

116TH CONGRESS
1ST SESSION

H. R. 4891

To provide for the conduct of certain water security measures in the Western United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2019

Ms. TORRES SMALL of New Mexico (for herself, Mr. LUJÁN, Ms. HAALAND, Mrs. KIRKPATRICK, Mr. HURD of Texas, and Ms. DEGETTE) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the conduct of certain water security measures in the Western United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Western Water Security Act of 2019”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 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. Rural desalination.
 Sec. 103. Emergency drought funding.
 Sec. 104. 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.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) **RIO GRANDE COMPACT.**—The term “Rio
 4 Grande Compact” means the compact approved by
 5 Congress under the Act of May 31, 1939 (53 Stat.
 6 785, chapter 155).

7 (2) **SECRETARY.**—The term “Secretary” means
 8 the Secretary of the Interior.

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

1 **TITLE I—INFRASTRUCTURE AND**
2 **WATER MANAGEMENT IM-**
3 **PROVEMENT**

4 **SEC. 101. WATERSMART EXTENSION AND EXPANSION.**

5 (a) DEFINITION OF ELIGIBLE APPLICANT.—Section
6 9502 of the Omnibus Public Land Management Act of
7 2009 (42 U.S.C. 10362) is amended—

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

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

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

14 “(A) any State, Indian tribe, irrigation dis-
15 trict, or water district;

16 “(B) any State, regional, or local author-
17 ity, the members of which include one or more
18 organizations with water or power delivery au-
19 thority;

20 “(C) any other organization with water or
21 power delivery authority; and

22 “(D) any nonprofit conservation organiza-
23 tion.”;

24 (3) in paragraph (10), by striking “450b” and
25 inserting “5304”;

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

4 (5) by inserting after paragraph (12) the fol-
5 lowing:

6 “(13) NATURAL WATER RECHARGE INFRA-
7 STRUCTURE.—The term ‘natural water recharge in-
8 frastructure’ means a single project, a number of
9 distributed projects across a watershed, or the rede-
10 sign and replacement, or removal, of built infra-
11 structure to incorporate natural aquatic elements, in
12 which the project—

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

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

18 “(C) results in aquifer recharge, transient
19 floodplain water retention, or restoration of
20 water in the landscape such that the water re-
21 turns to a wetland, riparian area, or surface
22 water channel.”.

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

1 (1) in the matter preceding subparagraph (A),
2 by inserting “nonprofit conservation organization,”
3 before “or organization”;

4 (2) in subparagraph (B), by striking “or” at
5 the end;

6 (3) by redesignating subparagraph (C) as sub-
7 paragraph (D); and

8 (4) by inserting after subparagraph (B) the fol-
9 lowing:

10 “(C) to increase natural water recharge in-
11 frastructure; or”.

12 (c) WATER MANAGEMENT IMPROVEMENT.—Section
13 9504(e) of the Omnibus Public Land Management Act of
14 2009 (42 U.S.C. 10364(e)) is amended by striking
15 “\$480,000,000” and inserting “\$650,000,000, subject to
16 the condition that \$50,000,000 of that amount shall be
17 used to carry out section 206 of the Energy and Water
18 Development and Related Agencies Appropriations Act,
19 2015 (43 U.S.C. 620 note; Public Law 113–235)”.

20 (d) CONFORMING AMENDMENT.—Section 4009(d) of
21 Public Law 114–322 (42 U.S.C. 10364 note) is amended
22 by striking “on the condition that of that amount,
23 \$50,000,000 of it is used to carry out section 206 of the
24 Energy and Water Development and Related Agencies Ap-

1 appropriation Act, 2015 (43 U.S.C. 620 note; Public Law
2 113–235)”.

3 **SEC. 102. RURAL DESALINATION.**

4 Section 4(a) of the Water Desalination Act of 1996
5 (42 U.S.C. 10301 note; Public Law 104–298) is amended
6 by striking the second paragraph (1) (relating to projects)
7 and inserting the following:

8 “(2) PROJECTS.—

9 “(A) DEFINITIONS.—In this paragraph:

10 “(i) ELIGIBLE DESALINATION
11 PROJECT.—The term ‘eligible desalination
12 project’ means any project located in a
13 Reclamation State, or for which the con-
14 struction, operation, sponsorship, or fund-
15 ing is the responsibility of, and the pri-
16 mary water supply benefit accrues to, one
17 or more entities in a Reclamation State,
18 that—

19 “(I) involves an ocean or brack-
20 ish water desalination facility—

21 “(aa) constructed, operated,
22 and maintained by a State, In-
23 dian Tribe, irrigation district,
24 water district, or other organiza-

1 tion with water or power delivery
2 authority; or

3 “(bb) sponsored or funded
4 by any combination of a State,
5 department of a State, political
6 subdivision of a State, or public
7 agency organized pursuant to
8 State law, including through—

9 “(AA) direct sponsor-
10 ship or funding; or

11 “(BB) indirect sponsor-
12 ship or funding, such as by
13 paying for the water pro-
14 vided by the facility; and

15 “(II) provides a Federal benefit
16 in accordance with the reclamation
17 laws.

18 “(ii) RURAL DESALINATION
19 PROJECT.—The term ‘rural desalination
20 project’ means an eligible desalination
21 project that is designed to serve a commu-
22 nity or group of communities, each of
23 which has a population of not more than
24 40,000 inhabitants.

25 “(B) COST-SHARING REQUIREMENT.—

1 “(i) IN GENERAL.—Subject to the re-
2 quirements of this subsection and notwith-
3 standing section 7, the Federal share of an
4 eligible desalination project carried out
5 under this subsection shall be—

6 “(I) not more than 25 percent of
7 the total cost of the eligible desalina-
8 tion project; or

9 “(II) in the case of a rural de-
10 salination project, the applicable per-
11 centage determined in accordance
12 with clause (ii).

13 “(ii) RURAL DESALINATION
14 PROJECTS.—

15 “(I) COST-SHARING REQUIRE-
16 MENT FOR APPRAISAL STUDIES.—
17 Subject to subclause (IV), in the case
18 of a rural desalination project carried
19 out under this subsection, the Federal
20 share of the cost of appraisal studies
21 for the rural desalination project shall
22 be—

23 “(aa) 100 percent of the
24 total costs of the appraisal stud-
25 ies, up to \$200,000; and

1 “(bb) if the total costs of
2 the appraisal studies are more
3 than \$200,000, 50 percent of any
4 amounts over \$200,000.

5 “(II) COST-SHARING REQUIRE-
6 MENT FOR FEASIBILITY STUDIES.—
7 Subject to subclause (IV), in the case
8 of a rural desalination project carried
9 out under this subsection, the Federal
10 share of the cost of feasibility studies
11 for the rural desalination project shall
12 be not more than 50 percent.

13 “(III) COST-SHARING REQUIRE-
14 MENT FOR CONSTRUCTION COSTS.—In
15 the case of a rural desalination project
16 carried out under this subsection, the
17 Federal share of the cost of construc-
18 tion of the rural desalination project
19 shall be not more than 75 percent,
20 unless—

21 “(aa) the Secretary deter-
22 mines during the feasibility study
23 phase, on a project-by-project
24 basis, that the non-Federal share
25 should be increased; or

1 “(bb) the Secretary deter-
2 mines that the non-Federal share
3 should be reduced under sub-
4 clause (IV).

5 “(IV) REDUCTION IN NON-FED-
6 ERAL SHARE.—The Secretary may re-
7 duce the non-Federal share of a rural
8 desalination project required under
9 subclause (I), (II), or (III) if the Sec-
10 retary determines, after consultation
11 with the heads of any other Federal
12 agencies that are partners in the rural
13 desalination project and in accordance
14 with applicable Reclamation stand-
15 ards, that the reduction is appropriate
16 due to—

17 “(aa) an overwhelming Fed-
18 eral interest in the rural desali-
19 nation project; and

20 “(bb) the sponsor of the
21 rural desalination project dem-
22 onstrating financial hardship.

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

1 “(i)(I) the eligible desalination project
2 is included in a State-approved plan; or

3 “(II) the participation has been re-
4 quested by the Governor of the State in
5 which the eligible desalination project is lo-
6 cated;

7 “(ii) the State or local sponsor of the
8 eligible desalination project determines,
9 and the Secretary concurs, that—

10 “(I) the eligible desalination
11 project—

12 “(aa) is technically and fi-
13 nancially feasible; and

14 “(bb) provides a Federal
15 benefit in accordance with the
16 reclamation laws; and

17 “(II) the non-Federal project
18 sponsor is financially capable of fund-
19 ing the non-Federal share of the
20 project costs; and

21 “(iii) the Secretary submits to Con-
22 gress a written notification of the deter-
23 minations under clause (ii) by not later
24 than 30 days after the date of the deter-
25 minations.

1 “(D) ENVIRONMENTAL LAWS.—In partici-
2 pating in an eligible desalination project under
3 this paragraph, the Secretary shall comply with
4 all applicable environmental laws, including the
5 National Environmental Policy Act of 1969 (42
6 U.S.C. 4321 et seq.).

7 “(E) INFORMATION.—In participating in
8 an eligible desalination project under this sub-
9 section, the Secretary—

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

15 “(ii) shall retain responsibility for
16 making the independent determinations de-
17 scribed in subparagraph (C).

18 “(F) FUNDING.—

19 “(i) AUTHORIZATION OF APPROPRIA-
20 TIONS.—There is authorized to be appro-
21 priated to carry out this paragraph
22 \$65,000,000 for the period of fiscal years
23 2020 through 2024, of which not less than
24 \$15,000,000 shall be made available dur-

1 ing that period for rural desalination
2 projects.

3 “(ii) FUNDING OPPORTUNITY AN-
4 NOUNCEMENT.—The Commissioner of Rec-
5 lamation shall release a funding oppor-
6 tunity announcement for a grant program
7 under this paragraph by not later than 75
8 days after the date of enactment of an Act
9 that provides funding for the program.

10 “(iii) CONGRESSIONAL APPROVAL INI-
11 TIALY REQUIRED.—

12 “(I) IN GENERAL.—Each initial
13 award under this paragraph for de-
14 sign and study, or for construction, of
15 an eligible desalination project shall
16 be approved in an appropriations Act.

17 “(II) RECLAMATION REC-
18 COMMENDATIONS.—The Commissioner
19 of Reclamation shall submit rec-
20 ommendations regarding the initial
21 award of design and study funding
22 and construction funding for consider-
23 ation under subclause (I) to—

24 “(aa) the Committee on Ap-
25 propriations of the Senate;

1 “(bb) the Committee on En-
2 ergy and Natural Resources of
3 the Senate;

4 “(cc) the Committee on Ap-
5 propriations of the House of Rep-
6 resentatives; and

7 “(dd) the Committee on
8 Natural Resources of the House
9 of Representatives.

10 “(iv) SUBSEQUENT FUNDING
11 AWARDS.—After approval by Congress of
12 an initial award of design and study fund-
13 ing or construction funding for an eligible
14 desalination project under clause (iii), the
15 Commissioner of Reclamation may award
16 additional design and study funding or
17 construction funding, respectively, for the
18 eligible desalination project without further
19 congressional approval.”.

20 **SEC. 103. EMERGENCY DROUGHT FUNDING.**

21 (a) FINANCIAL ASSISTANCE.—

22 (1) IN GENERAL.—Financial assistance may be
23 made available under the Reclamation States Emer-
24 gency Drought Relief Act of 1991 (43 U.S.C. 2201
25 et seq.) for eligible water projects to assist Western

1 States and Tribal governments to address drought-
2 related impacts to water supplies or any other imme-
3 diate water-related crisis or conflict, including
4 through voluntary, temporary, and compensated pro-
5 grams to reduce water demands for the purpose of
6 increasing water available in a system or reducing
7 water supply-demand imbalances.

8 (2) ADDITIONAL AVAILABILITY.—Financial as-
9 sistance may be made available under this sub-
10 section to organizations and entities with water de-
11 livery authority that are—

12 (A) engaged in collaborative processes to
13 restore the environment; or

14 (B) part of a basin-wide solution for res-
15 toration.

16 (3) TYPES OF ASSISTANCE.—Assistance under
17 paragraph (1) may include a range of projects, in-
18 cluding—

19 (A) the installation of pumps, temporary
20 barriers, or operable gates for water diversion
21 and fish protection;

22 (B) the installation of drought-relief
23 groundwater wells for Indian Tribes and in
24 wildlife refuges and other environmentally sen-

1 sitive areas requiring emergency surface water
2 flow augmentation;

3 (C) the acquisition or assistance in the ac-
4 quisition of water from willing sellers, including
5 on a voluntary, temporary, and compensated
6 basis, to enhance stream flow for the benefit of
7 fish and wildlife (including endangered species),
8 water quality, river ecosystem restoration, and
9 other beneficial purposes, to be carried out in
10 accordance with the water acquisition program
11 established under section 302;

12 (D) agricultural and urban conservation
13 and efficiency projects;

14 (E) exchanges with any water district will-
15 ing to provide water to meet the emergency
16 water needs of other water districts in return
17 for the delivery of equivalent quantities of water
18 later that year or in future years;

19 (F) maintenance of cover crops to prevent
20 public health impacts from severe dust storms;

21 (G) emergency pumping projects for crit-
22 ical health and safety purposes;

23 (H) activities to reduce water demand con-
24 sistent with a comprehensive program for envi-

1 ronmental restoration and settlement of water
2 rights claims;

3 (I) the use of new or innovative on-farm
4 water conservation technologies or methods that
5 may—

6 (i) assist in sustaining permanent
7 crops in areas with severe water shortages;
8 and

9 (ii) make water available for other
10 beneficial uses, provided that the assist-
11 ance cannot be used to increase the con-
12 sumptive use of water or increase deple-
13 tions under an interstate compact, as de-
14 termined in accordance with the applicable
15 laws of the State in which the eligible
16 project is located;

17 (J) activities that protect, restore, or en-
18 hance fish and wildlife habitat or otherwise im-
19 prove environmental conditions, including water
20 quantity or quality concerns and improved fish
21 passage;

22 (K) activities reducing or preventing
23 groundwater depletion or promoting ground-
24 water recharge;

1 (L) technical assistance to improve existing
2 irrigation practices to provide water supply ben-
3 efits;

4 (M) the investigation of, and pilot projects
5 for, brackish water development and aquifer
6 storage and recovery;

7 (N) the lining of irrigation ditches and ca-
8 nals to reduce water loss and improve effi-
9 ciency;

10 (O) assistance to municipal water manage-
11 ment entities for water supply planning in prep-
12 aration for and in response to dry, critically
13 dry, and below normal water years, including—

14 (i) hydrological forecasting;

15 (ii) identification of alternative water
16 supply sources; and

17 (iii) guidance on potential water
18 transfer partners; and

19 (P) any other assistance the Secretary de-
20 termines to be necessary—

21 (i) to increase available water sup-
22 plies;

23 (ii) to reduce water supply-demand
24 imbalances in a hydrologic system;

1 (iii) to maintain the health of river
2 ecosystems; or

3 (iv) to mitigate drought impacts.

4 (4) AUTHORIZATION OF APPROPRIATIONS.—

5 There is authorized to be appropriated to provide fi-
6 nancial assistance under this subsection not more
7 than \$180,000,000 for the period of fiscal years
8 2006 through 2024, of which not more than
9 \$30,000,000 shall be made available during that pe-
10 riod for the conduct of actions authorized under title
11 I of the Reclamation States Emergency Drought Re-
12 lief Act of 1991 (43 U.S.C. 2211 et seq.) to benefit
13 imperiled fish and wildlife.

14 (b) APPLICABLE PERIOD OF DROUGHT PROGRAM.—

15 Section 104 of the Reclamation States Emergency
16 Drought Relief Act of 1991 (43 U.S.C. 2214) is amended
17 by striking subsection (a) and inserting the following:

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

21 “(1) after the Governor or Governors of the af-
22 fected State or States, or the governing body of an
23 affected Indian Tribe with respect to a reservation,
24 has made a request for temporary drought assist-

1 ance and the Secretary has determined that the tem-
2 porary assistance is merited;

3 “(2) after a drought emergency has been de-
4 clared by the Governor or Governors of the affected
5 State or States; or

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

8 (c) REAUTHORIZATION.—Section 104(c) of the Rec-
9 lamation States Emergency Drought Relief Act of 1991
10 (43 U.S.C. 2214(c)) is amended by striking “2020” and
11 inserting “2030”.

12 **SEC. 104. RIO GRANDE PUEBLO IRRIGATION INFRASTRUC-**
13 **TURE REAUTHORIZATION.**

14 Section 9106 of the Omnibus Public Land Manage-
15 ment Act of 2009 (Public Law 111–11; 123 Stat. 1304)
16 is amended—

17 (1) in subsection (c)(4), by striking “2 years
18 after the date of enactment of this Act, the Sec-
19 retary shall submit to the Committee on Energy and
20 Natural Resources of the Senate and the Committee
21 on Resources” and inserting “December 31, 2020,
22 the Secretary shall submit to the Committee on En-
23 ergy and Natural Resources of the Senate and the
24 Committee on Natural Resources”; and

1 (2) in subsection (g)(2), by striking “2010
2 through 2019” and inserting “2019 through 2029”.

3 **TITLE II—GROUNDWATER**
4 **MANAGEMENT**

5 **SEC. 201. REAUTHORIZATION AND EXPANSION OF THE**
6 **TRANSBOUNDARY AQUIFER ASSESSMENT**
7 **PROGRAM.**

8 (a) DESIGNATION OF PRIORITY TRANSBOUNDARY
9 AQUIFERS.—Section 4(c)(2) of the United States-Mexico
10 Transboundary Aquifer Assessment Act (42 U.S.C. 1962
11 note; Public Law 109–448) is amended by striking “New
12 Mexico or Texas” and inserting “New Mexico, Texas, or
13 Arizona (other than an aquifer underlying Arizona and
14 Sonora, Mexico, that is partially within the Yuma ground-
15 water basin designated by the order of the Director of the
16 Arizona Department of Water Resources dated June 21,
17 1984)”.

18 (b) REAUTHORIZATION.—

19 (1) AUTHORIZATION OF APPROPRIATIONS.—
20 Section 8(a) of the United States-Mexico Trans-
21 boundary Aquifer Assessment Act (42 U.S.C. 1962
22 note; Public Law 109–448) is amended by striking
23 “fiscal years 2007 through 2016” and inserting “fis-
24 cal years 2020 through 2029”.

1 (2) SUNSET OF AUTHORITY.—Section 9 of the
2 United States-Mexico Transboundary Aquifer As-
3 sessment Act (42 U.S.C. 1962 note; Public Law
4 109–448) is amended by striking “enactment of this
5 Act” and inserting “enactment of the Western
6 Water Security Act of 2019”.

7 **SEC. 202. GROUNDWATER MANAGEMENT ASSESSMENT AND**
8 **IMPROVEMENT.**

9 Section 9504(a) of the Omnibus Public Land Man-
10 agement Act of 2009 (42 U.S.C. 10364(a)) is amended—

11 (1) in paragraph (1)—

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

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

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

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

22 “(A) to assist States and water users in
23 complying with interstate compacts or reducing
24 basin water supply-demand imbalances, includ-
25 ing through temporary, voluntary, and com-

1 compensated transactions that decrease consump-
2 tive water use at a regional or watershed
3 scale;”;

4 (E) in subparagraph (B) (as so redesignig-
5 nated), by striking “to prevent” and inserting
6 “to achieve the prevention of”;

7 (F) in subparagraph (C) (as so redesignig-
8 nated), by striking “to accelerate” and inserting
9 “to achieve the acceleration of”; and

10 (G) in subparagraph (D) (as so redesignig-
11 nated)—

12 (i) by striking clause (i) and inserting
13 the following:

14 “(i) to increase ecological resilience to
15 climate change, including by enhancing
16 natural water storage within a floodplain
17 or riparian wetland, by addressing climate-
18 related impacts or vulnerability to the
19 water supply of the United States;”;

20 (ii) in clause (ii), by striking the pe-
21 riod at the end and inserting “; or”; and

22 (iii) by adding at the end the fol-
23 lowing:

24 “(iii) to plan for or address the im-
25 pacts of drought.”;

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

3 (3) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) ELIGIBLE PROJECTS.—The improvements
6 or activities eligible for assistance under paragraph
7 (1) may include improvements or activities—

8 “(A) using an approach—

9 “(i) to conserve water;

10 “(ii) to increase water use efficiency;

11 “(iii) to facilitate water markets; or

12 “(iv) to enhance water management,
13 including increasing the use of renewable
14 energy in the management and delivery of
15 water or increasing natural water storage;

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

18 “(C) to achieve the acceleration of the
19 adoption and use of advanced water treatment
20 technologies to increase water supply.”; and

21 (4) in paragraph (4) (as so redesignated)—

22 (A) in subparagraph (B)(i), by striking
23 subclause (II) and inserting the following:

24 “(II) to use the assistance pro-
25 vided under a grant or agreement to

1 increase the consumptive use of water
2 for agricultural operations above the
3 pre-project levels, as determined pur-
4 suant to the law of the State in which
5 the operation of the eligible applicant
6 is located.”; and

7 (B) in subparagraph (E)—

8 (i) by striking clause (i) and inserting
9 the following:

10 “(i) FEDERAL SHARE.—

11 “(I) IN GENERAL.—Except as
12 provided in subclause (II), the Federal
13 share of the cost of any infrastructure
14 improvement or activity that is the
15 subject of a grant or other agreement
16 entered into between the Secretary
17 and an eligible applicant under para-
18 graph (1) shall not exceed 50 percent
19 of the cost of the infrastructure im-
20 provement or activity.

21 “(II) INCREASED FEDERAL
22 SHARE FOR CERTAIN INFRASTRUC-
23 TURE IMPROVEMENTS AND ACTIVI-
24 TIES.—

1 “(aa) IN GENERAL.—The
2 Federal share of the cost of an
3 infrastructure improvement or
4 activity described in item (bb)
5 shall not exceed 75 percent of the
6 cost of the infrastructure im-
7 provement or activity.

8 “(bb) INFRASTRUCTURE IM-
9 PROVEMENTS AND ACTIVITIES
10 DESCRIBED.—An infrastructure
11 improvement or activity referred
12 to in item (aa) is an infrastruc-
13 ture improvement or activity that
14 provides benefits to consumptive
15 water users and nonconsumptive
16 ecological or recreational values
17 in which—

18 “(AA) in the case of an
19 infrastructure improvement
20 or activity that conserves
21 water, the conserved water
22 is returned to a surface
23 water source with ecological
24 or recreational benefits; or

1 “(BB) in the case of
2 other infrastructure im-
3 provements or activities, the
4 majority of the benefits are
5 nonconsumptive ecological or
6 recreational benefits.”; and

7 (ii) in clause (ii), in the matter pre-
8 ceding subclause (I), by striking “para-
9 graph (2)” and inserting “paragraph (3)”.

10 **SEC. 203. SURFACE AND GROUNDWATER WATER AVAIL-**
11 **ABILITY AND THE ENERGY NEXUS.**

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

15 (1) in subparagraph (D), by striking “and” at
16 the end;

17 (2) in subparagraph (E), by striking the semi-
18 colon and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(F) oil, gas, and mineral development
21 under the Mineral Leasing Act (30 U.S.C. 181
22 et seq.), the Act of May 11, 1938 (commonly
23 known as the ‘Indian Mineral Leasing Act of
24 1938’) (25 U.S.C. 396a et seq.), sections 2319
25 through 2344 of the Revised Statutes (com-

1 monly known as the ‘Mining Law of 1872’) (30
2 U.S.C. 22 et seq.), and the Outer Continental
3 Shelf Lands Act (43 U.S.C. 1331 et seq.);”.

4 **TITLE III—WATER CONSERVA-**
5 **TION AND ENVIRONMENTAL**
6 **RESTORATION**

7 **SEC. 301. DEFINITIONS.**

8 In this title:

9 (1) **BASIN.**—The term “Basin”—

10 (A) is limited to areas within the State;

11 and

12 (B) means each of—

13 (i) the Upper Rio Grande Basin;

14 (ii) the Middle Rio Grande Basin;

15 (iii) the Lower Rio Grande Basin;

16 (iv) the Lower Pecos River Basin;

17 (v) the Gila River Basin;

18 (vi) the Canadian River Basin;

19 (vii) the San Francisco River Basin;

20 and

21 (viii) the San Juan River Basin.

22 (2) **DISTRICT.**—The term “District” means the
23 Middle Rio Grande Conservancy District.

24 (3) **PUEBLO.**—The term “Pueblo” means each
25 of the following pueblos in the State:

- 1 (A) Cochiti.
- 2 (B) Santo Domingo.
- 3 (C) San Felipe.
- 4 (D) Santa Ana.
- 5 (E) Sandia.
- 6 (F) Isleta.

7 **SEC. 302. WATER ACQUISITION PROGRAM.**

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

14 (1) make acquisitions, or assist the State or the
15 District in making acquisitions, of water in the Ba-
16 sins by lease or purchase of water rights or contrac-
17 tual entitlements from willing lessors or sellers, con-
18 sistent with section 8 of the Act of June 17, 1902
19 (43 U.S.C. 383), the Rio Grande Compact, and ap-
20 plicable State law relating to the acquisition and ad-
21 ministration of water rights; and

22 (2) take any other actions, consistent with sec-
23 tion 8 of the Act of June 17, 1902 (43 U.S.C. 383),
24 the Rio Grande Compact, and applicable State law,
25 that the Secretary determines would achieve the pur-

1 poses of the water acquisition program described in
2 subsection (b).

3 (b) PURPOSES.—The purposes of the water acqui-
4 sition program are—

5 (1) to enhance stream flow to benefit fish and
6 wildlife (including endangered species), water qual-
7 ity, and river ecosystem restoration in the Basins;

8 (2) to enhance stewardship and conservation of
9 working land, water, and watersheds in the Basins,
10 consistent with the purpose described in paragraph
11 (1); and

12 (3) to address water supply-demand imbalances
13 in the Basins, consistent with State law and the pur-
14 pose described in paragraph (1).

15 (c) COORDINATION.—To assist in developing and ad-
16 ministering the program, the Secretary may provide funds
17 to the State, the District, or a federally established non-
18 profit entity with particular expertise in western water
19 transactions.

20 (d) DISTRICT PROJECTS.—Subject to the Rio Grande
21 Compact and applicable State law, the Secretary may de-
22 velop programs to provide—

23 (1) cost-share assistance to the District to re-
24 duce water depletions by agricultural producers and
25 irrigators in the District to reduce water depletions

1 by making irrigation system improvements and in-
2 creasing system efficiency;

3 (2) incentives to the District for the establish-
4 ment of a water leasing program from willing lessors
5 for agricultural producers and irrigators in the Dis-
6 trict to temporarily lease pre-1907 water rights (in-
7 stead of permanent severance from irrigable land)
8 for the purpose of providing benefits to species listed
9 as threatened or endangered under the Endangered
10 Species Act of 1973 (16 U.S.C. 1531 et seq.) and
11 other river ecosystem benefits; and

12 (3) cost-share assistance to the District to im-
13 plement infrastructure or operational changes that
14 will allow for effective management of a leasing pro-
15 gram, while maintaining adequate water deliveries to
16 other agricultural producers and irrigators.

17 **SEC. 303. MIDDLE RIO GRANDE WATER CONSERVATION.**

18 (a) IN GENERAL.—The Secretary, in cooperation
19 with the District and in consultation with the Pueblos,
20 may provide funding and technical assistance for the in-
21 stallation of metering and measurement devices and the
22 construction of check structures on irrigation diversions,
23 canals, laterals, ditches, and drains—

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

1 (A) reducing actual consumptive use; or

2 (B) not increasing the use of water; and

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

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

8 (1) IN GENERAL.—The Secretary shall provide
9 for the development of a comprehensive plan for the
10 San Acacia and Isleta reaches to plan, design, per-
11 mit, construct, and prioritize projects that balance
12 river maintenance, water availability, use, and deliv-
13 ery, and ecosystem benefits, including—

14 (A) planning, permitting, and construction
15 of a pumping station at Bosque del Apache Na-
16 tional Wildlife Refuge for the purpose of more
17 efficiently using water to provide—

18 (i) a stable supply for the Refuge; and

19 (ii) an efficient and reliable supply of
20 water to the Rio Grande for the benefit of
21 the endangered silvery minnow and South-
22 western willow flycatcher;

23 (B) planning, permitting, and construction
24 of a river channel realignment project near the
25 Rio Grande mile-83 for the purpose of con-

1 veying water and sediment through the reach to
2 Elephant Butte Reservoir and addressing river
3 channel aggradation while maintaining flood-
4 plain connectivity during the snowmelt runoff;

5 (C) planning, permitting, and construction
6 of a controlled outlet for the low flow convey-
7 ance channel to the Rio Grande between Fort
8 Craig, New Mexico, and Rio Grande mile-60 for
9 the purpose of water use and delivery, enhance-
10 ment and development of habitat areas, and
11 possible creation of a single-channel river eco-
12 system; and

13 (D) development of a Lower Reach plan—

14 (i) to identify additional projects and
15 maintenance activities with water use, sedi-
16 ment management, and delivery and eco-
17 system benefits; and

18 (ii) to prioritize implementation of all
19 projects and activities.

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

1 **SEC. 304. SUSTAINING BIODIVERSITY DURING DROUGHTS.**

2 Section 9503(b) of the Omnibus Public Land Man-
3 agement Act of 2009 (42 U.S.C. 10363(b)) is amended—

4 (1) in paragraph (3)(D), by inserting “and na-
5 tive biodiversity” after “wildlife habitat”; and

6 (2) in paragraph (4)(B), by inserting “and
7 drought biodiversity plans to address sustaining na-
8 tive biodiversity during periods of drought” after
9 “restoration plans”.

10 **SEC. 305. REAUTHORIZATION OF COOPERATIVE WATER-**
11 **SHED MANAGEMENT PROGRAM.**

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

15 **TITLE IV—EFFECT ON EXISTING**
16 **LAW**

17 **SEC. 401. EFFECT ON EXISTING LAW.**

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

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

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

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