

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.**

**S. 306**

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

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. UDALL of Colorado

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

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”.

7 **SEC. 2. AUTHORIZATION.**

8 Section 9(c) of the Reclamation Project Act of 1939

9 (43 U.S.C. 485h(c)) is amended—

1           (1) by striking “The Secretary is authorized to  
2 enter into contracts to furnish water” and inserting  
3 the following:

4           “(1) The Secretary is authorized to enter into  
5 contracts to furnish water”;

6           (2) by striking “(1) shall” and inserting “(A)  
7 shall”;

8           (3) by striking “(2) shall” and inserting “(B)  
9 shall”;

10          (4) by striking “respecting the terms of sales of  
11 electric power and leases of power privileges shall be  
12 in addition and alternative to any authority in exist-  
13 ing laws relating to particular projects” and insert-  
14 ing “respecting the sales of electric power and leases  
15 of power privileges shall be an authorization in addi-  
16 tion to and alternative to any authority in existing  
17 laws related to particular projects, including small  
18 conduit hydropower development”; and

19          (5) by adding at the end the following:

20          “(2)(A) When carrying out this subsection, the  
21 Secretary shall first offer the lease of power privilege  
22 to an irrigation district or water users association  
23 operating the applicable transferred conduit, or to  
24 the irrigation district or water users association re-  
25 ceiving water from the applicable reserved conduit.

1       The Secretary shall determine a reasonable time  
2       frame for the irrigation district or water users asso-  
3       ciation to accept or reject a lease of power privilege  
4       offer for a small conduit hydropower project.

5               “(B) If the irrigation district or water users as-  
6       sociation elects not accept a lease of power privilege  
7       offer under subparagraph (A), the Secretary shall  
8       offer the lease of power privilege to other parties in  
9       accordance with this subsection.

10              “(3) The Bureau of Reclamation shall apply its  
11       categorical exclusion process under the National En-  
12       vironmental Policy Act of 1969 (42 U.S.C. 4321 et  
13       seq.) to small conduit hydropower development  
14       under this subsection, excluding siting of associated  
15       transmission facilities on Federal lands.

16              “(4) The Power Resources Office of the Bureau  
17       of Reclamation shall be the lead office of small con-  
18       duit hydropower policy and procedure-setting activi-  
19       ties conducted under this subsection.

20              “(5) Nothing in this subsection shall obligate  
21       the Western Area Power Administration, the Bonne-  
22       ville Power Administration, or the Southwestern  
23       Power Administration to purchase or market any of  
24       the power produced by the facilities covered under  
25       this subsection and none of the costs associated with

1 production or delivery of such power shall be as-  
2 signed to project purposes for inclusion in project  
3 rates.

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

23 “(7) Nothing in this subsection shall alter or  
24 affect any existing agreements for the development

1 of conduit hydropower projects or disposition of rev-  
2 enues.

3 “(8) Nothing in this subsection shall alter or  
4 affect any existing preliminary permit, license, or ex-  
5 emption issued by the Federal Energy Regulatory  
6 Commission under Part I of the Federal Power Act  
7 (16 U.S.C. 792 et seq.) or any project for which an  
8 application has been filed with the Federal Energy  
9 Regulatory Commission as of the date of the enact-  
10 ment of the Bureau of Reclamation Small Conduit  
11 Hydropower Development and Rural Jobs Act.

12 “(9) In this subsection:

13 “(A) CONDUIT.—The term ‘conduit’ means  
14 any Bureau of Reclamation tunnel, canal, pipe-  
15 line, aqueduct, flume, ditch, or similar man-  
16 made water conveyance that is operated for the  
17 distribution of water for agricultural, municipal,  
18 or industrial consumption and not primarily for  
19 the generation of electricity.

20 “(B) IRRIGATION DISTRICT.—The term ‘ir-  
21 rigation district’ means any irrigation, water  
22 conservation or conservancy, multicounty water  
23 conservation or conservancy district, or any sep-  
24 arate public entity composed of two or more

1 such districts and jointly exercising powers of  
2 its member districts.

3 “(C) RESERVED CONDUIT.—The term ‘re-  
4 served conduit’ means any conduit that is in-  
5 cluded in project works the care, operation, and  
6 maintenance of which has been reserved by the  
7 Secretary, through the Commissioner of the  
8 Bureau of Reclamation.

9 “(D) TRANSFERRED CONDUIT.—The term  
10 ‘transferred conduit’ means any conduit that is  
11 included in project works the care, operation,  
12 and maintenance of which has been transferred  
13 to a legally organized water users association or  
14 irrigation district.

15 “(E) SMALL CONDUIT HYDROPOWER.—  
16 The term ‘small conduit hydropower’ means a  
17 facility capable of producing 5 megawatts or  
18 less of electric capacity.”.