

Calendar No. 649

115TH CONGRESS
2D SESSION**H. R. 6040****[Report No. 115-362]**

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2018

Received; read twice and referred to the Committee on Energy and Natural
Resources

NOVEMBER 14, 2018

Reported by Ms. MURKOWSKI, without amendment

AN ACT

To authorize the Secretary of the Interior to convey certain
land and facilities of the Central Valley Project.

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. SHORT TITLE.**

4 This Act may be cited as the “Contra Costa Canal
5 Transfer Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ACQUIRED LAND.—The term “acquired
2 land” means land in Federal ownership and land
3 over which the Federal Government holds an interest
4 for the purpose of the construction and operation of
5 the Contra Costa Canal, including land under the ju-
6 risdiction of—

7 (A) the Bureau of Reclamation;

8 (B) the Western Area Power Administra-
9 tion; and

10 (C) the Department of Defense in the case
11 of the Clayton Canal diversion traversing the
12 Concord Naval Weapons Station.

13 (2) CONTRA COSTA CANAL AGREEMENT.—The
14 term “Contra Costa Canal Agreement” means an
15 agreement between the District and the Bureau of
16 Reclamation to determine the legal, institutional,
17 and financial terms surrounding the transfer of the
18 Contra Costa Canal, including but not limited to
19 compensation to the reclamation fund established by
20 the first section of the Act of June 17, 1902 (32
21 Stat. 388, chapter 1093), equal to the net present
22 value of miscellaneous revenues that the United
23 States would otherwise derive over the 10 years fol-
24 lowing enactment of this Act from the eligible lands

1 and facilities to be transferred, as governed by rec-
2 lamation law and policy and the contracts.

3 (3) CONTRA COSTA CANAL.—

4 (A) IN GENERAL.—The term “Contra
5 Costa Canal” means the Contra Costa Canal
6 Unit of the Central Valley Project, which exclu-
7 sively serves the Contra Costa Water District in
8 an urban area of Contra Costa County, Cali-
9 fornia.

10 (B) INCLUSIONS.—The term “Contra
11 Costa Canal” includes pipelines, conduits,
12 pumping plants, aqueducts, laterals, water stor-
13 age and regulatory facilities, electric sub-
14 stations, related works and improvements, and
15 all interests in land associated with the Contra
16 Costa Canal Unit of the Central Valley Project
17 in existence on the date of enactment of this
18 Act.

19 (C) EXCLUSION.—The term “Contra Costa
20 Canal” does not include the Rock Slough fish
21 screen facility.

22 (4) CONTRACTS.—The term “contracts” means
23 the existing water service contract between the Dis-
24 trict and the United States, Contract No. 175r-
25 3401A-LTR1 (2005), Contract No. 14-06-200-

1 6072A (1972, as amended), and any other contract
2 or land permit involving the United States, the Dis-
3 trict, and Contra Costa Canal.

4 (5) DISTRICT.—The term “District” means the
5 Contra Costa Water District, a political subdivision
6 of the State of California.

7 (6) ROCK SLOUGH FISH SCREEN FACILITY.—

8 (A) IN GENERAL.—The term “Rock
9 Slough fish screen facility” means the fish
10 screen facility at the Rock Slough intake to the
11 Contra Costa Canal.

12 (B) INCLUSIONS.—The term “Rock Slough
13 fish screen facility” includes the screen struc-
14 ture, rake cleaning system, and accessory struc-
15 tures integral to the screen function of the
16 Rock Slough fish screen facility, as required
17 under the Central Valley Project Improvement
18 Act (Public Law 102–575; 106 Stat. 4706).

19 (7) ROCK SLOUGH FISH SCREEN FACILITY
20 TITLE TRANSFER AGREEMENT.—The term “Rock
21 Slough fish screen facility title transfer agreement”
22 means an agreement between the District and the
23 Bureau of Reclamation to—

1 (A) determine the legal, institutional, and
2 financial terms surrounding the transfer of the
3 Rock Slough fish screen facility; and

4 (B) ensure the continued safe and reliable
5 operations of the Rock Slough fish screen facil-
6 ity.

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

9 **SEC. 3. CONVEYANCE OF LAND AND FACILITIES.**

10 (a) IN GENERAL.—Not later than 180 days after the
11 date of enactment of this Act, in consideration for the Dis-
12 trict assuming from the United States all liability for the
13 administration, operation, maintenance, and replacement
14 of the Contra Costa Canal, consistent with the terms and
15 conditions set forth in the Contra Costa Canal Agreement
16 and subject to valid existing rights and existing recreation
17 agreements between the Bureau of Reclamation and the
18 East Bay Regional Park District for Contra Loma Re-
19 gional Park and other local agencies within the Contra
20 Costa Canal, the Secretary shall offer to convey and assign
21 to the District—

22 (1) all right, title, and interest of the United
23 States in and to—

24 (A) the Contra Costa Canal; and

25 (B) the acquired land; and

1 (2) all interests reserved and developed as of
2 the date of enactment of this Act for the Contra
3 Costa Canal in the acquired land, including existing
4 recreation agreements between the Bureau of Rec-
5 lamation and the East Bay Regional Park District
6 for Contra Loma Regional Park and other local
7 agencies within the Contra Costa Canal.

8 (b) ROCK SLOUGH FISH SCREEN FACILITY.—

9 (1) IN GENERAL.—The Secretary shall convey
10 and assign to the District all right, title, and inter-
11 est of the United States in and to the Rock Slough
12 fish screen facility pursuant to the Rock Slough fish
13 screen facility title transfer agreement.

14 (2) COOPERATION.—No later than 180 days
15 after the conveyance of the Contra Costa Canal, the
16 Secretary and the District shall enter into good faith
17 negotiations to accomplish the conveyance and as-
18 signment under paragraph (1).

19 (c) PAYMENT OF COSTS.—The District shall pay to
20 the Secretary any administrative and real estate transfer
21 costs incurred by the Secretary in carrying out the convey-
22 ances and assignments under subsections (a) and (b), in-
23 cluding the cost of any boundary survey, title search, ca-
24 dastral survey, appraisal, and other real estate transaction
25 required for the conveyances and assignments.

1 (d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

2 (1) IN GENERAL.—Before carrying out the con-
3 veyances and assignments under subsections (a) and
4 (b), the Secretary shall comply with all applicable re-
5 quirements under—

6 (A) the National Environmental Policy Act
7 of 1969 (42 U.S.C. 4321 et seq.);

8 (B) the Endangered Species Act of 1973
9 (16 U.S.C. 1531 et seq.); and

10 (C) any other law applicable to the Contra
11 Costa Canal or the acquired land.

12 (2) EFFECT.—Nothing in this Act modifies or
13 alters any obligations under—

14 (A) the National Environmental Policy Act
15 of 1969 (42 U.S.C. 4321 et seq.); or

16 (B) the Endangered Species Act of 1973
17 (16 U.S.C. 1531 et seq.).

18 **SEC. 4. RELATIONSHIP TO EXISTING CENTRAL VALLEY**

19 **PROJECT CONTRACTS.**

20 (a) IN GENERAL.—Nothing in this Act affects—

21 (1) the application of the reclamation laws to
22 water delivered to the District pursuant to any con-
23 tract with the Secretary; or

24 (2) subject to subsection (b), the contracts.

1 (b) AMENDMENTS TO CONTRACTS.—The Secretary
2 and the District may modify the contracts as necessary
3 to comply with this Act.

4 (c) LIABILITY.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the United States shall not be liable for
7 damages arising out of any act, omission, or occur-
8 rence relating to the Contra Costa Canal or the ac-
9 quired land.

10 (2) EXCEPTION.—The United States shall con-
11 tinue to be liable for damages caused by acts of neg-
12 ligence committed by the United States or by any
13 employee or agent of the United States before the
14 date of the conveyance and assignment under section
15 3(a), consistent with chapter 171 of title 28, United
16 States Code (commonly known as the “Federal Tort
17 Claims Act”).

18 (3) LIMITATION.—Nothing in this Act increases
19 the liability of the United States beyond the liability
20 provided under chapter 171 of title 28, United
21 States Code.

22 **SEC. 5. REPORT.**

23 If the conveyance and assignment authorized by sec-
24 tion 3(a) is not completed by the date that is 1 year after

1 the date of enactment of this Act, the Secretary shall sub-
2 mit to Congress a report that—

3 (1) describes the status of the conveyance and
4 assignment;

5 (2) describes any obstacles to completing the
6 conveyance and assignment; and

7 (3) specifies an anticipated date for completion
8 of the conveyance and assignment.

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