

Union Calendar No. 111

115TH CONGRESS
1ST SESSION

H. R. 1654

[Report No. 115-166]

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 HOUSE OF REPRESENTATIVES

MARCH 21, 2017

Mr. McCLINTOCK (for himself, Ms. CHENEY, Mr. COOK, Mr. CRAMER, Mr. GOSAR, Mr. ISSA, Mr. LAMALFA, Mr. ROHRABACHER, and Mr. TIPTON) introduced the following bill; which was referred to the Committee on Natural Resources

JUNE 12, 2017

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 March 21, 2017]

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Water Supply Permit-*
5 *ting Coordination Act”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

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

10 (2) *COOPERATING AGENCIES.*—*The term “cooper-*
11 *ating agency” means a Federal agency with jurisdic-*
12 *tion over a review, analysis, opinion, statement, per-*
13 *mit, license, or other approval or decision required for*
14 *a qualifying project under applicable Federal laws*
15 *and regulations, or a State agency subject to section*
16 *3(c).*

17 (3) *QUALIFYING PROJECTS.*—*The term “quali-*
18 *fying projects” means new surface water storage*
19 *projects in the States covered under the Act of June*
20 *17, 1902 (32 Stat. 388, chapter 1093), and Acts sup-*
21 *plemental to and amendatory of that Act (43 U.S.C.*
22 *371 et seq.) constructed on lands administered by the*
23 *Department of the Interior or the Department of Ag-*
24 *riculture, exclusive of any easement, right-of-way,*
25 *lease, or any private holding, unless the project appli-*

1 *cant elects not to participate in the process authorized*
2 *by this Act.*

3 (4) *SECRETARY.*—*The term “Secretary” means*
4 *the Secretary of the Interior.*

5 **SEC. 3. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**
6 **ATING AGENCIES.**

7 (a) *ESTABLISHMENT OF LEAD AGENCY.*—*The Bureau*
8 *is established as the lead agency for purposes of coordi-*
9 *nating all reviews, analyses, opinions, statements, permits,*
10 *licenses, or other approvals or decisions required under Fed-*
11 *eral law to construct qualifying projects.*

12 (b) *IDENTIFICATION AND ESTABLISHMENT OF CO-*
13 *OPERATING AGENCIES.*—*The Commissioner of the Bureau*
14 *shall—*

15 (1) *identify, as early as practicable upon receipt*
16 *of an application for a qualifying project, any Fed-*
17 *eral agency that may have jurisdiction over a review,*
18 *analysis, opinion, statement, permit, license, ap-*
19 *proval, or decision required for a qualifying project*
20 *under applicable Federal laws and regulations; and*

21 (2) *notify any such agency, within a reasonable*
22 *timeframe, that the agency has been designated as a*
23 *cooperating agency in regards to the qualifying*
24 *project unless that agency responds to the Bureau in*

1 *writing, within a timeframe set forth by the Bureau,*
2 *notifying the Bureau that the agency—*

3 *(A) has no jurisdiction or authority with*
4 *respect to the qualifying project;*

5 *(B) has no expertise or information relevant*
6 *to the qualifying project or any review, analysis,*
7 *opinion, statement, permit, license, or other ap-*
8 *proval or decision associated therewith; or*

9 *(C) does not intend to submit comments on*
10 *the qualifying project or conduct any review of*
11 *such a project or make any decision with respect*
12 *to such project in a manner other than in co-*
13 *operation with the Bureau.*

14 *(c) STATE AUTHORITY.—A State in which a quali-*
15 *fying project is being considered may choose, consistent*
16 *with State law—*

17 *(1) to participate as a cooperating agency; and*

18 *(2) to make subject to the processes of this Act*
19 *all State agencies that—*

20 *(A) have jurisdiction over the qualifying*
21 *project;*

22 *(B) are required to conduct or issue a re-*
23 *view, analysis, or opinion for the qualifying*
24 *project; or*

1 (C) are required to make a determination
2 on issuing a permit, license, or approval for the
3 qualifying project.

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

5 (a) *IN GENERAL.*—The principal responsibilities of the
6 Bureau under this Act are—

7 (1) to serve as the point of contact for appli-
8 cants, State agencies, Indian tribes, and others re-
9 garding proposed qualifying projects;

10 (2) to coordinate preparation of unified environ-
11 mental documentation that will serve as the basis for
12 all Federal decisions necessary to authorize the use of
13 Federal lands for qualifying projects; and

14 (3) to coordinate all Federal agency reviews nec-
15 essary for project development and construction of
16 qualifying projects.

17 (b) *COORDINATION PROCESS.*—The Bureau shall have
18 the following coordination responsibilities:

19 (1) *PREAPPLICATION COORDINATION.*—Notify co-
20 operating agencies of proposed qualifying projects not
21 later than 30 days after receipt of a proposal and fa-
22 cilitate a preapplication meeting for prospective ap-
23 plicants, relevant Federal and State agencies, and In-
24 dian tribes—

1 (A) to explain applicable processes, data re-
2 quirements, and applicant submissions necessary
3 to complete the required Federal agency reviews
4 within the timeframe established; and

5 (B) to establish the schedule for the quali-
6 fying project.

7 (2) *CONSULTATION WITH COOPERATING AGEN-*
8 *CIES.*—Consult with the cooperating agencies through-
9 out the Federal agency review process, identify and
10 obtain relevant data in a timely manner, and set nec-
11 essary deadlines for cooperating agencies.

12 (3) *SCHEDULE.*—Work with the qualifying
13 project applicant and cooperating agencies to estab-
14 lish a project schedule. In establishing the schedule,
15 the Bureau shall consider, among other factors—

16 (A) the responsibilities of cooperating agen-
17 cies under applicable laws and regulations;

18 (B) the resources available to the cooper-
19 ating agencies and the non-Federal qualifying
20 project sponsor, as applicable;

21 (C) the overall size and complexity of the
22 qualifying project;

23 (D) the overall schedule for and cost of the
24 qualifying project; and

1 (E) the sensitivity of the natural and his-
2 toric resources that may be affected by the quali-
3 fying project.

4 (4) ENVIRONMENTAL COMPLIANCE.—Prepare a
5 unified environmental review document for each
6 qualifying project application, incorporating a single
7 environmental record on which all cooperating agen-
8 cies with authority to issue approvals for a given
9 qualifying project shall base project approval deci-
10 sions. Help ensure that cooperating agencies make
11 necessary decisions, within their respective authori-
12 ties, regarding Federal approvals in accordance with
13 the following timelines:

14 (A) Not later than 1 year after acceptance
15 of a completed project application when an envi-
16 ronmental assessment and finding of no signifi-
17 cant impact is determined to be the appropriate
18 level of review under the National Environ-
19 mental Policy Act of 1969 (42 U.S.C. 4321 et
20 seq.).

21 (B) Not later than 1 year and 30 days after
22 the close of the public comment period for a draft
23 environmental impact statement under the Na-
24 tional Environmental Policy Act of 1969 (42

1 *U.S.C. 4321 et seq.*), when an environmental im-
2 *pact statement is required under the same.*

3 (5) *CONSOLIDATED ADMINISTRATIVE RECORD.*—
4 *Maintain a consolidated administrative record of the*
5 *information assembled and used by the cooperating*
6 *agencies as the basis for agency decisions.*

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

14 (7) *PROJECT MANAGER.*—*Appoint a project*
15 *manager for each qualifying project. The project man-*
16 *ager shall have authority to oversee the project and to*
17 *facilitate the issuance of the relevant final authorizing*
18 *documents, and shall be responsible for ensuring ful-*
19 *fillment of all Bureau responsibilities set forth in this*
20 *section and all cooperating agency responsibilities*
21 *under section 5.*

22 **SEC. 5. COOPERATING AGENCY RESPONSIBILITIES.**

23 (a) *ADHERENCE TO BUREAU SCHEDULE.*—

24 (1) *TIMEFRAMES.*—*On notification of an appli-*
25 *cation for a qualifying project, the head of each co-*

1 *operating agency shall submit to the Bureau a time-*
2 *frame under which the cooperating agency reasonably*
3 *will be able to complete the authorizing responsibil-*
4 *ities of the cooperating agency.*

5 (2) *SCHEDULE.—*

6 (A) *USE OF TIMEFRAMES.—The Bureau*
7 *shall use the timeframes submitted under this*
8 *subsection to establish the project schedule under*
9 *section 4.*

10 (B) *ADHERENCE.—Each cooperating agen-*
11 *cy shall adhere to the project schedule established*
12 *by the Bureau under subparagraph (A).*

13 (b) *ENVIRONMENTAL RECORD.—The head of each co-*
14 *operating agency shall submit to the Bureau all environ-*
15 *mental review material produced or compiled in the course*
16 *of carrying out activities required under Federal law, con-*
17 *sistent with the project schedule established by the Bureau*
18 *under subsection (a)(2).*

19 (c) *DATA SUBMISSION.—To the extent practicable and*
20 *consistent with Federal law, the head of each cooperating*
21 *agency shall submit all relevant project data to the Bureau*
22 *in a generally accessible electronic format, subject to the*
23 *project schedule established by the Bureau under subsection*
24 *(a)(2).*

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

2 (a) *IN GENERAL.*—*The Secretary, after public notice*
3 *in accordance with subchapter II of chapter 5, and chapter*
4 *7, of title 5, United States Code (commonly known as the*
5 *“Administrative Procedure Act”), may accept and expend*
6 *funds contributed by a non-Federal public entity to expedite*
7 *the evaluation of a permit of that entity related to a quali-*
8 *fying project.*

9 (b) *EFFECT ON PERMITTING.*—

10 (1) *EVALUATION OF PERMITS.*—*In carrying out*
11 *this section, the Secretary shall ensure that the eval-*
12 *uation of permits carried out using funds accepted*
13 *under this section shall—*

14 (A) *be reviewed by the Regional Director of*
15 *the Bureau of the region in which the qualifying*
16 *project or activity is located (or a designee); and*

17 (B) *use the same procedures for decisions*
18 *that would otherwise be required for the evalua-*
19 *tion of permits for similar projects or activities*
20 *not carried out using funds authorized under*
21 *this section.*

22 (2) *IMPARTIAL DECISIONMAKING.*—*In carrying*
23 *out this section, the Secretary and the head of each*
24 *cooperating agency receiving funds under this section*
25 *for a qualifying project shall ensure that the use of*

1 *the funds accepted under this section for the quali-*
2 *fying project shall not—*

3 *(A) substantively or procedurally impact*
4 *impartial decisionmaking with respect to the*
5 *issuance of permits; or*

6 *(B) diminish, modify, or otherwise affect*
7 *the statutory or regulatory authorities of the co-*
8 *operating agency.*

9 *(c) LIMITATION ON USE OF FUNDS.—None of the funds*
10 *accepted under this section shall be used to carry out a re-*
11 *view of the evaluation of permits required under subsection*
12 *(b)(1)(A).*

13 *(d) PUBLIC AVAILABILITY.—The Secretary shall en-*
14 *sure that all final permit decisions carried out using funds*
15 *authorized under this section are made available to the pub-*
16 *lic, including on the Internet.*

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