

113TH CONGRESS
1ST SESSION

H. R. 2741

To clarify that, with respect to each Missouri River mainstem reservoir of the Corps of Engineers located in a State, the State maintains authority to allocate and appropriate the quantity of water in the reservoir that is attributable to the natural flows of the Missouri River within the boundaries of the State, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2013

Mrs. NOEM (for herself and Mr. CRAMER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To clarify that, with respect to each Missouri River mainstem reservoir of the Corps of Engineers located in a State, the State maintains authority to allocate and appropriate the quantity of water in the reservoir that is attributable to the natural flows of the Missouri River within the boundaries of the State, 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. STATE AUTHORITY TO ALLOCATE AND APPRO-**
2 **PRIATE WATERS IN MISSOURI RIVER**
3 **MAINSTEM RESERVOIRS.**

4 (a) DECLARATION OF POLICY.—It is declared to be
5 the policy of Congress that—

6 (1) a State has authority to manage the waters
7 of rivers located within the boundaries of the State;
8 and

9 (2) accordingly, with respect to each Missouri
10 River mainstem reservoir of the Corps of Engineers,
11 the State in which the reservoir is located maintains
12 authority to allocate and appropriate the quantity of
13 water in the reservoir that is attributable to the nat-
14 ural flows of the Missouri River within the bound-
15 aries of the State.

16 (b) NATURAL FLOWS.—For purposes of this sec-
17 tion—

18 (1) the term “natural flows” means waters of
19 the Missouri River that would be flowing in a State
20 in the absence of a dam that forms a Missouri River
21 mainstem reservoir of the Corps of Engineers; and

22 (2) the quantity of natural flows shall be deter-
23 mined based on average monthly flows (excluding
24 depletions) and shall be calculated for the entire pe-
25 riod of record, including the periods before, during,
26 and after construction of any dams or reservoirs.

1 (c) MISSOURI RIVER SYSTEM RESERVOIRS.—

2 (1) POLICIES AND PROCEDURES.—All policies
3 and procedures for the operations of Missouri River
4 mainstem reservoirs of the Corps of Engineers shall
5 be consistent with the declared policy under sub-
6 section (a).

7 (2) DETERMINATION OF NATURAL FLOWS.—
8 With respect to each Missouri River mainstem res-
9 ervoir of the Corps of Engineers, the Secretary shall
10 determine, in consultation with the State in which
11 the reservoir is located, the quantity of water in the
12 reservoir that is attributable to the natural flows of
13 the Missouri River within the boundaries of the
14 State.

15 (3) JUDICIAL REVIEW.—A State may seek judi-
16 cial review of a determination under paragraph (2)
17 under chapter 7 of title 5, United States Code.

18 (4) PROHIBITION ON FEES.—

19 (A) IN GENERAL.—The Secretary may not
20 charge a fee in connection with water attrib-
21 utable to the natural flows of the Missouri
22 River.

23 (B) INTERIM RULE.—Until the quantity of
24 the natural flows of the Missouri River within
25 the boundaries of a State is determined under

1 subsection (e)(2) through final agency action,
2 the Secretary may not charge any fee in con-
3 nection with water of the Missouri River in the
4 State, without the consent of the State.

5 (5) REPORT TO CONGRESS.—Not later than
6 180 days after the date of enactment of this Act, the
7 Secretary shall submit to Congress a report on de-
8 terminations made under paragraph (2).

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