

Union Calendar No. 531

116TH CONGRESS
2^D SESSION

H. R. 278

[Report No. 116-647]

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2019

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

DECEMBER 15, 2020

Additional sponsors: Mr. RODNEY DAVIS of Illinois, Mr. GIBBS, and Mr. RUTHERFORD

DECEMBER 15, 2020

Reported from the Committee on Natural Resources; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

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,*

3 **SECTION 1. DEFINITIONS.**

4 In this Act:

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

7 (2) DISTRICT.—The term “District” means the
8 Kennewick Irrigation District, located in Benton
9 County, Washington, which operates and maintains
10 a portion of the Kennewick Division of the Yakima
11 Project constructed by the United States to enable
12 the Kennewick Irrigation District to carry out au-
13 thorized purposes pursuant to the Act of June 12,
14 1948 (62 Stat. 382).

15 (3) DISTRICT’S HEAD GATE.—The term “Dis-
16 trict’s head gate” means the point of diversion for
17 the Kennewick Irrigation District, identified as the
18 KID Main Canal Headworks at the following loca-
19 tion: KID Main Canal Headworks, 200 feet east and
20 1100 feet north, more or less, from the southwest
21 corner of section 16, being within the northwest $\frac{1}{4}$
22 of the southwest $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of section
23 16, T. 9 N., 26 E.W.M.

1 (4) DIVISION.—The term “Division” means the
2 Kennewick Division, including the Transferred
3 Works.

4 (5) TRANSFERRED WORKS.—The term “Trans-
5 ferred Works” means the canals, laterals, and ap-
6 purtenant works and lands, which begin at the Dis-
7 trict’s head gate and extends approximately 40 miles
8 east to the Columbia River built to serve the place
9 of use of the 20,201 acres of currently irrigated irri-
10 gable lands entitled to delivery of water within the
11 Kennewick Irrigation District.

12 (6) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

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

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

1 (b) CONVEYANCE.—Subject to valid leases, permits,
2 rights-of-way, easements, and other existing rights and in
3 accordance the terms and conditions set forth in the
4 Agreement and this Act, the Secretary shall convey to the
5 District all right, title, and interest of the United States
6 in and to the Transferred Works.

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

11 (1) describes the status of the conveyance;

12 (2) describes any obstacles to completing the
13 conveyance; and

14 (3) specifies an anticipated date for completion
15 of the conveyance.

16 **SEC. 3. LIABILITY.**

17 (a) DAMAGES.—Except as otherwise provided by law
18 and for damages caused by acts of negligence committed
19 by the United States or by its employees or agents, effec-
20 tive upon the date of the conveyance authorized by section
21 2, the United States shall not be held liable by any court
22 for damages of any kind arising out of any act, omission,
23 or occurrence relating to the Transferred Works.

24 (b) TORTS CLAIMS.—Nothing in this section in-
25 creases the liability of the United States beyond that pro-

1 vided in chapter 171 of title 28, United States Code (pop-
2 ularly known as the “Federal Tort Claims Act”).

3 **SEC. 4. BENEFITS.**

4 (a) STATUS OF LAND.—After conveyance of the
5 Transferred Works under this Act, the Transferred Works
6 shall not be considered to be a part of a Federal reclama-
7 tion project.

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

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

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

24 (b) COMPLIANCE BY THE DISTRICT.—After convey-
25 ance of the Transferred Works under this Act, the District

1 shall comply with all applicable Federal, State, and local
2 laws and regulations in its operation of the Transferred
3 Works.

4 (c) **APPLICABLE AUTHORITY.**—All provisions of Fed-
5 eral reclamation law (the Act of June 17, 1902 (43 U.S.C.
6 371 et seq.), and Acts supplemental to and amendatory
7 of that Act) shall continue to be applicable to project water
8 provided to the District.

9 **SEC. 6. PAYMENT.**

10 (a) **ADMINISTRATIVE COSTS.**—Except as provided in
11 subsection (b), administrative costs for conveyance of the
12 Transferred Works under this Act shall be paid in equal
13 shares by the Secretary and the District.

14 (b) **REAL ESTATE TRANSFER COST.**—Costs of all
15 boundary surveys, title searches, cadastral surveys, ap-
16 praisals, and other real estate transactions required for
17 the conveyance of the Transferred Works shall be paid by
18 the District.

19 (c) **COSTS OF COMPLIANCE WITH OTHER LAWS.**—
20 Costs associated with any review required under the Na-
21 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.), the Endangered Species Act of 1973 (16 U.S.C.
23 1531 et seq.), subtitle III of title 54, United States Code,
24 and all other applicable laws for conveyance of the Trans-

1 ferred Works shall be paid in equal shares by the Sec-
2 retary and the District.

3 **SEC. 7. MISCELLANEOUS.**

4 (a) **APPLICABILITY OF OTHER LAW.**—Section 1212
5 of Public Law 103–434 shall apply to and be incorporated
6 into this Act.

7 (b) **STATUTORY CONSTRUCTION.**—Nothing in this
8 Act shall or shall be construed for any purpose—

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

11 (2) to affect, reduce, modify, or impair the
12 United States authority to regulate and manage
13 water in the Yakima Basin, including water diverted
14 into the Chandler Power Canal and Prosser Dam
15 through and including the Kennewick Irrigation Dis-
16 trict’s head gate;

17 (3) to change how water is diverted at Prosser
18 Dam and delivered to the Kennewick Irrigation Dis-
19 trict through the Chandler pumps through the Dis-
20 trict’s head gate; and

21 (4) to affect, reduce, modify, or impair the
22 United States control, management, and ownership
23 of the “Reserved works” as defined in the United
24 States Bureau of Reclamation and Kennewick Irri-
25 gation District Amendatory Repayment Contract

1 (1953) (Contract No. 14-06-W-56) as amended, at
2 pp. 2-3, which Reserved works include but are not
3 limited to Prosser Dam, the Chandler Power Canal
4 and hydroelectric and pumping plant, all Yakima
5 Project facilities, and the siphon under the Yakima
6 River to the District's head gate.

7 **SEC. 8. LIMITATIONS.**

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

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

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

19 (3) The transfer is consistent with the Sec-
20 retary's responsibility to protect land and water re-
21 sources held in trust for federally recognized Indian
22 Tribes.

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

1 (5) The Kennewick Irrigation District agrees to
2 provide, as consideration for the assets to be con-
3 veyed, compensation to the United States worth the
4 equivalent of the present value of any repayment ob-
5 ligation to the United States or other income stream
6 the United States derives from the assets to be
7 transferred at the time of the transfer.

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