

WESTERN WATER SECURITY ENHANCEMENT ACT

FEBRUARY 14, 2002.—Ordered to be printed

Mr. HANSEN, from the Committee on Resources,
submitted the following

R E P O R T

together with

DISSENTING AND ADDITIONAL VIEWS

[To accompany H.R. 3208]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3208) to authorize funding through the Secretary of the Interior for the implementation of a comprehensive program in California to achieve increased water yield and environmental benefits, as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Western Water Security Enhancement Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

TITLE I—WESTERN WATER SECURITY PROGRAM

- Sec. 101. Interim program activities and governance structure.
- Sec. 102. Long-term governance and monitoring.
- Sec. 103. California water supply security.
- Sec. 104. Implementation of the CALFED program.
- Sec. 105. Competitive grant program.
- Sec. 106. Authorization and appropriation process.
- Sec. 107. Annual reports.
- Sec. 108. Treatment of funds.

- Sec. 109. Land acquisition; management plan required for existing lands.
 Sec. 110. Environmental justice.

TITLE II—SMALL RECLAMATION PROJECTS

- Sec. 201. Short title; references.
 Sec. 202. Amendments to the Small Reclamation Projects Act of 1956.
 Sec. 203. Additional appropriations.
 Sec. 204. Guidelines.
 Sec. 205. Effective date.
 Sec. 206. Limitation.

TITLE III—MISCELLANEOUS

- Sec. 301. Secretarial actions to reduce California's use of Colorado River water.
 Sec. 302. Willard Bay Reservoir enlargement study.
 Sec. 303. Amendments to the Federal Water Project Recreation Act.
 Sec. 304. Limitations on recovery of reimbursable expenses for valve rehabilitation project at the Arrowrock Dam, Boise Project, Idaho.
 Sec. 305. Contract assurances for payment of prevailing wages for laborers and mechanics.

SEC. 3. PURPOSES.

The purposes of this Act are the following:

- (1) To authorize funding, through the Secretary of the Interior, for the implementation of a comprehensive program to achieve increased water yield and water supply, improved water quality and enhanced environmental benefits as well as improved water system reliability, water use efficiency, watershed management, water transfers, and levee protection for California.
- (2) To implement the 4 primary objectives of the CALFED program for California in accordance with the solution principles set forth in the CALFED program.
- (3) To ensure that the Secretary of the Interior and the Federal agencies, in cooperation with the State, implement actions necessary to improve drinking water quality pursuant to the record of decision, including through financial and technical support of local enhancement of water treatment infrastructure and technology.
- (4) To enhance water security in the Western United States by authorizing a competitive grants program and reauthorizing and amending the Small Reclamation Projects Act of 1956.

SEC. 4. DEFINITIONS.

As used in this Act:

- (1) BAY-DELTA SOLUTION AREA.—The term “Bay-Delta solution area” means the Bay-Delta watershed and the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, California, and the areas in which diverted/exported water is used.
- (2) BAY-DELTA WATERSHED.—The term “Bay-Delta watershed” means the Sacramento River-San Joaquin River Delta, and the rivers and watersheds that are tributary to that Delta.
- (3) CALFED PROGRAM.—The term “CALFED program” means the cooperative, interagency effort of the State agencies and Federal agencies with management or regulatory responsibilities for the Bay-Delta solution area as set forth in the record of decision, including complementary actions (as that term is defined in the record of decision).
- (4) CONGRESSIONAL AUTHORIZING COMMITTEES.—The term “congressional authorizing committees” means the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.
- (5) DELTA.—The term “Delta” means the Sacramento River-San Joaquin River Delta in California as defined in California Water Code section 12220.
- (6) ECOSYSTEM RESTORATION PROGRAM.—The term “Ecosystem Restoration Program” means the program described in section 2.2.2 of the record of decision.
- (7) ENVIRONMENTAL WATER ACCOUNT.—The term “Environmental Water Account” means the water account established by the Program agencies pursuant to the record of decision to provide water for the protection and recovery of species of fish listed under section 4(c) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)).
- (8) FEDERAL AGENCIES.—The term “Federal agencies” means the Federal agencies that are signatories to Attachment 3 of the record of decision.
- (9) PROGRAM AGENCIES.—The term “Program agencies” means both the Federal agencies and the State agencies.
- (10) RECLAMATION LANDS.—The term “Reclamation lands”—
 - (A) means real property administered by the Secretary, acting through the Commissioner of Reclamation; and
 - (B) includes all acquired and withdrawn lands and water areas under the administrative jurisdiction of the Bureau of Reclamation.

(11) RECORD OF DECISION.—The term “record of decision” means the record of decision issued August 28, 2000, pursuant to the National Environmental Policy Act of 1969 for the CALFED Bay-Delta Program Final Programmatic Environmental Impact Statement.

(12) RESTORATION FUND.—The term “restoration fund” means the Central Valley Project Restoration Fund established by section 3407 of the Central Valley Project Improvement Act (106 Stat. 4726).

(13) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(14) STATE AGENCIES.—The term “State agencies” means the California State agencies that are signatories to Attachment 3 of the record of decision.

(15) WATER SECURITY BOARD.—The term “Water Security Board” means such board established pursuant to section 102.

(16) WATER SUPPLY.—The term “water supply” means a quantity of water that is developed or derived from—

- (A) increased water yield;
- (B) recycling existing sources;
- (C) surface or groundwater storage;
- (D) conservation; or
- (E) other actions or water management tools that improve the availability and reliability of water supplies for beneficial uses in all water year types, including critically dry years.

(17) WATER YIELD.—The term “water yield” means a new quantity of water in storage that is reliably available in critically dry years for beneficial uses.

TITLE I—WESTERN WATER SECURITY PROGRAM

SEC. 101. INTERIM PROGRAM ACTIVITIES AND GOVERNANCE STRUCTURE.

(a) IN GENERAL.—The Federal agencies, in consultation with State agencies, shall continue to operate under the interim governance structure as described in Attachment 3 of the record of decision, and in accordance with section 103 of this Act, until the date on which the Water Security Board is established under section 102.

(b) ALLOCATION OF FUNDING DURING INTERIM.—The Secretary shall ensure that during the period preceding establishment of the Water Security Board under section 102, Federal funding is allocated such that—

- (1) there is balanced progress toward increased water yield and water supply, improved water quality, and enhanced environmental benefits; and
- (2) adequate progress is made in improving water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection, in accordance with the record of decision.

(c) WATER SUPPLY AND WATER YIELD STUDIES.—

(1) IN GENERAL.—The Secretary, acting through the Bureau of Reclamation, shall conduct a study of available water supplies and water yields and existing demand and future needs—

- (A) within the units of the Central Valley Project;
- (B) within the area served by Central Valley Project agricultural water service contractors and municipal and industrial water service contractors; and
- (C) within the Bay-Delta solution area.

(2) REPORT.—The Secretary shall submit a report to the congressional authorizing committees by not later than October 1, 2002, describing the findings of the study. The report shall describe—

(A) water yield and water supply improvements, if any, for Central Valley Project agricultural water service contractors and municipal and industrial water service contractors, that would result from projects described in the record of decision; and

(B) all feasible water management actions or projects that would improve water yield or water supply and that, if taken or constructed, would balance available water supplies and existing demand for those contractors and other water users of the Bay-Delta watershed with due recognition of water right priorities.

(3) FEASIBLE DEFINED.—For purposes of paragraph (2), the term “feasible” means capable of being accomplished in a reasonable period of time, taking into account economic, environmental, social, and technological factors and benefits.

(d) WATER QUALITY STUDIES.—

(1) **STUDY.**—The Secretary, in cooperation with the State, shall conduct a study to identify and recommend drinking water quality improvement projects and programs to carry out under the CALFED program.

(2) **REPORT.**—The Secretary shall submit a report to the congressional authorizing committees by not later than October 1, 2002, describing the findings of the study.

(e) **SUMMARY OF EXPENDITURES TO DATE.**—The Director of the Office of Management and Budget shall submit to the Congress, by not later than March 1, 2002, a report describing all Federal and State expenditures made before such date under the CALFED program and other Federal and State programs that may be complementary to the CALFED program.

SEC. 102. LONG-TERM GOVERNANCE AND MONITORING.

(a) **ESTABLISHMENT OF THE WATER SECURITY BOARD.**—

(1) **IN GENERAL.**—The Secretary shall cooperate with the State of California to develop a proposal to—

(A) establish an administrative entity, to be known as the “Water Security Board”, for managing CALFED program operations and implementation of section 105 with respect to California; and

(B) otherwise provide for the long-term implementation of the CALFED program.

(2) **DEVELOPMENT AND SUBMITTAL OF PROPOSAL.**—For purposes of paragraph (1)—

(A) the Federal agencies shall participate with the State agencies and stakeholders to develop a proposal in accordance with this section to be authorized by the Congress and the California Legislature before becoming effective; and

(B) the Secretary shall submit the proposal to the Congress and the California Legislature by October 1, 2002.

(3) **PUBLIC PARTICIPATION.**—The Federal agencies shall include broad public, tribal, and local government involvement in the proposal. Meetings of multiple State agencies and Federal agencies for development of the proposal shall be open to the public.

(b) **PROGRAM ELEMENTS.**—The proposal submitted by the Secretary under this section shall provide the following:

(1) Establishment of an administrative entity to be authorized under Federal and California State law which shall be known as the Water Security Board.

(2) The Water Security Board—

(A) shall direct and oversee the implementation of the CALFED program and implementation of section 105 with respect to California; and

(B) may adopt and modify program elements as necessary to achieve the purposes of the CALFED program.

(3) The Water Security Board shall ensure that all relevant Federal programs authorized under this Act and other preexisting authorities, including the restoration fund and other programs authorized by the Central Valley Project Improvement Act (106 Stat. 4706 et seq.), coordinate and integrate goalsetting, funding, and implementation with CALFED programs to ensure the most biologically effective and cost-effective expenditure of Federal funds and resources for CALFED program-related activities.

(4) The Water Security Board shall manage and allocate CALFED program funds to maintain balanced progress among all CALFED program elements.

(5) The Water Security Board shall be comprised of representatives from each of the following groups:

(A) The Federal agencies.

(B) The State agencies.

(C) Local governments and other interested persons.

(6) Each member of the Water Security Board who is a representative of a Federal agency or State agency shall be an official with a level of authority that is at least as great as the lowest level of authority of the Federal and State officials, respectively, that signed the record of decision.

(7) Mechanisms for funding, by the Program agencies, of activities under the proposal, including for the Ecosystem Restoration Program.

(c) **PROMOTION OF PARTNERSHIPS.**—The proposal submitted by the Secretary under this section shall provide the following:

(1) The Water Security Board shall seek out and promote partnerships with local interests and programs that seek to integrate various management options so as to maximize the final resource benefits.

(2) The Water Security Board shall cooperate and undertake joint activities with other persons, including local public agencies, Indian tribes, private water

users, and landowners pursuant to the record of decision. Such activities shall include, but not be limited to, planning, design, technical assistance, construction projects, and the development of an independent peer review science program.

(d) **MONITORING.**—The proposal submitted by the Secretary under this section shall provide that the Water Security Board shall coordinate with the Program agencies to—

(1) ensure that ecological monitoring data collected for ecosystem restoration projects are integrated, streamlined, compatible, and designed to measure overall trends in ecosystem health in the Bay-Delta watershed;

(2) provide integrated monitoring plans and protocols to be used for gauging cost-effective performance of projects; and

(3) ensure that the findings of such monitoring are used to modify and adopt elements of the CALFED program.

(e) **OBJECTIVE REVIEW AND ANALYSIS.**—The proposal submitted by the Secretary under this section shall provide that the Water Security Board shall ensure that—

(1) all aspects of the CALFED program components, including the competitive grants program under section 105 with respect to California, use credible and objective scientific review and economic analysis;

(2) recommendations of the Water Security Board are based on the best available scientific information; and

(3) a science review board and independent peer review process for implementation of the proposal is established, including independent review of biological opinions.

(f) **LAND PARTNERSHIPS AND ACQUISITIONS.**—The proposal submitted by the Secretary under this section shall provide that—

(1) before obligating or expending Federal funds to acquire land for the Ecosystem Restoration Program, the Water Security Board shall first determine that existing Federal land, State land, or other land acquired for ecosystem restoration with amounts provided by the United States or the State of California is not available for that purpose;

(2) in determining whether to acquire land for the Ecosystem Restoration Program, the Water Security Board, through the Secretary, shall—

(A) consider the cumulative impacts on the local government and communities of transferring the property into government ownership; and

(B) fully mitigate such impacts;

(3) the Water Security Board may not acquire land for any project if such acquisition, or any change in management of the land after such acquisition, will have any significant unmitigated effect on surrounding landowners;

(4) the Water Security Board, through the Secretary, shall fully mitigate the adverse impacts of any conversion of agriculture land due to the implementation of the CALFED program; and

(5) the Water Security Board shall partner with landowners and local agencies to develop cooperating landowner commitments that will meet coequal objectives of achieving local economic and social goals and implementing the Ecosystem Restoration Program goals.

(g) **COMPLIANCE WITH STATE LAW.**—The proposal submitted by the Secretary under this section shall provide that the Federal agencies and the Water Security Board shall operate in compliance with California water law. Nothing in this Act shall be construed to invalidate or preempt State law.

(h) **CONTINUED CONSULTATION AND NEGOTIATION REGARDING COST SHARING.**—The Federal agencies shall continue coordinated consultations and negotiations with the State of California pursuant to the cost sharing agreement required by section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996, and may enter into an agreement with the State for that purpose.

(i) **SATISFACTION OF SOLUTION PRINCIPLES AND PRIMARY OBJECTIVES.**—The Secretary shall ensure that the proposal submitted under this section and other actions taken to implement the record of decision satisfy the solution principles and primary objectives of the CALFED program.

(j) **LIMITATION ON APPROPRIATIONS TO IMPLEMENT CALFED PROGRAM.**—No amounts may be appropriated for any fiscal year after fiscal year 2004 to implement the CALFED program, including under any other provision of this title, and no amounts may be appropriated from the restoration fund after such fiscal year, if there has not been enacted by the Congress a law authorizing implementation of the proposal submitted by the Secretary under this section.

SEC. 103. CALIFORNIA WATER SUPPLY SECURITY.

(a) **WATER SYSTEM IMPROVEMENTS.**—

(1) IN GENERAL.—The Federal agencies, acting through the CALFED program, shall develop a balanced and timely program to achieve for agricultural and urban uses throughout the Bay-Delta solution area—

(A) increased water supply and water yield, improved water quality, and environmental benefits; and

(B) improved water system reliability, water use efficiency, watershed management, water transfers, and levee protection.

(2) DEVELOPMENT OF OPTIONS.—In developing water yield and water supply options the Federal agencies, in cooperation with the State agencies, shall—

(A) consider all potential water yield and water supply storage alternatives (including those identified in the study under section 101(c)(1)); and

(B) utilize a cost/benefit analysis in conjunction with environmental criteria to ensure that proposals are selected that address environmental issues and are economically viable.

(3) SELECTION OF PROJECTS.—In selecting projects and programs for increasing water yield and water supply, improving water quality, and enhancing environmental benefits, projects and programs with multiple benefits shall be emphasized.

(4) WATER DELIVERIES TO SOUTH-OF-DELTA AGRICULTURAL WATER SERVICE CONTRACTORS.—(A) The Secretary shall use the discretion of the Secretary to the maximum extent practicable to accomplish the goal, during a normal water year, of making available to south-of-Delta Central Valley Project agricultural water service contractors at least 70 percent of the currently identified contract maximum for such contractors.

(B) The restoration of supply for south-of-Delta Central Valley Project agricultural water service contractors pursuant to this paragraph shall be accomplished—

(i) by providing water from existing facilities historically used to provide Central Valley Project water to these contractors,

(ii) in a manner consistent with California water laws,

(iii) without reducing deliveries to, increasing the costs of, or otherwise adversely affecting other water suppliers and water users that rely on water diverted from watercourses tributary to the Delta, and in the Delta,

(iv) without degrading the quality of water for municipal, industrial, and agricultural uses, and

(v) in a manner that is consistent with the Bureau of Reclamation's municipal and industrial water shortage policy.

(C) Nothing in this paragraph grants, diminishes, or otherwise affects any water right or right under any contract, including a settlement or exchange contract, in effect as of the date of enactment of this Act.

(5) BANKS PUMPING PLANT.—In accordance with the record of decision, the Federal agencies shall cooperate with the State of California to do the following:

(A) Increase pumping limits at the Banks Pumping Plant in accordance with the schedule established in the record of decision, or earlier if feasible.

(B) Manage the Environmental Water Account and the Ecosystem Restoration Program to maximize the water supply benefits to be provided by the increased pumping capability.

(C) Implement the other actions in section 2.2.6. of the record of decision.

(b) ENVIRONMENTAL WATER MANAGEMENT.—

(1) MANAGEMENT OF ENVIRONMENTAL WATER ACCOUNT.—The Federal agencies, in cooperation with the State agencies, shall manage the Environmental Water Account and the Ecosystem Restoration Program under the record of decision as part of a comprehensive plan to provide assurances that actions taken to protect species listed under section 4(c) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)), pursuant to biological opinions and incidental take permits under that Act, will be carried out in a manner that—

(A) avoids redirected impacts and water supply and water quality impacts to the Central Valley Project and the State Water Project and to water right holders in the Bay-Delta solution area; and

(B) avoids adverse effects on the water right holders in the Bay-Delta solution area, by not imposing any direct costs or indirect costs on the water users in the Bay-Delta solution area.

(2) ENVIRONMENTAL WATER ACCOUNT PRIORITIES AND OPERATION.—(A) The Secretary shall give first priority, in the allocation and use of Environmental Water Account and the Ecosystem Restoration Program assets actually obtained or developed, to meeting the water supply assurances set forth in paragraph (1).

(B) If, by December 31 of any year, the Environmental Water Account Tier 2 assets (as that term is used in section 2.2.7 of the record of decision) water purchase targets, or their functional equivalents, have not been met, the Fed-

eral agencies shall continue their efforts to meet such water purchase targets and shall make use of the available Environmental Water Account assets to avoid jeopardizing the continued existence of any species listed under section 4(c) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)) in a manner consistent with minimizing water supply and water quality impacts.

(C) If the efforts to meet such water purchase targets are unsuccessful, the maximum responsibility of water service contractors of the State Water Project and the Central Valley Project to provide water for Environmental Water Account Tier 2 asset purposes shall be the difference between the Environmental Water Account purchase targets established in section 2.2.7 of the record of decision and the amount of water actually acquired. This section shall not impose any obligations or responsibilities on other water users within the Bay-Delta watershed.

SEC. 104. IMPLEMENTATION OF THE CALFED PROGRAM.

(a) **IN GENERAL.**—The Secretary and the Federal agencies shall, subject to approvals and the availability of appropriations under this Act, and consistent with the goals included pursuant to paragraph (3) of section 107(a) in annual reports under that section, carry out all actions necessary to implement the CALFED program.

(b) **BALANCED REGULATORY IMPLEMENTATION.**—The Secretary and the Federal agencies, in carrying out their regulatory responsibilities under any Federal law, shall not—

(1) treat one CALFED program element as an alternative to another CALFED program element; or

(2) consider, as an alternative to one element of the CALFED program, implementation of any other element of the CALFED program beyond the levels described in the record of decision.

(c) **REGULATORY COORDINATION.**—The Secretary, working with the Governor of the State of California, shall, on or before January 1, 2003, develop a regulatory coordination and streamlining process for the issuance of permits and approvals required under State and Federal law for projects under the CALFED program, to ensure that all Federal agencies' and State agencies' respective regulatory programs will be coordinated in a manner that reduces or eliminates duplicative processes or decisionmaking, thereby reducing costs and time that would otherwise be required.

(d) **PROGRAM AGENCIES DISCRETION.**—This Act shall not affect the discretion of any of the Program agencies or the authority granted to any of the Program agencies by any other Federal or State law.

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

(1) **IN GENERAL.**—In addition to the other amounts authorized by this Act, there are authorized to be appropriated for activities that implement the CALFED program—

(A) for each of fiscal years 2002 through 2004, \$200,000,000; and

(B) for each of fiscal years 2005 through 2032 such sums as may be necessary for balanced completion of Stage 1 of the CALFED program and balanced implementation of subsequent stages of the CALFED program.

(2) **CONTINUING AVAILABILITY.**—Funds appropriated pursuant to this subsection may remain available until expended.

SEC. 105. COMPETITIVE GRANT PROGRAM.

(a) **GENERAL AUTHORITY.**—The implementing entity shall undertake a competitive grant program to—

(1) investigate and identify opportunities for the design and construction of demonstration and permanent facilities, or the implementation of other programs, to—

(A) increase water yield and water supply;

(B) maintain existing water supply;

(C) improve water quality; or

(D) improve water use efficiency and water conservation, reclamation, desalination of brackish and sea water, and recycling of wastewater and impaired ground and surface waters;

(2) carry out design and construction of facilities and implement other programs identified pursuant to paragraph (1);

(3) conduct research, including desalination and other new and innovative techniques and techniques for water treatment, regarding sea water and the reclamation of wastewater and impaired ground and surface waters; and

(4) encourage watershed management actions to increase water quality, water yield, water supply, and groundwater recharge and storage.

(b) **LIMITATIONS ON GRANTS.**—

(1) **LOCATION OF PROJECT.**—Grants under the program may be made only for projects carried out in a State that contains Reclamation lands.

(2) PER STATE LIMIT.—(A) Except as provided in subparagraph (B), of the amount available in a fiscal year for grants under the program, not more than 50 percent may be used for projects in a single State.

(B) The Secretary may increase the percentage that applies under subparagraph (A) if the Secretary finds that, due to the lack of grant applications for projects that the Secretary finds meet the evaluation criteria under this section, such increase is necessary to ensure the use of amounts available for such fiscal year for such grants.

(c) EVALUATION CRITERIA.—In determining what projects described in subsection (a) are eligible for funding under this section, the implementing entity, to the maximum extent possible, shall consider the following criteria:

(1) Whether a project—

(A) increases water yield and water supply;

(B) reduces or stabilizes demand on existing Federal and State water supply facilities; or

(C) increases the availability of locally and regionally developed water supplies.

(2) Whether a project improves water quality in a manner that results in continuous, measurable, and significant water quality benefits, except that any project the primary purpose of which is the project sponsor's compliance with the Federal Water Pollution Control Act shall not be considered as improving water quality for purposes of this paragraph.

(3) Whether a project—

(A) serves a small, rural, or economically disadvantaged community or Indian tribes;

(B) shows economic benefits; and

(C) is cost-effective.

(4) Whether a project restores or enhances habitats, including those affected by or affecting project operation, or provides water for, or otherwise protects, Federal or State listed threatened or endangered species, or facilitates consensus-based environmental restoration programs.

(5) Whether a project helps meet existing legal requirements, contractual water supply obligations, Indian trust responsibilities, water rights settlements, water quality control plans and department of health requirements, Federal and State environmental laws, the Federal Water Pollution Control Act, or other obligations.

(6) Whether a project promotes and applies a regional or watershed perspective to water resource management or cross-boundary issues, implements an integrated resources management approach, increases water management flexibility, or forms a partnership with other entities.

(7) Whether a project improves health and safety of the general public.

(8) Whether a project provides benefits outside the region in which the project occurs.

(9) Whether a project provides benefits to the agricultural community, including any adverse impacts on agricultural production and agricultural lands.

(d) CONSTRUCTION GRANTS.—No grant may be made under this section for the construction of any project until after—

(1) an appraisal investigation and a feasibility study have been completed;

(2) the implementing entity has determined that the non-Federal project sponsor is financially capable of funding the non-Federal share of the project's costs; and

(3) the implementing entity has approved a cost-sharing agreement with the non-Federal project sponsor that commits the non-Federal project sponsor to funding its share of the project's construction costs on an annual basis, and on-going operations and maintenance.

(e) COST SHARING.—

(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, a grant under this section shall not exceed the lesser of \$50,000,000 (June 2000 prices) or 35 percent of the total cost of the project.

(2) REDUCED NON-FEDERAL SHARE.—The implementing entity may reduce the non-Federal share of the cost of a project carried out with a grant under this section, including (subject to the availability of amounts for such grants, and less than \$50 million) by increasing the amount of the Federal share of such costs to an amount that is greater than the amount specified in paragraph (1), if the implementing entity, through the Secretary, determines that—

(A) the project is for the benefit of a small, rural, or socially disadvantaged community or an Indian tribe; and

(B) application of paragraph (1) would result in economic hardship for such community or Indian tribe.

(f) ANNUAL REPORT.—The implementing entity shall provide the Congress an annual report detailing the benefits gained by projects funded under this section, and expenditures for each such project. The report shall include information on each project the implementing entity has approved for funding, including an assessment of how the project met each of the evaluation criteria under this section.

(g) IMPLEMENTING ENTITY DEFINED.—In this section the term “implementing entity”—

(1) except as provided in paragraph (2), means the Secretary; and

(2) for purposes of grants under this section for projects in California, means the Water Security Board.

(h) AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there are authorized to be appropriated—

(1) \$50,000,000 for fiscal year 2002; and

(2) \$500,000,000 for each fiscal year thereafter.

SEC. 106. AUTHORIZATION AND APPROPRIATION PROCESS.

(a) ACTIVITIES OTHER THAN CONSTRUCTION AND ACQUISITION.—There are authorized to be appropriated to the Secretary such sums as are necessary to pay the Federal share of CALFED program costs and expenses for—

(1) prefeasibility and feasibility studies, environmental reviews, permit acquisitions, and related preconstruction and preland acquisition activities;

(2) administration of all CALFED program areas, including governance, monitoring, and implementation of a comprehensive science program; and

(3) acquiring the Tier 2 and Tier 3 assets (as those terms are defined in the record of decision) for the Environmental Water Account.

(b) CONSTRUCTION AND ACQUISITION ACTIVITIES.—The process for authorizing appropriations to pay the Federal share of the costs of implementing elements of the CALFED program, as set forth in the record of decision, through the construction of projects and the acquisition of lands, easements, and rights-of-way shall be as follows:

(1) Every odd-numbered year beginning in 2003 at the same time the Secretary submits the report described in section 107(a), the Water Security Board, acting through the Secretary, shall submit to the congressional authorizing committees a report setting forth the list of projects and other actions that are proposed for construction or acquisition in order to implement the CALFED program over the next 2 fiscal years. The list shall specify which projects and actions require authorization by the Congress through the process set forth in this subsection. The Water Security Board and the Secretary shall certify that implementation of the CALFED program in the manner set forth in the report will result in balanced implementation in all CALFED program areas.

(2) No amounts may be appropriated for any fiscal year after fiscal year 2003 for any project or other action that has not been previously authorized and that requires construction or acquisition of lands, easements, and rights-of-way, unless the project has been specifically authorized by law.

(3) It is the intent of Congress that the authorizations and appropriations for implementation of the CALFED program shall promote and carry out the fundamental principle that the CALFED program components, consisting of ecosystem restoration, watershed improvements, water supply improvements, storage including water yield, conveyance, water use efficiency, water quality improvement, and levee stability, must progress together in a balanced manner.

(4) If the Congress, through the authorization and appropriation process set forth in this section, amends, or fails to authorize or fund, the projects and other actions included in a report submitted pursuant to paragraph (1), the Secretary shall, in consultation with the Water Security Board, redetermine whether implementation of the projects and other actions, as authorized or funded, respectively, by the Congress will maintain balanced implementation in all CALFED program areas. If the Secretary finds that implementation of such projects, as so authorized or funded by the Congress, will not maintain balanced implementation in all program areas, the Secretary shall report to the Congress the finding and recommend those steps needed to restore balance to the implementation process.

(c) CONTENTS OF REPORTS.—

(1) IN GENERAL.—For each project recommended under paragraph (1), the reports under this subsection shall include—

(A) a project description;

(B) feasibility and operational studies;

(C) required environmental documentation;

- (D) a finding of consistency with the record of decision;
- (E) a cost-benefit analysis;
- (F) identification of project benefits and beneficiaries;
- (G) identification of adverse impacts, if any, to agricultural, municipal, industrial, or other water users;
- (H) a cost and benefit allocation plan;
- (I) financing and repayment plan; and
- (J) in the case of a project proposed to be funded with a grant under section 105, a certification that an agreement in accordance with section 105(d)(3) has been signed and the Water Security Board has determined that the non-Federal project sponsor is financially capable of funding the project's non-Federal share of the project's costs, and ongoing operations and maintenance.

(2) **RECOMMENDATIONS REGARDING SPECIFIC PROJECTS.**—The Water Security Board, through the Secretary, shall include in reports under this subsection recommendations with respect to construction of the surface storage, groundwater storage, and complementary actions, that would improve water system reliability, water quality, water supply, or water yield, or any combination thereof, consistent with the dates specified in the record of decision or such other date as may be specified by the Water Security Board.

SEC. 107. ANNUAL REPORTS.

(a) **ANNUAL WATER REPORT BY WATER SECURITY BOARD.**—Not later than February 1 of each year, the Water Security Board, through the Secretary, shall submit to the Congress an annual report that includes the following:

(1) **FEDERAL FUNDING.**—An accounting of all Federal funds received (or to be received) by the Water Security Board, including—

- (A) a description of all projects and activities carried out with such funds;
- (B) amounts received by the State that have not yet been expended by the State; and
- (C) cost allocation and any applicable repayment capacity findings for new projects.

(2) **ASSESSMENT OF ACHIEVEMENTS.**—A description and assessment of expenditures and achievements of the CALFED program and the competitive grant program under section 105 in the current fiscal year, including accomplishments in achieving—

- (A) increased water supply and water yield;
- (B) improved water quality, including—
 - (i) measures taken to improve salinity;
 - (ii) an assessment of progress made in implementing drinking water sources protection projects and programs described in the record of decision; and
 - (iii) identification of regionally and locally sponsored projects and programs to improve water treatment infrastructure and technology;
- (C) enhanced environmental benefits, including ecosystem restoration;
- (D) improved water system reliability, water use efficiency, watershed management, water transfers, and levee protection; and
- (E) benefits in all geographic regions covered within the Bay-Delta solution area.

(3) **PERFORMANCE MEASURES.**—A clear statement of goals to achieve, under the CALFED program—

- (A) increased water supply and water yield;
- (B) improved water quality;
- (C) enhanced environmental benefits; and
- (D) improved water system reliability, water use efficiency, watershed management, water transfers, and levee protection.

(b) **ANNUAL BUDGET CROSSCUT REPORT.**—Not later than February 1 of each year, the Director of the Office of Management and Budget shall submit to the Congress an interagency budget crosscut report that describes in detail—

- (1) all proposed and planned Federal expenditures in the next fiscal year on ecosystem restoration and other purposes in the Bay-Delta solution area; and
- (2) all proposed and planned State of California and Federal expenditures in the next fiscal year to achieve the objectives identified within the record of decision.

SEC. 108. TREATMENT OF FUNDS.

Funds authorized to be appropriated by this title to those Federal agencies that are currently or subsequently become participants in the CALFED program shall be in addition to the baseline funding levels established for currently authorized projects and programs under the Central Valley Project Improvement Act (title

XXXIV of Public Law 102–575) and other currently authorized Federal programs for the purposes of Bay-Delta ecosystem protection and restoration and water system and water quality improvement.

SEC. 109. LAND ACQUISITION; MANAGEMENT PLAN REQUIRED FOR EXISTING LAND.

Federal funds, including Federal grant funds, may not, for purposes of implementing the record of decision, be used to acquire any additional lands for CALFED ecosystem restoration unless the State agencies and Federal agencies, through the Secretary and by not later than January 1, 2003, develop a management plan for all lands acquired for CALFED program ecosystem restoration before the date of enactment of this Act.

SEC. 110. ENVIRONMENTAL JUSTICE.

It is the intent of the Congress that—

(1) implementation of the CALFED program by the Federal agencies and State agencies should fulfill the commitment to addressing environmental justice challenges referred to in the CALFED Bay-Delta Program Environmental Justice Workplan, dated December 13, 2000;

(2) the Federal agencies and State agencies should continue to collaborate to develop a comprehensive environmental justice workplan for the CALFED program, including through continuation of the functions of the CALFED-Bay Delta Environmental Justice Workgroup; and

(3) the Water Security Board should collaborate with such workgroup to ensure fulfillment of the commitment referred to in paragraph (1).

TITLE II—SMALL RECLAMATION PROJECTS

SEC. 201. SHORT TITLE; REFERENCES.

(a) **SHORT TITLE.**—This title may be cited as the “Small Reclamation Water Resources Project Act of 2001”.

(b) **REFERENCES.**—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422 et seq.).

SEC. 202. AMENDMENTS TO THE SMALL RECLAMATION PROJECTS ACT OF 1956.

(a) **PURPOSE.**—The first section (43 U.S.C. 422a) is amended—

(1) by striking “under the” and inserting “under this Act and other”; and

(2) by adding at the end the following: “Such projects may include, but shall not be limited to, irrigation projects. Irrigation shall not be a required purpose for projects receiving assistance under this Act. In providing assistance, the Secretary shall give priority to recommended proposals that are related to a project that is otherwise authorized under the Federal reclamation laws and that will benefit from assistance under this Act.”.

(b) **DEFINITIONS.**—Section 2 (43 U.S.C. 422b) is amended—

(1) in paragraph (c), by striking “a State” and inserting “an Indian Tribe, a State”;

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

“(d) The term ‘project’ means any of the following:

“(1) A multipurpose water resource development carried out by a non-Federal organization involving significant conservation of water, energy, and the environment.

“(2) The rehabilitation, betterment, or retrofit of any existing Federal or non-Federal water infrastructure for purposes of complying with law and regulations.

“(3) An activity described in paragraph (1) or (2) that—

“(A) is carried out by a non-Federal organization under the Federal reclamation laws in one or more of the 17 western reclamation States, Hawaii, Alaska, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands; and

“(B) in the case of an activity proposed for any project that is authorized under the reclamation laws immediately before the enactment of the Small Reclamation Water Resources Project Act of 2001, is determined by the Secretary to be consistent with the purposes of that project before that date of enactment.”; and

(3) by striking paragraph (f) and inserting the following:

“(f) The term ‘water quality improvements’ means operational measures and physical features associated with—

“(1) the reclamation and reuse of irrigation drainage or municipal and industrial return flows, including wastewater flows; or

“(2) the reclamation, or control, of brackish, toxic, or impaired waters for beneficial reuse or protection of other related water, land, or environmental resources.”.

(c) MODIFICATION OF LOAN AND GRANT PROGRAMS.—The Small Reclamation Projects Act of 1956 is amended—

(1) by striking sections 3 through 8 (43 U.S.C. 422c–422h); and

(2) by inserting after section 2 (43 U.S.C. 422b) the following:

“TITLE I—STATE AND LOCAL PARTICIPATION IN RECLAMATION PROJECTS

“SEC. 101. LOAN, GRANT, AND LOAN GUARANTEE PROGRAM.

“There is hereby established a program within the Bureau of Reclamation, under which the Secretary may make loans, grants, and loan guarantees to any organization to carry out a project.

“SEC. 102. PROPOSAL CONTENTS AND REQUIREMENTS.

“(a) IN GENERAL.—Any organization seeking assistance under this title shall submit a proposal to the Secretary in such form and manner as the Secretary may prescribe. Any proposal for a project submitted under this title shall set forth a plan and estimated cost in detail comparable to those included in preauthorization reports required for a project under the Federal reclamation laws.

“(b) LANDS AND WATERS.—Each proposal submitted under this title shall include a statement of financial capability and legal authority, and a resolution from the governing board of the organization showing that the organization seeking assistance—

“(1) holds or can acquire all lands and interests in land (except public and other lands and interest in land owned by the United States that are within the administrative jurisdiction of the Secretary and subject to disposition by the Secretary) to complete the project;

“(2) holds or can acquire all rights, pursuant to applicable State law, to the use of water necessary for the successful construction, operation, and maintenance of the project;

“(3) is willing to finance, and capable of financing, the non-Federal portion of the costs of the project, including all costs of acquiring lands, interests in land, and rights to the use of water, except as provided in section 105(b)(2); and

“(4) has the legal authority and responsibility under State law to carry out the project.

“SEC. 103. FEDERAL SHARE AND PROJECT SPONSOR SHARE OF COSTS.

“(a) IN GENERAL.—The Secretary shall require each organization receiving assistance under this title to contribute toward the cost of the project (other than by loan or grant of Federal funds) not less than 25 percent of the costs of the project. The Secretary shall credit toward the non-Federal cost share that amount—

“(1) the costs paid by the organization for investigations, surveys, engineering, administration, and other services necessary for the preparation of proposals and plans for the proposed project that are required by the Secretary;

“(2) the value of lands, rights-of-way, and water rights acquisition required for the proposed project that are provided by the organization;

“(3) amounts spent by the organization for construction or acquisition of facilities for the proposed project prior to project approval; and

“(4) the fee required by section 403.

“(b) PREVENTION OF LOSS AND DAMAGE TO FISH AND WILDLIFE.—The costs of measures to prevent loss of, and damage to, existing fish and wildlife resources as the result of a project for which assistance is provided under this title shall be considered project costs and, for purposes of reimbursement, shall be allocated as may be appropriate among project functions.

“(c) MAXIMUM ALLOWABLE FEDERAL SHARE.—The maximum allowable Federal share per project shall be \$50,000,000 (January 2001 dollars).

“(d) INCREASE IN AMOUNT.—To compensate for increases in construction costs due to price escalation, and subject to subsection (c), the Secretary may increase the amount of a loan or grant, or both, under this title for a project at any time prior to the completion of construction of the project, using the Bureau of Reclamation’s composite construction cost trends index.

“SEC. 104. APPROVAL OR DISAPPROVAL OF PROJECTS.

“(a) IN GENERAL.—The Secretary shall determine whether a proposal under this title is financially feasible and constitutes a reasonable risk, and either approve or disapprove the proposal, by not later than the later of—

“(1) one year after the date the proposal is submitted to the Secretary; or

“(2) the date of the completion of the appropriate documentation under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(b) TRANSMITTAL TO CONGRESS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall promptly transmit any approved proposals to the Congress with a brief statement of the project purposes and funding requirements.

“(2) COMPLETION OF DOCUMENTATION.—The documentation required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a proposed project must be completed before the Secretary transmits the proposal to the Congress.

“SEC. 105. CONTRACT TERMS AND CONDITIONS.

“(a) IN GENERAL.—Upon approval of any project proposal submitted under this title by an organization, the Secretary shall negotiate with the organization a contract establishing the terms under which assistance shall be provided under this title.

“(b) CONTRACT TERMS.—The contract shall include the following:

“(1) The maximum amount of any grant, which shall not exceed 50 percent of the maximum allowable Federal share of the costs of the project under section 103.

“(2) The time and method of making any grant or loan available to the organization.

“(3) Such terms and conditions as the Secretary considers necessary or proper to provide assurance of, and security for, prompt repayment of any loan and to ensure achievement of the purposes for which the loan was made.

“(4) A plan for repayment by the organization of any loan within 25 years, except that the organization shall have the right to prepay the loan or any component thereof without penalty.

“(5) For any loan, payment of interest at a rate established by the Secretary of the Treasury at the beginning of the fiscal year in which the contract is executed, that shall be based on the average market yield on outstanding marketable obligations of the United States with periods of maturity comparable to the applicable repayment period of the loan.

“(c) LOANS PROJECTS BY INDIAN TRIBES.—

“(1) IN GENERAL.—For any project undertaken by an Indian tribe with assistance under this title, the Secretary shall—

“(A) determine, based on the findings in the proposal under section 102, the reimbursable and nonreimbursable costs for the project constructed under this Act;

“(B) apportion those costs in accordance with the benefits received; and

“(C) allocate the reimbursable costs to the project beneficiaries.

“(2) LEAVITT ACT.—The Act of July 1, 1932 (chapter 369; 25 U.S.C. 386a), popularly known as the ‘Leavitt Act’, shall not apply to loans made under this Act.

“TITLE II—PARTNERSHIP PROGRAM**“SEC. 201. ESTABLISHMENT OF PARTNERSHIP PROGRAM.**

“(a) PROGRAM.—There is hereby established within the Bureau of Reclamation a small grant and loan program to be known as the Small Reclamation Water Resources Management Partnership Program, to be carried out under this title. The purpose of this program shall be to implement projects that can be performed—

“(1) by the recipient organization’s workforce or contractors,

“(2) with streamlined documentation, and

“(3) in a period of 18 months or less.

“(b) GRANTS.—Grants under this title shall not exceed \$5,000,000 for any one project under such program. The Secretary shall require the recipient organization to provide matching funds in an amount equal to 50 percent of the amount of the grant.

“(c) LOANS.—Loans under this title shall not exceed \$5,000,000 per project, and shall be subject to cost sharing in the same manner as provided in title I. The contract for each loan under this title shall require payment of interest at a rate established by the Secretary of the Treasury in the same manner as provided in section 105(b)(5) for loans under title II.

“SEC. 202. REPAYMENT OF LOANS.

“Each loan made under this title shall be repaid within the 5-year period beginning on the date the Secretary certifies that work to be carried out with the loan is completed.

“SEC. 203. ELIGIBLE ACTIVITIES.

“(a) IN GENERAL.—The following types of activities shall be eligible for grants or loans under this title:

- “(1) Water conservation.
- “(2) Water quality improvement projects.
- “(3) Water management for urban landscapes.
- “(4) Drought assistance.
- “(5) Fish and wildlife improvements.
- “(6) Public safety improvements.
- “(7) Water supply, including water production, conveyance, conservation, and management.

“(b) ADDITIONAL ACTIVITIES.—The Secretary may add to the list of eligible activities under subsection (a) as the Secretary considers appropriate, except that any such addition shall not take effect until 60 days after the Secretary publishes a notice of the proposed addition in the Federal Register, and has notified the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate in writing of the proposed addition and the reasons therefore.

“SEC. 204. APPLICATION PROCESS.

“(a) NOTICE OF INTENT.—Each organization seeking a grant or loan under this title shall submit a notice of intent to the Secretary by April 1 of each year outlining the proposed project and the public benefits thereof. Within two months, the Secretary shall provide a written response to the organization, expressing either the Bureau of Reclamation’s interest or disinterest in participating in the project.

“(b) APPLICATION.—30 days after receipt of a response under subsection (a) expressing the Bureau of Reclamation’s interest in participating in a project, the organization may submit to the Secretary an appropriate loan or grant application, giving details of the project and the anticipated public benefits.

“(c) CONTENTS.—The application for any project proposal under this title shall include each of the following:

- “(1) A resolution by the board of directors of the organization stating—
 - “(A) the total estimated project cost;
 - “(B) the amount of the grant or loan requested;
 - “(C) the amount of the non-Federal contribution for any grant;
 - “(D) the organization’s ability to finance and construct the project; and
 - “(E) the project objectives.

“(2) A summary of the proposal.

“(3) A brief description of the anticipated effects of the project on the environment.

“(4) Evidence that the organization has all lands and water rights needed for the project, or can obtain them and has legal authority and responsibility under, State law to carry out the proposed project.

“(5) A project plan, including a general map showing the location of proposed physical features, conceptual engineering drawings of major and typical structures, and general standards for design.

“(6) A construction schedule, with dates and a schedule of funding requirements under this title, in sufficient detail to provide an analysis of the proposed construction program.

“(7) A description of the proposed Federal funding for the project and of the non-Federal funding for the project.

“(d) COSTS.—The cost of any investigations and preparation of any environmental documentation for a project carried out with assistance under this title shall be borne by the project applicant, and shall be credited against the non-Federal cost share.

“(e) ANNUAL LISTING.—The Secretary shall include in the annual budget justification for the Bureau of Reclamation, a listing of the activities and total funding required for work committed to under this title.

“SEC. 205. TERMS AND CONDITIONS OF PROJECT WORK.

“The Secretary shall examine each project proposal submitted under this title to determine if the project can reasonably be expected to accomplish its purpose, and approve or disapprove such proposal by September 1 of the year in which the application for assistance under this title is submitted. If the Secretary approves the proposal, and subject to the availability of appropriations, the Secretary shall provide

funding within 60 days after such approval for work scheduled for the next fiscal year.

“SEC. 206. LIMITATION ON PROJECT PROPOSALS.

“Only one proposal may be submitted under this title by an applicant in any 5-year period.

“TITLE III—LOAN GUARANTEES

“SEC. 301. ESTABLISHMENT OF LOAN GUARANTEE PROGRAM.

“There is hereby established within the Bureau of Reclamation a demonstration program to guarantee loans for projects receiving, or eligible to receive, loans or grants under title I or II of this Act.

“SEC. 302. PROGRAM REQUIREMENTS.

“(a) **IN GENERAL.**—The Secretary may provide support under the demonstration program to organizations through the provision of loan guarantees for the purposes for which assistance is authorized under titles I and II, under such terms and conditions as are specified in this section. Any proposal for a project submitted under this title shall set forth a plan and estimated costs, in detail, comparable to those required to be included in preauthorization reports required for a project under the Federal reclamation laws.

“(b) **SELECTION OF RECIPIENTS.**—The Secretary shall adopt and use competitive procedures in the selection of organizations to receive loan guarantees under this section. In selecting any organization to receive a loan guarantee under this section, the Secretary shall consider, at a minimum, the following:

“(1) The extent to which the loan guarantee would support new water supplies or more efficient use of existing supplies.

“(2) The repayment period of the guaranteed loan.

“(3) The extent to which the loan guarantee would provide for a project of wide public purpose.

“(4) Whether the loan guarantee would help the organization comply with a Federal or State environmental statute or regulation.

“(5) The extent to which the loan guarantee would enable the organization to meet the needs of other local water purveyors.

“(6) The extent to which the guaranteed loan would support a program that would supplement, rather than duplicate, other available water resource programs.

“(7) The fiscal impact of the loan guarantee program as a whole on other Bureau of Reclamation programs.

“(c) **APPORTIONMENT.**—The total amount made available to the Secretary for a fiscal year to cover the costs of loan guarantees under this section shall be divided between projects receiving or eligible to receive loans under titles I and II, with title I projects receiving 75 percent and title II projects receiving 25 percent.

“(d) **MAXIMUM.**—The maximum amount of a loan guaranteed under this section may not exceed 75 percent of the total cost of the project carried out with the loan.

“(e) **LIMITATION ON USE OF LOAN.**—No loan guaranteed under this title shall be used to cover the organization’s local cost share for any project assisted under this Act.

“(f) **REPORTING.**—Reporting and documentation requirements under titles I and II shall similarly apply to loan guarantees under this title.

“(g) **STATE LAW.**—For purposes of this Act, when any bonds are issued by an organization to help finance a project for which the organization is also receiving a loan guarantee under this section, such bonds shall not be treated as affecting the tax-exempt status of such bonds under applicable State law.

“(h) **FULL FAITH AND CREDIT.**—Any loan guarantee issued pursuant to this section shall constitute an obligation, in accordance with the terms of such guarantee, of the United States Government, and the full faith and credit of the United States is hereby pledged to the full performance of the obligations.

“(i) **REPORT.**—At the end of the third fiscal year after the enactment of this subsection, the Secretary shall submit a report to the Congress on the beneficial use and suggested improvements for use of loan guarantees under this title as a mechanism for project construction.

“SEC. 303. SUNSET.

“No loan guarantee may be issued under this title in any fiscal year after the expiration of 10 full fiscal years after initial funding of projects under the amendments made by the Small Reclamation Water Resources Project Act of 2001.

“TITLE IV—GENERAL PROVISIONS

“SEC. 401. PROPOSAL FEE.

“The Secretary shall assess and collect a fee to defray the cost of examining each proposal for a loan, grant, or loan guarantee under this Act. The amount of the fee shall be equal to \$5,000 or $\frac{1}{10}$ of 1 percent of the Federal share of the costs of the proposed project, whichever is greater. The Secretary shall require that 50 percent of the fee shall accompany the application and the remainder shall be due only upon approval of the project by the Secretary.

“SEC. 402. MISCELLANEOUS PROVISIONS.

“(a) TITLE.—Title to all project works and facilities constructed with assistance under this Act shall remain in the name of the organization.

“(b) COMBINED LOANS, GRANTS, AND LOAN GUARANTEES.—A project sponsor shall be eligible for a loan, grant, loan guarantee, or combination thereof for a project proposal under this Act. An applicant may submit one proposal to be carried out with assistance under more than one title under this Act. No organization shall be eligible for an additional loan, grant, loan guarantee, or any combination thereof for the same project that has previously received approval for a loan, grant, or loan guarantee under this Act within the prior five fiscal years.

“(c) PLANNING, CONSTRUCTION, OPERATION, AND MAINTENANCE.—The United States shall not be required to provide planning, construction, operation, and maintenance of any project receiving a loan, grant or loan guarantee under this Act.

“(d) STATE WATER LAW.—Any project assisted under this Act shall be carried out in accordance with applicable State water law.”.

(d) CONFORMING AMENDMENTS.—

(1) Sections 9 through 13 of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422i–422k–1) are redesignated as sections 403 through 407, respectively.

(2) Section 404 of such Act, as redesignated by paragraph (1) of this subsection, is amended as follows:

(A) By striking “section 3” and inserting “title I”.

(B) By striking “effective October 1, 1986,” and inserting “for any fiscal year”.

(C) By striking “for loans and grants pursuant to this Act” and inserting “for loans and grants pursuant to title I”.

(D) By striking “five years after the date of enactment of this Act” and inserting “ten years after the date of enactment of the Small Reclamation Water Resources Project Act of 2001”.

(E) By striking “section 4(c)” and inserting “title I”.

SEC. 203. ADDITIONAL APPROPRIATIONS.

Section 404 of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422j), as redesignated by section 202(d)(1) of this Act, is further amended—

(1) by striking “such sums” and all that follows through “That the Secretary” and inserting “to carry out this Act \$1,300,000,000 for fiscal years after fiscal year 2001, of which \$900,000,000 may be appropriated to carry out title I and to complete ongoing projects under Public Law 84–984, \$300,000,000 may be appropriated to carry out title II, and \$100,000,000 may be appropriated to carry out title III. Of funds authorized under this Act, not more than 20 percent shall be used for projects to be carried out by Indian tribes or in economically disadvantaged communities. The Secretary”; and

(2) by striking “any single State” and all that follows through “the Secretary is authorized to waive” and inserting “in any single State. Funds obligated or expended for projects by Indian tribes shall not be considered for purposes of the preceding sentence. The Secretary may waive”.

SEC. 204. GUIDELINES.

Within 180 days after the date of enactment of this Act, the Secretary of the Interior shall complete and publish such administrative guidelines as may be necessary to carry out the amendments made by this title.

SEC. 205. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of enactment of this Act. Nothing in this title or in any amendment made by this title shall affect any loan or grant that has been approved before the date of enactment of this Act.

SEC. 206. LIMITATION.

Activities funded under this title shall not be considered a supplemental or additional benefit under the Act of June 17, 1902 (82 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

TITLE III—MISCELLANEOUS

SEC. 301. SECRETARIAL ACTIONS TO REDUCE CALIFORNIA'S USE OF COLORADO RIVER WATER.

(a) REVIEW.—The Secretary shall review programs that are administered by the Department of the Interior in furtherance of the goal of reducing California's use of Colorado River water to its basic annual apportionment, in a manner consistent with amounts and deadlines established in the Interim Surplus Guidelines.

(b) UTILIZATION OF EXISTING PROGRAMS AND AUTHORITIES.—The Secretary shall utilize existing programs and authorities in furtherance of the goal of reducing California's current use of Colorado River water.

(c) IDENTIFICATION OF STATUS OF ONGOING EFFORTS.—In preparing the operating plans described in section 602(b) of the Colorado River Basin Project Act of 1968, beginning with the operating plan for 2003, the Secretary shall specifically identify and describe the status of ongoing efforts to reduce California's current use of Colorado River water.

(d) FUNDING TO ADDRESS IMPACTS OF QSA ON SALTON SEA.—There is authorized to be appropriated to the Secretary \$60,000,000 for activities to address environmental impacts on the Salton Sea associated with implementation of the Quantification Settlement Agreement.

(e) BASIS FOR DETERMINATIONS OF DOMESTIC COLORADO RIVER SURPLUS CONDITIONS.—For the purpose of assuring that California expeditiously takes all required actions to reduce its use of Colorado River water to its allocation of 4,400,000 acre-feet, in accordance with the strategy set forth in the Colorado River Interim Surplus Guidelines published in the Federal Register on January 25, 2001, the Secretary shall, on and after January 1, 2016, base determinations of domestic Colorado River surplus conditions under Article II(B)(2) of the Supreme Court Decree in *Arizona v. California*, 376 U.S. 340 (1964) exclusively on the 70R spill avoidance strategy, as set forth in section IV of the Interim Surplus Guidelines.

SEC. 302. WILLARD BAY RESERVOIR ENLARGEMENT STUDY.

(a) AUTHORIZATION OF FEASIBILITY STUDY.—Pursuant to the reclamation laws, the Secretary, through the Bureau of Reclamation, may conduct a feasibility study on raising the height of Arthur V. Watkins Dam and thereby enlarging the Willard Bay Reservoir for the development of additional storage to meet water supply needs within the Weber Basin Project area. The feasibility study shall include such environmental evaluation as required under the National Environmental Policy Act of 1969 and a cost allocation as required under the Reclamation Projects Act of 1939.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report on the results of the study to the Congress for review and approval.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$2,000,000.

SEC. 303. AMENDMENTS TO THE FEDERAL WATER PROJECT RECREATION ACT.

(a) CONGRESSIONAL POLICY.—The first section of the Federal Water Project Recreation Act (16 U.S.C. 460l–12) is amended by striking “public bodies” and inserting “entities”.

(b) ALLOCATION OF COSTS.—Section 2 of the Federal Water Project Recreation Act (16 U.S.C. 460l–13) is amended—

(1) in subsection (a) by striking “, before authorization of a project,”;

(2) in subsection (a), by striking “public bodies” and inserting “entities” and by striking “Projects authorized during the calendar year” and all that follows to the end of the subsection;

(3) in subsection (b) by striking “non-Federal interests” each place it appears and inserting “non-Federal entities”;

(4) in subsection (b)(2)—

(A) by striking “: *Provided*, That the source of repayment may be limited to” and inserting “. The source of repayment may include”; and

(B) by inserting “and retained” after “collected”; and

(5) in subsection (b)(2) by adding at the end the following: “Fees and charges may be collected, retained and used by the non-Federal entities for operation, maintenance, and replacement of recreation facilities on project lands and waters being managed by the non-Federal entities. As established by the Secretary, any excess revenues will be credited to the Reclamation Fund to remain available, without further Act of appropriation, to support recreation development and management of Bureau of Reclamation land and water areas.”.

(c) RECREATION AND FISH AND WILDLIFE ENHANCEMENT.—Section 3 of the Federal Water Project Recreation Act (16 U.S.C. 460l–14) is amended—

(1) by striking subsection (a), redesignating subsection (b) as subsection (a), and inserting after subsection (a) (as so redesignated) the following:

“(b) In the absence of a non-Federal managing partner, the Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized, as a part of any water resource development project under the Secretary’s control heretofore or hereafter authorized or reauthorized, investigate, plan, construct, replace, manage, operate and maintain or otherwise provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes; the costs of which are nonreimbursable.”;

(2) in subsection (a) (as so redesignated) by inserting “or enhance” after “project construction to preserve”, by striking “enhancement potential” and inserting “resources”, and by striking “public bodies” each place it appears and striking “public body” and inserting in lieu thereof “entities” and “entity”, respectively;

(3) in subsection (c)(1)(B) by striking “public body” each place it appears and inserting “entity”; and

(4) by adding at the end of subsection (c) the following:

“(3) In the absence of a non-Federal managing partner, the Secretary of the Interior, acting through the Commissioner of Reclamation, may modify or expand existing facilities, the costs of which are nonreimbursable.”.

(d) LEASE OF FACILITIES.—Section 4 of the Federal Water Project Recreation Act (16 U.S.C. 460l–15) is repealed.

(e) POST AUTHORIZATION DEVELOPMENT.—Section 5 of the Federal Water Project Recreation Act (16 U.S.C. 460l–16) is amended by striking “public bodies” and inserting “entities”.

(f) MISCELLANEOUS REPORTS.—Section 6 of the Federal Water Project Recreation Act (16 U.S.C. 460l–17) is amended—

(1) in subsection (e) by striking “and 5” and inserting “and between 3 and 4”;

(2) in subsection (g) by striking “3(b)” and inserting “3(a)”; and

(3) in subsection (h) by striking “public bodies” and inserting “entities”; and by striking “3(b)” and inserting “3(a)”.

(g) MISCELLANEOUS REPORTS.—Section 6 of the Federal Water Project Recreation Act (16 U.S.C. 460l–17) is amended by adding at the end the following:

“(i) Amounts collected under section 2805 of Public Law 102–575 for admission to or recreation use of project land and waters shall be deposited in a special account in the Reclamation Fund and remain available to the Commissioner of Reclamation without further appropriation until expended. Such funds may be used for the development, reconstruction, replacement, management, and operation of recreation resources on project lands and waters with not less than 60 percent being used at the site from which the fees were collected.”.

(h) MANAGEMENT FOR RECREATION, FISH AND WILDLIFE, AND OTHER RESOURCES.—Section 7 of the Federal Water Project Recreation Act (16 U.S.C. 460l–18) is amended—

(1) by amending subsection (a) to read as follows:

“(a) The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized, in conjunction with any water resource development project heretofore or hereafter constructed or which is otherwise under the Secretary’s control, to—

“(1) investigate, plan, design, construct, replace, manage, operate, and maintain or otherwise provide for recreation and fish and wildlife enhancement facilities and services, the costs of which may be nonreimbursable;

“(2) provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes; and

“(3) to acquire or otherwise make available such adjacent lands or interests therein as are necessary for public recreation or fish and wildlife use.”;

(2) in subsection (b), by inserting “, acting through the Commissioner of Reclamation,” and inserting “and management” after “administration”; and by striking “lease”; and by adding at the end “All such agreements or contracts for administration or management shall identify the terms and conditions of administration, management, and use, approvals required from Bureau of Reclamation, and assure public access to project lands managed for recreation.”;

(3) by adding:

“(7) The Secretary of the Interior, acting through the Commissioner of Reclamation, is also authorized to enter into agreements with other non-Federal entities for recreation and concession management at Bureau of Reclamation projects. All such agreements or contracts for management shall identify the terms and conditions of management and use, approvals required from the Bureau of Reclamation, and assure public access to project lands managed for recreation.”; and

(4) by adding at the end the following:

“(d) The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized to approve the administration, management, and use of Bureau of Reclamation lands, waters, and the resources thereon by means of easements, leases, licenses, contracts, permits, and other forms of conveyance instruments.

“(e) The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized to produce and/or sell to the public: information about Bureau of Reclamation programs including publications, photographs, computer discs, maps, brochures, posters, videos, and other memorabilia related to the Bureau of Reclamation, and the natural, historic, and cultural resources of the area; and, other appropriate and suitable merchandise to enhance the public’s use of the area. Income from such sales shall be credited to the Reclamation Fund to remain available, without further Act of appropriation, to pay costs associated with the production and sale of items, and any remaining revenue shall be available, without further Act of appropriation, to support recreation development and management of Bureau of Reclamation land and water areas.”.

(i) DEFINITIONS.—Section 10 of the Federal Water Project Recreation Act (16 U.S.C. 4601–21) is amended by adding at the end the following:

“(f) The term ‘non-Federal entity’ means non-Federal public bodies, nonprofit organizations, Indian tribes, or entities within the private sector.”.

(j) AUTHORIZATION OF APPROPRIATIONS.—The Federal Water Project Recreation Act (16 U.S.C. 4601–12 et seq.) is amended by redesignating section 12 as section 13, and by inserting after section 11 the following:

“SEC. 12. FUND AUTHORIZATIONS.

“There is hereby authorized to be appropriated from time to time such funds as may be required for the Secretary of the Interior, acting through the Commissioner of Reclamation to accomplish the purposes of this Act and remain available until expended.”.

SEC. 304. LIMITATIONS ON RECOVERY OF REIMBURSABLE EXPENSES FOR VALVE REHABILITATION PROJECT AT THE ARROWROCK DAM, BOISE PROJECT, IDAHO.

The Secretary of the Interior, in accepting payments for the reimbursable expenses incurred for the replacement, repair, and extraordinary maintenance with regard to the Valve Rehabilitation Project at the Arrowrock Dam on the Arrowrock Division of the Boise Project, Idaho—

(1) shall recover no more than \$6,900,000 of such expenses according to the application of the current formula for charging users for reimbursable operation and maintenance expenses at Bureau of Reclamation facilities on the Boise Project; and

(2) shall recover this portion of such expenses over a period of not less than 15 years.

SEC. 305. CONTRACT ASSURANCES FOR PAYMENT OF PREVAILING WAGES FOR LABORERS AND MECHANICS.

Any contract under which laborers or mechanics may be employed, for a project or activity funded in whole or in part under title I or II (or under an amendment made by such title), shall contain reasonable assurances that each contractor or subcontractor involved shall pay laborers and mechanics employed by such contractor or subcontractor wages equivalent to those applicable under the Act of March 3, 1931 (40 U.S.C. 276a et seq., commonly known as the Davis-Bacon Act).

PURPOSE OF THE BILL

The purpose of H.R. 3208 is to authorize funding through the Secretary of the Interior for the implementation of a comprehensive program in California to achieve increased water yield and environmental benefits, as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection.

BACKGROUND AND NEED FOR LEGISLATION

CALIFORNIA: A GROWING POPULATION AND A THIRST FOR WATER

In the last two decades, the population of California has grown by more than 30% while additional water in surface storage has increased by only 2%. The need for additional water has generally

been met over the last decade by increased conservation practices and water recycling. In some cases increased water demand has been met through agriculture to urban water transfers. Testimony before the House Resources Committee in Washington D.C. and throughout the State of California has indicated that the demand for water may outpace these innovative approaches to meet the future water needs and that Congress should further consider the role of additional surface and groundwater storage throughout the State.

California water consumption is based on a complicated mix of competing users, transportation constraints, and limited supplies. Two-thirds of the water demand comes from the southern third of the State, while two-thirds of the precipitation and water storage are in the northern third of the State. Water is moved from the San Francisco Bay/Sacramento-San Joaquin River Delta (Bay-Delta) area through the State Water Project (SWP) and the federal Central Valley Project (CVP). California averages 23 inches of precipitation per year and there are nearly 85 million-acre feet of water (on average) available for all uses (this includes water from the Colorado and Klamath Rivers).

California has the fifth largest economy in the world and produces one-eighth of the Nation's gross domestic product. As the recent energy crisis has demonstrated, lack of planning and infrastructure investment results in the deterioration of both system capacity and flexibility while reducing the ability to respond to emergencies. In testimony before the Resources Committee, Sunne McPeak, President and Chief Executive Officer, Bay Area Council, stated, "Water policy decisions and the manner in which they are implemented will affect every resident and every business in California, which in turn has major implications for the national economy."

CALIFORNIA BAY-DELTA AND THE CALFED PROGRAM

For nearly two decades, Californians, Congress and the Department of the Interior have grappled with decreasing water supply reliability in the face of drought and infrastructure limitations, and increasing environmental water demands as these hydrologic and mechanical factors have impacted fishery and wildlife habitat and production in the California Bay-Delta.

Enactment of the Central Valley Project Improvement Act, implementation of the Clean Water Act by the U.S. Environmental Protection Agency relative to water quality in the Bay-Delta, and U.S. Fish and Wildlife Service and National Marine Fisheries Service (NMFS) regulatory actions under the federal Endangered Species Act further have impacted California's water supply allocation and infrastructure operation decision-making and capability.

In response to decreasing water supply reliability, concerns over human and environmental water quality, and the overarching need to resolve increasing conflicts among water needs, Californians worked together to focus the actions and objectives of State and federal regulatory, environmental and water resources agencies towards a comprehensive and cooperative program. This collaborative process resulted in the Bay-Delta Accord, signed by State and federal regulatory agencies, in December 1994, with the cooperation of diverse interest groups. This accord integrated water quality stand-

ards and created a State-federal coordination group to better integrate the State Water Project (SWP) and Central Valley Project (CVP), and led to the establishment of the CALFED Bay-Delta Program in May 1995. The Program's primary focus was to develop a long-term comprehensive plan to restore ecological health and improve water management in the Bay-Delta system while honoring the water rights and private property rights of residents.

The development of a long-term solution was divided into three phases:

Phase I: Phase I (completed in September 1996) identified problems in the Bay-Delta system; developed a mission statement, guiding principles, Program objectives and actions needed to meet Program objectives. Three alternatives to restore the Bay-Delta were discussed (ranging from \$4–12 billion). Additionally, this Phase began implementation of environmental restoration projects authorized under the California Bay-Delta Environmental Enhancement Act (Public Law 104–333) and authorized \$430 million for projects common in all Program alternatives. To date, more than \$200 million has been appropriated under this authorization.

Phase II: A major milestone was accomplished when CALFED released the Record of Decision (ROD) under the National Environmental Policy Act on August 28, 2000. The ROD provides the framework to address these issues through a sustained, long-term effort by the CALFED agencies and stakeholder groups. The ROD set out actions to be included in Stage 1 of the CALFED Program, which is to cover the first seven years of a 30-year program, and builds the foundation for long-term actions. However, the Congressional authorization for this Program has expired and the House of Representatives Committee on Appropriations has committed not to appropriate additional funding for the Program until it is reauthorized.

Phase III: Phase III is currently underway and covers Program implementation. Implementation is divided into three stages. Stage I will take seven years. It includes site-specific environmental review, project development, and pre-construction activities. The Committee expects that all Program objectives (i.e. new water yield and supply, levee work, habitat improvements and water quality work) will be met continuously. Stages II and III remain undefined.

Expedient implementation of core CALFED Program elements is necessary to California's water supply security, economic stability, and long-term resolutions of the decades old "water wars". With the authorization for the Program expired, it is important that Congress act quickly to assure a safe and secure water system in the near and long-term.

CALIFORNIA, COLORADO RIVER BASIN STATES, AND OTHER RECLAMATION STATES

In addition to the need to improve the water security in the California Bay-Delta, there is a further need to address other important water security issues throughout all western reclamation States. The reclamation States consist of all or part of North and South Dakota, Nebraska, Kansas, Oklahoma, Texas, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Nevada, Arizona, California, Washington, and Oregon. These are States in which the Bureau of Reclamation has historically been authorized to act. A com-

mon theme was presented at several hearings this past year that water security is critically important throughout the West. For the past 15 years, the West has been experiencing the most dramatic demographic changes for any region or period in the country's history. Should present trends continue, by 2025 population in the Bureau of Reclamation States may increase by approximately 26.5%, or almost 33.5 million people (U.S. Census Bureau).

California and the Colorado River Basin States

The Colorado River Basin States include Wyoming, Colorado, Utah, New Mexico, Arizona, Nevada and California. They are separated into two basins, the upper (Wyoming, Colorado, Utah and New Mexico) and the lower (Arizona, Nevada and California), each basin is entitled to 7.5 million acre feet on an annual basis, under the Colorado River Compact of 1928.

Testimony presented before the Committee this past year has culminated in the need for Congress to assure that the legal water entitlement of each State is adhered to. An issue raised at several hearings has been to determine whether California can live within its legal apportionment of 4.4 million acre feet of lower Colorado River Basin water, although it has been drafting several hundred thousand additional acre feet of water for many years.

As a result of provisions in a later decree (the 1964 decree in *Arizona v. California*), California has been allowed to legally use more than its annual 4.4 million acre feet basic apportionment of Colorado River water. In past years, California relied upon apportioned but unused Colorado River water from the States of Arizona and Nevada, and in more recent years surplus reservoir system water since Arizona and Nevada are now using close to their full apportionments.

For many years the other Basin States have had the legitimate concern that dependence on this surplus by California, as the State continues to grow rapidly, creates a reliance which, legal apportionment or not, will be difficult or impossible to undo once the other Basin States can beneficially use the full amount of their individual State apportionments.

In recent years this concern has escalated even further as development in Arizona, Nevada, and the upper Basin States has increased and greater demands for Colorado River water are being created. This is accompanied, from the perspective of the other Basin States, by the increasing sense that, even though California water users know the limits of their legal apportionment, State or water user actions in California to limit water consumption or develop new supplies are not being taken in time to avoid a serious legal and political collision.

The Colorado River in the lower Basin is managed largely by the Secretary of the Interior. Recognizing the potential for such a collision in the near future, the previous Administration, under pressure from the other Colorado River Basin States, crafted a plan to address this issue. The Secretary threatened to cease declaring "annual surpluses" on the Colorado River unless California agreed to a specific plan to reduce its annual take of Colorado River water to its legal apportionment.

As a result of this pressure the Colorado River Basin States have entered into an agreement with the Secretary of the Interior to as-

sure that California reduce its demand by about 15% from approximately 5.2 million acre feet to 4.4 million acre feet over the next 15 years. This agreement is called the Interim Surplus Agreement. An initial reduction in water use by California is required under the agreement by December 31, 2002.

Although the population is projected to grow by 30% during this same time in California, it is expedient that California adhere to the Agreement. H.R. 3208 provides further incentives and assistance to California and the other Basin States to meet this commitment, while providing the water security necessary for a healthy environment and population at large.

Reclamation States

Population growth throughout the West has, in many cases, exceeded the rest of the country. This has increased the competition for a finite water resource amongst a variety of interests, including agriculture, municipal and industrial, recreational, and environmental. No appreciable water supply, including surface and groundwater has been added to the complex water system in the West in the last 30 years. Demand for water is outstripping available supplies throughout the West.

Over the past year, the Committee has received more than 100 letters regarding the increasing need for further funding for water recycling/reuse and groundwater storage projects throughout the Reclamation States. The Committee is aware of projects that would require an excess of \$12 billion in federal appropriations. The Committee is also aware that water recycling projects authorized under the Title XVI, of Public Law 102-575, are severely underfunded. It is the intent of the Committee that the competitive grant program, which includes water recycling/reuse and groundwater storage will help ameliorate problems associated with the current lack of water security throughout all Reclamation States.

CONCLUSION

In summary, H.R. 3208 addresses all these western water problems by: (1) authorizing funding for the implementation of a comprehensive program to achieve increased water yield and water supply, improved water quality and enhanced environmental benefits, as well as improved water system reliability, water use efficiency, watershed management, water transfers, and levee protection for California; (2) implementing the four primary objectives of the CALFED Program for California in accordance with the solution principles set forth in that Program; (3) ensuring that the Secretary of the Interior and the federal agencies, in cooperation with the State of California, implement actions necessary to improve drinking water quality pursuant to the ROD, including through financial and technical support of local enhancement of water treatment infrastructure and technology; and (4) enhancing water security in the Western United States by authorizing a competitive grant program and reauthorizing and amending the Small Reclamation Projects Act of 1956.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The legislation may be cited as the Western Water Security Enhancement Act.

Section 2. Table of contents

This section provides a table of contents for the bill.

Section 3. Purposes

This section describes the purposes of the bill, including the protection and further development of water infrastructure throughout the Western United States, particularly in California. This will ensure the implementation of ecosystem protection programs, development of water supply projects critically needed to achieve increased water yield and supply, environmental benefits and improved water quality, water system reliability, water use efficiency, watershed management, water transfers and levee protection throughout the Reclamation States, particularly in California.

Section 4. Definitions

This section defines several terms used throughout the bill.

TITLE I—WESTERN WATER SECURITY PROGRAM

Section 101. Interim Program activities and governance structure

This section directs the federal agencies to coordinate with the State agencies, and continue to operate under the interim governance structure as described in the ROD until a new board, known as the Water Security Board (WSB) is established, and the governance is transferred to that entity. The authorization of \$200 million to carry out this Program for fiscal years 2002–2004 is meant to be broad, allowing all CALFED-related activities that are discussed in the ROD to continue in the interim.

The Committee believes that water storage and basic infrastructure needs were not adequately addressed in the initial years of the CALFED Program. It is the intent of the Committee that future federal funding shall be allocated such that there is balance in increasing water yield and supply, while improving water quality and enhancing environmental benefits. As the CALFED solution principles indicate, solutions shall focus on solving problems in all areas of CALFED, and no Program elements will be left behind.

It is the intent of the Committee that beneficiaries will pay for appropriately allocated costs of construction of water projects that pass the screening process envisioned in the ROD. Project costs will be based on an appropriate allocation of benefits received. It is envisioned that repayment terms for all federal investments include the principle of “beneficiaries pay”.

Studies shall be undertaken by the Secretary of Interior, resulting in a report submitted by October 1, 2002, to determine the existing level of water demand and the available water supplies to meet that demand within the area served by the Central Valley Project. The report shall describe all projects or actions that could feasibly be pursued to balance water demand and water supply.

Furthermore, the Secretary shall study and recommend projects identified in the ROD to improve drinking water quality.

This section requires that a report be submitted to Congress identifying all expenditures under CALFED, and other programs that may be complimentary to the CALFED Program. The intent of this report is to assure that federal appropriations are coordinated and to limit duplicative efforts.

The Committee recommends the Secretary, prior to implementing new water storage or conveyance mechanisms or changes to Central Valley Project operations in furtherance of CALFED Program implementation, fully evaluate the electric power demand and supply impacts, as well as the Central Valley Project cost allocation impacts, of those activities.

Section 102. Long-term governance and monitoring

In testimony before the Committee, several witnesses expressed concern that local stakeholder input has been minimally taken under consideration by the CALFED agencies. The intent of the Committee is that the long-term governance structure under this section shall be developed with participation of federal, State, tribal and representatives of the public, including local stakeholders. It is the intent of the Committee that there will be no federal funding for CALFED, the competitive grants program and no appropriation of Central Valley Project Improvement Act restoration funds until a long-term governance and program have been authorized by Congress.

The Committee wants to be very clear that the future governance of the CALFED Program needs to be a multiparty structure originating in California with broad public, tribal, and local government involvement. Board members representing State and federal officials shall be at least the level of authority that signed the ROD. This will assure that decision making at State and federal levels rest with accountable persons.

The board will be required to ensure federal funds and resources are expended in the most cost-efficient manner. The Committee expects that meetings to develop Program goals and operational criteria, when possible, shall be open to the public. Furthermore, it is the intent of the Committee that decisions made by the WSB shall be based on credible and objective scientific review and economic analysis. Specifically the Committee expects that the WSB will utilize the best available, independent peer-reviewed information, so that a disastrous outcome such as that occurred in the Klamath Basin in 2001 does not occur. Additionally, the WSB shall ensure that the level of progress achieved for various CALFED Program objectives are accurately measured and continually evaluated for ongoing Program improvement.

The Committee expects that the WSB will seek out opportunities to partner with local interests, and undertake joint activities with local public agencies, tribes, private water users, and landowners. These partnerships shall provide a means for private landowners to cooperate effectively with CALFED to promote Program goals while also furthering the interests of landowners. These partnerships shall be voluntary and involve participation to assure mutual gain between local stakeholders and the CALFED Program objectives.

Prior to spending or obligating any federal funds to purchase additional private land for the CALFED ecosystem restoration program, the Committee expects that the WSB must first determine that no federally-owned lands, State-owned lands or other lands acquired for ecosystem restoration with federal or State of California funds are already available to meet the desired objectives. Additionally, the Committee expects the WSB to consider the impacts of any potential land purchases on local government and communities, such as the economic impact on communities taking land out of agricultural production, and to take appropriate action to mitigate those impacts. Prior to acquiring additional land for environmental purposes, a management plan for lands already acquired, shall be prepared. It is the intent of Congress that properties purchased, or acquired, for ecosystem restoration shall be managed in a manner to not impact surrounding land owners in a negative manner.

It is the intent of the Committee that the WSB shall include recommendations with respect to the construction of complementary actions that, among other benefits, improve, regional water supplies, water system reliability and water quality, as mentioned in the ROD. Examples of complementary actions may include projects that improve water conveyance and increased water supply mechanisms throughout the Bay-Delta solution area.

The Committee intends that CALFED Program implementation relative to Sacramento-San Joaquin River Delta water quality, water supply reliability, and levee system integrity, shall be consistent with the CALFED Program ROD objectives and solution principles. The Program objectives and solutions include, as referenced in the ROD: (1) providing good water quality for all beneficial uses; (2) reducing the mismatch of water supply and current and projected beneficial uses; (3) reducing the risk to land use and associated economic activities, water supply, infrastructure and the ecosystem from catastrophic breaching of Delta levees; and (4) having no significant redirected impacts.

It is the intent of the Committee that federal and State agencies, including the WSB, shall operate in compliance with California water law. The Committee recognizes the changing nature of State Water Board and federal court decisions and assumes that the Secretary's implementation of the CALFED ROD will comply with these changes.

Section 103. California water supply security

After conducting numerous hearings and reviewing subsequently-submitted correspondence, the Committee became concerned that projects were being evaluated for storage and yield without considering all potential storage alternatives and utilizing a cost/benefit analysis in conjunction with environmental criteria to assure projects are environmentally and economically viable. The Committee believes that the statutory language emphasizes that the Secretary's existing discretion provides the ability to operate the Central Valley Project to reach the objectives described in the ROD pertaining to south-of-Delta Central Valley Project agricultural water service contractors. The Committee emphasizes that any exercise of this discretion should be based on the CALFED principle of no redirected impacts, including not adversely impacting water

users in the Delta, and north and south of the Delta. Furthermore, the Committee believes that the Secretary should participate with the State of California in efforts to increase the Banks-Pumping Plant utility, without redirecting impacts to other water users, including water users in the Delta, and north and south of the Delta, in accordance with the time frame in the ROD, and consistent with State law.

Both Governor Gray Davis (D-CA) and former Secretary of the Interior Bruce Babbitt acknowledge that the federal and State regulatory process has gone awry within the State of California. Additionally, witnesses at several hearings before the Resources Committee have expressed concern that the water system has been managed increasingly for the enhancement of the environment, while potentially jeopardizing water quality and human consumption needs. This system was primarily created to meet the needs of a world-class agriculture and municipal and industrial system. The Committee believes current operation of the system is not producing balance amongst competing demands.

The WSB shall manage the Environmental Water Account (EWA) so that environmental goals can be met, but will be carried out in such a way that there will be no annual net loss of water to water users. EWA assets are to be used first and foremost for federally and State listed species under the relevant Endangered Species Acts and not for other priorities. The EWA shall be authorized to ensure that public benefits are matched by public expenditures to achieve these important goals. It is the intent of the Committee that the EWA be funded jointly by the State and federal governments and authorized to acquire, bank, transfer, sell and borrow water and arrange for its conveyance.

The Environmental Water Account (EWA), as described in the ROD, is established to provide water beyond the Regulatory Baseline for the protection and recovery of fish. The EWA Operating Principles Agreement indicates that the management agencies "will manage the EWA assets and will exercise their biological judgment to determine what SWP/CVP operational changes are beneficial to the Bay-Delta ecosystem and/or the long-term survival of fish species, including those listed under the State and Federal Endangered Species Act."

Unfortunately, this mandate is too broad. The EWA should be a tool used to protect listed species. The Committee believes that the mandate the EWA is now operating under allows too much flexibility in utilizing the EWA assets. This flexibility allows the EWA Management Group to use EWA water for a large variety of purposes, thus not leaving enough water available for the protection of listed species. If additional water is needed for listed species, the State and federal endangered species acts shall apply.

It is the intent of the Committee that all agencies dealing with the protection of endangered fish species shall demonstrate, using best available science, the need for, and the benefit of utilizing the EWA assets.

Section 104. Implementation of the CALFED Program

This section directs the development of a streamlining process for the issuance of permits and approvals required under State and federal law and regulatory programs to minimize the burden of

submission requirements. This shall not affect the integrity of the review process.

This section authorizes \$200 million for the CALFED Program for the years 2002–2004. After 2004, such sums as may be necessary are authorized through 2032 for completion of all stages of the CALFED Program. Appropriations not expended shall remain available to the Program.

Section 105. Competitive Grant Program

The competitive grant program will identify opportunities throughout the Reclamation States for the design and construction of demonstration and permanent facilities to increase water yields and improve water quality. This program is to include, but not be limited to, reclamation and reuse projects, conjunctive use projects, groundwater storage and water use efficiency projects. Evaluation criteria are provided for ranking these projects to determine which should receive grants, which can be up to \$50 million or 35% of the total cost of the project. This section authorizes \$500 million, of which no one State can receive more than 50% of the annual appropriation.

Section 106. Authorization and appropriation process

In recognition that the CALFED Program has operated as a preauthorization/block grant program, the Committee believes that there needs to be an adjustment to return the federal funding mechanism to Congress. This will allow appropriate Congressional oversight of planned expenditures prior to a federal appropriation of funds. The Committee believes that expenditures to date have not been balanced and have possibly threatened the integrity of the CALFED process of balanced implementation of all Program components. Without this section, the Committee believes that inappropriate amounts of federal dollars will continue to be spent without Congressional authorization.

Section 107. Annual reports

This section focuses on the need for the CALFED Program to improve coordination with the State and federal agencies. It will provide meaningful annual budget crosscuts; adopt performance measures that provide a real basis for adaptive management rather than continual policy drifting with no goals or financial accountability; and the use objective science rather than the current agency speculation driven by regulatory objectives. This section only applies to the CALFED Program and competitive grant monies that California may be eligible to receive.

Section 108. Treatment of funds

Funds authorized under this Program shall be in addition to funds authorized under other programs. However, it is the intent of this Committee that all funds shall be coordinated and streamlined to ensure the efficient use of limited resources.

Section 109. Land acquisition; management plan required for existing land

The Committee believes that previous land acquisitions have not been managed in a manner consistent with the protection of sur-

rounding land uses. The Committee does not want additional land purchases for the CALFED ecosystem restoration program until management plans for existing lands have been developed. This shall include lands purchased by non-federal entities using federal grants.

Section 110. Environmental justice

This section requires the federal and State agencies to address issues within the Environmental Justice Workplan.

TITLE II—SMALL RECLAMATION PROJECTS

This title reauthorizes the Small Reclamation Projects Act (SRPA) of 1956, to allow for loans and loan guarantees to be made for a variety of water projects throughout the western United States. The title continues the existing SRPA program, but no longer requires irrigation as a project component. Projects under this program are limited to \$50 million in federal assistance.

TITLE III—MISCELLANEOUS

Section 301. Secretarial actions to reduce California's use of Colorado river water

This section requires the Secretary of the Interior shall review programs to further the goal of reducing California's use of Colorado River water to its basic annual apportionment. There is also authorized to be appropriated \$60 million for activities to address environmental impacts on the Salton Sea associated with plans to reduce California's consumption of water under the Quantification Settlement Agreement.

Section 302. Willard Bay Reservoir enlargement study

This section authorizes the Bureau of Reclamation to conduct a feasibility study on raising the height of Arthur V. Watkins Dam to enlarge Willard Bay Reservoir to meet water supply needs within the Weber Basin Project area in Utah.

Section 303. Amendments to the Federal Water Project Recreation Act

This section provides the Bureau of Reclamation recreation management authorities to effectively develop and manage recreation at Reclamation water projects. The current statute authorizes Reclamation to partner with federal and non-federal government agencies for recreation development and management. This bill extends that authority to include non-federal entities, which are defined as non-federal public bodies, non-profit organizations, Indian tribes, or entities within the private sector.

Section 304. Limitations on recovery of reimbursable expenses for valve rehabilitation project at the Arrowrock Dam, Boise Project, Idaho

This section defines the terms under which the Secretary of the Interior may accept payment for the reimbursable portion of the valve rehabilitation project at Arrowrock Dam in Idaho. The repayment shall be limited to \$6.9 million and shall be collected over a period of not less than 15 years.

Section 305. Contract assurances for payment of prevailing wages for laborers and mechanics

This section provides that any contract for a project or activity funded under Title I or Title II of this Act shall contain reasonable assurances that the contractors involved shall pay laborers and mechanics wages equivalent to those applicable under the Davis-Bacon Act (40 U.S.C. 276a et seq.).

COMMITTEE ACTION

Congressman Ken Calvert (R-CA), introduced H.R. 3208 on November 1, 2001. The bill was referred primarily to the Committee on Resources and in addition to the Committee on Transportation and Infrastructure. On November 7, 2001, the Committee on Resources met to consider the bill. Mr. Calvert offered an en bloc amendment of technical changes to the bill. The amendment was adopted by unanimous consent. Congressman Cal Dooley (D-CA) offered an amendment to Section 103(a)(4) of the bill to direct the Secretary of the Interior to use her discretion, to the maximum extent practicable, to provide at least 70 percent of the current contract maximum water delivery to water users south of the Bay-Delta area. The restoration of supply must comply with existing State and federal environmental and water law. In addition, the Secretary cannot reduce deliveries, increase costs or otherwise adversely affect other water users that rely on water diverted from watercourses tributary to the Delta or in the Delta. Furthermore, water quality for municipal, industrial and agricultural uses cannot be degraded. Congressman George Miller (D-CA) offered a substitute amendment to the Dooley amendment to strike Section 103(a)(4) of the bill. The Miller amendment to the Dooley amendment failed on a roll call vote of 14 to 20, as follows:

COMMITTEE ON RESOURCES

U.S. House of Representatives
107th CongressDate: November 7, 2001Convened: 10:03amAdjourned: 2:05pmMeeting on: **H.R. 3208, Western Waster Security Enhancement Act. Amendment by Mr. Miller (#2A) to the Amendment by Mr. Dooley**☐ Attendance☐ Voice Vote☒ Roll Call VoteTotal Yeas 14 Nays 20

| | YEA | NAY | PRESENT | | YEA | NAY | PRESENT |
|-----------------------------|-----|-----|---------|-----------------------------|-----------|-----------|---------|
| Mr. Hansen, UT, Chairman | | ✓ | | Mr. Jones, NC | | | |
| <i>Mr. Rahall, WV</i> | ✓ | | | <i>Mr. Kind, WI</i> | ✓ | | |
| Mr. Young, AK | | | | Mr. Thornberry, TX | | | |
| <i>Mr. Miller, CA</i> | ✓ | | | <i>Mr. Inslee, WA</i> | | ✓ | |
| Mr. Tauzin, LA | | | | Mr. Cannon, UT | | ✓ | |
| <i>Mr. Markey, MA</i> | ✓ | | | <i>Mrs. Napolitano, CA</i> | ✓ | | |
| Mr. Saxton, NJ | | | | Mr. Peterson, PA | | | |
| <i>Mr. Kildee, MI</i> | ✓ | | | <i>Mr. Tom Udall, NM</i> | ✓ | | |
| Mr. Gallegly, CA | | ✓ | | Mr. Schaffer, CO | | | |
| <i>Mr. DeFazio, OR</i> | ✓ | | | <i>Mr. Mark Udall, CO</i> | ✓ | | |
| Mr. Duncan, TN | | | | Mr. Gibbons, NV | | | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Holt, NJ</i> | ✓ | | |
| Mr. Hefley, CO | | | | Mr. Souder, IN | | ✓ | |
| <i>Mr. Abercrombie, HI</i> | | ✓ | | <i>Mr. McGovern, MA</i> | ✓ | | |
| Mr. Gilchrest, MD | | | | Mr. Walden, OR | | ✓ | |
| <i>Mr. Ortiz, TX</i> | | ✓ | | <i>Mr. Acevedo-Vila, PR</i> | | | |
| Mr. Calvert, CA | | ✓ | | Mr. Simpson, ID | | ✓ | |
| <i>Mr. Pallone, NJ</i> | | | | <i>Ms. Solis, CA</i> | ✓ | | |
| Mr. McInnis, CO | | | | Mr. Tancredo, CO | | ✓ | |
| <i>Mr. Dooley, CA</i> | | ✓ | | <i>Mr. Carson, OK</i> | | ✓ | |
| Mr. Pombo, CA | | ✓ | | Mr. Hayworth, AZ | | ✓ | |
| <i>Mr. Underwood, GU</i> | | | | <i>Ms. McCollum, MN</i> | ✓ | | |
| Mrs. Cubin, WY | | | | Mr. Otter, ID | | ✓ | |
| <i>Mr. Smith, WA</i> | ✓ | | | Mr. Osborne, NE | | ✓ | |
| Mr. Radanovich, CA | | ✓ | | Mr. Flake, AZ | | ✓ | |
| <i>Ms. Christensen, VT</i> | | | | Mr. Rehberg, MT | | ✓ | |
| | | | | | | | |
| | | | | | | | |
| | | | | Total | 14 | 20 | |

The Dooley amendment was then adopted by voice vote. Congressman Richard Pombo (R-CA) offered an en bloc amendment regarding: (1) the accountability of federal agencies in the management and purchasing of land for the CALFED Program; (2) ensuring that other water users (non exporters) are not imposed with obligations for shortfalls in the operation of the Environmental Water Account; (3) CALFED implementation must mitigate for any adverse impacts on agricultural lands; and (4) protection of the water rights of people within the Bay-Delta Solution area. The amendment was agreed to by voice vote. Mr. Pombo then offered and withdrew an amendment regarding the Banks Pumping Plant and the Environmental Water Account and the ecosystem restoration program. Congresswoman Grace Napolitano (D-CA) offered an amendment to strike Section 111 of the bill, which placed a limit on the State of California's share of appropriations for Title XVI projects at 25%. The Napolitano amendment was agreed to by a roll call vote of 18 to 16, as follows:

COMMITTEE ON RESOURCES

U.S. House of Representatives
107th Congress

Date: November 7, 2001

Convened: 10:03am

Adjourned: 2:05pm

Meeting on: H.R. 3208, Western Water Security Enhancement Act, Amendment by Mrs. Napolitano (#5)

☐ Attendance

☐ Voice Vote

☒ Roll Call Vote

Total Yeas 18 Nays 16

| | YEA | NAY | PRESENT | | YEA | NAY | PRESENT |
|-----------------------------|-----|-----|---------|-----------------------------|-----------|-----------|---------|
| Mr. Hansen, UT, Chairman | | ✓ | | Mr. Jones, NC | | ✓ | |
| <i>Mr. Rahall, WV</i> | ✓ | | | <i>Mr. Kind, WI</i> | | ✓ | |
| Mr. Young, AK | | | | Mr. Thornberry, TX | | | |
| <i>Mr. Miller, CA</i> | ✓ | | | <i>Mr. Inslee, WA</i> | ✓ | | |
| Mr. Tauzin, LA | | | | Mr. Cannon, UT | | ✓ | |
| <i>Mr. Markey, MA</i> | | | | <i>Mrs. Napolitano, CA</i> | ✓ | | |
| Mr. Saxton, NJ | | | | Mr. Peterson, PA | | | |
| <i>Mr. Kildee, MI</i> | ✓ | | | <i>Mr. Tom Udall, NM</i> | ✓ | | |
| Mr. Gallegly, CA | | | | Mr. Schaffer, CO | | ✓ | |
| <i>Mr. DeFazio, OR</i> | ✓ | | | <i>Mr. Mark Udall, CO</i> | ✓ | | |
| Mr. Duncan, TN | | | | Mr. Gibbons, NV | | ✓ | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Holt, NJ</i> | ✓ | | |
| Mr. Hefley, CO | | | | Mr. Souder, IN | | | |
| <i>Mr. Abercrombie, HI</i> | ✓ | | | <i>Mr. McGovern, MA</i> | ✓ | | |
| Mr. Gilchrest, MD | | | | Mr. Walden, OR | | ✓ | |
| <i>Mr. Ortiz, TX</i> | ✓ | | | <i>Mr. Acevedo-Vilá, PR</i> | | | |
| Mr. Calvert, CA | ✓ | | | Mr. Simpson, ID | | ✓ | |
| <i>Mr. Pallone, NJ</i> | | | | <i>Ms. Solis, CA</i> | ✓ | | |
| Mr. McNinnis, CO | | | | Mr. Tancredo, CO | | ✓ | |
| <i>Mr. Dooley, CA</i> | ✓ | | | <i>Mr. Carson, OK</i> | ✓ | | |
| Mr. Pombo, CA | ✓ | | | Mr. Hayworth, AZ | | ✓ | |
| <i>Mr. Underwood, GU</i> | | | | <i>Ms. McCollum, MN</i> | | | |
| Mrs. Cubin, WY | | | | Mr. Otter, ID | | ✓ | |
| <i>Mr. Smith, WA</i> | | ✓ | | Mr. Osborne, NE | | ✓ | |
| Mr. Radanovich, CA | | ✓ | | Mr. Flake, AZ | | ✓ | |
| <i>Ms. Christensen, VI</i> | ✓ | | | Mr. Rehberg, MT | | ✓ | |
| | | | | | | | |
| | | | | | | | |
| | | | | Total | 18 | 16 | |

Congresswoman Hilda Solis (D-CA) offered an amendment to replace the Water Security Board with the Secretary of the Interior. The Solis amendment failed by a roll call vote of 16 to 18, as follows:

COMMITTEE ON RESOURCES

U.S. House of Representatives
107th Congress

Date: November 7, 2001

Convened: 10:03am

Adjourned: 2:05pm

Meeting on: **H.R. 3208, Western Water Security Enhancement Act, Amendment by Ms. Solis (#6)**

☐ Attendance

☐ Voice Vote

☒ Roll Call Vote

Total Yeas 16 Nays 18

| | YEA | NAY | PRESENT | | YEA | NAY | PRESENT |
|-----------------------------|-----|-----|---------|-----------------------------|-----------|-----------|---------|
| Mr. Hansen, UT, Chairman | | ✓ | | Mr. Jones, NC | | ✓ | |
| <i>Mr. Rahall, WV</i> | ✓ | | | <i>Mr. Kind, WI</i> | ✓ | | |
| Mr. Young, AK | | | | Mr. Thornberry, TX | | | |
| <i>Mr. Miller, CA</i> | ✓ | | | <i>Mr. Inslee, WA</i> | ✓ | | |
| Mr. Tauzin, LA | | | | Mr. Cannon, UT | | ✓ | |
| <i>Mr. Markey, MA</i> | ✓ | | | <i>Mrs. Napolitano, CA</i> | ✓ | | |
| Mr. Saxton, NJ | | | | Mr. Peterson, PA | | ✓ | |
| <i>Mr. Kildee, MI</i> | ✓ | | | <i>Mr. Tom Udall, NM</i> | ✓ | | |
| Mr. Gallegly, CA | | | | Mr. Schaffer, CO | | | |
| <i>Mr. DeFazio, OR</i> | | | | <i>Mr. Mark Udall, CO</i> | ✓ | | |
| Mr. Duncan, TN | | | | Mr. Gibbons, NV | | ✓ | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Holt, NJ</i> | ✓ | | |
| Mr. Hefley, CO | | | | Mr. Souder, IN | | ✓ | |
| <i>Mr. Abercrombie, HI</i> | ✓ | | | <i>Mr. McGovern, MA</i> | ✓ | | |
| Mr. Gilchrest, MD | | | | Mr. Walden, OR | | ✓ | |
| <i>Mr. Ortiz, TX</i> | ✓ | | | <i>Mr. Acevedo-Vilá, PR</i> | | | |
| Mr. Calvert, CA | | ✓ | | Mr. Simpson, ID | | ✓ | |
| <i>Mr. Pallone, NJ</i> | | | | <i>Ms. Solis, CA</i> | ✓ | | |
| Mr. McInnis, CO | | | | Mr. Tancredo, CO | | ✓ | |
| <i>Mr. Dooley, CA</i> | | ✓ | | <i>Mr. Carson, OK</i> | ✓ | | |
| Mr. Pombo, CA | | ✓ | | Mr. Hayworth, AZ | | ✓ | |
| <i>Mr. Underwood, GU</i> | | | | <i>Ms. McCollum, MN</i> | | | |
| Mrs. Cubin, WY | | | | Mr. Otter, ID | | ✓ | |
| <i>Mr. Smith, WA</i> | | | | Mr. Osborne, NE | | ✓ | |
| Mr. Radanovich, CA | | ✓ | | Mr. Flake, AZ | | ✓ | |
| <i>Ms. Christensen, VI</i> | ✓ | | | Mr. Rehberg, MT | | ✓ | |
| | | | | | | | |
| | | | | | | | |
| | | | | Total | 16 | 18 | |

Ms. Solis then offered an amendment to strike Section 106(b)(b)(2)(B), which would waive Congressional review of all construction, acquisition of lands, easements, and rights-of-way for projects that received appropriations before 2003. The amendment was agreed to by voice vote. Congressman Nick Rahall (D-WV) offered an amendment to strike Title I of the bill and replace it with language modeled on S. 1768 (CALFED legislation introduced by the two California Senators) minus the expedited procedures. The Rahall amendment also included language relating to the payment of wages equivalent to those required under the Davis-Bacon Act for laborers and mechanics employed for a project or activity funded under Title I or Title II of the bill. The Rahall amendment failed on a roll call vote of 17 to 20, as follows:

COMMITTEE ON RESOURCES

U.S. House of Representatives
107th Congress

Date: November 7, 2001

Convened: 10:03am

Adjourned: 2:05pm

Meeting on: **H.R. 3208, Western Water Security Enhancement Act, Amendment by Mr. Rahall (#8)**

☐ Attendance

☐ Voice Vote

☒ Roll Call Vote

Total Yeas 17 Nays 20

| | YEA | NAY | PRESENT | | YEA | NAY | PRESENT |
|-----------------------------|-----|-----|---------|-----------------------------|-----------|-----------|---------|
| Mr. Hansen, UT, Chairman | | ✓ | | Mr. Jones, NC | | ✓ | |
| <i>Mr. Rahall, WV</i> | ✓ | | | <i>Mr. Kind, WI</i> | ✓ | | |
| Mr. Young, AK | | | | Mr. Thornberry, TX | | | |
| <i>Mr. Miller, CA</i> | ✓ | | | <i>Mr. Inslee, WA</i> | ✓ | | |
| Mr. Tauzin, LA | | ✓ | | Mr. Cannon, UT | | ✓ | |
| <i>Mr. Markey, MA</i> | ✓ | | | <i>Mrs. Napolitano, CA</i> | ✓ | | |
| Mr. Saxton, NJ | | | | Mr. Peterson, PA | | ✓ | |
| <i>Mr. Kildee, MI</i> | ✓ | | | <i>Mr. Tom Udall, NM</i> | ✓ | | |
| Mr. Gallegly, CA | | | | Mr. Schaffer, CO | | ✓ | |
| <i>Mr. DeFazio, OR</i> | ✓ | | | <i>Mr. Mark Udall, CO</i> | ✓ | | |
| Mr. Duncan, TN | | | | Mr. Gibbons, NV | | ✓ | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Holt, NJ</i> | ✓ | | |
| Mr. Hefley, CO | | | | Mr. Souder, IN | | ✓ | |
| <i>Mr. Abercrombie, HI</i> | ✓ | | | <i>Mr. McGovern, MA</i> | ✓ | | |
| Mr. Gilchrest, MD | | | | Mr. Walden, OR | | | |
| <i>Mr. Ortiz, TX</i> | | | | <i>Mr. Acevedo-Vilá, PR</i> | | | |
| Mr. Calvert, CA | | ✓ | | Mr. Simpson, ID | | ✓ | |
| <i>Mr. Pallone, NJ</i> | ✓ | | | <i>Ms. Solis, CA</i> | ✓ | | |
| Mr. McInnis, CO | | | | Mr. Tancredo, CO | | ✓ | |
| <i>Mr. Dooley, CA</i> | | ✓ | | <i>Mr. Carson, OK</i> | | ✓ | |
| Mr. Pombo, CA | | ✓ | | Mr. Hayworth, AZ | | ✓ | |
| <i>Mr. Underwood, GU</i> | | | | <i>Ms. McCollum, MN</i> | | | |
| Mrs. Cubin, WY | | | | Mr. Otter, ID | | ✓ | |
| <i>Mr. Smith, WA</i> | ✓ | | | Mr. Osborne, NE | | ✓ | |
| Mr. Radanovich, CA | | ✓ | | Mr. Flake, AZ | | ✓ | |
| <i>Ms. Christensen, VI</i> | ✓ | | | Mr. Rehberg, MT | | ✓ | |
| | | | | | | | |
| | | | | | | | |
| | | | | Total | 17 | 20 | |

Mr. Miller offered an amendment relating to the payment of wages equivalent to those required under the Davis-Bacon Act for laborers and mechanics employed for a project or activity funded under Title I or Title II of the bill. The Miller amendment was adopted by a roll call vote of 23 to 18, as follows:

COMMITTEE ON RESOURCES

U.S. House of Representatives
107th CongressDate: November 7, 2001Convened: 10:03amAdjourned: 2:05pmMeeting on: **H.R. 3208, Western Water Security Enhancement Act, Amendment by Mr. Miller (#9)**☐ Attendance☐ Voice Vote☒ Roll Call VoteTotal Yeas 23 Nays 18

| | YEA | NAY | PRESENT | | YEA | NAY | PRESENT |
|-----------------------------|-----|-----|---------|-----------------------------|-----------|-----------|---------|
| Mr. Hansen, UT, Chairman | | ✓ | | Mr. Jones, NC | | | |
| <i>Mr. Rahall, WV</i> | ✓ | | | <i>Mr. Kind, WI</i> | ✓ | | |
| Mr. Young, AK | ✓ | | | Mr. Thornberry, TX | | | |
| <i>Mr. Miller, CA</i> | ✓ | | | <i>Mr. Inslee, WA</i> | ✓ | | |
| Mr. Tauzin, LA | | ✓ | | Mr. Cannon, UT | | ✓ | |
| <i>Mr. Markey, MA</i> | ✓ | | | <i>Mrs. Napolitano, CA</i> | ✓ | | |
| Mr. Saxton, NJ | ✓ | | | Mr. Peterson, PA | | | |
| <i>Mr. Kildee, MI</i> | ✓ | | | <i>Mr. Tom Udall, NM</i> | ✓ | | |
| Mr. Gallegly, CA | | ✓ | | Mr. Schaffer, CO | | | |
| <i>Mr. DeFazio, OR</i> | ✓ | | | <i>Mr. Mark Udall, CO</i> | ✓ | | |
| Mr. Duncan, TN | | | | Mr. Gibbons, NV | | ✓ | |
| <i>Mr. Faleomavaega, AS</i> | ✓ | | | <i>Mr. Holt, NJ</i> | ✓ | | |
| Mr. Hefley, CO | | ✓ | | Mr. Souder, IN | | ✓ | |
| <i>Mr. Abercrombie, HI</i> | ✓ | | | <i>Mr. McGovern, MA</i> | ✓ | | |
| Mr. Gilchrest, MD | | | | Mr. Walden, OR | | | |
| <i>Mr. Ortiz, TX</i> | | | | <i>Mr. Acevedo-Vilá, PR</i> | | | |
| Mr. Calvert, CA | | ✓ | | Mr. Simpson, ID | | ✓ | |
| <i>Mr. Pallone, NJ</i> | ✓ | | | <i>Ms. Solis, CA</i> | ✓ | | |
| Mr. McInnis, CO | | ✓ | | Mr. Tancredo, CO | | ✓ | |
| <i>Mr. Dooley, CA</i> | ✓ | | | <i>Mr. Carson, OK</i> | ✓ | | |
| Mr. Pombo, CA | | ✓ | | Mr. Hayworth, AZ | | ✓ | |
| <i>Mr. Underwood, GU</i> | | | | <i>Ms. McCollum, MN</i> | ✓ | | |
| Mrs. Cubin, WY | | | | Mr. Otter, ID | | ✓ | |
| <i>Mr. Smith, WA</i> | ✓ | | | Mr. Osborne, NE | | ✓ | |
| Mr. Radanovich, CA | | ✓ | | Mr. Flake, AZ | | ✓ | |
| <i>Ms. Christensen, VI</i> | ✓ | | | Mr. Rehberg, MT | | ✓ | |
| | | | | | | | |
| | | | | | | | |
| | | | | Total | 23 | 18 | |

Congressman James V. Hansen (R-UT) offered an amendment to enforce the State of California's allocation of 4.4 million acre-feet of water from the Colorado River as established in the Interim Surplus Guidelines. The Hansen amendment was agreed to by voice vote.

The bill, as amended, was then ordered favorably reported to the House of Representatives by a roll call vote of 24 to 18, as follows:

COMMITTEE ON RESOURCES

U.S. House of Representatives
107th Congress

Date: November 7, 2001

Convened: 10:03am

Adjourned: 2:05pm

Meeting on: **H.R. 3208, Western Water Security Enhancement Act, on ordering the bill favorably reported to the House, amended**

☐ Attendance ☐ Voice Vote ☒ Roll Call Vote Total Yeas 24 Nays 18

| | YEA | NAY | PRESENT | | YEA | NAY | PRESENT |
|-----------------------------|-----|-----|---------|-----------------------------|-----------|-----------|---------|
| Mr. Hansen, UT, Chairman | ✓ | | | Mr. Jones, NC | | | |
| <i>Mr. Rahall, WV</i> | | ✓ | | <i>Mr. Kind, WI</i> | | ✓ | |
| Mr. Young, AK | ✓ | | | Mr. Thornberry, TX | | | |
| <i>Mr. Miller, CA</i> | | ✓ | | <i>Mr. Inslee, WA</i> | | ✓ | |
| Mr. Tauzin, LA | ✓ | | | Mr. Cannon, UT | ✓ | | |
| <i>Mr. Markey, MA</i> | | ✓ | | <i>Mrs. Napolitano, CA</i> | | ✓ | |
| Mr. Saxton, NJ | ✓ | | | Mr. Peterson, PA | ✓ | | |
| <i>Mr. Kildee, MI</i> | | ✓ | | <i>Mr. Tom Udall, NM</i> | | ✓ | |
| Mr. Gallegly, CA | ✓ | | | Mr. Schaffer, CO | | | |
| <i>Mr. DeFazio, OR</i> | | ✓ | | <i>Mr. Mark Udall, CO</i> | | ✓ | |
| Mr. Duncan, TN | | | | Mr. Gibbons, NV | ✓ | | |
| <i>Mr. Faleomavaega, AS</i> | ✓ | | | <i>Mr. Holt, NJ</i> | | ✓ | |
| Mr. Hefley, CO | | ✓ | | Mr. Souder, IN | ✓ | | |
| <i>Mr. Abercrombie, HI</i> | ✓ | | | <i>Mr. McGovern, MA</i> | | ✓ | |
| Mr. Gilchrest, MD | | | | Mr. Walden, OR | ✓ | | |
| <i>Mr. Ortiz, TX</i> | | | | <i>Mr. Acevedo-Vila, PR</i> | | | |
| Mr. Calvert, CA | ✓ | | | Mr. Simpson, ID | ✓ | | |
| <i>Mr. Pallone, NJ</i> | | | | <i>Ms. Solis, CA</i> | | ✓ | |
| Mr. McNis, CO | ✓ | | | Mr. Tancredo, CO | ✓ | | |
| <i>Mr. Dooley, CA</i> | ✓ | | | <i>Mr. Carson, OK</i> | ✓ | | |
| Mr. Pombo, CA | ✓ | | | Mr. Hayworth, AZ | ✓ | | |
| <i>Mr. Underwood, GU</i> | | | | <i>Ms. McCollum, MN</i> | | ✓ | |
| Mrs. Cubin, WY | | | | Mr. Otter, ID | ✓ | | |
| <i>Mr. Smith, WA</i> | | ✓ | | Mr. Osborne, NE | ✓ | | |
| Mr. Radanovich, CA | | ✓ | | Mr. Flake, AZ | ✓ | | |
| <i>Ms. Christensen, VI</i> | | ✓ | | Mr. Rehberg, MT | ✓ | | |
| | | | | | | | |
| | | | | | | | |
| | | | | Total | 24 | 18 | |

An earlier version of the bill, H.R. 1985, was introduced by Mr. Calvert on May 24, 2001. That bill was also referred to the Committee on Resources and additionally to the Committee on Transportation and Infrastructure. Within the Committee on Resources, the bill was referred to the Subcommittee on Water and Power. The Subcommittee held a hearing on H.R. 1985 on July 26, 2001. On September 13, 2001, the Subcommittee forwarded an amended version of the bill to the Full Resources Committee for consideration. In addition, the Subcommittee held a series of oversight hearings on the CALFED Program in Washington, D.C. and the western United States.

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 Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. *Cost of Legislation.*—Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.*—As required by 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, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of H.R. 3208 would affect direct spending by allowing the spending of certain recreational user fees. This increase in direct spending would be less than \$500,000 per year.

3. *General Performance Goals and Objectives.*—As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize funding through the Secretary of the Interior for the implementation of a comprehensive program in California to achieve increased water yield and environmental benefits, as well as improved water system reliability, water quality, water use efficiency, watershed management, water transfers, and levee protection.

4. *Congressional Budget Office Cost Estimate.*—Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 8, 2002.

Hon. JAMES V. HANSEN,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3208, the Western Water Security Enhancement Act.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3208—Western Water Security Enhancement Act

Summary: H.R. 3208 would authorize the appropriation of funds to implement a number of water resource programs, including the CALFED program, the Bureau of Reclamation's small reclamation projects program, and a new competitive grant program that would be administered by the Bureau of Reclamation. Assuming appropriation of the necessary sums, CBO estimates that implementing H.R. 3208 would cost \$1.9 billion over the 2002–2007 period.

A consortium of 18 federal and state agencies in California participate in the CALFED program, which is designed to increase water yield and environmental benefits, as well as improve water quality, water system reliability, water use efficiency, watershed management, water transfers, and levee protection in the San Francisco Bay and the Sacramento-San Joaquin Delta (known as the Bay-Delta watershed). Section 104 would authorize the appropriation of \$600 million over fiscal years 2002–2004 for implementation of stage I of the CALFED program. The bill also would establish a Water Security Board consisting of representatives from federal and state agencies to direct and oversee the program. CBO estimates that implementing this provision would cost \$555 million over the 2002–2007 period.

In addition, H.R. 3208 would increase the amount authorized to be appropriated for direct loans and loan guarantees under the Small Reclamation Projects Act of 1956 and would expand the pool of projects eligible to participate in this program. CBO estimates that implementing these provisions would cost \$215 million over the 2002–2007 period, subject to the appropriation of the necessary amounts.

Under this bill, the Secretary of the Interior would be authorized to establish a new competitive grant program to increase water supply and improve water quality in the Bay-Delta watershed, and in the western states where the Bureau of Reclamation operates, by constructing water management facilities, conducting research, and encouraging watershed management. CBO estimates that implementing this program would cost about \$1 billion over the 2002–2007 period, assuming appropriation of the necessary amounts.

Finally, the bill would authorize the appropriation of \$60 million to conduct an environmental mitigation project at the Salton Sea

in California, and \$2 million for a feasibility study to enlarge Willard Bay Reservoir in Utah.

H.R. 3208 would affect direct spending; therefore, pay-as-you-go procedures would apply. By allowing spending of certain recreation user fees, CBO estimates that the bill would increase direct spending by less than \$500,000 per year.

H.R. 3208 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Enactment of this legislation would benefit public agencies eligible to receive grants and other federal funds authorized by this bill. Any costs that those agencies might incur would result from conditions imposed on the receipt of federal funds, or would stem from voluntary contractual relationships with the federal government for the receipt of water supplies.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3208 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

| | By fiscal year, in millions of dollars— | | | | | |
|--|---|------|------|------|------|------|
| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
| SPENDING SUBJECT TO APPROPRIATION ¹ | | | | | | |
| Spending under current law: | | | | | | |
| Estimated authorization level ² | 7 | 7 | 7 | 7 | 8 | 8 |
| Estimated outlays | 59 | 64 | 7 | 7 | 8 | 8 |
| Proposed changes: | | | | | | |
| Estimated authorization level | 324 | 750 | 760 | 565 | 565 | 560 |
| Estimated outlays | 29 | 235 | 419 | 453 | 413 | 352 |
| Spending under H.R. 3208: | | | | | | |
| Estimated authorization level | 331 | 757 | 767 | 572 | 573 | 568 |
| Estimated outlays | 88 | 299 | 426 | 440 | 421 | 360 |

¹ H.R. 3208 also would affect direct spending by less than \$500,000 per year.

² The 2002 level is the amount appropriated for that year for Small Reclamation Projects Act loans. Estimated outlays include spending of funds provided for CALFED and Small Reclamation Projects Act loans in previous appropriations acts.

Basis for estimate

For instance, CBO assumes H.R. 3208 would be enacted early in fiscal year 2002 and that the necessary amounts would be appropriated each year. H.R. 3208 would authorize the appropriation of funds for three water programs, including the CALFED program, the small reclamation projects program, and a new competitive grant program. H.R. 3208 also would authorize some miscellaneous projects and would authorize the Bureau of Reclamation to spend certain recreation user fees.

Spending subject to appropriation

CALFED implementation.—Section 104 would authorize the appropriation of \$600 million over the 2002–2004 period for implementation of the CALFED program. Although the program's authorization expired in 2000 and it has not received an appropriation of federal funds since then, it continues to spend funds appropriated in previous years. Based on information from the Bureau and local water agencies, and on historical spending of similar programs, CBO estimates that outlays to implement this provision would be about \$555 million over the 2002–2007 period, assuming appropriation of the authorized sums.

Under this bill, federal government agencies would be authorized to work cooperatively with California state agencies to carry out stage I of the CALFED implementation plan, called the Programmatic Record of Decision (signed by the Bureau of Reclamation and other federal and state agencies on May 28, 2000), to restore the ecological integrity of the Bay-Delta watershed and to ensure adequate supplies of water for the region. Stage I of the plan covers the first seven years of an anticipated 30-year implementation effort. The Bureau of Reclamation estimates that implementing stage I of the plan would cost \$8.7 billion. The plan anticipates that the federal share of this part of the program would be approximately \$2.7 billion. This amount would likely be a small fraction of the total federal cost called for by a 30-year implementation plan for the CALFED program. Under section 102, however, no funds to implement CALFED would be authorized to be appropriated after 2004 without a subsequent authorization act.

Small reclamation loan program.—Section 203 would increase the authorized funding level for direct loans and loan guarantees under the Small Reclamation Projects Act (SRPA) of 1956 from \$600 million to \$1.3 billion. In addition, the bill would expand the program by eliminating the requirement that all funded projects have an irrigation component, and would allow projects in Alaska and the U.S. territories to be eligible for funding. Approximately \$350 million remains available for appropriation under the existing SRPA authorization.

Although demand for loans under this program has not been strong, CBO expects that the amendments that would be made by H.R. 3208 would provide an alternative means of funding local projects that have not been constructed because the Bureau of Reclamation has insufficient funds. In addition, CBO estimates that demand for these loans would increase because the pool of eligible projects would grow. Based on information from the Bureau of Reclamation and local water agencies, CBO estimates that implementing this modified loan program would cost \$215 million over the 2002–2007 period. For this estimate, we assume that the Bureau of Reclamation would continue to operate this loan program under the same terms now in effect. Loans that have been issued are estimated to involve a subsidy of between 25 percent and 30 percent. At that level, we estimate the expanded loan program would support an average of \$130 million of project loans per year over the next five years.

Competitive grant program.—Section 105 would authorize the appropriation of \$2.6 billion over the 2002–2007 period for grants to increase water yield and water supply, and to improve water quality, water conservation and water use efficiency in the western states where the Bureau of Reclamation operates. After 2007, the bill would authorize the appropriation of \$500 million per year for this program. According to the Bureau of Reclamation, demand for existing grants exceeds the level of funding that has been appropriated. Many water projects have been authorized to be constructed, but sufficient funds to implement them have not been provided. Based on information from the Bureau of Reclamation and local water agencies, and on historical spending of similar programs such as the Environmental Protection Agency's State and Tribal Assistance Grants, CBO estimates that implementing the

competitive grant program would cost about \$1 billion over the 2002–2007 period.

Miscellaneous authorizations.—Section 301 would authorize the appropriation of \$60 million for activities to mitigate environmental impacts on the Salton Sea in California. Section 302 would authorize the appropriation of \$2 million to prepare a feasibility study on enlarging Willard Bay Reservoir in Utah by raising its dam. CBO estimates that implementing these provisions would cost \$62 million over the 2002–2007 period.

Direct spending

Section 303 would allow the Bureau of Reclamation to spend recreation user fees for authorized purposes without further appropriation. The agency collects approximately \$300,000 from recreation fees each year. Currently, the spending of those fees is subject to appropriation. Based on the experience of other agencies that are authorized to spend such fees, we expect that the amount of fees that the Bureau collects would increase slightly. CBO estimates that the net increase in spending due to this provision would be less than \$500,000 per year.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures would be less than \$500,000 each year. For the purposes of enforcing pay-as-you-go procedures, only the effects through 2006 are counted.

Intergovernmental and private-sector impact: H.R. 3208 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would authorize grants and loans to support projects carried out by state and local governments (including public water agencies) and Indian tribes. While the new grant funds would benefit those governments, conditions attached to the funds, including matching requirements, would entail some additional costs. For example, one provision would require that wages paid to laborers and mechanics working on projects funded by this bill conform to certain federal standards. This requirement could increase the cost of those projects. Any such costs would be voluntary, however.

Other provisions in this bill would affect the allocation of water supplies among certain western states and among water users in California who contract with the federal government for the delivery of those supplies. One such provision would require the state of California to reduce its annual use of water from the Colorado River to 4.4 million acre-feet by the year 2016. While federal law already sets California's allocation from the Colorado River to that level under some supply conditions, the Bureau currently has the authority to increase that allocation when supplies are sufficient, and has done so for several years. The language in this bill would reduce that flexibility and effectively require the Bureau to enforce the 4.4 million acre-feet limit under most conditions.

Estimate prepared by: Federal costs: Julie Middleton; Impact on State, local, and tribal governments: Marge Miller; Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

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 italic, existing law in which no change is proposed is shown in roman):

SMALL RECLAMATION PROJECTS ACT OF 1956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purpose of this Act is to encourage State and local participation in the development of projects [under the] under this Act and other Federal reclamation laws, with emphasis on rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment and for purpose of water quality control, and to provide for Federal assistance in the development of similar projects in the seventeen western reclamation States by non-Federal organizations. Such projects may include, but shall not be limited to, irrigation projects. Irrigation shall not be a required purpose for projects receiving assistance under this Act. In providing assistance, the Secretary shall give priority to recommended proposals that are related to a project that is otherwise authorized under the Federal reclamation laws and that will benefit from assistance under this Act.

SEC. 2. As used in this Act—

(a) * * *

* * * * *

(c) The term “organization” shall mean [a State] *an Indian Tribe, a State* or a department, agency, or political subdivision thereof or a conservancy district, irrigation district, water users’ association, an agency created by interstate compact, or similar organization which has capacity to contract with the United States under the Federal reclamation laws.

[(d) The term “project” shall mean (i) any complete irrigation project, or (ii) any multiple-purpose water resource project that is authorized or is eligible for authorization under the Federal reclamation laws, or (iii) any distinct unit of a project described in clause (i) and (ii) or (iv) any project for the drainage of irrigated lands, without regard to whether such lands are irrigated with water supplies developed pursuant to the Federal reclamation laws, or (v) any project for the rehabilitation and betterment of a project or distinct unit described in clauses (i), (ii), (iii), and (iv): *Provided*, That the estimated total cost of the project described in clause (i), (ii), (iii), (iv), or (v) does not exceed the maximum allowable estimated total project cost as determined by subsection (f) hereof: *Provided further*, That a project described in clause (i), (ii), or (iii) may consist of existing facilities as distinct from newly con-

structed facilities, and funds made available pursuant to this Act may be utilized to acquire such facilities subject to a determination by the Secretary that such facilities meet standards of design and construction which he shall promulgate and that the cost of such existing facilities represent less than fifty per centum of the cost of the project. Nothing contained in this Act shall preclude the making of more than one loan or grant, or combined loan and grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.】

(d) *The term “project” means any of the following:*

(1) *A multipurpose water resource development carried out by a non-Federal organization involving significant conservation of water, energy, and the environment.*

(2) *The rehabilitation, betterment, or retrofit of any existing Federal or non-Federal water infrastructure for purposes of complying with law and regulations.*

(3) *An activity described in paragraph (1) or (2) that—*

(A) *is carried out by a non-Federal organization under the Federal reclamation laws in one or more of the 17 western reclamation States, Hawaii, Alaska, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands; and*

(B) *in the case of an activity proposed for any project that is authorized under the reclamation laws immediately before the enactment of the Small Reclamation Water Resources Project Act of 2001, is determined by the Secretary to be consistent with the purposes of that project before that date of enactment.*

* * * * *

【(f) The maximum allowable estimated total project cost of a proposal submitted during any given calendar year shall be determined by the Secretary using the Bureau of Reclamation composite construction cost index for January of that year with \$15,000,000 as the January 1971 base.】

(f) *The term “water quality improvements” means operational measures and physical features associated with—*

(1) *the reclamation and reuse of irrigation drainage or municipal and industrial return flows, including wastewater flows; or*

(2) *the reclamation, or control, of brackish, toxic, or impaired waters for beneficial reuse or protection of other related water, land, or environmental resources.*

【SEC. 3. Any organization desiring to avail itself of the benefits provided in this Act shall submit a proposal therefor to the Secretary in such form and manner as he shall prescribe. Each such proposal shall be accompanied by a payment of \$5,000 to defray, in part, the cost of examining the proposal.

【SEC. 4. (a) Any proposal with respect to the construction of a project which has not theretofore been authorized for construction under the Federal reclamation laws shall set forth, among other things, a plan and estimated cost in detail comparable to those included in preauthorization reports required for a Federal reclamation project; shall have been submitted for review by the States of

the drainage basin in which the project is located in like manner as provided in subsection (c), section 1 of the Act of December 22, 1944 (58 Stat. 887), except that the review may be limited to the State or States in which the project is located if the proposal is one solely for rehabilitation and betterment of an existing project; and shall include a proposed allocation of capital costs to functions such that costs for facilities used for a single purpose shall be allocated to that purpose and costs for facilities used for more than one purpose shall be so allocated among the purposes served that each purpose will share equitably in the costs of such joint facilities. The costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among project functions.

[(b)(1) Every such proposal shall include a showing that the organization already holds or can acquire all lands and interests in land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) and rights, pursuant to applicable State law, to the use of water necessary for the successful construction, operation, and maintenance of the project and that it is ready, able, and willing to finance otherwise than by loan and grant of Federal funds such portion of the cost of the project (which portion shall include all costs of acquiring lands, interests in land, and rights to the use of water), except as provided in subsection 5(b)(2) hereof, as the Secretary shall have advised is proper in the circumstances.]

[(2) The Secretary shall require each organization to contribute toward the cost of the project (other than by loan and/or grant of Federal funds) an amount equal to 25 percent or more of the allowable estimated cost of the project: *Provided*, That the Secretary, at his discretion, may reduce the amount of such contribution to the extent that he determines that the organization is unable to secure financing from other sources under reasonable terms and conditions, and shall include letters from lenders or other written evidence in support of any funding of an applicant's inability to secure such financing in any project proposal transmitted to the Congress: *Provided further*, That under no circumstances shall the Secretary reduce the amount of such contribution to less than 10 percent of the allowable estimated total project costs. In determining the amount of the contribution as required by this paragraph, the Secretary shall credit toward that amount the cost of investigations, surveys, engineering, and other services necessary to the preparation of proposals and plans for the project as required by the Secretary, and the costs of lands and rights-of-way required for the project, and the \$5,000 fee described in section 3 of this Act. In determining the allowable estimated cost of the project, the Secretary shall not include the amount of grants accorded to the organization under section 5(b).]

[(c) At such time as a project is found by the Secretary and the Governor of the State in which it is located (or an appropriate State agency designated by him) to be financially feasible, is determined by the Secretary to constitute a reasonable risk under the provisions of this Act, and is approved by the Secretary, such findings and approval shall be transmitted to the Congress. Each project proposal transmitted by the Secretary to the Congress shall

include a certification by the Secretary that an adequate soil survey and land classification has been made, or that the successful irrigability of those lands and their susceptibility to sustained production of agricultural crops by means of irrigation has been demonstrated in practice. Such proposal shall also include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows. The Secretary, at the time of submitting the project proposal to Congress or at the time of his determination that the requested project constitutes a reasonable risk under the provisions of this Act, may reserve from use or disposition inimical to the project any lands and interests in land owned by the United States which are within his administrative jurisdiction and subject to disposition by him and which are required for use by the project. Any such reservation shall expire at the end of two years unless the contract provided for in section 5 of this Act shall have been executed.

[(d) At the time of his submitting the project proposal to the Congress, or at any subsequent time prior to completion of construction of the project, including projects heretofore approved, the Secretary may increase the amount of the requested loan and/or grant to an amount within the maximum allowed by subsection (a) of section 5 of the Act as herein amended, to compensate for increases in construction costs due to price escalation.

[(e) No appropriation shall be made for financial participation in any such project prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's findings and approval are submitted to the Congress and then only if, within said sixty days, neither the Committee on Natural Resources of the House of Representatives nor the Committee on Energy and Natural Resources of the Senate disapproves the project proposal by committee resolution. The provisions of this subsection (e) shall not be applicable to proposals made under section 6 of this Act.

[(f) The Secretary shall give due consideration to financial feasibility, emergency, or urgent need for the project. All project works and facilities constructed under this Act shall remain under the jurisdiction and control of the local contracting organization subject to the terms of the repayment contract.

[SEC. 5. Upon approval of any project proposal by the Secretary under the provisions of section 4 of this Act, he may negotiate a contract which shall set out, among other things—

[(a) the maximum amount of any loan to be made to the organization and the time and method of making the same available to the organization. Said loan shall not exceed the lesser of (1) two-thirds of the maximum allowable estimated total project cost as determined by subsection (f) of section 2, or (2) the estimated total cost of the project minus the contribution of the local organization as provided in section 4(b) and the amount of the grant approved;

[(b) the maximum amount of any grant to be accorded the organization. Said grant shall not exceed the sum of the following: (1) the costs of investigations, surveys, and engineering and other services necessary to the preparation of proposals and plans for the project allocable to fish and wildlife enhancement or public recre-

ation; (2) one-half the costs of acquiring lands or interests therein to serve exclusively the purposes of fish and wildlife enhancement or public recreation, plus the costs of acquiring joint use lands and interests therein properly allocable to fish and wildlife enhancement and public recreation; (3) one-half the costs of basic public outdoor recreation facilities or facilities serving fish and wildlife enhancement purposes exclusively; (4) one-half the costs of construction of joint use facilities properly allocable to fish and wildlife enhancement or public recreation; (5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement and flood control, which are nonreimbursable under general provisions of law applicable to such projects; and (6) that portion of the estimated cost of constructing the project which is allocable to flood control and which would be nonreimbursable under general provisions of law applicable to projects constructed by the Secretary of the Army.

[(c) a plan of repayment by the organization of (1) the sums lent to it in not more than forty years from the date when the principal benefits of the project first become available; (2) interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 percent on the unamortized balance of any portion of the loan—

[(A) which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient or by a limited recipient, as such terms are defined in section 202 of the Reclamation Reform Act of 1982, in excess of three hundred and twenty irrigable acres; or,

[(B) which is allocated to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation except that portion of such allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest.

[(d) provision for operation of the project, if a grant predicated upon its performance of nonreimbursable functions is made, in accordance with regulations with respect thereto prescribed by the head of the Federal department or agency primarily concerned with those functions and, in the event of non-compliance with such regulations, for operation by the United States or for repayment to the United States of the amount of any such grant;

[(e) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest as aforesaid. The liability of the United States under any contract entered into pursuant to this Act shall be contingent upon the availability of appropriations to carry out the same, and every such contract shall so recite; and

[(f) provisions conforming to the preference requirements contained in the proviso to section 9(c) of the Act of August 4, 1939 (53 Stat. 1193), if the project produces electric power for sale.

[SEC. 6. Any proposal with respect to the construction of a project which has theretofore been authorized for construction under the Federal reclamation laws shall be made in like manner as a proposal under section 4 of this Act, but the Secretary may waive such requirements of subsections (a) and (b) of that section as he finds to be duplicative of, or rendered unnecessary or impossible by, action already taken by the United States. Upon approval of any such proposal by the Secretary he may negotiate and execute a contract which conforms, as nearly as may be, to the provisions of section 5 of this Act.

[SEC. 7. Upon request of an organization which has made or intends to make a proposal under this Act, the head of any Federal department or agency may make available to the organization any existing engineering, economic, or hydrologic information and printed material that it may have and that will be useful in connection with the planning, design, construction, or operation and maintenance of the project concerned. The reasonable cost of any plans, specifications, and other unpublished material furnished by the Secretary pursuant to this section and the cost of making and administering any loan under this Act shall, to the extent that they would not be nonreimbursable in the case of a project constructed under the Federal reclamation laws, be treated as a loan and covered in the provisions of the contract entered into under section 5 of this Act unless they are otherwise paid for by the organization.

[SEC. 8. The planning and construction of projects undertaken pursuant to this Act shall be subject to all procedural requirements and other provisions of the Fish and Wildlife Coordination Act (48 Stat. 401), as amended (16 U.S.C. 661 et seq.). The Secretary shall transfer to the Fish and Wildlife Service or to the National Marine Fisheries Service, out of appropriations or other funds made available under this Act, such funds as may be necessary to conduct the investigations required to carry out the purposes of this section.]

TITLE I—STATE AND LOCAL PARTICIPATION IN RECLAMATION PROJECTS

SEC. 101. LOAN, GRANT, AND LOAN GUARANTEE PROGRAM.

There is hereby established a program within the Bureau of Reclamation, under which the Secretary may make loans, grants, and loan guarantees to any organization to carry out a project.

SEC. 102. PROPOSAL CONTENTS AND REQUIREMENTS.

(a) IN GENERAL.—Any organization seeking assistance under this title shall submit a proposal to the Secretary in such form and manner as the Secretary may prescribe. Any proposal for a project submitted under this title shall set forth a plan and estimated cost in detail comparable to those included in preauthorization reports required for a project under the Federal reclamation laws.

(b) LANDS AND WATERS.—Each proposal submitted under this title shall include a statement of financial capability and legal au-

thority, and a resolution from the governing board of the organization showing that the organization seeking assistance—

(1) holds or can acquire all lands and interests in land (except public and other lands and interest in land owned by the United States that are within the administrative jurisdiction of the Secretary and subject to disposition by the Secretary) to complete the project;

(2) holds or can acquire all rights, pursuant to applicable State law, to the use of water necessary for the successful construction, operation, and maintenance of the project;

(3) is willing to finance, and capable of financing, the non-Federal portion of the costs of the project, including all costs of acquiring lands, interests in land, and rights to the use of water, except as provided in section 105(b)(2); and

(4) has the legal authority and responsibility under State law to carry out the project.

SEC. 103. FEDERAL SHARE AND PROJECT SPONSOR SHARE OF COSTS.

(a) *IN GENERAL.*—The Secretary shall require each organization receiving assistance under this title to contribute toward the cost of the project (other than by loan or grant of Federal funds) not less than 25 percent of the costs of the project. The Secretary shall credit toward the non-Federal cost share that amount—

(1) the costs paid by the organization for investigations, surveys, engineering, administration, and other services necessary for the preparation of proposals and plans for the proposed project that are required by the Secretary;

(2) the value of lands, rights-of-way, and water rights acquisition required for the proposed project that are provided by the organization;

(3) amounts spent by the organization for construction or acquisition of facilities for the proposed project prior to project approval; and

(4) the fee required by section 403.

(b) *PREVENTION OF LOSS AND DAMAGE TO FISH AND WILDLIFE.*—The costs of measures to prevent loss of, and damage to, existing fish and wildlife resources as the result of a project for which assistance is provided under this title shall be considered project costs and, for purposes of reimbursement, shall be allocated as may be appropriate among project functions.

(c) *MAXIMUM ALLOWABLE FEDERAL SHARE.*—The maximum allowable Federal share per project shall be \$50,000,000 (January 2001 dollars).

(d) *INCREASE IN AMOUNT.*—To compensate for increases in construction costs due to price escalation, and subject to subsection (c), the Secretary may increase the amount of a loan or grant, or both, under this title for a project at any time prior to the completion of construction of the project, using the Bureau of Reclamation's composite construction cost trends index.

SEC. 104. APPROVAL OR DISAPPROVAL OF PROJECTS.

(a) *IN GENERAL.*—The Secretary shall determine whether a proposal under this title is financially feasible and constitutes a reasonable risk, and either approve or disapprove the proposal, by not later than the later of—

(1) one year after the date the proposal is submitted to the Secretary; or

(2) the date of the completion of the appropriate documentation under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) TRANSMITTAL TO CONGRESS.—

(1) *IN GENERAL.*—Subject to paragraph (2), the Secretary shall promptly transmit any approved proposals to the Congress with a brief statement of the project purposes and funding requirements.

(2) *COMPLETION OF DOCUMENTATION.*—The documentation required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a proposed project must be completed before the Secretary transmits the proposal to the Congress.

SEC. 105. CONTRACT TERMS AND CONDITIONS.

(a) *IN GENERAL.*—Upon approval of any project proposal submitted under this title by an organization, the Secretary shall negotiate with the organization a contract establishing the terms under which assistance shall be provided under this title.

(b) *CONTRACT TERMS.*—The contract shall include the following:

(1) The maximum amount of any grant, which shall not exceed 50 percent of the maximum allowable Federal share of the costs of the project under section 103.

(2) The time and method of making any grant or loan available to the organization.

(3) Such terms and conditions as the Secretary considers necessary or proper to provide assurance of, and security for, prompt repayment of any loan and to ensure achievement of the purposes for which the loan was made.

(4) A plan for repayment by the organization of any loan within 25 years, except that the organization shall have the right to prepay the loan or any component thereof without penalty.

(5) For any loan, payment of interest at a rate established by the Secretary of the Treasury at the beginning of the fiscal year in which the contract is executed, that shall be based on the average market yield on outstanding marketable obligations of the United States with periods of maturity comparable to the applicable repayment period of the loan.

(c) *LOANS PROJECTS BY INDIAN TRIBES.*—

(1) *IN GENERAL.*—For any project undertaken by an Indian tribe with assistance under this title, the Secretary shall—

(A) determine, based on the findings in the proposal under section 102, the reimbursable and nonreimbursable costs for the project constructed under this Act;

(B) apportion those costs in accordance with the benefits received; and

(C) allocate the reimbursable costs to the project beneficiaries.

(2) *LEAVITT ACT.*—The Act of July 1, 1932 (chapter 369; 25 U.S.C. 386a), popularly known as the “Leavitt Act”, shall not apply to loans made under this Act.

TITLE II—PARTNERSHIP PROGRAM

SEC. 201. ESTABLISHMENT OF PARTNERSHIP PROGRAM.

(a) *PROGRAM.*—There is hereby established within the Bureau of Reclamation a small grant and loan program to be known as the Small Reclamation Water Resources Management Partnership Program, to be carried out under this title. The purpose of this program shall be to implement projects that can be performed—

- (1) by the recipient organization's workforce or contractors,
- (2) with streamlined documentation, and
- (3) in a period of 18 months or less.

(b) *GRANTS.*—Grants under this title shall not exceed \$5,000,000 for any one project under such program. The Secretary shall require the recipient organization to provide matching funds in an amount equal to 50 percent of the amount of the grant.

(c) *LOANS.*—Loans under this title shall not exceed \$5,000,000 per project, and shall be subject to cost sharing in the same manner as provided in title I. The contract for each loan under this title shall require payment of interest at a rate established by the Secretary of the Treasury in the same manner as provided in section 105(b)(5) for loans under title II.

SEC. 202. REPAYMENT OF LOANS.

Each loan made under this title shall be repaid within the 5-year period beginning on the date the Secretary certifies that work to be carried out with the loan is completed.

SEC. 203. ELIGIBLE ACTIVITIES.

(a) *IN GENERAL.*—The following types of activities shall be eligible for grants or loans under this title:

- (1) Water conservation.
- (2) Water quality improvement projects.
- (3) Water management for urban landscapes.
- (4) Drought assistance.
- (5) Fish and wildlife improvements.
- (6) Public safety improvements.
- (7) Water supply, including water production, conveyance, conservation, and management.

(b) *ADDITIONAL ACTIVITIES.*—The Secretary may add to the list of eligible activities under subsection (a) as the Secretary considers appropriate, except that any such addition shall not take effect until 60 days after the Secretary publishes a notice of the proposed addition in the Federal Register, and has notified the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate in writing of the proposed addition and the reasons therefore.

SEC. 204. APPLICATION PROCESS.

(a) *NOTICE OF INTENT.*—Each organization seeking a grant or loan under this title shall submit a notice of intent to the Secretary by April 1 of each year outlining the proposed project and the public benefits thereof. Within two months, the Secretary shall provide a written response to the organization, expressing either the Bureau of Reclamation's interest or disinterest in participating in the project.

(b) *APPLICATION.*—30 days after receipt of a response under subsection (a) expressing the Bureau of Reclamation's interest in par-

ticipating in a project, the organization may submit to the Secretary an appropriate loan or grant application, giving details of the project and the anticipated public benefits.

(c) CONTENTS.—The application for any project proposal under this title shall include each of the following:

(1) A resolution by the board of directors of the organization stating—

(A) the total estimated project cost;

(B) the amount of the grant or loan requested;

(C) the amount of the non-Federal contribution for any grant;

(D) the organization's ability to finance and construct the project; and

(E) the project objectives.

(2) A summary of the proposal.

(3) A brief description of the anticipated effects of the project on the environment.

(4) Evidence that the organization has all lands and water rights needed for the project, or can obtain them and has legal authority and responsibility under, State law to carry out the proposed project.

(5) A project plan, including a general map showing the location of proposed physical features, conceptual engineering drawings of major and typical structures, and general standards for design.

(6) A construction schedule, with dates and a schedule of funding requirements under this title, in sufficient detail to provide an analysis of the proposed construction program.

(7) A description of the proposed Federal funding for the project and of the non-Federal funding for the project.

(d) COSTS.—The cost of any investigations and preparation of any environmental documentation for a project carried out with assistance under this title shall be borne by the project applicant, and shall be credited against the non-Federal cost share.

(e) ANNUAL LISTING.—The Secretary shall include in the annual budget justification for the Bureau of Reclamation, a listing of the activities and total funding required for work committed to under this title.

SEC. 205. TERMS AND CONDITIONS OF PROJECT WORK.

The Secretary shall examine each project proposal submitted under this title to determine if the project can reasonably be expected to accomplish its purpose, and approve or disapprove such proposal by September 1 of the year in which the application for assistance under this title is submitted. If the Secretary approves the proposal, and subject to the availability of appropriations, the Secretary shall provide funding within 60 days after such approval for work scheduled for the next fiscal year.

SEC. 206. LIMITATION ON PROJECT PROPOSALS.

Only one proposal may be submitted under this title by an applicant in any 5-year period.

TITLE III—LOAN GUARANTEES

SEC. 301. ESTABLISHMENT OF LOAN GUARANTEE PROGRAM.

There is hereby established within the Bureau of Reclamation a demonstration program to guarantee loans for projects receiving, or eligible to receive, loans or grants under title I or II of this Act.

SEC. 302. PROGRAM REQUIREMENTS.

(a) IN GENERAL.—The Secretary may provide support under the demonstration program to organizations through the provision of loan guarantees for the purposes for which assistance is authorized under titles I and II, under such terms and conditions as are specified in this section. Any proposal for a project submitted under this title shall set forth a plan and estimated costs, in detail, comparable to those required to be included in preauthorization reports required for a project under the Federal reclamation laws.

(b) SELECTION OF RECIPIENTS.—The Secretary shall adopt and use competitive procedures in the selection of organizations to receive loan guarantees under this section. In selecting any organization to receive a loan guarantee under this section, the Secretary shall consider, at a minimum, the following:

(1) The extent to which the loan guarantee would support new water supplies or more efficient use of existing supplies.

(2) The repayment period of the guaranteed loan.

(3) The extent to which the loan guarantee would provide for a project of wide public purpose.

(4) Whether the loan guarantee would help the organization comply with a Federal or State environmental statute or regulation.

(5) The extent to which the loan guarantee would enable the organization to meet the needs of other local water purveyors.

(6) The extent to which the guaranteed loan would support a program that would supplement, rather than duplicate, other available water resource programs.

(7) The fiscal impact of the loan guarantee program as a whole on other Bureau of Reclamation programs.

(c) APPORTIONMENT.—The total amount made available to the Secretary for a fiscal year to cover the costs of loan guarantees under this section shall be divided between projects receiving or eligible to receive loans under titles I and II, with title I projects receiving 75 percent and title II projects receiving 25 percent.

(d) MAXIMUM.—The maximum amount of a loan guaranteed under this section may not exceed 75 percent of the total cost of the project carried out with the loan.

(e) LIMITATION ON USE OF LOAN.—No loan guaranteed under this title shall be used to cover the organization's local cost share for any project assisted under this Act.

(f) REPORTING.—Reporting and documentation requirements under titles I and II shall similarly apply to loan guarantees under this title.

(g) STATE LAW.—For purposes of this Act, when any bonds are issued by an organization to help finance a project for which the organization is also receiving a loan guarantee under this section, such bonds shall not be treated as affecting the tax-exempt status of such bonds under applicable State law.

(h) *FULL FAITH AND CREDIT.*—Any loan guarantee issued pursuant to this section shall constitute an obligation, in accordance with the terms of such guarantee, of the United States Government, and the full faith and credit of the United States is hereby pledged to the full performance of the obligations.

(i) *REPORT.*—At the end of the third fiscal year after the enactment of this subsection, the Secretary shall submit a report to the Congress on the beneficial use and suggested improvements for use of loan guarantees under this title as a mechanism for project construction.

SEC. 303. SUNSET.

No loan guarantee may be issued under this title in any fiscal year after the expiration of 10 full fiscal years after initial funding of projects under the amendments made by the Small Reclamation Water Resources Project Act of 2001.

TITLE IV—GENERAL PROVISIONS

SEC. 401. PROPOSAL FEE.

The Secretary shall assess and collect a fee to defray the cost of examining each proposal for a loan, grant, or loan guarantee under this Act. The amount of the fee shall be equal to \$5,000 or $\frac{1}{10}$ of 1 percent of the Federal share of the costs of the proposed project, whichever is greater. The Secretary shall require that 50 percent of the fee shall accompany the application and the remainder shall be due only upon approval of the project by the Secretary.

SEC. 402. MISCELLANEOUS PROVISIONS.

(a) *TITLE.*—Title to all project works and facilities constructed with assistance under this Act shall remain in the name of the organization.

(b) *COMBINED LOANS, GRANTS, AND LOAN GUARANTEES.*—A project sponsor shall be eligible for a loan, grant, loan guarantee, or combination thereof for a project proposal under this Act. An applicant may submit one proposal to be carried out with assistance under more than one title under this Act. No organization shall be eligible for an additional loan, grant, loan guarantee, or any combination thereof for the same project that has previously received approval for a loan, grant, or loan guarantee under this Act within the prior five fiscal years.

(c) *PLANNING, CONSTRUCTION, OPERATION, AND MAINTENANCE.*—The United States shall not be required to provide planning, construction, operation, and maintenance of any project receiving a loan, grant or loan guarantee under this Act.

(d) *STATE WATER LAW.*—Any project assisted under this Act shall be carried out in accordance with applicable State water law.

SEC. [9.] 403. The Secretary is authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper in carrying out the provisions of this Act.

SEC. [10.] 404. There are hereby authorized to be appropriated, [such sums as may be necessary, but not to exceed \$600,000,000 to carry out the provisions of this Act and, effective October 1, 1986, not to exceed an additional \$600,000,000: *Provided, That the Secretary*] to carry out this Act \$1,300,000,000 for fiscal years after fiscal year 2001, of which \$900,000,000 may be appropriated to

carry out title I and to complete ongoing projects under Public Law 84-984, \$300,000,000 may be appropriated to carry out title II, and \$100,000,000 may be appropriated to carry out title III. Of funds authorized under this Act, not more than 20 percent shall be used for projects to be carried out by Indian tribes or in economically disadvantaged communities. The Secretary shall advise the Congress promptly on the receipt of each proposal referred to in [section 3] title I, and no contract shall become effective until appropriated funds are available to initiate the specific proposal covered by each contract. All such appropriations shall remain available until expended and shall, insofar as they are used to finance loans made under this Act, be reimbursable in the manner hereinabove provided. Not more than 20 percent of the total amount of additional funds authorized to be appropriated [effective October 1, 1986, for loans and grants pursuant to this Act] for any fiscal year for loans and grants pursuant to title I shall be for projects in [any single State: Provided, That beginning five years after the date of enactment of this Act, the Secretary is authorized to waive] in any single State. Funds obligated or expended for projects by Indian tribes shall not be considered for purposes of the preceding sentence. The Secretary may waive the 20 percent limitation for loans and grants which meet the purposes set forth in section 1 of this Act: Provided further, That the decision of the Secretary to waive the limitation shall be submitted to the Congress together with the project proposal pursuant to [section 4(c)] title I of this Act and shall become effective only if the Congress has not, within 60 legislative days, passed a joint resolution of disapproval for such a waiver.

SEC. [11.] 405. This Act shall be a supplement to the Federal reclamation laws and may be cited as the Small Reclamation Projects Act of 1956.

SEC. [12.] 406. If any provision of this Act or the application of such provision to any person, organization, or circumstance shall be held invalid, the remainder of the Act and the application of such provision to persons, organizations, or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. [13.] 407. A loan contract negotiated and executed pursuant to this Act may be amended or supplemented for the purpose of deferring repayment installments in accordance with the provisions of section 17(b) of the Reclamation Project Act of 1939, as amended (73 Stat. 584, 43 U.S.C. 485b-1).

FEDERAL WATER PROJECT RECREATION ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the Congress and the intent of this Act that (a) in investigating and planning any Federal navigation, flood control, reclamation, hydroelectric, or multiple-purpose water resource project, full consideration shall be given to the opportunities, if any, which the project affords for outdoor recreation and for fish and wildlife enhancement and that, wherever any such project can reasonably serve either or both of these purposes consistently with the provisions of this Act, it shall be constructed, operated, and maintained accordingly; (b) planning with respect to the development of the recreation potential of any such project shall be based on the co-

ordination of the recreational use of the project area with the use of existing and planned Federal, State, or local public recreation developments; and (c) project construction agencies shall encourage non-Federal **public bodies** *entities* to administer project land and water areas for recreation and fish and wildlife enhancement purposes and operate, maintain, and replace facilities provided for those purposes unless such areas or facilities are included or proposed for inclusion within a national recreation area, or are appropriate for administration by a Federal agency as a part of the national forest system, as a part of the public lands classified for retention in Federal ownership, or in connection with an authorized Federal program for the conservation and development of fish and wildlife.

SEC. 2. (a) If **public bodies** *entities* indicate their intent in writing to agree to administer project land and water areas for recreation or fish and wildlife enhancement or for both of these purposes pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and to bear not less than one-half the separable costs of the project allocated to recreation, and to bear one-quarter of such costs allocated to fish and wildlife enhancement, and not less than one-half the costs of operation, maintenance, and replacement incurred therefor—

(1) * * *

* * * * *

Projects authorized during the calendar year 1965 may include recreation and fish and wildlife enhancement on the foregoing basis without the required indication of intent. Execution of an agreement as aforesaid shall be a prerequisite to commencement of construction of any project to which this subsection is applicable.

(b) The non-Federal share of the separable costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by **non-Federal interests** *non-Federal entities*, under either or both of the following methods as may be determined appropriate by the head of the Federal agency having jurisdiction over the project: (1) payment, or provision of lands, interests therein, or facilities for the project; or (2) repayment, with interest at a rate comparable to that for other interest-bearing functions of Federal water resource projects, within fifty years of first use of project recreation or fish and wildlife enhancement facilities~~[: Provided, That the source of repayment may be limited to].~~ *The source of repayment may include entrance and user fees or charges collected and retained at the project by non-Federal interests non-Federal entities if the fee schedule and the portion of fees dedicated to repayment are established on a basis calculated to achieve repayment as aforesaid and are made subject to review and renegotiation at intervals of not more than five years. Fees and charges may be collected, retained and used by the non-Federal entities for operation, maintenance, and replacement of recreation facilities on project lands and waters being managed by the non-Federal entities. As established by the Secretary, any excess revenues will be credited to the Reclamation Fund to remain available, without further Act of appropriation, to support recreation development and management of Bureau of Reclamation land and water areas.*

SEC. 3. [(a) No facilities or project modifications which will furnish recreation or fish and wildlife enhancement benefits shall be provided in the absence of the indication of intent with respect thereto specified in subsection 2(a) of this Act unless (1) such facilities or modifications serve other project purposes and are justified thereby without regard to such incidental recreation or fish and wildlife enhancement benefits as they may have or (2) they are minimum facilities which are required for the public health and safety and are located at access points provided by roads existing at the time of project construction or constructed for the administration and management of the project. Calculation of the recreation and fish and wildlife enhancement benefits in any such case shall be based on the number of visitor-days anticipated in the absence of recreation and fish and wildlife enhancement facilities or modifications except as hereinbefore provided and on the value per visitor-day of the project without such facilities or modifications. Project costs allocated to recreation and fish and wildlife enhancement on this basis shall be nonreimbursable.]

[(b)] (a) Notwithstanding the absence of an indication of intent as specified in subsection 2(a), lands may be provided in connection with project construction to preserve or *enhance* the recreation and fish and wildlife [enhancement potential] *resources* of the project:

(1) If non-Federal [public bodies] *entities* execute an agreement after initial operation of the project (which agreement shall provide that the non-Federal [public bodies] *entities* will administer project land and water areas for recreation or fish and wildlife enhancement or both pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and will bear not less than one-half the costs of lands, facilities, and project modifications provided for recreation, and will bear one-quarter of such costs for fish and wildlife enhancement, and not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable thereto) the remainder of the costs of lands, facilities, and project modifications provided pursuant to this paragraph shall be non-reimbursable. Such agreement and subsequent development, however, shall not be the basis for any reallocation of joint costs of the project to recreation or fish and wildlife enhancement.

(2) If, within ten years after initial operation of the project, there is not an executed agreement as specified in paragraph (1) of this subsection, the head of the agency having jurisdiction over the project may utilize the lands for any lawful purpose within the jurisdiction of his agency, or may offer the land for sale to its immediate prior owner or his immediate heirs at its appraised fair market value as approved by the head of the agency at the time of offer or, if a firm agreement by said owner or his immediate heirs is not executed within ninety days of the date of the offer, may transfer custody of the lands to another Federal agency for use for any lawful purpose within the jurisdiction of that agency, or may lease the lands to a non-Federal [public body] *entity*, or may transfer the lands to the Administrator of General Services for disposition in accordance with the surplus property laws of the United States. In

no case shall the lands be used or made available for use for any purpose in conflict with the purposes for which the project was constructed, and in every case except that of an offer to purchase made, as hereinbefore provided, by the prior owner or his heirs preference shall be given to uses which will preserve and promote the recreation and fish and wildlife [enhancement potential] resources of the project or, in the absence thereof, will not detract from the potential.

(b) *In the absence of a non-Federal managing partner, the Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized, as a part of any water resource development project under the Secretary's control heretofore or hereafter authorized or reauthorized, investigate, plan, construct, replace, manage, operate and maintain or otherwise provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes; the costs of which are nonreimbursable.*

(c)(1) Any recreation facility constructed under this Act may be expanded or modified if—

(A) * * *

(B) a non-Federal [public body] entity executes an agreement which provides that such [public body] entity—

(i) * * *

* * * * *

(3) *In the absence of a non-Federal managing partner, the Secretary of the Interior, acting through the Commissioner of Reclamation, may modify or expand existing facilities, the costs of which are nonreimbursable.*

[SEC. 4. At projects, the construction of which has commenced or been completed as of the effective date of this Act, where non-Federal public bodies agree to administer project land and water areas for recreation and fish and wildlife enhancement purposes and to bear the not less than one-half the costs of operation, maintenance, and replacement of existing facilities serving those purposes, such facilities and appropriate project lands may be leased to non-Federal public bodies.]

SEC. 5. Nothing herein shall be construed as preventing or discouraging postauthorization development of any project for recreation or fish and wildlife enhancement or both by non-Federal [public bodies] entities pursuant to agreement with the head of the Federal agency having jurisdiction over this project. Such development shall not be the basis for any allocation or reallocation of project costs to recreation or fish and wildlife enhancement.

SEC. 6. (a) * * *

* * * * *

(e) Sections 2, 3, 4, [and 5] and between 3 and 4 of this Act shall not apply to nonreservoir local flood control projects, beach erosion control projects, small boat harbor projects, hurricane protection projects, or to project areas or facilities authorized by law for inclusion within a national recreation area or appropriate for administration by a Federal agency as a part of the national forest system, as a part of the public lands classified for retention in Federal own-

ership, or in connection with an authorized Federal program for the conservation and development of fish and wildlife.

* * * * *

(g) Subsection 6(a)(2) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) shall not apply to costs allocated to recreation and fish and wildlife enhancement which are borne by the United States as a nonreimbursable project cost pursuant to subsection 2(a) or subsection [3(b)] 3(a)(1) of this Act.

(h) All payments and repayment by non-Federal [public bodies] *entities* under the provisions of this Act shall be deposited in the Treasury as miscellaneous receipts, and revenue from the conveyance by deed, lease, or otherwise, of lands under subsection [3(b)] 3(a)(2) of this Act shall be deposited in the Land and Water Conservation Fund.

(i) Amounts collected under section 2805 of Public Law 102-575 for admission to or recreation use of project land and waters shall be deposited in a special account in the Reclamation Fund and remain available to the Commissioner of Reclamation without further appropriation until expended. Such funds may be used for the development, reconstruction, replacement, management, and operation of recreation resources on project lands and waters with not less than 60 percent being used at the site from which the fees were collected.

SEC. 7. [(a) The Secretary is authorized, in conjunction with any reservoir heretofore constructed by him pursuant to the Federal reclamation laws or any reservoir which is otherwise under his control, except reservoirs within national wildlife refuges, to investigate, plan, construct, operate and maintain, or otherwise provide for public outdoor recreation and fish and wildlife enhancement facilities, to acquire or otherwise make available such adjacent lands or interests therein as are necessary for public outdoor recreation or fish and wildlife use, and to provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes. Lands, facilities and project modifications for the purposes of this subsection may be provided only after an agreement in accordance with subsection (b) or (c) of section 3 of this Act has been executed.]

(a) The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized, in conjunction with any water resource development project heretofore or hereafter constructed or which is otherwise under the Secretary's control, to—

(1) investigate, plan, design, construct, replace, manage, operate, and maintain or otherwise provide for recreation and fish and wildlife enhancement facilities and services, the costs of which may be nonreimbursable;

(2) provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes; and

(3) to acquire or otherwise make available such adjacent lands or interests therein as are necessary for public recreation or fish and wildlife use.

(b) The Secretary of the Interior is authorized to enter into agreements with Federal agencies or State or local public bodies for the administration and management of project land and water areas and the operation, maintenance, and replacement of facilities and

to transfer project lands or facilities to Federal agencies or State or local public bodies by [lease] agreement or exchange upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation and fish and wildlife enhancement purposes. *All such agreements or contracts for administration or management shall identify the terms and conditions of administration, management, and use, approvals required from Bureau of Reclamation, and assure public access to project lands managed for recreation.*

* * * * *

(d) *The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized to approve the administration, management, and use of Bureau of Reclamation lands, waters, and the resources thereon by means of easements, leases, licenses, contracts, permits, and other forms of conveyance instruments.*

(e) *The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized to produce and/or sell to the public: information about Bureau of Reclamation programs including publications, photographs, computer discs, maps, brochures, posters, videos, and other memorabilia related to the Bureau of Reclamation, and the natural, historic, and cultural resources of the area; and, other appropriate and suitable merchandise to enhance the public's use of the area. Income from such sales shall be credited to the Reclamation Fund to remain available, without further Act of appropriation, to pay costs associated with the production and sale of items, and any remaining revenue shall be available, without further Act of appropriation, to support recreation development and management of Bureau of Reclamation land and water areas.*

* * * * *

SEC. 10. As used in this Act:

(a) * * *

* * * * *

(f) *The term "non-Federal entity" means non-Federal public bodies, nonprofit organizations, Indian tribes, or entities within the private sector.*

* * * * *

SEC. 12. FUND AUTHORIZATIONS.

There is hereby authorized to be appropriated from time to time such funds as may be required for the Secretary of the Interior, acting through the Commissioner of Reclamation to accomplish the purposes of this Act and remain available until expended.

SEC. [12.] 13. This Act may be cited as the "Federal Water Project Recreation Act".

DISSENTING VIEWS

We fully support the Committee's desire to provide a legislative framework for the continuation of the CALFED Bay-Delta Program in California. However, we believe the provisions of Title I of H.R. 3208 as reported will not fairly implement the CALFED Bay-Delta Program, and will instead cause years of delay and litigation which, in turn, will discourage Congress from funding the program. Without federal funding, state funding will surely dry up, and CALFED will wither.

While our concerns primarily are with Title I of H.R. 3208 as reported, there are several other provisions of the bill that, while well-intentioned, are seriously flawed and should be rejected.

INTRODUCTION AND CONTEXT

Title I of H.R. 3208, *The Western Water Security Enhancement Act*, is primarily intended to reauthorize the CALFED Bay-Delta Program, a collaborative effort involving eighteen State and Federal agencies and representatives of California's urban, agricultural, and environmental communities. The goals of the program generally are to improve fish and wildlife habitat, water supply reliability, and water quality in the San Francisco Bay-San Joaquin River Delta, the principal hub of California's water distribution system. Congressional authorization for this program, originally granted by the 1996 California Bay-Delta Environmental Enhancement Act, has now lapsed.

The 1996 Act authorized a total of \$430 million over three years (FY 1998 to FY 2000) for ecosystem restoration activities in the Bay-Delta region. From FY 1998 to FY 2000 a total of \$190 million was provided in appropriations administered by the Bureau of Reclamation and other participating Federal agencies, based on plans developed by CALFED. Other funds in support of CALFED activities and projects have been made available by the California legislature and State bond issues.

The lead CALFED agencies released the Final Programmatic Environmental Impact Statement/Environmental Impact Report and Preferred Alternative on July 21, 2000. A Record of Decision (ROD) was signed by Interior Secretary Bruce Babbitt on August 28, 2000. The ROD formally approved a long-term plan for restoring the Bay-Delta ecosystem and improving water management.

No Federal funds were provided for the CALFED program in FY 2001, largely because the appropriations committees deferred to the authorizing committees to review the program and develop appropriate legislation. Because the Congress has not enacted authorizing legislation, Federal spending for the Bay-Delta program in recent years has been limited to activities that can be undertaken within existing statutory authorities.

TITLE I. WESTERN WATER SECURITY PROGRAM

Title I of H.R. 3208 includes several highly controversial provisions that go well beyond the agreements reached in the formal Record of Decision (ROD) for the CALFED Bay-Delta Program. For that reason, the legislation has drawn substantial criticism from many CALFED participants and from leading newspapers throughout California.

Almost everyone agrees that the stakeholder-driven, collaborative CALFED program should continue. There really is no other rational way to address the complex issues involved in managing the state and federal water programs in California. To achieve that goal, we must reauthorize the program and provide adequate funding to achieve the goals identified in the ROD.

All parties would prefer to see some aspect of the ROD changed. But the ROD was developed through thousands of hours and hundreds of meetings throughout the state. Efforts to alter its balanced program, or to steer it in ways that clearly and unfairly favor certain participants in the CALFED process at the expense of others, will discredit CALFED and jeopardize the future of this legislation.

Unfortunately, Title I of H.R. 3208 is neither balanced nor fair. It veers wildly from the course envisioned in years of negotiations and the CALFED ROD. A number of significant commitments made in the ROD are conspicuously missing from this legislation, and some fundamental CALFED and Reclamation policies would be reversed if H.R. 3208 is enacted.

Sec. 4. Definitions

The definition of "Water Supply" does not specifically include desalination of seawater or brackish water. Desalination technologies have improved dramatically in recent years, and the costs associated with desalination continue to decrease. The hearing record for this legislation includes testimony that stresses the importance of desalination as a means of increasing water supplies in California.

Sec. 102. Water Security Board

This section requires the Secretary to develop a proposal for a CALFED "Water Security Board." The bill includes a number of specific directives to the Secretary regarding duties and responsibilities of the Board.

We believe this section improperly will require the Water Security Board to disregard the federal-state negotiated, CALFED Record of Decision (ROD). In addition, the makeup of this Water Security Board is tenuous, with the bill only enumerating Federal agencies, state agencies, local governments and "other interested persons." Under this section, this nebulous entity holds the purse strings of an unlimited authorization for funds to implement a CALFED program that might ultimately be quite different from that set forth in the ROD.

Sec. 102(b)(3) requires development of a proposal that would improperly allow the Water Security Board, which is *not* a Federal agency, to overturn decisions made by the Secretary of the Interior and other Federal agencies regarding the implementation of Federal laws, including the Central Valley Project Improvement Act,

the Clean Water Act, and the Endangered Species Act. If this language is enacted, we will be legislating institutional chaos. The practical effects of this provision are difficult to imagine, but there is little doubt that delays in implementation of Federal laws, and litigation over the authorities of the Water Security Board, will result.

Sec. 102(e)(3) provides that the proposal for the Water Security Board shall ensure that an “independent peer review process . . . including independent review of biological opinions,” is established. There is no provision in the Endangered Species Act for peer reviews of biological opinions, and legislating this requirement in H.R. 3208 is inappropriate. Agency procedures already include extensive and formal review requirements for biological opinions. If the sponsors of H.R. 3208 desire “peer reviews,” the Committee and the Congress should have that debate in the context of legislation to amend the Endangered Species Act.

Sec. 102(j) improperly holds hostage funding for implementation of the CVP Restoration fund if Congress has not enacted legislation authorizing implementation of the proposal to create the Water Security Board. This language is demonstrative of the pervasive bias in H.R. 3208 against ecosystem restoration projects. We note there is no similar language in the bill to prohibit funding for dams, canals, or pumping plants if the Water Security Board is not created by a date certain.

Sec. 103. California water supply security

Sec. 103(a)(2)(A) requires the Federal agencies to consider “all potential water yield and water storage alternatives.” This provision is guaranteed to re-ignite the classic conflicts over water storage projects in California. Storage projects of all types were evaluated during the preparation of the CALFED ROD. It is neither necessary nor desirable to revisit storage alternatives that have already been rejected during the CALFED process.

Sec. 103(a)(4) includes so-called “assurances” language for certain irrigation water deliveries. Notwithstanding the amendment offered at Full Committee by Mr. Dooley and agreed to by voice vote, this so-called “assurances language” is in effect a statutory guarantee that approximately 1,000 Federal water contractors on the west side of California’s San Joaquin Valley (primarily in the Westlands Water District) will receive at least 70% of their current contractual water supplies¹ in a normal year. If H.R. 3208 as reported is enacted, what is now a *contractual* right to receive irrigation water from the Central Valley Project (CVP) will likely be interpreted as a *statutory* right. We expect this could be viewed as a legal entitlement which the Westlands Water District and others could use in existing and likely future litigation to challenge other uses of water and water claims of other water users in California, including Indian Tribes, fishing interests, and the environment.

¹ Westlands’ water service contract provides for a maximum delivery of 1.15 million acre-feet per year. Deliveries of CVP water to Westlands since 1990 have ranged from 25% to 100% of the contract supply. When less than the full contract supply is available to Westlands, the district uses local groundwater and also purchases short-term surface water supplies to make up the shortfall (Source: Westlands Water District).

Several water districts² in California have objected to this language, fearing their rights to water supplies are at risk.

The “assurances language” is a radical departure from Federal Reclamation law. Full implementation of this language would effectively turn the current CVP water allocation structure on its head, giving the strongest claims to project water to those who are most junior on the project. In effect, the beneficiaries of the assurances language would be elevated in water delivery priority above all others. Aggressive implementation to accomplish the “goal” of assured water deliveries in Sec. 103(a)(4) as amended would also likely take precedence over water deliveries for environmental purposes, including the Endangered Species Act and the Clean Water Act.

The United States is now under no legal obligation to replace water or to pay damages for water that is not deliverable to a CVP water service contractor. If the assurances language in H.R. 3208 as reported is enacted, it may be necessary to change the operation of the project to meet the revised water delivery requirements. Will the United States be liable for payment of damage claims by water districts (or Indian Tribes, or commercial fishing interests, for example) adversely affected by water deliveries pursuant to the assurances language?

The water delivery guarantees contemplated by this section of the bill are unprecedented. Water users throughout the West are paying close attention to how this issue is resolved in Congress, because Congressionally-mandated water deliveries in California could seriously threaten the long-established traditional system of allocating water via state water rights permits.

Sec. 103(b) imposes a requirement that a “comprehensive plan” (undefined) be prepared to insulate water users from the “impacts” and “adverse effects” of complying with the Endangered Species Act. This provision illustrates well the bias in H.R. 3208 against environmental protection and enforcement of the Endangered Species Act. Despite the claims by the bill’s sponsors that H.R. 3208 is “balanced,” there is no analogous provision in the bill that requires natural resource values to be fully protected from over-zealous dam builders.

Sec. 105. Competitive Grant Program

Federal taxpayer dollars will be used to fund a new western grant program for water resource development. This new water project grant program will cost the federal taxpayer \$50 million for FY2002 and \$500 million for every year thereafter in perpetuity, adding up to billions of dollars of taxpayer money.

The ambitious program established in Sec. 105 was inserted into the bill with a complete lack of justification. There is nothing in the Committee hearing record that suggests either a need or a justification for this type of program. There has been no analysis of need, no inquiries to the Governors, no vetting of this proposal at any level. Yet the Congress in this section of H.R. 3208 is expected to stamp its approval on a proposal to provide essentially unlimited

²Including two of the largest water districts in California, the Friant Water Users Authority (letter to the Hon. Ken Calvert dated November 6, 2001) and the Metropolitan Water District of Southern California (letter to the Hon. Ken Calvert dated December 11, 2001).

and unsupervised funding of new water projects throughout the West.

Sec. 105(d)(3) describes cost-sharing requirements, but the language regarding “ongoing operations and maintenance” is unclear. Under Reclamation law, project beneficiaries are responsible for 100 percent of operation and maintenance. No cost-sharing is allowed for these costs.

Sec. 106. Authorization and appropriation process

Sec. 106(b)(2) sets funding eligibility requirements for projects, allowing appropriations only for projects that have been specifically authorized by Congress. While well-intentioned, we believe this section as currently drafted will significantly bog down the implementation of the CALFED program by requiring legislation for even the smallest projects. The sponsors of H.R. 3208 should consider the approach taken in S. 1768, which simply authorizes implementation of the CALFED program and sets forth authorization and reporting requirements for construction and acquisition activities where the Federal share exceeds \$10 million.

Sec. 106(c)(1) enumerates report requirements for proposed projects, but only superficial attention is given to project economics and financial concerns. Completely ignored in this section (and in the entire bill) are key promises made to federal taxpayers and CALFED “stakeholders” in years of CALFED negotiations, including the concept of “beneficiaries pay.” The ROD requires people and groups benefiting from projects to pay their fair share of those projects. H.R. 3208 ignores this important taxpayer protection, requiring only that project reports include “identification of project benefits and beneficiaries” and a “cost and benefit allocation plan.” These ineffectual reporting requirements will guarantee that taxpayers will end up paying most of the bills for these projects, whether cost-beneficial or not.

Sec. 106(c)(1) also references funding responsibilities for “ongoing operations and maintenance,” with language identical to that found in Sec. 105(d)(3). Again, the language is unclear. Under Reclamation law, project beneficiaries are responsible for 100 percent of operation and maintenance. No cost-sharing is allowed for these costs.

TITLE II. SMALL RECLAMATION PROJECTS

This title is a reinvention of the Small Reclamation Projects Act of 1956, a program that has had more than its share of problems and critics in recent years. Little or no funding has been provided for loans under this program in recent years. Title II of H.R. 3208 proposes an authorization of \$1.3 billion for this program.

This Title includes many commendable improvements and reforms to the original 1956 program. For example, projects no longer must include an irrigation component in order to be eligible under the program. The program described in Title II specifically also would be available to non-Federal organizations in the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands. In addition, the program has been

expanded to allow projects for water conservation, water quality, and fish and wildlife improvements.

TITLE III. MISCELLANEOUS

Sec. 301. Secretarial actions to reduce California's use of Colorado River water

This section, in the form of an amendment by Chairman Hansen, was adopted at the Full Committee markup of H.R. 3208.

Sec. 301(e) would prohibit the Secretary of the Interior from delivering to California any more than 4.4 million acre feet of water in any year after 2016, except when the Colorado River is in a flood avoidance circumstance. If enacted, this provision effectively requires California to move even faster and more comprehensively towards full implementation of the "4.4 plan" than would otherwise be expected.

While well-intentioned, we cannot support the inclusion of the Sec. 301(e) requirement. The seven Colorado River Basin states have demonstrated their ability to work through complex water management issues on their own. Congress should not interfere in this process at this time.

NICK RAHALL.
 GEORGE MILLER.
 HILDA L. SOLIS.
 PETER A. DEFAZIO.
 GRACE F. NAPOLITANO.
 ADAM SMITH.
 FRANK PALLONE, Jr.
 JAY INSLEE.
 RUSH HOLT.
 EDWARD J. MARKEY.
 DONNA M. CHRISTENSEN.
 JIM MCGOVERN.
 BETTY MCCULLOM.
 DALE E. KILDEE.

ADDITIONAL VIEWS

While we oppose H.R. 3208 in the form that it is reported, we do applaud the adoption by the Committee of language requiring that prevailing wages be paid by contractors or subcontractors on any project or activity funded by title I or II. The Miller-Rahall amendment—which clarifies that wages paid to laborers or mechanics on such federally funded projects must be equivalent to wages applicable under the Davis-Bacon Act of 1931—was approved by a vote of 23 to 18 and is incorporated in Section 305.

For over seven decades, the Davis-Bacon Act has mandated that prevailing wages be paid when the federal government funds construction projects. Over many years, the Davis-Bacon law has applied to traditional Bureau of Reclamation construction projects including dams. The purpose of the Miller-Rahall amendment is to eliminate any potential confusion or debate as to whether Davis-Bacon wages are mandated for projects or activities authorized by titles I and II of this legislation.

We are perplexed as to why any Member of the Committee would have opposed this amendment. The Davis-Bacon law has long been a vital cog in the economic progress of this nation. Assuring that workers are paid a fair wage under a law enacted under the Administration of President Hoover is not a radical concept and, at a time of economic downturn, even more critical to reinforce and implement. It is, after all, the hard-working constituents of Committee Members and local economies, particularly in the rural west, who stand to benefit most from the payment of Davis-Bacon wages under this legislation.

Moreover, as we noted at the markup, the opposition of many Majority Members to the Davis-Bacon amendment stands in stark contrast to the position they took in support of wage-labor protections in the bill to authorize oil and gas leasing in the Arctic National Wildlife Refuge (H.R. 2436, incorporated into H.R. 4 as passed by the House). There was not a peep of opposition from the Majority, either in Committee markup or on the House floor, to the expansive project labor guarantees for Arctic Refuge leasing in that energy legislation.

We strongly believe that the rights of American workers to be paid prevailing wages on federal projects should be protected. This is a fundamental right that should not be subject to the whims of the Majority or applied only when it is politically convenient. Accordingly, we urge our colleagues to resist any attempts to remove the Davis-Bacon language in Section 305 when H.R. 3208 is considered by the House.

GEORGE MILLER.
NICK RAHALL.

