

106TH CONGRESS  
1ST SESSION

# S. 291

To convey certain real property within the Carlsbad Project in New Mexico  
to the Carlsbad Irrigation District.

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IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1999

Mr. DOMENICI (for himself and Mr. BINGAMAN) introduced the following bill;  
which was read twice and referred to the Committee on Energy and Nat-  
ural Resources

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## A BILL

To convey certain real property within the Carlsbad Project  
in New Mexico to the Carlsbad Irrigation 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 “Carlsbad Irrigation  
5       Project Acquired Land Transfer Act”.

6       **SEC. 2. CONVEYANCE.**

7       (a) LANDS AND FACILITIES.—

8               (1) IN GENERAL.—Except as provided in para-  
9       graph (2), and subject to subsection (c), the Sec-  
10       retary of the Interior (in this Act referred to as the

1 “Secretary”) may convey to the Carlsbad Irrigation  
2 District (a quasi-municipal corporation formed  
3 under the laws of the State of New Mexico and in  
4 this Act referred to as the “District”), all right,  
5 title, and interest of the United States in and to the  
6 lands described in subsection (b) (in this Act re-  
7 ferred to as the “acquired lands”) and all interests  
8 the United States holds in the irrigation and drain-  
9 age system of the Carlsbad Project and all related  
10 lands including ditch rider houses, maintenance shop  
11 and buildings, and Pecos River Flume.

12 (2) LIMITATION.—

13 (A) RETAINED SURFACE RIGHTS.—The  
14 Secretary shall retain title to the surface estate  
15 (but not the mineral estate) of such acquired  
16 lands which are located under the footprint of  
17 Brantley and Avalon dams or any other project  
18 dam or reservoir division structure.

19 (B) STORAGE AND FLOW EASEMENT.—The  
20 Secretary shall retain storage and flow ease-  
21 ments for any tracts located under the maxi-  
22 mum spillway elevations of Avalon and Brantley  
23 Reservoirs.

24 (b) ACQUIRED LANDS DESCRIBED.—The lands re-  
25 ferred to in subsection (a) are those lands (including the

1 surface and mineral estate) in Eddy County, New Mexico,  
2 described as the acquired lands and in section (7) of the  
3 “Status of Lands and Title Report: Carlsbad Project” as  
4 reported by the Bureau of Reclamation in 1978.

5 (c) TERMS AND CONDITIONS OF CONVEYANCE.—Any  
6 conveyance of the acquired lands under this Act shall be  
7 subject to the following terms and conditions:

8 (1) MANAGEMENT AND USE, GENERALLY.—The  
9 conveyed lands shall continue to be managed and  
10 used by the District for the purposes for which the  
11 Carlsbad Project was authorized, based on historic  
12 operations and consistent with the management of  
13 other adjacent project lands.

14 (2) ASSUMED RIGHTS AND OBLIGATIONS.—Ex-  
15 cept as provided in paragraph (3), the District shall  
16 assume all rights and obligations of the United  
17 States under—

18 (A) the agreement dated July 28, 1994,  
19 between the United States and the Director,  
20 New Mexico Department of Game and Fish  
21 (Document No. 2–LM–40–00640), relating to  
22 management of certain lands near Brantley  
23 Reservoir for fish and wildlife purposes; and

24 (B) the agreement dated March 9, 1977,  
25 between the United States and the New Mexico

1 Department of Energy, Minerals, and Natural  
2 Resources (Contract No. 7-07-57-X0888) for  
3 the management and operation of Brantley  
4 Lake State Park.

5 (3) EXCEPTIONS.—In relation to agreements  
6 referred to in paragraph (2)—

7 (A) the District shall not be obligated for  
8 any financial support agreed to by the Sec-  
9 retary, or the Secretary's designee, in either  
10 agreement; and

11 (B) the District shall not be entitled to any  
12 receipts for revenues generated as a result of ei-  
13 ther agreement.

14 (d) COMPLETION OF CONVEYANCE.—If the Secretary  
15 does not complete the conveyance within 180 days from  
16 the date of enactment of this Act, the Secretary shall sub-  
17 mit a report to the Congress within 30 days after that  
18 period that includes a detailed explanation of problems  
19 that have been encountered in completing the conveyance,  
20 and specific steps that the Secretary has taken or will take  
21 to complete the conveyance.

1 **SEC. 3. LEASE MANAGEMENT AND PAST REVENUES COL-**  
2 **LECTED FROM THE ACQUIRED LANDS.**

3 (a) IDENTIFICATION AND NOTIFICATION OF LEASE-  
4 HOLDERS.—Within 120 days after the date of enactment  
5 of this Act, the Secretary of the Interior shall—

6 (1) provide to the District a written identifica-  
7 tion of all mineral and grazing leases in effect on the  
8 acquired lands on the date of enactment of this Act;  
9 and

10 (2) notify all leaseholders of the conveyance au-  
11 thorized by this Act.

12 (b) MANAGEMENT OF MINERAL AND GRAZING  
13 LEASES, LICENSES, AND PERMITS.—The District shall  
14 assume all rights and obligations of the United States for  
15 all mineral and grazing leases, licenses, and permits exist-  
16 ing on the acquired lands conveyed under section 2, and  
17 shall be entitled to any receipts from such leases, licenses,  
18 and permits accruing after the date of conveyance. All  
19 such receipts shall be used for purposes for which the  
20 Project was authorized and for financing the portion of  
21 operations, maintenance, and replacement of the Summer  
22 Dam which, prior to conveyance, was the responsibility of  
23 the Bureau of Reclamation, with the exception of major  
24 maintenance programs in progress prior to conveyance  
25 which shall be funded through the cost share formulas in  
26 place at the time of conveyance. The District shall con-

1 tinue to adhere to the current Bureau of Reclamation min-  
2 eral leasing stipulations for the Carlsbad Project.

3 (c) AVAILABILITY OF AMOUNTS PAID INTO REC-  
4 LAMATION FUND.—

5 (1) EXISTING RECEIPTS.—Receipts in the rec-  
6 lamation fund on the date of enactment of this Act  
7 which exist as construction credits to the Carlsbad  
8 Project under the terms of the Mineral Leasing Act  
9 for Acquired Lands (30 U.S.C. 351–359) shall be  
10 deposited in the General Treasury and credited to  
11 deficit reduction or retirement of the Federal debt.

12 (2) RECEIPTS AFTER ENACTMENT.—Of the re-  
13 ceipts from mineral and grazing leases, licenses, and  
14 permits on acquired lands to be conveyed under sec-  
15 tion 2, that are received by the United States after  
16 the date of enactment and before the date of  
17 conveyance—

18 (A) not to exceed \$200,000 shall be avail-  
19 able to the Secretary for the actual costs of im-  
20 plementing this Act with any additional costs  
21 shared equally between the Secretary and the  
22 District; and

23 (B) the remainder shall be deposited into  
24 the General Treasury of the United States and

1 credited to deficit reduction or retirement of the  
2 Federal debt.

3 **SEC. 4. VOLUNTARY WATER CONSERVATION PRACTICES.**

4 Nothing in this Act shall be construed to limit the  
5 ability of the District to voluntarily implement water con-  
6 servation practices.

7 **SEC. 5. LIABILITY.**

8 Effective on the date of conveyance of any lands and  
9 facilities authorized by this Act, the United States shall  
10 not be held liable by any court for damages of any kind  
11 arising out of any act, omission, or occurrence relating to  
12 the conveyed property, except for damages caused by acts  
13 of negligence committed by the United States or by its  
14 employees, agents, or contractors, prior to conveyance.  
15 Nothing in this section shall be considered to increase the  
16 liability of the United States beyond that provided under  
17 chapter 171 of title 28, United States Code, popularly  
18 known as the Federal Tort Claims Act.

19 **SEC. 6. FUTURE BENEFITS.**

20 Effective upon transfer, the lands and facilities trans-  
21 ferred pursuant to this Act shall not be entitled to receive  
22 any further Reclamation benefits pursuant to the Rec-  
23 lamation Act of June 17, 1902, and Acts supplementary

- 1 thereof or amendatory thereto attributable to their status
- 2 as part of a Reclamation Project.

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