

## Calendar No. 141

115TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
115–105

### TO AUTHORIZE THE EXPANSION OF AN EXISTING HYDROELECTRIC PROJECT

JUNE 13, 2017.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural  
Resources, submitted the following

### R E P O R T

[To accompany S. 214]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 214) to authorize the expansion of an existing hydroelectric project, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 214 is to authorize the expansion of the existing Terror Lake hydroelectric project in Alaska.

#### BACKGROUND AND NEED

Approval to construct the Terror Lake Hydroelectric Project in Alaska was granted by the Federal Energy Regulatory Commission in 1981. The 36-megawatt project has been in operation since the 1980s and the Kodiak Electric Association (KEA), which serves the city of Kodiak, including the nation's largest U.S. Coast Guard Base and one of the country's largest commercial fishing ports, now obtains 99.7 percent of its electric power from the hydroelectric project and another nearby wind farm.

In order to avoid burning approximately two million gallons of diesel fuel to produce additional power, KEA seeks to increase the amount of hydropower generated at the facility by expanding operations through the Upper Hidden Basin Diversion Expansion. The proposed expansion involves diverting five small streams located on Alaska State lands in the adjacent Upper Hidden Basin and allow-

ing that water to flow into Terror Lake through an underground tunnel. The project would not involve adding turbines or equipment to the existing Terror Lake powerhouse. The expansion would increase the total production of electricity from the existing project by an additional 30 gigawatt-hours annually, representing a 25 percent increase in power production. This will allow KEA to enhance its wind-hydropower integration system and its micro-grid energy storage technology.

The existing Terror Lake Project is located within the Kodiak National Wildlife Refuge pursuant to a Special Use Permit granted by the U.S. Fish and Wildlife Service in 1981. S. 214 authorizes the construction, operation, and maintenance of the underground tunnel within the Kodiak National Wildlife Refuge. Insofar as the Upper Hidden Basin Diversion Expansion is an expansion of the Terror Lake Hydroelectric Project, the Committee expects the terms and special conditions of the Special Use Permit KD-81-0040 issued on July 21, 1981, as amended, to remain in effect and to apply to the expansion.

#### LEGISLATIVE HISTORY

Senators Murkowski and Sullivan introduced S. 214 on January 24, 2017.

Representative Don Young introduced companion legislation, H.R. 220, in the House of Representatives on January 3, 2017.

In the 114th Congress, similar legislation, S. 1583, was introduced by Senator Murkowski on June 16, 2015. The Committee on Energy and Natural Resources held a hearing on October 8, 2015, to consider the bill and ordered S. 1583 favorably reported, as amended, at its business meeting on November 19, 2015 (S. Rept. 114-185). Representative Don Young introduced companion legislation, H.R. 4193, in the House of Representatives on December 8, 2015.

The measure was included in Amendment No. 3234, which the Senate agreed to on April 19, 2016, as an amendment to S. 2012, the Energy Policy Modernization Act of 2016, which the Senate passed, as amended, on April 20, 2016.

The Committee on Energy and Natural Resources met in open business session on March 30, 2017, and ordered S. 214 favorably reported.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 30, 2017, by a majority voice vote of a quorum present, recommends that the Senate pass S. 214.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Terror Lake Hydroelectric Project Upper Hidden Basin Diversion authorization*

Section 1(a) defines key terms.

Subsection (b) authorizes the licensee to occupy up to 20 acres of Federal land to construct, operate, and maintain the Upper Hidden Basin Diversion Expansion without further authorization of the Secretary. It also clarifies that authorization of the expansion is

not subject to the Alaska National Interest Lands Conservation Act.

Subsection (c) clarifies that the expansion of the Terror Lake Hydroelectric Project remains subject to the Federal Energy Regulatory Commission's hydropower licensing proceedings pursuant to the Federal Power Act, including section 4(e) of that Act, as well as the National Environmental Policy Act of 1969.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 214 would specify that the licensee of the Terror Lake hydroelectric project (number 2743), located within the Kodiak National Wildlife Refuge in Alaska, can expand that project to occupy not more than 20 acres of additional federal land. Under the bill, the proposed expansion would require no further approval by the Secretary of the Interior.

CBO estimates that enacting S. 214 would not significantly affect the federal budget. The proposed expansion could have a minor effect on spending by the Federal Energy Regulatory Commission (FERC), which regulates the Terror Lake hydroelectric project. Because FERC recovers 100 percent of its costs through user fees, however, any change in that agency's costs (which are controlled through annual appropriation acts) would be offset by an equal change in fees that the commission charges, resulting in no net change in federal spending.

According to the Department of the Interior, the federal lands that would be affected by the proposed expansion currently generate no significant receipts from programs to develop natural resources and are not expected to do so in the future. As a result, CBO expects that the proposed expansion would not affect offsetting receipts (which are treated as reductions in direct spending). Because S. 214 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 214 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 214 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 214. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 214, as ordered reported.

## CONGRESSIONALLY DIRECTED SPENDING

S. 214, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

## EXECUTIVE COMMUNICATIONS

Because S. 214 is similar to legislation considered by the Committee in the 114th Congress, the Committee did not request Executive Agency views. The relevant portion of the written testimony provided by the Chairman of the Federal Energy Regulatory Commission for the hearing before the Energy and Natural Resources Committee on October 8, 2015, follows:

FEDERAL ENERGY  
REGULATORY COMMISSION,  
*Washington, DC.*

Re S. 1583, S. 2083, and S. 2046.

Hon. LISA MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources,*  
*Washington, DC.*

DEAR CHAIRMAN MURKOWSKI: This letter is in response to a request by the Senate Committee on Energy and Natural Resources for my views on S. 1583, a bill to authorize the expansion of the existing Terror Lake Hydroelectric Project, located at Terror Lake, on Kodiak Island, Alaska; S. 2083, a bill to extend the deadline for the commencement of construction of the W. Kerr Scott Hydroelectric Project in North Carolina; and S. 2046, a bill to authorize the Federal Energy Regulatory Commission (Commission) to issue an order continuing a stay of a hydroelectric license for the Mahoney Lake Project in the State of Alaska, and for other purposes.

*S. 1583*

On October 5, 1981, the Commission issued an original license authorizing Kodiak Electric Association, Inc. to construct and operate the Terror Lake Project No. 2743, to be located on the Terror and Kizhuyak Rivers, 25 miles southwest of the City of Kodiak, Alaska. The project was originally authorized to have a capacity of 20 megawatts (MW), but has since expanded to 36 MW.

S. 1583 would expand the special-use permit issued for the project by the Secretary of the Interior, in order to allow the construction, operation, and maintenance of a tunnel and associated facilities and activities for the project-related Upper Hidden Basin Diversion. The diversion would provide additional flows to the project, thus allowing increased generation.

The Commission has no jurisdiction over the special-use permit, so I have no comment on S. 1583. However, I am aware that Kodiak Electric Association is in the process of preparing an amendment application, scheduled to be filed with the Commission in 2017, seeking authorization to construct the facilities needed for the Upper Hidden Basin Diversion. It is my understanding that the licensee has prepared a draft amendment application and held joint agency and public meetings to discuss it, and has begun consultation under the Endangered Species Act, Magnuson-Stevens Fishery

Conservation and Management Act, and the National Historic Preservation Act. I also understand that, to the extent that the amendment will result in the project occupying additional lands within a reservation of the United States, S. 1583 will preserve the right of the Secretary of the department under whose supervision those lands fall to impose conditions, pursuant to section 4(e) of the Federal Power Act, that the Secretary deems necessary for the adequate protection and utilization of the reservation. Should the amendment application be filed with the Commission, staff will review it as expeditiously as possible.

If I can be of further assistance to you on this or any other Commission matter, please let me know.

Sincerely,

NORMAN C. BAY,  
*Chairman.*

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill as ordered reported.

