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113TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 113–24

BUREAU OF RECLAMATION SMALL CONDUIT HYDROPOWER DEVELOPMENT AND RURAL JOBS ACT

MARCH 25, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 678]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 678) to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 678 is to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law.

BACKGROUND AND NEED FOR LEGISLATION

Congress established the Bureau of Reclamation (Reclamation) in 1902 to "make the desert bloom." To this day, Reclamation's water projects play a significant role in the West by providing a reliable source of water and power for irrigated agriculture and rural and urban communities. While the larger, multi-purpose projects such as Grand Coulee and Hoover Dams are relatively well-known, Reclamation has a number of much smaller projects that significantly

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contribute to the agency's original mission of delivering water and power.

Many of these smaller, single-purpose water supply projects were either authorized by Congress or created administratively over the last century. At the time of their creation, hydropower was usually not envisioned as a project component due to economics, lack of technology and other factors. Today, with the improved ability to harness the energy of moving water in canals and pipelines (collectively known as "conduits"), many are looking at hydropower development on these smaller projects. Combined with non-federal conduits, there is enormous potential to develop vast amounts of hydropower at existing water supply infrastructure. For example, in the State of Colorado alone, over 1,400 megawatts or the equivalent of the original hydropower output of Glen Canyon Dam on the Colorado River—could be produced from conduit hydropower development. Indeed, Reclamation found in a March 2012 report that over 373 of its sites had the potential for hydropower development:

Energy and capacity by state	Canal sites	Potential installed capacity (kW)	Potential Annual Energy (kWh)
AZ	26	5,061	28,464,753
CA	20	1,570	4,802,925
CO	28	27,286	100,230,315
ID	9	2,771	11,451,814
MT	32	9,885	26,316,565
NE	30	5,501	13,793,995
NM	8	1,427	3,573,029
NV	16	1,533	8,671,966
OR	68	20,404	75,943,044
SD	1	131	572,000
UT	12	3,552	5,965,031
WA	2	1,047	2,885,357
WY	121	23,460	82,548,053

H.R. 678 seeks to jumpstart hydropower development on Reclamation conduits by reducing unnecessary and duplicative administrative and regulatory costs while protecting the original Congressionally-authorized purposes of these facilities from any unmitigated financial or physical impacts as a result of such development. The legislation makes it clear that hydropower is explicitly authorized at Reclamation's conduits. This would allow Reclamation to issue a "lease of power privilege," which would give a non-federal entity the right to generate hydropower and pay a rental fee to the federal government for such generation at a specific Reclamation facility. The legislation requires Reclamation to offer the lease of power privilege first to the entity operating the conduit or the conduit's direct beneficiaries. Most Reclamation water supply and delivery projects have an arrangement where operation and maintenance activities are transferred to the local water beneficiary as a way to reduce paperwork and other costs. This "right of first refusal" provision would significantly decrease conduit hydropower planning and study time by reducing staffing costs and time affiliated with analyzing competing and multiple conduit development applications. If the water beneficiary refuses development under Reclamation's terms and conditions, Reclamation could consider other proposals.

The bill also attempts to reduce duplicative regulatory costs and paperwork while protecting the environment. A substantial regu-

latory barrier to future conduit hydropower development is duplicative environmental analysis. The hydropower units envisioned in H.R. 678 would be installed on already disturbed ground within existing man-made facilities that do not contain endangered fish and wildlife. In addition, the water projects in which the hydropower units would be contained have already gone through federal environmental review. Despite these facts, another National Environmental Policy Act (NEPA) analysis must still be done under existing federal regulations. For some, this has created a chilling effect on hydropower investment. For example, at a Water and Power Subcommittee hearing in 2011, one witness indicated that installing 15 very small hydropower units on a nearby Reclamation canal system in Arizona could cost over $450,000—or $30,000 per unit—for additional NEPA reviews that would ultimately conclude no environmental impacts. These paperwork costs would be greater than the actual capital cost of the hydropower units.

These costs and their time-consuming nature help make most conduit hydropower installations cost prohibitive. For this reason, H.R. 678 exempts "small conduit hydropower" (5 megawatts or less) from NEPA, while retaining NEPA application for larger installations and for transmission siting on federal land. Each facility would still be subject to environmental laws such as the Clean Water Act and other laws that could require permits.

Based on past consideration of this bill during the 112th Congress, Reclamation instituted a NEPA Categorical Exclusion policy on conduit hydropower development in September 2012. However, six months later, this new policy has not been implemented on any new conduit hydropower development at Reclamation's facilities. In addition, the policy is administrative in nature and can be subject to change.

The net effect of H.R. 678 is that hydropower development would be explicitly authorized at almost 47,000 miles of Reclamation's conduits and that it will be developed at a cost-effective way to produce renewable and emissions-free energy that will empower local economic development and jobs while generating federal revenue and protecting the environment.

COMMITTEE ACTION

H.R. 678 was introduced on February 13, 2013, by Congressman Scott Tipton (R–CO). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On March 5, 2013, the Subcommittee held a hearing on the bill. On March 20, 2013, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged by unanimous consent. Congresswoman Grace Napolitano (D–CA) offered an amendment designated .004; the amendment was not adopted by voice vote. The bill was then adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 17 to 12, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: March 20, 2013 Recorded Vote #: 1

Meeting on / Amendment on: **H.R. 678** - Adopted and favorably reported to the House of Representatives by a roll call vote of 17 yeas and 12 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA, Chairman	X			**Mr. Duncan, SC**	X		
Mr. Markey, MA, Ranking				*Ms. Hanabusa, HI*		X	
Mr. Young, AK	X			**Mr. Tipton, CO**	X		
Mr. Defazio, OR		X		*Mr. Cardenas, CA*			
Mr. Gohmert, TX				**Mr. Gosar, AZ**			
Mr. Faleomavaega, AS				*Mr. Horsford, NV*		X	
Mr. Bishop, UT	X			**Mr. Labrador, ID**	X		
Mr. Pallone, NJ				*Mr. Huffman, CA*		X	
Mr. Lamborn, CO	X			**Mr. Southerland, FL**	X		
Mrs. Napolitano, CA		X		*Mr. Ruiz, CA*		X	
Mr. Wittman, VA				**Mr. Flores, TX**	X		
Mr. Holt, NJ		X		*Ms. Shea-Porter, NH*		X	
Mr. Broun, GA	X			**Mr. Runyan, NJ**			
Mr. Grijalva, AZ		X		*Mr. Lowenthal, CA*		X	
Mr. Fleming, LA				**Mr. Amodei, NV**			
Ms. Bordallo, GU				*Mr. Garcia, FL*			
Mr. McClintock, CA	X			**Mr. Mullin, OK**			
Mr. Costa, CA	X			*Mr. Cartwright, PA*			
Mr. Thompson, PA				**Mr. Stewart, UT**			
Mr. Sablan, CNMI				**Mr. Daines, MT**	X		
Ms. Lummis, WY	X			**Mr. Cramer, ND**	X		
Ms. Tsongas, MA		X		**Mr. LaMalfa, CA**	X		
Mr. Benishek, MI	X						
Mr. Pierluisi, PR		X					
				TOTALS	17	12	

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the "Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act."

Section 2. Authorization

Section 2 amends Section 9(c) of the Reclamation Project Act of 1939 to authorize "power" as a function at all Bureau of Reclamation conduits. This authorization will allow the agency to pursue hydropower development on conduits under its exclusive jurisdiction and within the framework of federal reclamation law.

The section further amends Section 9(c) of the Reclamation Project Act of 1939 by adding a number of new provisions relating to small conduit hydropower development. Given the exclusive hydropower authorization, the bill requires the Bureau of Reclamation to offer the "lease of power privilege" (lease) first to the entity operating the conduit or the conduit's direct water user beneficiaries. This provision reinforces and strengthens Reclamation's current arrangement of giving irrigation districts the preference to lease hydropower projects on canals that the districts operate and maintain on behalf of the federal government. The Committee understands that these longtime operators/beneficiaries know the operating intricacies and primary water supply features of the respective Reclamation facility, as opposed to some outside, non-local interests not invested in water supply delivery. As such, the Committee expects Reclamation to work cooperatively and communicate directly with these operators/beneficiaries prior to and during the lease process, especially because a conduit's primary purpose is to deliver water. This provision does not prohibit the operators/beneficiaries of the conduit facility from participating with any third-party interest in the hydropower development on the respective conduit. The Committee also expects Reclamation to undergo a good faith effort to allow the operators/beneficiaries a reasonable and justifiable time frame to accept or reject a conduit lease of power privilege offer. Such time frames would factor in the complexity of the facility, prior communication with, any stated concerns of the operators/beneficiaries and other matters.

This section also streamlines the duplicative federal regulatory process impacting hydropower development covered in the bill. As referenced above, the facilities are man-made canals that have already gone through the National Environmental Policy Act (NEPA) process. This section also designates the Power Resources Office in Reclamation's Denver headquarters as the lead office for small conduit development. Unfortunately, a number of irrigation districts pursuing hydropower have been unable to receive uniform answers from Reclamation on conduit development. This provision will set up a centralized location for uniform policy and procedure-setting purposes, yet does not prohibit area offices from implementing specific conduit development.

Section two also clarifies that the Western Area Power Administration, the Bonneville Power Administration and the Southwestern Power Administration are not obligated to purchase or market the conduit hydropower generated at Reclamation facilities and that none of the costs associated with the generation shall be

assigned to these agencies' power rates. This provision intends to allow the free market to decide who will purchase the conduit hydropower. This section also provides a number of water supply savings clauses. These provisions specifically ensure conduit hydropower development will not harm or impact existing water supplies and water deliveries and acknowledges that water used for conduit hydropower generation is incidental to water supply purposes. This incidental purpose specifically means hydropower development is subordinate to the original Congressionally-authorized water supply project purposes.

The provisions also make clear that Reclamation shall notify and consult with the applicable water users benefitting from the conduit. The Committee expects the agency to communicate in written and verbal form with the operators and beneficiaries of a Reclamation conduit facility prior to issuing any lease of power privilege or when identifying a conduit for potential hydropower development. These operators/beneficiaries are acutely aware of facility operations and would provide valuable knowledge and experience to determine the feasibility of the contemplated small-scale hydropower development.

The provisions also require the federal government to completely protect the planning, design, construction, operation, maintenance and other interests of the federally-owned conduit. The Committee expects Reclamation to work with the applicable conduit operator/beneficiary on these terms and conditions prior to issuance. The Committee also expects that such terms and conditions will be written and detailed in nature, mandatory for the conduit hydropower developer, and shall be enforced by Reclamation. The Committee is aware that Reclamation has come under significant and justified criticism for not adequately communicating with operators/beneficiaries on existing conduit hydropower projects. Section 2 also ensures that nothing in the bill shall alter or affect any existing agreements for the development of conduit hydropower projects or disposition of revenues.

Finally, the section provides definitions for terms used in the bill.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 678—Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act

CBO estimates that enacting H.R. 678 would increase federal offsetting receipts by $1 million over the 2014–2023 period because it would authorize the Bureau of Reclamation to permit private entities to develop hydropower at certain facilities owned by the bureau. Pay-as-you-go procedures apply because enacting the legislation would increase offsetting receipts (a credit against direct spending). Enacting the bill would not affect revenues.

H.R. 678 would clarify that the jurisdiction over small hydropower development by private entities on all bureau irrigation canals and conduits lies solely with the bureau. Under current law, the bureau or the Federal Energy Regulatory Commission (FERC) has jurisdiction over hydropower development at such facilities. CBO expects that this change would result in a small increase in receipts from hydropower development because the federal government collects no funds from project developers if a project is authorized by FERC.

Typically the bureau's agreements with private developers of hydropower facilities on small conduits generate annual receipts to the federal government ranging from about $10,000—at most facilities—up to $100,000 for a few larger sites. Selecting the lessee, negotiating the leasing contract, and constructing new facilities usually takes two to four years depending on the size of the project. Under the legislation, CBO expects that the federal government would receive some additional receipts beginning two years after enactment and that those additional collections would grow to about $200,000 a year by 2023.

The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. H.R. 678 would increase offsetting receipts beginning in 2015. The budgetary changes that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 678, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON MARCH 20, 2013

	By fiscal year, in millions of dollars—												
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2013–2018	2013–2023
	NET INCREASE OR DECREASE (−) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	0	0	0	0	−1

H.R. 678 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 Aurora Swanson. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974,

this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that enacting H.R. 678 would increase federal offsetting receipts by $1 million over the 2014–2023 period because it would authorize the Bureau of Reclamation to permit private entities to develop hydropower at certain facilities owned by the bureau.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

1. Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

2. Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

RECLAMATION PROJECT ACT OF 1939

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SEC. 9. (a) * * *

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(c) [The Secretary is authorized to enter into contracts to furnish water]

(1) The Secretary is authorized to enter into contracts to furnish water for municipal water supply or miscellaneous pur-

poses: *Provided*, That any such contract either [(1) shall] *(A) shall* require repayment to the United States, over a period of not to exceed forty years from the year in which water is first delivered for the use of the contracting party, with interest not exceeding the rate of 3½ per centum per annum if the Secretary determines an interest charge to be proper, of an appropriate share as determined by the Secretary of that part of the construction costs allocated by him to municipal water supply or other miscellaneous purposes; or [(2) shall] *(B) shall* be for such periods, not to exceed forty years, and at such rates as in the Secretary's judgment will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost and an appropriate share of such fixed charges as the Secretary deems proper, and shall require the payment of said rates each year in advance of delivery of water for said year. Any sale of electric power or lease of power privileges, made by the Secretary in connection with the operation of any project or division of a project, shall be for such periods, not to exceed forty years, and at such rates as in his judgment will produce power revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost, interest on an appropriate share of the construction investment at not less than 3 per centum per annum, and such other fixed charges as the Secretary deems proper: *Provided further*, That in said sales or leases preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 and any amendments thereof. Nothing in this subsection shall be applicable to provisions in existing contracts, made pursuant to law, for the use of power and miscellaneous revenues of a project for the benefit of users of water from such project. The provisions of this subsection [respecting the terms of sales of electric power and leases of power privileges shall be in addition and alternative to any authority in existing laws relating to particular projects] *respecting the sales of electric power and leases of power privileges shall be an authorization in addition to and alternative to any authority in existing laws related to particular projects, including small conduit hydropower development*. No contract relating to municipal water supply or miscellaneous purposes or to electric power or power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes.

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

(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to small conduit hydro-

power development, excluding siting of associated transmission on Federal lands, under this subsection.

(4) The Power Resources Office of the Bureau of Reclamation shall be the lead office of small conduit hydropower activities conducted under this subsection.

(5) Nothing in this subsection shall obligate the Western Area Power Administration, the Bonneville Power Administration, or the Southwestern Power Administration to purchase or market any of the power produced by the facilities covered under this subsection and none of the costs associated with production or delivery of such power shall be assigned to project purposes for inclusion in project rates.

(6) Nothing in this subsection shall alter or impede the delivery and management of water by Bureau of Reclamation facilities, as water used for conduit hydropower generation shall be deemed incidental to use of water for the original project purposes. Lease of power privilege shall be made only when, in the judgment of the Secretary, the exercise of the lease will not be incompatible with the purposes of the project or division involved, nor shall it create any unmitigated financial or physical impacts to the project or division involved, and shall be on such terms and conditions as in the judgment of the Secretary in consultation with the appropriate irrigation district or water users association, will adequately protect the planning, design, construction, operation, maintenance, and other interests of the United States and the project or division involved.

(7) Nothing in this subsection shall alter or affect any existing agreements for the development of conduit hydropower projects or disposition of revenues.

(8) In this subsection:

(A) CONDUIT.—The term "conduit" means any Bureau of Reclamation tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

(B) IRRIGATION DISTRICT.—The term "irrigation district" means any irrigation, water conservation, multicounty water conservation district, or any separate public entity composed of two or more such districts and jointly exercising powers of its member districts.

(C) RESERVED WORK.—The term "reserved work" means any conduit that is included in project works the care, operation, and maintenance of which has been reserved by the Secretary, through the Commissioner of the Bureau of Reclamation.

(D) TRANSFERRED WORK.—The term "transferred work" means any conduit that is included in project works the care, operation, and maintenance of which has been transferred to a legally organized water users association or irrigation district.

(E) SMALL CONDUIT HYDROPOWER.—The term "small conduit hydropower" means a facility capable of producing 5 megawatts or less of electric capacity.

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DISSENTING VIEWS

H.R. 678 seeks to generate more hydropower at existing facilities by developing conduit and in-canal hydropower. Just like water recycling, water efficiencies, and energy efficiencies projects across the west, small hydropower projects on existing water infrastructure can have a positive cumulative impact.

H.R. 678 would amend the Reclamation Project Act of 1939 to facilitate the private development of small conduit hydropower at Bureau of Reclamation (Reclamation) facilities. The legislation clarifies the question of whether Federal Energy Regulatory Commission (FERC) or Reclamation has jurisdiction over private hydropower development on Reclamation conduits by authorizing Reclamation to develop power at all such facilities. Small conduit hydropower projects are defined as projects producing 5-megawatts or less. The Power Marketing Administrations are not obligated to purchase or market the power produced. Unfortunately, the legislation also contains an unnecessary National Environmental Policy Act (NEPA) waiver.

Almost identical legislation (H.R. 2842) was considered by the House during the 112th Congress. Since H.R. 2842's consideration, Reclamation released their final Directives & Standards for the Lease of Power Privilege (LOPP) on September 28, 2012. Reclamation, on its own accord, applied a categorical exclusion (CE) under NEPA to small conduit hydropower projects as part of its final Directives & Standards for LOPP process. In fact, Reclamation's CE went even further: it can be used to expedite a wide variety of low-impact hydropower projects built on Reclamation's water infrastructure. Waiver of NEPA in this bill is unnecessary, since Reclamation has already implemented guidance for a CE. The legislation seeks to solve a NEPA problem that does not exist.

The Majority argues that NEPA process for the LOPP is both time intensive and costly. Yet the witnesses who offered supporting testimony provided only vague theoretical estimates for environmental compliance costs without having actually developed or entered into a lease to develop a conduit hydropower project using Reclamation's LOPP process. Furthermore, the Committee has not received testimony from any developers who have demonstrated, based on experience, that Reclamation's NEPA process for LOPP—with or without the categorical exclusion—has posed a problem or an obstacle to development. FERC has used a CE for more than 15 years, demonstrating that conduit projects can be permitted quickly. Reclamation's Directives & Standards for the LOPP apply a CE that is functionally identical to FERC's small conduit project CE.

The Majority argues that the CE does not work because no one has used it yet. The only reason that the CE has not yet been tested is that since updating its Directives & Standards in late Sep-

tember, Reclamation has not received a formal LOPP application, and therefore has not been able to apply a CE.

Despite these new developments, the legislation that passed out of Committee in this Congress still contains the same unnecessary NEPA waiver that stopped the legislation from becoming law last Congress. There is a misconception that NEPA is solely an environmental issue. NEPA looks at the impacts on ALL uses of the system: irrigation, the environment, private property rights and more. NEPA analysis also helps Reclamation to ensure that any new project does not interfere with the primary authorized purposes of the project.

Committee Democrats support legislation that promotes small conduit hydropower on Reclamation facilities while respecting and acknowledging the need for NEPA review, yet H.R. 678 is not such legislation. It unnecessarily waives NEPA and therefore disregards impacts on all uses of the system. Had the bill in the previous Congress not contained a NEPA waiver, it would have most likely become law. Instead, the Majority committed the Committee's time and resources to moving a nearly identical version of the bill that died in the 112th Congress and has slim chance of approval in the Senate. In an effort to work with the Majority, the Minority offered an amendment that would strike the unnecessary NEPA waiver. Unfortunately, our amendment was not adopted. For this reason we oppose this legislation.

EDWARD J. MARKEY.
GRACE F. NAPOLITANO.

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