

Calendar No. 606

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 706**

[Report No. 107-287]

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IN THE SENATE OF THE UNITED STATES

MARCH 20, 2002

Received; read twice and referred to the Committee on Energy and Natural  
Resources

SEPTEMBER 17, 2002

Reported by Mr. BINGAMAN, without amendment

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## **AN ACT**

To direct the Secretary of the Interior to convey certain  
properties in the vicinity of the Elephant Butte Reservoir  
and the Caballo Reservoir, New Mexico.

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 “Lease Lot Conveyance  
5       Act of 2002”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that the conveyance of the Prop-  
3 erties to the Lessees for fair market value would have the  
4 beneficial results of—

5 (1) eliminating Federal payments in lieu of  
6 taxes and associated management expenditures in  
7 connection with the Government’s ownership of the  
8 Properties, while increasing local tax revenues from  
9 the new owners;

10 (2) sustaining existing economic conditions in  
11 the vicinity of the Properties, while providing the  
12 new owners of the Properties the security to invest  
13 in permanent structures and improvements; and

14 (3) adding needed jobs to the county in which  
15 the Properties are located and increasing revenue to  
16 the county and surrounding communities through  
17 property and gross receipt taxes, thereby increasing  
18 economic stability and a sustainable economy in one  
19 of the poorest counties in New Mexico.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) FAIR MARKET VALUE.—The term “fair  
23 market value” means, with respect to a parcel of  
24 property, the value of the property determined—

25 (A) without regard to improvements con-  
26 structed by the Lessee of the property;

1 (B) by an appraisal in accordance with the  
2 Uniform Standards for Federal Land Acquisi-  
3 tions; and

4 (C) by an appraiser approved by the Sec-  
5 retary and the purchaser.

6 (2) IRRIGATION DISTRICTS.—The term “Irriga-  
7 tion Districts” means the Elephant Butte Irrigation  
8 District and the El Paso County Water Improve-  
9 ment District No. 1.

10 (3) LESSEE.—The term “Lessee” means the  
11 leaseholder of a Property on the date of enactment  
12 of this Act, and any heir, executor, or assign of the  
13 leaseholder with respect to that leasehold interest.

14 (4) PROPERTY.—The term “Property” means  
15 any of the cabin sites comprising the Properties.

16 (5) PROPERTIES.—The term “Properties”  
17 means all the real property comprising 403 cabin  
18 sites under the administrative jurisdiction of the Bu-  
19 reau of Reclamation that are located along the west-  
20 ern portion of the reservoirs in Elephant Butte State  
21 Park and Caballo State Park, New Mexico, including  
22 easements, roads, and other appurtenances. The  
23 exact acreage and legal description of such real  
24 property shall be determined by the Secretary after  
25 consulting with the Purchaser.

1           (6) PURCHASER.—The term “Purchaser”  
2 means the Elephant Butte/Caballo Leaseholders As-  
3 sociation, Inc., a nonprofit corporation established  
4 under the laws of New Mexico.

5           (7) RESERVOIRS.—The term “reservoirs”  
6 means the Elephant Butte Reservoir and the Caballo  
7 Reservoir in the State of New Mexico.

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

10 **SEC. 4. CONVEYANCE OF PROPERTIES.**

11       (a) IN GENERAL.—The Secretary shall convey to the  
12 Purchaser in accordance with this Act, subject to valid ex-  
13 isting rights, all right, title, and interest of the United  
14 States in and to the Properties and all appurtenances  
15 thereto, including specifically easements for—

16           (1) vehicular access to each Property;

17           (2) drainage; and

18           (3) access to and the use of all ramps, retaining  
19 walls, and other improvements for which access is  
20 provided under the leases that apply to the Prop-  
21 erties as of the date of the enactment of this Act.

22       (b) CONSIDERATION.—As consideration for any con-  
23 veyance under this section, the Secretary shall require the  
24 Purchaser to pay to the United States fair market value  
25 of the Properties.

1 **SEC. 5. TERMS OF CONVEYANCE.**

2 (a) **SPECIFIC CONDITIONS.**—As conditions of any  
3 conveyance to the Purchaser under this Act, the Secretary  
4 shall require the following:

5 (1) **LEASEHOLDERS’ OPTION.**—The Purchaser  
6 shall grant to each Lessee of a Property an option—

7 (A) to purchase the Property at fair mar-  
8 ket value; or

9 (B) to continue leasing the Property on  
10 terms to be negotiated with the Purchaser.

11 (2) **ADMINISTRATIVE COSTS.**—Any reasonable  
12 administrative cost incurred by the Secretary inci-  
13 dent to the conveyance under section 6 shall be re-  
14 imbursed by the Purchaser.

15 (b) **RESTRICTIVE USE COVENANT.**—

16 (1) **IN GENERAL.**—To maintain the unique  
17 character of the area in the vicinity of the Res-  
18 ervoirs, the Secretary shall establish, by the terms of  
19 conveyance, use restrictions to carry out paragraph  
20 (2) that—

21 (A) are appurtenant to, and run with, each  
22 Property; and

23 (B) are binding upon each subsequent  
24 owner of each Property.

25 (2) **ACCESS TO RESERVOIRS.**—The use restric-  
26 tions required by paragraph (1) shall ensure that—

1 (A) public access to and along the shore-  
2 line of the Reservoirs in existence on the date  
3 of enactment of this Act is not obstructed;

4 (B) adequate public access to and along  
5 the shoreline of the Reservoirs is maintained;  
6 and

7 (C) the operation of the Reservoirs by the  
8 Secretary or the Irrigation Districts shall not  
9 result in liability of the United States or the Ir-  
10 rrigation Districts for damages incurred, as a di-  
11 rect or indirect result of such operation, by the  
12 owner of any Property conveyed under this Act,  
13 including—

14 (i) damages for any loss of use or en-  
15 joyment of a Property; and

16 (ii) damages resulting from any modi-  
17 fications or construction of any reservoir  
18 dam.

19 (c) TIMING.—

20 (1) IN GENERAL.—The Secretary shall convey  
21 the Properties under this Act as soon as practicable  
22 after the date of enactment of this Act and in ac-  
23 cordance with all applicable law.

24 (2) REPORT.—If the Secretary has not com-  
25 pleted conveyance of the Properties to the Purchaser

1 by the end of the 1-year period beginning on the  
2 date of the enactment of this Act, the Secretary  
3 shall, before the end of that period, submit a report  
4 to the Congress explaining the reasons that convey-  
5 ance has not been completed and stating the date by  
6 which the conveyance will be completed.

7 (d) REIMBURSEMENT OF PURCHASER'S COSTS.—The  
8 terms of conveyance shall authorize the Purchaser to re-  
9 quire each Lessee to reimburse the Purchaser for a pro-  
10 portionate share of the costs incurred by the Purchaser  
11 in completing the transactions pursuant to this Act, in-  
12 cluding any interest charges.

13 **SEC. 6. RESOLUTION OF CLAIMS AND DISPUTES.**

14 After conveyance of the Properties to the Purchaser,  
15 if any Lessee has a dispute with or claim against the Pur-  
16 chaser or any of its officers, directors, or members arising  
17 from the Properties, the Lessee shall promptly give writ-  
18 ten notice of the dispute or claim to the Purchaser. If such  
19 notice is not provided to the Purchaser within 20 days  
20 after the date the Lessee knew or should have known of  
21 such dispute or claim, then any right of the Lessee for  
22 relief based on such dispute or claim shall be waived. If  
23 the Lessee and the Purchaser are unable to resolve the  
24 dispute or claim by mediation, the dispute or claim shall  
25 be resolved by binding arbitration.

1 **SEC. 7. FEDERAL RECLAMATION LAW.**

2       No conveyance under this Act shall restrict or limit  
3 the authority or ability of the Secretary to fulfill the duties  
4 of the Secretary under the Act of June 17, 1902 (32 Stat.  
5 388, chapter 1093), and Acts supplemental to and amend-  
6 atory of that Act (43 U.S.C. 371 et seq.).

      Passed the House of Representatives March 19,  
2002.

Attest:

JEFF TRANDAHL,

*Clerk.*



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