that all activities are to be implemented in a manner consistent with the ROD. This legislation is not intended to authorize activities, such as major construction projects, that would otherwise require completion of feasibility studies, permits under section 404(a) of the Clean Water Act and other applicable laws, and project-specific authorizations. In addition, the legislation requires that federal participation in the CALFED Bay-Delta Program proceed in a way that is consistent with other laws.

I want to particularly thank my colleague, Senator FEINSTEIN, for her continued leadership on this legislation. This bill will help insure that the CALFED Bay-Delta Program continues to play a vital role in meeting California's water needs.

AMENDMENT NO. 4978

Mr. REID. Senator BINGAMAN has a substitute at the desk. I ask unanimous consent that the amendment be agreed to, the motion to reconsider be

laid upon the table, the committee-reported substitute, as amended, be agreed to, and the motion to reconsider be laid upon the table, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon table, with no intervening action or debate, and that any statements relating to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 4978) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2556), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

#### CONVEYANCE OF CERTAIN PUBLIC LANDS IN THE STATE OF ALASKA TO THE UNIVERSITY OF ALASKA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 640, S. 1816.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1816) to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 1816) was read the third time and passed, as follows:

S. 1816

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the University of Alaska is the successor to and the beneficiary of all Federal grants and conveyances to or for the Alaska Agricultural College and School of Mines;

(2) under the Acts of March 4, 1915, 38 Stat. 1214, and January 21, 1929, 45 Stat. 1091, the United States granted to the Territory of Alaska certain Federal lands for the University of Alaska;

(3) the Territory did not receive most of the land intended to be conveyed by the Act of March 4, 1915, before repeal of that Act by section 6(k) of the Alaska Statehood Act (Public Law 85-508, 72 Stat. 339);

(4) only one other State land grant college in the United States has obtained a smaller land grant from the Federal Government

than has the University of Alaska, and all land grant colleges in the western States of the United States have obtained substantially larger land grants than has the University of Alaska;

(5) an academically strong and financially secure state university system is a cornerstone to the long-term development of a stable population and to a healthy, diverse economy and is in the national interest;

(6) the Federal Government now desires to acquire certain lands for addendum to various conservation units;

(7) the national interest is served by transferring certain Federal lands to the University of Alaska which will be able to use and develop the resources of such lands and by returning certain lands held by the University of Alaska located within certain Federal conservation system units to Federal ownership; and

(8) the University of Alaska holds valid legal title to and is responsible for management of lands transferred by the United States to the Territory and State of Alaska for the University and an exchange of lands for lands that are capable of producing revenues to support the education objectives of the original grants is consistent with and in furtherance of the purposes and terms of, and thus not in violation of, the Federal grant of such lands.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to fulfill the original commitment of Congress to establish the University of Alaska as a land grant university with holdings sufficient to facilitate operation and maintenance of a university system for the inhabitants of the State of Alaska; and

(2) to acquire from the University of Alaska lands it holds within Federal parks, wildlife refuges, and wilderness areas to further the purposes for which those areas were established.

## SEC. 2. LAND GRANT.

(a) Notwithstanding any other provision of law and subject to valid existing rights, the University of Alaska ("University") is entitled to select up to 250,000 acres of Federal lands or interests in lands in or adjacent to Alaska as a land grant. The Secretary of the Interior ("Secretary") shall promptly convey to the University the Federal lands selected and approved in accordance with the provisions of this Act.

(b)(1) Within forty-eight (48) months of the enactment of this Act, the University of Alaska may submit to the Secretary a description of lands or interests in lands for conveyance. The initial selection may be less than or exceed 250,000 acres and the University may add or delete lands or interests in lands, or until 250,000 patented acres have been conveyed pursuant to this Act, except that the total of land selected and conveyed shall not exceed 275,000 acres at any time.

(2) The University may select lands validly selected but not conveyed to the State of Alaska or to a Native Corporation organized pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), except that these lands or interests in lands may not be approved or conveyed to the University unless the State of Alaska or the Native Corporation relinquishes its selection in writing.

(3) The University may not make selections within a conversation system unit, as defined in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101), or in the Tongass National Forest except within lands classified as LUD III or LUD IV by the United States Forest Service and limited to areas of second growth timber where timber harvest occurred after January 1, 1952.

(4) The University may make selections within the National Petroleum Reserve—Alaska ("NPPRA"), except that—

(A) no selection may be made within an area withdrawn for village selection pursuant to section 11(a) of the Alaska Native Claims Settlement Act for the Native villages of Atkasook, Barrow, Nuiqsit and Wainwright;

(B) no selection may be made in the Teshekpuk Lake Special Management Area as depicted on a map that is included in the final environmental impact statement for the Northeast NPRA dated October 7, 1998; and

(C) No selections may be made within those portions of NPRA north of latitude 69 degrees North in excess of 92,000 acres and no selection may be made within such area during the two year period extending from the date of enactment of this Act. The Secretary shall attempt to conclude an agreement with the University of Alaska and the State of Alaska providing for sharing NPRA leasing revenues within the two year period. If the Secretary concludes such an agreement, the Secretary shall transmit it to the Congress, and no selection may be made within such area during the three year period extending from the date of enactment of this Act. If legislation has not been enacted within three years of the date of enactment of this Act approving the agreement, the University of Alaska may make selections within such area. An agreement shall provide for the University of Alaska to receive a portion of annual revenues from mineral leases within NPRA in lieu of any lands selections within NPRA north of latitude 69 degrees North, but not to exceed ten percent of such revenues or \$9 million annually, whichever is less.

(5) Within forty-five (45) days of receipt of a selection, the Secretary shall publish notice of the selection in the Federal Register. The notice shall identify the lands or interest in lands included in the selection and provide for a period for public comment not to exceed sixty (60) days.

(6) Within six months of the receipt of such a selection, the Secretary shall accept or reject the selection and shall promptly notify the University of his decision, including the reasons for any rejection. A selection that is not rejected within six months of notification to the Secretary is deemed approved.

(7) The Secretary may reject a selection if the Secretary finds that the selection would have a significant adverse impact on the ability of the Secretary to comply with the land entitlement provisions of the Alaska Statehood Act or the Alaska Native Claims Settlement Act (43 U.S.C. 1601) or if the Secretary finds that the selection would have a direct, significant and irreversible adverse effect on a conservation system unit as defined in the Alaska National Interest Conservation Act.

(8) The Secretary shall promptly publish notice of an acceptance or rejection of a selection in the Federal Register.

(9) An action taken pursuant to this Act is not a major Federal action within the meaning of section 102(2)(C) of Public Law 91-190 (83 Stat. 852, 853).

(c) The University may not select Federal lands or interests in lands reserved for military purposes or reserved for the administration of a Federal agency, unless the Secretary of Defense or the head of the affected agency agrees to relinquish the lands or interest in lands.

(d) The University may select additional lands or interest in lands to replace lands rejected by the Secretary.

(e) Lands or interests in lands shall be segregated and unavailable for selection by and conveyance to the State of Alaska or a Native Corporation and shall not be otherwise encumbered or disposed of by the United States pending completion of the selection process.

(f) The University may enter selected lands on a non-exclusive basis to assess the oil, gas, mineral and other resource potential therein and to exercise due diligence regarding making a final selection. The University, and its delegates or agents, shall be permitted to engage in assessment techniques including, but not limited to, core drilling to assess the metalliferous or other values, and surface geological exploration and seismic exploration for oil and gas, except that exploratory drilling of oil and gas wells shall not be permitted.

(g) Within one year of the Secretary's approval of a selection, the University may make a final decision whether to accept these lands or interests in lands and shall notify the Secretary of its decision. The Secretary shall publish notice of any such acceptance or rejection in the Federal Register within six months. If the University has decided to accept the selection, effective on the date that the notice of such acceptance is published, all right, title, and interest of the United States in the described selection shall vest in the University.

(h) Lakes, rivers and streams contained within final selections shall be meandered and lands submerged thereunder shall be conveyed in accordance with section 901 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2430; 43 U.S.C. 1631).

(i) Upon completion of a survey of lands or interest in lands subject to an interim approval, the Secretary shall promptly issue patent to such lands or interests in lands.

(j) The Secretary of Agriculture and the heads of other Federal departments and agencies shall promptly take such actions as may be necessary to assist the Secretary in implementing this Act.

## SEC. 3. RELINQUISHMENT OF CERTAIN UNIVERSITY OF ALASKA HOLDINGS.

(a) As a condition to any grant provided by section 2 of this Act, the University shall begin to convey to the Secretary those lands listed in "The University of Alaska's Inholding Reconveyance Document" and dated November 13, 2001.

(b) The University shall begin conveyance of the lands described in section 3(a) of this Act upon approval of selected lands and shall convey to the Secretary a percentage of these lands approximately equal to that percentage of the total grant represented by the approval. The University shall not be required to convey to the Secretary any lands other than those referred to in section 3(a) of this Act. The Secretary shall accept quitclaim deeds from the University for these lands.

## SEC. 4. JUDICIAL REVIEW.

The University of Alaska may bring an appropriate action, including an action in the nature of mandamus, against the Department of the Interior, naming the Secretary, for violation of this Act or for review of a final agency decision taken under this Act. An action pursuant to this section may be filed in the United States District Court for the District of Alaska within two (2) years of the alleged violation or final agency decision and such court shall have exclusive jurisdiction over any such suit.

## SEC. 5. STATE MATCHING GRANT.

(a) Notwithstanding any other provision of law and subject to valid existing rights, within forty-eight (48) months of receiving evidence of ownership from the State, the University may, in addition to the grant made available in section 2 of this Act, select up to 250,000 acres of Federal lands or interests in lands in or adjacent to Alaska to be conveyed on an acre-for-acre basis as a matching grant for any lands received from the State of Alaska after the date of enactment of this Act.

(b) Selections of lands or interests in lands pursuant to this section shall be in parcels of 25,000 acres or greater.

(c) Grants made pursuant to this section shall be separately subject to the terms and conditions applicable to grants made under section 2 of this Act.

#### MOUNT NEBO WILDERNESS BOUNDARY ADJUSTMENT ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 673, H.R. 451.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 451) to make certain adjustments to the boundaries of the Mount Nebo Wilderness Area, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, that any statements relating to the measure be printed in the RECORD, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 451) was read the third time and passed.

#### REINSTATE AND EXTEND THE DEADLINE FOR THE COMMENCEMENT OF CONSTRUCTION OF A HYDROELECTRIC PROJECT IN THE STATE OF ILLINOIS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 663, S. 2872.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2872) to reinstate the extended deadline for commencement of construction of a hydroelectric project in the State of Illinois.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider laid upon the table, that any statements relating to the measure be printed in the RECORD, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 2872) was read the third time and passed, as follows:

S. 2872

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the

Federal Energy Regulatory Commission project numbered 11214, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section—

(1) reinstate the license for the construction of the project as of the effective date of the surrender of the license; and

(2) extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods beyond the date that is 4 years after the date of issuance of the license.

#### GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1105.

The ACTING PRESIDENT pro tempore laid before the Senate a message from the House as follows:

*Resolved*, That the bill from the Senate (S. 1105) entitled "An Act to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

#### TITLE I—GRAND TETON NATIONAL PARK LAND EXCHANGE

##### SEC. 101. DEFINITIONS.

As used in this title:

(1) **FEDERAL LANDS.**—The term "Federal lands" means public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(2) **GOVERNOR.**—The term "Governor" means the Governor of the State of Wyoming.

(3) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(4) **STATE LANDS.**—The term "State lands" means lands and interest in lands owned by the State of Wyoming within the boundaries of Grand Teton National Park as identified on a map titled "Private, State & County Inholdings Grand Teton National Park", dated March 2001, and numbered GTNP/0001.

##### SEC. 102. ACQUISITION OF STATE LANDS.

(a) **AUTHORIZATION TO ACQUIRE LANDS.**—The Secretary is authorized to acquire approximately 1,406 acres of State lands within the exterior boundaries of Grand Teton National Park, as generally depicted on the map referenced in section 101(4), by any one or a combination of the following—

(1) donation;

(2) purchase with donated or appropriated funds; or

(3) exchange of Federal lands in the State of Wyoming that are identified for disposal under approved land use plans in effect on the date of enactment of this Act under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) that are of equal value to the State lands acquired in the exchange.

(b) **IDENTIFICATION OF LANDS FOR EXCHANGE.**—In the event that the Secretary or the Governor determines that the Federal lands eligible for exchange under subsection (a)(3) are not sufficient or acceptable for the acquisition of all the State lands identified in section 101(4), the Secretary shall identify other Federal lands or interests therein in the State of Wyoming for possible exchange and shall identify such lands or interests together with their estimated value in a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of

Representatives. Such lands or interests shall not be available for exchange unless authorized by an Act of Congress enacted after the date of submission of the report.

##### SEC. 103. VALUATION OF STATE AND FEDERAL INTERESTS.

(a) **AGREEMENT ON APPRAISER.**—If the Secretary and the Governor are unable to agree on the value of any Federal lands eligible for exchange under section 102(a)(3) or State lands, then the Secretary and the Governor may select a qualified appraiser to conduct an appraisal of those lands. The purchase or exchange under section 102(a) shall be conducted based on the values determined by the appraisal.

(b) **NO AGREEMENT ON APPRAISER.**—If the Secretary and the Governor are unable to agree on the selection of a qualified appraiser under subsection (a), then the Secretary and the Governor shall each designate a qualified appraiser. The two designated appraisers shall select a qualified third appraiser to conduct the appraisal with the advice and assistance of the two designated appraisers. The purchase or exchange under section 102(a) shall be conducted based on the values determined by the appraisal.

(c) **APPRAISAL COSTS.**—The Secretary and the State of Wyoming shall each pay one-half of the appraisal costs under subsections (a) and (b).

##### SEC. 104. ADMINISTRATION OF STATE LANDS ACQUIRED BY THE UNITED STATES.

The State lands conveyed to the United States under section 102(a) shall become part of Grand Teton National Park. The Secretary shall manage such lands under the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") and other laws, rules, and regulations applicable to Grand Teton National Park.

##### SEC. 105. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this title.

#### TITLE II—JAMES V. HANSEN SHOSHONE NATIONAL TRAIL

##### SEC. 201. SHOSHONE NATIONAL TRAIL.

(a) **DEFINITIONS.**—For the purposes of this section, the following definitions shall apply:

(1) **APPROPRIATE SECRETARY.**—The term "appropriate Secretary" means—

(A) the Secretary of Agriculture when referring to land under the jurisdiction of that Secretary; and

(B) the Secretary of the Interior when referring to any land except that under the jurisdiction of the Secretary of Agriculture.

(2) **MAP.**—The term "Map" means the map entitled "James V. Hansen Shoshone National Trail" and dated April 5, 2002.

(3) **TRAIL.**—The term "Trail" means the system of trails designated in subsection (b) as the James V. Hansen Shoshone National Trail.

(b) **DESIGNATION.**—The trails that are open to motorized use pursuant to applicable Federal and State law and are depicted on the Map as the Shoshone National Trail are hereby designated as the "James V. Hansen Shoshone National Trail".

(c) **MANAGEMENT.**—

(1) **IN GENERAL.**—Except as otherwise provided in this title, the appropriate Secretary shall manage the Trail consistent with the requirements of a national recreation trail in accordance with—

(A) the National Trails System Act (16 U.S.C. 1241 et seq.); and

(B) other applicable laws and regulations for trails on Federal lands.

(2) **COOPERATION; AGREEMENTS.**—The Secretary of the Interior and the Secretary of Agriculture shall cooperate with the State of Utah Department of Natural Resources and appropriate county governments in managing the Trail. The appropriate Secretary shall make every reasonable effort to enter into cooperative agreements with the State of Utah Department