

## Union Calendar No. 304

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2050

[Report No. 112-437]

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.

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### IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2011

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

APRIL 16, 2012

Committed to the Committee of the Whole House on the State of the Union  
and ordered to be printed

# **A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Idaho Wilderness  
5 Water Resources Protection Act”.

6 **SEC. 2. TREATMENT OF EXISTING WATER DIVERSIONS IN**

7                   **FRANK CHURCH-RIVER OF NO RETURN WIL-**  
8                   **DERNESS AND SELWAY-BITTERROOT WIL-**  
9                   **DERNESS, IDAHO.**

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

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

24               (2) the facility has been in substantially contin-  
25 uous use to deliver water for the beneficial use on

1 the owner's non-Federal land since the date of des-  
2 ignation;

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

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

11 (b) TERMS AND CONDITIONS.—

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

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

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

1 (ii) the use of nonmotorized equip-  
2 ment and nonmechanized transport is im-  
3 practicable or infeasible; and

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

8 (2) DISCRETIONARY TERMS AND CONDI-  
9 TIONS.—In a special use authorization issued under  
10 subsection (a), the Secretary may—

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

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

- 1 or other costs that may accrue to the owner to
- 2 obtain the authorization for water facilities.



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