

Calendar No. 709

106TH CONGRESS
2D SESSION**S. 1474****[Report No. 106-358]**

Providing for conveyance of the Palmetto Bend project to the State of
Texas.

 IN THE SENATE OF THE UNITED STATES

AUGUST 2, 1999

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

JULY 24, 2000

Reported by Mr. MURKOWSKI, with an amendment

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

A BILL

Providing for conveyance of the Palmetto Bend project to
the State of Texas.

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 “Palmetto Bend Con-
5 veyance Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **PROJECT.**—The term “Project” means the
4 Palmetto Bend Reclamation Project in the State of
5 Texas authorized under Public Law 90–562 (82
6 Stat. 999).

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

9 (3) **STATE.**—The term “State” means the State
10 of Texas, acting through the Texas Water Develop-
11 ment Board and/or the Lavaca-Navidad River Au-
12 thority, or both.

13 **SEC. 3. CONVEYANCE.**

14 On receipt of payment in accordance with section
15 5(a), the Secretary shall convey to the State the title and
16 all rights and interests (excluding the mineral estate) in
17 and to the Project held by the United States.

18 **SEC. 4. COMPLETION OF CONVEYANCE.**

19 (a) **IN GENERAL.**—The Secretary shall expeditiously
20 complete the conveyance under section 3 including such
21 actions as may be required under the National Environ-
22 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

23 (b) **REPORT.**—If the conveyance under section 3 is
24 completed later than 1 year and 180 days after the date
25 of enactment of this Act, the Secretary shall submit to
26 the Committee on Resources of the House of Representa-

1 tives and the Committee on Energy and Natural Re-
2 sources of the Senate a report that describes—

3 (1) the status of the conveyance;

4 (2) any obstacles to completion of the convey-
5 ance; and

6 (3) the anticipated date for completion of the
7 conveyance.

8 **SEC. 5. PAYMENT.**

9 (a) **IN GENERAL.**—As a condition of the conveyance
10 under section 3, the State shall pay to the Secretary
11 \$48,000,000.

12 (b) **OBLIGATION EXTINGUISHED.**—On payment by
13 the State under subsection (a), the obligation of the State
14 under the Bureau of Reclamation contract numbered 14-
15 06-500-1880, as amended, shall be extinguished.

16 (c) **ADDITIONAL COSTS.**—In addition to the payment
17 under subsection (a), as a condition of conveyance, the
18 State shall bear the cost of all boundary surveys, title
19 searches, appraisals, and other transaction costs for the
20 conveyance.

21 (d) **FINANCING.**—Nothing in this Act shall be con-
22 strued to affect the right of the State to use a particular
23 type of financing.

24 (e) **RECLAMATION FUND.**—All funds paid by the
25 State to the Secretary under this section shall be credited

1 to the Reclamation Fund in the Treasury of the United
2 States.

3 **SEC. 6. FUTURE MANAGEMENT.**

4 (a) **IN GENERAL.**—As a condition of the conveyance
5 under section 3, the land, water, facilities, and mineral
6 estate of the Project shall continue to be managed by the
7 State and operated for the purposes for which the Project
8 was originally authorized, based on current use and his-
9 toric operation, to ensure the implementation of fish, wild-
10 life, and recreational activities.

11 (b) **EXISTING OBLIGATIONS.**—As a condition of the
12 conveyance under section 3, the State shall assume all ob-
13 ligations of the United States associated with the Project
14 existing on the date of the conveyance, including obliga-
15 tions under contracts, for recreation, fish and wildlife,
16 easements, and any permits or license agreements.

17 **SEC. 7. MINERAL DEVELOPMENT.**

18 (a) **IN GENERAL.**—All mineral interests in the
19 Project retained by the United States on completion of
20 the conveyance under section 3 shall be subject to contin-
21 ued use by the State for the purposes for which the
22 Project was authorized, including—

23 (1) maintenance of the municipal and industrial
24 water supply;

25 (2) recreation; and

1 ~~(3)~~ fish and wildlife activities.

2 (b) SURFACE ESTATE.—The surface estate of the
3 Project may be used for exploration, development, or pro-
4 duction of oil, gas, or minerals only on approval by the
5 State.

6 **SEC. 8. LIABILITY.**

7 (a) IN GENERAL.—Effective on the date of convey-
8 ance of the Project, except as relates to retained mineral
9 interests, the United States shall not be liable for damages
10 of any kind arising out of any act, omission, or occurrence
11 with respect to the Project, except for damages caused by
12 acts of negligence committed prior to the date of convey-
13 ance by—

14 (1) the United States; or

15 ~~(2)~~ an employee, agent, or contractor of the
16 United States.

17 (b) NO INCREASE LIABILITY.—Nothing in this sec-
18 tion increases the liability of the United States beyond
19 that provided for in chapter 171 of title 28, United States
20 Code.

21 **SEC. 9. FUTURE BENEFITS.**

22 (a) DEAUTHORIZATION.—Effective on the date of
23 conveyance of the Project, the Project conveyance under
24 this Act shall be deauthorized.

1 (b) **NO RECLAMATION BENEFITS.**—After deauthor-
 2 ization of the Project under subsection (a), the State shall
 3 not be entitled to receive any benefits under Federal re-
 4 clamation law (the Act of June 17, 1902 (32 Stat. 388,
 5 chapter 1093), and Acts supplemental to and amendatory
 6 of that Act (43 U.S.C. 371 et seq.)).

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Palmetto Bend Convey-*
 9 *ance Act”.*

10 **SEC. 2. DEFINITIONS.**

11 *In this Act:*

12 (1) **PROJECT.**—*the term “Project” means the*
 13 *Palmetto Bend Reclamation Project in the State of*
 14 *Texas authorized under Public Law 90–562 (82 Stat.*
 15 *999).*

16 (2) **SECRETARY.**—*The term “Secretary” means*
 17 *the Secretary of the Interior.*

18 (3) **STATE.**—*The term “State” means the State*
 19 *of Texas, acting through the Texas Water Develop-*
 20 *ment Board or the Lavaca-Navidad River Authority*
 21 *or both.*

22 **SEC. 3. CONVEYANCE.**

23 (a) **IN GENERAL.**—*The Secretary shall, as soon as*
 24 *practicable after the date of enactment of this Act and in*
 25 *accordance with all applicable law, and subject to the condi-*

1 tions set forth in sections 4 and 5, convey to the State all
2 right, title and interest (excluding the mineral estate) in
3 and to the Project held by the United States.

4 (b) *REPORT.*—If the conveyance under Section 3 has
5 not been completed within 1 year and 180 days after the
6 date of enactment of this Act, the Secretary shall submit
7 to the Committee on Resources of the House of Representa-
8 tives and the Committee on Energy and Natural Resources
9 of the Senate a report that describes—

10 (1) the status of the conveyance;

11 (2) any obstacles to completion of the convey-
12 ance; and

13 (3) the anticipated date for completion of the
14 conveyance.

15 **SEC. 4. PAYMENT.**

16 (a) *IN GENERAL.*—As a condition of the conveyance,
17 the State shall pay the Secretary the adjusted net present
18 value of current repayment obligations on the Project, cal-
19 culated 30 days prior to closing using a discount rate equal
20 to the average interest rate on 30-year U.S. Treasury notes
21 during the proceeding calendar month, which following ap-
22 plication of the State's August 1, 1999 payment, is cur-
23 rently calculated to be \$45,082,675 using a discount rate
24 of 6.070%. The State shall also pay interest on the adjusted
25 net present value of current repayment obligations from the

1 *date of State's most recent annual payment until closing*
2 *at the interest rate for constant maturity U.S. Treasury*
3 *notes of an equivalent term.*

4 (b) *OBLIGATION EXTINGUISHED.*—Upon payment by
5 *the State under subsection (a), the obligation of the State*
6 *and the Bureau of Reclamation under the Bureau of Rec-*
7 *lamation Contract No. 14-06-500-1880, as amended shall*
8 *be extinguished. After completion of conveyance provided for*
9 *in Section 3, the State shall assume full responsibility for*
10 *all aspects of operation, maintenance and replacement of*
11 *the Project.*

12 (c) *ADDITIONAL COSTS.*—The State shall bear the cost
13 *of all boundary surveys, title searches, appraisals, and other*
14 *transaction costs for the conveyance.*

15 (d) *RECLAMATION FUND.*—All funds paid by the State
16 *to the Secretary under this section shall be credited to the*
17 *Reclamation Fund in the Treasury of the United States.*

18 **SEC. 5. FUTURE MANAGEMENT.**

19 (a) *IN GENERAL.*—As a condition of the conveyance
20 *under section 3, the State shall agree that the lands, water,*
21 *and facilities of the Project shall continue to be managed*
22 *and operated for the purposes for which the Project was*
23 *originally authorized; that is, to provide a dependable mu-*
24 *nicipal and industrial water supply, to conserve and de-*
25 *velop fish and wildlife resources, and to enhance rec-*

1 *reational opportunities. In future management of the*
 2 *Project, the State shall, consistent with other project pur-*
 3 *poses and the provision of dependable municipal and indus-*
 4 *trial water supply:*

5 (1) *provide full public access to the Project's*
 6 *lands, subject to reasonable restrictions for purposes of*
 7 *Project security, public safety, and natural resource*
 8 *protection;*

9 (2) *not sell or otherwise dispose of the lands con-*
 10 *veyed under Section 3;*

11 (3) *prohibit private or exclusive uses of lands*
 12 *conveyed under Section 3;*

13 (4) *maintain and manage the Project's fish and*
 14 *wildlife resource and habitat for the benefit and en-*
 15 *hancement of those resources;*

16 (5) *maintain and manage the Project's existing*
 17 *recreational facilities and assets, including open*
 18 *space, for the benefit of the general public;*

19 (6) *not charge the public recreational use fees*
 20 *that are more than is customary and reasonable.*

21 (b) *FISH, WILDLIFE, AND RECREATION MANAGE-*
 22 *MENT.—As a condition of conveyance under Section 3,*
 23 *management decisions and actions affecting the public as-*
 24 *pects of the Project (namely, fish, wildlife, and recreation*
 25 *resources) shall be conducted according to a management*

1 *agreement between all recipients of title to the Project and*
2 *the Texas Parks and Wildlife Department and shall extend*
3 *for the useful life of the Project that has been approved by*
4 *the Secretary.*

5 *(c) EXISTING OBLIGATIONS.—The United States shall*
6 *assign to the State and the State shall accept all surface*
7 *use obligations of the United States associated with the*
8 *Project existing on the date of the conveyance including con-*
9 *tracts, easements, and any permits or license agreements.*

10 **SEC. 6. MANAGEMENT OF MINERAL ESTATE.**

11 *All mineral interests in the Project retained by the*
12 *United States shall be managed consistent with Federal*
13 *Law and in a manner that will not interfere with the pur-*
14 *poses for which the Project was authorized.*

15 **SEC. 7. LIABILITY.**

16 *(a) IN GENERAL.—Effective on the date of conveyance*
17 *of the Project, the United States shall be liable for damages*
18 *of any kind arising out of any act, omission, or occurrence*
19 *relating to the Project, except for damages caused by acts*
20 *of negligence committed prior to the date of conveyance*
21 *by—*

22 *(1) the United States; or*

23 *(2) an employee, agent, or contractor of the*
24 *United States.*

1 (b) *NO INCREASE IN LIABILITY.*—*Nothing in this Act*
2 *increases the liability of the United States beyond that pro-*
3 *vided for in the Federal Tort Claims Act, (28 U.S.C. 2671*
4 *et seq.).*

5 **SEC. 8. FUTURE BENEFITS.**

6 (a) *DEAUTHORIZATION.*—*Effective on the date of con-*
7 *veyance of the Project, the Project conveyed under this Act*
8 *shall be deauthorized.*

9 (b) *NO RECLAMATION BENEFITS.*—*Afte deauthoriza-*
10 *tion of the Project under subsection (a), the State shall not*
11 *be entitled to receive any benefits for the Project under Fed-*
12 *eral reclamation law (the Act of June 17, 1902 (32 Stat.*
13 *388, chapter 1093), and Acts supplemental to and amend-*
14 *atory of that Act (43 U.S.C. 371 et seq.).*

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