



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** Committee on Natural Resources Republican Members  
**From:** Committee on Natural Resources staff: Annick Miller, x58331  
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**Date:** January 21, 2025  
**Subject:** Legislative Hearing on H.R. 231, H.R. 261, H.R. 331, and H.R. \_\_\_\_ (Rep. Stansbury)

The Subcommittee on Water, Wildlife and Fisheries will hold a legislative hearing on H.R. 231 (Rep. Hageman), “*Colorado River Basin System Conservation Extension Act*”; H.R. 261 (Rep. Carter of GA), “*Undersea Cable Protection Act*”; H.R. 331 (Rep. Fulcher), To amend the Aquifer Recharge Flexibility Act to clarify a provision relating to conveyances for aquifer recharge purposes; and H.R. \_\_\_\_ (Rep. Stansbury) “*WaterSMART Access for Tribes Act*” on **Thursday, January 23, 2025, at 10:00 a.m. EST in 1324 Longworth House Office Building.**

Member offices are requested to notify Lindsay Walton ([lindsay.walton@mail.house.gov](mailto:lindsay.walton@mail.house.gov)) by 4:30 p.m. on Wednesday, January 22, 2025, if their Member intends to participate in the hearing.

## I. KEY MESSAGES

- House Republicans are holding a hearing on two bills that combat the effects of long-standing drought in the American West and another bill that prevents federal marine sanctuary designations from negatively impacting the undersea cable network in the United States.
- H.R. 231 would reauthorize the Colorado River Basin Conservation Pilot Program through FY 2026.
- H.R. 331 amends the Aquifer Recharge Flexibility Act to clarify and streamline the process for transporting water for aquifer recharge projects across federal land.
- H.R. 261 would prevent the Secretary of Commerce from requiring additional permitting for fiber optic cable projects that have already been authorized by a Federal or State agency, within a National Marine Sanctuary.

## II. WITNESSES

### Panel I

- **Members of Congress TBD**

### Panel II

- **Mr. Wesley Hipke**, Water Projects Section Manager, Idaho Department of Water Resources, Boise, ID [H.R. 331]
- **Ms. Denise Toombs**, Advisor, International Connectivity Coalition, San Francisco, CA [H.R. 261]
- **Mr. Nathan Thayn**, Owner, Thayn Farms, Green River, UT [H.R. 231]
- **Mr. Dwight Witherspoon**, Water Rights Unit Attorney, Navajo Nation Department of Justice, Window Rock, AZ [H.R. \_\_\_ (Stansbury)]

## III. BACKGROUND

### [H.R. 231](#) (Rep. Hageman, R-WY), “*Colorado River Basin System Conservation Extension Act of 2025*”

The Colorado River Basin (Basin) covers seven states (Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming) and the Republic of Mexico (see Map 1). In the United States, the Basin provides water for the irrigation of nearly 4.5 million acres, municipal water supply to about 40 million people, and supports hydropower facilities that can generate more than 4,200 megawatts (MW) of electricity.<sup>1</sup> Within the Basin, there are seven National Wildlife Refuges and eleven National Park Service units.<sup>2</sup>

The Colorado River is one of the most developed, regulated, and negotiated rivers in the United States. It has numerous diversions, several major dams, and reservoirs. It is managed through multiple compacts, laws, regulatory guidelines, contracts, court decisions, and decrees (collectively known as the “Law of the



**Map 1: Colorado River Basin map.**

Source: Glen Canyon Dam Adaptive Management Program.

<sup>1</sup> U.S. Bureau of Reclamation, [Colorado River Basin Report](https://www.usbr.gov/climate/secure/docs/2021secure/basinreports/ColoradoBasin.pdf), March 2021, <https://www.usbr.gov/climate/secure/docs/2021secure/basinreports/ColoradoBasin.pdf>.

<sup>2</sup> *Id.*

River”).<sup>3</sup> Since 2000, the Basin has experienced historically dry conditions, and the combined storage in Lake Powell (the reservoir created by Glen Canyon Dam) and Lake Mead (the reservoir created by the Hoover Dam) reached the lowest levels since Lake Powell initially began filling in the 1960s.<sup>4</sup>

In 2014, the Bureau of Reclamation (Reclamation), the Colorado River Basin States, and Colorado River water users explored ideas that could mitigate the impacts of the ongoing drought in the Colorado River Basin.<sup>5</sup> One idea was the System Conservation Pilot Program (SCPP), a 4-year pilot program designed to explore solutions to address declining water levels in Lake Mead and Lake Powell and the potential for long-term drought in the Upper Colorado River Basin.<sup>6</sup> The program implemented and tested on-the-ground voluntary water conservation opportunities that may help manage ongoing record drought conditions in the Colorado River Basin.

The SCPP originally concluded in 2018. From 2015-2017, the Upper Basin SCPP funded 45 projects, for a consumptive use reduction of approximately 22,116 acre-feet at a total cost of \$4.5 million.<sup>7</sup> In 2022, this program was authorized until September 30, 2024.<sup>8</sup>

H.R. 231 would extend the program’s funding authorization until September 30, 2026, and require the Secretary of the Interior (Secretary) to report to Congress on the continued effectiveness of the program by September 30, 2027.

The SCPP allows the Secretary to provide grants 1) to public entities for water conservation pilot projects if the entity uses water from the Colorado River Basin for municipal purposes; and 2) for new water conservation agreements or for renewing or implementing water conservation agreements.<sup>9</sup>

### **H.R. 261 (Rep. Carter, R-GA), “*Undersea Cable Protection Act*”**

Undersea cables have been used for more than 170 years,<sup>10</sup> and are largely responsible for the growth of international telecommunications systems in recent decades. The current undersea cable network connects every continent except Antarctica and “carries about 95% of intercontinental global internet traffic, and 99% of transoceanic digital communications... including trillions in international financial transactions daily.”<sup>11</sup> In 2023, the global market for

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<sup>3</sup> U.S. Bureau of Reclamation, Law of the River, <https://www.usbr.gov/lc/region/pao/lawofrvr.html>

<sup>4</sup> <https://www.usbr.gov/dcp/docs/DCP%20Basin%20States%20Transmittal%20Letter%20and%20attachments.pdf>

<sup>5</sup> U.S. Bureau of Reclamation, Pilot Projects to Increase Colorado River System Water in Lake Powell and Lake Mead, August 2021,

[https://www.usbr.gov/lc/region/programs/LCBConservation&EfficiencyProgram/report\\_to\\_congressW\\_appendices2021.pdf](https://www.usbr.gov/lc/region/programs/LCBConservation&EfficiencyProgram/report_to_congressW_appendices2021.pdf).

<sup>6</sup> Upper Colorado River Commission, SYSTEM CONSERVATION PILOT PROGRAM (2015-2018),

<http://www.ucrcommission.com/system-conservation-pilot-program/>.

<sup>7</sup> Upper Colorado River Commission, *Final Report Colorado River System Conservation Pilot Program in the Upper Colorado River Basin*, February 2018. [http://www.ucrcommission.com/RepDoc/SCPPDocuments/2018\\_SCPP\\_FUBRD.pdf](http://www.ucrcommission.com/RepDoc/SCPPDocuments/2018_SCPP_FUBRD.pdf)

<sup>8</sup> [Pub. L. 117–328, div. CC, §102, Dec. 29, 2022, 136 Stat. 5573.](#)

<sup>9</sup> 43 U.S.C. § 620 note; Public Law 113-235.

<sup>10</sup> Congressional Research Service. Undersea Telecommunication Cables: Technology Overview and Issues for Congress. September 13, 2022. <https://crsreports.congress.gov/product/pdf/R/R47237>

<sup>11</sup> *Id*

this technology was valued at \$23 billion, and is projected to more than double to \$53 billion by 2030.<sup>12</sup>

The Federal Communications Commission (FCC) grants cable landing licenses for 25 years. However, like many other types of projects, the process to site, install, and approve these cables typically involves numerous agencies at the federal, state, and local levels. According to the North American Submarine Cable Association (NASCA), over the last twenty years, “no new cables have been constructed within any existing national marine sanctuary... due to regulatory uncertainty, outright opposition from particular sanctuary leadership in contravention of the National Marine Sanctuaries Act (“NMSA”), and excessive regulatory burdens and fees.”<sup>13</sup>

Under the NMSA, the National Oceanic and Atmospheric Administration’s (NOAA) Office of National Marine Sanctuaries “may designate any discrete area of the marine environment as a national marine sanctuary,”<sup>14</sup> if it is determined that the area is “of special national significance”<sup>15</sup> or will “ensure coordinated and comprehensive conservation and management of the area.”<sup>16</sup>

In amendments to the NMSA that were enacted in 1998, Congress gave NOAA the authority to issue Special Use Permits (SUPs) for certain categories of activities within a national marine sanctuary, if it is determined that the activity is needed to establish access to its resources or “promote public use and understanding of a sanctuary resource.”<sup>17</sup> To grant a SUP, the Secretary of Commerce must provide public notice of the activity and is only allowed to authorize the activity for a period of five years.<sup>18</sup> These SUPs can often take years to acquire and can come with additional burdens and costs.

In 2002, NOAA created five categories of SUPs to comply with the NMSA amendments, one of which was “the maintenance of submarine cables beneath or on the seabed.”<sup>19</sup> In 2006, this category was amended to include the “continued presence” of submarine cables and clarified that the SUP solely applies to “commercial” cables.<sup>20</sup>

On August 16, 2024, NOAA issued a notice to modify the SUP category for undersea cables, stating that the category “does not apply to commercial submarine cables in any new sanctuaries

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<sup>12</sup> Global Industry Analysts. Submarine Optical Fiber Cables. July 2024. <https://www.marketresearch.com/Global-Industry-Analysts-v1039/Submarine-Optical-Fiber-Cables-37720172/>

<sup>13</sup> Comments of the North American Submarine Cable Association. National Oceanic and Atmospheric Administration. Notice of Modification to the Special Use Permit (SUP) Category for the Continued Presence of Commercial Submarine Cables within the National Marine Sanctuary System. October 1, 2024. <https://www.regulations.gov/comment/NOAA-NOS-2024-0089-0007>

<sup>14</sup> National Marine Sanctuaries Act. As amended by P.L. 106-513, November 2000.

<https://nmssanctuaries.blob.core.windows.net/sanctuaries-prod/media/archive/library/national/nmsa.pdf>

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> National Marine Sanctuaries Act. Section 310. Special Use Permits. <https://nmssanctuaries.blob.core.windows.net/sanctuaries-prod/media/archive/library/national/nmsa.pdf>

<sup>18</sup> *Id.*

<sup>19</sup> National Oceanic and Atmospheric Administration. Notice of Modification to the Special Use Permit (SUP) Category for the Continued Presence of Commercial Submarine Cables Within the National Marine Sanctuary System. Notice; Request for Comments. August 16, 2024. <https://www.federalregister.gov/documents/2024/08/16/2024-18099/notice-of-modification-to-the-special-use-permit-sup-category-for-the-continued-presence-of>

<sup>20</sup> *Id.*

designated after August 16, 2024.”<sup>21</sup> Therefore, for that two-year period, “NOAA will not require or issue SUPs for the continued presence of commercial submarine cables on or within the submerged lands of newly designated sanctuaries.”<sup>22</sup> This notice also applied to new cables in sanctuaries that are designated in the two-year period.

H.R. 261 would make permanent NOAA’s decision to no longer require SUPs for telecommunications submarine cables in a marine sanctuary and would apply this decision and prohibit any other NOAA authorization for all existing and future cables within the boundaries of any marine sanctuary. The bill amends NMSA to prohibit NOAA from requiring “any authorization for the installation, continued presence, operation, maintenance, repair, or recovery of undersea fiber optic cables in a national marine sanctuary” if such activity is already permitted or approved by a Federal or state agency.<sup>23</sup> The legislation effectively eliminates the SUP process and other redundant NOAA authorizations for submarine cables, relying on the existing, robust federal and state permitting processes to authorize these cables within national marine sanctuaries. This will provide more clarity and certainty for project developers and encourage investment in this infrastructure, which is critical for long-term economic security. It will also bolster our national security by promoting increased route diversity for cables while maintaining the existing protection of our marine resources.

**H.R. 331 (Rep. Fulcher, R-ID), To amend the Aquifer Recharge Flexibility Act to clarify a provision relating to conveyances for aquifer recharge purposes.**

The Aquifer Recharge Flexibility Act ([P.L. 116-260](#)) was enacted in 2020 to facilitate aquifer recharge using federal infrastructure. In many Reclamation states, aquifer recharge programs include using existing irrigation canals and ditches to seep and percolate water into an aquifer. Many existing irrigation canals and ditches cross lands owned by the U.S. Bureau of Land Management (BLM). The irrigation canal owners already have right-of-way (ROW) with the BLM for their irrigation canals. The Aquifer Recharge Flexibility Act streamlined the process for water managers to conduct aquifer recharge.

H.R. 331 would amend the Aquifer Recharge Flexibility Act to allow the holder of a ROW grant approved by the BLM, acting on behalf of themselves or a third party, to use the existing ROW for the purposes of aquifer recharge without further authorization from the Secretary of the Interior. The bill further clarifies that this use shall not be considered an expansion or modification. This change would ensure that the intent of the current law can be fully implemented.

**H.R. \_\_\_\_\_ (Rep. Stansbury, D-NM) “WaterSMART Access for Tribes Act”**

The bill would allow the Secretary of the Interior to reduce or waive cost-share requirements for tribal governments under Reclamation’s WaterSMART program. It is unclear what metrics Reclamation will use to determine “that the Indian tribe does not have sufficient funds to pay such cost share” as the bill requires.

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> The Undersea Cable Protection Act. [https://naturalresources.house.gov/uploadedfiles/cartga\\_003\\_xml1.pdf](https://naturalresources.house.gov/uploadedfiles/cartga_003_xml1.pdf)

Reclamation provides funding opportunities through the WaterSMART program for projects and activities to increase water efficiency and conservation. This includes cost-shared grants for water management improvement projects such as canal lining and piping, watershed resilience projects, the Basin Study Program, and drought planning and implementation actions to address future water shortages.<sup>24</sup> Most WaterSMART projects require at least 50 percent cost sharing to leverage non-federal financial resources.<sup>25</sup> In the 116<sup>th</sup> Congress, WaterSMART was amended to allow Reclamation to contribute up to 75 percent of the cost of certain projects that are focused on environmental benefits.<sup>26</sup>

#### IV. MAJOR PROVISIONS & ANALYSIS

##### **H.R. 231** (Rep. Hageman, R-WY), “*Colorado River Basin System Conservation Extension Act of 2025*”

- Reauthorizes the Colorado River System Conservation Pilot Program through Fiscal Year 2026.

##### **H.R. 261**(Rep. Carter, R-GA), “*Undersea Cable Protection Act*”

- Prevents NOAA from prohibiting or requiring any authorization for the installation, continued presence, operation, maintenance, repair, or recovery of undersea fiber optic cables in a national marine sanctuary if such activity is already permitted or approved by a Federal or state agency.

##### **H.R. 331** (Rep. Fulcher, R-ID), **To amend the Aquifer Recharge Flexibility Act to clarify a provision relating to conveyances for aquifer recharge purposes.**

- Amends the Aquifer Recharge Flexibility Act to clarify that no additional permits or authorizations are needed to transport water across BLM-managed lands for aquifer recharge purposes. In addition, the bill introduces a 30-day notice requirement on local entities planning to use BLM infrastructure for aquifer recharge.

##### **H.R. \_\_\_\_** (Rep. Stansbury, D-NM) “*WaterSMART Access for Tribes Act*”

- Gives the Department of the Interior the authority to reduce or waive cost-share requirements for tribal governments under Reclamation’s WaterSMART program.

#### V. EFFECT ON CURRENT LAW

##### **H.R. 231**

##### **H.R. 261**

##### **H.R. 331**

##### **Rep. Stansbury Bill**

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<sup>24</sup> U.S. Bureau of Reclamation, WaterSMART, <https://www.usbr.gov/watersmart/>

<sup>25</sup> *Id.*

<sup>26</sup> [P.L. 116-260, Division FF, Title XI—Western Water and Indian Affairs.](#)