

DISADVANTAGED COMMUNITY DRINKING WATER
ASSISTANCE ACT

DECEMBER 18, 2020.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 5347]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5347) to require the Secretary of the Interior to establish a grant program to close gaps in access to safe drinking water in disadvantaged communities, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Disadvantaged Community Drinking Water Assistance Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) many areas in the State of California, particularly in the San Joaquin Valley region, are disproportionately impacted by drought because the areas are heavily dependent or completely reliant on groundwater supplies to meet domestic drinking water needs; and

(2) those communities throughout the State of California have been impacted by the presence of naturally occurring and human-caused constituents including arsenic, 1,2,3-Trichloropropane (1,2,3-TCP), hexavalent chromium, Dibromochloropropane (DBCP), uranium, and nitrates in local groundwater supplies.

SEC. 3. GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of the Interior shall establish and carry out a grant program to be known as the “Disadvantaged Community Drinking Water Assistance Program” to provide financial assistance to disadvantaged communities that have experienced a significant decline in quantity or quality of drinking water, and to obtain or maintain adequate quantities of water that meet the standards set by the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.). Grants under this

section may be provided to communities within a Reclamation State, as defined by the Reclamation Act of 1902 (43 U.S.C. 391)—

- (1) that are unable to meet the primary drinking water quality standards under that Act; or
 - (2) the local private or public water supply of which has been lost or severely diminished due to drought conditions, groundwater overdraft conditions, or climate change conditions.
- (b) **ELIGIBLE COMMUNITIES.**—Grants provided under this section shall be used to benefit communities—
- (1) located in a city, town, or special district with a population of not more than 60,000 of residents; and
 - (2) that have a median household income of less than 100 percent of the non-metropolitan median household income of the State in which the community is located.
- (c) **ELIGIBLE USES.**—Grants provided under this section may be used for the following:
- (1) Point of use treatment and point of entry systems.
 - (2) Wellhead treatment and distributed treatment facilities.
 - (3) Blending systems in compliance with State regulations.
 - (4) Costs related to the consolidation of multiple small rural water systems or a small rural water system with a larger system.
 - (5) Construction of new water source facilities including wells and connections to existing systems.
 - (6) Water distribution facilities.
 - (7) Water capacity fees, water supply development fees, water connections fees, and similar fees that are assessed when a new connection is added to an existing water system as part of a consolidation.
 - (8) Assistance to households to connect to water facilities.
 - (9) Emergency water supplies.
 - (10) A combination of activities described in paragraphs (1) through (9).
 - (11) Application and technical assistance costs associated with the activities described in paragraphs (1) through (9).
- (d) **PRIORITIZATION.**—In determining priorities for funding projects, the Secretary of the Interior shall take into consideration—
- (1) communities that are currently operating under a notice of violation for failing to provide potable water that meets primary drinking water standards;
 - (2) whether the applicant has the ability to qualify for alternative funding sources that do not result in water rate increases unable to be absorbed by the residential ratepayers;
 - (3) communities deemed vulnerable to water shortage conditions because the system is located in a critically overdrafted groundwater basin, and the system has only a single water supply source;
 - (4) rural communities served by individual, onsite domestic wells that have documented dry well conditions or contaminated well conditions; and
 - (5) public water systems that desire to consolidate with each other, or with a larger urban system, to increase economies-of-scale to reduce cost of service, and increase the level and quality of water service delivery.
- (e) **MAXIMUM AMOUNT.**—The amount of a grant provided under this section may be used to fund—
- (1) not more than 100 percent of costs for activities, including—
 - (A) technical assistance and other costs associated with application for assistance through the Disadvantaged Community Drinking Water Assistance Program;
 - (B) initial operating costs incurred to start up, test, and place into service project facilities and components; and
 - (C) capital costs of construction or components to ensure such facilities and components are properly operational; and
 - (2) not more than 25 percent of costs for assistance with operation and maintenance costs incurred subsequent to placing the facilities or components into service to ensure service remains efficient and effective.
- (f) **OPERATION AND MAINTENANCE.**—Not more than 25 percent of funds made available in any fiscal year for grants under this section shall be used for operations and maintenance costs. States may use a State circuit riding operations assistance team to identify applicants approved for operations and maintenance assistance.
- (g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary of the Interior to carry out this section \$20,000,000 for each of fiscal years 2021 through 2025, to remain available until expended.

PURPOSE OF THE BILL

The purpose of H.R. 5347 is to require the Secretary of the Interior to establish a grant program to close gaps in access to safe drinking water in disadvantaged communities in the western states.

BACKGROUND AND NEED FOR LEGISLATION

Disadvantaged communities in the arid West are disproportionately impacted by deficient water infrastructure, water contamination, and drinking water shortages.¹ Potable water shortages are especially pronounced in the many disadvantaged rural western communities that rely entirely on shallow groundwater wells. These wells often go dry during frequent periods of drought when water table levels drop due to nearby pumping from deeper wells owned by wealthier cities and agricultural operations.²

Despite the persistent need for federal investment in water infrastructure to address chronic drinking water shortages, federal funding has dramatically declined over time. In 1977, federal funds supported 63 percent of capital spending for water infrastructure; by 2014, that figure dropped to just nine percent.³ Communities of color, low-income communities, and tribal and Indigenous communities have often been excluded from public funding for water infrastructure, and the decline in federal funding makes it even harder for these systems to catch up to the rest of the country.⁴ Many small community water systems do not have the capacity to maintain and improve their water infrastructure. Moreover, the global COVID-19 pandemic has exacerbated the financial problems these small water systems already face.⁵

Reliable access to potable drinking water remains a particular problem for many communities in the western states. In the State of California alone, more than one million people lack reliable access to safe drinking water.⁶ The Bureau of Reclamation (Reclamation) is the primary federal water supply agency in the seventeen western states and its mission is to manage, develop, and protect water and related resources in the West.⁷ H.R. 5347 directs Reclamation to leverage its many decades of experience as the West's primary federal water supplier to address the major drinking water supply crisis in the West. Reclamation has expertise in developing and constructing numerous drinking water supply projects and treatment facilities for disadvantaged western communities, par-

¹DigDeep & US Water Alliance, *Closing the Water Access Gap in the United States: A National Action Plan* (2019), https://closethewatergap.org/wp-content/uploads/2019/11/Dig-Deep-Closing-the-Water-Access-Gap-in-the-United-States-DIGITAL_compressed.pdf.

²Alvar Escrivá-Bou, *Reducing Drought Risks in Rural Communities*, Public Policy Institute of California (Jan. 10, 2019), <https://www.ppic.org/blog/reducing-drought-risks-in-rural-communities/>.

³US Water Alliance, *An Equitable Water Future: A National Briefing Paper* (2017), http://uswateralliance.org/sites/uswateralliance.org/files/publications/uswa_waterequity_FINAL.pdf.

⁴DigDeep & US Water Alliance, *Closing the Water Access Gap in the United States: A National Action Plan* (2019), https://closethewatergap.org/wp-content/uploads/2019/11/Dig-Deep-Closing-the-Water-Access-Gap-in-the-United-States-DIGITAL_compressed.pdf.

⁵Heather Cooley, Peter H. Gleick, Sonali Abraham, and Wenjia Cai, *Water and the COVID-19 Pandemic: Impacts on Municipal Water Demand*, Pacific Institute (Jul. 2020), https://pacinst.org/wp-content/uploads/2020/07/Water-and-COVID-19_Impacts-on-Municipal-Water-Demand-Pacific-Institute.pdf.

⁶*They Grow the Nation's Food, but They Can't Drink the Water*, New York Times (May 21, 2019), <https://www.nytimes.com/2019/05/21/us/california-central-valley-tainted-water.html>.

⁷U.S. Bureau of Reclamation, About Us—Mission (updated June 19, 2020), <https://www.usbr.gov/main/about/mission.html>.

ticularly through its construction of water supply projects for Indian water rights settlements. Reclamation's experience also extends to its administration of the Rural Water Supply Program, which was established by Congress to help provide potable drinking water supplies for rural communities;⁸ Reclamation's construction of several rural water projects specifically authorized by Congress to supply potable water to communities in need;⁹ and the construction of drought relief projects for communities running out of potable water under the Reclamation States Emergency Drought Relief Act.¹⁰

Specifically, H.R. 5347 establishes the Disadvantaged Community Drinking Water Assistance grant program, which would be administered by Reclamation, to assist low-income rural communities in the western states that lack access to clean drinking water due to drought, groundwater overdraft, or climate change. The bill authorizes \$20 million annually for FY 2021–2025 for the grant program. To be eligible for assistance, communities must have fewer than 60,000 residents and a median household income lower than the state's median rural household income.

H.R. 5347 makes grants available for activities such as water system consolidation, contamination treatment, constructing new facilities or connections, securing emergency water supplies, or a combination of such activities. The bill also provides funds for the technical costs associated with applying for grants and maintaining rural water systems long-term. Awards must be prioritized for certain communities, such as communities that rely solely on groundwater in a basin that is critically overdrafted, or communities with documented dry well or contaminated well conditions. The bill also prioritizes public water systems that demonstrate a desire to consolidate to reduce the cost of service. The grant program will fund up to 100 percent of project costs, including technical assistance, initial operating costs, and capital costs of construction.

COMMITTEE ACTION

H.R. 5347 was introduced on December 6, 2019, by Representative TJ Cox (D–CA). The bill was referred to the Committee on Natural Resources, and in addition to the Committee on Energy and Commerce. Within the Natural Resources Committee, the bill was referred to the Subcommittee on Water, Oceans, and Wildlife. On January 28, 2020, the Subcommittee held a hearing on the bill. On February 12, 2020, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Representative Cox offered an amendment designated Cox #032. The amendment was agreed to by voice vote. No additional amendments were offered, and the bill, as amended, was adopted and ordered favorably reported to the House of Representatives by voice vote.

On July 1, 2020, the House of Representatives passed H.R. 2, the Moving Forward Act, which included a version of the text of H.R. 5347.¹¹

⁸ 43 U.S.C. 2401 *et seq.*

⁹ Anna E. Normand, Cong. Research Serv., R46308, Bureau of Reclamation Rural Water Projects (April 7, 2020).

¹⁰ 43 U.S.C. 2201 *et seq.*

¹¹ H.R. 2, 116th Cong. (as passed by and engrossed in the House, July 1, 2020).

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearing was used to develop or consider H.R. 5347: hearing by the Subcommittee on Water, Oceans, and Wildlife held on January 28, 2020.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 2020.

Hon. RAÚL M. GRIJALVA,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5347, the Disadvantaged Community Drinking Water Assistance Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 5347, Disadvantaged Community Drinking Water Assistance Act			
As ordered reported by the House Committee on Natural Resources on February 12, 2020			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	63	100
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 5347 would authorize the appropriation of \$20 million annually over the 2021–2025 for the Bureau of Reclamation (BOR), to establish and operate a drinking water assistance program for disadvantaged communities. Under the program, BOR would provide grants to eligible communities to support water source, treatment, and distribution projects. The grants could be used to fund the initial operating costs, capital costs, or ongoing operation and maintenance costs of eligible projects.

Based on spending patterns for similar programs and assuming appropriation of the specified amounts each year, CBO estimates that implementing H.R. 5347 would cost \$63 million over the 2021–2025 period and \$37 million after 2025. The costs of the legislation, detailed in Table 1, fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 5347

	By fiscal year, millions of dollars—						
	2020	2021	2022	2023	2024	2025	2020–2025
Authorization	0	20	20	20	20	20	100
Estimated Outlays	0	1	6	16	20	20	63

The CBO staff contact for this estimate is Stephen Rabent. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to require the Secretary of the Interior to establish a grant program to close gaps in access to safe drinking water in disadvantaged communities in the western states.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

This bill contains no unfunded mandates.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139. The Disadvantaged Community Drinking Water Assistance Program authorized by this bill is related and complementary to, but not duplicative of, the following programs identified in the most recent Catalog of Federal Domestic Assistance published pursuant to 31 U.S.C. §6104: State Public Water System Supervision (CFDA No. 66.432), Assistance for Small and Disadvantaged Communities Drinking Water Grant Program (SDWA 1459A) (CFDA No. 66.442), Capitalization Grants for Drinking Water State

Revolving Funds (CFDA No. 66.468), and Direct Implementation Tribal Cooperative Agreements (CFDA No. 66.473).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

COMMITTEE CORRESPONDENCE

GREG WALDEN, OREGON
RANKING MEMBER

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

December 4, 2020

The Honorable Raúl M. Grijalva
Chairman
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Grijalva:

I write concerning H.R. 5347, the "Disadvantaged Communities Drinking Water Assistant Act," which was additionally referred to the Committee on Energy and Commerce (Committee).

In recognition of the agreement we reached on the provisions of H.R. 5347 for inclusion in H.R. 2, the "Moving Forward Act," and the desire to expedite consideration of this measure, the Committee agrees to waive formal consideration of the bill as to provisions that fall within the Rule X jurisdiction of the Committee. The Committee takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and that the Committee will be appropriately consulted and involved as this bill or similar legislation moves forward so that we may address any remaining issues within our jurisdiction. I also request that you support my request to name members of the Committee to any conference committee to consider such provisions.

Finally, I would appreciate the inclusion of this letter in the committee report on H.R. 5347 and into the *Congressional Record* during floor consideration of the measure.

Sincerely,



Frank Pallone, Jr.
Chairman

The Honorable Raúl M. Grijalva
December 4, 2020
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cc: The Honorable Nancy Pelosi, Speaker
The Honorable Steny Hoyer, Majority Leader
The Honorable Greg Walden, Ranking Member, Committee on Energy and Commerce
The Honorable Rob Bishop, Ranking Member, Committee on Natural Resources
The Honorable Thomas J. Wickham, Parliamentarian

RAUL M. GRIJALVA OF ARIZONA
CHAIRMAN

DAVID WATKINS
STAFF DIRECTOR

ROB BISHOP OF UTAH
RANKING REPUBLICAN

PATRICK BRADEN
REPUBLICAN STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

December 7, 2020

The Honorable Frank Pallone Jr.
Chair
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

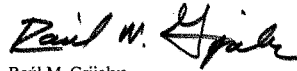
Dear Chair Pallone:

I write to acknowledge your letter dated December 4, 2020 stating that the Committee on Energy and Commerce will forgo formal consideration of H.R. 5347, the "Disadvantaged Community Drinking Water Assistance Act."

The Committee on Natural Resources confirms our mutual understanding that your Committee does not waive any jurisdiction over the subject matter contained in this or similar legislation. Additionally, the Committee on Natural Resources confirms our mutual understanding that the Committee on Energy and Commerce will be appropriately consulted and involved as the bill or similar legislation moves forward so that you may address any remaining issues within your Rule X jurisdiction. I am pleased to support your request to name members of the Committee on Energy and Commerce to any conference committee to consider such provisions.

I will ensure that this exchange of letters is included in the *Congressional Record* as part of the committee report for H.R. 5347. I appreciate your cooperation regarding this legislation and look forward to working with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva
Chair
House Natural Resources Committee

Cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Rob Bishop, Ranking Member Committee on Natural Resources
The Honorable Greg Walden, Ranking Member Committee on Energy and Commerce
The Honorable Jason Smith, Parliamentarian

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS
None.

