

104TH CONGRESS
2D SESSION

H. R. 3366

To direct the Secretary of the Interior to convey the Collbran Reclamation project to the Ute Water Conservancy District and the Collbran Conservancy District.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 1996

Mr. McINNIS introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of the Interior to convey the Collbran Reclamation project to the Ute Water Conservancy District and the Collbran Conservancy District.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 (a) SHORT TITLE.—This subchapter may be cited as
4 the “Collbran Project Unit Conveyance Act”.

5 (b) DEFINITIONS.—For purposes of this subchapter:

6 (1) DISTRICTS.—The term “Districts” means
7 the Ute Water Conservancy District and the
8 Collbran Conservancy District (including their suc-

1 cessors and assigns), which are political subdivisions
2 of the State of Colorado.

3 (2) FEDERAL RECLAMATION LAWS.—The term
4 “Federal reclamation laws” means the Act of June
5 17, 1902 and Acts amendatory thereof or supple-
6 mentary thereto (32 Stat. 388, chapter 1093; 43
7 U.S.C. 371 et seq.) (including regulations adopted
8 pursuant to those Acts).

9 (3) PROJECT.—The term “project” means the
10 Collbran Reclamation project, as constructed and
11 operated under the Act of July 3, 1952 (66 Stat.
12 325, chapter 565), including all property, equip-
13 ment, and assets of or relating to the project that
14 are owned by the United States, including—

15 (A) Vega Dam and Reservoir (but not in-
16 cluding the Vega Recreation Facilities);

17 (B) Leon-Park dams and feeder canal;

18 (C) Southside Canal;

19 (D) East Fork diversion dam and feeder
20 canal;

21 (E) Bonham-Cottonwood pipeline;

22 (F) Snowcat shed and diesel storage;

23 (G) Upper Molina penstock and power
24 plant;

1 (H) Lower Molina penstock and power
2 plant;

3 (I) the diversion structure in the tailrace of
4 the Lower Molina power plant;

5 (J) all substations and switchyards;

6 (K) a non-exclusive easement for the use of
7 existing easements or rights-of-way owned by
8 the United States on or across nonfederal lands
9 which are necessary for access to project facili-
10 ties;

11 (L) title to lands reasonably necessary for
12 all project facilities except for land described in
13 subparagraph (K) or subsection (c)(1) (B) or
14 (C);

15 (M) all permits and contract rights held by
16 the Bureau of Reclamation, including, without
17 limitation, contract or other rights relating to
18 the operation, use, maintenance, repair or re-
19 placement of the water storage reservoirs lo-
20 cated on the Grand Mesa which are operated as
21 a part of the project;

22 (N) all equipment, parts inventories, and
23 tools;

1 (O) all additions, replacements, better-
2 ments, and appurtenances to any of the above;
3 and

4 (P) a copy of all data, plans, designs, re-
5 ports, records or other materials, whether in
6 writing or in any form of electronic storage re-
7 lating specifically to the project.

8 (4) VEGA RECREATION FACILITIES.—The term
9 “Vega Recreation Facilities” includes, but is not
10 limited to, buildings, campgrounds, picnic areas,
11 parking lots, fences, boat docks and ramps, electrical
12 lines, water and sewer systems, trash and toilet fa-
13 cilities, roads and trails, and other structures and
14 equipment used for State park purposes at and near
15 Vega Reservoir such as recreation, maintenance and
16 daily and overnight visitor use, and lands above the
17 high water level of Vega Reservoir within the area
18 previously defined by the Department of the Interior
19 as the “Reservoir Area Boundary” which have not
20 historically been utilized for Collbran project water
21 storage and delivery facilities, together with an ease-
22 ment for public access for recreational purposes to
23 Vega Reservoir and the water surface thereof, and
24 construction, operation, maintenance and replace-
25 ment of such recreation facilities below the high

1 water line. Such facilities shall also include improve-
2 ments constructed or added as a result of the agree-
3 ments referred to in section (c)(6).

4 (c) CONVEYANCE OF THE COLLBRAN PROJECT.—

5 (1) IN GENERAL.—

6 (A) CONVEYANCE TO DISTRICTS.—The
7 Secretary of the Interior shall convey to the
8 Districts all right, title, and interest of the
9 United States in and to the project, as de-
10 scribed in subsection (b)(3), by quitclaim deed
11 and bill of sale, without warranties, in the last
12 quarter of fiscal year 2000, subject only to the
13 requirements of this section. Until such convey-
14 ance occurs, the Bureau of Reclamation shall
15 continue to provide for the operation, mainte-
16 nance, repair and replacement of project facili-
17 ties and the storage reservoirs on the Grand
18 Mesa to the extent such responsibilities are the
19 responsibility of the Bureau of Reclamation and
20 have not been delegated to the districts prior to
21 the date of enactment of this Act or are dele-
22 gated or transferred to the districts by agree-
23 ment thereafter, so that at the time of convey-
24 ance such facilities are in the same condition

1 as, or better condition than, the condition of the
2 facilities on the date of enactment of this Act.

3 (B) EASEMENTS ON NATIONAL FOREST
4 SYSTEM LANDS.—The Secretary of Agriculture
5 shall grant, in the last quarter of fiscal year
6 2000, subject only to the requirements of this
7 section—

8 (i) a nonexclusive easement on and
9 across National Forest System lands to the
10 districts for ingress and egress on existing
11 access routes to each existing component
12 of the project and to the existing storage
13 reservoirs on the Grand Mesa which are
14 operated as a part of the project;

15 (ii) a nonexclusive easement on Na-
16 tional Forest System lands for the oper-
17 ation, use, maintenance, repair, and re-
18 placement, but not enlargement, of the ex-
19 isting storage reservoirs on the Grand
20 Mesa to the owners and operators of such
21 reservoirs which are operated as a part of
22 the project; which easement may be exer-
23 cised in the event that the existing land
24 use authorizations for such storage res-
25 ervoirs are restricted, terminated, relin-

1 quished, or abandoned, and which ease-
2 ment shall not be subject to conditions or
3 requirements that interfere with or limit
4 the use of such reservoirs for water supply
5 or power purposes; and

6 (iii) a nonexclusive easement to the
7 districts for the operation, use, mainte-
8 nance, repair, and replacement, but not en-
9 largement, of those components of project
10 facilities which are located on National
11 Forest System lands, subject to the re-
12 quirement that the districts shall provide
13 reasonable notice to and the opportunity
14 for consultation with the designated rep-
15 resentative of the Secretary of Agriculture
16 for nonroutine, nonemergency activities
17 that occur on such easements.

18 (C) EASEMENTS TO DISTRICTS FOR
19 SOUTHSIDE CANAL.—The Secretary of the Inte-
20 rior shall grant to the districts, in the last quar-
21 ter of fiscal year 2000, subject only to the re-
22 quirements of this section—

23 (i) a nonexclusive easement on and
24 across lands administered by agencies
25 within the Department of the Interior for

1 ingress and egress on existing access
2 routes to and along the Southside Canal,
3 and

4 (ii) a nonexclusive easement for the
5 operation, use, maintenance, repair, and
6 replacement of the Southside Canal, sub-
7 ject to the requirement that the districts
8 shall provide reasonable notice to and the
9 opportunity for consultation with the des-
10 ignated representative of the Secretary of
11 the Interior for nonroutine, nonemergency
12 activities that occur on such easements.

13 (2) RESERVATION.—The transfer of rights and
14 interests pursuant to paragraphs (1) (A), (B), and
15 (C) shall reserve to the United States all minerals,
16 including hydrocarbons, and a perpetual right of
17 public access over, across, under, and to the portions
18 of the project which on the date of enactment of this
19 Act were open to public use for fishing, boating,
20 hunting, and other outdoor recreation purposes and
21 other public uses such as grazing, mineral develop-
22 ment, and logging: *Provided*, That the United States
23 may allow for continued public use and enjoyment of
24 such portions of the project for recreational activities

1 and other public uses conducted as of the date of en-
2 actment of this Act.

3 (3) CONVEYANCE TO STATE OF COLORADO.—

4 All right, title, and interest in the Vega Recreation
5 Facilities shall remain in the United States until the
6 terms of the agreements referred to in paragraph
7 (6) have been fulfilled by the United States. At such
8 time, all right, title, and interest in the Vega Recre-
9 ation Facilities shall be conveyed by the Secretary of
10 the Interior to the State of Colorado, Division of
11 Parks and Outdoor Recreation.

12 (4) PAYMENT.—

13 (A) IN GENERAL.—At the time of transfer,
14 the districts shall pay to the United States
15 \$12,900,000 (\$12,300,000 of which represents
16 the net present value of the outstanding repay-
17 ment obligations for the project), of which—

18 (i) \$12,300,000 shall be deposited in
19 the general fund of the United States
20 Treasury; and

21 (ii) \$600,000 shall be deposited in a
22 special account in the United States Treas-
23 ury and shall be available to the United
24 States Fish and Wildlife Service, region 6,
25 without further appropriation, for use in

1 funding Colorado operations and capital
2 expenditures associated with the Grand
3 Valley Water Management Project for the
4 purpose of recovering endangered fish in
5 the Upper Colorado River Basin, as identi-
6 fied in the Recovery Implementation Pro-
7 gram for Endangered Fish Species in the
8 Upper Colorado River Basin, or such other
9 component of the Recovery Implementation
10 Program within Colorado that is selected
11 with the concurrence of the Governor of
12 the State of Colorado.

13 (B) SOURCE OF FUNDS.—Funds for the
14 payment to the extent of the amount specified
15 in subparagraph (A) shall not be derived from
16 the issuance or sale, prior to the conveyance, of
17 State or local bonds the interest on which is ex-
18 empt from taxation under section 103 of the In-
19 ternal Revenue Code of 1986.

20 (5) OPERATION OF PROJECT.—

21 (A) IN GENERAL.—The project was au-
22 thorized and constructed to place water to bene-
23 ficial use for authorized purposes within the
24 State of Colorado. The project shall be operated
25 and used by the districts for a period of 40

1 years after the date of enactment of this Act
2 for the purposes for which the project was au-
3 thorized under the Act of July 3, 1952 (66
4 Stat. 325, chapter 565). The districts shall at-
5 tempt to the extent practicable, taking into con-
6 sideration historic project operations, to notify
7 the State of Colorado of changes in historic
8 project operations which may adversely affect
9 State park operations.

10 (B) REQUIREMENTS.—During the 40-year
11 period described in subparagraph (A)—

12 (i) the districts shall annually submit
13 to the Secretary of Agriculture and the
14 Colorado Department of Natural Re-
15 sources a plan for operation of the project,
16 which plan shall—

17 (I) report on project operations
18 for the previous year;

19 (II) provide a description of the
20 manner of project operations antici-
21 pated for the forthcoming year, which
22 shall be prepared after consultation
23 with the designated representatives of
24 the Secretary of Agriculture, the
25 Board of County Commissioners of

1 Mesa County, Colorado, and the Colo-
2 rado Department of Natural Re-
3 sources; and

4 (III) certify that the districts
5 have operated and will operate and
6 maintain the project facilities in ac-
7 cordance with sound engineering prac-
8 tices; and

9 (ii) subject to subsection (d), all elec-
10 tric power generated by operation of the
11 project shall be made available to and be
12 marketed by the Western Area Power Ad-
13 ministration (including its successors or
14 assigns).

15 (6) AGREEMENTS.—Conveyance of the project
16 shall be subject to the agreements between the
17 United States and the State of Colorado dated Au-
18 gust 22, 1994, and September 23, 1994, relating to
19 the construction and operation of recreational facili-
20 ties at Vega Reservoir, which agreements shall con-
21 tinue to be performed by the parties thereto accord-
22 ing to the terms of the agreements.

23 (d) OPERATION OF THE POWER COMPONENT.—

24 (1) CONFORMITY TO HISTORIC OPERATIONS.—

25 The power component and facilities of the project

1 shall be operated in substantial conformity with the
2 historic operations of the power component and fa-
3 cilities (including recent operations in a peaking
4 mode).

5 (2) POWER MARKETING.—

6 (A) EXISTING MARKETING ARRANGE-
7 MENT.—The post-1989 marketing criteria,
8 which provide for the marketing of power gen-
9 erated by the power component of the project
10 as part of the output of the Salt Lake City area
11 integrated projects, shall no longer be binding
12 on the project upon conveyance of the project
13 under subsection (c)(1).

14 (B) AFTER TERMINATION OF EXISTING
15 MARKETING ARRANGEMENT.—

16 (i) IN GENERAL.—After the convey-
17 ance, the districts shall offer all power pro-
18 duced by the power component of the
19 project to the Western Area Power Admin-
20 istration or its successors or assigns (re-
21 ferred to in this section as “Western”),
22 which, in consultation with its affected
23 preference customers, shall have the first
24 right to purchase such power at the rates
25 established in accordance with clause (ii).

1 If Western declines to purchase the power
2 after consultation with its affected pref-
3 erence customers, such power shall then be
4 offered at the same rates first to Western’s
5 preference customers located in the Salt
6 Lake City area integrated projects market-
7 ing area (referred to in this section as the
8 “SLCAIP preference customers”). There-
9 after, such power may be sold to any other
10 party: *Provided, however,* That no such sale
11 may occur at rates less than rates estab-
12 lished in accordance with clause (ii) unless
13 such power is first offered at such lesser
14 rate first to Western and then to its
15 SLCAIP preference customers.

16 (ii) The rate for power initially offered
17 to Western and its SLCAIP preference
18 customers under this paragraph shall not
19 exceed that required to produce revenues
20 sufficient to provide for—

21 (I) annual debt service and/or
22 recoupment of the cost of capital for
23 the amount specified in subsection
24 (c)(4)(A)(i) of this section, less the
25 sum of \$310,000 (which is the net

1 present value of the outstanding re-
2 payment obligation of the Collbran
3 Conservancy District), and

4 (II) the cost of operation, main-
5 tenance, and replacement of the power
6 component of the project.

7 Such costs and rate shall be determined in a
8 manner consistent with the current principles
9 followed by the Secretary of the Interior and by
10 Western in its annual power and repayment
11 study.

12 (e) LICENSE.—

13 (1) Prior to the conveyance of the project to the
14 districts, the Commission shall issue to the districts
15 a license or licenses as appropriate under part I of
16 the Federal Power Act, as amended (16 U.S.C. 791
17 et seq.), authorizing for a term of 40 years the con-
18 tinued operation and maintenance of the power com-
19 ponent of the project.

20 (2) The license issued pursuant to subsection
21 (1)—

22 (A) shall be for the purpose of operating,
23 using, maintaining, repairing, and replacing the
24 power component of the project as authorized

1 by the Act of July 3, 1952 (66 Stat. 325, chap-
2 ter 565);

3 (B) shall be conditioned upon the require-
4 ment that the power component of the project
5 continue to be operated and maintained in ac-
6 cordance with the authorized purposes of the
7 project; and

8 (C) shall be subject only to the provisions
9 of part I of the Federal Power Act, except the
10 word “constructed” in section 3(10); the four
11 provisos of section 4(e); section 6 to the extent
12 it requires the licensee’s acceptance of those
13 terms and conditions of the Act that this sub-
14 section waives; section 10(e) as concerns annual
15 charges for the use and occupancy of Federal
16 lands and facilities; section 10(f); section 10(j);
17 section 18; section 19; section 20; and section
18 22 of the Federal Power Act, 16 U.S.C.
19 796(10), 797(e), 799, 803(e), 803(f), 803(j),
20 811, 812, 813, and 815; and shall not be sub-
21 ject to the standard “L-Form” license condi-
22 tions, published at 54 FPC 1792–1928 (1975),
23 the Federal Land Policy and Management Act
24 (43 U.S.C. 1701 et seq.), as amended, section
25 2402 of the Energy Policy Act of 1992 (16

1 U.S.C. 797e), the National Environmental Pol-
2 icy Act of 1969 (42 U.S.C. 4321 et seq.), the
3 Endangered Species Act of 1973 (16 U.S.C.
4 1531 et seq.), the Wild and Scenic Rivers Act
5 (16 U.S.C. 1271 et seq.), the Federal Water
6 Pollution Control Act (commonly known as the
7 “Clean Water Act”) (33 U.S.C. 1251 et seq.),
8 the National Historic Preservation Act (16
9 U.S.C. 470 et seq.), the Coastal Zone Manage-
10 ment Act of 1972 (16 U.S.C. 1451 et seq.), the
11 Fish and Wildlife Coordination Act (16 U.S.C.
12 661 et seq.), or any other Act otherwise appli-
13 cable to the licensing of the project.

14 (3) The license issued under paragraph (1) is
15 deemed to meet the licensing standards of the Fed-
16 eral Power Act, including section 10(a) and the last
17 sentence of section 4(e), 16 U.S.C. 797(e).

18 (4) Any power site reservation established by
19 the President, the Secretary of the Interior, or pur-
20 suant to section 24 of the Federal Power Act (16
21 U.S.C. 818) or any other law, which exists on any
22 lands, whether federally or privately owned, that are
23 included within the boundaries of the project shall
24 be vacated by operation of law upon issuance of the
25 license for the project.

1 (5) All requirements of part I of the Federal
2 Power Act and of any other Act applicable to the li-
3 censing of a hydroelectric project shall apply to the
4 project upon expiration of the license issued under
5 this section.

6 (6) For purposes of this section, “Commission”
7 means the Federal Energy Regulatory Commission.

8 (7) The operation of the project shall be subject
9 to all applicable State and Federal laws subsequent
10 to the issuance of the license pursuant to paragraph
11 (1).

12 (f) INAPPLICABILITY OF NEPA.—Neither the con-
13 veyance of the project nor the issuance of easements pur-
14 suant to this section constitutes a major Federal action
15 within the meaning of the National Environmental Policy
16 Act of 1969 (42 U.S.C. 4321 et seq.), including any regu-
17 lations issued under such Act.

18 (g) INAPPLICABILITY OF PRIOR AGREEMENTS AND
19 OF FEDERAL RECLAMATION LAWS.—On conveyance of
20 the project to the districts—

21 (1) the repayment contract dated May 27,
22 1957, as amended April 12, 1962, between the
23 Collbran Conservancy District and the United
24 States, and the contract for use of project facilities
25 for diversion of water dated January 11, 1962, as

1 amended November 10, 1977, between the Ute
2 Water Conservancy District and the United States,
3 shall be terminated and of no further force or effect;
4 and

5 (2) the project shall no longer be subject to or
6 governed by the Federal reclamation laws.

7 (h) DISTRICTS' LIABILITY.—The districts shall be
8 liable, to the extent allowed under State law, for all acts
9 or omissions relating to the operation and use of the
10 project by the districts that occur subsequent to the con-
11 veyance under subsection (c), including damages to Fed-
12 eral lands or facilities which result from the failure of
13 project facilities.

14 (i) EFFECT ON STATE LAW.—Nothing in this section
15 shall be construed to impair the effectiveness of any State
16 or local law (including regulations) relating to land use.

17 (j) TREATMENT OF SALES FOR PURPOSES OF CER-
18 TAIN LAWS.—The sales of assets under this subchapter
19 shall not be considered a disposal of Federal surplus prop-
20 erty under the following provisions of law:

21 (1) Section 203 of the Federal Property and
22 Administrative Services Act of 1949 (40 U.S.C.
23 484).

1 (2) Section 13 of the Surplus Property Act of
2 1944 (50 U.S.C. App. 1622).

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