

Public Law 105–351
105th Congress

An Act

To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

Nov. 3, 1998
[S. 538]

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

Idaho.

SECTION 1. CONVEYANCE OF FACILITIES.

(a) DEFINITIONS.—In this section:

(1) BURLEY.—The term “Burley” means the Burley Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) DIVISION.—The term “Division” means the Southside Pumping Division of the Minidoka project, Idaho.

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

(b) CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall, without consideration or compensation except as provided in this section, convey to Burley, by quitclaim deed or patent, all right, title, and interest of the United States in and to acquired lands, easements, and rights-of-way of or in connection with the Division, together with the pumping plants, canals, drains, laterals, roads, pumps, checks, headgates, transformers, pumping plant substations, buildings, transmission lines, and other improvements or appurtenances to the land or used for the delivery of water from the headworks (but not the headworks themselves) of the Southside Canal at the Minidoka Dam and reservoir to land in Burley, including all facilities used in conjunction with the Division (including the electric transmission lines used to transmit electric power for the operation of the pumping facilities of the Division and related purposes for which the allocable construction costs have been fully repaid by Burley).

(2) COSTS.—The first \$80,000 in administrative costs of transfer of title and related activities shall be paid in equal shares by the United States and Burley, and any additional amount of administrative costs shall be paid by the United States.

(c) WATER RIGHTS.—

(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

(i) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District;

(ii) that are for use on lands within the Burley Irrigation District; and

(iii) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of Twin Falls Canal Company v. Charles N. Foster, et al., and commonly referred to as the "Foster decree".

(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or result in any adverse impact on any other project water user.

(2) ALLOCATION OF STORAGE SPACE.—The Secretary shall provide an allocation to Burley of storage space in Minidoka Reservoir, American Falls Reservoir, and Palisades Reservoir, as described in Burley Contract Nos. 14-06-100-2455 and 14-06-W-48, subject to the obligation of Burley to continue to assume and satisfy its allocable costs of operation and maintenance associated with the storage facilities operated by the Bureau of Reclamation.

(d) PROJECT RESERVED POWER.—The Secretary shall continue to provide Burley with project reserved power from the Minidoka Reclamation Power Plant, Palisades Reclamation Power Plant, Black Canyon Reclamation Power Plant, and Anderson Ranch Reclamation Power Plant in accordance with the terms of the existing contracts, including any renewals thereof as provided in such contracts.

(e) SAVINGS.—

(1) Nothing in this Act or any transfer pursuant thereto shall affect the right of Minidoka Irrigation District to the joint use of the gravity portion of the Southside Canal, subject to compliance by the Minidoka Irrigation District with the terms and conditions of a contract between Burley and Minidoka Irrigation District, and any amendments or changes made by agreement of the irrigation districts.

(2) Nothing in this Act shall affect the rights of any person or entity except as may be specifically provided herein.

(f) LIABILITY.—Effective on the date of conveyance of the project facilities, described in section (1)(b)(1), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).

(g) COMPLETION OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall complete the conveyance under subsection (b) (including such action as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) not later than 2 years after the date of enactment of this Act.

(2) REPORT.—The Secretary shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within eighteen months from the date of enactment of this Act on the status of the transfer, any obstacles to completion of the transfer as provided in this section, and the anticipated date for such transfer. Deadline.

Approved November 3, 1998.

LEGISLATIVE HISTORY—S. 538:

SENATE REPORTS: No. 105–131 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 25, considered and passed Senate.

Oct. 12, considered and passed House.

