

113TH CONGRESS
1ST SESSION

H. R. 1963

To amend the Water Conservation and Utilization Act to authorize the development of non-Federal hydropower and issuance of leases of power privileges at projects constructed pursuant to the authority of the Water Conservation and Utilization Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2013

Mr. DAINES introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To amend the Water Conservation and Utilization Act to authorize the development of non-Federal hydropower and issuance of leases of power privileges at projects constructed pursuant to the authority of the Water Conservation and Utilization Act, and for other purposes.

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 “Bureau of Reclamation
5 Conduit Hydropower Development Equity and Jobs Act”.

1 **SEC. 2. AMENDMENT.**

2 Section 9 of the Act entitled “An Act authorizing
3 construction of water conservation and utilization projects
4 in the Great Plains and arid semiarid areas of the United
5 States”, approved August 11, 1939 (16 U.S.C. 590z-7;
6 commonly known as the “Water Conservation and Utiliza-
7 tion Act”), is amended—

8 (1) by striking “In connection with” and insert-
9 ing “(a) In connection with”;

10 (2) by striking “All right, title, and interest in
11 the facilities provided for such municipal or miscella-
12 neous water supplies or surplus power and the reve-
13 nues derived therefrom shall be and remain in the
14 United States.”; and

15 (3) by adding at the end the following:

16 “(b) The Secretary is authorized to enter into leases
17 of power privileges for electric power generation in connec-
18 tion with any project constructed under this Act, and shall
19 have authority in addition to and alternative to any au-
20 thority in existing laws related to particular projects, in-
21 cluding small conduit hydropower development, consistent
22 with the terms of this Act, the Reclamation Project Act
23 of 1939 (43 U.S.C. 485h), and other Federal reclamation
24 laws.

25 “(c) When carrying out this section, the Secretary
26 shall first offer the lease of power privilege to an irrigation

1 district or water users association operating the applicable
2 transferred conduit, or to the irrigation district or water
3 users association receiving water from the applicable re-
4 served conduit. The Secretary shall determine a reason-
5 able timeframe for the irrigation district or water users
6 association to accept or reject a lease of power privilege
7 offer. If the irrigation district or water users association
8 elects not to accept a lease of power privilege offer under
9 paragraph (1), the Secretary shall offer the lease of power
10 privilege to other parties in accordance with this section.

11 “(d) The Bureau of Reclamation shall apply its cat-
12 egorical exclusion process under the National Environ-
13 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to
14 small conduit hydropower development under this section,
15 excluding siting of associated transmission facilities on
16 Federal lands.

17 “(e) Nothing in this section shall obligate the West-
18 ern Area Power Administration or the Bonneville Power
19 Administration to purchase or market any of the power
20 produced by the facilities covered under this section and
21 none of the costs associated with production or delivery
22 of such power shall be assigned to project purposes for
23 inclusion in project rates.

24 “(f) Nothing in this section shall alter or impede the
25 delivery and management of water by Bureau of Reclama-

1 tion facilities, as water used for conduit hydropower gen-
2 eration shall be deemed incidental to use of water for the
3 original project purposes. Lease of power privilege shall
4 be made only when, in the judgment of the Secretary, the
5 exercise of the lease will not be incompatible with the pur-
6 poses of the project or division involved and shall not cre-
7 ate any unmitigated financial or physical impacts to the
8 project or division involved. The Secretary shall notify and
9 consult with the irrigation district or legally organized
10 water users association operating the transferred conduit
11 in advance of offering the lease of power privilege and
12 shall prescribe such terms and conditions necessary to
13 adequately protect the planning, design, construction, op-
14 eration, maintenance, and other interests of the United
15 States and the project or division involved.

16 “(g) Nothing in this section shall alter or affect any
17 agreements in effect on the date of the enactment of the
18 Bureau of Reclamation Conduit Hydropower Development
19 Equity and Jobs Act for the development of conduit hy-
20 dropower projects or disposition of revenues.

21 “(h) In this section:

22 “(1) CONDUIT.—The term ‘conduit’ means any
23 Bureau of Reclamation tunnel, canal, pipeline, aque-
24 duct, flume, ditch, or similar manmade water con-
25 veyance that is operated for the distribution of water

1 for agricultural, municipal, or industrial consump-
2 tion and not primarily for the generation of elec-
3 tricity.

4 “(2) IRRIGATION DISTRICT.—The term ‘irriga-
5 tion district’ means any irrigation, water conserva-
6 tion or conservancy, multi-county water conservation
7 or conservancy district, or any separate public entity
8 composed of two or more such districts and jointly
9 exercising powers of its member districts.

10 “(3) RESERVED CONDUIT.—The term ‘reserved
11 conduit’ means any conduit that is included in
12 project works the care, operation, and maintenance
13 of which has been reserved by the Secretary,
14 through the Commissioner of the Bureau of Rec-
15 lamation.

16 “(4) TRANSFERRED CONDUIT.—The term
17 ‘transferred conduit’ means any conduit that is in-
18 cluded in project works the care, operation, and
19 maintenance of which has been transferred to a le-
20 gally organized water users association or irrigation
21 district.

22 “(5) SMALL CONDUIT HYDROPOWER.—The
23 term ‘small conduit hydropower’ means a facility ca-

1 pable of producing 5 megawatts or less of electric
2 capacity.”.

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