

113TH CONGRESS
2^D SESSION

S. 2427

To authorize the Secretary of the Interior to coordinate Federal and State permitting processes related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture and to designate the Bureau of Reclamation as the lead agency for permit processing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2014

Mr. BARRASSO (for himself and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the Secretary of the Interior to coordinate Federal and State permitting processes related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture and to designate the Bureau of Reclamation as the lead agency for permit processing, 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 “Water Supply Permit-
3 ting Coordination Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) SECRETARY.—The term “Secretary” means
7 the Secretary of the Interior.

8 (2) BUREAU.—The term “Bureau” means the
9 Bureau of Reclamation.

10 (3) QUALIFYING PROJECTS.—The term “quali-
11 fying projects” means new surface water storage
12 projects constructed on lands administered by the
13 Department of the Interior or the Department of
14 Agriculture, exclusive of any easement, right-of-way,
15 lease, or any private holding.

16 (4) COOPERATING AGENCIES.—The term “co-
17 operating agency” means a Federal agency with ju-
18 risdiction over a review, analysis, opinion, statement,
19 permit, license, or other approval or decision re-
20 quired for a qualifying project under applicable Fed-
21 eral laws and regulations, or a State agency subject
22 to section 3(c).

23 **SEC. 3. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**
24 **ATING AGENCIES.**

25 (a) ESTABLISHMENT OF LEAD AGENCY.—The Bu-
26 reau of Reclamation is established as the lead agency for

1 purposes of coordinating all reviews, analyses, opinions,
2 statements, permits, licenses, or other approvals or deci-
3 sions required under Federal law to construct qualifying
4 projects.

5 (b) IDENTIFICATION AND ESTABLISHMENT OF CO-
6 OPERATING AGENCIES.—The Commissioner of the Bureau
7 shall—

8 (1) identify, as early as practicable upon receipt
9 of an application for a qualifying project, any Fed-
10 eral agency that may have jurisdiction over a review,
11 analysis, opinion, statement, permit, license, ap-
12 proval, or decision required for a qualifying project
13 under applicable Federal laws and regulations; and

14 (2) notify any such agency, within a reasonable
15 timeframe, that the agency has been designated as
16 a cooperating agency in regards to the qualifying
17 project unless that agency responds to the Bureau in
18 writing, within a timeframe set forth by the Bureau,
19 notifying the Bureau that the agency—

20 (A) has no jurisdiction or authority with
21 respect to the qualifying project;

22 (B) has no expertise or information rel-
23 evant to the qualifying project or any review,
24 analysis, opinion, statement, permit, license, or

1 other approval or decision associated therewith;
2 or

3 (C) does not intend to submit comments
4 on the qualifying project or conduct any review
5 of such a project or make any decision with re-
6 spect to such project in a manner other than in
7 cooperation with the Bureau.

8 (c) STATE AUTHORITY.—A State in which a quali-
9 fying project is being considered may choose, consistent
10 with State law—

11 (1) to participate as a cooperating agency; and

12 (2) to make subject to the processes of this Act
13 all State agencies that—

14 (A) have jurisdiction over the qualifying
15 project;

16 (B) are required to conduct or issue a re-
17 view, analysis, or opinion for the qualifying
18 project; or

19 (C) are required to make a determination
20 on issuing a permit, license, or approval for the
21 water resource project.

22 **SEC. 4. BUREAU RESPONSIBILITIES.**

23 (a) IN GENERAL.—The principal responsibilities of
24 the Bureau under this Act are to—

1 (1) serve as the point of contact for applicants,
2 State agencies, Indian tribes, and others regarding
3 proposed projects;

4 (2) coordinate preparation of unified environ-
5 mental documentation that will serve as the basis for
6 all Federal decisions necessary to authorize the use
7 of Federal lands for qualifying projects; and

8 (3) coordinate all Federal agency reviews nec-
9 essary for project development and construction of
10 qualifying projects.

11 (b) COORDINATION PROCESS.—The Bureau shall
12 have the following coordination responsibilities:

13 (1) PRE-APPLICATION COORDINATION.—Notify
14 cooperating agencies of proposed qualifying projects
15 not later than 30 days after receipt of a proposal
16 and facilitate a preapplication meeting for prospec-
17 tive applicants, relevant Federal and State agencies,
18 and Indian tribes to—

19 (A) explain applicable processes, data re-
20 quirements, and applicant submissions nec-
21 essary to complete the required Federal agency
22 reviews within the timeframe established; and

23 (B) establish the schedule for the quali-
24 fying project.

1 (2) CONSULTATION WITH COOPERATING AGEN-
2 CIES.—Consult with the cooperating agencies
3 throughout the Federal agency review process, iden-
4 tify and obtain relevant data in a timely manner,
5 and set necessary deadlines for cooperating agencies.

6 (3) SCHEDULE.—Work with the qualifying
7 project applicant and cooperating agencies to estab-
8 lish a project schedule. In establishing the schedule,
9 the Bureau shall consider, among other factors—

10 (A) the responsibilities of cooperating
11 agencies under applicable laws and regulations;

12 (B) the resources available to the cooper-
13 ating agencies and the non-Federal qualifying
14 project sponsor, as applicable;

15 (C) the overall size and complexity of the
16 qualifying project;

17 (D) the overall schedule for and cost of the
18 qualifying project; and

19 (E) the sensitivity of the natural and his-
20 toric resources that may be affected by the
21 qualifying project.

22 (4) ENVIRONMENTAL COMPLIANCE.—Prepare a
23 unified environmental review document for each
24 qualifying project application, incorporating a single
25 environmental record on which all cooperating agen-

1 cies with authority to issue approvals for a given
2 qualifying project shall base project approval deci-
3 sions. Help ensure that cooperating agencies make
4 necessary decisions, within their respective authori-
5 ties, regarding Federal approvals in accordance with
6 the following timelines:

7 (A) Not later than one year after accept-
8 ance of a completed project application when an
9 environmental assessment and finding of no sig-
10 nificant impact is determined to be the appro-
11 priate level of review under the National Envi-
12 ronmental Policy Act of 1969 (42 U.S.C. 4321
13 et seq.).

14 (B) Not later than one year and 30 days
15 after the close of the public comment period for
16 a draft environmental impact statement under
17 the National Environmental Policy Act of 1969
18 (42 U.S.C. 4321 et seq.), when an environ-
19 mental impact statement is required under the
20 same.

21 (5) CONSOLIDATED ADMINISTRATIVE
22 RECORD.—Maintain a consolidated administrative
23 record of the information assembled and used by the
24 cooperating agencies as the basis for agency deci-
25 sions.

1 (6) PROJECT DATA RECORDS.—To the extent
2 practicable and consistent with Federal law, ensure
3 that all project data is submitted and maintained in
4 generally accessible electronic format, compile, and
5 where authorized under existing law, make available
6 such project data to cooperating agencies, the quali-
7 fying project applicant, and to the public.

8 (7) PROJECT MANAGER.—Appoint a project
9 manager for each qualifying project. The project
10 manager shall have authority to oversee the project
11 and to facilitate the issuance of the relevant final
12 authorizing documents, and shall be responsible for
13 ensuring fulfillment of all Bureau responsibilities set
14 forth in this section and all cooperating agency re-
15 sponsibilities under section 5.

16 **SEC. 5. COOPERATING AGENCY RESPONSIBILITIES.**

17 (a) ADHERENCE TO BUREAU SCHEDULE.—Upon no-
18 tification of an application for a qualifying project, all co-
19 operating agencies shall submit to the Bureau a timeframe
20 under which the cooperating agency reasonably considers
21 it will be able to complete its authorizing responsibilities.
22 The Bureau shall use the timeframe submitted under this
23 subsection to establish the project schedule under section
24 4, and the cooperating agencies shall adhere to the project
25 schedule established by the Bureau.

1 (b) ENVIRONMENTAL RECORD.—Cooperating agen-
2 cies shall submit to the Bureau all environmental review
3 material produced or compiled in the course of carrying
4 out activities required under Federal law consistent with
5 the project schedule established by the Bureau.

6 (c) DATA SUBMISSION.—To the extent practicable
7 and consistent with Federal law, the cooperating agencies
8 shall submit all relevant project data to the Bureau in a
9 generally accessible electronic format subject to the project
10 schedule set forth by the Bureau.

11 **SEC. 6. FUNDING TO PROCESS PERMITS.**

12 (a) IN GENERAL.—The Secretary, after public notice
13 in accordance with the Administrative Procedures Act (5
14 U.S.C. 553), may accept and expend funds contributed by
15 a non-Federal public entity to expedite the evaluation of
16 a permit of that entity related to a qualifying project or
17 activity for a public purpose under the jurisdiction of the
18 Department of the Interior.

19 (b) EFFECT ON PERMITTING.—

20 (1) IN GENERAL.—In carrying out this section,
21 the Secretary shall ensure that the use of funds ac-
22 cepted under subsection (a) will not impact impartial
23 decisionmaking with respect to permits, either sub-
24 stantively or procedurally.

1 (2) EVALUATION OF PERMITS.—In carrying out
2 this section, the Secretary shall ensure that the eval-
3 uation of permits carried out using funds accepted
4 under this section shall—

5 (A) be reviewed by the Regional Director
6 of the Bureau of Reclamation, or the Regional
7 Director’s designee, of the region in which the
8 qualifying project or activity is located; and

9 (B) use the same procedures for decisions
10 that would otherwise be required for the evalua-
11 tion of permits for similar projects or activities
12 not carried out using funds authorized under
13 this section.

14 (3) IMPARTIAL DECISIONMAKING.—In carrying
15 out this section, the Secretary and the cooperating
16 agencies receiving funds under this section for quali-
17 fying projects shall ensure that the use of the funds
18 accepted under this section for such projects shall
19 not—

20 (A) impact impartial decisionmaking with
21 respect to the issuance of permits, either sub-
22 stantively or procedurally; or

23 (B) diminish, modify, or otherwise affect
24 the statutory or regulatory authorities of such
25 agencies.

1 (c) LIMITATION ON USE OF FUNDS.—None of the
2 funds accepted under this section shall be used to carry
3 out a review of the evaluation of permits required under
4 subsection (b)(2)(A).

5 (d) PUBLIC AVAILABILITY.—The Secretary shall en-
6 sure that all final permit decisions carried out using funds
7 authorized under this section are made available to the
8 public, including on the Internet.

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