

115TH CONGRESS  
1ST SESSION

# S. 677

To authorize the Secretary of the Interior to coordinate Federal and State permitting processes related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture and to designate the Bureau of Reclamation as the lead agency for permit processing, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 21, 2017

Mr. BARRASSO (for himself, Mr. FLAKE, Mr. MCCAIN, Mr. HELLER, Mr. ENZI, and Mr. RISCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To authorize the Secretary of the Interior to coordinate Federal and State permitting processes related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture and to designate the Bureau of Reclamation as the lead agency for permit processing, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Water Supply Permit-  
3 ting Coordination Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) BUREAU.—The term “Bureau” means the  
7 Bureau of Reclamation.

8 (2) COOPERATING AGENCIES.—The term “co-  
9 operating agency” means a Federal agency with ju-  
10 risdiction over a review, analysis, opinion, statement,  
11 permit, license, or other approval or decision re-  
12 quired for a qualifying project under applicable Fed-  
13 eral laws and regulations, or a State agency subject  
14 to section 3(c).

15 (3) QUALIFYING PROJECTS.—The term “quali-  
16 fying projects” means new surface water storage  
17 projects in the States covered under the Act of June  
18 17, 1902 (32 Stat. 388, chapter 1093), and Acts  
19 supplemental to and amendatory of that Act (43  
20 U.S.C. 371 et seq.) constructed on lands adminis-  
21 tered by the Department of the Interior or the De-  
22 partment of Agriculture, exclusive of any easement,  
23 right-of-way, lease, or any private holding.

24 (4) SECRETARY.—The term “Secretary” means  
25 the Secretary of the Interior.

1 **SEC. 3. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**  
2 **ATING AGENCIES.**

3 (a) **ESTABLISHMENT OF LEAD AGENCY.**—The Bu-  
4 reau is established as the lead agency for purposes of co-  
5 ordinating all reviews, analyses, opinions, statements, per-  
6 mits, licenses, or other approvals or decisions required  
7 under Federal law to construct qualifying projects.

8 (b) **IDENTIFICATION AND ESTABLISHMENT OF CO-**  
9 **OPERATING AGENCIES.**—The Commissioner of the Bureau  
10 shall—

11 (1) identify, as early as practicable upon receipt  
12 of an application for a qualifying project, any Fed-  
13 eral agency that may have jurisdiction over a review,  
14 analysis, opinion, statement, permit, license, ap-  
15 proval, or decision required for a qualifying project  
16 under applicable Federal laws and regulations; and

17 (2) notify any such agency, within a reasonable  
18 timeframe, that the agency has been designated as  
19 a cooperating agency in regards to the qualifying  
20 project unless that agency responds to the Bureau in  
21 writing, within a timeframe set forth by the Bureau,  
22 notifying the Bureau that the agency—

23 (A) has no jurisdiction or authority with  
24 respect to the qualifying project;

25 (B) has no expertise or information rel-  
26 evant to the qualifying project or any review,

1 analysis, opinion, statement, permit, license, or  
 2 other approval or decision associated therewith;  
 3 or

4 (C) does not intend to submit comments  
 5 on the qualifying project or conduct any review  
 6 of such a project or make any decision with re-  
 7 spect to such project in a manner other than in  
 8 cooperation with the Bureau.

9 (c) STATE AUTHORITY.—A State in which a quali-  
 10 fying project is being considered may choose, consistent  
 11 with State law—

12 (1) to participate as a cooperating agency; and  
 13 (2) to make subject to the processes of this Act  
 14 all State agencies that—

15 (A) have jurisdiction over the qualifying  
 16 project;

17 (B) are required to conduct or issue a re-  
 18 view, analysis, or opinion for the qualifying  
 19 project; or

20 (C) are required to make a determination  
 21 on issuing a permit, license, or approval for the  
 22 qualifying project.

23 **SEC. 4. BUREAU RESPONSIBILITIES.**

24 (a) IN GENERAL.—The principal responsibilities of  
 25 the Bureau under this Act are—

1 (1) to serve as the point of contact for appli-  
2 cants, State agencies, Indian tribes, and others re-  
3 garding proposed qualifying projects;

4 (2) to coordinate preparation of unified environ-  
5 mental documentation that will serve as the basis for  
6 all Federal decisions necessary to authorize the use  
7 of Federal lands for qualifying projects; and

8 (3) to coordinate all Federal agency reviews  
9 necessary for project development and construction  
10 of qualifying projects.

11 (b) COORDINATION PROCESS.—The Bureau shall  
12 have the following coordination responsibilities:

13 (1) PREAPPLICATION COORDINATION.—Notify  
14 cooperating agencies of proposed qualifying projects  
15 not later than 30 days after receipt of a proposal  
16 and facilitate a preapplication meeting for prospec-  
17 tive applicants, relevant Federal and State agencies,  
18 and Indian tribes—

19 (A) to explain applicable processes, data  
20 requirements, and applicant submissions nec-  
21 essary to complete the required Federal agency  
22 reviews within the timeframe established; and

23 (B) to establish the schedule for the quali-  
24 fying project.

1           (2) CONSULTATION WITH COOPERATING AGEN-  
2           CIES.—Consult with the cooperating agencies  
3           throughout the Federal agency review process, iden-  
4           tify and obtain relevant data in a timely manner,  
5           and set necessary deadlines for cooperating agencies.

6           (3) SCHEDULE.—Work with the qualifying  
7           project applicant and cooperating agencies to estab-  
8           lish a project schedule. In establishing the schedule,  
9           the Bureau shall consider, among other factors—

10                   (A) the responsibilities of cooperating  
11                   agencies under applicable laws and regulations;

12                   (B) the resources available to the cooper-  
13                   ating agencies and the non-Federal qualifying  
14                   project sponsor, as applicable;

15                   (C) the overall size and complexity of the  
16                   qualifying project;

17                   (D) the overall schedule for and cost of the  
18                   qualifying project; and

19                   (E) the sensitivity of the natural and his-  
20                   toric resources that may be affected by the  
21                   qualifying project.

22           (4) ENVIRONMENTAL COMPLIANCE.—Prepare a  
23           unified environmental review document for each  
24           qualifying project application, incorporating a single  
25           environmental record on which all cooperating agen-

1       cies with authority to issue approvals for a given  
2       qualifying project shall base project approval deci-  
3       sions. Help ensure that cooperating agencies make  
4       necessary decisions, within their respective authori-  
5       ties, regarding Federal approvals in accordance with  
6       the following timelines:

7               (A) Not later than 1 year after acceptance  
8               of a completed project application when an en-  
9               vironmental assessment and finding of no sig-  
10              nificant impact is determined to be the appro-  
11              priate level of review under the National Envi-  
12              ronmental Policy Act of 1969 (42 U.S.C. 4321  
13              et seq.).

14             (B) Not later than 1 year and 30 days  
15             after the close of the public comment period for  
16             a draft environmental impact statement under  
17             the National Environmental Policy Act of 1969  
18             (42 U.S.C. 4321 et seq.), when an environ-  
19             mental impact statement is required under the  
20             same.

21             (5)       CONSOLIDATED       ADMINISTRATIVE  
22       RECORD.—Maintain a consolidated administrative  
23       record of the information assembled and used by the  
24       cooperating agencies as the basis for agency deci-  
25       sions.

1           (6) PROJECT DATA RECORDS.—To the extent  
2           practicable and consistent with Federal law, ensure  
3           that all project data is submitted and maintained in  
4           generally accessible electronic format, compile, and  
5           where authorized under existing law, make available  
6           such project data to cooperating agencies, the quali-  
7           fying project applicant, and to the public.

8           (7) PROJECT MANAGER.—Appoint a project  
9           manager for each qualifying project. The project  
10          manager shall have authority to oversee the project  
11          and to facilitate the issuance of the relevant final  
12          authorizing documents, and shall be responsible for  
13          ensuring fulfillment of all Bureau responsibilities set  
14          forth in this section and all cooperating agency re-  
15          sponsibilities under section 5.

16 **SEC. 5. COOPERATING AGENCY RESPONSIBILITIES.**

17          (a) ADHERENCE TO BUREAU SCHEDULE.—

18               (1) TIMEFRAMES.—On notification of an appli-  
19               cation for a qualifying project, the head of each co-  
20               operating agency shall submit to the Bureau a time-  
21               frame under which the cooperating agency reason-  
22               ably will be able to complete the authorizing respon-  
23               sibilities of the cooperating agency.

24               (2) SCHEDULE.—

1           (A) USE OF TIMEFRAMES.—The Bureau  
2           shall use the timeframes submitted under this  
3           subsection to establish the project schedule  
4           under section 4.

5           (B) ADHERENCE.—Each cooperating agen-  
6           cy shall adhere to the project schedule estab-  
7           lished by the Bureau under subparagraph (A).

8           (b) ENVIRONMENTAL RECORD.—The head of each  
9           cooperating agency shall submit to the Bureau all environ-  
10          mental review material produced or compiled in the course  
11          of carrying out activities required under Federal law, con-  
12          sistent with the project schedule established by the Bureau  
13          under subsection (a)(2).

14          (c) DATA SUBMISSION.—To the extent practicable  
15          and consistent with Federal law, the head of each cooper-  
16          ating agency shall submit all relevant project data to the  
17          Bureau in a generally accessible electronic format, subject  
18          to the project schedule established by the Bureau under  
19          subsection (a)(2).

20       **SEC. 6. FUNDING TO PROCESS PERMITS.**

21          (a) IN GENERAL.—The Secretary, after public notice  
22          in accordance with subchapter II of chapter 5, and chapter  
23          7, of title 5, United States Code (commonly known as the  
24          “Administrative Procedure Act”), may accept and expend  
25          funds contributed by a non-Federal public entity to expe-

1 dite the evaluation of a permit of that entity related to  
2 a qualifying project.

3 (b) EFFECT ON PERMITTING.—

4 (1) IN GENERAL.—In carrying out this section,  
5 the Secretary shall ensure that the use of funds ac-  
6 cepted under subsection (a) will not substantively or  
7 procedurally impact impartial decisionmaking with  
8 respect to permits.

9 (2) EVALUATION OF PERMITS.—In carrying out  
10 this section, the Secretary shall ensure that the eval-  
11 uation of permits carried out using funds accepted  
12 under this section shall—

13 (A) be reviewed by the Regional Director  
14 of the Bureau of the region in which the quali-  
15 fying project or activity is located (or a des-  
16 ignee); and

17 (B) use the same procedures for decisions  
18 that would otherwise be required for the evalua-  
19 tion of permits for similar projects or activities  
20 not carried out using funds authorized under  
21 this section.

22 (3) IMPARTIAL DECISIONMAKING.—In carrying  
23 out this section, the Secretary and the head of each  
24 cooperating agency receiving funds under this sec-  
25 tion for a qualifying project shall ensure that the use

1 of the funds accepted under this section for the  
2 qualifying project shall not—

3 (A) substantively or procedurally impact  
4 impartial decisionmaking with respect to the  
5 issuance of permits; or

6 (B) diminish, modify, or otherwise affect  
7 the statutory or regulatory authorities of the  
8 cooperating agency.

9 (c) LIMITATION ON USE OF FUNDS.—None of the  
10 funds accepted under this section shall be used to carry  
11 out a review of the evaluation of permits required under  
12 subsection (b)(2)(A).

13 (d) PUBLIC AVAILABILITY.—The Secretary shall en-  
14 sure that all final permit decisions carried out using funds  
15 authorized under this section are made available to the  
16 public, including on the Internet.

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