

113TH CONGRESS
1ST SESSION

H. R. 876

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2013

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

AN ACT

To authorize the continued use of certain water diversions located on National Forest System land in the Frank Church-River of No Return Wilderness and the Selway-Bitterroot Wilderness in the State of Idaho, 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 “Idaho Wilderness
3 Water Resources Protection Act”.

4 **SEC. 2. TREATMENT OF EXISTING WATER DIVERSIONS IN**
5 **FRANK CHURCH-RIVER OF NO RETURN WIL-**
6 **DERNESS AND SELWAY-BITTERROOT WIL-**
7 **DERNESS, IDAHO.**

8 (a) **AUTHORIZATION FOR CONTINUED USE.**—The
9 Secretary of Agriculture shall issue a special use author-
10 ization to the owners of a water storage, transport, or di-
11 version facility (in this section referred to as a “facility”)
12 located on National Forest System land in the Frank
13 Church-River of No Return Wilderness and the Selway-
14 Bitterroot Wilderness for the continued operation, mainte-
15 nance, and reconstruction of the facility if the Secretary
16 determines that—

17 (1) the facility was in existence on the date on
18 which the land upon which the facility is located was
19 designated as part of the National Wilderness Pres-
20 ervation System (in this section referred to as “the
21 date of designation”);

22 (2) the facility has been in substantially contin-
23 uous use to deliver water for the beneficial use on
24 the owner’s non-Federal land since the date of des-
25 ignation;

1 (3) the owner of the facility holds a valid water
2 right for use of the water on the owner's non-Fed-
3 eral land under Idaho State law, with a priority date
4 that predates the date of designation; and

5 (4) it is not practicable or feasible to relocate
6 the facility to land outside of the wilderness and
7 continue the beneficial use of water on the non-Fed-
8 eral land recognized under State law.

9 (b) TERMS AND CONDITIONS.—

10 (1) REQUIRED TERMS AND CONDITIONS.—In a
11 special use authorization issued under subsection
12 (a), the Secretary shall—

13 (A) allow use of motorized equipment and
14 mechanized transport for operation, mainte-
15 nance, or reconstruction of a facility, if the Sec-
16 retary determines that—

17 (i) the use is necessary to allow the
18 facility to continue delivery of water to the
19 non-Federal land for the beneficial uses
20 recognized by the water right held under
21 Idaho State law; and

22 (ii) the use of nonmotorized equip-
23 ment and nonmechanized transport is im-
24 practicable or infeasible; and

1 (B) preclude use of the facility for the
2 storage, diversion, or transport of water in ex-
3 cess of the water right recognized by the State
4 of Idaho on the date of designation.

5 (2) DISCRETIONARY TERMS AND CONDI-
6 TIONS.—In a special use authorization issued under
7 subsection (a), the Secretary may—

8 (A) require or allow modification or reloca-
9 tion of the facility in the wilderness, as the Sec-
10 retary determines necessary, to reduce impacts
11 to wilderness values set forth in section 2 of the
12 Wilderness Act (16 U.S.C. 1131) if the bene-
13 ficial use of water on the non-Federal land is
14 not diminished; and

15 (B) require that the owner provide a recip-
16 rocal right of access across the non-Federal
17 property, in which case, the owner shall receive
18 market value for any right-of-way or other in-
19 terest in real property conveyed to the United
20 States, and market value may be paid by the
21 Secretary, in whole or in part, by the grant of
22 a reciprocal right-of-way, or by reduction of fees

