

107TH CONGRESS
1ST SESSION

H. R. 2764

To address certain matters related to Colorado River water management and the Salton Sea by providing funding for habitat enhancement projects at the Salton Sea, authorization and direction to the Secretary of the Interior regarding Federal environmental compliance, and funding for off-stream water management reservoirs and associated facilities near the All American Canal.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2001

Mr. HUNTER introduced the following bill; which was referred to the
Committee on Resources

A BILL

To address certain matters related to Colorado River water management and the Salton Sea by providing funding for habitat enhancement projects at the Salton Sea, authorization and direction to the Secretary of the Interior regarding Federal environmental compliance, and funding for off-stream water management reservoirs and associated facilities near the All American Canal.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Colorado River Quan-
3 tification Settlement Facilitation Act”.

4 **SEC. 2. PURPOSES.**

5 The purposes of this Act are the following:

6 (1) To provide for environmental protection and
7 improved water management in the lower Colorado
8 River Basin through facilitation of the Quantifica-
9 tion Settlement Agreement, development of habitat
10 enhancement projects for species using the Salton
11 Sea, and development of off-stream water manage-
12 ment reservoirs near the All American Canal.

13 (2) To assist the State of California in reducing
14 its consumptive use of Colorado River water to the
15 State’s normal apportionment of 4,400,000 acre-feet
16 of water per year through water transfers pursuant
17 to the Quantification Settlement Agreement and the
18 California Colorado River Water Use Plan.

19 (3) To help assure stability in water use among
20 the 7 Colorado River Basin States and to avoid
21 water disputes and associated economic disruptions.

22 (4) To facilitate voluntary water conservation
23 and transfers by providing for necessary environ-
24 mental compliance and permits.

25 (5) To enhance river operations and water sup-
26 ply management by requiring the Secretary to con-

1 struct new off-stream facilities for the purposes of
2 furthering water conservation and hydropower gen-
3 eration, regulating flows, making scheduled water
4 deliveries, and preventing the loss of Lake Mead
5 storage.

6 (6) To improve the ability of Mexico to make
7 more effective use of its entitlement under the Mexi-
8 can Water Treaty of 1944 in coordination with the
9 International Boundary and Water Commission.

10 (7) To help facilitate the development of a reli-
11 able supply of water in satisfaction of requirements
12 of the San Luis Rey Indian Water Rights Settle-
13 ment Act (Public Law 100–675; 102 Stat. 4000 et
14 seq.)

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) ALL AMERICAN CANAL.—The term “All
18 American Canal” means the main canal and appur-
19 tenant structures in Southern California authorized
20 by the Boulder Canyon Project Act (43 U.S.C. 617
21 et seq.) for the delivery of water to the Imperial Irri-
22 gation District and the Coachella Valley Water Dis-
23 trict.

24 (2) CALIFORNIA COLORADO RIVER WATER USE
25 PLAN.—The term “California Colorado River Water

1 Use Plan” means that document dated May 2000,
2 prepared by the Colorado River Board of the State
3 of California and interested parties to address the
4 policies, programs, projects, actions, and other ac-
5 tivities dealing with safeguarding, protecting, and
6 optimizing California’s Colorado River resources.

7 (3) COACHELLA VALLEY WATER DISTRICT OR
8 CVWD.—The term “Coachella Valley Water District”
9 or “CVWD” means the county water district by that
10 name organized under the laws of the State of Cali-
11 fornia for the purpose of providing water supplies
12 and other services within the boundaries of that dis-
13 trict in the Coachella Valley and Imperial Valley,
14 California.

15 (4) COMMISSIONER.—The term “Commis-
16 sioner” means the Commissioner of the Inter-
17 national Boundary and Water Commission.

18 (5) COVERED ACTIVITIES.—The term “Covered
19 Activities” means those activities and actions identi-
20 fied in the Habitat Conservation Plan as “activities
21 covered by the HCP” or “covered activities”.

22 (6) COVERED SPECIES.—The term “Covered
23 Species” means those species identified in the Habi-
24 tat Conservation Plan as “species covered by the
25 HCP” or “covered species”.

1 (7) HABITAT CONSERVATION PLAN.—The term
2 “Habitat Conservation Plan” means the conserva-
3 tion plan developed by the Imperial Irrigation Dis-
4 trict pursuant to subsection (b)(2) of section 10 of
5 the Endangered Species Act of 1973 (16 U.S.C.
6 1539(b)(2)) for the Quantification Settlement Agree-
7 ment water transfers and related actions.

8 (8) HABITAT CONSERVATION PLAN AREA.—The
9 term “Habitat Conservation Plan Area” means the
10 “HCP Area” as identified in the Habitat Conserva-
11 tion Plan.

12 (9) HABITAT ENHANCEMENT PROJECTS.—The
13 term “Habitat Enhancement Projects” means those
14 projects and actions benefiting species using the
15 Salton Sea area that are identified in the Habitat
16 Conservation Plan as “habitat enhancement
17 projects”.

18 (10) IBWC.—The term “IBWC” means the
19 International Boundary and Water Commission.

20 (11) IMPERIAL IRRIGATION DISTRICT OR IID.—
21 The term “Imperial Irrigation District” or “IID”
22 means the irrigation district by that name organized
23 under the laws of the State of California for the pur-
24 pose of providing water supplies, electric power, and
25 other services within the boundaries and power serv-

1 ice area of that district in the Imperial Valley and
2 Coachella Valley, California.

3 (12) METROPOLITAN WATER DISTRICT OF
4 SOUTHERN CALIFORNIA OR MWD.—The term “The
5 Metropolitan Water District of Southern California”
6 or “MWD” means the metropolitan water district by
7 that name organized under the laws of the State of
8 California for the purpose of supplying municipal,
9 industrial, and agricultural water to that area of
10 southern California within the boundaries of that
11 district.

12 (13) QUANTIFICATION SETTLEMENT AGREE-
13 MENT.—The term “Quantification Settlement Agree-
14 ment” means the agreement of that title among the
15 Quantification Settlement Agreement Parties, the
16 provisions of which are substantially as described in
17 the draft Quantification Settlement Agreement dated
18 December 12, 2000, submitted for public review by
19 the Quantification Settlement Agreement Parties.

20 (14) QUANTIFICATION SETTLEMENT AGREE-
21 MENT PARTIES.—The term “Quantification Settle-
22 ment Agreement Parties” means IID, MWD, and
23 CVWD, and the State of California.

24 (15) SALTON SEA AUTHORITY.—The term
25 “Salton Sea Authority” means the Joint Powers Au-

1 thority by that name established under the laws of
2 the State of California by a Joint Powers agreement
3 signed on June 2, 1993.

4 (16) SAN DIEGO COUNTY WATER AUTHORITY
5 OR SDCWA.—The term “San Diego County Water
6 Authority” or “SDCWA” means the county water
7 authority by that name organized under the laws of
8 the State of California for the purpose of supplying
9 municipal, industrial, and agricultural water within
10 its boundaries in San Diego County, California.

11 (17) SECRETARY.—The term “Secretary”
12 means the Secretary of the Interior or any author-
13 ized representative of such Secretary.

14 **SEC. 4. SALTON SEA HABITAT ENHANCEMENT PROJECTS**
15 **AND RESTORATION FUNDING.**

16 (a) AUTHORIZATION OF PROJECTS.—

17 (1) IN GENERAL.—In order to satisfy the re-
18 quirements of the Endangered Species Act of 1973
19 (16 U.S.C. 1531 et seq.) for whatever action relating
20 to the Salton Sea may be required under that Act
21 as a result of the Quantification Settlement Agree-
22 ment water transfers, the Secretary, acting in ac-
23 cordance with this Act and through the Bureau of
24 Reclamation, shall, except as otherwise provided in
25 this section, take all necessary actions to provide for

1 the construction of the Habitat Enhancement
2 Projects, including for projects that provide facilities
3 for hunting, fishing, bird watching, boating, and
4 camping.

5 (2) CONSULTATION.—In implementing this sub-
6 section the Secretary shall consult with Ducks Un-
7 limited, Pheasants Forever, Desert Wildlife Unlim-
8 ited, the Bass Anglers Sportsman Society, and the
9 California Waterfowl Association.

10 (b) COORDINATION WITH SALTON SEA RESTORA-
11 TION PLAN.—

12 (1) TIMING OF CONSTRUCTION.—In deter-
13 mining the timing of construction of the Habitat
14 Enhancement Projects under this section, the Sec-
15 retary shall be guided by the timing of implementa-
16 tion of the Salton Sea restoration plan to be devel-
17 oped pursuant to the Salton Sea Reclamation Act of
18 1998 (112 Stat. 3377).

19 (2) LEGISLATION IMPLEMENTING SALTON SEA
20 RESTORATION PROJECT.—(A) If legislation pro-
21 viding for implementation of a long-term Salton Sea
22 restoration project is enacted by the Congress on or
23 before December 31, 2007, the funds appropriated
24 under this section may be used by the Secretary, the
25 Salton Sea Authority, or both, for the implementa-

1 tion of the Salton Sea restoration project in such
2 manner as the Secretary, in consultation with the
3 Salton Sea Authority, determines is consistent with
4 such legislation.

5 (B) If such legislation is not enacted by the
6 Congress on or before December 31, 2007, the Sec-
7 retary, acting through the Bureau of Reclamation,
8 the Salton Sea Authority, or both, shall proceed as
9 soon after that date as is practicable to use the
10 funds appropriated under this section to construct
11 the Habitat Enhancement Projects independent of
12 any long-term restoration plan for the Salton Sea.

13 (c) FACILITATION OF PROJECTS.—The Secretary,
14 acting through the Bureau of Reclamation and the United
15 States Fish and Wildlife Service, shall—

16 (1) make available such public lands as are
17 needed for the development of any of the Habitat
18 Enhancement Projects carried out at the Salton Sea;
19 and

20 (2) consult with IID and CVWD in order to ac-
21 commodate the operations of IID and CVWD in the
22 development of any of the Habitat Enhancement
23 Projects constructed on or adjacent to the Salton
24 Sea within their respective boundaries.

25 (d) AUTHORIZATION OF APPROPRIATIONS.—

1 proval of the Habitat Conservation Plan and issuance of
2 the incidental take permits and other necessary approvals
3 under subsection (a) within the 60-day period beginning
4 on the date of the enactment of this Act. Thereafter, all
5 provisions of the Endangered Species Act of 1973 applica-
6 ble to the Covered Activities within the Habitat Conserva-
7 tion Plan Area during the term of the Quantification Set-
8 tlement Agreement shall be deemed satisfied, and the Sec-
9 retary shall not impose any additional requirements on the
10 Quantification Settlement Agreement Parties to address
11 the effects of the Covered Activities on Covered Species
12 in the event of changed or unforeseen circumstances or
13 in the event of the listing of a Covered Species as a threat-
14 ened species or endangered species under section 4(e) of
15 that Act.

16 (c) LIMITATION ON REVIEW.—Notwithstanding any
17 other law, no person may commence any judicial action
18 or other administrative or judicial proceeding to contest,
19 review, set aside, void, or annul the Secretary’s approval
20 of the water transfers and related actions that are nec-
21 essary for the implementation of the Quantification Settle-
22 ment Agreement, or any related Federal agency action,
23 unless such person—

24 (1) submitted written comments to the Sec-
25 retary or a designee of the Secretary in the public

1 comment period for any proposed approval or action
2 for which a noticed public comment period was pro-
3 vided pursuant to applicable law or regulations, al-
4 leging with particularity the grounds for objections
5 to such a proposed approval or action; and

6 (2)(A) in the case of an approval or permit
7 under the Endangered Species Act of 1973, filed an
8 action in a United States District Court within 90
9 days after the issuance of such approval of permit;

10 (B) in the case of an environmental impact
11 statement under the National Environmental Policy
12 Act of 1969, filed an action in a United States Dis-
13 trict Court within 90 days after the issuance of a
14 record of decision regarding that statement; or

15 (C) in the case of any other approval or action
16 subject to this subsection, filed an action in a United
17 States District Court within 90 days after such ac-
18 tion is taken.

19 **SEC. 6. OFF-STREAM WATER MANAGEMENT RESERVOIRS**
20 **AND ASSOCIATED FACILITIES NEAR THE ALL**
21 **AMERICAN CANAL.**

22 (a) CONSTRUCTION REQUIREMENT.—

23 (1) IN GENERAL.—The Secretary, acting
24 through the Bureau of Reclamation and the Bureau
25 of Land Management, shall exercise existing author-

1 ity to operate and maintain the Colorado River front
2 work and levee system under section 4 of the Act of
3 January 21, 1927 (chapter 47; 44 Stat. 1010), and
4 other Acts relating to that authority, to take all nec-
5 essary actions to provide for the construction of off-
6 stream water management reservoirs and associated
7 facilities near the All American Canal.

8 (2) COORDINATION WITH ALL AMERICAN CANAL
9 WORK.—The Secretary shall coordinate construction
10 of the reservoirs and associated facilities with the
11 construction of a lined All American Canal pursuant
12 to title II of the Act of November 17, 1988 (Public
13 Law 100–675; 102 Stat. 4005).

14 (3) CONSTRUCTION BY IID.—The Secretary
15 shall authorize IID to carry out construction of the
16 reservoirs and associated facilities under this sub-
17 section if IID enters into an agreement with the
18 Secretary that addresses, among other matters con-
19 sidered appropriate by the Secretary, the following:

20 (A) The procedures and requirements for
21 approval and acceptance by the Secretary of
22 such works, including approval of the quality of
23 construction.

24 (B) Any measures the Secretary considers
25 necessary to protect public health and safety.

1 (C) Any mitigation measures the Secretary
2 considers necessary for the protection of fish
3 and wildlife resources.

4 (4) CONSTRUCTION ON NON-FEDERAL
5 LANDS.—The off-stream water management res-
6 ervoirs shall be constructed under this section on
7 lands owned by IID. For purposes of this paragraph,
8 the Secretary, acting through the Bureau of Land
9 Management, shall coordinate with IID to exchange
10 Federal lands with lands owned by IID pursuant to
11 existing land exchange authority in section 206 of
12 the Federal Land Policy and Management Act of
13 1976 (43 U.S.C. 1716) and any other applicable
14 Federal law.

15 (5) OPERATING AGREEMENT.—Prior to the
16 completion of construction under this subsection, the
17 Secretary shall enter into an operating agreement
18 with IID to arrange for appropriate operation of the
19 off-stream water management reservoirs so as to
20 provide for such matters as regulating river flows,
21 furthering water conservation and hydropower gen-
22 eration, preventing the loss of Lake Mead storage,
23 and facilitating any arrangements with Mexico devel-
24 oped pursuant to subsection (b).

1 (b) COOPERATION WITH MEXICO.—The Secretary
2 shall consult with the Commissioner to determine whether
3 the off-stream water management reservoirs and associ-
4 ated facilities constructed under this section may be of as-
5 sistance, on the basis of comity, to Mexico in addressing
6 its Colorado River water supply management needs. In
7 carrying out this subsection, the Secretary and the Com-
8 missioner shall consult with IID, CVWD, MWD, and
9 SDCWA.

10 (c) INITIATION OF CONSTRUCTION; PROGRESS RE-
11 PORT.—

12 (1) IN GENERAL.—The Secretary shall provide
13 for the initiation of construction of the water man-
14 agement reservoirs and associated facilities under
15 this section by June 30, 2003.

16 (2) REPORT.—Not later than December 31,
17 2003, the Secretary shall submit a report on the
18 progress of construction of the reservoirs and associ-
19 ated facilities, and the resolution with Mexico of any
20 related water management issues, to the Committee
21 of Resources of the House of Representatives and
22 the Committee of Energy and Natural Resources of
23 the Senate.

24 (3) PRECONSTRUCTION ACTIVITIES AUTHOR-
25 IZED.—This subsection is not intended to prohibit

1 the Secretary from proceeding with all necessary
2 preconstruction activities, including site selection,
3 engineering and design, and necessary environmental
4 compliance.

5 (d) AUTHORIZATION OF APPROPRIATION.—For con-
6 structing off-stream water management reservoirs and as-
7 sociated facilities under this section, there are authorized
8 to be appropriated to the Secretary \$53,000,000. Expendi-
9 ture of amounts appropriated under this section shall be
10 considered a nonreimbursable Federal expenditure.

11 **SEC. 7. TERMINATION OF AUTHORITIES AND PERMITS.**

12 This Act, including any incidental take permits and
13 other approvals issued under the Endangered Species Act
14 of 1973 pursuant to section 5, shall terminate and be of
15 no force or effect after December 31, 2002, unless the
16 Quantification Settlement Agreement is in effect on or be-
17 fore December 31, 2002, and remains in effect.

18 **SEC. 8. RESERVATION OF RIGHTS AND OBLIGATIONS WITH**
19 **RESPECT TO THE COLORADO RIVER.**

20 This Act shall not be construed to supersede or other-
21 wise affect any treaty, law, decree, contract, or agreement
22 governing use of water from the Colorado River. All activi-
23 ties undertaken pursuant to this Act shall be carried out
24 in a manner consistent with the rights and obligations of

1 persons under those treaties, laws, decrees, contracts, and
2 agreements.

3 **SEC. 9. RELATION TO RECLAMATION LAW.**

4 For the purposes of section 203(a) of the Reclama-
5 tion Reform Act of 1982 (96 Stat. 1264), any contract
6 or agreement entered into pursuant to this Act shall not
7 be treated as a contract entered into or amended subse-
8 quent to the date of enactment of that Act.

9 **SEC. 10. PROTECTION FROM LIABILITY.**

10 IID, CVWD, MWD, SDCWA, and the Salton Sea
11 Authority and its member agencies shall not be liable for
12 damages of any kind arising from the effects to the Salton
13 Sea or its bordering area resulting from—

14 (1) cooperation with the Secretary in regard to
15 any actions, programs, or projects implemented pur-
16 suant to this Act; or

17 (2) any actions that directly or indirectly reduce
18 the volume of water that flows into the Salton Sea.

○