

Idaho Wilderness Water Resources Protection Act

[Public Law 113–136]

[This law has not been amended]

【Currency: This publication is a compilation of the text of Public Law 113-136. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To authorize the continued use of certain water diversions located on National Forest System land in the Frank Church-River of No Return Wilderness and the Selway-Bitterroot Wilderness in the State of Idaho, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Idaho Wilderness Water Resources Protection Act”.

SEC. 2. TREATMENT OF EXISTING WATER DIVERSIONS IN FRANK CHURCH-RIVER OF NO RETURN WILDERNESS AND SELWAY-BITTERROOT WILDERNESS, IDAHO.

(a) AUTHORIZATION FOR CONTINUED USE.—The Secretary of Agriculture shall issue a special use authorization to the owners of a water storage, transport, or diversion facility (in this section referred to as a “facility”) located on National Forest System land in the Frank Church-River of No Return Wilderness and the Selway-Bitterroot Wilderness for the continued operation, maintenance, and reconstruction of the facility if the Secretary determines that—

(1) the facility was in existence on the date on which the land upon which the facility is located was designated as part of the National Wilderness Preservation System (in this section referred to as “the date of designation”);

(2) the facility has been in substantially continuous use to deliver water for the beneficial use on the owner’s non-Federal land since the date of designation;

(3) the owner of the facility holds a valid water right for use of the water on the owner’s non-Federal land under Idaho State law, with a priority date that predates the date of designation; and

(4) it is not practicable or feasible to relocate the facility to land outside of the wilderness and continue the beneficial

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use of water on the non-Federal land recognized under State law.

(b) TERMS AND CONDITIONS.—

(1) REQUIRED TERMS AND CONDITIONS.—In a special use authorization issued under subsection (a), the Secretary shall—

(A) allow use of motorized equipment and mechanized transport for operation, maintenance, or reconstruction of a facility, if the Secretary determines that—

(i) the use is necessary to allow the facility to continue delivery of water to the non-Federal land for the beneficial uses recognized by the water right held under Idaho State law; and

(ii) the use of nonmotorized equipment and non-mechanized transport is impracticable or infeasible; and

(B) preclude use of the facility for the storage, diversion, or transport of water in excess of the water right recognized by the State of Idaho on the date of designation.

(2) DISCRETIONARY TERMS AND CONDITIONS.—In a special use authorization issued under subsection (a), the Secretary may—

(A) require or allow modification or relocation of the facility in the wilderness, as the Secretary determines necessary, to reduce impacts to wilderness values set forth in section 2 of the Wilderness Act (16 U.S.C. 1131) if the beneficial use of water on the non-Federal land is not diminished; and

(B) require that the owner provide a reciprocal right of access across the non-Federal property, in which case, the owner shall receive market value for any right-of-way or other interest in real property conveyed to the United States, and market value may be paid by the Secretary, in whole or in part, by the grant of a reciprocal right-of-way, or by reduction of fees or other costs that may accrue to the owner to obtain the authorization for water facilities.