

# Union Calendar No. 177

113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1963

[Report No. 113-249]

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.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2013

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

OCTOBER 22, 2013

Additional sponsors: Mr. TIPTON, Mr. LAMALFA, Mr. CRAMER, and Mrs. LUMMIS

OCTOBER 22, 2013

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 14, 2013]

# **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”.*

6 **SEC. 2. AMENDMENT.**

7        *Section 9 of the Act entitled “An Act authorizing con-*  
8 *struction of water conservation and utilization projects in*  
9 *the Great Plains and arid semiarid areas of the United*  
10 *States”, approved August 11, 1939 (16 U.S.C. 590z–7; com-*  
11 *monly known as the “Water Conservation and Utilization*  
12 *Act”), is amended—*

13            (1) *by striking “In connection with” and insert-*  
14 *ing “(a) In connection with”; and*

15            (2) *by adding at the end the following:*

16        *“(b) Except as otherwise provided in this section, the*  
17 *Secretary is authorized to enter into leases of power privi-*  
18 *leges for electric power generation in connection with any*  
19 *project constructed under this Act, and shall have authority*  
20 *in addition to and alternative to any authority in existing*  
21 *laws relating to particular projects, including small conduit*  
22 *hydropower development, consistent with the terms of this*  
23 *Act, the Reclamation Project Act of 1939 (43 U.S.C. 485h),*  
24 *and other Federal reclamation laws.*

1       “(c) All right, title, and interest to installed power fa-  
2       cilities constructed by non-Federal entities pursuant to a  
3       lease of power privilege, and direct revenues derived there-  
4       from, shall remain with the lessee unless otherwise required  
5       in subsection (d).

6       “(d) Lease of power privilege charges or fees under this  
7       section shall be credited to the facility from which those rev-  
8       enues were derived.

9       “(e) When carrying out this section, the Secretary shall  
10      first offer the lease of power privilege to an irrigation dis-  
11      trict or water users association operating the applicable  
12      transferred conduit, or to the irrigation district or water  
13      users association receiving water from the applicable re-  
14      served conduit. The Secretary shall determine a reasonable  
15      timeframe for the irrigation district or water users associa-  
16      tion to accept or reject a lease of power privilege offer. If  
17      the irrigation district or water users association elects not  
18      to accept a lease of power privilege offer under paragraph  
19      (1), the Secretary shall offer the lease of power privilege  
20      to other parties in accordance with this section.

21      “(f) The Bureau of Reclamation shall apply its cat-  
22      egorical exclusion process under the National Environ-  
23      mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to small  
24      conduit hydropower development under this section, exclud-

1 *ing siting of associated transmission facilities on Federal*  
2 *lands.*

3       “(g) *Nothing in this section shall obligate the Western*  
4 *Area Power Administration or the Bonneville Power Ad-*  
5 *ministration to purchase or market any of the power pro-*  
6 *duced by the facilities covered under this section and none*  
7 *of the costs associated with production or delivery of such*  
8 *power shall be assigned to project purposes for inclusion*  
9 *in project rates.*

10       “(h) *Nothing in this section shall alter or impede the*  
11 *delivery and management of water by Bureau of Reclama-*  
12 *tion facilities, as water used for conduit hydropower genera-*  
13 *tion shall be deemed incidental to use of water for the origi-*  
14 *nal project purposes. Lease of power privilege shall be made*  
15 *only when, in the judgment of the Secretary, the exercise*  
16 *of the lease will not be incompatible with the purposes of*  
17 *the project or division involved and shall not create any*  
18 *unmitigated financial or physical impacts to the project or*  
19 *division involved. The Secretary shall notify and consult*  
20 *with the irrigation district or legally organized water users*  
21 *association operating the transferred conduit in advance of*  
22 *offering the lease of power privilege and shall prescribe such*  
23 *terms and conditions necessary to adequately protect the*  
24 *planning, design, construction, operation, maintenance,*

1 *and other interests of the United States and the project or*  
2 *division involved.*

3       “(i) *Nothing in this section shall alter or affect any*  
4 *agreements in effect on the date of the enactment of the Bu-*  
5 *reau of Reclamation Conduit Hydropower Development Eq-*  
6 *uity and Jobs Act for the development of conduit hydro-*  
7 *power projects or disposition of revenues.*

8       “(j) *In this section:*

9               “(1) *The term ‘conduit’ means any Bureau of*  
10 *Reclamation tunnel, canal, pipeline, aqueduct, flume,*  
11 *ditch, or similar manmade water conveyance that is*  
12 *operated for the distribution of water for agricultural,*  
13 *municipal, or industrial consumption and not pri-*  
14 *marily for the generation of electricity.*

15               “(2) *The term ‘irrigation district’ means any ir-*  
16 *rigation, water conservation or conservancy, multi-*  
17 *county water conservation or conservancy district, or*  
18 *any separate public entity composed of two or more*  
19 *such districts and jointly exercising powers of its*  
20 *member districts.*

21               “(3) *The term ‘reserved conduit’ means any con-*  
22 *duit that is included in project works the care, oper-*  
23 *ation, and maintenance of which has been reserved by*  
24 *the Secretary, through the Commissioner of the Bu-*  
25 *reau of Reclamation.*

1           “(4) *The term ‘transferred conduit’ means any*  
2           *conduit that is included in project works the care, op-*  
3           *eration, and maintenance of which has been trans-*  
4           *ferred to a legally organized water users association*  
5           *or irrigation district.*

6           “(5) *The term ‘small conduit hydropower’ means*  
7           *a facility capable of producing 5 megawatts or less of*  
8           *electric capacity.”.*

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