



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Water, Wildlife and Fisheries Republican Members
From: Subcommittee on Water, Wildlife and Fisheries staff: Kiel Weaver (kiel.weaver@mail.house.gov), Annick Miller (annick.miller@mail.house.gov) and Doug Levine (doug.levine@mail.house.gov), x5-8331
Date: April 11, 2023
Subject: Legislative field hearing on: H.R. 215 (Valadao), the “*WATER for California Act*” and H.R. 872 (Calvert), the “*FISH Act*”

The Subcommittee on Water, Wildlife and Fisheries will hold a legislative field hearing on H.R. 215 (Valadao), the “*WATER for California Act*” and H.R. 872 (Calvert), the “*FISH Act*” on Tuesday, April 11, 2023, at 2:00 p.m. PDT at the World Ag Expo, 4500 S. Laspina Street, in Tulare, California.

Member offices are requested to notify Thomas Shipman (Thomas.shipman@mail.house.gov) by 4:30 p.m. on Monday, April 10, if their Member intends to participate in the field hearing.

I. KEY MESSAGES

- **California recently experienced catastrophic drought, exacerbated by federal and state regulations, that devastated many San Joaquin Valley farming communities.**
- **Less than one year later, these communities are now experiencing widespread flooding due to historic precipitation. This bust and boom cycle will happen again.**
- **This field hearing will explore the need to finish proposed water storage projects and contemplate new surface and groundwater storage opportunities in California and elsewhere in the West to help drought-proof and flood-proof the region.**
- **Legislation H.R. 215 (Valadao) introduced by the House California Republican delegation will not only focus on the need for more storage but also help bring about water supply certainty by codifying federal water operations plans that were built on sound science.**
- **In addition, H.R. 872 (Calvert) will build upon President Barack Obama’s call to streamline and improve the federal regulatory process related to endangered fish protections.**

II. INVITED WITNESSES

- The Honorable Debra Haaland, Secretary, Department of the Interior (or their designees from the Bureau of Reclamation and U.S. Fish and Wildlife Service), Washington, District of Columbia

- The Honorable Gina Raimondo, Secretary, Department of Commerce (or their designee from the National Oceanic and Atmospheric Administration), Washington, District of Columbia
- Mr. Charlton Bonham, Director, California Department of Fish and Wildlife, Sacramento, California
- Mr. Tony DeGroot, Farmer, DG Bar Ranches, Hanford, California
- Mr. Aaron Fukuda, General Manager, Tulare Irrigation District, Tulare, California
- Mr. Jason Phillips, Chief Executive Officer, Friant Water Authority, Lindsay, California
- Mr. Jeff Sutton, General Manager, Tehama-Colusa Canal Authority, Willows, California
- Mr. Chris White, Executive Director, San Joaquin River Exchange Contractors Water Authority, Los Banos, California
- Additional witnesses TBA

III. BACKGROUND

Over the past three years, much of the western United States has experienced prolonged, persistent drought and below-average precipitation.¹ Those same years have been some of California's (the State's) driest on record.² As of late last year, most of the State was experiencing severe and extreme drought conditions and the levels of many of California's largest reservoirs were well below historic averages.

Since then, more than a dozen atmospheric rivers and cold fronts have brought near-record rain and snow to areas of California that have been battling drought conditions.³ To date, most of California's reservoir levels are at, or above, their historical averages (see figure 1). In addition, the Statewide snow water equivalent (the depth of water that would cover the ground if the snow cover was in a liquid state) is 235 percent of average – with



Source: Caltrans District 6

¹ NOAA, [Spring Outlook: Drought to persist, expand in U.S. West and High Plains](#) (March 18, 2021); [Spring Outlook: Drought to expand amid warmer conditions](#) (March 17, 2022).

² California Department of Water Resources, Current Conditions Major Water Supply Reservoirs https://cdec.water.ca.gov/reportapp/javareports?name=PLOT_SWC

³ Camponovo, M. March 19, 2023, *How many atmospheric rivers have hit California this winter?* <https://fox40.com/news/california-connection/how-many-atmospheric-rivers-have-hit-california-this-winter/>

some regions of the State reaching as high as 298 percent of average.⁴

More storms could make landfall in the coming weeks. Past and current storms this year have led to flooding, road closures, power outages and fatalities. Throughout the San Joaquin Valley, thousands of residents have been ordered to evacuate and 47 counties are under a state of emergency.⁵ As the snow begins to melt, California will continue to face significant flood risks.⁶

California's Central Valley and State Water Projects

California's Central Valley is divided into three basins: the Sacramento Valley, the San Joaquin Valley, and the Tulare Lake Basin. The total mean annual inflow to the Sacramento and San Joaquin valleys is approximately 23.1-million-acre feet (AF), but annual flows have ranged from a low of 6.2 million AF in 1977 to a high of 52.7 million AF in 1983.⁷ An AF is 326,000 gallons of water, or enough to cover a football field with water one foot deep.⁸ In the Tulare Lake Basin the Kings, Kaweah, Tule, and Kern Rivers have a combined mean annual runoff of approximately 2 million AF.⁹



Kern County farmer Carl Fanucchi works a levee near County Line and Rowlee roads east of Delano as Poso Creek water continues to rise. Credit: Dominic Fanucchi, Source: SJV Water

These basins are the water source for the State's main federal water project, the Central Valley Project (CVP). The CVP is a system of 20 dams and reservoirs that together can hold nearly 12 million acre-feet.¹⁰ Based on CVP water contracts, the project can deliver up to 9.5 million AF, but actual deliveries are much lower due to drought, federal and state restrictions and other reasons.¹¹ On average, the CVP delivers about 6 million AF of water per year for irrigation, municipal, industrial, and environmental benefits.¹² The irrigation water, about 5 million AF, is used on about 3 million acres, or roughly one-third of the agricultural land in California.¹³ However, over the past two years, water deliveries have been much lower than average. As a

⁴ California Department of Water Resources, California Snow Water Content, March 30, 2023, https://cdec.water.ca.gov/reportapp/javareports?name=PLOT_SWC

⁵ State of California, Proclamation of a State of Emergency, March 28, 2023. <https://www.gov.ca.gov/wp-content/uploads/2023/03/3.28.23-March-Storms-Emergency-Additional-Counties.pdf>

⁶ Bhattacharya, S. March 30, 2023. *California's Winter Storms: 25 Atmospheric Rivers, Near-Record Snow, Billions in Damages* <https://www.wsj.com/articles/californias-winter-storms-25-atmospheric-rivers-near-record-snow-billions-in-damages-2a4bd219>

⁷ USBR, *Sacramento and San Joaquin Rivers Basin Study*, March 2016.

https://www.usbr.gov/watersmart/bsp/docs/finalreport/sacramento-sj/Sacramento_SanJoaquin_SUMMARY.pdf

⁸ Water Education Foundation, *What's an acre-foot?*. <https://www.watereducation.org/general-information/whats-acre-foot>

⁹ USBR, *Sacramento and San Joaquin Rivers Basin Study*, March 2016.

https://www.usbr.gov/watersmart/bsp/docs/finalreport/sacramento-sj/Sacramento_SanJoaquin_SUMMARY.pdf

¹⁰ USBR, Central Valley Project, Background. <https://www.usbr.gov/mp/cvp/>

¹¹ USBR, Central Valley Project, Water Quantities for Delivery 2023. <https://www.usbr.gov/mp/cvp-water/docs/cvp-water-quantities-for-delivery-2023.pdf>

¹² Of the 6 million AF, senior water rights holders receive 3.2 million AF, irrigation contracts receive 2.2 million AF, and approximately 600,000 AF is for municipal and industrial uses. <https://www.usbr.gov/mp/cvp/>

¹³ USBR, About the Central Valley Project. <https://www.usbr.gov/mp/cvp/about-cvp.html>

result of drought conditions and low reservoir levels, in 2022 deliveries totaled 1.69 million AF¹⁴ and 3.9 million AF in 2021 – with the majority of the reductions impacting agriculture.¹⁵ The CVP system does not have enough storage capacity to capture water during big storm events and keep it for future use. The Trump administration tried to increase the storage capacity of Shasta Dam in northern California to address this need. Under the Trump administration, Reclamation released its Final Supplemental Environmental Impact Statement on raising Shasta Dam an additional 18.5 feet. This would have provided an additional 634,000 AF of stored water to increase anadromous (salmon) fish survival and water supply reliability while providing for flood control, water quality, hydropower generation, and recreation opportunities.¹⁶ This project has faced repeated opposition by Democratic Members of Congress and has been ignored by the Biden administration.¹⁷ As of March 31, 2023, Shasta Dam is 28 feet from reaching its maximum storage capacity.¹⁸ As Figure 1 shows, the recent storm events have filled most reservoirs. Snowmelt will likely require releasing much of the stored water for flood control in the coming months. Witnesses will discuss the need for more surface and groundwater storage at this hearing.

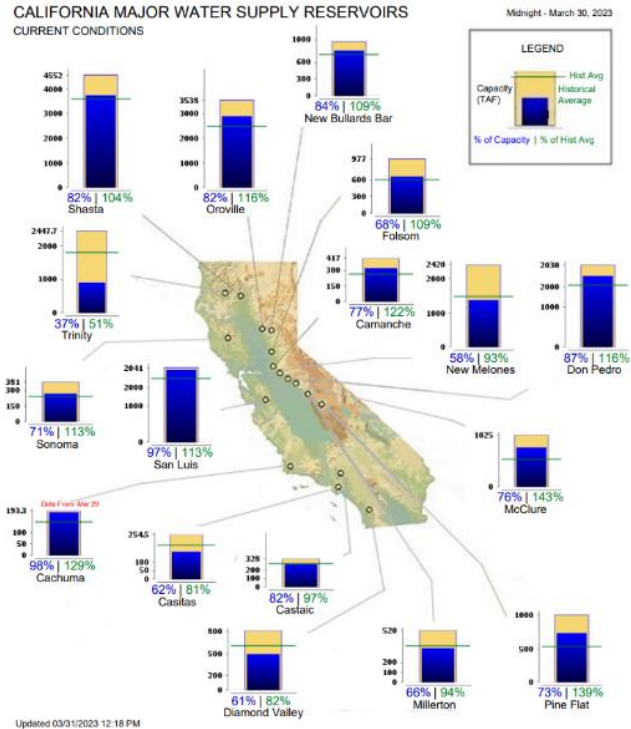


Figure 1. Source: U.S. Bureau of Reclamation

For decades, the CVP (federal) and the State Water Project (SWP) operations have been managed in a coordinated manner to deliver water to cities, communities, and farms. The CVP’s operations have been subject to several controversies and litigation, especially over the Endangered Species Act (ESA). Some federal water projects, such as the CVP, are subject to biological opinions (BiOps) issued by the National Marine Fisheries Service (NMFS) and/or the U.S. Fish and Wildlife Service (USFWS) over ESA-listed species. The intent of a BiOp is to ensure the project does not reduce the likelihood of survival and recovery of an ESA-listed species. While a BiOp is not an ESA recovery plan, it can also serve as a component of a recovery plan.

¹⁴ USBR, Central Valley Project, Water Quantities for Delivery 2022. <https://www.usbr.gov/mp/cvp-water/docs/cvp-water-quantities-for-delivery-2022.pdf>

¹⁵ USBR, Central Valley Project, Water Quantities for Delivery 2021. <https://www.usbr.gov/mp/cvp-water/docs/cvp-allocation.pdf>

¹⁶ USBR, Final Supplemental Environmental Impact Statement, *Shasta Lake Water Resources Investigation*. https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=47404

¹⁷ Since FY2021 appropriations, Democrats have included funding prohibitions for the Shasta dam raise in appropriations bills. Rep. Ken Calvert has offered amendments to remove this rider each time. <https://calvert.house.gov/media/press-releases/rep-calvert-offers-california-water-storage-amendments-during-energy-and-water>

¹⁸ USBR, Northern California Area Office Daily Operational Data, March 21, 2023. <https://www.usbr.gov/mp/cvo/vungvari/daily.pdf>

The CVP has two BiOps which subject operations and water deliveries to flow requirements for the endangered three-inch Delta smelt (regulated by USFWS) and endangered and threatened salmon species (regulated by NMFS) with some water requirements for each conflicting with the other. In both cases, however, federal requirements for these fish can divert water that would have otherwise been destined for communities and farms.¹⁹ In late 2019 and early 2020, the Natural Resources Defense Council²⁰ and the State of California²¹ filed separate lawsuits against the Trump administration's updated CVP BiOps alleging that the plans violated federal and state ESA laws. In addition, California Governor Gavin Newsom's (D) administration unilaterally issued a new state Incidental Take Permit for the State Water Project, prompting criticism from the Trump administration and water users.²² Since the CVP and SWP are intended to be managed in a coordinated manner, these actions created conflict and uncertainty.

When President Joe Biden took office, his administration initiated a review of both the USFWS and NMFS biological opinions.²³ On September 30, 2021, Reclamation restarted the ESA consultation process for operations of these projects.²⁴ Shortly after, in a litigation joint status report to the courts, the Biden administration and California submitted for the court's approval an interim operations plan (IOP) for the 2021-2022 water year, while reinitiated consultation continued at the federal level.²⁵ Under the IOP, the Biden administration would complete a new set of biological opinions to oversee the CVP. The IOP included changes to Shasta Reservoir operations to provide temperature control downstream of the reservoir, new spring outflow requirements, and changes to CVP water exports.²⁶ This filing raised concerns with several parties who noted that they had requested, but not received, modeling and other technical information underlying the IOP.²⁷ On October 20, 2021, a federal district court granted the request to implement the IOP and stay the litigation.²⁸ Beyond the litigation parties, many agricultural groups²⁹ and elected officials (including many in the California Republican House delegation)³⁰ publicly expressed concerns with the IOP.

¹⁹ USBR, Record of Decision for Central Valley Project Operations, <https://www.usbr.gov/mp/bdo/rodcvp.html>

²⁰ Press Release: *NRDC's 100th Suit Against the Trump Administration Seeks to Protect California Salmon and Endangered Species*, December 3, 2019. <https://www.nrdc.org/press-releases/nrdcs-100th-suit-against-trump-administration-seeks-protect-california-salmon-and>

²¹ Press Release: *Attorney General Becerra Files Lawsuit Against Trump Administration for Failing to Protect Endangered Species in the Sacramento and San Joaquin Rivers*, February 20, 2020. <https://oag.ca.gov/news/press-releases/attorney-general-becerra-files-lawsuit-against-trump-administration-failing>

²² Press Release: *Governor Newsom Continues to Recklessly Jeopardize the Water Supply and Security of Millions of Californians*, May 6, 2020. <https://www.doi.gov/pressreleases/governor-newsom-continues-recklessly-jeopardize-water-supply-and-security-millions>

²³ Press Release: *California Republican Delegation Urges Biden Administration to Ensure Continued California Water Supply*, February 21, 2021. <https://valadao.house.gov/news/documentsingle.aspx?DocumentID=69>

²⁴ USBR, Letter to USFWS and NMFS re-initiating Section 7 Consultation under ESA, September 30, 2021. <https://www.usbr.gov/mp/bdo/lto/ltr-reinitiation-2021-09-30.pdf>

²⁵ October 14, 2021, Joint Status Report, *Pac. Coast Fed'n of Fishermen's Ass'n v. Raimondo*, No. 1:20-cv-00431, at 1-2 (E.D. Cal. Oct. 14, 2021).

²⁶ *Id.*

²⁷ October 14, 2021, Joint Status Report, *Pac. Coast Fed'n of Fishermen's Ass'n v. Raimondo*, No. 1:20-cv-00431, at 4, 6-7, 16 (E.D. Cal. Oct. 14, 2021)

²⁸ Order Regarding Further Scheduling and Status of Pending Motions, *Pac. Coast Fed'n of Fishermen's Ass'n v. Raimondo*, No. 1:20-cv-00431, at 3-5 (E.D. Cal. Oct. 20, 2021).

²⁹ Letter from Ag Groups to Federal agencies on IOP, October 26, 2021.

<https://files.constantcontact.com/35cbbf3f001/7d834721-ecf8-4a47-9507-efbe012ba97b.pdf>

³⁰ Press Release: *California Republican Delegation Expresses Grave Concern over Proposed Interim Operations Plan for the CVP and SWP*, October 21, 2021. https://valadao.house.gov/uploadedfiles/2021.10.28_hearing_request.pdf

Witnesses from the Department of the Interior and the Department of Commerce were invited but declined to attend the hearing..

H.R. 215 – “WATER for California Act” (Rep. David Valadao, R-CA)

H.R. 215, sponsored by the entire House California Republican delegation, extends West-wide water storage provisions such as Section 4007 of the Water Infrastructure Improvements for the Nation (WIIN) Act (Subtitle J of Public Law 114-322) through December 31, 2028. Some of the projects authorized under these provisions include: Shasta Dam and Reservoir Enlargement Project in California (additional 634,000 AF of storage), Sites Reservoir Storage Project in California (1.5 million AF of storage), Los Vaqueros Reservoir Phase 2 Expansion in California (additional 115,000 AF of storage), Cle Elum Pool Raise in Washington state (additional 14,600 AF of storage) and Anderson Ranch Dam Raise in Idaho (additional 29,000 AF of storage). The WIIN provision allows a non-governmental entity to request and be the non-federal partner for federally owned surface storage projects. As mentioned above, the Shasta Dam Raise has been effectively halted due to Democrat opposition. Meanwhile, the Los Vaqueros Expansion and Sites Reservoir are in regulatory limbo due, in part, to the Biden administration’s proposed redo of the 2019 BiOps.

In addition, the bill would require the CVP and SWP to be operated consistent with the 2019 BiOps and Preferred Alternative, which were based on robust modern science and rigorous scientific input and review during the Trump administration.³¹ The bill would allow for modification of CVP and SWP operations based on any agreement that is reached on a voluntary basis with CVP and SWP water contractors. It would also prohibit any water supply costs from being imposed on any entity due to agreements with other parties unless voluntarily agreed to.

In addition, the bill would require the federal government to provide the maximum amount of water practicable to CVP and SWP water contractors consistent with the 2019 BiOps. The bill includes safeguards for SWP water contractors. Specifically, if California reduces water supplies to SWP water contractors as a result of actions directed by H.R. 215, then any increase of water supplies received by CVP water contractors must be divided between the two projects.

H.R. 215 would amend the Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58) to make the Shasta Dam Raise eligible to receive water storage project funding in that law. IIJA included \$1.15 billion for storage projects but made the Shasta Project ineligible.

Lastly, it would direct the Secretary of the Interior to complete the fish, wildlife, and habitat restoration programs required under the Central Valley Project Improvement Act (CVPIA or P.L. 102-575) within 2 years of enactment of this Act.

³¹ USBR, Record of Decision for Central Valley Project Operations, <https://www.usbr.gov/mp/bdo/rodcvp.html>

H.R. 872 – “FISH Act” (Rep. Ken Calvert, R-CA)

H.R. 872, authored by Representative Calvert (R-CA), has six cosponsors: Reps. Jim Costa (D-CA), Darrell Issa (R-CA), Tom McClintock (R-CA), Jay Obernolte (R-CA), Mike Simpson (R-ID) and Michelle Steele (R-CA).

H.R. 872 would consolidate the ESA functions of NOAA and the Department of the Interior (Interior) relating to the conservation of anadromous and catadromous fish, making Interior solely responsible for managing these species. This legislation will allow one wildlife management agency (USFWS) to evaluate impacts on species interacting in a shared ecosystem and determine a holistic management approach. As Republican witnesses will explain, the current structure of two federal regulatory agencies adopting single-species and uncoordinated BiOps can lead to a contradiction of management operations for water projects. For example, some federal water projects, such as the CVP and the Klamath Project in southern Oregon and northern California, are subject to multiple BiOps issued by NMFS and USFWS over ESA-listed species.

In his 2011 State of the Union address, President Barack Obama highlighted this duplicative authority as his “favorite example” of government inefficiency, saying “the Interior Department is in charge of salmon while they’re in freshwater, but the Commerce Department handles them when they’re in saltwater. And I hear it gets even more complicated once they’re smoked”.³² Thereafter, President Obama formally proposed the idea of merging NOAA into the Department of the Interior in 2012 in his Fiscal Year (FY) 2013 budget request and echoed the proposal in his FY 2016 budget request.^{33 34}

An identical version of this bill was favorably reported by the House Committee on Natural Resources by a bipartisan vote of 22 to 14 in the 115th Congress.³⁵ Prior to that, the Committee held a hearing on the legislation. During that hearing, a witness testified:

“NMFS and FWS under one roof will provide for more efficient, effective, and coordinated management of all ESA responsibilities for anadromous and freshwater fish in Western watersheds, from the highest reaches of headwater areas to the Pacific Ocean. Even more important is what can be accomplished in the future, as FWS further emphasizes and expands on its collaborative freshwater fish habitat conservation work with local and state interests. With NMFS ESA duties brought under the Interior Department umbrella, a partnership driven focus can spread to areas that benefit anadromous fish. Merging the NMFS ESA duties with those of FWS and tapping into the

³² State of the Union Address, President Barack Obama, 2011.

³³ Fiscal Year 2013 Budget of the United States, p. 41. <https://www.gpo.gov/fdsys/pkg/BUDGET-2013-BUD/pdf/BUDGET-2013-BUD.pdf>

³⁴ Fiscal Year 2016 Budget of the United States, p. 81. <https://www.gpo.gov/fdsys/pkg/BUDGET-2016-BUD/pdf/BUDGET-2016-BUD.pdf>

³⁵ Committee Report 115-838, Federally Integrated Species Health Act. <https://www.congress.gov/115/crpt/hrpt838/CRPT-115hrpt838.pdf>

“constructive center” will lead to practical solutions that fit for ranchers, farmers, and other landowners, as well as fish and wildlife and local communities.”³⁶

IV. MAJOR PROVISIONS & ANALYSIS

H.R. 215 – “WATER for California Act” (Rep. David Valadao, R-CA)

Title I – CVP and SWP Operations

Section 101. Operation of the CVP and SWP

Would require the CVP and SWP to be operated consistent with the 2019 project operations plan and the 2019 USFWS and NMFS biological opinions. These documents are based on the best available science and latest data and are designed to improve water supply reliability for project water contractors through real-time management in the Delta and its tributaries of the projects in order to protect listed fish species.

Section 102. Operations and Reviews

This section is based on enacted language from the California water provisions of the WIIN Act. It ensures a balanced approach to protecting the environment and listed fish species, while ensuring CVP and SWP water contractors get the water they contract and pay for.

Section 103. Application of State Laws

This section is based, in part, on enacted language from the California water provisions of the WIIN Act. It protects SWP water contractors from retaliatory actions taken by California.

Section 104. Reconsultation of NOAA Biological Opinion and FWS Biological Opinion

This section would ensure that initiation of reconsultation of the Coordinated Long-Term Operation of the CVP and SWP can occur prior to expiration of the bill or in advance of any agreements entered into on a voluntary basis with the CVP and SWP contractors if certain conditions are met.

Section 105. Sunset

Sunsets Sections 101-104 seven years after enactment of the bill.

Section 106 – Consultation on Coordinated Operations

Section 4004 of the WIIN Act directs federal agencies to cooperate with state and local public water agencies in developing certain components of any associated USFWS and NMFS

³⁶ Testimony of Dan Keppen, Executive Director of Family Farm Alliance before the Subcommittee on Water, Power and Oceans, October 12, 2017. <https://docs.house.gov/meetings/II/II13/20171012/106519/HMTG-115-II13-Wstate-KeppenD-20171012.pdf>

biological opinions when conducting reconsultation on the Coordinated Long-Term Operation of the CVP and SWP. This section would expand that provision to direct the Bureau of Reclamation to cooperate with these same entities when developing a Proposed Action for the operation of both projects.

Title II – Allocations for Sacramento Valley Contractors

Section 202. Allocations of Water

This section would require that CVP agricultural water be made available consistent with certain water year conditions.

Section 203. Protection of refuge, municipal and industrial and other contractors

This section lists a number of water supply protections for non-agricultural water contractors.

Section 204. Other contractors

This section lists a number of water supply protections for other water contractors such as the Sacramento River settlement, San Joaquin River exchange, and refuge contractors.

Title III – Infrastructure

Section 301. Shasta Reservoir Enlargement Project

This section would amend the Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58) to make the Shasta Dam Raise Project eligible to receive water storage project funding in that law. IIJA included \$1.15 billion for storage projects but made it ineligible for such funding.

Section 302. Water Supply Plan; Projects

This section would require the Bureau of Reclamation Commissioner to develop a report on water supply shortages in California, including federal and/or California laws or regulations that are causing or contributing to the supply shortage, and develop a list of projects or actions to reduce or eliminate the water supply shortage.

Section 303. Conservation Fish Hatcheries

This section would require the Secretaries of the Interior and of Commerce to report semi-annually to Congress on implementing conservation fish hatchery programs as required by Section 4010 of the WIIN Act.

The WIIN Act included provisions for USFWS and NMFS to expand use of their conservation fish hatcheries for Delta smelt and Chinook salmon. The purpose of these hatcheries is to increase the population of these protected species in the Delta to help with their survival and/or recovery.

Section 304. Storage; Duration

This section would reauthorize Section 4007 of the WIIN Act through December 31, 2028. In addition, the bill would allow non-governmental entities to request and to be the non-federal partner for a federally owned surface storage projects authorized under Section 4007.

Section 305. Shasta Dam enlargement

This section would allow for previously appropriated funding for the Shasta Dam Enlargement Project, as authorized by Section 4007 of the WIIN Act and requested by the Secretary of the Interior in letters from 2019 and 2020 to Congress. It would also prohibit California from taking any action to prevent a local public water agency from being the non-federal partner for a Section 4007-authorized project.

Title IV – CVPIA Actions

Section 401. CVPIA Restoration Activities

This section would direct the Secretary of the Interior within 2 years of enactment of this Act to complete the fish, wildlife, and habitat restoration programs required under the CVPIA. It would also require the Secretary to deem these actions “complete” under the CVPIA by December 30, 2025.

H.R. 872 – “FISH Act” (Rep. Ken Calvert, R-CA)

Section 2. Transfer of Functions with Respect to Anadromous and Catadromous Species

This section would amend Section 3 of the Endangered Species Act by transferring all authority with respect to the conservation of endangered or threatened anadromous and catadromous fish species from NOAA to the Department of the Interior.

Section 3. Miscellaneous Provisions

This section would ensure that any reference in federal law, executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by the “*FISH Act*” would refer to the Secretary and/or Department of the Interior upon passage. It would also ensure that the “*FISH Act*” would not impose limitations on the Secretary of the Interior’s authorities under the Endangered Species Act.

H.R. 872 specifically states that the legislation would not interfere with existing rules, contracts, licenses, etc. or any court proceedings that had been initiated prior to the date of enactment. If any official is party to a lawsuit in his/her official capacity relating to authorities transferred under this legislation, the lawsuit is allowed to proceed substituting the analogous officer within the Department of the Interior. It also ensures compliance with all procedural and judicial review requirements with respect to exercise of transferred authorities by the Secretary of the Interior.

V. COST

A formal Congressional Budget Office (CBO) cost estimate has not yet been completed on any of these bills. However, in the 115th Congress, CBO provided a cost estimate for an identical version of the “*FISH Act*”, stating that it would not affect direct spending or revenues.³⁷

VI. ADMINISTRATION POSITION

The administration’s positions on each of these bills are unknown at this time.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

[H.R. 215](#)

[H.R. 872](#)

³⁷ Congressional Budget Office (CBO), Cost Estimates for H.R.3916 [115th] <https://www.cbo.gov/publication/54122>