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SENATE

REPORT
111–195

TIME EXTENSION OF A HYDROELECTRIC PROJECT FOR THE AMERICAN FALLS RESERVOIR

MAY 24, 2010.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 3099]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 3099) to reinstate and extend the deadline for commencement of construction of a hydroelectric project involving the American Falls Reservoir, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 3099 is to reinstate the license for, and extend the deadline for commencement of construction of a hydroelectric project involving the American Falls Reservoir in Idaho.

BACKGROUND AND NEED

On September 26, 2003, the Federal Energy Regulatory Commission (FERC), licensed the Lateral 993 Project to the American Falls Reservoir District No. 2 and Big Wood Canal Company as Federal Energy Regulatory Commission Project No. 12423. In 2005, FERC granted the licensee the maximum, two-year extension of the license allowed by section 13 of the Federal Power Act (16 U.S.C. 806). On August 3, 2009, FERC terminated the license after finding that the project construction had not commenced by the extended deadline of September 26, 2007. Legislation is required to reinstate the terminated license and extend the deadline for commencement of construction of the proposed hydroelectric project.

LEGISLATIVE HISTORY

Senator Risch introduced S. 3099 on March 10, 2010. The subcommittee on Water and Power held a hearing on S. 3099 on April 27, 2010. At its business meeting on May 6, 2010, the Committee on Energy and Natural Resources ordered S. 3099 favorably reported without amendment.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 6, 2010, by voice vote of a quorum present, recommends that the Senate pass S. 3099.

SECTION-BY-SECTION ANALYSIS

Section 1 requires FERC, at the request of the licensee for the project and after reasonable notice and in accordance with FERC procedures, to reinstate the license issued for FERC project number 12423 and to extend the time required to commence the construction of project works for three years beginning on the date of enactment.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 3099—A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project involving the American Falls Reservoir

CBO estimates that implementing S. 3099 would have no net effect on the federal budget. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply. S. 3099 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.

S. 3099 would authorize the Federal Energy Regulatory Commission (FERC) to extend the deadline for beginning construction of a hydroelectric project (number 12423) in the American Falls Reservoir in Idaho. The proposed extension could have a minor impact on FERC's workload. Because FERC recovers 100 percent of its costs through user fees, any change in its administrative costs would be offset by an equal change in fees that the commission charges. Therefore, the legislation's provisions would have no net budgetary impact.

Because FERC's administrative costs are controlled through annual appropriation acts, enacting S. 3099 would not affect direct spending or revenues.

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

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 3099.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 3099, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 3099, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, DC, April 26, 2010.

Re: S. 3099

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources
Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BINGAMAN: This letter is in response to your request for my views on S. 3099. That bill would require the Federal Energy Regulatory Commission to reinstate, and grant a three-year extension of the commencement of construction deadline of; the license for the proposed 1.5-megawatt Lateral 993 Hydroelectric Project No. 12423, to be located at the juncture of the 993 Lateral Canal and the North Gooding Main Canal, northwest of the town of Shoshone, in Lincoln County, Idaho.

The Commission issued an original license for this project, to American Falls Reservoir District No. 2 and Big Wood Canal, on September 26, 2003. The license provided that the company was required to commence project construction within two years of the date of the license, the maximum period permitted by section 13 of the Federal Power Act. The Commission subsequently granted a two-year extension of the commencement of construction deadline, again the maximum authorized by section 13. Construction had not commenced when that deadline expired, on September 26, 2007. Section 13 provides that, when construction has not timely commenced, the Commission must terminate the license. The Commission terminated the license by order dated August 3, 2009.

I and the last several Commission Chairmen have taken the position of not opposing legislation that would extend the commencement of construction deadline up to 10 years from the date that the license in question was issued. Where proposed extensions would run beyond that time, there has been a sense that the public interest is better served by releasing the site for other public uses. Because S. 3099 authorizes the Commission to grant a three-year extension from the date of the bill's enactment, assuming that the bill is enacted by September 26, 2010, thus extending the commencement of construction deadline to ten years from when the license was issued, I do not oppose the bill.

If I can be of further assistance to you on this or any other Commission matter, please let me know.

Sincerely,

JON WELLINGHOFF,
Chairman.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 3099, as ordered reported.

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