

TO AUTHORIZE THE EXPANSION OF AN EXISTING  
HYDROELECTRIC PROJECT, AND FOR OTHER PURPOSES

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JUNE 2, 2017.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

R E P O R T

[To accompany H.R. 220]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 220) to authorize the expansion of an existing hydroelectric project, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. TERROR LAKE HYDROELECTRIC PROJECT UPPER HIDDEN BASIN DIVERSION AUTHORIZATION.**

(a) **DEFINITIONS.**—In this section:

(1) **COMMISSION.**—The term “Commission” means the Federal Energy Regulatory Commission.

(2) **TERROR LAKE HYDROELECTRIC PROJECT.**—The term “Terror Lake Hydroelectric Project” means the project identified in section 1325 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3212), and which is Federal Energy Regulatory Commission project number 2743.

(3) **UPPER HIDDEN BASIN DIVERSION EXPANSION.**—The term “Upper Hidden Basin Diversion Expansion” means the expansion of the Terror Lake Hydroelectric Project as generally described in Exhibit E to the Upper Hidden Basin Grant Application dated July 2, 2014, and submitted to the Alaska Energy Authority Renewable Energy Fund Round VIII by Kodiak Electric Association, Inc.

(b) **AUTHORIZATION.**—The licensee for the Terror Lake Hydroelectric Project may occupy not more than 20 acres of Federal land to construct, operate, and maintain the Upper Hidden Basin Diversion Expansion without further authorization of the Secretary of the Interior or under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(c) **SAVINGS CLAUSE.**—The Upper Hidden Basin Diversion Expansion shall be subject to appropriate terms and conditions included in an amendment to a license issued by the Commission pursuant to the Federal Power Act (16 U.S.C. 791a et seq.), including section 4(e) of that Act (16 U.S.C. 797(e)), following an environ-

mental review by the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

#### PURPOSE OF THE BILL

The purpose of H.R. 220 is to authorize the expansion of an existing hydroelectric project.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 220, as amended, authorizes the limited expansion of the Terror Lake hydroelectric project on Kodiak Island, Alaska.

According to the Alaska Energy Authority, the Terror Lake Hydroelectric Project (Project) on Kodiak Island, Alaska, provides 31 Megawatts of hydropower capacity to the Island's approximately 13,789 residents and a U.S. Coast Guard (USCG) Station. Kodiak Island (Island) is off the North American electricity grid and relies solely on electric generation within the Island or imported diesel fuel.

The Project, licensed by the Federal Energy Regulatory Commission (FERC) as Project No. 2743 in 1981, was the result of an agreement between the federal government, the State of Alaska, environmental groups and the Kodiak Electric Association (KEA). Since the Project is within the Island's National Wildlife Refuge (Refuge), the settlement required the following mitigation measures: (1) the Alaska Department of Natural Resources agreed to manage 28,000 acres of state-owned land contiguous to the Refuge at Kiliuda Bay as though it were part of the Refuge; and (2) the State of Alaska agreed that at least half of the Shearwater Peninsula would be designated as wildlife habitat where grazing would be prohibited. According to the U.S. Fish and Wildlife Service (USFWS), the Refuge currently comprises 82.6% of the Island.

KEA, a rural electric cooperative, owns and operates the Project. According to KEA, nearly 99.7% of their energy sources are renewable, consisting of wind energy and hydropower produced at Terror Lake, with the remaining 0.3% consisting of diesel generation. One of KEA's largest customers is the USCG base on the Island, which includes Air Station Kodiak, USCG Cutter Spar, and USCG Cutter Alex Haley. KEA also provides electricity for USCG housing and support services.

In light of growing electricity demand on the Island, there is concern that KEA will be unable to meet the needs of the residents without acquiring additional energy resources. According to KEA, the increased generation capacity must come in the form of either an expansion of the Project or increased diesel fuel imports. As a result, the utility has proposed a Project expansion which would divert a small portion of flows in the Upper Hidden Basin into Terror Lake via a 1.2 mile underground tunnel. According to KEA, this diversion would increase the water resources at Terror Lake by 25%, resulting in an additional 33,000 Megawatt-hours (MWh) of generation each year, with a total estimated output of approximately 168 million MWh annually. Without the Project expansion, Alaska's Department of Environmental Quality estimates that the diesel generation required for heat alone will result in an annual release of 140 tons of NO<sub>x</sub> and 6,500 tons of greenhouse gases into the atmosphere.

H.R. 220, as amended, allows KEA to use not more than 20 acres of federal land within the Refuge for the proposed expansion—which is consistent with KEA’s request. The legislation specifically requires the expansion to be subject to appropriate terms and conditions under the Federal Power Act. This would allow USFWS to impose “mandatory conditions” under Section 4(e) of the Federal Power Act for mitigation.

The bill seeks to expedite the expansion in light of rising costs and a limited construction season. According to KEA, delaying construction by just one year would add \$11 million in additional project costs, which includes \$1.3 million in costs associated with future supplemental diesel generation that will be required to meet electricity demand. All of these costs would be borne by the Island’s ratepayers, including the USCG.

#### SECTION-BY-SECTION ANALYSIS

*Section 1*, as amended, authorizes the licensee for the Terror Lake hydroelectric project to occupy not more than 20 acres of federal land to construct, operate and maintain the Upper Hidden Basin Diversion Expansion without further authorization of the Secretary of the Interior under the Alaska National Interest Lands Conservation Act. This section also clarifies that this legislation does not impact any requirement to procure a revised license from FERC or impact the ability of the USFWS to impose conditions on that license, pursuant to the Federal Power Act and in particular section 4(e) of that Act. This also in no way impacts any requirement to conduct an environmental review pursuant to the National Environmental Policy Act of 1969.

#### COMMITTEE ACTION

H.R. 220 was introduced on January 3, 2017, by Congressman Don Young (R-AK). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittees on Water, Power and Oceans and Federal Lands. On April 3, 2017, the Subcommittee on Water, Power and Oceans held a hearing on the bill. On April 26, 2017, the Natural Resources Committee met to consider the bill. The Subcommittees on Water, Power and Oceans and Federal Lands were discharged by unanimous consent. Congressman Don Young offered an amendment designated #1 to the bill; it was adopted by unanimous consent. No further amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent on April 27, 2017.

#### 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 AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of

the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 5, 2017.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 220, a bill to authorize the expansion of an existing hydroelectric project, and for other purposes.

If you wish further details of this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 220—A bill to authorize the expansion of an existing hydroelectric project, and or other purposes*

H.R. 220 would specify that the licensee of the Terror Lake hydroelectric project (number 2743), located within the Kodiak National Wildlife Refuge in Alaska, can expand that project to occupy not more than 20 acres of additional federal land. Under the bill, the proposed expansion would require no further approval by the Secretary of the Interior.

CBO estimates that enacting H.R. 220 would not significantly affect the federal budget. The proposed expansion could have a minor effect on spending by the Federal Energy Regulatory Commission (FERC), which regulates the Terror Lake hydroelectric project. Because FERC recovers 100 percent of its costs through user fees, however, any change in that agency's costs (which are controlled through annual appropriation acts) would be offset by an equal change in fees that the commission charges, resulting in no net change in federal spending.

According to the Department of the Interior, the federal lands that would be affected by the proposed expansion currently generate no significant receipts from programs to develop natural resources and are not expected to do so in the future. As a result, CBO expects that the proposed expansion would not affect offsetting receipts (which are treated as reductions in direct spending). Because H.R. 220 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 220 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 220 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.

On April 6, 2017, CBO transmitted a cost estimate for S. 214, a bill to authorize the expansion of an existing hydroelectric project, as ordered reported by the Senate Committee on Energy and Nat-

ural Resources on March 30, 2017. The two pieces of legislation are similar and CBO's estimate of their budgetary effects is the same.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. 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 authorize the expansion of an existing hydroelectric project.

#### 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

Directed Rule Making. This bill does not contain any directed rule makings.

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

If enacted, this bill would make no changes in existing law.