

113TH CONGRESS  
1ST SESSION

# H. R. 1963

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IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2013

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

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Bureau of Reclamation  
3 Conduit Hydropower Development Equity and Jobs Act”.

4 **SEC. 2. AMENDMENT.**

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

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

13 (2) by adding at the end the following:

14 “(b) Notwithstanding subsection (a), the Secretary is  
15 authorized to enter into leases of power privileges for elec-  
16 tric power generation in connection with any project con-  
17 structed under this Act, and shall have authority in addi-  
18 tion to and alternative to any authority in existing laws  
19 relating to particular projects, including small conduit hy-  
20 dropower development.

21 “(c) When entering into leases of power privileges  
22 under subsection (b), the Secretary shall use the processes  
23 applicable to such leases under section 9(c) of the Rec-  
24 lamation Project Act of 1939 (43 U.S.C. 485h(c)).

25 “(d) Lease of power privilege contracts shall be at  
26 such rates as, in the Secretary’s judgment, will produce

1 revenues at least sufficient to cover the appropriate share  
2 of the annual operation and maintenance cost of the  
3 project and such fixed charges, including interest, as the  
4 Secretary deems proper. Lease of power privilege con-  
5 tracts shall be for periods not to exceed 40 years.

6 “(e) No findings under section 3 shall be required  
7 for a lease under subsection (b).

8 “(f) All right, title, and interest to installed power  
9 facilities constructed by non-Federal entities pursuant to  
10 a lease of power privilege, and direct revenues derived  
11 therefrom, shall remain with the lessee unless otherwise  
12 required under subsection (g).

13 “(g) Notwithstanding section 8, lease revenues and  
14 fixed charges, if any, shall be covered into the Reclamation  
15 Fund to be credited to the project from which those reve-  
16 nues or charges were derived.

17 “(h) When carrying out this section, the Secretary  
18 shall first offer the lease of power privilege to an irrigation  
19 district or water users association operating the applicable  
20 transferred conduit, or to the irrigation district or water  
21 users association receiving water from the applicable re-  
22 served conduit. The Secretary shall determine a reason-  
23 able timeframe for the irrigation district or water users  
24 association to accept or reject a lease of power privilege  
25 offer. If the irrigation district or water users association

1 elects not to accept a lease of power privilege offer under  
2 subsection (b), the Secretary shall offer the lease of power  
3 privilege to other parties using the processes applicable to  
4 such leases under section 9(e) of the Reclamation Project  
5 Act of 1939 (43 U.S.C. 485h(e)).

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

12 “(j) Nothing in this section shall obligate the Western  
13 Area Power Administration or the Bonneville Power Ad-  
14 ministration to purchase or market any of the power pro-  
15 duced by the facilities covered under this section and none  
16 of the costs associated with production or delivery of such  
17 power shall be assigned to project purposes for inclusion  
18 in project rates.

19 “(k) Nothing in this section shall alter or impede the  
20 delivery and management of water by Bureau of Reclama-  
21 tion facilities, as water used for conduit hydropower gen-  
22 eration shall be deemed incidental to use of water for the  
23 original project purposes. Lease of power privilege shall  
24 be made only when, in the judgment of the Secretary, the  
25 exercise of the lease will not be incompatible with the pur-

1 poses of the project or division involved and shall not cre-  
2 ate any unmitigated financial or physical impacts to the  
3 project or division involved. The Secretary shall notify and  
4 consult with the irrigation district or legally organized  
5 water users association operating the transferred conduit  
6 in advance of offering the lease of power privilege and  
7 shall prescribe such terms and conditions necessary to  
8 adequately protect the planning, design, construction, op-  
9 eration, maintenance, and other interests of the United  
10 States and the project or division involved.

11 “(l) Nothing in this section shall alter or affect any  
12 agreements in effect on the date of the enactment of the  
13 Bureau of Reclamation Conduit Hydropower Development  
14 Equity and Jobs Act for the development of conduit hy-  
15 dropower projects or disposition of revenues.

16 “(m) In this section:

17 “(1) The term ‘conduit’ means any Bureau of  
18 Reclamation tunnel, canal, pipeline, aqueduct, flume,  
19 ditch, or similar manmade water conveyance that is  
20 operated for the distribution of water for agricul-  
21 tural, municipal, or industrial consumption and not  
22 primarily for the generation of electricity.

23 “(2) The term ‘irrigation district’ means any ir-  
24 rigation, water conservation or conservancy, multi-  
25 county water conservation or conservancy district, or

1 any separate public entity composed of two or more  
2 such districts and jointly exercising powers of its  
3 member districts.

4 “(3) The term ‘reserved conduit’ means any  
5 conduit that is included in project works the care,  
6 operation, and maintenance of which has been re-  
7 served by the Secretary, through the Commissioner  
8 of the Bureau of Reclamation.

9 “(4) The term ‘transferred conduit’ means any  
10 conduit that is included in project works the care,  
11 operation, and maintenance of which has been trans-  
12 ferred to a legally organized water users association  
13 or irrigation district.

14 “(5) The term ‘small conduit hydropower’  
15 means a facility capable of producing 5 megawatts  
16 or less of electric capacity.”.

Passed the House of Representatives December 3,  
2013.

Attest:

KAREN L. HAAS,

*Clerk.*