

Union Calendar No.

115TH CONGRESS
2^D SESSION

H. R. 6652

[Report No. 115-]

To direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2018

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

DECEMBER --, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on August 3, 2018]

A BILL

To direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, 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. DEFINITIONS.**

4 *In this Act:*

5 (1) *AGREEMENT.*—*The term “Agreement” means*
6 *the agreement required under section 2(a).*

7 (2) *DISTRICT.*—*The term “District” means the*
8 *Kennewick Irrigation District, located in Benton*
9 *County, Washington, which operates and maintains a*
10 *portion of the Kennewick Division of the Yakima*
11 *Project constructed by the United States to enable the*
12 *Kennewick Irrigation District to carry out authorized*
13 *purposes pursuant to the Act of June 12, 1948 (62*
14 *Stat. 382).*

15 (3) *DISTRICT’S HEAD GATE.*—*The term “Dis-*
16 *trict’s head gate” means the point of diversion for the*
17 *Kennewick Irrigation District, identified as the KID*
18 *Main Canal Headworks at the following location:*
19 *KID Main Canal Headworks, 200 feet east and 1100*
20 *feet north, more or less, from the southwest corner of*
21 *section 16, being within the northwest $\frac{1}{4}$ of the south-*
22 *west $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of section 16, T. 9 N., 26*
23 *E.W.M.*

1 (4) *DIVISION*.—*The term “Division” means the*
2 *Kennewick Division, including the Transferred*
3 *Works.*

4 (5) *TRANSFERRED WORKS*.—*The term “Trans-*
5 *ferred Works” means the canals, laterals, and appur-*
6 *tenant works and lands, which begin at the District’s*
7 *head gate and extends approximately 40 miles east to*
8 *the Columbia River built to serve the place of use of*
9 *the 20,201 acres of currently irrigated irrigable lands*
10 *entitled to delivery of water within the Kennewick Ir-*
11 *rigation District.*

12 (6) *SECRETARY*.—*The term “Secretary” means*
13 *the Secretary of the Interior.*

14 **SEC. 2. AGREEMENT, CONVEYANCE, REPORT.**

15 (a) *AGREEMENT*.—*Not later than 2 years after the*
16 *date of the enactment of this Act, the Secretary, acting*
17 *through the Bureau of Reclamation, shall enter into an*
18 *agreement with the District to determine the legal, institu-*
19 *tional, and financial terms related to the conveyance of the*
20 *Transferred Works. The Agreement shall be completed after*
21 *the requirements in section 5(a) are satisfied. This Agree-*
22 *ment shall be in accordance with and subject to Memo-*
23 *randum of Agreement No: R18MA13703 between the Dis-*
24 *trict and the Bureau of Reclamation.*

1 (b) *CONVEYANCE.*—*Subject to valid leases, permits,*
2 *rights-of-way, easements, and other existing rights and in*
3 *accordance the terms and conditions set forth in the Agree-*
4 *ment and this Act, the Secretary shall convey to the District*
5 *all right, title, and interest of the United States in and to*
6 *the Transferred Works.*

7 (c) *REPORT.*—*If the conveyance authorized by sub-*
8 *section (b) is not completed within 2 years after the date*
9 *of the enactment of this Act, the Secretary shall submit to*
10 *Congress a report that—*

11 (1) *describes the status of the conveyance;*

12 (2) *describes any obstacles to completing the con-*
13 *veyance; and*

14 (3) *specifies an anticipated date for completion*
15 *of the conveyance.*

16 **SEC. 3. LIABILITY.**

17 (a) *DAMAGES.*—*Except as otherwise provided by law*
18 *and for damages caused by acts of negligence committed by*
19 *the United States or by its employees or agents, effective*
20 *upon the date of the conveyance authorized by section 2,*
21 *the United States shall not be held liable by any court for*
22 *damages of any kind arising out of any act, omission, or*
23 *occurrence relating to the Transferred Works.*

24 (b) *TORTS CLAIMS.*—*Nothing in this section increases*
25 *the liability of the United States beyond that provided in*

1 *chapter 171 of title 28, United States Code (popularly*
2 *known as the “Federal Tort Claims Act”).*

3 **SEC. 4. BENEFITS.**

4 *(a) STATUS OF LAND.—After conveyance of the Trans-*
5 *ferred Works under this Act, the Transferred Works shall*
6 *not be considered to be a part of a Federal reclamation*
7 *project.*

8 *(b) BENEFITS IF ENTIRE DIVISION CONVEYED.—If the*
9 *entire Division is conveyed out of Federal ownership, the*
10 *District shall not be eligible to receive any benefits, includ-*
11 *ing project power, with respect to the conveyed Division,*
12 *except benefits that would be available to a similarly situ-*
13 *ated entity with respect to property that is not part of a*
14 *Federal reclamation project.*

15 **SEC. 5. COMPLIANCE WITH OTHER LAWS.**

16 *(a) COMPLIANCE WITH ENVIRONMENTAL AND HIS-*
17 *TORIC PRESERVATION LAWS.—Before making the convey-*
18 *ance authorized by this Act, the Secretary shall complete*
19 *all actions required under the National Environmental Pol-*
20 *icy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered*
21 *Species Act of 1973 (16 U.S.C. 1531 et seq.), subtitle III*
22 *of title 54, United States Code, and all other applicable*
23 *laws.*

24 *(b) COMPLIANCE BY THE DISTRICT.—After conveyance*
25 *of the Transferred Works under this Act, the District shall*

1 *comply with all applicable Federal, State, and local laws*
2 *and regulations in its operation of the Transferred Works.*

3 (c) *APPLICABLE AUTHORITY.*—*All provisions of Fed-*
4 *eral reclamation law (the Act of June 17, 1902 (43 U.S.C.*
5 *371 et seq.), and Acts supplemental to and amendatory of*
6 *that Act) shall continue to be applicable to project water*
7 *provided to the District.*

8 **SEC. 6. PAYMENT.**

9 (a) *ADMINISTRATIVE COSTS.*—*Except as provided in*
10 *subsection (b), administrative costs for conveyance of the*
11 *Transferred Works under this Act shall be paid in equal*
12 *shares by the Secretary and the District.*

13 (b) *REAL ESTATE TRANSFER COST.*—*Costs of all*
14 *boundary surveys, title searches, cadastral surveys, apprais-*
15 *als, and other real estate transactions required for the con-*
16 *veyance of the Transferred Works shall be paid by the Dis-*
17 *trict.*

18 (c) *COSTS OF COMPLIANCE WITH OTHER LAWS.*—
19 *Costs associated with any review required under the Na-*
20 *tional Environmental Policy Act of 1969 (42 U.S.C. 4321*
21 *et seq.), the Endangered Species Act of 1973 (16 U.S.C.*
22 *1531 et seq.), subtitle III of title 54, United States Code,*
23 *and all other applicable laws for conveyance of the Trans-*
24 *ferred Works shall be paid in equal shares by the Secretary*
25 *and the District.*

1 **SEC. 7. MISCELLANEOUS.**

2 (a) *APPLICABILITY OF OTHER LAW.*—Section 1212 of
3 *Public Law 103–434 shall apply to and be incorporated*
4 *into this Act.*

5 (b) *STATUTORY CONSTRUCTION.*—*Nothing in this Act*
6 *shall or shall be construed for any purpose—*

7 (1) *to transfer, affect, reduce, modify, or impair*
8 *the water rights of any person;*

9 (2) *to affect, reduce, modify, or impair the*
10 *United States’ authority to regulate and manage*
11 *water in the Yakima Basin, including water diverted*
12 *into the Chandler Power Canal and Prosser Dam*
13 *through and including the Kennewick Irrigation Dis-*
14 *trict’s head gate;*

15 (3) *to change how water is diverted at Prosser*
16 *Dam and delivered to the Kennewick Irrigation Dis-*
17 *trict through the Chandler pumps through the Dis-*
18 *trict’s head gate; and*

19 (4) *to affect reduce, modify, or impair the*
20 *United States’ control, management, and ownership*
21 *of the “Reserved works” as defined in the United*
22 *States Bureau of Reclamation and Kennewick Irriga-*
23 *tion District Amendatory Repayment Contract (1953)*
24 *(Contract No. 14–06–W–56) as amended, at pp. 2–3,*
25 *which Reserved works include but are not limited to*
26 *Prosser Dam, the Chandler Power Canal and hydro-*

1 *electric and pumping plant, all Yakima Project facili-*
2 *ties, and the siphon under the Yakima River to the*
3 *District's head gate.*

4 **SEC. 8. LIMITATIONS.**

5 *After completing the requirements of the National En-*
6 *vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),*
7 *the Secretary of the Interior shall convey title, if the Sec-*
8 *retary affirms in writing to the House Committee on Nat-*
9 *ural Resources and the Senate Committee on Energy and*
10 *Natural Resources that the following criteria have been met:*

11 (1) *The Kennewick Irrigation District agrees to*
12 *accept title to the property proposed for transfer.*

13 (2) *The proposed title transfer will not have an*
14 *unmitigated negative effect on the environment.*

15 (3) *The transfer is consistent with the Sec-*
16 *retary's responsibility to protect land and water re-*
17 *sources held in trust for federally recognized Indian*
18 *Tribes.*

19 (4) *The transfer is consistent with the Sec-*
20 *retary's responsibility to ensure compliance with*
21 *international treaties and interstate compacts.*

22 (5) *The Kennewick Irrigation District agrees to*
23 *provide, as consideration for the assets to be conveyed,*
24 *compensation to the United States worth the equiva-*
25 *lent of the present value of any repayment obligation*

1 *to the United States or other income stream the*
2 *United States derives from the assets to be transferred*
3 *at the time of the transfer.*