

115TH CONGRESS
1ST SESSION

H. R. 3281

To authorize the Secretary of the Interior to facilitate the transfer to non-Federal ownership of appropriate reclamation projects or facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2017

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

A BILL

To authorize the Secretary of the Interior to facilitate the transfer to non-Federal ownership of appropriate reclamation projects or facilities, 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. SHORT TITLE.**

4 This Act may be cited as the “Reclamation Title
5 Transfer and Non-Federal Infrastructure Incentivization
6 Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

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

3 (2) ELIGIBLE FACILITY.—The term “eligible fa-
4 cility”—

5 (A) means a reclamation project or facility,
6 or a portion of such a project or facility (which
7 may include dams and appurtenant works, in-
8 frastructure, recreational facilities, buildings,
9 distribution and drainage works, and associated
10 lands or interests in lands or water) that meets
11 the criteria for potential transfer established
12 pursuant to section 4; and

13 (B) does not include a reclamation facility
14 or separately functioning portion of such facility
15 that generates hydropower marketed by a power
16 marketing administration.

17 (3) QUALIFYING ENTITY.—The term “quali-
18 fying entity” means an agency of a State political
19 subdivision, joint action or powers agency, water
20 users association, Indian Tribe or Tribal utility au-
21 thority, that—

22 (A) held or holds a water service contract,
23 repayment contract, operation and maintenance
24 contract, water rights settlement contract or ex-

1 change contract providing for water service
2 from the eligible facility to be transferred; and

3 (B) as determined by the Secretary, has
4 the capacity to continue to manage the con-
5 veyed property for the same purposes by which
6 the property has been managed under reclama-
7 tion law.

8 (4) CONVEYED PROPERTY.—The term “con-
9 veyed property” means an eligible facility that has
10 been transferred out of Federal ownership under
11 this Act.

12 **SEC. 3. AUTHORIZATION OF TITLE TRANSFER.**

13 (a) IN GENERAL.—The Secretary may convey to a
14 qualifying entity all right, title, and interest of the United
15 States in and to any eligible facility, subject to subsections
16 (b) and (c), if—

17 (1) the Secretary notifies Congress in writing of
18 the proposed conveyance, and the reasons for the
19 conveyance, not later than 90 days before the date
20 on which the Secretary makes the conveyance; and

21 (2) Congress does not pass a joint resolution
22 disapproving the conveyance before such date.

23 (b) ASSOCIATED WATER RIGHTS AND USES.—Fed-
24 eral interests in associated water rights and uses, if in-
25 cluded, shall be conveyed in accordance with applicable

1 State law under this Act by a written agreement between
2 the Secretary and the qualifying entity.

3 (c) CONSULTATION.—Interests in eligible facilities
4 shall be conveyed under this Act by a written agreement
5 between the Secretary and the qualifying entity, developed
6 in consultation with any existing water and power cus-
7 tomers affected by the eligible facility.

8 (d) RIGHT OF FIRST REFUSAL.—If the entity that
9 operates and maintains an eligible facility at the time that
10 the Secretary attempts to facilitate the conveyance under
11 subsection (c) is a qualifying entity, that entity shall have
12 the right of first refusal to receive the conveyance under
13 this Act.

14 **SEC. 4. ELIGIBILITY CRITERIA FOR TITLE TRANSFER**
15 **UNDER THIS ACT.**

16 Not later than one year after the date of the enact-
17 ment of this Act, the Secretary shall establish criteria for
18 determining whether facilities are eligible for title transfer
19 under this Act. The criteria shall include the following
20 minimum requirements:

21 (1) The qualifying entity agrees to accept title
22 to the property proposed for transfer.

23 (2) The proposed title transfer will not have an
24 unmitigated significant effect on the environment.

1 (3) The qualifying entity intends to use the
2 property for substantially the same purposes the
3 property is being used for at the time the Secretary
4 evaluates the potential transfer.

5 (4) The transfer is consistent with the Sec-
6 retary's responsibility to protect land and water re-
7 sources held in trust for federally recognized Indian
8 Tribes.

9 (5) The transfer is consistent with the Sec-
10 retary's responsibility to ensure compliance with
11 international treaties and interstate compacts.

12 (6) The qualifying entity agrees to provide, as
13 consideration for the assets to be conveyed, com-
14 pensation to the United States worth the equivalent
15 of the present value of any repayment obligation to
16 the United States or other income stream the United
17 States derives from the assets to be transferred at
18 the time of the transfer.

19 **SEC. 5. OTHER CONDITIONS FOR CONVEYANCES.**

20 (a) **POWER RATES.**—No conveyance under this Act
21 may adversely impact power rates or repayment obliga-
22 tions.

23 (b) **NEPA.**—The Secretary shall apply a categorical
24 exclusion process under the National Environmental Pol-

1 icy Act of 1969 (42 U.S.C. 4321 et seq.) on eligible facili-
2 ties under this Act.

3 **SEC. 6. LIABILITY.**

4 Effective upon the date of conveyance of any eligible
5 facility pursuant to this Act, the United States shall not
6 be liable for damages of any kind arising out of any act,
7 omission, or occurrence based on its prior ownership or
8 operation of the conveyed property, except for damages
9 caused by acts of negligence committed by the United
10 States or by its employees, agents, or contractors, prior
11 to conveyance.

12 **SEC. 7. BENEFITS.**

13 After a conveyance under this Act—

14 (1) the conveyed property shall not be consid-
15 ered to be a part of a Federal reclamation project;
16 and

17 (2) in the event that a transfer of an entire
18 project occurs, the entity to which the property is
19 conveyed shall not be eligible to receive any benefits,
20 including project power, with respect to the conveyed
21 property, except benefits that would be available to
22 a similarly situated entity with respect to property
23 that is not part of a Federal reclamation project.

1 **SEC. 8. COMPLIANCE WITH OTHER LAWS.**

2 After a conveyance under this Act, the entity to which
3 the property is conveyed shall comply with all applicable
4 Federal, State, and local laws and regulations in its oper-
5 ation of the conveyed property.

6 **SEC. 9. NOTIFICATION.**

7 The Secretary shall submit, as part of the Secretary's
8 annual budget submission to Congress—

9 (1) a description of the actions taken to imple-
10 ment this Act; and

11 (2) a list of conveyances made or initiated by
12 the Secretary or a qualifying entity under this Act.

○