

113TH CONGRESS
2^D SESSION

S. 2010

To amend the Water Conservation and Utilization Act to authorize the development of non-Federal hydropower and issuance of leases of power privileges at projects constructed pursuant to the authority of the Water Conservation and Utilization Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2014

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Water Conservation and Utilization Act to authorize the development of non-Federal hydropower and issuance of leases of power privileges at projects constructed pursuant to the authority of the Water Conservation and Utilization Act, 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 Conduit Hydropower Development Equity and Jobs Act”.

1 **SEC. 2. AMENDMENT.**

2 Section 9 of the Act entitled “An Act authorizing
3 construction of water conservation and utilization projects
4 in the Great Plains and arid semiarid areas of the United
5 States”, approved August 11, 1939 (16 U.S.C. 590z-7;
6 commonly known as the “Water Conservation and Utiliza-
7 tion Act”), is amended—

8 (1) by striking “In connection with” and insert-
9 ing “(a) In connection with”; and

10 (2) by adding at the end the following:

11 “(b) Notwithstanding subsection (a), the Secretary is
12 authorized to enter into leases of power privileges for elec-
13 tric power generation in connection with any project con-
14 structed under this Act, and shall have authority in addi-
15 tion to and alternative to any authority in existing laws
16 relating to particular projects, including small conduit hy-
17 dropower development.

18 “(c) When entering into leases of power privileges
19 under subsection (b), the Secretary shall use the processes
20 applicable to such leases under section 9(c) of the Rec-
21 lamation Project Act of 1939 (43 U.S.C. 485h(c)).

22 “(d) Lease of power privilege contracts shall be at
23 such rates as, in the Secretary’s judgment, will produce
24 revenues at least sufficient to cover the appropriate share
25 of the annual operation and maintenance cost of the
26 project and such fixed charges, including interest, as the

1 Secretary deems proper. Lease of power privilege con-
2 tracts shall be for periods not to exceed 40 years.

3 “(e) No findings under section 3 shall be required
4 for a lease under subsection (b).

5 “(f) All right, title, and interest to installed power
6 facilities constructed by non-Federal entities pursuant to
7 a lease of power privilege, and direct revenues derived
8 therefrom, shall remain with the lessee unless otherwise
9 required under subsection (g).

10 “(g) Notwithstanding section 8, lease revenues and
11 fixed charges, if any, shall be covered into the Reclamation
12 Fund to be credited to the project from which those reve-
13 nues or charges were derived.

14 “(h) When carrying out this section, the Secretary
15 shall first offer the lease of power privilege to an irrigation
16 district or water users’ association operating the applica-
17 ble transferred conduit, or to the irrigation district or
18 water users’ association receiving water from the applica-
19 ble reserved conduit. The Secretary shall determine a rea-
20 sonable timeframe for the irrigation district or water
21 users’ association to accept or reject a lease of power privi-
22 lege offer. If the irrigation district or water users’ associa-
23 tion elects not to accept a lease of power privilege offer
24 under subsection (b), the Secretary shall offer the lease
25 of power privilege to other parties using the processes ap-

1 plicable to such leases under section 9(c) of the Reclama-
2 tion Project Act of 1939 (43 U.S.C. 485h(e)).

3 “(i) The Bureau of Reclamation shall apply its cat-
4 egorical exclusion process under the National Environ-
5 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to
6 small conduit hydropower development under this section,
7 excluding siting of associated transmission facilities on
8 Federal lands.

9 “(j) Nothing in this section shall obligate the Western
10 Area Power Administration or the Bonneville Power Ad-
11 ministration to purchase or market any of the power pro-
12 duced by the facilities covered under this section and none
13 of the costs associated with production or delivery of such
14 power shall be assigned to project purposes for inclusion
15 in project rates.

16 “(k) Nothing in this section shall alter or impede the
17 delivery and management of water by Bureau of Reclama-
18 tion facilities, as water used for conduit hydropower gen-
19 eration shall be deemed incidental to use of water for the
20 original project purposes. Lease of power privilege shall
21 be made only when, in the judgment of the Secretary, the
22 exercise of the lease will not be incompatible with the pur-
23 poses of the project or division involved and shall not cre-
24 ate any unmitigated financial or physical impacts to the
25 project or division involved. The Secretary shall notify and

1 consult with the irrigation district or legally organized
2 water users' association operating the transferred conduit
3 in advance of offering the lease of power privilege and
4 shall prescribe such terms and conditions necessary to
5 adequately protect the planning, design, construction, op-
6 eration, maintenance, and other interests of the United
7 States and the project or division involved.

8 “(l) Nothing in this section shall alter or affect any
9 agreements in effect on the date of the enactment of the
10 Bureau of Reclamation Conduit Hydropower Development
11 Equity and Jobs Act for the development of conduit hy-
12 dropower projects or disposition of revenues.

13 “(m) In this section:

14 “(1) The term ‘conduit’ means any Bureau of
15 Reclamation tunnel, canal, pipeline, aqueduct, flume,
16 ditch, or similar manmade water conveyance that is
17 operated for the distribution of water for agricul-
18 tural, municipal, or industrial consumption and not
19 primarily for the generation of electricity.

20 “(2) The term ‘irrigation district’ means any ir-
21 rigation, water conservation or conservancy, multi-
22 county water conservation or conservancy district, or
23 any separate public entity composed of two or more
24 such districts and jointly exercising powers of its
25 member districts.

1 “(3) The term ‘reserved conduit’ means any
2 conduit that is included in project works the care,
3 operation, and maintenance of which has been re-
4 served by the Secretary, through the Commissioner
5 of the Bureau of Reclamation.

6 “(4) The term ‘transferred conduit’ means any
7 conduit that is included in project works the care,
8 operation, and maintenance of which has been trans-
9 ferred to a legally organized water users’ association
10 or irrigation district.

11 “(5) The term ‘small conduit hydropower’
12 means a facility capable of producing 5 megawatts
13 or less of electric capacity.”.

○