

## HR 2898

Western Water and American Food Security Act of 2015

**Congress:** 114 (2015–2017, Ended)

**Chamber:** House

**Policy Area:** Water Resources Development

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### Sponsor

**Name:** Rep. Valadao, David G. [R-CA-21]

**Party:** Republican • **State:** CA • **Chamber:** House

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| Rep. Walters, Mimi [R-CA-45]            | R · CA        |      | Jun 25, 2015 |
| Rep. Zinke, Ryan K. [R-MT-At Large]     | R · MT        |      | Jun 25, 2015 |
| Rep. Gosar, Paul A. [R-AZ-4]            | R · AZ        |      | Jul 9, 2015  |

## Committee Activity

| Committee                              | Chamber | Activity                     | Date         |
|--|---------|------------------------------|--------------|
| Agriculture Committee                  | House   | Discharged From              | Jul 13, 2015 |
| Energy and Natural Resources Committee | Senate  | Hearings By (full committee) | Oct 8, 2015  |
| Natural Resources Committee            | House   | Discharged from              | Jul 9, 2015  |

## Subjects & Policy Tags

### Policy Area:

Water Resources Development

## Related Bills

| Bill         | Relationship | Last Action   |
|--------------|--------------|---|
| 114 S 2012   | Related bill | <b>Sep 8, 2016:</b> Conference held.  |
| 114 HRES 362 | Related bill | <b>Jul 15, 2015:</b> Motion to reconsider laid on the table Agreed to without objection.  |
| 114 HR 2749  | Related bill | <b>Jun 25, 2015:</b> Subcommittee Hearings Held.  |
| 114 S 1657   | Related bill | <b>Jun 24, 2015:</b> Read twice and referred to the Committee on Energy and Natural Resources.  |
| 114 S 982    | Related bill | <b>Jun 18, 2015:</b> Committee on Energy and Natural Resources Senate Subcommittee on Water and Power. Hearings held. With printed Hearing: S.Hrg. 114-399. |
| 114 S 1533   | Related bill | <b>Jun 18, 2015:</b> Committee on Energy and Natural Resources Senate Subcommittee on Water and Power. Hearings held. With printed Hearing: S.Hrg. 114-399. |
| 114 HR 2097  | Related bill | <b>May 26, 2015:</b> Referred to the Subcommittee on Water, Power and Oceans.   |
| 114 HR 1830  | Related bill | <b>May 7, 2015:</b> Referred to the Subcommittee on Water, Power and Oceans.  |

## **Highlights:**

The Western Water and American Food Security Act of 2015 establishes procedures for the Department of the Interior, the Department of Commerce, and the Department of Agriculture to address drought conditions in California by revising regulatory standards for managing conveyances of water to individual, agricultural, municipal, and industrial users from the California-based Central Valley Project (CVP) and State Water Project in coordination with requirements for protecting threatened or endangered species under the Endangered Species Act of 1973, including fish species of salmonid and smelt in the Sacramento-San Joaquin Delta and the Suisun Marsh.

The bill requires the use of updated data to adjust incidental take levels, water export restrictions, and other conservation measures set forth in a smelt biological opinion issued by the U.S. Fish and Wildlife Service on December 15, 2008, and in a salmonid biological opinion issued by the National Marine Fisheries Service on June 4, 2009, in order to increase water exports and maximize water supplies without causing a significant negative impact on the long-term survival of certain species listed as threatened or endangered.

The bill also provides for: (1) a nonnative predator fish removal program in the Stanislaus River, (2) the repeal of the San Joaquin River Restoration Settlement Act and the related settlement, (3) expansion of the CVP's authorized service area to include the Kettleman City Community Services District, and (4) the use of expedited procedures to consider project requests from the California governor relating to emergency drought conditions.

For areas within and beyond California, the bill revises or establishes requirements for water supply permits, prepayments on water service contracts, water efficiency considerations in dam safety projects, and water rights in land use decisions.

## **Full Summary:**

### **Western Water and American Food Security Act of 2015**

#### **TITLE I--ADJUSTING DELTA SMELT MANAGEMENT BASED ON INCREASED REAL-TIME MONITORING AND UPDATED SCIENCE**

(Sec. 102) Establishes procedures to adjust Delta smelt management measures set forth in the smelt biological opinion for the Central Valley Project (CVP) and the State Water Project (SWP) in California issued by the U.S. Fish and Wildlife Service (USFWS) on December 15, 2008.

Defines: (1) "Delta" as the Sacramento-San Joaquin Delta and the Suisun Marsh, and (2) "Delta smelt" as fish species with the scientific name *Hypomesus transpacificus*.

Requires the USFWS, by October 1, 2016, and at least every five years thereafter, to cooperate with federal, California, and local agencies to use updated scientific and commercial data to modify the calculation of incidental take levels for adult and larval/juvenile Delta smelt in the smelt biological opinion.

Requires the modified incidental take level to be set as the 80% upper prediction interval derived from simulated salvage rates since at least 1993, based on factors including prespawning adult Delta smelt indexes and the flow of the Old and Middle River (OMR) during the adult salvage period, unless the USFWS determines that certain requirements are not appropriate.

(Sec. 103) Directs the USFWS to implement and make appropriate amendments to the reasonable and prudent alternative described in the USFWS's smelt biological opinion. Requires Interior to make all significant decisions in writing under the smelt opinion and any successor opinions affecting the CVP or the SWP.

Requires Interior to determine annually: (1) the extent that adult Delta smelt are distributed in relation to certain levels of turbidity or other environmental factors that may influence the salvage rate, and (2) how the CVP and SWP may be operated to minimize salvage while maximizing export pumping rates without causing a significant negative impact on the long-term survival of Delta smelt.

Defines "negative impact on the long-term survival" as an appreciable reduction in the likelihood of the survival of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

Requires Interior, if suspended sediment loads from the Sacramento River appear likely to raise turbidity levels in specified areas during each period from December through March, to conduct daily monitoring to determine how increased trawling can inform real-time CVP and SWP operations.

Directs Interior, by January 1, 2016, and at least every five years thereafter, in collaboration with the California Department of Fish and Wildlife (CDFW), the California Department of Water Resources (CDWR), public water agencies, and other interested entities, to implement new targeted sampling and monitoring specifically designed to understand Delta smelt abundance, distribution, and habitats during all life stages.

Requires Interior, in implementing provisions of the smelt biological opinion pertaining to reverse flow in the OMR, to maximize CVP and SWP water supplies by managing export pumping rates to a reverse flow rate of -5,000 cubic feet per second, unless Interior provides documentation concluding that a less negative OMR flow rate is necessary to avoid a negative impact on the long-term survival of Delta smelt. Directs Interior to manage a more negative OMR flow rate if it can be established without an imminent negative impact.

Requires the Bureau of Reclamation (Reclamation) and the USFWS, by December 1, 2015, to execute a memorandum of understanding (MOU) to ensure that the smelt biological opinion is implemented in a manner that maximizes water supply while complying with applicable laws and regulations. Provides a framework under which reinitiation of consultation is unnecessary if any changes that the MOU makes to the biological opinion will not have a significant negative impact on the long-term survival of listed species and would not be a major change to implementation of the biological opinion. Prohibits procedural changes that do not create a significant negative impact on long-term survival from altering application of the take permitted by the incidental take statement in the biological opinion.

Directs Interior, for purposes of increasing CVP and SWP water supplies, to revise the method of calculating reverse flow in the OMR for implementation of the reasonable and prudent alternatives in the USFWS's smelt biological opinion, the salmonid biological opinion issued by the National Marine Fisheries Service (NMFS) on June 4, 2009, and any succeeding opinion.

## TITLE II--ENSURING SALMONID MANAGEMENT IS RESPONSIVE TO NEW SCIENCE

(Sec. 202) Establishes a process for Reclamation and the Assistant Administrator of National Oceanic and Atmospheric Administration for Fisheries (NOAA Fisheries, also known as the NMFS) to provide for implementation of the reasonable and prudent alternative described in the NMFS's salmonid biological opinion to be adjusted as new scientific and commercial data is developed.

Requires Interior and the Department of Commerce, by December 31, 2016, and at least annually thereafter, to direct Reclamation and the Assistant Administrator to implement certain recommended adjustments to project operations (pertaining to negative OMR flows, timing and triggers for pumping restrictions, and inflow to export ratios) that, in the exercise of the adaptive management provisions of the salmonid biological opinion, will reduce water supply impacts of the salmonid biological opinion on the CVP and the SWP. Requires implementation of adjustments for which: (1) the net effect on listed salmonid species and Delta smelt is equivalent to those of the underlying project operational parameters in the salmonid biological opinion, and (2) the effects of the adjustment can be expected to fall within incidental take authorizations.

Directs Reclamation and the Assistant Administrator to evaluate potential species survival improvements likely to result from other measures that, if implemented, would offset adverse effects.

Requires survival estimates to be based on: (1) quantitative estimates, or (2) qualitative terms if scientific information is lacking for quantitative estimates.

Requires the Assistant Administrator to compare existing measures to increase through-Delta survival of salmonid through restrictions on export pumping rates to possible alternative management measures to increase salmonid survival through: (1) physical habitat restoration improvements, (2) predation control programs, (3) installation of temporary barriers or management of Cross Channel Gates operations, (4) salvaging near Clifton Court Forebay, or (5) conservation hatchery programs. Directs Reclamation to implement such an alternative measure in order to increase export rates if the Assistant Administrator determines that: (1) the alternative measure is technically feasible and within federal jurisdiction, or (2) California or a local agency has certified that it has the authority and capability to implement the alternative measure.

Directs the Assistant Administrator and Reclamation to consider requiring the Assistant Administrator to show that the implementation of certain conservation measures is necessary to avoid a significant negative impact on salmonid species before the measures are imposed in any specific instance.

Requires the Assistant Administrator, the USFWS, and Reclamation to establish operational criteria to coordinate management of OMR flows under the smelt and salmonid biological opinions to provide additional water supplies. Directs the Assistant Administrator and Reclamation to document the effects of any adaptive management decisions that prioritize the maintenance of one species at the expense of the other.

Prohibits the Assistant Administrator and Reclamation from limiting OMR reverse flow to -5,000 cubic feet per second unless current monitoring data indicates that such a limitation is reasonably required to avoid a significant negative impact on the long-term survival of a listed salmonid species.

Directs Commerce, if quantitative estimates of through-Delta survival established to adjust the salmonid biological opinion's pumping restrictions exceed the through-Delta survival established for the opinion's reasonable and prudent alternatives, to evaluate and implement the adjusted management measures as a prerequisite to implementing the alternatives contained in the opinion.

(Sec. 203) Directs Commerce and California's Oakdale and South San Joaquin Irrigation Districts (the districts) to conduct a nonnative predator fish removal program to remove nonnative striped bass, smallmouth bass, largemouth bass, black bass, and other nonnative predator fish species from the Stanislaus River. Requires the program to quantify the impact of such removal on the populations of juvenile anadromous fish. Requires the districts to be responsible for 100% of the cost of such program. Directs Commerce to post on the NMFS's website a summary of the raw data

collected under the program each month. Deems the program to be consistent with the Central Valley Project Improvement Act (CVPIA). Prohibits striped bass from being treated as anadromous fish for purposes of the CVPIA's application to the program.

(Sec. 204) Directs Interior to collaborate with Commerce, the CDFW, and other relevant agencies and interested parties to begin pilot projects to implement the invasive species control program under P.L. 108-361. Requires the projects to: (1) seek to reduce invasive aquatic vegetation, predators, and other competitors that contribute to the decline of native listed pelagic and anadromous species that occupy the Sacramento and San Joaquin Rivers and their tributaries and the Sacramento-San Joaquin Bay-Delta; and (2) remove, reduce, or control the effects of species, including Asiatic clams, silversides, gobies, Brazilian water weed, water hyacinth, largemouth bass, smallmouth bass, striped bass, crappie, bluegill, white and channel catfish, and brown bullheads.

Terminates such pilot projects seven years after commencement of their implementation.

### TITLE III--OPERATIONAL FLEXIBILITY AND DROUGHT RELIEF

(Sec. 302) Requires the Departments of Agriculture (USDA), Commerce, and the Interior to approve projects and operations to provide the maximum quantity of water supplies practicable to all individuals or districts that receive CVP water under water service or repayments contracts, water rights settlement contracts, exchange contracts, or refuge contracts or agreements, to SWP contractors, and to any other tribe, locality, water agency, or municipality in California to address the emergency drought conditions for the period of time such that in any year that the Sacramento Valley Index is 6.5 or lower, or at California's request, and until two succeeding years after either of those events has been completed where the final index is 7.8 or greater. Directs Commerce and Interior to develop a drought operations plan for such periods.

Provides for: (1) temporary barriers or operable gates to be designed so that formal consultations under the Endangered Species Act of 1973 (ESA) are not necessary; (2) adoption of a 1:1 inflow to export ratio under specified conditions, as measured as a three-day running average at Vernalis between April 1 and May 31, absent a determination in writing that a more restrictive inflow to export ratio is required to avoid a significant negative impact on the long-term survival of a listed salmonid species under the ESA; and (3) water transfers through the C.W. "Bill" Jones Pumping Plant or the Harvey O. Banks Pumping Plant from April 1 to November 30 if the transfers comply with California law.

Provides expedited procedures for consideration of requests by the California governor relating to federal, state, or local projects or operations to provide relief for emergency drought conditions. Requires Interior to convene a final project decision meeting with relevant federal agencies upon the request of the California governor, USDA, or Commerce. Directs the relevant federal agency to issue a final decision on the project within 10 days after the meeting is requested. Allows Interior to also convene such a meeting at its own discretion.

(Sec. 303) Directs Commerce and Interior to ensure that the Delta Cross Channel Gates remain open to the maximum extent practicable using findings from the U.S. Geological Survey on diurnal behavior of juvenile salmonids, timed to maximize the peak flood tide period and provide water supply and water quality benefits for the duration of a California drought emergency declaration and for periods based on Sacramento Valley index levels, or at California's request, consistent with operational and monitoring criteria set forth in the Order Approving a Temporary Urgency Change in License and Permit Terms in Response to Drought Conditions of the California State Water Resources Control Board, effective January 31, 2014, and other associated authorizations. Requires Commerce and Interior, with respect to such gate operations, to: (1) collect data on the impact of such operations on threatened or endangered species, water quality,

water supply; (2) collaborate with the CDWR to install a deflection barrier at Georgiana Slough in coordination with diurnal operations to protect migrating salmonids, consistent with knowledge gained from activities in 2014 and 2015; (3) evaluate combined salmonid survival when deciding how to operate the gates to enhance salmonid survival and water supply benefits; and (4) notify Congress by May 15, 2016, regarding the extent to which the gates are able to remain open.

Directs Interior to recommend revisions to gate operations, the CVP, and the SWP that are likely to produce water supply benefits without causing a significant negative impact on the long-term survival of the listed fish species within the Delta or on water quality.

(Sec. 304) Sets forth requirements concerning Reclamation's responsibility to continue to vary the averaging period of the Delta Export/Inflow ratio pursuant to California State Water Resources Control Board decision D1641 during and in the period after the Sacramento Valley index is 6.5 or lower, or at California's request.

(Sec. 305) Allows USDA, Commerce, or Interior to deem alternative arrangements for a project to be in compliance with the National Environmental Policy Act of 1969 (NEPA) during emergency drought conditions if immediate implementation is necessary to address: (1) human health and safety, or (2) a specific and imminent loss of agriculture production upon which an identifiable region depends for 25% or more of its tax revenue used to support public services. Requires consultation with the Council on Environmental Quality to develop such alternative arrangements.

(Sec. 306) Sets forth requirements regarding: (1) the implementation of offsite upstream projects in the Delta and upstream of the Sacramento River and San Joaquin basins that offset the effects on threatened or endangered species; (2) management of a more negative reverse flow in the OMR for specific periods; and (3) scientific tools to identify any changes to real-time operations of Reclamation, California, and local water projects that could result in the availability of additional water supplies.

(Sec. 307) Requires USDA, Commerce, and Interior to authorize the CVP and the SWP to operate (within ranges permitted by applicable environmental laws) at levels that result in negative OMR flows at -7,500 cubic feet per second daily average for 56 cumulative days after October 1. Authorizes such temporary operational flexibility on days that the CDWR determines the daily average river flow of the Sacramento River is at or above 17,000 cubic feet per second.

Allows OMR flow, during the first flush of sediment out of the Delta each water year, to be managed at rates less negative than -5,000 cubic feet per second for a minimum duration to avoid movement of adult Delta smelt to areas in the southern Delta that would be likely to increase entrainment at CVP and SWP pumping plants.

Requires Reclamation to monitor such operations to ensure that incidental take levels are not exceeded.

Provides a process for Reclamation to use emergency consultation procedures under the ESA to temporarily adjust operating procedures of the relevant biological opinions if operational flexibility actions implemented under this section will exceed 56 days.

(Sec. 308) Amends the CVPIA to provide Interior with procedures for expedited transfers of CVP water to assist California urban areas, agricultural water users, and others in meeting their future water needs.

(Sec. 309) Exempts from mitigation measure requirements certain operating criteria adjustments, or urgent actions to address water supply shortages for the least amount of time or volume of diversion necessary as determined by Reclamation, during any year that the Sacramento Valley index is 6.5 or lower, or at California's request, and until two

succeeding years following either of those events have been completed where the final index is 7.8 or greater. Requires any mitigation measures imposed to be based on quantitative data and required only to the extent that such data demonstrates actual harm to species.

(Sec. 310) Directs Reclamation to work with local water and irrigation districts in the Stanislaus River Basin to ascertain the water storage made available by the Draft Plan of Operations in New Melones Reservoir (DRPO) for water conservation programs, conjunctive use projects, water transfers, rescheduled project water, and other projects to maximize water storage and ensure the beneficial use of the water resources in that basin. Requires the source of water for any storage program at New Melones Reservoir to be made available under a valid water right.

Directs Reclamation to inform Congress of the amount of storage made available by the DRPO that has been put to use under such program, including proposals from interested parties.

(Sec. 311) Requires Interior, in collaboration with the Sacramento Water Forum, to expedite evaluation, completion, and implementation of the Modified Lower American River Flow Management Standard developed by the Water Forum in 2015 to improve water supply reliability for CVP American River water contractors and resource protection in the lower American River during consecutive dry years under current and future demand and climate change conditions.

(Sec. 312) Provides for SWP and CVP contractors, if Reclamation or another federal agency initiates or reinitiates consultation with the USFWS or the NMFS with respect to construction or operation of the CVP and SWP, to be accorded all rights and responsibilities extended to applicants in the consultation process.

(Sec. 313) Repeals the San Joaquin River Restoration Settlement Act and the related stipulation of settlement in *Natural Resources Defense Council v. Rodgers* in the Eastern District of California. Deems certain fish and game requirements to be satisfied by the existence of a warm water fishery in the San Joaquin River (below Friant Dam, but upstream of Gravelly Ford) that has an environment suitable for species of fish other than salmon and trout.

(Sec. 314) Requires Interior, by December 31, 2015, to develop and implement a program, including rescheduling guidelines for Shasta and Folsom Reservoirs, to allow existing CVP agricultural water service contractors within the Sacramento River Watershed, as well as refuge service and municipal and industrial water service contractors within the Sacramento River Watershed and the American River Watershed, to reschedule water provided for under their CVP contracts from one year to the next. Conditions such rescheduling on the program being consistent with existing rescheduling guidelines utilized by Reclamation for rescheduling water for CVP water service contractors that are located south of the Delta.

#### TITLE IV--CALFED STORAGE FEASIBILITY STUDIES

(Sec. 401) Establishes deadlines for Interior, through Reclamation, to complete and submit to Congress water storage feasibility studies concerning specified dams and reservoirs under the Calfed Bay-Delta Authorization Act. Requires cooperation with public water agencies that contract with the United States for CVP water and that are expected to participate in the cost pools for the proposed projects.

Directs the Secretary of the Interior, if a feasibility report is not submitted on time, to notify each of the relevant congressional committee chairs individually in person on the status of each project once a month until the study is provided to Congress.

(Sec. 402) Prohibits the Bakersfield Field Office, Record of Decision and Approved Resource Management Plan (RMP),

dated December 2014, and the related findings from having any effect on or applicability to Interior's determination of feasibility of, or on any findings or environmental review documents related to: (1) the Temperance Flat Reservoir Project on the Upper San Joaquin River, or (2) Interior's actions regarding Upper San Joaquin River storage in Fresno and Madera Counties.

Requires Interior, if it finds the Temperance Flat project to be feasible, to manage land recommended in the RMP for designation under the Wild and Scenic Rivers Act, regardless of whether Interior submits any official recommendation to Congress.

(Sec. 404) Allows Reclamation to partner or enter into an agreement on certain water storage projects identified in the Water Supply Reliability and Environmental Improvement Act with local joint powers authorities formed pursuant to state law by irrigation districts and other local water districts and local governments within the applicable hydrologic region.

Authorizes Interior to carry out feasible projects, but prohibits federal funds from being used for construction.

## TITLE V--WATER RIGHTS PROTECTIONS

(Sec. 501) Directs Interior to confer with the CDFW on potential impacts to any consistency determination for operations of the SWP resulting from the implementation of this Act. Requires additional yield to be made available for delivery to SWP contractors to offset any losses that result if a CDFW consistency determination or take authorization resulting from this Act reduces water supply to the SWP as compared with water supply available under the smelt and the salmonid biological opinions.

Directs Interior to notify the CDFW if implementation of the biological opinions under this Act reduces environmental protections for species covered by such opinions.

(Sec. 502) Requires Interior, in the operation of the CVP, to adhere to California laws governing water rights priorities and to honor water rights senior to those held by the United States for operation of the CVP, regardless of the source of priority, including any appropriative water rights initiated prior to December 19, 1914.

(Sec. 503) Requires Interior to ensure that actions taken to comply with environmental laws do not: (1) result in the involuntary reduction of water supply or fiscal impacts to recipients of water from either the SWP or the United States, or (2) cause redirected adverse water supply or fiscal impacts to those within the Sacramento River or San Joaquin River watersheds or the SWP service area.

(Sec. 504) Directs Interior, in the operation of the CVP, to allocate water provided for irrigation purposes to existing CVP agricultural water service contractors within the Sacramento River Watershed in compliance with specified allocation percentages. Makes Interior's allocations subject to: (1) the priority of individuals or entities with Sacramento River water rights, (2) the U.S. obligation to make a substitute supply of water available to the San Joaquin River Exchange Contractors, and (3) Interior's obligation to make water available to managed wetlands pursuant to the CVPIA. Declares that Interior's allocation authority shall not be deemed to: (1) modify any provision of a water service contract that addresses municipal and industrial water shortage policies; (2) affect or limit Interior's authority to adopt, modify, or implement municipal and industrial water shortage policies; (3) affect allocations to CVP municipal and industrial contractors; (4) affect the allocation of water to Friant Division contractors; or (5) result in the involuntary reduction in contract water allocations to individuals or entities with contracts to receive water from the Friant Division.

Requires Interior to develop and implement a program to allow existing CVP agricultural water service contractors within

the Sacramento River Watershed to reschedule water, provided for under their water service contracts, from one year to the next.

(Sec. 505) Declares that nothing in this Act preempts or modifies any existing obligation of the United States under federal reclamation law to operate the CVP in conformity with state law, including established water rights priorities.

## TITLE VI--MISCELLANEOUS

(Sec. 601) Includes the Kettleman City Community Services District within the CVP's authorized service area. Requires Interior to enter a long-term contract with such district for the delivery of up to 900 acre-feet of CVP water for municipal and industrial use, limited to the minimal quantity necessary to meet immediate needs if local supplies or SWP allocations are insufficient.

(Sec. 602) Amends the CVPIA to establish an advisory board to make recommendations to the Secretary of the Interior regarding expenditures from the Central Valley Project Restoration Fund.

Directs Interior, for each fiscal year, to consult with the advisory board to submit to Congress a plan for the expenditure of all of the funds deposited into the Restoration Fund during the preceding fiscal year. Requires the plan to include an analysis of the cost-effectiveness of each expenditure.

Requires the advisory board to submit: (1) annually to Congress and Interior recommendations regarding priorities and spending levels on projects and programs; and (2) biennially to Congress details regarding progress on certain fish, wildlife, and water management and conservation actions.

(Sec. 603) Sets forth requirements concerning the accounting of CVP water credited to the quantity of CVP yield, excluding CVP water released pursuant to U.S. Department of the Interior Record of Decision, Trinity River Mainstem Fishery Restoration Final Environmental Impact Statement/Environmental Impact Report, dated December 2000, used to implement an action undertaken for a fishery beneficial purpose that was not imposed by agreements pertaining to the CVP under applicable state or federal law existing on October 30, 1992. Prohibits reclamation policies and allocations from being based upon a premise that CVP contract supplies are supplemental or secondary to any other contractor source of supply.

(Sec. 604) Directs Interior to implement an updated plan under the CVPIA to increase the yield of the CVP by the amount dedicated to fish and wildlife purposes. Sets forth a potential amendment that would automatically reduce by 25% the annual quantity of CVP yield that is dedicated and managed for fish, wildlife, and habitat restoration purposes, and for assisting California in protecting waters of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, if: (1) the updated plan has not increased CVP yield by 800,000 acre-feet within five years after enactment of this Act; and (2) by March 15, 2021, and any year thereafter the quantity of CVP water forecasted to be made available to all water service or repayment contractors of the CVP is below 50% of the total quantity of water to be made available under such contracts. (Currently, Interior is authorized to temporarily reduce deliveries of the quantity of water dedicated for such purposes by up to 25% whenever reductions due to hydrologic circumstances are imposed upon CVP agricultural deliveries.)

(Sec. 605) Prohibits Interior and Commerce from distinguishing between natural-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making any determination under the ESA that relates to any anadromous or pelagic fish species that resides in the Sacramento-San Joaquin Delta or tributary rivers.

(Sec. 606) Directs Interior to negotiate with interested local water and power providers to transfer ownership, control, and

operation of the CVP's New Melones Unit to interested local water and power providers in California.

Requires Interior to notify Congress every six months regarding the status of such negotiations, past and present formal discussions, and any actions that the United States should take to finalize the transfer agreement.

(Sec. 607) Directs Reclamation, in carrying out the climate change adaptation program, to expand opportunities and expedite assessments, with nonfederal partners, of risks to the water supply of sub-basins and watersheds within major Reclamation river basins. Requires Reclamation to ensure timely decision and expedited implementation of adaptation and mitigation strategies developed through the special study process. Makes nonfederal partners responsible for 100% of the special study costs.

(Sec. 608) Prohibits Interior, in operation of the CVP's Trinity River Division, from making releases from Lewiston Dam in excess of the volume for each water-year type (i.e., critically dry, dry, normal, wet, extremely wet) required by Interior's record of decision in the Trinity River Mainstem Fishery Restoration Final Environmental Impact Statement/Environmental Impact Report dated December 2000.

(Sec. 609) Expands the purposes of the CVPIA to include: (1) ensuring that certain water dedicated to fish and wildlife purposes is replaced and provided to CVP water contractors by December 31, 2018, at the lowest cost reasonably achievable, and (2) facilitating and expediting CVPIA water transfers.

(Sec. 610) Redefines "anadromous fish" under the CVPIA to: (1) restrict the definition to only native stocks of salmon (including steelhead) and sturgeon that were present in the Sacramento and San Joaquin Rivers as of October 30, 1992, and that ascend those rivers and their tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean, and (2) exclude striped bass and American shad.

(Sec. 611) Directs Interior to publish an annual report detailing instream flow releases from the CVP and the SWP, their explicit purpose and authority, and all measured environmental benefit of such releases.

(Sec. 612) Provides Klamath Project contractors with all the rights and responsibilities extended to applicants under the ESA consultation process if Reclamation initiates or reinitiates consultation with the USFWS or the NMFS with respect to construction or operation of that project.

## TITLE VII--WATER SUPPLY PERMITTING ACT

### *Water Supply Permitting Coordination Act*

(Sec. 703) Establishes Reclamation as the lead agency for purposes of coordinating all reviews, analyses, opinions, statements, permits, licenses, or other approvals or decisions (reviews) required under federal law to construct qualifying projects (defined as new surface water storage projects in the states covered under the Act of June 17, 1902, on lands administered by Interior or USDA, exclusive of any easement, right-of-way, lease, or any private holding).

Directs Reclamation: (1) upon receipt of an application for a qualifying project, to identify any federal agency that may have jurisdiction over a required review; and (2) to notify such agency that it has been designated as a cooperating agency unless the agency notifies Reclamation that the agency has no jurisdiction or authority over the project, has no expertise or information relevant to the project or any associated review, or does not intend to submit comments other than in cooperation with Reclamation.

Allows a state in which a qualifying project is being considered to choose to: (1) participate as a cooperating agency; and

(2) make subject to the processes of this title all state agencies that have jurisdiction over the project, that are required to conduct or issue a review, or that are required to make a determination on issuing a permit, license, or approval for the project.

(Sec. 704) Lists as Reclamation's principal responsibilities under this title: (1) to serve as the point of contact for applicants, state agencies, Indian tribes, and others regarding proposed qualifying projects; (2) to coordinate preparation of unified environmental documentation that will serve as the basis for all federal decisions necessary to authorize the use of federal lands for qualifying projects; and (3) to coordinate all federal agency reviews necessary for the development and construction of qualifying projects.

(Sec. 705) Requires each cooperating agency to submit to Reclamation: (1) a time frame for completing the agency's authorizing responsibilities, (2) all environmental review material produced in the course of carrying out activities required under federal law consistent with the project schedule, and (3) all relevant project data.

(Sec. 706) Authorizes Interior to accept and expend funds contributed by a nonfederal public entity to expedite the evaluation of a permit of that entity related to a qualifying project. Directs Interior to ensure that all final permit decisions are made available to the public, including on the Internet.

## TITLE VIII--BUREAU OF RECLAMATION PROJECT STREAMLINING

### *Bureau of Reclamation Project Streamlining Act*

(Sec. 803) Sets forth provisions governing feasibility studies for water projects initiated by Interior under the Reclamation Act of 1902 (project studies).

Requires a project study initiated after enactment of this title to: (1) result in the completion of a final feasibility report within three years; (2) have a maximum federal cost of \$3 million; and (3) ensure that personnel from the local project area, region, and Reclamation's headquarters levels concurrently conduct the required review. Sets forth factors for extending such time line for complex projects. Requires Interior to notify Congress of any determinations that a project is complex.

Requires Interior, within 90 days after the initiation of a project study, to: (1) initiate the process for completing reviews, including environmental reviews, required to be completed as part of such study; (2) convene a meeting of federal, tribal, and state agencies required to act; and (3) provide information that will enable required reviews and analyses to be conducted by other agencies in a thorough and timely manner.

Directs Interior to submit to Congress, and make publicly available, information regarding the status of the implementation of this Act and the relevant project studies. Requires: (1) an interim report within 18 months after enactment of this Act, and (2) a final report within four years after enactment of this Act.

(Sec. 804) Directs Interior to: (1) expedite the completion of any ongoing project study initiated before the enactment of this title; and (2) proceed directly to preconstruction planning, engineering, and design of a project that it determines is justified.

(Sec. 805) Sets forth requirements applicable to: (1) project studies initiated after enactment of this title for which an environmental impact statement is prepared under NEPA; (2) other project studies initiated before such enactment for which an environmental review process document is prepared under NEPA; and (3) any project study for the development of a nonfederally owned and operated surface water storage project for which Interior determines there is a

demonstrable federal interest and that is located in a river basin where other Reclamation water projects are located, that will create additional water supplies that support Reclamation water projects or that will become integrated into the operation of Reclamation water projects.

Requires Interior to:

- annually prepare a list of all such studies that do not have adequate funding for study completion;
- develop and implement a coordinated environmental review process for the development of such studies;
- identify early all federal, state, and local government agencies and Indian tribes that may have jurisdiction and that may be required to act, which the federal lead agency shall invite to become participating or cooperating agencies;
- issue guidance regarding the use of programmatic approaches to carry out the environmental review process; and
- establish an electronic database and issue reporting requirements to make publicly available the status and progress with respect to compliance with applicable NEPA requirements and other action required for a project study.

Sets forth the authorities and responsibilities of the joint lead agency, which may be a project sponsor, and the federal lead agency in the environmental review process, including: (1) the preparation and use of environmental documents; (2) establishing a plan for coordinating public and agency participation; (3) working with cooperating and participating agencies to identify and resolve issues that could delay process completion or result in the denial of any approval required for the project study; and (4) establishing, upon request, memoranda of agreement with the project sponsor, Indian tribes, and state and local governments to carry out the early coordination activities. Requires a federal lead agency to serve in that capacity for the entirety of all nonfederal projects that will be integrated into a larger system owned, operated, or administered by Reclamation. Directs Interior, upon determining that a project can be expedited by a nonfederal sponsor and that there is a demonstrable federal interest in expediting the project, to advance it as a nonfederal project. Requires a federal jurisdictional agency to complete any required approval or decision for the environmental review process on an expeditious basis.

Provides for a reduction of funds for the office of the head of such an agency that fails to render such a decision by a specified deadline. Requires such funds to be made available (transferred) to the division of the federal jurisdictional agency charged with rendering the decision by not later than one day after the specified deadline and once each week thereafter until a final decision is rendered. Directs the agency, within 10 days after the last date in a fiscal year on which funds of the federal jurisdictional agency may be transferred with respect to an individual decision, to provide written notification to Congress regarding the decision, project study, and transfer amounts.

Allows Reclamation to establish memoranda of agreement with project sponsors, Indian tribes, and state and local governments to carry out early coordination activities and provide technical assistance.

Directs Interior to: (1) survey the use by Reclamation of categorical exclusions in projects since 2005 and propose a new categorical exclusion for a category of activities if merited, and (2) establish a program to measure and report on progress made toward improving and expediting the planning and environmental review process.

Requires the Government Accountability Office to submit reports to Congress (within 5 years and within 10 years after enactment of this Act) evaluating the impact of project acceleration measures on project delivery, compliance with environmental laws, and environmental impacts of projects.

Sets forth conditions concerning the categorical exclusion treatment of repairs, reconstruction, or rehabilitation of Reclamation surface water storage projects that are in operation or under construction when damaged by an event or

incident that results in a declaration by the President of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(Sec. 806) Requires Interior to develop and submit annually a Report to Congress on Future Water Project Development that identifies: (1) the costs and benefits of, the nonfederal interests associated with, and the support for project reports, proposed project studies, and proposed modifications to authorized water projects and project studies that are related to Reclamation's missions and authorities, that require specific congressional authorization, that have not been congressionally authorized, that have not been included in any previous annual report, and that, if authorized, could be carried out by Reclamation; and (2) any project study that was expedited under this title.

Specifies surface water storage, rural water supply, wastewater, and groundwater projects to be included in such studies and reports.

## **TITLE IX--ACCELERATED REVENUE, REPAYMENT, AND SURFACE WATER STORAGE ENHANCEMENT**

### *Accelerated Revenue, Repayment, and Surface Water Storage Enhancement Act*

(Sec. 902) Directs Interior to convert certain existing water service contracts between the United States and water users' associations to repayment contracts to allow for prepayment of such contracts, upon the request of the contractor. Specifies the manner of conversion and the terms and conditions of prepayment, subject to exceptions for repayment contracts under which the contractor has previously negotiated for prepayment.

Requires a specified percentage of certain receipts generated from prepayment of contracts under this title, beyond amounts necessary to cover the amount of receipts forgone from scheduled payments under current law for the 10-year period following the enactment of this title, to be directed to the Reclamation Surface Water Storage Account. Requires the Secretary to allocate amounts in such Account to fund the construction of surface water storage for:

- increased municipal and industrial water supply;
- agricultural floodwater, erosion, and sedimentation reduction;
- agricultural drainage improvements;
- agricultural irrigation;
- increased recreation opportunities; and
- reduced adverse impacts to fish and wildlife from water storage or diversion projects within watersheds associated with water storage projects funded under this Act.

## **TITLE X--SAFETY OF DAMS**

(Sec. 1001) Amends the Reclamation Safety of Dams Act of 1978 to authorize Interior, subject to a feasibility study, to develop additional project benefits (including additional conservation storage capacity) through the construction of new or supplementary works when it exercises its authority to modify Reclamation dams and related facilities to preserve their structural safety, provided that: (1) the additional project benefits will promote more efficient management of water and water-related facilities, (2) the feasibility study is authorized under the Federal Water Project Recreation Act of 1965, and (3) the costs are agreed to in writing between Interior and the project proponents and are allocated to the authorized purposes of the structure and repaid consistent with federal reclamation law.

## **TITLE XI--WATER RIGHTS PROTECTION**

### *Water Rights Protection Act*

(Sec. 1103) Prohibits Interior and USDA from:

- conditioning or withholding the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement (permit) on the limitation or encumbrance of any water right or the transfer of any water right to the United States or any other designee or any other impairment of any water right under state law by federal or state action;
- requiring any water user (including a federally recognized Indian tribe) to apply for or acquire a water right in the name of the United States under state law as a condition of such a permit;
- asserting jurisdiction over groundwater withdrawals or impacts on groundwater resources, unless consistent with state groundwater resource laws, regulations, and policies; or
- infringing on the rights and obligations of a state in evaluating, allocating, and adjudicating state waters originating on or under, or flowing from, land owned or managed by the federal government.

(Sec. 1104) Requires Interior and USDA to coordinate with states to ensure that federal actions are consistent with, and impose no greater restrictions or regulatory requirements than, state groundwater laws and programs. Prohibits Interior and USDA from taking actions that adversely affect: (1) water rights granted by a state, (2) a state's authority to adjudicate water rights, (3) groundwater withdrawal conditions and conservation measures established by a state, or (4) the use of groundwater in accordance with state law.

## Actions Timeline

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- **Oct 8, 2015:** Committee on Energy and Natural Resources. Hearings held. Hearings printed: S.Hrg. 114-381.
- **Jul 21, 2015:** Received in the Senate and Read twice and referred to the Committee on Energy and Natural Resources.
- **Jul 16, 2015:** Considered under the provisions of rule H. Res. 362. (consideration: CR H5242-5283)
- **Jul 16, 2015:** The rule provide for consideration of the bills H.R. 2898 and H.R. 3038. The rule provides for 1 hour of general debate on both bills. The resolution makes in order further amendments printed in the report on H.R. 2898. For H.R. 3038, the resolution provides for consideration under a closed rule. The resolution provides for one motion to recommit with or without instructions on both bills.
- **Jul 16, 2015:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 362 and Rule XVIII.
- **Jul 16, 2015:** The Speaker designated the Honorable Randy Hultgren to act as Chairman of the Committee.
- **Jul 16, 2015:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 2898.
- **Jul 16, 2015:** DEBATE - Pursuant to the provisions of H. Res. 362, the Committee of the Whole proceed with 10 minutes of debate on the McClintock amendment No. 1.
- **Jul 16, 2015:** DEBATE - Pursuant to the provisions of H. Res. 362, the Committee of the Whole proceed with 10 minutes of debate on the McNerney amendment No. 2.
- **Jul 16, 2015:** Debate - Pursuant to the provisions of H. Res. 362, the Committee of the Whole proceed with 10 minutes of debate on the Garamendi amendment No. 3.
- **Jul 16, 2015:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Garamendi amendment, put the question on agreeing to the amendment and by voice vote announced that the noes had prevailed. Mr. Garamendi demanded a recorded vote, and the Chair postponed further proceedings on the amendment until later in the legislative day.
- **Jul 16, 2015:** DEBATE - Pursuant to the provisions of H. Res. 362, the Committee of the Whole proceed with 10 minutes of debate on the LaMalfa amendment No. 4.
- **Jul 16, 2015:** DEBATE - Pursuant to the provisions of H. Res. 362, the Committee of the Whole proceed with 10 minutes of debate on the Calvert amendment No. 5.
- **Jul 16, 2015:** DEBATE - Pursuant to the provisions of H. Res. 362, the Committee of the Whole proceed with 10 minutes of debate on the Costa amendment No. 6.
- **Jul 16, 2015:** DEBATE - Pursuant to the provisions of H. Res. 362, the Committee of the Whole proceed with 10 minutes of debate on the LaMalfa amendment No. 7.
- **Jul 16, 2015:** POSTPONED PROCEEDINGS - At the conclusion of debate on the LaMalfa amendment, the Chair put the question on adoption of the amendment and by voice vote announced that the ayes had prevailed. Mr. Huffman demanded a recorded vote, and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jul 16, 2015:** DEBATE - Pursuant to the provisions of H. Res. 362, the Committee of the Whole proceed with 10 minutes of debate on the Grijalva amendment No. 8.
- **Jul 16, 2015:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Grijalva amendment, the Chair put the question on adoption of the amendment and by voice vote announced that the noes had prevailed. Mrs. Lummis demanded a recorded vote, and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jul 16, 2015:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 2898.
- **Jul 16, 2015:** The previous question was ordered pursuant to the rule. (consideration: CR H5281)
- **Jul 16, 2015:** The House adopted the amendments en gross as agreed to by the Committee of the Whole House on the state of the Union. (text of amendment in the nature of a substitute: CR H5254-5271)
- **Jul 16, 2015:** DEBATE - The House proceeded with 10 minutes of debate on the motion to recommit. The instructions contained in the motion seek to report the same back to the House with an amendment to ensure that there is an adequate supply of water for: (1) residential drinking that is not tainted with arsenic, salt nitrates from fertilizers, industrial chemicals or harmful algae; (2) fighting wildfires; and (3) honoring Tribal water rights.
- **Jul 16, 2015:** Mr. Bera moved to recommit with instructions to the Committee on Natural Resources. (consideration: CR H5281-5283; text: CR H5281)
- **Jul 16, 2015:** On motion to recommit with instructions Failed by recorded vote: 183 - 239 (Roll no. 446).
- **Jul 16, 2015:** Passed/agreed to in House: On passage Passed by recorded vote: 245 - 176 (Roll no. 447).

**Jul 16, 2015:** Motion to reconsider laid on the table Agreed to without objection.

- **Jul 16, 2015:** On passage Passed by recorded vote: 245 - 176 (Roll no. 447).
- **Jul 16, 2015:** The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make other necessary technical and conforming corrections in the engrossment of H.R. 2898, including striking the instruction "line 20" and inserting "after line 19" in amendment number 7.
- **Jul 14, 2015:** Supplemental report filed by the Committee on Natural Resources, H. Rept. 114-197, Part II.
- **Jul 13, 2015:** Reported (Amended) by the Committee on Natural Resources. H. Rept. 114-197, Part I.
- **Jul 13, 2015:** Committee on Agriculture discharged.
- **Jul 13, 2015:** Placed on the Union Calendar, Calendar No. 146.
- **Jul 13, 2015:** UNANIMOUS CONSENT TO FILE SUPPLEMENTAL REPORT - Mr. Bishop (UT) asked unanimous consent that the Committee on Natural Resources be authorized to file a supplemental report on H.R. 2898. Agreed to without objection.
- **Jul 9, 2015:** Committee Consideration and Mark-up Session Held.
- **Jul 9, 2015:** Ordered to be Reported (Amended) by the Yeas and Nays: 23 - 12.
- **Jul 9, 2015:** Subcommittee on Water, Power and Oceans Discharged.
- **Jul 8, 2015:** Committee Consideration and Mark-up Session Held.
- **Jun 30, 2015:** Referred to the Subcommittee on Water, Power and Oceans.
- **Jun 25, 2015:** Introduced in House
- **Jun 25, 2015:** Referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.