

105TH CONGRESS  
1ST SESSION

# S. 725

To direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District.

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IN THE SENATE OF THE UNITED STATES

MAY 8, 1997

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

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## A BILL

To direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District.

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 “Collbran Project Unit  
5 Conveyance Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) DISTRICT.—The term “District” means the  
9 Ute Water Conservancy District and the Collbran

1 Conservancy District (including their successors and  
 2 assigns), which are political subdivisions of the State  
 3 of Colorado.

4 (2) FEDERAL RECLAMATION LAWS.—The term  
 5 “Federal reclamation laws” means the Act of June  
 6 17, 1902, and Acts amendatory thereof or supple-  
 7 mentary thereto (32 Stat. 388, chapter 1093; 43  
 8 U.S.C. 371 et seq.) (including regulations adopted  
 9 under those Acts).

10 (3) PROJECT.—The term “project” means the  
 11 Collbran Reclamation project, as constructed and  
 12 operated under the Act of July 3, 1952 (66 Stat.  
 13 325, chapter 565), including all property, equip-  
 14 ment, and assets of or relating to the project that  
 15 are owned by the United States, including—

16 (A) Vega Dam and Reservoir (but not in-  
 17 cluding the Vega Recreation Facilities);

18 (B) Leon-Park dams and feeder canal;

19 (C) Southside Canal;

20 (D) East Fork diversion dam and feeder  
 21 canal;

22 (E) Bonham-Cottonwood pipeline;

23 (F) Snowcat shed and diesel storage;

24 (G) Upper Molina penstock and power  
 25 plant;

1           (H) Lower Molina penstock and power  
2 plant;

3           (I) the diversion structure in the tailrace of  
4 the Lower Molina power plant;

5           (J) all substations and switchyards;

6           (K) a nonexclusive easement for the use of  
7 existing easements or rights-of-way owned by  
8 the United States on or across non-Federal  
9 land that are necessary for access to project fa-  
10 cilities;

11          (L) title to land reasonably necessary for  
12 all project facilities (except land described in  
13 subparagraph (K) or paragraph (1) or (2) of  
14 section 3(a));

15          (M) all permits and contract rights held by  
16 the Bureau of Reclamation, including contract  
17 or other rights relating to the operation, use,  
18 maintenance, repair, or replacement of the  
19 water storage reservoirs located on the Grand  
20 Mesa that are operated as part of the project;

21          (N) all equipment, parts inventories, and  
22 tools;

23          (O) all additions, replacements, better-  
24 ments, and appurtenances to any of the land,

1 interests in land, or facilities described in sub-  
2 paragraphs (A) through (N); and

3 (P) a copy of all data, plans, designs, re-  
4 ports, records, or other materials, whether in  
5 writing or in any form of electronic storage, re-  
6 lating specifically to the project.

7 (4) VEGA RECREATION FACILITIES.—The term  
8 “Vega Recreation Facilities” includes—

9 (A) buildings, campgrounds, picnic areas,  
10 parking lots, fences, boat docks and ramps,  
11 electrical lines, water and sewer systems, trash  
12 and toilet facilities, roads and trails, and other  
13 structures and equipment used for State park  
14 purposes (such as recreation, maintenance, and  
15 daily and overnight visitor use), at and near  
16 Vega Reservoir;

17 (B) lands above the high water level of  
18 Vega Reservoir within the area previously de-  
19 fined by the Secretary as the “Reservoir Area  
20 Boundary” that have not historically been uti-  
21 lized for Collbran project water storage and de-  
22 livery facilities, together with an easement for  
23 public access for recreational purposes to Vega  
24 Reservoir and the water surface of Vega Res-  
25 ervoir and for construction, operation, mainte-

1 nance, and replacement of facilities for rec-  
2 reational purposes below the high water line;  
3 and

4 (C) improvements constructed or added  
5 under the agreements referred to in section  
6 3(f).

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

9 **SEC. 3. CONVEYANCE.**

10 (a) IN GENERAL.—

11 (1) CONVEYANCE TO DISTRICTS.—

12 (A) IN GENERAL.—On or before the date  
13 that is 1 year after the date of enactment of  
14 this Act, the Secretary shall convey to the Dis-  
15 tricts all right, title, and interest of the United  
16 States in and to the project by quitclaim deed  
17 and bill of sale, without warranties, subject only  
18 to the requirements of this Act.

19 (B) ACTION PENDING CONVEYANCE.—  
20 Until the conveyance under subparagraph (A)  
21 occurs, the Director of the Bureau of Reclama-  
22 tion shall continue to exercise the responsibility  
23 to provide for the operation, maintenance, re-  
24 pair, and replacement of project facilities and  
25 the storage reservoirs on the Grand Mesa to the

1 extent that the responsibility is the responsibil-  
2 ity of the Bureau of Reclamation and has not  
3 been delegated to the Districts before the date  
4 of enactment of this Act or is delegated or  
5 transferred to the Districts by agreement after  
6 that date, so that at the time of the conveyance  
7 the facilities are in the same condition as, or  
8 better condition than, the condition of the facili-  
9 ties on the date of enactment of this Act.

10 (2) EASEMENTS ON NATIONAL FOREST SYSTEM

11 LANDS.—

12 (A) IN GENERAL.—On or before the date  
13 that is 1 year after the date of enactment of  
14 this Act, the Secretary of Agriculture shall  
15 grant, subject only to the requirements of this  
16 section—

17 (i) a nonexclusive easement on and  
18 across National Forest System land to the  
19 Districts for ingress and egress on access  
20 routes in existence on the date of enact-  
21 ment of this Act to each component of the  
22 project and storage reservoir on the Grand  
23 Mesa in existence on the date of enactment  
24 of this Act that is operated as part of the  
25 project;

1           (ii) a nonexclusive easement on Na-  
2           tional Forest System land for the oper-  
3           ation, use, maintenance, repair, and re-  
4           placement (but not enlargement) of the  
5           storage reservoirs on the Grand Mesa in  
6           existence on the date of enactment of this  
7           Act to the owners and operators of the res-  
8           ervoirs that are operated as a part of the  
9           project; and

10           (iii) a nonexclusive easement to the  
11           Districts for the operation, use, mainte-  
12           nance, repair, and replacement (but not  
13           enlargement) of the components of project  
14           facilities that are located on National For-  
15           est System land, subject to the require-  
16           ment that the Districts shall provide rea-  
17           sonable notice to and the opportunity for  
18           consultation with the designated represent-  
19           ative of the Secretary of Agriculture for  
20           nonroutine, nonemergency activities that  
21           occur on the easements.

22           (B) EXERCISE OF EASEMENT.—The ease-  
23           ment under subparagraph (A)(ii) may be exer-  
24           cised if the land use authorizations for the stor-  
25           age reservoirs described in subparagraph (A)(ii)

1 are restricted, terminated, relinquished, or  
2 abandoned, and the easement shall not be sub-  
3 ject to conditions or requirements that interfere  
4 with or limit the use of the reservoirs for water  
5 supply or power purposes.

6 (3) EASEMENTS TO DISTRICTS FOR SOUTHSIDE  
7 CANAL.—On or before the date that is 1 year after  
8 the date of enactment of this Act, the Secretary  
9 shall grant to the Districts, subject only to the re-  
10 quirements of this section—

11 (A) a nonexclusive easement on and across  
12 land administered by agencies within the De-  
13 partment of the Interior for ingress and egress  
14 on access routes to and along the Southside  
15 Canal in existence on the date of enactment of  
16 this Act; and

17 (B) a nonexclusive easement for the oper-  
18 ation, use, maintenance, repair, and replace-  
19 ment of the Southside Canal, subject to the re-  
20 quirement that the Districts shall provide rea-  
21 sonable notice to and the opportunity for con-  
22 sultation with the designated representative of  
23 the Secretary for nonroutine, nonemergency ac-  
24 tivities that occur on the easements.

25 (b) RESERVATION.—

1           (1) IN GENERAL.—The conveyance of ease-  
2           ments under subsection (a) shall reserve to the Unit-  
3           ed States all minerals (including hydrocarbons) and  
4           a perpetual right of public access over, across,  
5           under, and to the portions of the project that on the  
6           date of enactment of this Act were open to public  
7           use for fishing, boating, hunting, and other outdoor  
8           recreation purposes and other public uses such as  
9           grazing, mineral development, and logging.

10           (2) RECREATIONAL ACTIVITIES.—The United  
11           States may allow for continued public use and enjoy-  
12           ment of such portions of the project for recreational  
13           activities and other public uses as are conducted as  
14           of the date of enactment of this Act.

15           (c) CONVEYANCE TO STATE OF COLORADO.—All  
16           right, title, and interest in the Vega Recreation Facilities  
17           shall remain in the United States until the terms of the  
18           agreements referred to in subsection (f) have been fulfilled  
19           by the United States, at which time all right, title, and  
20           interest in the Vega Recreation Facilities shall be con-  
21           veyed by the Secretary to the State of Colorado, Division  
22           of Parks and Outdoor Recreation.

23           (d) PAYMENT.—

24           (1) IN GENERAL.—At the time of the convey-  
25           ance under subsection (a)(1), the Districts shall pay

1 to the United States \$12,900,000 (\$12,300,000 of  
2 which represents the net present value of the out-  
3 standing repayment obligations for the project), of  
4 which—

5 (A) \$12,300,000 shall be deposited in the  
6 general fund of the Treasury of the United  
7 States; and

8 (B) \$600,000 shall be deposited in a spe-  
9 cial account in the Treasury of the United  
10 States and shall be available to the United  
11 States Fish and Wildlife Service, Region 6,  
12 without further Act of appropriation, for use in  
13 funding Colorado operations and capital ex-  
14 penditures associated with the Grand Valley  
15 Water Management Project for the purpose of  
16 recovering endangered fish in the Upper Colo-  
17 rado River Basin, as identified in the Recovery  
18 Implementation Program for Endangered Fish  
19 Species in the Upper Colorado River Basin, or  
20 such other component of the Recovery Imple-  
21 mentation Program within Colorado as may be  
22 selected with the concurrence of the Governor  
23 of the State of Colorado.

24 (2) SOURCE OF FUNDS.—Funds for the pay-  
25 ment to the extent of the amount specified in para-

1 graph (1) shall not be derived from the issuance or  
2 sale, prior to the conveyance, of State or local bonds  
3 the interest on which is exempt from taxation under  
4 section 103 of the Internal Revenue Code of 1986.

5 (e) OPERATION OF PROJECT.—

6 (1) IN GENERAL.—

7 (A) DECLARATION.—The project was au-  
8 thorized and constructed under the Act of July  
9 3, 1952 (66 Stat. 325, chapter 565) for the  
10 purpose of placing water to beneficial use for  
11 authorized purposes within the State of Colo-  
12 rado.

13 (B) OPERATION.—The project shall be op-  
14 erated and used by the Districts for a period of  
15 40 years after the date of enactment of this Act  
16 for the purpose for which the project was au-  
17 thorized.

18 (C) CHANGES IN OPERATION.—The Dis-  
19 tricts shall attempt, to the extent practicable,  
20 taking into consideration historic project oper-  
21 ations, to notify the State of Colorado of  
22 changes in historic project operations which  
23 may adversely affect State park operations.

24 (2) REQUIREMENTS.—During the 40-year pe-  
25 riod described in paragraph (1)(B)—

1 (A) the Districts shall annually submit to  
2 the Secretary of Agriculture and the Colorado  
3 Department of Natural Resources a plan for  
4 operation of the project, which plan shall—

5 (i) report on project operations for the  
6 previous year;

7 (ii) provide a description of the man-  
8 ner of project operations anticipated for  
9 the forthcoming year, which shall be pre-  
10 pared after consultation with the des-  
11 ignated representatives of the Secretary of  
12 Agriculture, the Board of County Commis-  
13 sioners of Mesa County, Colorado, and the  
14 Colorado Department of Natural Re-  
15 sources; and

16 (iii) certify that the Districts have op-  
17 erated and will operate and maintain the  
18 project facilities in accordance with sound  
19 engineering practices; and

20 (B) subject to section 4, all electric power  
21 generated by operation of the project shall be  
22 made available to and be marketed by the  
23 Western Area Power Administration.

24 (f) AGREEMENTS.—Conveyance of the project shall  
25 be subject to the agreements between the United States

1 and the State of Colorado dated August 22, 1994, and  
 2 September 23, 1994, relating to the construction and op-  
 3 eration of recreational facilities at Vega Reservoir, which  
 4 agreements shall continue to be performed by the parties  
 5 to the agreements according to the terms of the agree-  
 6 ments.

7 **SEC. 4. OPERATION OF THE POWER COMPONENT.**

8 (a) CONFORMITY TO HISTORIC OPERATIONS.—The  
 9 power component and facilities of the project shall be oper-  
 10 ated in substantial conformity with the historic operations  
 11 of the power component and facilities (including recent op-  
 12 erations in a peaking mode).

13 (b) POWER MARKETING.—

14 (1) EXISTING MARKETING ARRANGEMENT.—

15 The post-1989 marketing criteria, which provide for  
 16 the marketing of power generated by the power com-  
 17 ponent of the project as part of the output of the  
 18 Salt Lake City area integrated projects, shall no  
 19 longer be binding on the project upon conveyance of  
 20 the project under section 3(a).

21 (2) AFTER TERMINATION OF EXISTING MAR-  
 22 KETING ARRANGEMENT.—

23 (A) IN GENERAL.—

24 (i) FIRST OFFER.—After the convey-  
 25 ance under section 3(a), the Districts shall

1 offer all power produced by the power com-  
2 ponent of the project to the Western Area  
3 Power Administration or its successors or  
4 assigns (referred to in this paragraph as  
5 “Western”), which, in consultation with its  
6 affected preference customers, shall have  
7 the first right to purchase such power at  
8 the rates established under subparagraph  
9 (B).

10 (ii) SECOND OFFER.—If Western de-  
11 clines to purchase the power after con-  
12 sultation with its affected preference cus-  
13 tomers, the power shall be offered at the  
14 same rates first to Western’s preference  
15 customers located in the Salt Lake City  
16 area integrated projects marketing area  
17 (referred to in this paragraph as the  
18 “SLCAIP preference customers”).

19 (iii) OTHER OFFERS.—After offers  
20 have been made under clauses (i) and (ii),  
21 power may be sold to any other party, but  
22 no such sale may occur at a rate less than  
23 a rate established under subparagraph (B)  
24 unless the power is offered at the lesser

1 rate first to Western and second to the  
2 SLCAIP preference customers.

3 (B) RATE.—The rate for power initially of-  
4 fered to Western and the SLCAIP preference  
5 customers under this paragraph shall not ex-  
6 ceed that required to produce revenues suffi-  
7 cient to provide for—

8 (i) annual debt service or recoupment  
9 of the cost of capital for the amount speci-  
10 fied in section 3(d)(1)(A) less the sum of  
11 \$310,000 (which is the net present value  
12 of the outstanding repayment obligation of  
13 the Collbran Conservancy District); and

14 (ii) the cost of operation, mainte-  
15 nance, and replacement of the power com-  
16 ponent of the project.

17 (C) DETERMINATION OF COSTS AND  
18 RATE.—Costs and a rate under subparagraph  
19 (B) shall be determined in a manner that is  
20 consistent with the principles followed, as of the  
21 date of enactment of this Act, by the Secretary  
22 and by Western in its annual power and repay-  
23 ment study.

1 **SEC. 5. LICENSE.**

2 (a) IN GENERAL.—Before conveyance of the project  
3 to the Districts, the Federal Energy Regulatory Commis-  
4 sion shall issue to the Districts a license or licenses as  
5 appropriate under part I of the Federal Power Act (16  
6 U.S.C. 791 et seq.) authorizing for a term of 40 years  
7 the continued operation and maintenance of the power  
8 component of the project.

9 (b) TERMS OF LICENSE.—

10 (1) IN GENERAL.—The license under subsection

11 (a)—

12 (A) shall be for the purpose of operating,  
13 using, maintaining, repairing, and replacing the  
14 power component of the project as authorized  
15 by the Act of July 3, 1952 (66 Stat. 325, chap-  
16 ter 565);

17 (B) shall be subject to the condition that  
18 the power component of the project continue to  
19 be operated and maintained in accordance with  
20 the authorized purposes of the project; and

21 (C) shall be subject to part I of the Fed-  
22 eral Power Act (16 U.S.C. 791 et seq.) except  
23 as stated in paragraph (2).

24 (2) LAWS NOT APPLICABLE.—

25 (A) FEDERAL POWER ACT.—

1 (i) IN GENERAL.—The license under  
2 subsection (a) shall not be subject to the  
3 following provisions of the Federal Power  
4 Act: the 4 provisos of section 4(e) (16  
5 U.S.C. 797(e)); section 6 (16 U.S.C. 799)  
6 to the extent that the section requires ac-  
7 ceptance by a licensee of terms and condi-  
8 tions of the Act that this subsection  
9 waives; subsection (e) (insofar as the sub-  
10 section concerns annual charges for the  
11 use and occupancy of Federal lands and  
12 facilities), (f), or (j) of section 10 (16  
13 U.S.C. 803); section 18 (16 U.S.C. 811);  
14 section 19 (16 U.S.C. 812); section 20 (16  
15 U.S.C. 813); or section 22 (16 U.S.C.  
16 815).

17 (ii) NOT A GOVERNMENT DAM.—Not-  
18 withstanding that any dam under the li-  
19 cense under subsection (a) may have been  
20 constructed by the United States for Gov-  
21 ernment purposes, the dam shall not be  
22 considered to be a Government dam, as  
23 that term is defined in section 3 of the  
24 Federal Power Act (16 U.S.C. 796).

1 (iii) STANDARD FORM LICENSE CON-  
2 DITIONS.—The license under subsection  
3 (a) shall not be subject to the standard  
4 “L-Form” license conditions published at  
5 54 FPC 1792–1928 (1975).

6 (B) OTHER LAWS.—The license under sub-  
7 section (a) shall not be subject to—

8 (i) the Federal Land Policy and Man-  
9 agement Act of 1976 (43 U.S.C. 1701 et  
10 seq.);

11 (ii) section 2402 of the Energy Policy  
12 Act of 1992 (16 U.S.C. 797c);

13 (iii) the National Environmental Pol-  
14 icy Act of 1969 (42 U.S.C. 4321 et seq.);

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

17 (v) the Wild and Scenic Rivers Act  
18 (16 U.S.C. 1271 et seq.);

19 (vi) the Federal Water Pollution Con-  
20 trol Act (commonly known as the “Clean  
21 Water Act”) (33 U.S.C. 1251 et seq.);

22 (vii) the National Historic Preserva-  
23 tion Act (16 U.S.C. 470 et seq.);

24 (viii) the Coastal Zone Management  
25 Act of 1972 (16 U.S.C. 1451 et seq.);

1 (ix) the Fish and Wildlife Coordina-  
2 tion Act (16 U.S.C. 661 et seq.); or

3 (x) any other Act otherwise applicable  
4 to the licensing of the project.

5 (3) LAWS ENACTED AFTER ISSUANCE OF LI-  
6 CENSE.—The operation of the project shall be sub-  
7 ject to all applicable State and Federal laws enacted  
8 after the date of issuance of the license under sub-  
9 section (a).

10 (c) LICENSING STANDARDS.—The license under sub-  
11 section (a) is deemed to meet all licensing standards of  
12 the Federal Power Act (16 U.S.C. 791 et seq.).

13 (d) POWER SITE RESERVATION.—Any power site res-  
14 ervation established under section 24 of the Federal Power  
15 Act (16 U.S.C. 818) or any other law that exists on any  
16 land, whether federally or privately owned, that is included  
17 within the boundaries of the project shall be vacated by  
18 operation of law on issuance of the license for the project.

19 (e) EXPIRATION OF LICENSE.—All requirements of  
20 part I of the Federal Power Act (16 U.S.C. 791 et seq.)  
21 and of any other Act applicable to the licensing of a hydro-  
22 electric project shall apply to the project on expiration of  
23 the license issued under this section.

1 **SEC. 6. INAPPLICABILITY OF PRIOR AGREEMENTS AND OF**  
2 **FEDERAL RECLAMATION LAWS.**

3 On conveyance of the project to the Districts—

4 (1) the repayment contract dated May 27,  
5 1957, as amended April 12, 1962, between the  
6 Collbran Conservancy District and the United  
7 States, and the contract for use of project facilities  
8 for diversion of water dated January 11, 1962, as  
9 amended November 10, 1977, between the Ute  
10 Water Conservancy District and the United States,  
11 shall be terminated and of no further force or effect;  
12 and

13 (2) the project shall no longer be subject to or  
14 governed by the Federal reclamation laws.

15 **SEC. 7. LIABILITY OF THE DISTRICTS.**

16 The Districts shall be liable, to the extent allowed  
17 under State law, for all acts or omissions relating to the  
18 operation and use of the project by the Districts that occur  
19 subsequent to the conveyance under section 3(a), including  
20 damage to any Federal land or facility that results from  
21 the failure of a project facility.

22 **SEC. 8. EFFECT ON STATE LAW.**

23 Nothing in this Act impairs the effectiveness of any  
24 State or local law (including a regulation) relating to land  
25 use.

1 **SEC. 9. TREATMENT OF SALES FOR PURPOSES OF CERTAIN**  
2 **LAWS.**

3 The sales of assets under this subchapter shall not  
4 be considered to be a disposal of Federal surplus property  
5 under—

6 (1) section 203 of the Federal Property and  
7 Administrative Services Act of 1949 (40 U.S.C.  
8 484); or

9 (2) section 13 of the Surplus Property Act of  
10 1944 (50 U.S.C. App. 1622).

○