

BONNEVILLE UNIT CLEAN HYDROPOWER FACILITATION
ACT

APRIL 9, 2013.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 254]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 254) to authorize the Secretary of the Interior to facilitate the development of hydroelectric power on the Diamond Fork System of the Central Utah Project, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 254 is to authorize the Secretary of the Interior to facilitate the development of hydroelectric power on the Diamond Fork System of the Central Utah Project.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 254 removes administrative barriers to jumpstart non-federal hydropower development at an existing federal water supply facility. This hydropower development could occur in the Diamond Fork System within the Central Utah Project's Bonneville Unit, which is a system of dams, pipelines and tunnels that transports water from the eastern mountains in Utah to the Wasatch Front, where approximately 80% of Utah's population resides.

A Department of the Interior cost formula has prohibited any hydropower development for years. Under a 2004 "use of facilities" cost allocation formula, any hydropower developer must agree to pay \$106 million over 50 years as part of installing any hydropower infrastructure at Diamond Fork. This would be in addition to the

actual capital cost of the facilities, which would be borne by the developer. One witness at a hearing in the 111th Congress likened this situation to one that requires any developer to start \$106 million “in the hole.” As a result, hydropower investment has not occurred because a developer would not want to assume the \$106 million cost, as it far outweighs the annual benefits of generating hydropower. Because hydropower has not been developed, the \$106 million is not being paid and the federal government is not receiving any lease revenue from a hydropower developer.

H.R. 254 defers the \$106 million, which is similar to deferrals made with respect to municipal and industrial water costs addressed by the Central Utah Project Completion Act provisions in Public Law 102–575. Under this deferral, hydroelectric power generation at the Diamond Fork System will now become economic, while lease revenues to the federal government will likely be facilitated by the bill. The bill also ensures that any developer would be required to pay for the cost of hydropower infrastructure. If H.R. 254 becomes law, it is anticipated that the Department of the Interior will initiate an open and competitive process to issue a lease of power privilege for the right to install hydropower turbines at Diamond Fork.

COMMITTEE ACTION

H.R. 254 was introduced on January 15, 2013, by Congressman Jason Chaffetz (R-UT). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. The bill was also referred to the Committee on the Budget. On March 5, 2013, the Subcommittee on Water and Power held a hearing on the bill. On March 20, 2013, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged by unanimous consent. No amendments were offered to the bill, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title of the bill: “Bonneville Unit Clean Hydropower Facilitation Act.”

Section 2. Diamond Fork System defined

Section 2 defines the Diamond Fork System as the facilities described in Chapter 4 of the October 2004 Supplement to the 1988 Definite Plan Report for the Bonneville Unit.

Section 3. Cost allocations

This section states that the current amount of reimbursable costs allocated to power for the Diamond Fork System are final costs. This defers costs that are preventing hydropower development and clears the way for the federal government to receive revenue once development is complete. The Committee expects that the Interior Department will follow the longstanding federal “beneficiary pays” concept to ensure ratepayers who do not benefit from the Diamond Fork System will not have to pay for any deferment costs. In par-

ticular, the Committee expects that such deferred costs not be allocated to power users for repayment.

Section 4. No purchase or market obligation; No costs assigned to power

Section 4 ensures that nothing obligates the Western Area Power Administration to purchase or market any of the power produced by the Diamond Fork System. This section also ensures that none of the transmission costs associated with the Diamond Fork power plant will be assigned to other power users.

Section 5. Prohibition on tax-exempt financing

This section prohibits the use of tax-exempt financing to fund any facility for the generation or transmission of hydropower on the Diamond Fork System.

Section 6. Reporting requirement

This provision requires the Secretary of the Interior to report to the House Committee on Natural Resources and the Senate Energy and Natural Resources Committee if hydropower production on the Diamond Fork System has not commenced within 24 months after the date of enactment, and requires the Secretary to provide a detailed timeline for future hydropower production.

Section 7. Paygo

This provision contains language complying with the Statutory Pay-As-You-Go Act of 2010.

Section 8. Limitation on the use of funds

This section ensures that the project is not eligible for funding under the Western Area Power Administration's borrowing authority created in Public Law 111-5.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 254—Bonneville Unit Clean Hydropower Facilitation Act

Summary: CBO expects that enacting H.R. 254 would lead to the development of hydropower facilities at the Diamond Fork Project in Utah by a nonfederal entity within a few years, sooner than expected under current law. Based on information from the Bureau of Reclamation, CBO estimates that the federal government would receive payments from the hydropower developer of about \$4 million over the 2014–2023 period. Enacting the bill would decrease direct spending (by increasing offsetting receipts); therefore, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

H.R. 254 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The costs of this legislation fall within budget function 300 (natural resources and environment). CBO estimates that enacting H.R. 254 would increase offsetting receipts by \$600,000 a year, beginning in 2018; collections would total about \$4 million over the 2018–2023 period.

Basis of estimate: Based on information from the Bureau of Reclamation, CBO expects that under current law, the federal government is unlikely to develop the hydropower resources of the Diamond Fork project for at least the next 10 years. Although there are no formal development proposals currently being considered by the bureau, two nonfederal entities—the Central Utah Water Conservancy District and the Strawberry Water Users' Association—have expressed interest in developing those resources.

Among the reasons that CBO expects the site will probably not be developed over the next 10 years under current law is a requirement that project sponsors pay the Treasury for a portion of the federal government's previous investments in the water project. According to the bureau, those payments would average about \$5 million annually, beginning after the hydroelectric facilities go into service and continuing through the life of the lease.

H.R. 254 would eliminate that requirement, and CBO expects that the bill would encourage nonfederal entities to pursue development of the hydropower resources at Diamond Fork. Assuming that H.R. 254 is enacted in 2013, we expect that the Bureau of Reclamation would receive a proposal to develop the hydroelectric resources within a year or two and that such a project could be completed by 2018. In that case, the government would collect annual fees from the project developer totaling about \$600,000 a year (adjusted for inflation) for the life of the project.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. HR. 254 would increase offsetting receipts (a credit against direct spending) by about \$600,000 annually beginning in 2018. The budgetary changes that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 254 AS ORDERED REPORTED BY THE
HOUSE COMMITTEE ON NATURAL RESOURCES ON MARCH 20, 2013

	By fiscal year, in millions of dollars—													2013– 2018	2013– 2023
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023				
	NET INCREASE OR DECREASE (–) IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	0	0	0	0	–1	–1	–1	–1	–1	–1	–1	–1	–4	

Note: Components do not sum to totals because of rounding.

Intergovernmental and private-sector impact: H.R. 254 contains no intergovernmental or private-sector mandates as defined in UMRA; any additional costs to state and local governments would result from participating in a voluntary federal program.

Previous CBO estimate: On April 1, 2013, CBO transmitted a cost estimate for S. 26, the Bonneville Unit Clean Hydropower Facilitation Act, as ordered reported by the Senate Committee on Energy and Natural Resources on March 14, 2013. The text of the two pieces of legislation is identical, and the CBO cost estimates are the same.

Estimate prepared by: Federal Costs: Aurora Swanson; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information from the Bureau of Reclamation, CBO estimates that the federal government would receive payments from the hydropower developer of about \$4 million over the 2014–2023 period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Secretary of the Interior to facilitate the development of hydroelectric power on the Diamond Fork System of the Central Utah Project.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

