

Calendar No. 72

113TH CONGRESS
1ST SESSION

H. R. 678

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2013

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

MAY 13, 2013

Reported by Mr. WYDEN, without amendment

AN ACT

To authorize all Bureau of Reclamation conduit facilities
for hydropower development under Federal Reclamation
law, 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 Small Conduit Hydropower Development and Rural Jobs
6 Act”.

1 **SEC. 2. AUTHORIZATION.**

2 Section 9(c) of the Reclamation Project Act of 1939
3 (43 U.S.C. 485h(c)) is amended—

4 (1) by striking “The Secretary is authorized to
5 enter into contracts to furnish water” and inserting
6 the following:

7 “(1) The Secretary is authorized to enter into
8 contracts to furnish water”;

9 (2) by striking “(1) shall” and inserting “(A)
10 shall”;

11 (3) by striking “(2) shall” and inserting “(B)
12 shall”;

13 (4) by striking “respecting the terms of sales of
14 electric power and leases of power privileges shall be
15 in addition and alternative to any authority in exist-
16 ing laws relating to particular projects” and insert-
17 ing “respecting the sales of electric power and leases
18 of power privileges shall be an authorization in addi-
19 tion to and alternative to any authority in existing
20 laws related to particular projects, including small
21 conduit hydropower development”; and

22 (5) by adding at the end the following:

23 “(2)(A) When carrying out this subsection,
24 the Secretary shall first offer the lease of power
25 privilege to an irrigation district or water users
26 association operating the applicable transferred

1 conduit, or to the irrigation district or water
2 users association receiving water from the ap-
3 plicable reserved conduit. The Secretary shall
4 determine a reasonable time frame for the irri-
5 gation district or water users association to ac-
6 cept or reject a lease of power privilege offer for
7 a small conduit hydropower project.

8 “(B) If the irrigation district or water
9 users association elects not accept a lease of
10 power privilege offer under subparagraph (A),
11 the Secretary shall offer the lease of power
12 privilege to other parties in accordance with
13 this subsection.

14 “(3) The Bureau of Reclamation shall
15 apply its categorical exclusion process under the
16 National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) to small conduit hydro-
18 power development under this subsection, ex-
19 cluding siting of associated transmission facili-
20 ties on Federal lands.

21 “(4) The Power Resources Office of the
22 Bureau of Reclamation shall be the lead office
23 of small conduit hydropower policy and proce-
24 dure-setting activities conducted under this sub-
25 section.

1 “(5) Nothing in this subsection shall obli-
2 gate the Western Area Power Administration,
3 the Bonneville Power Administration, or the
4 Southwestern Power Administration to pur-
5 chase or market any of the power produced by
6 the facilities covered under this subsection and
7 none of the costs associated with production or
8 delivery of such power shall be assigned to
9 project purposes for inclusion in project rates.

10 “(6) Nothing in this subsection shall alter
11 or impede the delivery and management of
12 water by Bureau of Reclamation facilities, as
13 water used for conduit hydropower generation
14 shall be deemed incidental to use of water for
15 the original project purposes. Lease of power
16 privilege shall be made only when, in the judg-
17 ment of the Secretary, the exercise of the lease
18 will not be incompatible with the purposes of
19 the project or division involved, nor shall it cre-
20 ate any unmitigated financial or physical im-
21 pacts to the project or division involved. The
22 Secretary shall notify and consult with the irri-
23 gation district or water users association oper-
24 ating the transferred conduit before offering the
25 lease of power privilege and shall prescribe

1 terms and conditions that will adequately pro-
2 tect the planning, design, construction, oper-
3 ation, maintenance, and other interests of the
4 United States and the project or division in-
5 volved.

6 “(7) Nothing in this subsection shall alter
7 or affect any existing agreements for the devel-
8 opment of conduit hydropower projects or dis-
9 position of revenues.

10 “(8) Nothing in this subsection shall alter
11 or affect any existing preliminary permit, li-
12 cense, or exemption issued by the Federal En-
13 ergy Regulatory Commission under Part I of
14 the Federal Power Act (16 U.S.C. 792 et seq.)
15 or any project for which an application has
16 been filed with the Federal Energy Regulatory
17 Commission as of the date of the enactment of
18 the Bureau of Reclamation Small Conduit Hy-
19 dropower Development and Rural Jobs Act.

20 “(9) In this subsection:

21 “(A) CONDUIT.—The term ‘conduit’
22 means any Bureau of Reclamation tunnel,
23 canal, pipeline, aqueduct, flume, ditch, or
24 similar manmade water conveyance that is
25 operated for the distribution of water for

1 agricultural, municipal, or industrial con-
2 sumption and not primarily for the genera-
3 tion of electricity.

4 “(B) IRRIGATION DISTRICT.—The
5 term ‘irrigation district’ means any irriga-
6 tion, water conservation or conservancy,
7 multicounty water conservation or conser-
8 vancy district, or any separate public enti-
9 ty composed of two or more such districts
10 and jointly exercising powers of its member
11 districts.

12 “(C) RESERVED CONDUIT.—The term
13 ‘reserved conduit’ means any conduit that
14 is included in project works the care, oper-
15 ation, and maintenance of which has been
16 reserved by the Secretary, through the
17 Commissioner of the Bureau of Reclama-
18 tion.

19 “(D) TRANSFERRED CONDUIT.—The
20 term ‘transferred conduit’ means any con-
21 duit that is included in project works the
22 care, operation, and maintenance of which
23 has been transferred to a legally organized
24 water users association or irrigation dis-
25 trict.

1 “(E) SMALL CONDUIT HYDRO-
2 POWER.—The term ‘small conduit hydro-
3 power’ means a facility capable of pro-
4 ducing 5 megawatts or less of electric ca-
5 pacity.”.

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