

111TH CONGRESS
2D SESSION

H. R. 4474

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2010

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To authorize the continued use of certain water diversions located on National Forest System land in the Frank Church-River of No Return Wilderness and the Selway-Bitterroot Wilderness in the State of Idaho, 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 “Idaho Wilderness
3 Water Facilities Act”.

4 **SEC. 2. TREATMENT OF EXISTING WATER DIVERSIONS IN**
5 **FRANK CHURCH-RIVER OF NO RETURN WIL-**
6 **DERNESS AND SELWAY-BITTERROOT WIL-**
7 **DERNESS, IDAHO.**

8 (a) AUTHORIZATION FOR CONTINUED USE.—The
9 Secretary of Agriculture is authorized to issue a special
10 use authorization to each of the 20 owners of a water stor-
11 age, transport, or diversion facility (in this section referred
12 to as a “facility”) located on National Forest System land
13 in the Frank Church-River of No Return Wilderness or
14 the Selway-Bitterroot Wilderness (as identified on the
15 map titled “Unauthorized Private Water Diversions lo-
16 cated within the Frank Church River of No Return Wil-
17 derness”, dated December 14, 2009, or the map titled
18 “Unauthorized Private Water Diversions located within
19 the Selway-Bitterroot Wilderness”, dated December 11,
20 2009) for the continued operation, maintenance, and re-
21 construction of the facility if the Secretary determines
22 that—

23 (1) the facility was in existence on the date on
24 which the land upon which the facility is located was
25 designated as part of the National Wilderness Pres-

ervation System (in this section referred to as “the date of designation”);

(2) the facility has been in substantially continuous use to deliver water for the beneficial use on the owner’s non-Federal land since the date of designation;

(3) the owner of the facility holds a valid water right for use of the water on the owner’s non-Federal land under Idaho State law, with a priority date that predates the date of designation; and

(4) it is not practicable or feasible to relocate the facility to land outside of the wilderness and continue the beneficial use of water on the non-Federal land recognized under State law.

(b) TERMS AND CONDITIONS.—

(1) EQUIPMENT, TRANSPORT, AND USE TERMS AND CONDITIONS.—In a special use authorization issued under subsection (a), the Secretary is authorized to—

(A) allow use of motorized equipment and mechanized transport for operation, maintenance, or reconstruction of a facility, if the Secretary determines that—

(i) the use is necessary to allow the facility to continue delivery of water to the

1 non-Federal land for the beneficial uses
2 recognized by the water right held under
3 Idaho State law; and

4 (ii) after conducting a minimum tool
5 analysis for the facility, the use of non-
6 motorized equipment and nonmechanized
7 transport is impracticable or infeasible;
8 and

9 (B) preclude use of the facility for the
10 storage, diversion, or transport of water in ex-
11 cess of the water right recognized by the State
12 of Idaho on the date of designation.

13 (2) ADDITIONAL TERMS AND CONDITIONS.—In
14 a special use authorization issued under subsection
15 (a), the Secretary is authorized to—

16 (A) require or allow modification or reloca-
17 tion of the facility in the wilderness, as the Sec-
18 retary determines necessary, to reduce impacts
19 to wilderness values set forth in section 2 of the
20 Wilderness Act (16 U.S.C. 1131) if the bene-
21 ficial use of water on the non-Federal land is
22 not diminished; and

23 (B) require that the owner provide a recip-
24 rocal right of access across the non-Federal
25 property, in which case, the owner shall receive

Attest: LORRAINE C. MILLER,
Clerk.