To amend the Endangered Species Act of 1973 to encourage the construction of critical infrastructure and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. STEWART introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend the Endangered Species Act of 1973 to encourage the construction of critical infrastructure and for other purposes.

1 Be it enacted by the Senate and House of Represen-
2 tatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be referred to as the “Critical Infra-
5 structure Act of 2019”.

6 SEC. 2. TRANSPARENCY AND REPORTING.

7 (a) INFORMATION INCLUDED IN MONTHLY BILLING
8 TO POWER CUSTOMERS.—The Administrators of each of
9 the Bonneville Power Administration, the Western Area
10 Power Administration, the Southwestern Power Adminis-
tration, and the Southeastern Power Administration shall include in monthly billings sent to each of their power customers information estimating and reporting all costs and factors affecting total power costs, including the costs of the customer’s share of the direct and indirect costs that are incurred by the administration related to compliance with any Federal environmental laws impacting the conservation of fish and wildlife considered by the Administrator concerned, at that Administrator’s sole discretion after consultation with consumers, to be relevant.

(b) DIRECT COSTS.—Direct costs reported under this section shall include Federal agency obligations related to—

(1) costs of studies;

(2) capital, operation, maintenance, and replacement costs; and

(3) staffing costs.

(c) INDIRECT COSTS.—Indirect costs reported under this section shall include foregone generation (including as a result of water lost to comply with any Federal environmental laws impacting the conservation of fish and wildlife), and replacement power costs, including the net costs of any transmission.

(d) COORDINATION.—The Commissioner of the Bureau of Reclamation and the head of any other affected
Federal agency shall assist the Administrators with the identification of the costs.

(c) REPORT.—No later than January 30 of each year, each of the Administrators referred to in subsection (a), in coordination with the Bureau of Reclamation and other affected Federal agencies, shall provide an annual report to the appropriate committees of the House of Representatives and the Senate that includes—

(1) all estimated costs and factors affecting total power costs, including estimates of the total direct and indirect costs that are incurred by the administration related to compliance with any Federal environmental laws impacting the conservation of fish and wildlife considered by the Administrator concerned, at that Administrator’s sole discretion after consultation with consumers, to be relevant; and

(2) the sources of replacement power.

SEC. 3. PROHIBITION OF DESIGNATION OF CERTAIN HABITAT IN AN ARTIFICIAL WATER DELIVERY OR STORAGE FACILITY AS CRITICAL HABITAT.

Section 4(a)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(3)) is amended by adding at the end the following:
“(C) The Secretary shall not designate as critical habitat any area in a water storage reservoir, water diversion structure, canal, or other water storage, diversion, or delivery facility, where habitat is periodically created and destroyed as a result of changes in water levels caused by the operation of such facility.”.

SEC. 4. POWERLINES ACCESS CATEGORICAL EXCLUSION.

Any project to install or maintain electrical transmission poles or powerlines shall be categorically excluded under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

SEC. 5. SPECIES PRESENCE IN BUFFER RIGHT-OF-WAY CATEGORICAL EXCLUSION.

Notwithstanding any other provision of law, a construction project that includes a buffer area shall be categorically excluded under the National Environmental Policy Act (42 U.S.C. 4321 et seq.) if the project would otherwise only require an assessment under such Act because of the presence of prairie dogs in such buffer area.