

118TH CONGRESS  
1ST SESSION

# H. R. 186

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 HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

Mr. McCLINTOCK (for himself, Mr. LAMALFA, Mr. STAUBER, and Mr. VALADAO) introduced the following bill; which was referred to the Committee on 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, unless the  
24 project applicant elects not to participate in the  
25 process authorized by this Act. Such term shall also  
26 include State-led projects (as defined in section

1 4007(a)(2) of the WIIN Act) for new surface water  
2 storage projects in the States covered under the Act  
3 of June 17, 1902 (32 Stat. 388, chapter 1093), and  
4 Acts supplemental to and amendatory of that Act  
5 (43 U.S.C. 371 et seq.) constructed on lands admin-  
6 istered by the Department of the Interior or the De-  
7 partment of Agriculture, exclusive of any easement,  
8 right-of-way, lease, or any private holding, unless the  
9 project applicant elects not to participate in the  
10 process authorized by this Act.

11 (4) SECRETARY.—The term “Secretary” means  
12 the Secretary of the Interior.

13 **SEC. 3. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**  
14 **ATING AGENCIES.**

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

20 (b) IDENTIFICATION AND ESTABLISHMENT OF CO-  
21 OPERATING AGENCIES.—The Commissioner of the Bureau  
22 shall—

23 (1) identify, as early as practicable upon receipt  
24 of an application for a qualifying project, any Fed-  
25 eral agency that may have jurisdiction over a review,

1 analysis, opinion, statement, permit, license, ap-  
2 proval, or decision required for a qualifying project  
3 under applicable Federal laws and regulations; and

4 (2) notify any such agency, within a reasonable  
5 timeframe, that the agency has been designated as  
6 a cooperating agency in regards to the qualifying  
7 project unless that agency responds to the Bureau in  
8 writing, within a timeframe set forth by the Bureau,  
9 notifying the Bureau that the agency—

10 (A) has no jurisdiction or authority with  
11 respect to the qualifying project;

12 (B) has no expertise or information rel-  
13 evant to the qualifying project or any review,  
14 analysis, opinion, statement, permit, license, or  
15 other approval or decision associated therewith;

16 or

17 (C) does not intend to submit comments  
18 on the qualifying project or conduct any review  
19 of such a project or make any decision with re-  
20 spect to such project in a manner other than in  
21 cooperation with the Bureau.

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

25 (1) to participate as a cooperating agency; and

1           (2) to make subject to the processes of this Act  
2 all State agencies that—

3           (A) have jurisdiction over the qualifying  
4 project;

5           (B) are required to conduct or issue a re-  
6 view, analysis, or opinion for the qualifying  
7 project; or

8           (C) are required to make a determination  
9 on issuing a permit, license, or approval for the  
10 qualifying project.

11 **SEC. 4. BUREAU RESPONSIBILITIES.**

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

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

17           (2) to coordinate preparation of unified environ-  
18 mental documentation that will serve as the basis for  
19 all Federal decisions necessary to authorize the use  
20 of Federal lands for qualifying projects; and

21           (3) to coordinate all Federal agency reviews  
22 necessary for project development and construction  
23 of qualifying projects.

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

1           (1) PREAPPLICATION COORDINATION.—Notify  
2 cooperating agencies of proposed qualifying projects  
3 not later than 30 days after receipt of a proposal  
4 and facilitate a preapplication meeting for prospec-  
5 tive applicants, relevant Federal and State agencies,  
6 and Indian tribes—

7           (A) to explain applicable processes, data  
8 requirements, and applicant submissions nec-  
9 essary to complete the required Federal agency  
10 reviews within the timeframe established; and

11           (B) to establish the schedule for the quali-  
12 fying project.

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

18           (3) SCHEDULE.—Work with the qualifying  
19 project applicant and cooperating agencies to estab-  
20 lish a project schedule. In establishing the schedule,  
21 the Bureau shall consider, among other factors—

22           (A) the responsibilities of cooperating  
23 agencies under applicable laws and regulations;

1 (B) the resources available to the cooper-  
2 ating agencies and the non-Federal qualifying  
3 project sponsor, as applicable;

4 (C) the overall size and complexity of the  
5 qualifying project;

6 (D) the overall schedule for and cost of the  
7 qualifying project; and

8 (E) the sensitivity of the natural and his-  
9 toric resources that may be affected by the  
10 qualifying project.

11 (4) ENVIRONMENTAL COMPLIANCE.—Prepare a  
12 unified environmental review document for each  
13 qualifying project application, incorporating a single  
14 environmental record on which all cooperating agen-  
15 cies with authority to issue approvals for a given  
16 qualifying project shall base project approval deci-  
17 sions. Help ensure that cooperating agencies make  
18 necessary decisions, within their respective authori-  
19 ties, regarding Federal approvals in accordance with  
20 the following timelines:

21 (A) Not later than 1 year after acceptance  
22 of a completed project application when an en-  
23 vironmental assessment and finding of no sig-  
24 nificant impact is determined to be the appro-  
25 priate level of review under the National Envi-

1           ronmental Policy Act of 1969 (42 U.S.C. 4321  
2           et seq.).

3           (B) Not later than 1 year and 30 days  
4           after the close of the public comment period for  
5           a draft environmental impact statement under  
6           the National Environmental Policy Act of 1969  
7           (42 U.S.C. 4321 et seq.), when an environ-  
8           mental impact statement is required under the  
9           same.

10           (5)       CONSOLIDATED       ADMINISTRATIVE  
11           RECORD.—Maintain a consolidated administrative  
12           record of the information assembled and used by the  
13           cooperating agencies as the basis for agency deci-  
14           sions.

15           (6) PROJECT DATA RECORDS.—To the extent  
16           practicable and consistent with Federal law, ensure  
17           that all project data is submitted and maintained in  
18           generally accessible electronic format, compile, and  
19           where authorized under existing law, make available  
20           such project data to cooperating agencies, the quali-  
21           fying project applicant, and to the public.

22           (7) PROJECT MANAGER.—Appoint a project  
23           manager for each qualifying project. The project  
24           manager shall have authority to oversee the project  
25           and to facilitate the issuance of the relevant final



1 authorizing documents, and shall be responsible for  
2 ensuring fulfillment of all Bureau responsibilities set  
3 forth in this section and all cooperating agency re-  
4 sponsibilities under section 5.

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

6 (a) ADHERENCE TO BUREAU SCHEDULE.—

7 (1) TIMEFRAMES.—On notification of an appli-  
8 cation for a qualifying project, the head of each co-  
9 operating agency shall submit to the Bureau a time-  
10 frame under which the cooperating agency reason-  
11 ably will be able to complete the authorizing respon-  
12 sibilities of the cooperating agency.

13 (2) SCHEDULE.—

14 (A) USE OF TIMEFRAMES.—The Bureau  
15 shall use the timeframes submitted under this  
16 subsection to establish the project schedule  
17 under section 4.

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

21 (b) ENVIRONMENTAL RECORD.—The head of each  
22 cooperating agency shall submit to the Bureau all environ-  
23 mental review material produced or compiled in the course  
24 of carrying out activities required under Federal law, con-

1 sistent with the project schedule established by the Bureau  
2 under subsection (a)(2).

3 (c) DATA SUBMISSION.—To the extent practicable  
4 and consistent with Federal law, the head of each cooper-  
5 ating agency shall submit all relevant project data to the  
6 Bureau in a generally accessible electronic format, subject  
7 to the project schedule established by the Bureau under  
8 subsection (a)(2).

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

10 (a) IN GENERAL.—The Secretary, after public notice  
11 in accordance with subchapter II of chapter 5, and chapter  
12 7, of title 5, United States Code (commonly known as the  
13 “Administrative Procedure Act”), may accept and expend  
14 funds contributed by a non-Federal public entity to expe-  
15 dite the evaluation of a permit of that entity related to  
16 a qualifying project.

17 (b) EFFECT ON PERMITTING.—

18 (1) EVALUATION OF PERMITS.—In carrying out  
19 this section, the Secretary shall ensure that the eval-  
20 uation of permits carried out using funds accepted  
21 under this section shall—

22 (A) be reviewed by the Regional Director  
23 of the Bureau of the region in which the quali-  
24 fying project or activity is located (or a des-  
25 ignee); and

1           (B) use the same procedures for decisions  
2           that would otherwise be required for the evalua-  
3           tion of permits for similar projects or activities  
4           not carried out using funds authorized under  
5           this section.

6           (2) IMPARTIAL DECISION MAKING.—In carrying  
7           out this section, the Secretary and the head of each  
8           cooperating agency receiving funds under this sec-  
9           tion for a qualifying project shall ensure that the use  
10          of the funds accepted under this section for the  
11          qualifying project shall not—

12                 (A) substantively or procedurally impact  
13                 impartial decision making with respect to the  
14                 issuance of permits; or

15                 (B) diminish, modify, or otherwise affect  
16                 the statutory or regulatory authorities of the  
17                 cooperating agency.

18          (c) LIMITATION ON USE OF FUNDS.—None of the  
19          funds accepted under this section shall be used to carry  
20          out a review of the evaluation of permits required under  
21          subsection (b)(1)(A).

22          (d) PUBLIC AVAILABILITY.—The Secretary shall en-  
23          sure that all final permit decisions carried out using funds

1 authorized under this section are made available to the  
2 public, including on the internet.

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