

113TH CONGRESS  
1ST SESSION

# H. R. 876

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.

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2013

Mr. SIMPSON introduced the following bill; which was referred to the  
Committee on Natural Resources

---

## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Idaho Wilderness  
5 Water Resources Protection Act”.

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

5 (a) AUTHORIZATION FOR CONTINUED USE.—The  
6 Secretary of Agriculture shall issue a special use author-  
7 ization to the owners of a water storage, transport, or di-  
8 version facility (in this section referred to as a “facility”)  
9 located on National Forest System land in the Frank  
10 Church-River of No Return Wilderness and the Selway-  
11 Bitterroot Wilderness for the continued operation, mainte-  
12 nance, and reconstruction of the facility if the Secretary  
13 determines that—

14 (1) the facility was in existence on the date on  
15 which the land upon which the facility is located was  
16 designated as part of the National Wilderness Pres-  
17 ervation System (in this section referred to as “the  
18 date of designation”);

19 (2) the facility has been in substantially contin-  
20 uous use to deliver water for the beneficial use on  
21 the owner’s non-Federal land since the date of des-  
22 ignation;

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

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

5 (b) TERMS AND CONDITIONS.—

6           (1) REQUIRED TERMS AND CONDITIONS.—In a  
7 special use authorization issued under subsection  
8 (a), the Secretary shall—

9           (A) allow use of motorized equipment and  
10 mechanized transport for operation, mainte-  
11 nance, or reconstruction of a facility, if the Sec-  
12 retary determines that—

13           (i) the use is necessary to allow the  
14 facility to continue delivery of water to the  
15 non-Federal land for the beneficial uses  
16 recognized by the water right held under  
17 Idaho State law; and

18           (ii) the use of nonmotorized equip-  
19 ment and nonmechanized transport is im-  
20 practicable or infeasible; and

21           (B) preclude use of the facility for the  
22 storage, diversion, or transport of water in ex-  
23 cess of the water right recognized by the State  
24 of Idaho on the date of designation.

1           (2) DISCRETIONARY TERMS AND CONDI-  
2           TIONS.—In a special use authorization issued under  
3           subsection (a), the Secretary may—

4                   (A) require or allow modification or reloca-  
5                   tion of the facility in the wilderness, as the Sec-  
6                   retary determines necessary, to reduce impacts  
7                   to wilderness values set forth in section 2 of the  
8                   Wilderness Act (16 U.S.C. 1131) if the bene-  
9                   ficial use of water on the non-Federal land is  
10                  not diminished; and

11                  (B) require that the owner provide a recip-  
12                  rocal right of access across the non-Federal  
13                  property, in which case, the owner shall receive  
14                  market value for any right-of-way or other in-  
15                  terest in real property conveyed to the United  
16                  States, and market value may be paid by the  
17                  Secretary, in whole or in part, by the grant of  
18                  a reciprocal right-of-way, or by reduction of fees  
19                  or other costs that may accrue to the owner to  
20                  obtain the authorization for water facilities.

○