

# Union Calendar No. 201

112TH CONGRESS  
1ST SESSION

# H. R. 2842

[Report No. 112-301]

To authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2011

Mr. TIPTON (for himself and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Natural Resources

DECEMBER 1, 2011

Additional sponsors: Mr. SMITH of Nebraska, Mr. COFFMAN of Colorado, Mr. McCLINTOCK, and Mr. COSTA

DECEMBER 1, 2011

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 *italie*]

[For text of introduced bill, see copy of bill as introduced on September 6, 2011]

# **A BILL**

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 of 2011”.*

7 **SEC. 2. AUTHORIZATION.**

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

10            *(1) by striking “The Secretary is authorized to*  
11 *enter into contracts to furnish water” and inserting*  
12 *“(1) The Secretary is authorized to enter into con-*  
13 *tracts to furnish water”;*

14            *(2) by striking “(1) shall” and inserting “(A)*  
15 *shall”;*

16            *(3) by striking “(2) shall” and inserting “(B)*  
17 *shall”;*

18            *(4) by striking “respecting the terms of sales of*  
19 *electric power and leases of power privileges shall be*  
20 *in addition and alternative to any authority in exist-*  
21 *ing laws relating to particular projects” and insert-*  
22 *ing “respecting the sales of electric power and leases*  
23 *of power privileges shall be an authorization in addi-*  
24 *tion to and alternative to any authority in existing*

1 *laws related to particular projects, including small*  
2 *conduit hydropower development”;* and

3 *(5) by adding at the end the following:*

4 *“(2) When carrying out this subsection, the Secretary*  
5 *shall first offer the lease of power privilege to an irrigation*  
6 *district or water users association operating the applicable*  
7 *transferred work, or to the irrigation district or water users*  
8 *association receiving water from the applicable reserved*  
9 *work. The Secretary shall determine a reasonable time*  
10 *frame for the irrigation district or water users association*  
11 *to accept or reject a lease of power privilege offer.*

12 *“(3) The National Environmental Policy Act of 1969*  
13 *(42 U.S.C. 4321 et seq.) shall not apply to small conduit*  
14 *hydropower development, excluding siting of associated*  
15 *transmission on Federal lands, under this subsection.*

16 *“(4) The Power Resources Office of the Bureau of Rec-*  
17 *lamation shall be the lead office of small conduit hydro-*  
18 *power policy and procedure-setting activities conducted*  
19 *under this subsection.*

20 *“(5) Nothing in this subsection shall obligate the West-*  
21 *ern Area Power Administration, the Bonneville Power Ad-*  
22 *ministration, or the Southwestern Power Administration to*  
23 *purchase or market any of the power produced by the facili-*  
24 *ties covered under this subsection and none of the costs asso-*

1 *ciated with production or delivery of such power shall be*  
2 *assigned to project purposes for inclusion in project rates.*

3       “(6) *Nothing in this subsection shall alter or impede*  
4 *the delivery and management of water by Bureau of Rec-*  
5 *lamation facilities, as water used for conduit hydropower*  
6 *generation shall be deemed incidental to use of water for*  
7 *the original project purposes. Lease of power privilege shall*  
8 *be made only when, in the judgment of the Secretary, the*  
9 *exercise of the lease will not be incompatible with the pur-*  
10 *poses of the project or division involved, nor shall it create*  
11 *any unmitigated financial or physical impacts to the*  
12 *project or division involved. The Secretary shall notify and*  
13 *consult with the irrigation district or legally organized*  
14 *water users association operating the transferred work in*  
15 *advance of offering the lease of power privilege and shall*  
16 *prescribe such terms and conditions that will adequately*  
17 *protect the planning, design, construction, operation, main-*  
18 *tenance, and other interests of the United States and the*  
19 *project or division involved.*

20       “(7) *Nothing in this subsection shall alter or affect any*  
21 *existing agreements for the development of conduit hydro-*  
22 *power projects or disposition of revenues.*

23       “(8) *In this subsection:*

24               “(A) *CONDUIT.—The term ‘conduit’ means any*  
25 *Bureau of Reclamation tunnel, canal, pipeline, aque-*

1        *duct, flume, ditch, or similar manmade water convey-*  
2        *ance that is operated for the distribution of water for*  
3        *agricultural, municipal, or industrial consumption*  
4        *and not primarily for the generation of electricity.*

5                *“(B) IRRIGATION DISTRICT.—The term ‘irriga-*  
6        *tion district’ means any irrigation, water conserva-*  
7        *tion or conservancy district, multicounty water con-*  
8        *servation or conservancy district, or any separate*  
9        *public entity composed of two or more such districts*  
10        *and jointly exercising powers of its member districts.*

11                *“(C) RESERVED WORK.—The term ‘reserved*  
12        *work’ means any conduit that is included in project*  
13        *works the care, operation, and maintenance of which*  
14        *has been reserved by the Secretary, through the Com-*  
15        *missioner of the Bureau of Reclamation.*

16                *“(D) TRANSFERRED WORK.—The term ‘trans-*  
17        *ferred work’ means any conduit that is included in*  
18        *project works the care, operation, and maintenance of*  
19        *which has been transferred to a legally organized*  
20        *water users association or irrigation district.*

21                *“(E) SECRETARY.—The term ‘Secretary’ means*  
22        *the Secretary of the Interior.*

23                *“(F) SMALL CONDUIT HYDROPOWER.—The term*  
24        *‘small conduit hydropower’ means a facility capable*

1       *of producing 1.5 megawatts or less of electric capac-*  
2       *ity.”.*

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112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

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