

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3981

To direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and water users, to provide surface water storage enhancement, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2014

Mr. HASTINGS of Washington introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and water users, to provide surface water storage enhancement, 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 “Accelerated Revenue,  
5       Repayment, and Surface Water Storage Enhancement  
6       Act”.

1 **SEC. 2. PREPAYMENT OF CERTAIN REPAYMENT CON-**  
2 **TRACTS BETWEEN THE UNITED STATES AND**  
3 **CONTRACTORS OF FEDERALLY DEVELOPED**  
4 **WATER SUPPLIES.**

5 (a) CONVERSION AND PREPAYMENT OF CON-  
6 TRACTS.—

7 (1) CONVERSION.—Upon request of the con-  
8 tractor, the Secretary of the Interior shall convert  
9 any water service contract in effect on the date of  
10 enactment of this Act and between the United  
11 States and a water users' association to allow for  
12 prepayment of the repayment contract pursuant to  
13 paragraph (2) under mutually agreeable terms and  
14 conditions. The manner of conversion under this  
15 paragraph shall be as follows:

16 (A) Water service contracts that were en-  
17 tered into under section 9(e) of the Act of Au-  
18 gust 4, 1939 (53 Stat. 1196), to be converted  
19 under this section shall be converted to repay-  
20 ment contracts under section 9(d) of that Act  
21 (53 Stat. 1195).

22 (B) Water service contracts that were en-  
23 tered under subsection (c)(2) of section 9 of the  
24 Act of August 4, 1939 (53 Stat. 1194), to be  
25 converted under this section shall be converted

1 to a contract under subsection (c)(1) of section  
2 9 of that Act (53 Stat. 1195).

3 (2) PREPAYMENT.—All contracts converted  
4 pursuant to paragraph (1)(A) shall—

5 (A) upon request of the contractor, provide  
6 for the repayment, either in lump sum or by ac-  
7 celerated prepayment, of the remaining net  
8 present value of the construction costs identi-  
9 fied in water project specific irrigation rate re-  
10 payment schedules, as adjusted to reflect pay-  
11 ment not reflected in such schedule, and prop-  
12 erly assignable for ultimate return by the con-  
13 tractor, or if made in approximately equal in-  
14 stallments, no later than 3 years after the effec-  
15 tive date of the repayment contract; such  
16 amount to be discounted by  $\frac{1}{2}$  the Treasury  
17 rate. An estimate of the remaining net present  
18 value of construction costs, as adjusted, shall be  
19 provided by the Secretary to the contractor no  
20 later than 30 days following receipt of request  
21 of the contractor;

22 (B) require that construction costs or  
23 other capitalized costs incurred after the effec-  
24 tive date of the contract or not reflected in the  
25 rate schedule referenced in subparagraph (A),

1 and properly assignable to such contractor shall  
2 be repaid in not more than 5 years after notifi-  
3 cation of the allocation if such amount is a re-  
4 sult of a collective annual allocation of capital  
5 costs to the contractors exercising contract con-  
6 versation under this subsection of less than  
7 \$5,000,000. If such amount is \$5,000,000 or  
8 greater, such cost shall be repaid as provided by  
9 applicable reclamation law;

10 (C) provide that power revenues will not be  
11 available to aid in repayment of construction  
12 costs allocated to irrigation under the contract;  
13 and

14 (D) continue so long as the contractor  
15 pays applicable charges, consistent with section  
16 9(e)(1) of the Act of August 4, 1939 (53 Stat.  
17 1195), and applicable law.

18 (3) CONTRACT REQUIREMENTS.—The following  
19 shall apply with regard to all contracts converted  
20 pursuant to paragraph (1)(B):

21 (A) Upon request of the contractor, pro-  
22 vide for the repayment in lump sum of the re-  
23 maining net present value of construction costs  
24 identified in water project specific municipal  
25 and industrial rate repayment schedules, as ad-

1           justed to reflect payments not reflected in such  
2           schedule, and properly assignable for ultimate  
3           return by the contractor. An estimate of the re-  
4           maining net present value of construction costs,  
5           as adjusted, shall be provided by the Secretary  
6           to the contractor no later than 30 days after re-  
7           ceipt of request of contractor.

8           (B) The contract shall require that con-  
9           struction costs or other capitalized costs in-  
10          curred after the effective date of the contract or  
11          not reflected in the rate schedule referenced in  
12          subparagraph (A), and properly assignable to  
13          such contractor, shall be repaid in not more  
14          than 5 years after notification of the allocation  
15          if such amount is a result of a collective annual  
16          allocation of capital costs to the contractors ex-  
17          ercising contract conversation under this sub-  
18          section of less than \$5,000,000. If such amount  
19          is \$5,000,000 or greater, such cost shall be re-  
20          paid as provided by applicable reclamation law;  
21          and

22          (C) Continue so long as the contractor  
23          pays applicable charges, consistent with section  
24          9(c)(1) of the Act of August 4, 1939 (53 Stat.  
25          1195), and applicable law.

1           (4) CONDITIONS.—All contracts entered into  
2           pursuant to paragraphs (1), (2), and (3) shall—

3                   (A) not be adjusted on the basis of the  
4                   type of prepayment financing used by the water  
5                   users' association;

6                   (B) conform to any other agreements, such  
7                   as applicable settlement agreements and new  
8                   constructed appurtenant facilities; and

9                   (C) not modify other water service, repay-  
10                  ment, exchange and transfer contractual rights  
11                  between the water users' association, and the  
12                  Bureau of Reclamation, or any rights, obliga-  
13                  tions, or relationships of the water users' asso-  
14                  ciation and their landowners as provided under  
15                  State law.

16           (b) ACCOUNTING.—The amounts paid pursuant to  
17           subsection (a) shall be subject to adjustment following a  
18           final cost allocation by the Secretary of the Interior. In  
19           the event that the final cost allocation indicates that the  
20           costs properly assignable to the contractor are greater  
21           than what has been paid by the contractor, the contractor  
22           shall be obligated to pay the remaining allocated costs.  
23           The term of such additional repayment contract shall be  
24           not less than one year and not more than 10 years, how-  
25           ever, mutually agreeable provisions regarding the rate of

1 repayment of such amount may be developed by the par-  
2 ties. In the event that the final cost allocation indicates  
3 that the costs properly assignable to the contractor are  
4 less than what the contractor has paid, the Secretary shall  
5 credit such overpayment as an offset against any out-  
6 standing or future obligation of the contractor.

7 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

8 (1) EFFECT OF EXISTING LAW.—Upon a con-  
9 tractor's compliance with and discharge of the obli-  
10 gation of repayment of the construction costs pursu-  
11 ant to a contract entered into pursuant to subsection  
12 (a)(2)(A), sections 213 (a) and (b) of the Reclama-  
13 tion Reform Act of 1982 (96 Stat. 1269) shall apply  
14 to affected lands.

15 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-  
16 ligation of a contractor to repay construction costs  
17 or other capitalized costs described in subsections  
18 (a)(2)(B), (a)(3)(B) or (b) shall not affect a contrac-  
19 tor's status as having repaid all of the construction  
20 costs assignable to the contractor or the applicability  
21 of sections 213 (a) and (b) of the Reclamation Re-  
22 form Act of 1982 (96 Stat. 1269) once the amount  
23 required to be paid by the contractor under the re-  
24 payment contract entered into pursuant to sub-  
25 section (a)(2)(A) have been paid.

1 (d) EFFECT ON EXISTING LAW NOT ALTERED.—Im-  
2 plementation of the provisions of this Act shall not alter  
3 the repayment obligation of any water service or repay-  
4 ment contractor receiving water from the same water  
5 project, or shift any costs that would otherwise have been  
6 properly assignable to the water users' association identi-  
7 fied in subsections (a)(1), (a)(2), and (a)(3) absent this  
8 section, including operation and maintenance costs, con-  
9 struction costs, or other capitalized costs incurred after  
10 the date of the enactment of this Act, or to other contrac-  
11 tors.

12 (e) SURFACE WATER STORAGE ENHANCEMENT PRO-  
13 GRAM.—

14 (1) IN GENERAL.—Three years following the  
15 date of enactment of this Act, all receipts generated  
16 from prepayment of contracts under this section be-  
17 yond amounts necessary to cover the amount of re-  
18 ceipts forgone from scheduled payments under cur-  
19 rent law for the 10-year period following the date of  
20 enactment of this Act shall be directed to the Rec-  
21 lamation Surface Water Storage Account under  
22 paragraph (2).

23 (2) SURFACE STORAGE ACCOUNT.—The Sec-  
24 retary shall allocate amounts collected under para-  
25 graph (1) into the “Reclamation Surface Storage



1 Account” to fund or provide loans for the construc-  
2 tion of surface water storage. The Secretary may  
3 also enter into cooperative agreements with water  
4 users’ associations for the construction of surface  
5 water storage and amounts within the Surface Stor-  
6 age Account may be used to fund such construction.  
7 Surface water storage projects that are otherwise  
8 not federally authorized shall not be considered Fed-  
9 eral facilities as a result of any amounts allocated  
10 from the Surface Storage Account for part or all of  
11 such facilities.

12 (3) REPAYMENT.—Amounts used for surface  
13 water storage construction from the Account shall be  
14 fully reimbursed to the Account consistent with the  
15 requirements under Federal reclamation law (the  
16 law (the Act of June 17, 1902 (32 Stat. 388, chap-  
17 ter 1093))), and Acts supplemental to and amend-  
18 atory of that Act (43 U.S.C. 371 et seq.) except that  
19 all funds reimbursed shall be deposited in the Ac-  
20 count established under paragraph (1).

21 (4) AVAILABILITY OF AMOUNTS.—Amounts de-  
22 posited in the Account under this subsection shall—

23 (A) be made available in accordance with  
24 this section, without further appropriation; and

1 (B) be in addition to amounts appropriated  
2 for such purposes under any other provision of  
3 law.

4 (5) PURPOSES OF SURFACE WATER STORAGE.—  
5 Construction of surface water storage under this sec-  
6 tion shall be made for the following purposes:

7 (A) Increased municipal and industrial  
8 water supply.

9 (B) Agricultural floodwater, erosion, and  
10 sedimentation reduction.

11 (C) Agricultural drainage improvements.

12 (D) Agricultural irrigation.

13 (E) Increased recreation opportunities.

14 (F) Reduced adverse impacts to fish and  
15 wildlife from water storage or diversion projects  
16 within watersheds associated with water storage  
17 projects funded under this section.

18 (G) Any other purposes consistent with  
19 reclamation laws or other Federal law.

20 (f) DEFINITIONS.—For the purposes of this Act, the  
21 following definitions apply:

22 (1) ACCOUNT.—The term “Account” means the  
23 Reclamation Surface Water Storage Account estab-  
24 lished under subsection (e)(2).

1           (2) CONSTRUCTION.—The term “construction”  
2 means the designing, materials engineering and test-  
3 ing, surveying, and building of surface water storage  
4 including additions to existing surface water storage  
5 and construction of new surface water storage facili-  
6 ties, exclusive of any Federal statutory or regulatory  
7 obligations relating to any permit, review, approval,  
8 or other such requirement.

9           (3) SURFACE WATER STORAGE.—The term  
10 “surface water storage” means any federally owned  
11 facility under the jurisdiction of the Bureau of Rec-  
12 lamation or any non-Federal facility used for the  
13 surface storage and supply of water resources.

14           (4) TREASURY RATE.—The term “Treasury  
15 rate” means the 20-year Constant Maturity Treas-  
16 ury (CMT) rate published by the United States De-  
17 partment of the Treasury existing on the effective  
18 date of the contract.

19           (5) WATER USERS’ ASSOCIATION.—The term  
20 “water users’ association” means—

21           (A) an entity organized and recognized  
22 under State laws that is eligible to enter into  
23 contracts with reclamation to receive contract  
24 water for delivery to and users of the water and  
25 to pay applicable charges; and

1           (B) includes a variety of entities with dif-  
2           ferent names and differing functions, such as  
3           associations, conservatory district, irrigation  
4           district, municipality, and water project con-  
5           tract unit.

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