

105TH CONGRESS
1ST SESSION

H. R. 412

IN THE SENATE OF THE UNITED STATES

MARCH 19, 1997

Received

AN ACT

To approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Oroville-Tonasket
3 Claim Settlement and Conveyance Act”.

4 **SEC. 2. PURPOSES.**

5 The purposes of this Act are to authorize the Sec-
6 retary of the Interior to implement the provisions of the
7 negotiated Settlement Agreement including conveyance of
8 the Project Irrigation Works, identified as not having na-
9 tional importance, to the District, and for other purposes.

10 **SEC. 3. DEFINITIONS.**

11 As used in this Act:

12 (1) The term “Secretary” means the Secretary
13 of the Interior.

14 (2) The term “Reclamation” means the United
15 States Bureau of Reclamation.

16 (3) The term “District” or “Oroville-Tonasket
17 Irrigation District” means the project beneficiary or-
18 ganized and operating under the laws of the State
19 of Washington, which is the operating and repay-
20 ment entity for the Project.

21 (4) The term “Project” means the Oroville-
22 Tonasket unit extension, Okanogan-Similkameen di-
23 vision, Chief Joseph Dam Project, Washington, con-
24 structed and rehabilitated by the United States
25 under the Act of September 28, 1976 (Public Law
26 94–423, 90 Stat. 1324), previously authorized and

1 constructed under the Act of October 9, 1962 (Pub-
2 lic Law 87-762, 76 Stat. 761), under the Federal
3 reclamation laws (including the Act of June 17,
4 1902 (ch. 1093, 32 Stat. 388), and Acts supple-
5 mentary thereto or amendatory thereof).

6 (5) The term “Project Irrigation Works”
7 means—

8 (A) those works actually in existence and
9 described in subarticle 3(a) of the Repayment
10 Contract, excluding Wildlife Mitigation Facili-
11 ties, and depicted on the maps held by the Dis-
12 trict and Reclamation, consisting of the realty
13 with improvements and real estate interests;

14 (B) all equipment, parts, inventories, and
15 tools associated with the Project Irrigation
16 Works realty and improvements and currently
17 in the District’s possession; and

18 (C) all third party agreements.

19 (6)(A) The term “Basic Contract” means Re-
20 payment Contract No. 14-06-100-4442, dated De-
21 cember 26, 1964, as amended and supplemented, be-
22 tween the United States and the District;

23 (B) the term “Repayment Contract” means Re-
24 payment Contract No. 00-7-10-W0242, dated No-

1 vember 28, 1979, as amended and supplemented, be-
2 tween the United States and the District; and

3 (C) the term “third party agreements” means
4 existing contractual duties, obligations, and respon-
5 sibilities that exist because of all leases, licenses, and
6 easements with third-parties related to the Project
7 Irrigation Works, or the lands or rights-of-way for
8 the Project Irrigation Works, but excepting power
9 arrangements with the Bonneville Power Adminis-
10 tration.

11 (7) The term “Wildlife Mitigation Facilities”
12 means—

13 (A) land, improvements, or easements, or
14 any combination thereof, secured for access to
15 such lands, acquired by the United States
16 under the Fish and Wildlife Coordination Act
17 (16 U.S.C. 661–667e); and

18 (B) all third party agreements associated
19 with the land, improvements, or easements re-
20 ferred to in subparagraph (A).

21 (8) The term “Indian Trust Lands” means ap-
22 proximately 61 acres of lands identified on land clas-
23 sification maps on file with the District and Rec-
24 lamation beneficially owned by the Confederated
25 Tribes of the Colville Reservation (Colville Tribes) or

1 by individual Indians, and held in trust by the Unit-
2 ed States for the benefit of the Colville Tribes in ac-
3 cordance with the Executive Order of April 9, 1872.

4 (9) The term “Settlement Agreement” means
5 the Agreement made and entered on April 15, 1996,
6 between the United States of America acting
7 through the Regional Director, Pacific Northwest
8 Region, Bureau of Reclamation, and the Oroville-
9 Tonasket Irrigation District.

10 (10) The term “operations and maintenance”
11 means normal and reasonable care, control, oper-
12 ation, repair, replacement, and maintenance.

13 **SEC. 4. AGREEMENT AUTHORIZATION.**

14 The Settlement Agreement is approved and the Sec-
15 retary of the Interior is authorized to conduct all nec-
16 essary and appropriate investigations, studies, and re-
17 quired Federal actions to implement the Settlement
18 Agreement.

19 **SEC. 5. CONSIDERATION AND SATISFACTION OF OUT-**
20 **STANDING OBLIGATIONS.**

21 (a) CONSIDERATION TO UNITED STATES.—Consider-
22 ation by the District to the United States in accordance
23 with the Settlement Agreement approved by this Act shall
24 be—

1 (1) payment of \$350,000 by the District to the
2 United States;

3 (2) assumption by the District of full liability
4 and responsibility and release of the United States
5 of all further responsibility, obligations, and liability
6 for removing irrigation facilities constructed and re-
7 habilitated by the United States under the Act of
8 October 9, 1962 (Public Law 87–762, 76 Stat. 761),
9 or referenced in section 201 of the Act of September
10 28, 1976 (Public Law 94–423, 90 Stat. 1324), and
11 identified in Article 3(a)(8) of the Repayment Con-
12 tract;

13 (3) assumption by the District of sole and abso-
14 lute responsibility for the operations and mainte-
15 nance of the Project Irrigation Works;

16 (4) release and discharge by the District as to
17 the United States from all past and future claims,
18 whether now known or unknown, arising from or in
19 any way related to the Project, including any arising
20 from the Project Irrigation Works constructed pur-
21 suant to the 1964 Basic Contract or the 1979 Re-
22 payment Contract;

23 (5) assumption by the District of full respon-
24 sibility to indemnify and defend the United States
25 against any third party claims associated with any

1 aspect of the Project, except for that claim known
2 as the Grillo Claim, government contractor construc-
3 tion claims accruing at any time, and any other suits
4 or claims filed as of the date of the Settlement
5 Agreement; and

6 (6) continued obligation by the District to de-
7 liver water to and provide for operations and mainte-
8 nance of the Wildlife Mitigation Facilities at its own
9 expense in accordance with the Settlement Agree-
10 ment.

11 (b) RESPONSIBILITIES OF UNITED STATES.—In re-
12 turn the United States shall—

13 (1) release and discharge the District’s obliga-
14 tion, including any delinquent or accrued payments,
15 or assessments of any nature under the 1979 Repay-
16 ment Contract, including the unpaid obligation of
17 the 1964 Basic Contract;

18 (2) transfer title of the Project Irrigation
19 Works to the District;

20 (3) assign to the District all third party agree-
21 ments associated with the Project Irrigation Works;

22 (4) continue power deliveries provided under
23 section 6 of this Act; and

24 (5) assume full responsibility to indemnify and
25 defend the District against any claim known as the

1 Grillo Claim, government contractor construction
2 claims accruing at any time, and any other suits or
3 claims filed against the United States as of the date
4 of the Settlement Agreement.

5 (c) PROJECT CONSTRUCTION COSTS.—The transfer
6 of title authorized by this Act shall not affect the timing
7 or amount of the obligation of the Bonneville Power Ad-
8 ministration for the repayment of construction costs in-
9 curred by the Federal government under section 202 of
10 the Act of September 28, 1976 (90 Stat. 1324, 1326) that
11 the Secretary of the Interior has determined to be beyond
12 the ability of the irrigators to pay. The obligation shall
13 remain charged to, and be returned to the Reclamation
14 Fund as provided for in section 2 of the Act of June 14,
15 1966 (80 Stat. 200) as amended by section 6 of the Act
16 of September 7, 1966 (80 Stat. 707, 714).

17 **SEC. 6. POWER.**

18 Nothing in this Act shall be construed as having any
19 affect on power arrangements under Public Law 94–423
20 (90 Stat. 1324). The United States shall continue to pro-
21 vide to the District power and energy for irrigation water
22 pumping for the Project, including Dairy Point Pumping
23 Plant. However, the amount and term of reserved power
24 shall not exceed, respectively—

25 (1) 27,100,000 kilowatt hours per year; and

1 (2) 50 years commencing October 18, 1990.

2 The rate that the District shall pay the Secretary for such
3 reserved power shall continue to reflect full recovery of
4 Bonneville Power Administration transmission costs.

5 **SEC. 7. CONVEYANCE.**

6 (a) CONVEYANCE OF INTERESTS OF UNITED
7 STATES.—Subject to valid existing rights, the Secretary
8 is authorized to convey all right, title, and interest, with-
9 out warranties, of the United States in and to all Project
10 Irrigation Works to the District. In the event a significant
11 cultural resource or hazardous waste site is identified, the
12 Secretary is authorized to defer or delay transfer of title
13 to any parcel until required Federal action is completed.

14 (b) RETENTION OF TITLE TO WILDLIFE MITIGATION
15 FACILITIES.—The Secretary will retain title to the Wild-
16 life Mitigation Facilities. The District shall remain obli-
17 gated to deliver water to and provide for the operations
18 and maintenance of the Wildlife Mitigation Facilities at
19 its own expense in accordance with the Settlement Agree-
20 ment.

21 (c) RESERVATION.—The transfer of rights and inter-
22 ests pursuant to subsection (a) shall reserve to the United
23 States all oil, gas, and other mineral deposits and a per-
24 petual right to existing public access open to public fish-

1 ing, hunting, and other outdoor recreation purposes, and
2 such other existing public uses.

3 **SEC. 8. REPAYMENT CONTRACT.**

4 Upon conveyance of title to the Project Irrigation
5 Works notwithstanding any parcels delayed in accordance
6 with section 7(a), the 1964 Basic Contract, and the 1979
7 Repayment Contract between the District and Reclama-
8 tion, shall be terminated and of no further force or effect.

9 **SEC. 9. INDIAN TRUST RESPONSIBILITIES.**

10 The District shall remain obligated to deliver water
11 under appropriate water service contracts to Indian Trust
12 Lands upon request from the owners or lessees of such
13 land.

14 **SEC. 10. LIABILITY.**

15 Upon completion of the conveyance of Project Irriga-
16 tion Works under this Act, the District shall—

17 (1) be liable for all acts or omissions relating to
18 the operation and use of the Project Irrigation
19 Works that occur before or after the conveyance ex-
20 cept for the Grillo Claim, government contractor
21 construction claims accruing at any time, and any
22 other suits or claims filed as of the date of the Set-
23 tlement Agreement;

24 (2) absolve the United States and its officers
25 and agents of responsibility and liability for the de-

1 sign and construction including latent defects associ-
2 ated with the Project; and

3 (3) assume responsibility to indemnify and de-
4 fend the United States against all claims whether
5 now known or unknown and including those of third
6 party claims associated with, arising from, or in any
7 way related to, the Project except for the Grillo
8 Claim, government contractor construction claims
9 accruing at any time, and any other suits or claims
10 filed as of the date of the Settlement Agreement.

11 **SEC. 11. CERTAIN ACTS NOT APPLICABLE AND TERMI-**
12 **NATION OF MANDATES.**

13 (a) RECLAMATION LAWS.—All mandates imposed by
14 the Reclamation Act of 1902, and all Acts supplementary
15 thereto or amendatory thereof, including the Reclamation
16 Reform Act of 1982, upon the Project Irrigation Works
17 shall be terminated upon the completion of the transfers
18 as provided by this Act and the Settlement Agreement.

19 (b) RELATIONSHIP TO OTHER LAWS.—The transfer
20 of title authorized by this Act shall not—

21 (1) be subject to the provisions of chapter 5 of
22 title 5, United States Code (commonly known as the
23 “Administrative Procedure Act”); or

24 (2) be considered a disposal of surplus property
25 under the Federal Property and Administrative

1 Services Act of 1949 (40 U.S.C. 471 et seq.) and
2 the Surplus Property Act of 1944 (50 U.S.C. App.
3 1601 et seq.).

4 (c) DEAUTHORIZATION.—Effective upon transfer of
5 title to the District under this Act, that portion of the
6 Oroville-Tonasket Unit Extension, Okanogan-
7 Similkameen Division, Chief Joseph Dam Project, Wash-
8 ington, referred to in section 7(a) as the Project Irrigation
9 Works is hereby deauthorized. After transfer of title, the
10 District shall not be entitled to receive any further Rec-
11 lamation benefits pursuant to the Reclamation Act of
12 June 17, 1902, and Act supplementary thereto or amend-
13 atory thereof.

Passed the House of Representatives March 18,
1997.

Attest:

ROBIN H. CARLE,
Clerk.