

WESTERN WATER SECURITY ACT OF 2020

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

together with

DISSENTING VIEWS

[To accompany H.R. 4891]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4891) to provide for the conduct of certain water security measures in the Western United States, 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; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Western Water Security Act of 2020”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—INFRASTRUCTURE AND WATER MANAGEMENT IMPROVEMENT

Sec. 101. Watersmart extension and expansion.
Sec. 102. Emergency drought funding.
Sec. 103. Rio Grande Pueblo Irrigation Infrastructure Reauthorization.

TITLE II—GROUNDWATER MANAGEMENT

Sec. 201. Reauthorization and expansion of the Transboundary Aquifer Assessment Program.
Sec. 202. Groundwater management assessment and improvement.
Sec. 203. Surface and groundwater water availability and the energy nexus.

TITLE III—WATER CONSERVATION AND ENVIRONMENTAL RESTORATION

Sec. 301. Definitions.
Sec. 302. Water acquisition program.
Sec. 303. Middle Rio Grande Water Conservation.
Sec. 304. Sustaining biodiversity during droughts.
Sec. 305. Reauthorization of cooperative watershed management program.

TITLE IV—EFFECT ON EXISTING LAW

Sec. 401. Effect on existing law.

SEC. 2. DEFINITIONS.

In this Act:

- (1) **RIO GRANDE COMPACT.**—The term “Rio Grande Compact” means the compact approved by Congress under the Act of May 31, 1939 (53 Stat. 785, chapter 155).
- (2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.
- (3) **STATE.**—The term “State” means the State of New Mexico.

TITLE I—INFRASTRUCTURE AND WATER MANAGEMENT IMPROVEMENT

SEC. 101. WATERSMART EXTENSION AND EXPANSION.

(a) **DEFINITION OF ELIGIBLE APPLICANT.**—Section 9502 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10362) is amended—

(1) in the matter preceding paragraph (1), by striking “section” and inserting “subtitle”;

(2) by striking paragraph (7) and inserting the following:

“(7) **ELIGIBLE APPLICANT.**—The term ‘eligible applicant’ means—

- “(A) any State, Indian tribe, irrigation district, or water district;
- “(B) any State, regional, or local authority, the members of which include one or more organizations with water or power delivery authority;
- “(C) any other organization with water or power delivery authority; or
- “(D) any nonprofit conservation organization.”;

(3) by redesignating paragraphs (13) through (17) as paragraphs (14) through (18), respectively; and

(4) by inserting after paragraph (12) the following:

“(13) **NATURAL WATER RECHARGE INFRASTRUCTURE.**—The term ‘natural water recharge infrastructure’ means a single project, a number of distributed projects across a watershed, or the redesign and replacement, or removal, of built infrastructure to incorporate natural aquatic elements, in which the project—

- “(A) uses natural materials appropriate to the specific site and landscape setting;
- “(B) mimics natural riverine, floodplain, riparian, wetland, hydrologic, or other ecological processes; and
- “(C) results in aquifer recharge, transient floodplain water retention, or restoration of water in the landscape such that the water returns to a wetland, riparian area, or surface water channel.”.

(b) **RESEARCH AGREEMENTS.**—Section 9504(b)(1) of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364(b)(1)) is amended—

- (1) in the matter preceding subparagraph (A), by inserting “nonprofit conservation organization,” before “or organization”;
- (2) in subparagraph (B), by striking “or” at the end;
- (3) by redesignating subparagraph (C) as subparagraph (D); and
- (4) by inserting after subparagraph (B) the following:

“(C) to increase natural water recharge infrastructure; or”.

(c) **WATER MANAGEMENT IMPROVEMENT.**—Section 9504(e) of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364(e)) is amended by striking “\$530,000,000” and inserting “\$700,000,000, subject to the condition that \$50,000,000 of that amount shall be used to carry out section 206 of the Energy and Water Development and Related Agencies Appropriations Act, 2015 (43 U.S.C. 620 note; Public Law 113–235)”.

(d) **CONFORMING AMENDMENT.**—Section 4009(d) of Public Law 114–322 (42 U.S.C. 10364 note) is amended by striking “on the condition that of that amount, \$50,000,000 of it is used to carry out section 206 of the Energy and Water Development and Related Agencies Appropriation Act, 2015 (43 U.S.C. 620 note; Public Law 113–235)”.

SEC. 102. EMERGENCY DROUGHT FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 301 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2241) is amended—

- (1) by striking “120,000,000” and inserting “180,000,000”; and
- (2) by striking “2020” and inserting “2025, of which not more than \$30,000,000 shall be made available during that period for the conduct of actions authorized under title I of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2211 et seq.) to benefit imperiled fish and wildlife”.

(b) **APPLICABLE PERIOD OF DROUGHT PROGRAM.**—Section 104 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214) is amended by striking subsection (a) and inserting the following:

“(a) **IN GENERAL.**—The programs and authorities established under this title shall become operative in any Reclamation State and in the State of Hawaii only—

“(1) after the Governor or Governors of the affected State or States, or the governing body of an affected Indian Tribe with respect to a reservation, has made a request for temporary drought assistance and the Secretary has determined that the temporary assistance is merited;

“(2) after a drought emergency has been declared by the Governor or Governors of the affected State or States; or

“(3) on approval of a drought contingency plan as provided in title II.”.

(c) **REAUTHORIZATION.**—Section 104(c) of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214(c)) is amended by striking “2020” and inserting “2030”.

SEC. 103. RIO GRANDE PUEBLO IRRIGATION INFRASTRUCTURE REAUTHORIZATION.

Section 9106 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1304) is amended—

(1) in subsection (c)(4), by striking “2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources” and inserting “December 31, 2020, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources”; and

(2) in subsection (g)(2)—

(A) by striking “\$6,000,000” and inserting “such sums as may be necessary”; and

(B) by striking “2010 through 2019” and inserting “2020 through 2029”.

TITLE II—GROUNDWATER MANAGEMENT

SEC. 201. REAUTHORIZATION AND EXPANSION OF THE TRANSBOUNDARY AQUIFER ASSESSMENT PROGRAM.

(a) **DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.**—Section 4(c)(2) of the United States-Mexico Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109–448) is amended by striking “New Mexico or Texas” and inserting “New Mexico, Texas, or Arizona (other than an aquifer underlying Arizona and Sonora, Mexico, that is partially within the Yuma groundwater basin designated by the order of the Director of the Arizona Department of Water Resources dated June 21, 1984)”.

(b) **REAUTHORIZATION.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—Section 8(a) of the United States-Mexico Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109–448) is amended by striking “fiscal years 2007 through 2016” and inserting “fiscal years 2021 through 2029”.

(2) **SUNSET OF AUTHORITY.**—Section 9 of the United States-Mexico Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109–448) is amended by striking “enactment of this Act” and inserting “enactment of the Western Water Security Act of 2020”.

SEC. 202. GROUNDWATER MANAGEMENT ASSESSMENT AND IMPROVEMENT.

Section 9504(a) of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting “or carrying out any activity” after “any improvement”;

(B) by striking subparagraphs (A) through (E);

(C) by redesignating subparagraphs (F) through (H) as subparagraphs (B) through (D), respectively;

(D) by inserting before subparagraph (B) (as so redesignated) the following:

“(A) to assist States and water users in complying with interstate compacts through temporary, voluntary, and compensated transactions that decrease consumptive water use at a regional or watershed scale.”;

(E) in subparagraph (B) (as so redesignated), by striking “to prevent” and inserting “to achieve the prevention of”;

(F) in subparagraph (C) (as so redesignated), by striking “to accelerate” and inserting “to achieve the acceleration of”; and

- (G) in subparagraph (D) (as so redesignated)—
- (i) by striking clause (i) and inserting the following:
 - “(i) to increase ecological resilience to climate change, including by enhancing natural water recharge infrastructure within a floodplain or riparian wetland, by addressing climate-related impacts or vulnerability to the water supply of the United States;”;
 - (ii) in clause (ii), by striking the period at the end and inserting “; or”; and
 - (iii) by adding at the end the following:
 - “(iii) to plan for or address the impacts of drought.”;
 - (2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;
 - (3) by inserting after paragraph (1) the following:
 - “(2) ELIGIBLE PROJECTS.—The improvements or activities eligible for assistance under paragraph (1) may include improvements or activities—
 - “(A) using an approach—
 - “(i) to conserve water;
 - “(ii) to increase water use efficiency;
 - “(iii) to facilitate water markets; or
 - “(iv) to enhance water management, including increasing the use of renewable energy in the management and delivery of water or increasing natural water recharge infrastructure;
 - “(B) to improve the condition of natural water recharge infrastructure; or
 - “(C) to achieve the acceleration of the adoption and use of advanced water treatment technologies to increase water supply.”; and
 - (4) in paragraph (4) (as so redesignated)—
 - (A) in subparagraph (B)(i), by striking subclause (II) and inserting the following:
 - “(II) to use the assistance provided under a grant or agreement to increase the consumptive use of water for agricultural operations above the pre-project levels, as determined pursuant to the law of the State in which the operation of the eligible applicant is located.”; and
 - (B) in subparagraph (E)—
 - (i) by striking clause (i) and inserting the following:
 - “(i) FEDERAL SHARE.—
 - “(I) IN GENERAL.—Except as provided in subclause (II), the Federal share of the cost of any infrastructure improvement or activity that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall not exceed 50 percent of the cost of the infrastructure improvement or activity.
 - “(II) INCREASED FEDERAL SHARE FOR CERTAIN INFRASTRUCTURE IMPROVEMENTS AND ACTIVITIES.—
 - “(aa) IN GENERAL.—The Federal share of the cost of an infrastructure improvement or activity described in item (bb) shall not exceed 75 percent of the cost of the infrastructure improvement or activity.
 - “(bb) INFRASTRUCTURE IMPROVEMENTS AND ACTIVITIES DESCRIBED.—An infrastructure improvement or activity referred to in item (aa) is an infrastructure improvement or activity that provides benefits to consumptive water users and non-consumptive ecological or recreational values in which—
 - “(AA) in the case of an infrastructure improvement or activity that conserves water, the conserved water is returned to a surface water source with ecological or recreational benefits; or
 - “(BB) in the case of other infrastructure improvements or activities, the majority of the benefits are nonconsumptive ecological or recreational benefits.”; and
 - (ii) in clause (ii), in the matter preceding subclause (I), by striking “paragraph (2)” and inserting “paragraph (3)”.

SEC. 203. SURFACE AND GROUNDWATER WATER AVAILABILITY AND THE ENERGY NEXUS.

Section 9508(d)(3) of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10368(d)(3)) is amended—

- (1) in subparagraph (D), by striking “and” at the end;
- (2) in subparagraph (E), by striking the semicolon and inserting “; and”; and
- (3) by adding at the end the following:

“(F) oil, gas, and mineral development under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Act of May 11, 1938 (commonly known as the ‘Indian Mineral Leasing Act of 1938’) (25 U.S.C. 396a et seq.), sections 2319 through 2344 of the Revised Statutes (commonly known as the ‘Mining Law of 1872’) (30 U.S.C. 22 et seq.), and the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);”.

TITLE III—WATER CONSERVATION AND ENVIRONMENTAL RESTORATION

SEC. 301. DEFINITIONS.

In this title:

- (1) **BASIN.**—The term “Basin”—
 - (A) is limited to areas within the State; and
 - (B) means each of—
 - (i) the Upper Rio Grande Basin;
 - (ii) the Middle Rio Grande Basin;
 - (iii) the Lower Rio Grande Basin;
 - (iv) the Lower Pecos River Basin;
 - (v) the Gila River Basin;
 - (vi) the Canadian River Basin;
 - (vii) the San Francisco River Basin; and
 - (viii) the San Juan River Basin.
- (2) **DISTRICT.**—The term “District” means—
 - (A) the Middle Rio Grande Conservancy District;
 - (B) the Elephant Butte Irrigation District;
 - (C) the Carlsbad Irrigation District;
 - (D) the Arch Hurley Conservancy District;
 - (E) the Pecos Valley Artesian Conservation District; or
 - (F) the San Juan Water Commission.
- (3) **PUEBLO.**—The term “Pueblo” means each of the following pueblos in the State:
 - (A) Cochiti.
 - (B) Santo Domingo.
 - (C) San Felipe.
 - (D) Santa Ana.
 - (E) Sandia.
 - (F) Isleta.

SEC. 302. WATER ACQUISITION PROGRAM.

(a) **AUTHORIZATION.**—The Secretary, acting through the Commissioner of Reclamation, shall carry out in the Basins a water acquisition program in coordination with the other appropriate Federal agencies, State agencies, and non-Federal stakeholders, under which the Secretary shall—

- (1) make acquisitions, or assist the State or a District in making acquisitions, of water in the Basins by lease or purchase of water rights or contractual entitlements from willing lessors or sellers, consistent with section 8 of the Act of June 17, 1902 (43 U.S.C. 383), the Rio Grande Compact, and applicable State law relating to the acquisition and administration of water rights; and
- (2) take any other actions, consistent with section 8 of the Act of June 17, 1902 (43 U.S.C. 383), the Rio Grande Compact, and applicable State law, that the Secretary determines would achieve the purposes of the water acquisition program described in subsection (b).

(b) **PURPOSES.**—The purposes of the water acquisition program are—

- (1) to enhance stream flow to benefit fish and wildlife (including endangered species), water quality, and river ecosystem restoration in the Basins;
- (2) to enhance stewardship and conservation of working land, water, and watersheds in the Basins, consistent with the purpose described in paragraph (1); and
- (3) to address water supply-demand imbalances in the Basins, consistent with State law and the purpose described in paragraph (1).

(c) **COORDINATION.**—To assist in developing and administering the program, the Secretary may provide funds to the State, a District, or a federally established non-profit entity with particular expertise in western water transactions.

(d) **DISTRICT PROJECTS.**—Subject to the Rio Grande Compact and applicable State law, the Secretary may develop programs to provide—

(1) cost-share assistance to a District to reduce water depletions by agricultural producers and irrigators in that District by making irrigation system improvements and increasing system efficiency;

(2) incentives to a District for the establishment of a water leasing program from willing lessors for agricultural producers and irrigators in that District to temporarily lease pre-1907 water rights (instead of permanent severance from irrigable land) for the purpose of providing benefits to species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and other river ecosystem benefits; and

(3) cost-share assistance to a District to implement infrastructure or operational changes that will allow for effective management of a leasing program, while maintaining adequate water deliveries to other agricultural producers and irrigators.

SEC. 303. MIDDLE RIO GRANDE WATER CONSERVATION.

(a) **IN GENERAL.**—The Secretary, in cooperation with a District and in consultation with the Pueblos, may provide funding and technical assistance for the installation of metering and measurement devices and the construction of check structures on irrigation diversions, canals, laterals, ditches, and drains—

(1) to ensure the conservation and efficient use of water within that District by—

- (A) reducing actual consumptive use; or
- (B) not increasing the use of water; and

(2) to improve the measurement and allocation of water, including water acquired through the water acquisition program established under section 302.

(b) **RIO GRANDE, SAN ACACIA, AND ISLETA REACHES.**—

(1) **IN GENERAL.**—The Secretary shall provide for the development of a comprehensive plan for the San Acacia and Isleta reaches to plan, design, permit, construct, and prioritize projects that balance river maintenance, water availability, use, and delivery, and ecosystem benefits, including—

(A) planning, permitting, and construction of a pumping station at Bosque del Apache National Wildlife Refuge for the purpose of more efficiently using water to provide—

- (i) a stable supply for the Refuge; and
- (ii) an efficient and reliable supply of water to the Rio Grande for the benefit of the endangered silvery minnow and Southwestern willow flycatcher;

(B) planning, permitting, and construction of a river channel realignment project near the Rio Grande mile-83 for the purpose of conveying water and sediment through the reach to Elephant Butte Reservoir and addressing river channel aggradation while maintaining floodplain connectivity during the snowmelt runoff;

(C) planning, permitting, and construction of a controlled outlet for the low flow conveyance channel to the Rio Grande between Fort Craig, New Mexico, and Rio Grande mile-60 for the purpose of water use and delivery, enhancement and development of habitat areas, and possible creation of a single-channel river ecosystem; and

(D) development of a Lower Reach plan—

- (i) to identify additional projects and maintenance activities with water use, sediment management, and delivery and ecosystem benefits; and
- (ii) to prioritize implementation of all projects and activities.

(2) **PUBLIC PARTICIPATION.**—In carrying out this subsection, the Secretary shall provide a process for public participation and comment during plan development and alternative analysis.

SEC. 304. SUSTAINING BIODIVERSITY DURING DROUGHTS.

Section 9503(b) of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10363(b)) is amended—

(1) in paragraph (3)(D), by inserting “and native biodiversity” after “wildlife habitat”; and

(2) in paragraph (4)(B), by inserting “and drought biodiversity plans to address sustaining native biodiversity during periods of drought” after “restoration plans”.

SEC. 305. REAUTHORIZATION OF COOPERATIVE WATERSHED MANAGEMENT PROGRAM.

Section 6002(g)(4) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1015a(g)(4)) is amended by striking “2020” and inserting “2031”.

TITLE IV—EFFECT ON EXISTING LAW

SEC. 401. EFFECT ON EXISTING LAW.

(a) IN GENERAL.—An action taken by the Secretary or another entity under this Act or an amendment made by this Act shall comply with applicable State laws in effect on the date of enactment of this Act.

(b) STATE LAW.—Nothing in this Act or an amendment made by this Act affects, is intended to affect, or interferes with a law of the State relating to the control, appropriation, use, or distribution of water, or any vested right acquired under the law.

(c) RIO GRANDE COMPACT.—Nothing in this Act or an amendment made by this Act affects or is intended to affect or interfere with any obligation of a State under the Rio Grande Compact or any litigation relating to the Rio Grande Compact.

PURPOSE OF THE BILL

The purpose of H.R. 4891 is to provide for the conduct of certain water security measures in the western United States.

BACKGROUND AND NEED FOR LEGISLATION

In the coming years, many western states will see growing populations coupled with increasingly frequent and severe drought. Seven of the eight fastest-growing states in the United States are in the arid West.¹ Climate pressures—including warming temperatures, shrinking snowpack, more volatile precipitation, and rising seas—will increasingly limit water availability and impact millions of Americans.² To help address these water supply challenges in New Mexico and other western states, H.R. 4891 includes a number of provisions to expand and modify programs administered by the Bureau of Reclamation (Reclamation). Reclamation is the federal government’s lead water management agency in the West and operates hundreds of water projects in the seventeen western states.³ Today, Reclamation water projects supply water to more than 31 million people and provide one out of five western farmers with irrigation water for 10 million acres of farmland.⁴

The Western Water Security Act includes a mix of Reclamation program changes and reauthorizations that apply across the West, paired with a number of provisions that specifically support water management objectives in New Mexico. Provisions include the reauthorization of the Reclamation States Emergency Drought Relief Act and Reclamation’s Cooperative Watershed Management Program. New Mexico-specific provisions include reauthorization of the Rio Grande Pueblo Irrigation Infrastructure Program and a water acquisition program to support streamflow in the Middle Rio Grande.

H.R. 4891 also extends funding for Reclamation’s WaterSMART grant program, expands WaterSMART grant eligibility to nonprofit conservation organizations, and makes several environmentally beneficial changes to the program. WaterSMART grants were origi-

¹2019 U.S. Population Estimates Continue to Show the Nation’s Growth is Slowing, U.S. Census Bureau (Dec. 30, 2019) <https://www.census.gov/newsroom/press-releases/2019/popest-nation.html>.

²Jefferey Mount et al., *Managing Drought in a Changing Climate: Four Essential Reforms*, Public Policy Institute of California (Sept. 2018), <https://www.ppic.org/wp-content/uploads/managing-drought-in-a-changing-climate-four-essential-reforms-september-2018.pdf>.

³About Us, U.S. Bureau of Reclamation (Jan. 7, 2020), <https://www.usbr.gov/main/about/>.

⁴*Id.*

nally authorized under the SECURE Water Act in 2009.⁵ The WaterSMART grant program funds and supports valuable water conservation projects across western states and several U.S. territories. The majority of Reclamation's WaterSMART grants have been provided through the Water and Energy Efficiency Grant (WEEG) program, which is designed to conserve water, increase energy efficiency and the use of renewables, support environmental benefits, and mitigate water conflict risk.⁶ Additionally, Reclamation offers WaterSMART grants targeted at developing water marketing strategies and small scale water efficiency projects, as well as drought resiliency grants, utilizing the same authority as used for WEEG.⁷ The WaterSMART grant program employs a cost-share approach, leveraging non-federal investment at a greater than 2:1 ratio to support water conservation and efficiency projects.⁸

H.R. 4891 amends the SECURE Water Act to allow WaterSMART grants to be used to increase or enhance natural water recharge infrastructure. The bill adds a definition of natural water recharge infrastructure to include projects that use natural materials, mimic natural processes, and result in aquifer recharge, floodplain water retention, or restoration of water in the landscape. Additionally, the bill authorizes the Secretary to fund research designed to increase natural water recharge infrastructure.

The Committee has heard concerns from nonprofit conservation organizations stating that many of the WEEG projects funded by Reclamation may actually increase water scarcity at the basin scale by allowing grant recipients to use conserved water for consumptive use.⁹ This is contrary to the intent of Congress, which specified that any water conserved through a WaterSMART grant project *shall not* be used to increase consumptive use of water.¹⁰ Despite this fact, several of the applicants Reclamation selected for WEEG funding in Fiscal Years 2018 and 2019 stated in their applications that they intended to make conserved water available to increase irrigation or municipal use.¹¹ H.R. 4891 addresses this issue through language to ensure that conserved water cannot be used to increase a grant recipient's consumptive water use.

H.R. 4891 also adds a new provision that would allow WaterSMART grants to support voluntary water transfers for the purpose of complying with interstate water compacts or reducing water supply-demand imbalances at a basin-wide level. This provision responds to concerns from stakeholders in the Upper Colorado River Basin by authorizing a program to compensate water users

⁵ Pub. L. No. 111-11, Sec. 9504. <https://www.congress.gov/111/plaws/publ11/PLAW-111publ11.pdf>.

⁶ See WaterSMART—Data Visualization Tool, WaterSMART Grants, U.S. Bureau of Reclamation (accessed Oct. 7, 2020), <https://usbr.maps.arcgis.com/apps/MapJournal/index.html?appid=043fe91887ac4ddc92a4c0f427e38ab0#>; See also *WaterSMART Progress Report 2010–2016*, U.S. Department of the Interior (Dec. 2016), <https://www.usbr.gov/watersmart/docs/2016/2016watersmartprogressreport.pdf>.

⁷ Pub. L. No. 111-11, Sec. 9504. <https://www.congress.gov/111/plaws/publ11/PLAW-111publ11.pdf>.

⁸ *WaterSMART Progress Report 2010–2016*, Page 27, U.S. Department of the Interior (Dec. 2016), <https://www.usbr.gov/watersmart/docs/2016/2016watersmartprogressreport.pdf>.

⁹ Letter from American Rivers, the Environmental Defense Fund, the National Audubon Society, the Nature Conservancy, the Theodore Roosevelt Conservation Partnership, and Trout Unlimited (July 17, 2019). Directed to the Chairs and Ranking Members of House and Senate Subcommittees on Energy and Water Appropriations.

¹⁰ Pub. L. No. 111-11, Sec. 9504(a)(3)(B). <https://www.congress.gov/111/plaws/publ11/PLAW-111publ11.pdf>.

¹¹ See *Selected Applications—WaterSMART Water and Energy Efficiency Grants*, U.S. Bureau of Reclamation, <https://www.usbr.gov/watersmart/applications/>.

for decreasing their water use—a concept known as “demand management.” Demand management is being discussed as a regional water management strategy in the Upper Colorado River Basin, where states are exploring options to avoid severe shortages. This provision is not specific to the Colorado River Basin, however, and may also be applied to other water-stressed basins.

COMMITTEE ACTION

H.R. 4891 was introduced on October 28, 2019, by Representative Xochitl Torres Small (D–NM). The bill was referred to the Committee on Natural Resources, and in addition to the Committee on Science, Space, and Technology. 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 March 11, 2020, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Chair Raúl M. Grijalva (D–AZ) offered an amendment in the nature of a substitute. No additional amendments were offered. The amendment in the nature of a substitute offered by Chair Grijalva was agreed to by voice vote. The bill, as amended, was adopted and ordered favorably reported to the House of Representatives by a roll call vote of 14 yeas and 11 nays, as follows:¹²

¹² Rep. Nydia M. Velázquez (D–NY) was unable to vote due to a scheduling conflict with a markup at the House Committee on Small Business, of which she is the Chair. Rep. Velázquez requested, after the closing of the vote, that the record reflect that had she been present she would have voted in favor of adopting the bill as amended and ordering it favorably reported.

F66590

Date: March 11, 2020

COMMITTEE ON NATURAL RESOURCES
116th Congress - Roll Call

Bill / Motion: H.R. 4891

Amendment:

Disposition: Final Passage: H.R. 4891, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 14 yeas and 11 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD			
2	Mr. Cartwright, PA			
3	Mr. Case, HI	X		
4	Mr. Clay, MO			
5	Mr. Costa, CA	X		
6	Mr. Cox, CA	X		
7	Mr. Cunningham, SC	X		
8	Ms. DeGette, CO			
9	Mrs. Dingell, MI	X		
10	Mr. Gallego, AZ			
11	Mr. Garcia, IL	X		
12	Mr. Grijalva, AZ (<i>Chair</i>)	X		
13	Ms. Haaland, NM	X		
14	Mr. Horsford, NV			
15	Mr. Huffman, CA	X		
16	Mr. Levin, CA	X		
17	Mr. Lowenthal, CA	X		
18	Mr. McEachin, VA			
19	Ms. Napolitano, CA	X		
20	Mr. Neguse, CO			
21	Mr. Sablan, CNMI	X		
22	Mr. San Nicolas, GU			
23	Mr. Soto, FL	X		
24	Mr. Tonko, NY			
25	Ms. Velázquez, NY			
26				
	REP. MEMBERS (19)	Y	N	P
1	Mr. Bishop, UT (<i>Ranking</i>)		X	
2	Ms. Cheney, WY		X	
3	Mr. Cook, CA		X	
4	Mr. Curtis, UT		X	
5	Mr. Fulcher, ID		X	
6	Mr. Gohmert, TX			
7	Ms. González-Colón, PR		X	
8	Mr. Gosar, AZ			
9	Mr. Graves, LA		X	
10	Mr. Hern, OK		X	
11	Mr. Hice, GA		X	
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO			
14	Mr. McClintock, CA		X	
15	Mrs. Radewagen, AS			
16	Mr. Webster, FL			
17	Mr. Westerman, AR			
18	Mr. Wittman, VA		X	
19	Mr. Young, AK			
	TOTALS	14	11	
	Total: 44 / Quorum: 15 / Report: 23	YEAS	NAYS	PRESENT

12/18/2020 11:40 AM

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. 4891.¹³

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. 4891: hearing by the Subcommittee on Water, Oceans, and Wildlife held on January 28, 2020.

SECTION-BY-SECTION ANALYSIS

Title I—Infrastructure and Water Management Improvement

Section 101. WaterSMART extension and expansion

This section reauthorizes Reclamation’s WaterSMART grant program and increases its funding authorization to \$700 million. This section also expands WaterSMART grant program eligibility to nonprofit conservation organizations.

Section 102. Emergency drought funding

This section reauthorizes the Reclamation States Emergency Drought Relief Act of 1991¹⁴ through 2030, increasing the authorization from \$120 million through FY2020 to \$180 million through FY2025.

Section 103. Rio Grande Pueblo irrigation infrastructure reauthorization

This section reauthorizes an irrigation infrastructure grant program for Pueblos in New Mexico’s Rio Grande Basin through 2029.¹⁵ It also extends the deadline for the Department of the Interior (Interior) to complete a study of Pueblo infrastructure needs to December 31, 2020.¹⁶

Title II—Groundwater Management

Section 201. Reauthorization and expansion of the Transboundary Aquifer Assessment Program

This section reauthorizes the United States-Mexico Transboundary Aquifer Assessment Program¹⁷ through 2029 and grants authority to the Secretary of the Interior to designate additional priority transboundary aquifers for study.

¹³H.R. 2, 116th Cong. (as passed by and engrossed in the House, July 1, 2020).

¹⁴43 U.S.C. 2201 et seq.

¹⁵Originally established in Pub. L. No. 111–11, Sec. 9106(d). There are 18 Indian Pueblos in the Rio Grande Basin; a 19th Pueblo, Zuni, is in the Colorado River watershed. The Pueblos have historically been farming communities that have relied on surface water supplies. See: *Pueblo Irrigation Facilities Rehabilitation: Executive Summary*, U.S. Bureau of Reclamation (accessed Oct. 8, 2020), <https://www.usbr.gov/uc/progact/NMPueblos/pdfs/PuebloIrrigationFacilitiesRehabilitation-ExecutiveSummary.pdf>.

¹⁶*New Mexico Pueblos Irrigation Infrastructure Improvement Project*, U.S. Bureau of Reclamation (Page last updated May 30, 2019), www.usbr.gov/uc/progact/NMPueblos/index.html.

¹⁷Pub. L. No. 109–448; 42 U.S.C. 1962 note. [https://uscode.house.gov/view.xhtml?req=\(title:42%20section:1962%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title42-section1962\)&f=treesort&edition=prelim&num=0&jumpTo=true](https://uscode.house.gov/view.xhtml?req=(title:42%20section:1962%20edition:prelim)%20OR%20(granuleid:USC-prelim-title42-section1962)&f=treesort&edition=prelim&num=0&jumpTo=true).

Section 202. Groundwater management assessment and improvement

This section makes several environmentally beneficial changes to Reclamation's WaterSMART grant program, including allowing WaterSMART grants to be used for enhancements to natural water storage and increasing the federal cost share from 50 percent to 75 percent for grant projects that provide an ecological or recreational benefit. This section also clarifies the prohibition against the use of water conserved through a WaterSMART grant to increase the consumptive use of water, a practice that non-profit conservation organizations in the western states have highlighted as a concern.¹⁸ Additionally, this section revises the original statutory language to emphasize the environmental objectives within the WaterSMART grant program and to authorize grants to be provided to support demand management programs.

Section 203. Surface and groundwater water availability and the energy nexus

This section directs the United States Geological Survey to determine and report water use from oil, gas, coal, and hardrock mining in its nationwide assessment of water availability required by P.L. 111-11, Sec. 9508.

Title III—Water Conservation and Environmental Restoration

Section 301. Definitions

This section defines the basins, Pueblos, and water districts in New Mexico that the other sections in this Title address.

Section 302. Water acquisition program

This section directs Reclamation to carry out a program in coordination with other federal agencies, state agencies, and non-federal stakeholders to obtain water rights in New Mexico specifically to enhance streamflow to benefit specific species, support land and water conservation, and address water supply-demand imbalances.

Section 303. Middle Rio Grande water conservation

This section authorizes the Secretary of the Interior to provide funding and technical assistance to install water metering devices and check structures on irrigation infrastructure to promote water conservation and improve measurement of water acquired through the Water Acquisition Program established in Section 302.

Section 304. Sustaining biodiversity during droughts

This section directs Reclamation to analyze drought impacts on native biodiversity in major western river basins and to consider and develop strategies to help sustain native biodiversity during future droughts.

¹⁸ Letter from American Rivers, the Environmental Defense Fund, the National Audubon Society, the Nature Conservancy, the Theodore Roosevelt Conservation Partnership, and Trout Unlimited (July 17, 2019). Directed to the Chairs and Ranking Members of House and Senate Subcommittees on Energy and Water Appropriations.

Section 305. Reauthorization of Cooperative Watershed Management Program

This section reauthorizes appropriations for Reclamation's Cooperative Watershed Management Program through 2031.¹⁹

Title IV—Effect on Existing Law

Section 401. Effect on existing law

This provision specifies that H.R. 4891 does not affect or interfere with state law or the Rio Grande Compact. It also requires the Secretary to comply with applicable state law.

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) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House passage of the bill.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

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 provide for the conduct of certain water security measures in the western United 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

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Un-

¹⁹Pub. L. No. 111-11, Sec. 6002(g). <https://www.congress.gov/111/plaws/pub11/PLAW111pub11.pdf>.

funded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

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 WaterSMART (Sustain and Manage America’s Resources for Tomorrow) (CFDA No. 15.507) reauthorized 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 (CFDA) published pursuant to 31 U.S.C. § 6104: Water Desalination Research and Development (CFDA No. 15.506). The Reclamation States Emergency Drought Relief (CFDA No. 15.514) reauthorized by this bill was not identified in the most recent CFDA as related to any other program. The New Mexico Rio Grande Basin Pueblos Irrigation Infrastructure (CFDA No. 15.559) reauthorized by this bill was not identified in the most recent CFDA as related to any other program. The United States-Mexico Transboundary Aquifer Assessment Program reauthorized by this bill was not listed in the most recent CFDA. The Middle Rio Grande Water Conservation authorized by this bill is related and complementary to, but not duplicative of New Mexico Rio Grande Basin Pueblos Irrigation Infrastructure (CFDA No. 15.559) and Middle Rio Grande Endangered Species Collaborative (CFDA No. 15.537). The Cooperative Watershed Management (CFDA No. 15.554) reauthorized by this bill is related and complementary to, but not duplicative of WaterSMART (Sustain and Manage America’s Resources for Tomorrow) (CFDA No. 15.507).

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 MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009

* * * * *

**TITLE VI—DEPARTMENT OF THE
INTERIOR AUTHORIZATIONS**

**Subtitle A—Cooperative Watershed
Management Program**

* * * * *

SEC. 6002. PROGRAM

(a) **ESTABLISHMENT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program, to be known as the “Cooperative Watershed Management Program”, under which the Secretary shall provide grants—

- (1)(A) to form a watershed group; or
- (B) to enlarge a watershed group; and
- (2) to conduct 1 or more projects in accordance with the goals of a watershed group.

(b) **APPLICATION.**—

(1) **ESTABLISHMENT OF APPLICATION PROCESS; CRITERIA.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish—

- (A) an application process for the program; and
- (B) in consultation with the States, prioritization and eligibility criteria for considering applications submitted in accordance with the application process.

(c) **DISTRIBUTION OF GRANT FUNDS.**—

(1) **IN GENERAL.**—In distributing grant funds under this section, the Secretary—

- (A) shall comply with paragraph (2); and
- (B) may give priority to watershed groups that—
 - (i) represent maximum diversity of interests; or
 - (ii) serve subbasin-sized watersheds with an 8-digit hydrologic unit code, as defined by the United States Geological Survey.

(2) **FUNDING PROCEDURE.**—

(A) **FIRST PHASE.**—

(i) **IN GENERAL.**—The Secretary may provide to a grant recipient a first-phase grant in an amount not greater than \$100,000 each year for a period of not more than 3 years.

(ii) **MANDATORY USE OF FUNDS.**—A grant recipient that receives a first-phase grant shall use the funds—

- (I) to establish or enlarge a watershed group;
- (II) to develop a mission statement for the watershed group;
- (III) to develop project concepts; and
- (IV) to develop a restoration plan.

(iii) **ANNUAL DETERMINATION OF ELIGIBILITY.**—

(I) **DETERMINATION.**—For each year of a first-phase grant, not later than 270 days after the

date on which a grant recipient first receives grant funds for the year, the Secretary shall determine whether the grant recipient has made sufficient progress during the year to justify additional funding.

(II) EFFECT OF DETERMINATION.—If the Secretary determines under subclause (I) that the progress of a grant recipient during the year covered by the determination justifies additional funding, the Secretary shall provide to the grant recipient grant funds for the following year.

(iv) ADVANCEMENT CONDITIONS.—A grant recipient shall not be eligible to receive a second-phase grant under subparagraph (B) until the date on which the Secretary determines that the watershed group—

(I) has approved articles of incorporation and bylaws governing the organization; and

(II)(aa) holds regular meetings;

(bb) has completed a mission statement; and

(cc) has developed a restoration plan and project concepts for the watershed.

(v) EXCEPTION.—A watershed group that has not applied for or received first-phase grants may apply for and receive second-phase grants under subparagraph (B) if the Secretary determines that the group has satisfied the requirements of first-phase grants.

(B) SECOND PHASE.—

(i) IN GENERAL.—A watershed group may apply for and receive second-phase grants of \$1,000,000 each year for a period of not more than 4 years if—

(I) the watershed group has applied for and received watershed grants under subparagraph (A); or

(II) the Secretary determines that the watershed group has satisfied the requirements of first-phase grants.

(ii) MANDATORY USE OF FUNDS.—A grant recipient that receives a second-phase grant shall use the funds to plan and carry out watershed management projects.

(iii) ANNUAL DETERMINATION OF ELIGIBILITY.—

(I) DETERMINATION.—For each year of the second-phase grant, not later than 270 days after the date on which a grant recipient first receives grant funds for the year, the Secretary shall determine whether the grant recipient has made sufficient progress during the year to justify additional funding.

(II) EFFECT OF DETERMINATION.—If the Secretary determines under subclause (I) that the progress of a grant recipient during the year justifies additional funding, the Secretary shall provide to the grant recipient grant funds for the following year.

(iv) ADVANCEMENT CONDITION.—A grant recipient shall not be eligible to receive a third-phase grant

under subparagraph (C) until the date on which the Secretary determines that the grant recipient has—

(I) completed each requirement of the second-phase grant; and

(II) demonstrated that 1 or more pilot projects of the grant recipient have resulted in demonstrable improvements, as determined by the Secretary, in the functioning condition of at least 1 river or stream in the watershed.

(C) THIRD PHASE.—

(i) FUNDING LIMITATION.—

(I) IN GENERAL.—Except as provided in subclause (II), the Secretary may provide to a grant recipient a third-phase grant in an amount not greater than \$5,000,000 for a period of not more than 5 years.

(II) EXCEPTION.—The Secretary may provide to a grant recipient a third-phase grant in an amount that is greater than the amount described in subclause (I) if the Secretary determines that the grant recipient is capable of using the additional amount to further the purposes of the program in a way that could not otherwise be achieved by the grant recipient using the amount described in subclause (I).

(ii) MANDATORY USE OF FUNDS.—A grant recipient that receives a third-phase grant shall use the funds to plan and carry out at least 1 watershed management project.

(3) AUTHORIZING USE OF FUNDS FOR ADMINISTRATIVE AND OTHER COSTS.—A grant recipient that receives a grant under this section may use the funds—

(A) to pay for—

(i) administrative and coordination costs, if the costs are not greater than the lesser of—

(I) 20 percent of the total amount of the grant;

or

(II) \$100,000;

(ii) the salary of not more than 1 full-time employee of the watershed group; and

(iii) any legal fees arising from the establishment of the relevant watershed group; and

(B) to fund—

(i) water quality and quantity studies of the relevant watershed; and

(ii) the planning, design, and implementation of any projects relating to water quality or quantity.

(d) COST SHARE.—

(1) PLANNING.—The Federal share of the cost of an activity provided assistance through a first-phase grant shall be 100 percent.

(2) PROJECTS CARRIED OUT UNDER SECOND PHASE.—

(A) IN GENERAL.—The Federal share of the cost of any activity of a watershed management project provided as-

sistance through a second-phase grant shall not exceed 50 percent of the total cost of the activity.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share under subparagraph (A) may be in the form of in-kind contributions.

(3) PROJECTS CARRIED OUT UNDER THIRD PHASE.—

(A) IN GENERAL.—The Federal share of the costs of any activity of a watershed group of a grant recipient relating to a watershed management project provided assistance through a third-phase grant shall not exceed 50 percent of the total costs of the watershed management project.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share under subparagraph (A) may be in the form of in-kind contributions.

(e) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date on which a grant recipient first receives funds under this section, and annually thereafter, in accordance with paragraph (2), the watershed group shall submit to the Secretary a report that describes the progress of the watershed group.

(2) REQUIRED DEGREE OF DETAIL.—The contents of an annual report required under paragraph (1) shall contain sufficient information to enable the Secretary to complete each report required under subsection (f), as determined by the Secretary.

(f) REPORT.—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

(1) the ways in which the program assists the Secretary—

(A) in addressing water conflicts;

(B) in conserving water;

(C) in improving water quality; and

(D) in improving the ecological resiliency of a river or stream; and

(2) benefits that the program provides, including, to the maximum extent practicable, a quantitative analysis of economic, social, and environmental benefits.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) \$2,000,000 for each of fiscal years 2008 and 2009;

(2) \$5,000,000 for fiscal year 2010;

(3) \$10,000,000 for fiscal year 2011; and

(4) \$20,000,000 for each of fiscal years 2012 through [2020] 2031.

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**TITLE IX—BUREAU OF RECLAMATION
AUTHORIZATIONS**

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Subtitle B—Project Authorizations

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SEC. 9106. RIO GRANDE PUEBLOS, NEW MEXICO

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) drought, population increases, and environmental needs are exacerbating water supply issues across the western United States, including the Rio Grande Basin in New Mexico;

(B) a report developed by the Bureau of Reclamation and the Bureau of Indian Affairs in 2000 identified a serious need for the rehabilitation and repair of irrigation infrastructure of the Rio Grande Pueblos;

(C) inspection of existing irrigation infrastructure of the Rio Grande Pueblos shows that many key facilities, such as diversion structures and main conveyance ditches, are unsafe and barely, if at all, operable;

(D) the benefits of rehabilitating and repairing irrigation infrastructure of the Rio Grande Pueblos include—

- (i) water conservation;
- (ii) extending available water supplies;
- (iii) increased agricultural productivity;
- (iv) economic benefits;
- (v) safer facilities; and
- (vi) the preservation of the culture of Indian Pueblos in the State;

(E) certain Indian Pueblos in the Rio Grande Basin receive water from facilities operated or owned by the Bureau of Reclamation; and

(F) rehabilitation and repair of irrigation infrastructure of the Rio Grande Pueblos would improve—

- (i) overall water management by the Bureau of Reclamation; and
- (ii) the ability of the Bureau of Reclamation to help address potential water supply conflicts in the Rio Grande Basin.

(2) PURPOSE.—The purpose of this section is to direct the Secretary—

(A) to assess the condition of the irrigation infrastructure of the Rio Grande Pueblos;

(B) to establish priorities for the rehabilitation of irrigation infrastructure of the Rio Grande Pueblos in accordance with specified criteria; and

(C) to implement projects to rehabilitate and improve the irrigation infrastructure of the Rio Grande Pueblos.

(b) DEFINITIONS.—In this section:

(1) 2004 AGREEMENT.—The term “2004 Agreement” means the agreement entitled “Agreement By and Between the United States of America and the Middle Rio Grande Conservancy District, Providing for the Payment of Operation and Maintenance Charges on Newly Reclaimed Pueblo Indian Lands in the Middle Rio Grande Valley, New Mexico” and exe-

cuted in September 2004 (including any successor agreements and amendments to the agreement).

(2) DESIGNATED ENGINEER.—The term “designated engineer” means a Federal employee designated under the Act of February 14, 1927 (69 Stat. 1098, chapter 138) to represent the United States in any action involving the maintenance, rehabilitation, or preservation of the condition of any irrigation structure or facility on land located in the Six Middle Rio Grande Pueblos.

(3) DISTRICT.—The term “District” means the Middle Rio Grande Conservancy District, a political subdivision of the State established in 1925.

(4) PUEBLO IRRIGATION INFRASTRUCTURE.—The term “Pueblo irrigation infrastructure” means any diversion structure, conveyance facility, or drainage facility that is—

(A) in existence as of the date of enactment of this Act; and

(B) located on land of a Rio Grande Pueblo that is associated with—

(i) the delivery of water for the irrigation of agricultural land; or

(ii) the carriage of irrigation return flows and excess water from the land that is served.

(5) RIO GRANDE BASIN.—The term “Rio Grande Basin” means the headwaters of the Rio Chama and the Rio Grande Rivers (including any tributaries) from the State line between Colorado and New Mexico downstream to the elevation corresponding with the spillway crest of Elephant Butte Dam at 4,457.3 feet mean sea level.

(6) RIO GRANDE PUEBLO.—The term “Rio Grande Pueblo” means any of the 18 Pueblos that—

(A) occupy land in the Rio Grande Basin; and

(B) are included on the list of federally recognized Indian tribes published by the Secretary in accordance with section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

(7) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(8) SIX MIDDLE RIO GRANDE PUEBLOS.—The term “Six Middle Rio Grande Pueblos” means each of the Pueblos of Cochiti, Santo Domingo, San Felipe, Santa Ana, Sandia, and Isleta.

(9) SPECIAL PROJECT.—The term “special project” has the meaning given the term in the 2004 Agreement.

(10) STATE.—The term “State” means the State of New Mexico.

(c) IRRIGATION INFRASTRUCTURE STUDY.—

(1) STUDY.—

(A) IN GENERAL.—On the date of enactment of this Act, the Secretary, in accordance with subparagraph (B), and in consultation with the Rio Grande Pueblos, shall—

(i) conduct a study of Pueblo irrigation infrastructure; and

(ii) based on the results of the study, develop a list of projects (including a cost estimate for each project),

that are recommended to be implemented over a 10-year period to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure.

- (B) REQUIRED CONSENT.—In carrying out subparagraph (A), the Secretary shall only include each individual Rio Grande Pueblo that notifies the Secretary that the Pueblo consents to participate in—
- (i) the conduct of the study under subparagraph (A)(i); and
 - (ii) the development of the list of projects under subparagraph (A)(ii) with respect to the Pueblo.
- (2) PRIORITY.—

(A) CONSIDERATION OF FACTORS.—

(i) IN GENERAL.—In developing the list of projects under paragraph (1)(A)(ii), the Secretary shall—

- (I) consider each of the factors described in subparagraph (B); and
- (II) prioritize the projects recommended for implementation based on—

(aa) a review of each of the factors; and

(bb) a consideration of the projected benefits of the project on completion of the project.

(ii) ELIGIBILITY OF PROJECTS.—A project is eligible to be considered and prioritized by the Secretary if the project addresses at least 1 factor described in subparagraph (B).

(B) FACTORS.—The factors referred to in subparagraph (A) are—

(i)(I) the extent of disrepair of the Pueblo irrigation infrastructure; and

(II) the effect of the disrepair on the ability of the applicable Rio Grande Pueblo to irrigate agricultural land using Pueblo irrigation infrastructure;

(ii) whether, and the extent that, the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would provide an opportunity to conserve water;

(iii)(I) the economic and cultural impacts that the Pueblo irrigation infrastructure that is in disrepair has on the applicable Rio Grande Pueblo; and

(II) the economic and cultural benefits that the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would have on the applicable Rio Grande Pueblo;

(iv) the opportunity to address water supply or environmental conflicts in the applicable river basin if the Pueblo irrigation infrastructure is repaired, rehabilitated, or reconstructed; and

(v) the overall benefits of the project to efficient water operations on the land of the applicable Rio Grande Pueblo.

(3) CONSULTATION.—In developing the list of projects under paragraph (1)(A)(ii), the Secretary shall consult with the Director of the Bureau of Indian Affairs (including the designated engineer with respect to each proposed project that affects the

Six Middle Rio Grande Pueblos), the Chief of the Natural Resources Conservation Service, and the Chief of Engineers to evaluate the extent to which programs under the jurisdiction of the respective agencies may be used—

(A) to assist in evaluating projects to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure; and

(B) to implement—

(i) a project recommended for implementation under paragraph (1)(A)(ii); or

(ii) any other related project (including on-farm improvements) that may be appropriately coordinated with the repair, rehabilitation, or reconstruction of Pueblo irrigation infrastructure to improve the efficient use of water in the Rio Grande Basin.

(4) REPORT.—Not later than [2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources] *December 31, 2020, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the Senate and the Committee on Resources of the House of Representatives* a report that includes—

(A) the list of projects recommended for implementation under paragraph (1)(A)(ii); and

(B) any findings of the Secretary with respect to—

(i) the study conducted under paragraph (1)(A)(i);

(ii) the consideration of the factors under paragraph

(2)(B); and

(iii) the consultations under paragraph (3).

(5) PERIODIC REVIEW.—Not later than 4 years after the date on which the Secretary submits the report under paragraph (4) and every 4 years thereafter, the Secretary, in consultation with each Rio Grande Pueblo, shall—

(A) review the report submitted under paragraph (4); and

(B) update the list of projects described in paragraph (4)(A) in accordance with each factor described in paragraph (2)(B), as the Secretary determines to be appropriate.

(d) IRRIGATION INFRASTRUCTURE GRANTS.—

(1) IN GENERAL.—The Secretary may provide grants to, and enter into contracts or other agreements with, the Rio Grande Pueblos to plan, design, construct, or otherwise implement projects to repair, rehabilitate, reconstruct, or replace Pueblo irrigation infrastructure that are recommended for implementation under subsection (c)(1)(A)(ii)—

(A) to increase water use efficiency and agricultural productivity for the benefit of a Rio Grande Pueblo;

(B) to conserve water; or

(C) to otherwise enhance water management or help avert water supply conflicts in the Rio Grande Basin.

(2) LIMITATION.—Assistance provided under paragraph (1) shall not be used for—

(A) the repair, rehabilitation, or reconstruction of any major impoundment structure; or

(B) any on-farm improvements.

(3) CONSULTATION.—In carrying out a project under paragraph (1), the Secretary shall—

(A) consult with, and obtain the approval of, the applicable Rio Grande Pueblo;

(B) consult with the Director of the Bureau of Indian Affairs; and

(C) as appropriate, coordinate the project with any work being conducted under the irrigation operations and maintenance program of the Bureau of Indian Affairs.

(4) COST-SHARING REQUIREMENT.—

(A) FEDERAL SHARE.—

(i) IN GENERAL.—Except as provided in clause (ii), the Federal share of the total cost of carrying out a project under paragraph (1) shall be not more than 75 percent.

(ii) EXCEPTION.—The Secretary may waive or limit the non-Federal share required under clause (i) if the Secretary determines, based on a demonstration of financial hardship by the Rio Grande Pueblo, that the Rio Grande Pueblo is unable to contribute the required non-Federal share.

(B) DISTRICT CONTRIBUTIONS.—

(i) IN GENERAL.—The Secretary may accept from the District a partial or total contribution toward the non-Federal share required for a project carried out under paragraph (1) on land located in any of the Six Middle Rio Grande Pueblos if the Secretary determines that the project is a special project.

(ii) LIMITATION.—Nothing in clause (i) requires the District to contribute to the non-Federal share of the cost of a project carried out under paragraph (1).

(C) STATE CONTRIBUTIONS.—

(i) IN GENERAL.—The Secretary may accept from the State a partial or total contribution toward the non-Federal share for a project carried out under paragraph (1).

(ii) LIMITATION.—Nothing in clause (i) requires the State to contribute to the non-Federal share of the cost of a project carried out under paragraph (1).

(D) FORM OF NON-FEDERAL SHARE.—The non-Federal share under subparagraph (A)(i) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to a project carried out under paragraph (1).

(5) OPERATION AND MAINTENANCE.—The Secretary may not use any amount made available under subsection (g)(2) to carry out the operation or maintenance of any project carried out under paragraph (1).

(e) EFFECT ON EXISTING AUTHORITY AND RESPONSIBILITIES.—Nothing in this section—

(1) affects any existing project-specific funding authority; or

(2) limits or absolves the United States from any responsibility to any Rio Grande Pueblo (including any responsibility arising from a trust relationship or from any Federal law (in-

- cluding regulations), Executive order, or agreement between the Federal Government and any Rio Grande Pueblo).
- (f) EFFECT ON PUEBLO WATER RIGHTS OR STATE WATER LAW.—
- (1) PUEBLO WATER RIGHTS.—Nothing in this section (including the implementation of any project carried out in accordance with this section) affects the right of any Pueblo to receive, divert, store, or claim a right to water, including the priority of right and the quantity of water associated with the water right under Federal or State law.
- (2) STATE WATER LAW.—Nothing in this section preempts or affects—
- (A) State water law; or
- (B) an interstate compact governing water.
- (g) AUTHORIZATION OF APPROPRIATIONS.—
- (1) STUDY.—There is authorized to be appropriated to carry out subsection (c) \$4,000,000.
- (2) PROJECTS.—There is authorized to be appropriated to carry out subsection (d) **[\$6,000,000]** *such sums as may be necessary* for each of fiscal years **[2010 through 2019]** *2020 through 2029*.

Subtitle F—Secure Water

* * * * *

SEC. 9502. DEFINITIONS.

In this **[section]** *subtitle*:

- (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.
- (2) ADVISORY COMMITTEE.—The term “Advisory Committee” means the National Advisory Committee on Water Information established—
- (A) under the Office of Management and Budget Circular 92-01; and
- (B) to coordinate water data collection activities.
- (3) ASSESSMENT PROGRAM.—The term “assessment program” means the water availability and use assessment program established by the Secretary under section 9508(a).
- (4) CLIMATE DIVISION.—The term “climate division” means 1 of the 359 divisions in the United States that represents 2 or more regions located within a State that are as climatically homogeneous as possible, as determined by the Administrator.
- (5) COMMISSIONER.—The term “Commissioner” means the Commissioner of Reclamation.
- (6) DIRECTOR.—The term “Director” means the Director of the United States Geological Survey.
- [(7) ELIGIBLE APPLICANT.—The term “eligible applicant” means any State, Indian tribe, irrigation district, water district, or other organization with water or power delivery authority.]**
- (7) *ELIGIBLE APPLICANT.—The term “eligible applicant” means—*
- (A) *any State, Indian tribe, irrigation district, or water district;*

(B) any State, regional, or local authority, the members of which include one or more organizations with water or power delivery authority;

(C) any other organization with water or power delivery authority; or

(D) any nonprofit conservation organization.

(8) FEDERAL POWER MARKETING ADMINISTRATION.—The term “Federal Power Marketing Administration” means—

(A) the Bonneville Power Administration;

(B) the Southeastern Power Administration;

(C) the Southwestern Power Administration; and

(D) the Western Area Power Administration.

(9) HYDROLOGIC ACCOUNTING UNIT.—The term “hydrologic accounting unit” means 1 of the 352 river basin hydrologic accounting units used by the United States Geological Survey.

(10) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(11) MAJOR AQUIFER SYSTEM.—The term “major aquifer system” means a groundwater system that is—

(A) identified as a significant groundwater system by the Director; and

(B) included in the Groundwater Atlas of the United States, published by the United States Geological Survey.

(12) MAJOR RECLAMATION RIVER BASIN.—

(A) IN GENERAL.—The term “major reclamation river basin” means each major river system (including tributaries)—

(i) that is located in a service area of the Bureau of Reclamation; and

(ii) at which is located a federally authorized project of the Bureau of Reclamation.

(B) INCLUSIONS.—The term “major reclamation river basin” includes—

(i) the Colorado River;

(ii) the Columbia River;

(iii) the Klamath River;

(iv) the Missouri River;

(v) the Rio Grande;

(vi) the Sacramento River;

(vii) the San Joaquin River; and

(viii) the Truckee River.

(13) NATURAL WATER RECHARGE INFRASTRUCTURE.—*The term “natural water recharge infrastructure” means a single project, a number of distributed projects across a watershed, or the re-design and replacement, or removal, of built infrastructure to incorporate natural aquatic elements, in which the project—*

(A) uses natural materials appropriate to the specific site and landscape setting;

(B) mimics natural riverine, floodplain, riparian, wetland, hydrologic, or other ecological processes; and

(C) results in aquifer recharge, transient floodplain water retention, or restoration of water in the landscape such that the water returns to a wetland, riparian area, or surface water channel.

[(13)] (14) NON-FEDERAL PARTICIPANT.—The term “non-Federal participant” means—

- (A) a State, regional, or local authority;
- (B) an Indian tribe or tribal organization; or
- (C) any other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association, or a nongovernmental organization.

[(14)] (15) PANEL.—The term “panel” means the climate change and water intragovernmental panel established by the Secretary under section 9506(a).

[(15)] (16) PROGRAM.—The term “program” means the regional integrated sciences and assessments program—

- (A) established by the Administrator; and
- (B) that is comprised of 8 regional programs that use advances in integrated climate sciences to assist decision-making processes.

[(16)] (17) SECRETARY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “Secretary” means the Secretary of the Interior.

(B) EXCEPTIONS.—The term “Secretary” means—

- (i) in the case of sections 9503, 9504, and 9509, the Secretary of the Interior (acting through the Commissioner); and
- (ii) in the case of sections 9507 and 9508, the Secretary of the Interior (acting through the Director).

[(17)] (18) SERVICE AREA.—The term “service area” means any area that encompasses a watershed that contains a federally authorized reclamation project that is located in any State or area described in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

SEC. 9503. RECLAMATION CLIMATE CHANGE AND WATER PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a climate change adaptation program—

- (1) to coordinate with the Administrator and other appropriate agencies to assess each effect of, and risk resulting from, global climate change with respect to the quantity of water resources located in a service area; and
- (2) to ensure, to the maximum extent possible, that strategies are developed at watershed and aquifer system scales to address potential water shortages, conflicts, and other impacts to water users located at, and the environment of, each service area.

(b) REQUIRED ELEMENTS.—In carrying out the program described in subsection (a), the Secretary shall—

- (1) coordinate with the United States Geological Survey, the National Oceanic and Atmospheric Administration, the program, and each appropriate State water resource agency, to ensure that the Secretary has access to the best available scientific information with respect to presently observed and projected future impacts of global climate change on water resources;
- (2) assess specific risks to the water supply of each major reclamation river basin, including any risk relating to—

- (A) a change in snowpack;
- (B) changes in the timing and quantity of runoff;
- (C) changes in groundwater recharge and discharge; and
- (D) any increase in—
 - (i) the demand for water as a result of increasing temperatures; and
 - (ii) the rate of reservoir evaporation;
- (3) with respect to each major reclamation river basin, analyze the extent to which changes in the water supply of the United States will impact—
 - (A) the ability of the Secretary to deliver water to the contractors of the Secretary;
 - (B) hydroelectric power generation facilities;
 - (C) recreation at reclamation facilities;
 - (D) fish and wildlife habitat *and native biodiversity*;
 - (E) applicable species listed as an endangered, threatened, or candidate species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
 - (F) water quality issues (including salinity levels of each major reclamation river basin);
 - (G) flow and water dependent ecological resiliency; and
 - (H) flood control management;
- (4) in consultation with appropriate non-Federal participants, consider and develop appropriate strategies to mitigate each impact of water supply changes analyzed by the Secretary under paragraph (3), including strategies relating to—
 - (A) the modification of any reservoir storage or operating guideline in existence as of the date of enactment of this Act;
 - (B) the development of new water management, operating, or habitat restoration plans *and drought biodiversity plans to address sustaining native biodiversity during periods of drought*;
 - (C) water conservation;
 - (D) improved hydrologic models and other decision support systems; and
 - (E) groundwater and surface water storage needs; and
- (5) in consultation with the Director, the Administrator, the Secretary of Agriculture (acting through the Chief of the Natural Resources Conservation Service), and applicable State water resource agencies, develop a monitoring plan to acquire and maintain water resources data—
 - (A) to strengthen the understanding of water supply trends; and
 - (B) to assist in each assessment and analysis conducted by the Secretary under paragraphs (2) and (3).
- (c) REPORTING.—Not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report that describes—
 - (1) each effect of, and risk resulting from, global climate change with respect to the quantity of water resources located in each major reclamation river basin;

(2) the impact of global climate change with respect to the operations of the Secretary in each major reclamation river basin;

(3) each mitigation and adaptation strategy considered and implemented by the Secretary to address each effect of global climate change described in paragraph (1);

(4) each coordination activity conducted by the Secretary with—

(A) the Director;

(B) the Administrator;

(C) the Secretary of Agriculture (acting through the Chief of the Natural Resources Conservation Service); or

(D) any appropriate State water resource agency; and

(5) the implementation by the Secretary of the monitoring plan developed under subsection (b)(5).

(d) FEASIBILITY STUDIES.—

(1) **AUTHORITY OF SECRETARY.—**The Secretary, in cooperation with any non-Federal participant, may conduct 1 or more studies to determine the feasibility and impact on ecological resiliency of implementing each mitigation and adaptation strategy described in subsection (c)(3), including the construction of any water supply, water management, environmental, or habitat enhancement water infrastructure that the Secretary determines to be necessary to address the effects of global climate change on water resources located in each major reclamation river basin.

(2) COST SHARING.—

(A) FEDERAL SHARE.—

(i) **IN GENERAL.—**Except as provided in clause (ii), the Federal share of the cost of a study described in paragraph (1) shall not exceed 50 percent of the cost of the study.

(ii) **EXCEPTION RELATING TO FINANCIAL HARDSHIP.—**The Secretary may increase the Federal share of the cost of a study described in paragraph (1) to exceed 50 percent of the cost of the study if the Secretary determines that, due to a financial hardship, the non-Federal participant of the study is unable to contribute an amount equal to 50 percent of the cost of the study.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of a study described in paragraph (1) may be provided in the form of any in-kind services that substantially contribute toward the completion of the study, as determined by the Secretary.

(e) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this section amends or otherwise affects any existing authority under reclamation laws that govern the operation of any Federal reclamation project.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2023, to remain available until expended.

SEC. 9504. WATER MANAGEMENT IMPROVEMENT.

(a) AUTHORIZATION OF GRANTS AND COOPERATIVE AGREEMENTS.—

(1) **AUTHORITY OF SECRETARY.**—The Secretary may provide any grant to, or enter into an agreement with, any eligible applicant to assist the eligible applicant in planning, designing, or constructing any improvement *or carrying out any activity*—

【(A) to conserve water;

【(B) to increase water use efficiency;

【(C) to facilitate water markets;

【(D) to enhance water management, including increasing the use of renewable energy in the management and delivery of water;

【(E) to accelerate the adoption and use of advanced water treatment technologies to increase water supply;】

(A) to assist States and water users in complying with interstate compacts through temporary, voluntary, and compensated transactions that decrease consumptive water use at a regional or watershed scale;

【(F) to prevent】 *(B) to achieve the prevention of the decline of species that the United States Fish and Wildlife Service and National Marine Fisheries Service have proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (or candidate species that are being considered by those agencies for such listing but are not yet the subject of a proposed rule);*

【(G) to accelerate】 *(C) to achieve the acceleration of the recovery of threatened species, endangered species, and designated critical habitats that are adversely affected by Federal reclamation projects or are subject to a recovery plan or conservation plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) under which the Commissioner of Reclamation has implementation responsibilities; or*

【(H)】 *(D) to carry out any other activity—*

【(i) to address any climate-related impact to the water supply of the United States that increases ecological resiliency to the impacts of climate change; or】

(i) to increase ecological resilience to climate change, including by enhancing natural water recharge infrastructure within a floodplain or riparian wetland, by addressing climate-related impacts or vulnerability to the water supply of the United States;

(ii) to prevent any water-related crisis or conflict at any watershed that has a nexus to a Federal reclamation project located in a service area【.】; or

(iii) to plan for or address the impacts of drought.

(2) **ELIGIBLE PROJECTS.**—*The improvements or activities eligible for assistance under paragraph (1) may include improvements or activities—*

(A) using an approach—

(i) to conserve water;

(ii) to increase water use efficiency;

(iii) to facilitate water markets; or

(iv) to enhance water management, including increasing the use of renewable energy in the management and delivery of water or increasing natural water recharge infrastructure;

(B) to improve the condition of natural water recharge infrastructure; or

(C) to achieve the acceleration of the adoption and use of advanced water treatment technologies to increase water supply.

【(2)】 (3) APPLICATION.—To be eligible to receive a grant, or enter into an agreement with the Secretary under paragraph (1), an eligible applicant shall—

(A) be located within—

- (i) the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391);
- (ii) the State of Alaska; or
- (iii) the State of Hawaii; and

(B) submit to the Secretary an application that includes a proposal of the improvement or activity to be planned, designed, constructed, or implemented by the eligible applicant.

【(3)】 (4) REQUIREMENTS OF GRANTS AND COOPERATIVE AGREEMENTS.—

(A) COMPLIANCE WITH REQUIREMENTS.—Each grant and agreement entered into by the Secretary with any eligible applicant under paragraph (1) shall be in compliance with each requirement described in subparagraphs (B) through (F).

(B) AGRICULTURAL OPERATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), in carrying out paragraph (1), the Secretary shall not provide a grant, or enter into an agreement, for an improvement to conserve irrigation water unless the eligible applicant agrees not—

(I) to use any associated water savings to increase the total irrigated acreage of the eligible applicant; or

【(II) to otherwise increase the consumptive use of water in the operation of the eligible applicant, as determined pursuant to the law of the State in which the operation of the eligible applicant is located.】

(II) to use the assistance provided under a grant or agreement to increase the consumptive use of water for agricultural operations above the pre-project levels, as determined pursuant to the law of the State in which the operation of the eligible applicant is located.

(ii) INDIAN TRIBES.—In the case of an eligible applicant that is an Indian tribe, in carrying out paragraph (1), the Secretary shall not provide a grant, or enter into an agreement, for an improvement to conserve irrigation water unless the Indian tribe agrees not—

(I) to use any associated water savings to increase the total irrigated acreage more than the water right of that Indian tribe, as determined by—

- (aa) a court decree;
- (bb) a settlement;

(cc) a law; or

(dd) any combination of the authorities described in items (aa) through (cc); or

(II) to otherwise increase the consumptive use of water more than the water right of the Indian tribe described in subclause (I).

(C) NONREIMBURSABLE FUNDS.—Any funds provided by the Secretary to an eligible applicant through a grant or agreement under paragraph (1) shall be nonreimbursable.

(D) TITLE TO IMPROVEMENTS.—If an infrastructure improvement to a federally owned facility is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1), the Federal Government shall continue to hold title to the facility and improvements to the facility.

(E) COST SHARING.—

[(i) FEDERAL SHARE.—The Federal share of the cost of any infrastructure improvement or activity that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall not exceed 50 percent of the cost of the infrastructure improvement or activity.]

(i) FEDERAL SHARE.—

(I) IN GENERAL.—*Except as provided in subclause (II), the Federal share of the cost of any infrastructure improvement or activity that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall not exceed 50 percent of the cost of the infrastructure improvement or activity.*

(II) INCREASED FEDERAL SHARE FOR CERTAIN INFRASTRUCTURE IMPROVEMENTS AND ACTIVITIES.—

(aa) IN GENERAL.—*The Federal share of the cost of an infrastructure improvement or activity described in item (bb) shall not exceed 75 percent of the cost of the infrastructure improvement or activity.*

(bb) INFRASTRUCTURE IMPROVEMENTS AND ACTIVITIES DESCRIBED.—*An infrastructure improvement or activity referred to in item (aa) is an infrastructure improvement or activity that provides benefits to consumptive water users and nonconsumptive ecological or recreational values in which—*

(AA) *in the case of an infrastructure improvement or activity that conserves water, the conserved water is returned to a surface water source with ecological or recreational benefits; or*

(BB) *in the case of other infrastructure improvements or activities, the majority of the benefits are nonconsumptive ecological or recreational benefits.*

(ii) CALCULATION OF NON-FEDERAL SHARE.—In calculating the non-Federal share of the cost of an infrastructure improvement or activity proposed by an eligible applicant through an application submitted by the eligible applicant under ~~paragraph (2)~~ *paragraph (3)*, the Secretary shall—

(I) consider the value of any in-kind services that substantially contributes toward the completion of the improvement or activity, as determined by the Secretary; and

(II) not consider any other amount that the eligible applicant receives from a Federal agency.

(iii) MAXIMUM AMOUNT.—The amount provided to an eligible applicant through a grant or other agreement under paragraph (1) shall be not more than \$5,000,000.

(iv) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the cost of operating and maintaining any infrastructure improvement that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall be 100 percent.

(F) LIABILITY.—

(i) IN GENERAL.—Except as provided under chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved under this section, the title of which is not held by the United States.

(ii) TORT CLAIMS ACT.—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”).

(b) RESEARCH AGREEMENTS.—

(1) AUTHORITY OF SECRETARY.—The Secretary may enter into 1 or more agreements with any university, nonprofit research institution, *nonprofit conservation organization*, or organization with water or power delivery authority to fund any research activity that is designed—

(A) to conserve water resources;

(B) to increase the efficiency of the use of water resources; **[or]**

(C) to increase natural water recharge infrastructure; or

[(C)] (D) to enhance the management of water resources, including increasing the use of renewable energy in the management and delivery of water.

(2) TERMS AND CONDITIONS OF SECRETARY.—

(A) IN GENERAL.—An agreement entered into between the Secretary and any university, institution, or organization described in paragraph (1) shall be subject to such terms and conditions as the Secretary determines to be appropriate.

(B) AVAILABILITY.—The agreements under this subsection shall be available to all Reclamation projects and programs that may benefit from project-specific or programmatic cooperative research and development.

(c) MUTUAL BENEFIT.—Grants or other agreements made under this section may be for the mutual benefit of the United States and the entity that is provided the grant or enters into the cooperative agreement.

(d) RELATIONSHIP TO PROJECT-SPECIFIC AUTHORITY.—This section shall not supersede any existing project-specific funding authority.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section ~~【\$530,000,000】~~ \$700,000,000, subject to the condition that \$50,000,000 of that amount shall be used to carry out section 206 of the Energy and Water Development and Related Agencies Appropriations Act, 2015 (43 U.S.C. 620 note; Public Law 113–235), to remain available until expended.

* * * * *

SEC. 9508. NATIONAL WATER AVAILABILITY AND USE ASSESSMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in coordination with the Advisory Committee and State and local water resource agencies, shall establish a national assessment program to be known as the “national water availability and use assessment program”—

- (1) to provide a more accurate assessment of the status of the water resources of the United States;
- (2) to assist in the determination of the quantity of water that is available for beneficial uses;
- (3) to assist in the determination of the quality of the water resources of the United States;
- (4) to identify long-term trends in water availability;
- (5) to use each long-term trend described in paragraph (4) to provide a more accurate assessment of the change in the availability of water in the United States; and
- (6) to develop the basis for an improved ability to forecast the availability of water for future economic, energy production, and environmental uses.

(b) PROGRAM ELEMENTS.—

(1) WATER USE.—In carrying out the assessment program, the Secretary shall conduct any appropriate activity to carry out an ongoing assessment of water use in hydrologic accounting units and major aquifer systems located in the United States, including—

(A) the maintenance of a comprehensive national water use inventory to enhance the level of understanding with respect to the effects of spatial and temporal patterns of water use on the availability and sustainable use of water resources;

(B) the incorporation of water use science principles, with an emphasis on applied research and statistical estimation techniques in the assessment of water use;

(C) the integration of any dataset maintained by any other Federal or State agency into the dataset maintained by the Secretary; and

(D) a focus on the scientific integration of any data relating to water use, water flow, or water quality to generate relevant information relating to the impact of human activity on water and ecological resources.

(2) WATER AVAILABILITY.—In carrying out the assessment program, the Secretary shall conduct an ongoing assessment of water availability by—

(A) developing and evaluating nationally consistent indicators that reflect each status and trend relating to the availability of water resources in the United States, including—

(i) surface water indicators, such as streamflow and surface water storage measures (including lakes, reservoirs, perennial snowfields, and glaciers);

(ii) groundwater indicators, including groundwater level measurements and changes in groundwater levels due to—

(I) natural recharge;

(II) withdrawals;

(III) saltwater intrusion;

(IV) mine dewatering;

(V) land drainage;

(VI) artificial recharge; and

(VII) other relevant factors, as determined by the Secretary; and

(iii) impaired surface water and groundwater supplies that are known, accessible, and used to meet ongoing water demands;

(B) maintaining a national database of water availability data that—

(i) is comprised of maps, reports, and other forms of interpreted data;

(ii) provides electronic access to the archived data of the national database; and

(iii) provides for real-time data collection; and

(C) developing and applying predictive modeling tools that integrate groundwater, surface water, and ecological systems.

(c) GRANT PROGRAM.—

(1) AUTHORITY OF SECRETARY.—The Secretary may provide grants to State water resource agencies to assist State water resource agencies in—

(A) developing water use and availability datasets that are integrated with each appropriate dataset developed or maintained by the Secretary; or

(B) integrating any water use or water availability dataset of the State water resource agency into each appropriate dataset developed or maintained by the Secretary.

(2) CRITERIA.—To be eligible to receive a grant under paragraph (1), a State water resource agency shall demonstrate to the Secretary that the water use and availability dataset proposed to be established or integrated by the State water resource agency—

(A) is in compliance with each quality and conformity standard established by the Secretary to ensure that the data will be capable of integration with any national dataset; and

(B) will enhance the ability of the officials of the State or the State water resource agency to carry out each water management and regulatory responsibility of the officials of the State in accordance with each applicable law of the State.

(3) **MAXIMUM AMOUNT.**—The amount of a grant provided to a State water resource agency under paragraph (1) shall be an amount not more than \$250,000.

(d) **REPORT.**—Not later than December 31, 2012, and every 5 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report that provides a detailed assessment of—

(1) the current availability of water resources in the United States, including—

(A) historic trends and annual updates of river basin inflows and outflows;

(B) surface water storage;

(C) groundwater reserves; and

(D) estimates of undeveloped potential resources (including saline and brackish water and wastewater);

(2) significant trends affecting water availability, including each documented or projected impact to the availability of water as a result of global climate change;

(3) the withdrawal and use of surface water and groundwater by various sectors, including—

(A) the agricultural sector;

(B) municipalities;

(C) the industrial sector;

(D) thermoelectric power generators; **[and]**

(E) hydroelectric power generators**];** and

(F) *oil, gas, and mineral development under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Act of May 11, 1938 (commonly known as the “Indian Mineral Leasing Act of 1938”) (25 U.S.C. 396a et seq.), sections 2319 through 2344 of the Revised Statutes (commonly known as the “Mining Law of 1872”) (30 U.S.C. 22 et seq.), and the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);*

(4) significant trends relating to each water use sector, including significant changes in water use due to the development of new energy supplies;

(5) significant water use conflicts or shortages that have occurred or are occurring; and

(6) each factor that has caused, or is causing, a conflict or shortage described in paragraph (5).

(e) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to carry out subsections (a), (b), and (d) \$20,000,000 for each of fiscal years 2009 through 2023, to remain available until expended.

(2) GRANT PROGRAM.—There is authorized to be appropriated to carry out subsection (c) \$12,500,000 for the period of fiscal years 2009 through 2013, to remain available until expended.

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PUBLIC LAW 114-322

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TITLE III—NATURAL RESOURCES

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Subtitle J—California Water

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SEC. 4009. OTHER WATER SUPPLY PROJECTS.

(a) WATER DESALINATION ACT AMENDMENTS.—Section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104-298) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following:

“(1) PROJECTS.—

“(A) IN GENERAL.—Subject to the requirements of this subsection, the Secretary of the Interior may participate in an eligible desalination project in an amount equal to not more than 25 percent of the total cost of the eligible desalination project.

“(B) ELIGIBLE DESALINATION PROJECT.—The term ‘eligible desalination project’ means any project in a Reclamation State, that—

“(i) involves an ocean or brackish water desalination facility either constructed, operated and maintained; or sponsored by any State, department of a State, subdivision of a State or public agency organized pursuant to a State law; and

“(ii) provides a Federal benefit in accordance with the reclamation laws (including regulations).

“(C) STATE ROLE.—Participation by the Secretary of the Interior in an eligible desalination project under this subsection shall not occur unless—

“(i) the project is included in a state-approved plan or federal participation has been requested by the Governor of the State in which the eligible desalination project is located; and

“(ii) the State or local sponsor determines, and the Secretary of the Interior concurs, that—

“(I) the eligible desalination project is technically and financially feasible and provides a

Federal benefit in accordance with the reclamation laws;

“(II) sufficient non-Federal funding is available to complete the eligible desalination project; and

“(III) the eligible desalination project sponsors are financially solvent; and

“(iii) the Secretary of the Interior submits to Congress a written notification of these determinations within 30 days of making such determinations.

“(D) ENVIRONMENTAL LAWS.—When participating in an eligible desalination project under this subsection, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(E) INFORMATION.—When participating in an eligible desalination project under this subsection, the Secretary of the Interior—

“(i) may rely on reports prepared by the sponsor of the eligible desalination project, including feasibility (or equivalent) studies, environmental analyses, and other pertinent reports and analyses; but

“(ii) shall retain responsibility for making the independent determinations described in subparagraph (C).

“(F) AUTHORIZATION OF APPROPRIATIONS.—

“(i) \$30,000,000 of funding is authorized to remain available until expended; and

“(ii) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to this subsection and transmits such recommendations to the appropriate committees of Congress.”.

(c) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (title XVI of Public Law 102-575; 43 U.S.C. 390h et. seq.) is amended by adding at the end the following new subsections:

“(e) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—

“(1) SUBMISSION TO THE SECRETARY.—

“(A) IN GENERAL.—Non-Federal interests may submit proposals for projects eligible to be authorized pursuant to this section in the form of completed feasibility studies to the Secretary.

“(B) ELIGIBLE PROJECTS.—A project shall be considered eligible for consideration under this section if the project reclaims and reuses—

“(i) municipal, industrial, domestic, or agricultural wastewater; or

“(ii) impaired ground or surface waters.

“(C) GUIDELINES.—Within 60 days of the enactment of this Act the Secretary shall issue guidelines for feasibility studies for water recycling and reuse projects to provide sufficient information for the formulation of the studies.

“(2) REVIEW BY THE SECRETARY.—The Secretary shall review each feasibility study received under paragraph (1)(A) for the purpose of—

“(A) determining whether the study, and the process under which the study was developed, each comply with Federal laws and regulations applicable to feasibility studies of water recycling and reuse projects; and

“(B) the project is technically and financially feasible and provides a Federal benefit in accordance with the reclamation laws.

“(3) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of receipt of a feasibility study received under paragraph (1)(A), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

“(A) the results of the Secretary’s review of the study under paragraph (2), including a determination of whether the project is feasible;

“(B) any recommendations the Secretary may have concerning the plan or design of the project; and

“(C) any conditions the Secretary may require for construction of the project.

“(4) ELIGIBILITY FOR FUNDING.—The non-Federal project sponsor of any project determined by the Secretary to be feasible under paragraph (3)(A) shall be eligible to apply to the Secretary for funding for the Federal share of the costs of planning, designing and constructing the project pursuant to subsection (f).

“(f) COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING AND REUSE PROJECTS.—

“(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant program under which the non-Federal project sponsor of any project determined by the Secretary to be feasible under subsection (e)(3)(A) shall be eligible to apply for funding for the planning, design, and construction of the project, subject to subsection (g)(2).

“(2) PRIORITY.—When funding projects under paragraph (1), the Secretary shall give funding priority to projects that meet one or more of the criteria listed in paragraph (3) and are located in an area that—

“(A) has been identified by the United States Drought Monitor as experiencing severe, extreme, or exceptional drought at any time in the 4-year period before such funds are made available; or

“(B) was designated as a disaster area by a State during the 4-year period before such funds are made available.

“(3) CRITERIA.—The project criteria referred to in paragraph (2) are the following:

“(A) Projects that are likely to provide a more reliable water supply for States and local governments.

“(B) Projects that are likely to increase the water management flexibility and reduce impacts on environmental resources from projects operated by Federal and State agencies.

“(C) Projects that are regional in nature.

“(D) Projects with multiple stakeholders.

“(E) Projects that provide multiple benefits, including water supply reliability, eco-system benefits, groundwater management and enhancements, and water quality improvements.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) There is authorized to be appropriated to the Secretary of the Interior an additional \$50,000,000 to remain available until expended.

“(2) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to subsection (f) and transmits such recommendations to the appropriate committees of Congress.”.

(d) FUNDING.—Section 9504 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364) is amended in subsection (e) by striking “\$350,000,000” and inserting “\$450,000,000” [on the condition that of that amount, \$50,000,000 of it is used to carry out section 206 of the Energy and Water Development and Related Agencies Appropriation Act, 2015 (43 U.S.C. 620 note; Public Law 113-235)].

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RECLAMATION STATES EMERGENCY DROUGHT RELIEF ACT OF 1991

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TITLE I—DROUGHT PROGRAM

* * * * *

SEC. 104. APPLICABLE PERIOD OF DROUGHT PROGRAM.

[(a) IN GENERAL.—The programs and authorities established under this title shall become operative in any Reclamation State and in the State of Hawaii only after the Governor or Governors of the affected State or States, or on a reservation, when the governing body of the affected tribe has made a request for temporary drought assistance and the Secretary has determined that such temporary assistance is merited, or upon the approval of a drought contingency plan as provided in title II of this Act.]

(a) IN GENERAL.—*The programs and authorities established under this title shall become operative in any Reclamation State and in the State of Hawaii only—*

(1) after the Governor or Governors of the affected State or States, or the governing body of an affected Indian Tribe with respect to a reservation, has made a request for temporary drought assistance and the Secretary has determined that the temporary assistance is merited;

(2) after a drought emergency has been declared by the Governor or Governors of the affected State or States; or

(3) on approval of a drought contingency plan as provided in title II.

(b) COORDINATION WITH BPA.—If a Governor referred to in subsection (a) is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

(c) TERMINATION OF AUTHORITY.—The authorities established under this title shall terminate on September 30, [2020] 2030.

* * * * *

TITLE III—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in section 2243 of this title (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than \$[120,000,000] 180,000,000 in total for the period of fiscal years 2006 through [2020] 2025, of which not more than \$30,000,000 shall be made available during that period for the conduct of actions authorized under title I of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2211 et seq.) to benefit imperiled fish and wildlife.

* * * * *

UNITED STATES-MEXICO TRANSBOUNDARY AQUIFER ASSESSMENT ACT

* * * * *

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Participating States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, and the IBWC, as appropriate, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model priority transboundary aquifers along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) OBJECTIVES.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to identify and assess priority transboundary aquifers, including—

(A) for purposes of subsection (c)(2), specifying priority transboundary aquifers for further analysis by assessing—

- (i) the proximity of a proposed priority transboundary aquifer to areas of high population density;
- (ii) the extent to which a proposed priority transboundary aquifer would be used;
- (iii) the susceptibility of a proposed priority transboundary aquifer to contamination; and
- (iv) any other relevant criteria;

- (B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;
 - (C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and
 - (D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—
 - (i) the additional data necessary to adequately define aquifer characteristics; and
 - (ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;
 - (2) consider the expansion or modification of existing agreements, as appropriate, between the United States Geological Survey, the Participating States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—
 - (A) conduct joint scientific investigations;
 - (B) archive and share relevant data; and
 - (C) carry out any other activities consistent with the program; and
 - (3) produce scientific products for each priority transboundary aquifer that—
 - (A) are capable of being broadly distributed; and
 - (B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.
- (c) DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.—
- (1) IN GENERAL.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—
 - (A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;
 - (B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and
 - (C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.
 - (2) ADDITIONAL AQUIFERS.—The Secretary may, using the criteria under subsection (b)(1)(A), evaluate and designate additional priority transboundary aquifers which underlie **[New Mexico or Texas]** *New Mexico, Texas, or Arizona (other than an aquifer underlying Arizona and Sonora, Mexico, that is partially within the Yuma groundwater basin designated by the order of the Director of the Arizona Department of Water Resources dated June 21, 1984).*
 - (d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of priority transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Participating State entities to carry out the program.

* * * * *

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act \$50,000,000 for the period of **[fiscal years 2007 through 2016]** *fiscal years 2021 through 2029*.

(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Participating States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and to implement cooperative agreements entered into with appropriate entities in Mexico to conduct specific authorized activities in furtherance of the program, including the binational collection and exchange of scientific data.

(c) CRITERIA.—Funding provided to an appropriate entity in Mexico pursuant to subsection (b) shall be contingent on that entity providing 50 percent of the necessary resources (including in-kind services) to further assist in carrying out the authorized activity.

SEC. 9. SUNSET OF AUTHORITY.

The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of **[enactment of this Act]** *enactment of the Western Water Security Act of 2020*.

COMMITTEE CORRESPONDENCE

RAÚL M. GRIJALVA OF ARIZONA
CHAIRMAN

ROB BISHOP OF UTAH
RANKING REPUBLICAN

DAVID WATKINS
STAFF DIRECTOR

PARISH BRADY
REPUBLICAN STAFF DIRECTOR

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

April 8, 2020

The Honorable Eddie Bernice Johnson
Chair
Committee on Science, Space, and Technology
U.S. House of Representatives
2321 Rayburn House Office Building
Washington D.C. 20515

Dear Chair Johnson,

I write to you concerning H.R. 4891 the "Western Water Security Act of 2019."

I appreciate your willingness to work cooperatively on this legislation. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Science, Space, and Technology. I acknowledge that your Committee will not formally consider H.R. 4891 and agree that the inaction of your Committee with respect to the bill does not waive any future jurisdictional claim over the matters contained in the bill that fall within your Committee's Rule X jurisdiction.

I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva
Chair
House Natural Resources Committee

Cc: The Honorable Rob Bishop, Ranking Member
The Honorable Thomas J. Wickham Jr., Parliamentarian

EDDIE BERNICE JOHNSON, Texas
CHAIRWOMAN

FRANK D. LUCAS, Oklahoma
RANKING MEMBER

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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April 9, 2020

Chairman Raúl M. Grijalva
Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, DC 20515

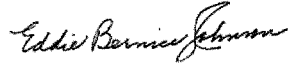
Dear Chairman Grijalva,

I am writing to you concerning H.R.4891, the "Western Water Security Act of 2019," which was referred to the Committee on Natural Resources, and subsequently to the Committee on Science, Space, and Technology ("Science Committee") on October 28, 2019

In the interest of expedience in the consideration of H.R. 4891 the Committee on Science, Space, and Technology will waive formal consideration of the bill. This is, however, not a waiver of future jurisdictional claims by the Science Committee over the subject matter contained in H.R. 4891 or similar legislation.

Thank you for agreeing to include our exchange of letters in the legislative report for H.R. 4891 and in the *Congressional Record*. Additionally, I ask that you support the appointment of Science Committee conferees during any House-Senate conference convened on this legislation.

Sincerely,



Eddie Bernice Johnson
Chairwoman
Committee on Science, Space, and Technology

cc: Ranking Member Frank D. Lucas, Committee on Science, Space, and Technology
Ranking Member Rob Bishop, Committee on Natural Resources
Jason Smith, Parliamentarian

DISSENTING VIEWS

H.R. 4891 breaches the longstanding Bureau of Reclamation beneficiary pays principle that assures local water projects are paid by local users. In this case, it includes a multitude of handouts to benefit specific communities in New Mexico at others' expense. Moreover, these are clearly earmarks in violation of House rules.

Worse, this bill expands the WaterSMART program to ANY non-profit conservation organization, regardless if it has any direct connection to water delivery. Further, it significantly modifies what actions are eligible for funding. Currently, grants are used primarily to carry out on-the-ground water management improvements, including projects that save water, mitigate conflict risk in areas at a high risk of water conflict, and accomplish other benefits to increase the reliability of existing supplies. Some of the grants awarded in 2019 include advanced metering infrastructure and canal lining projects. Unfortunately, the bill shifts the focus away from projects that conserve water, increase water use efficiency, or enhance water management.

These concerns are echoed by the Bureau of Reclamation. At the January 28, 2020, Water, Oceans and Wildlife hearing on the bill, the agency testified that, "Section 202 under Title II of H.R. 4891 could have potentially significant and unintended consequences for several Reclamation programs, including many of the WaterSMART programs The Department believes the bill, if enacted as drafted, could inadvertently prevent Reclamation from assisting water managers with some water management improvements or discourage potential applicants from participating in existing programs."

We commend the Democrats for eliminating the desalination provisions originally included in the legislation. However, unfortunately as currently written this bill falls short of good legislation. For these reasons, many Republicans oppose H.R. 4891 as ordered reported by the Committee on Natural Resources.

ROB BISHOP.
LOUIE GOHMERT.
TOM MCCLINTOCK.
PAUL A. GOSAR.

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