

112TH CONGRESS
1ST SESSION

S. 1225

To transfer certain facilities, easements, and rights-of-way to Fort Sumner
Irrigation District, New Mexico.

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2011

Mr. BINGAMAN introduced the following bill; which was read twice and
referred to the Committee on Energy and Natural Resources

A BILL

To transfer certain facilities, easements, and rights-of-way
to Fort Sumner Irrigation District, New Mexico.

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 “Fort Sumner Project
5 Title Conveyance Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) DISTRICT.—The term “District” means the
9 Fort Sumner Irrigation District, located in De Baca
10 County, New Mexico.

1 (2) FORBEARANCE AGREEMENT.—The term
2 “Forbearance Agreement” means the contract be-
3 tween the United States and the District for the for-
4 bearance of exercising priority water rights num-
5 bered 08–WC–40–292 and dated August 21, 2009
6 (including any amendments to that contract).

7 (3) PROJECT.—The term “Project” means the
8 Fort Sumner reclamation project.

9 (4) REPAYMENT CONTRACT.—The term “Re-
10 payment Contract” means the contract between the
11 United States and the District numbered Ilr–1524
12 and dated November 5, 1948 (including any supple-
13 ments and amendments to that contract).

14 (5) SECRETARY.—The term “Secretary” means
15 the Secretary of the Interior.

16 (6) TRANSFER AGREEMENT.—The term
17 “Transfer Agreement” means the agreement entitled
18 “Memorandum of Agreement between the United
19 States and the Fort Sumner Irrigation District Con-
20 cerning Principles and Elements of Proposed Trans-
21 fer of Title to Fort Sumner Irrigation District Fa-
22 cilities” and numbered 11–WC–40–406 (including
23 any amendments to that agreement).

1 **SEC. 3. CONVEYANCE.**

2 (a) IN GENERAL.—The Secretary is authorized to
3 convey to the District all right and title of the United
4 States in and to all works, land, and facilities of the
5 Project, in accordance with the terms and conditions es-
6 tablished in the Transfer Agreement.

7 (b) VALID EXISTING RIGHTS.—The conveyance
8 under this section shall be subject to all valid existing
9 leases, permits, rights-of-way, easements, and other rights
10 appurtenant to the property conveyed.

11 (c) COSTS OF CONVEYANCE.—The costs of the con-
12 veyance under this section, including the costs of environ-
13 mental compliance, may be shared between the United
14 States and the District, in accordance with the Transfer
15 Agreement.

16 (d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

17 (1) IN GENERAL.—In carrying out the convey-
18 ance under subsection (a), the Secretary shall com-
19 ply with all applicable requirements under—

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

22 (B) the Endangered Species Act of 1973
23 (16 U.S.C. 1531 et seq.); and

24 (C) any other law applicable to the prop-
25 erty conveyed.

1 (2) EFFECT.—Nothing in this Act modifies or
2 alters any obligation under—

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

5 (B) the Endangered Species Act of 1973
6 (16 U.S.C. 1531 et seq.).

7 (e) FAILURE TO CONVEY.—If the Secretary fails to
8 complete the conveyance under this section by the date
9 that is 1 year after the date of enactment of this Act,
10 the Secretary shall submit to Congress a report that—

11 (1) explains the reasons why the conveyance
12 has not been completed; and

13 (2) states the date by which the conveyance will
14 be completed.

15 **SEC. 4. LIABILITY.**

16 (a) IN GENERAL.—Effective on the date of the con-
17 veyance under section 3, the United States—

18 (1) shall have no further interest in, and shall
19 have no responsibility for operating or maintaining,
20 the Project; and

21 (2) shall not be liable for damages of any kind
22 arising out of any act, omission, or occurrence relat-
23 ing to the conveyed property, except for damages
24 caused by acts committed by the United States or

1 employees, agents, or contractors of the United
2 States before the date of the conveyance.

3 (b) EFFECT OF SECTION.—Nothing in this section
4 increases the liability of the United States beyond the li-
5 ability provided under chapter 171 of title 28, United
6 States Code (commonly known as the “Federal Tort
7 Claims Act”).

8 **SEC. 5. TERMINATION OF REPAYMENT CONTRACT.**

9 Effective beginning on the date of the conveyance
10 under section 3—

11 (1) the Repayment Contract shall terminate;

12 and

13 (2) the United States and the District shall
14 have no obligations under the Repayment Contract.

15 **SEC. 6. FORBEARANCE AGREEMENT.**

16 (a) PAYMENT OBLIGATION.—In accordance with
17 paragraph 4(a) of the Forbearance Agreement, effective
18 beginning on the date of termination of the Repayment
19 Contract under section 5, the United States shall have no
20 payment obligation under paragraph 4(a) of the Forbear-
21 ance Agreement.

22 (b) OTHER TERMS AND CONDITIONS.—All other
23 terms and conditions of the Forbearance Agreement shall
24 remain in full force and effect on termination of the Re-
25 payment Contract under section 5.

1 (c) **TERM.**—The term of the Forbearance Agreement
2 shall be not less than 10 years after the date of enactment
3 of this Act.

4 **SEC. 7. FUTURE BENEFITS.**

5 Effective beginning on the date of the conveyance
6 under section 3, no additional amounts from the reclama-
7 tion fund established by the first section of the Act of
8 June 17, 1902 (32 Stat. 388, chapter 1093), shall be pro-
9 vided for the conveyed land or facilities due to the status
10 of the land and facilities as part of a reclamation project.

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