

116TH CONGRESS
1ST SESSION

S. 93

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

IN THE SENATE OF THE UNITED STATES

JANUARY 10, 2019

Mrs. FEINSTEIN (for herself and Ms. HARRIS) introduced the following bill;
which was read twice and referred to the Committee on Energy and Nat-
ural Resources

A BILL

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:

8 (1) **ACQUIRED LAND.**—The term “acquired
9 land” means land in Federal ownership and land
10 over which the Federal Government holds an interest

1 for the purpose of the construction and operation of
 2 the Contra Costa Canal, including land under the ju-
 3 risdiction of—

4 (A) the Bureau of Reclamation;

5 (B) the Western Area Power Administra-
 6 tion; and

7 (C) the Department of Defense in the case
 8 of the Clayton Canal diversion traversing the
 9 Concord Naval Weapons Station.

10 (2) CONTRA COSTA CANAL.—

11 (A) IN GENERAL.—The term “Contra
 12 Costa Canal” means the Contra Costa Canal
 13 Unit of the Central Valley Project, which exclu-
 14 sively serves the Contra Costa Water District in
 15 an urban area of Contra Costa County, Cali-
 16 fornia.

17 (B) INCLUSIONS.—The term “Contra
 18 Costa Canal” includes pipelines, conduits,
 19 pumping plants, aqueducts, laterals, water stor-
 20 age and regulatory facilities, electric sub-
 21 stations, related works and improvements, and
 22 all interests in land associated with the Contra
 23 Costa Canal Unit of the Central Valley Project
 24 in existence on the date of enactment of this
 25 Act.

1 (C) EXCLUSION.—The term “Contra Costa
2 Canal” does not include the Rock Slough fish
3 screen facility.

4 (3) CONTRA COSTA CANAL AGREEMENT.—The
5 term “Contra Costa Canal Agreement” means an
6 agreement between the District and the Bureau of
7 Reclamation to determine the legal, institutional,
8 and financial terms surrounding the transfer of the
9 Contra Costa Canal, including compensation to the
10 reclamation fund established by the first section of
11 the Act of June 17, 1902 (32 Stat. 388, chapter
12 1093), equal to the net present value of miscella-
13 neous revenues that the United States would other-
14 wise derive over the 10 years following the date of
15 enactment of this Act from the eligible lands and fa-
16 cilities to be transferred, as governed by reclamation
17 law and policy and the contracts.

18 (4) CONTRACTS.—The term “contracts” means
19 the existing water service contract between the Dis-
20 trict and the United States, Contract No. 175r-
21 3401A-LTR1 (2005), Contract No. 14-06-200-
22 6072A (1972, as amended), and any other contract
23 or land permit involving the United States, the Dis-
24 trict, and Contra Costa Canal.

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

4 (6) ROCK SLOUGH FISH SCREEN FACILITY.—

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

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

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

21 (A) determine the legal, institutional, and
 22 financial terms surrounding the transfer of the
 23 Rock Slough fish screen facility; and

1 (B) ensure the continued safe and reliable
2 operations of the Rock Slough fish screen facil-
3 ity.

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

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

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

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

21 (A) the Contra Costa Canal; and

22 (B) the acquired land; and

23 (2) all interests reserved and developed as of
24 the date of enactment of this Act for the Contra
25 Costa Canal in the acquired land, including existing

1 recreation agreements between the Bureau of Rec-
2 lamation and the East Bay Regional Park District
3 for Contra Loma Regional Park and other local
4 agencies within the Contra Costa Canal.

5 (b) ROCK SLOUGH FISH SCREEN FACILITY.—

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

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

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

23 (d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

24 (1) IN GENERAL.—Before carrying out the con-
25 veyances and assignments under subsections (a) and

1 (b), the Secretary shall comply with all applicable re-
 2 quirements under—

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

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

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

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

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

13 (B) the Endangered Species Act of 1973
 14 (16 U.S.C. 1531 et seq.).

15 **SEC. 4. RELATIONSHIP TO EXISTING CENTRAL VALLEY**
 16 **PROJECT CONTRACTS.**

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

18 (1) the application of the reclamation laws to
 19 water delivered to the District pursuant to any con-
 20 tract with the Secretary; or

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

22 (b) AMENDMENTS TO CONTRACTS.—The Secretary
 23 and the District may modify the contracts as necessary
 24 to comply with this Act.

25 (c) LIABILITY.—

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

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

14 (3) LIMITATION.—Nothing in this Act increases
 15 the liability of the United States beyond the liability
 16 provided under chapter 171 of title 28, United
 17 States Code (commonly known as the “Federal Tort
 18 Claims Act”).

19 **SEC. 5. REPORT.**

20 If the conveyance and assignment authorized by sec-
 21 tion 3(a) is not completed by the date that is 1 year after
 22 the date of enactment of this Act, the Secretary shall sub-
 23 mit to Congress a report that—

24 (1) describes the status of the conveyance and
 25 assignment;

- 1 (2) describes any obstacles to completing the
- 2 conveyance and assignment; and
- 3 (3) specifies an anticipated date for completion
- 4 of the conveyance and assignment.

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