

PUBLIC LAW 116-9- MAR, 12, 2019

JOHN D. DINGELL, J.R. CONSERVATION,  
MANAGEMENT, AND RECREATION ACT

(A) in the matter preceding paragraph (1), by inserting “replaced,” after “may be”; and

(B) in paragraph (3), by inserting “replaces such a map or” after “that specifically”.

(b) DIGITAL MAPS OF JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM UNITS.—Section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)) is amended—

(1) by inserting before the first sentence the following:

“(1) IN GENERAL.—”; and

(2) by adding at the end the following:

“(2) DIGITAL MAPS.—

“(A) AVAILABILITY.—The Secretary shall make available to the public on the Internet web site of the United States Fish and Wildlife Service digital versions of the maps included in the set of maps referred to in subsection (a).

“(B) EFFECT.—Any determination as to whether a location is inside or outside the System shall be made without regard to the digital maps available under this paragraph, except that this subparagraph does not apply with respect to any printed version of such a digital map if the printed version is included in the maps referred to in subsection (a).

“(C) REPORT.—No later than 180 days after the date of the enactment of John D. Dingell, Jr. Conservation, Management, and Recreation Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report regarding the progress and challenges in the transition from paper to digital maps and a timetable for completion of the digitization of all maps related to the System.”

(c) REPEAL OF REPORT.—Section 3 of Public Law 109–226 (16 U.S.C. 3503 note) is repealed.

## TITLE VIII—WATER AND POWER

### Subtitle A—Reclamation Title Transfer

#### SEC. 8001. PURPOSE.

The purpose of this subtitle is to facilitate the transfer of title to Reclamation project facilities to qualifying entities on the completion of repayment of capital costs.

#### SEC. 8002. DEFINITIONS.

In this subtitle:

(1) CONVEYED PROPERTY.—The term “conveyed property” means an eligible facility that has been conveyed to a qualifying entity under section 8003.

(2) ELIGIBLE FACILITY.—The term “eligible facility” means a facility that meets the criteria for potential transfer established under section 8004(a).

(3) FACILITY.—

(A) IN GENERAL.—The term “facility” includes a dam or appurtenant works, canal, lateral, ditch, gate, control

structure, pumping station, other infrastructure, recreational facility, building, distribution and drainage works, and associated land or interest in land or water.

(B) EXCLUSIONS.—The term “facility” does not include a Reclamation project facility, or a portion of a Reclamation project facility—

(i) that is a reserved works as of the date of enactment of this Act;

(ii) that generates hydropower marketed by a Federal power marketing administration; or

(iii) that is managed for recreation under a lease, permit, license, or other management agreement that does contribute to capital repayment.

(4) PROJECT USE POWER.—The term “project use power” means the electrical capacity, energy, and associated ancillary service components required to provide the minimum electrical service needed to operate or maintain Reclamation project facilities in accordance with the authorization for the Reclamation project.

(5) QUALIFYING ENTITY.—The term “qualifying entity” means an agency of a State or political subdivision of a State, a joint action or powers agency, a water users association, or an Indian Tribe or Tribal utility authority that—

(A) as of the date of conveyance under this subtitle, is the current operator of the eligible facility pursuant to a contract with Reclamation; and

(B) as determined by the Secretary, has the capacity to continue to manage the eligible facility for the same purposes for which the property has been managed under the reclamation laws.

(6) RECLAMATION.—The term “Reclamation” means the Bureau of Reclamation.

(7) RECLAMATION PROJECT.—The term “Reclamation project” means—

(A) any reclamation or irrigation project, including incidental features of the project—

(i) that is authorized by the reclamation laws;

(ii) that is constructed by the United States pursuant to the reclamation laws; or

(iii) in connection with which there is a repayment or water service contract executed by the United States pursuant to the reclamation laws; or

(B) any project constructed by the Secretary for the reclamation of land.

(8) RESERVED WORKS.—The term “reserved works” means any building, structure, facility, or equipment—

(A) that is owned by the Bureau; and

(B) for which operations and maintenance are performed, regardless of the source of funding—

(i) by an employee of the Bureau; or

(ii) through a contract entered into by the Commissioner.

(9) SECRETARY.—The term “Secretary” means the Secretary, acting through the Commissioner of Reclamation.

**SEC. 8003. AUTHORIZATION OF TRANSFERS OF TITLE TO ELIGIBLE FACILITIES.**

(a) **AUTHORIZATION.**—

(1) **IN GENERAL.**—Subject to the requirements of this subtitle, the Secretary, without further authorization from Congress, may, on application of a qualifying entity, convey to a qualifying entity all right, title, and interest of the United States in and to any eligible facility, if—

(A) not later than 90 days before the date on which the Secretary makes the conveyance, the Secretary submits to Congress—

(i) a written notice of the proposed conveyance; and

(ii) a description of the reasons for the conveyance; and

(B) a joint resolution disapproving the conveyance is not enacted before the date on which the Secretary makes the conveyance.

(2) **CONSULTATION.**—A conveyance under paragraph (1) shall be made by written agreement between the Secretary and the qualifying entity, developed in consultation with any existing water and power customers affected by the conveyance of the eligible facility.

(b) **RESERVATION OF EASEMENT.**—The Secretary may reserve an easement over a conveyed property if—

(1) the Secretary determines that the easement is necessary for the management of any interests retained by the Federal Government under this subtitle;

(2) the Reclamation project or a portion of the Reclamation project remains under Federal ownership; and

(3) the Secretary enters into an agreement regarding the easement with the applicable qualifying entity.

(c) **INTERESTS IN WATER.**—No interests in water shall be conveyed under this subtitle unless the conveyance is provided for in a separate, quantified agreement between the Secretary and the qualifying entity, subject to applicable State law and public process requirements.

**SEC. 8004. ELIGIBILITY CRITERIA.**

(a) **ESTABLISHMENT.**—The Secretary shall establish criteria for determining whether a facility is eligible for conveyance under this subtitle.

(b) **MINIMUM REQUIREMENTS.**—

(1) **AGREEMENT OF QUALIFYING ENTITY.**—The criteria established under subsection (a) shall include a requirement that a qualifying entity shall agree—

(A) to accept title to the eligible facility;

(B) to use the eligible facility for substantially the same purposes for which the eligible facility is being used at the time the Secretary evaluates the potential transfer; and

(C) to provide, as consideration for the assets to be conveyed, compensation to the reclamation fund established by the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093), in an amount that is the equivalent of the net present value of any repayment obligation to the United States or other income stream that the United

States derives from the eligible facility to be transferred, as of the date of the transfer.

(2) DETERMINATIONS OF SECRETARY.—The criteria established under subsection (a) shall include a requirement that the Secretary shall—

(A) be able to enter into an agreement with the qualifying entity with respect to the legal, institutional, and financial arrangements relating to the conveyance;

(B) determine that the proposed transfer—

(i) would not have an unmitigated significant effect on the environment;

(ii) is consistent with the responsibilities of the Secretary—

(I) in the role as trustee for federally recognized Indian Tribes; and

(II) to ensure compliance with any applicable international and Tribal treaties and agreements and interstate compacts and agreements;

(iii) is in the financial interest of the United States;

(iv) protects the public aspects of the eligible facility, including water rights managed for public purposes, such as flood control or fish and wildlife;

(v) complies with all applicable Federal and State law; and

(vi) will not result in an adverse impact on fulfillment of existing water delivery obligations consistent with historical operations and applicable contracts; and

(C) if the eligible facility proposed to be transferred is a dam or diversion works (not including canals or other project features that receive or convey water from the diverting works) diverting water from a water body containing a species listed as a threatened species or an endangered species or critical habitat under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), determine that—

(i) the eligible facility continues to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) in a manner that provides no less protection to the listed species as existed under Federal ownership; and

(ii) the eligible facility is not part of the Central Valley Project in the State of California.

(3) STATUS OF RECLAMATION LAND.—The criteria established under subsection (a) shall require that any land to be conveyed out of Federal ownership under this subtitle is—

(A) land acquired by the Secretary; or

(B) land withdrawn by the Secretary, only if—

(i) the Secretary determines in writing that the withdrawn land is encumbered by facilities to the extent that the withdrawn land is unsuitable for return to the public domain; and

(ii) the qualifying entity agrees to pay fair market value based on historical or existing uses for the withdrawn land to be conveyed.

(c) HOLD HARMLESS.—No conveyance under this subtitle shall adversely impact applicable Federal power rates, repayment obligations, or other project power uses.

**SEC. 8005. LIABILITY.**

(a) **IN GENERAL.**—Effective on the date of conveyance of any eligible facility under this subtitle, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the eligible facility, other than damages caused by acts of negligence committed by the United States or by agents or employees of the United States prior to the date of the conveyance.

(b) **EFFECT.**—Nothing in this section increases the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”).

**SEC. 8006. BENEFITS.**

After a conveyance of an eligible facility under this subtitle—

(1) the conveyed property shall no longer be considered to be part of a Reclamation project;

(2) except as provided in paragraph (3), the qualifying entity to which the conveyed property is conveyed shall not be eligible to receive any benefits, including project use power, with respect to the conveyed property, except for any benefit that would be available to a similarly situated entity with respect to property that is not a part of a Reclamation project; and

(3) the qualifying entity to which the conveyed property is conveyed may be eligible to receive project use power if—

(A) the qualifying entity is receiving project use power as of the date of enactment of this Act;

(B) the project use power will be used for the delivery of Reclamation project water; and

(C) the Secretary and the qualifying entity enter into an agreement under which the qualifying entity agrees to continue to be responsible for a proportionate share of operation and maintenance and capital costs for the Federal facilities that generate and deliver, if applicable, power used for delivery of Reclamation project water after the date of conveyance, in accordance with Reclamation project use power rates.

**SEC. 8007. COMPLIANCE WITH OTHER LAWS.**

(a) **IN GENERAL.**—Before conveying an eligible facility under this subtitle, the Secretary shall comply with all applicable Federal environmental laws, including—

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

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

(3) subtitle III of title 54, United States Code.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that any Federal permitting and review processes required with respect to a conveyance of an eligible facility under this subtitle should be completed with the maximum efficiency and effectiveness.

