

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5180

To authorize appropriations for the Bureau of Reclamation to carry out the Lower Colorado River Multi-Species Conservation Program in the States of Arizona, California, and Nevada, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2006

Mr. HAYWORTH (for himself, Mr. RENZI, Mr. GIBBONS, Mr. CALVERT, Mr. KOLBE, and Mr. PORTER) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To authorize appropriations for the Bureau of Reclamation to carry out the Lower Colorado River Multi-Species Conservation Program in the States of Arizona, California, and Nevada, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Lower Colorado River  
5       Multi-Species Conservation Program Act”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) LOWER COLORADO RIVER MULTI-SPECIES  
2 CONSERVATION PROGRAM.—The term “Lower Colo-  
3 rado River Multi-Species Conservation Program” or  
4 “LCR MSCP” means the cooperative effort on the  
5 Lower Colorado River between Federal and non-  
6 Federal entities in Arizona, California, and Nevada  
7 approved by the Secretary of the Interior on April  
8 2, 2005.

9           (2) LOWER COLORADO RIVER.—The term  
10 “Lower Colorado River” means the Colorado River  
11 from Lake Mead to the Southerly International  
12 Boundary with Mexico, including its historic flood-  
13 plain and its mainstem reservoirs to their full pool  
14 elevations.

15           (3) PROGRAM DOCUMENTS.—The term “Pro-  
16 gram Documents” means the Habitat Conservation  
17 Plan, Biological Assessment and Biological and Con-  
18 ference Opinion, Environmental Impact Statement/  
19 Environmental Impact Report, Funding and Man-  
20 agement Agreement, Implementing Agreement, and  
21 Section 10(a)(1)(B) Permit issued and, as applica-  
22 ble, executed in connection with the LCR MSCP.

23           (4) SECRETARY.—The term “Secretary” means  
24 the Secretary of the Interior.

1           (5) STATE.—The term “State” means each of  
2           the States of Arizona, California, and Nevada.

3           (6) STEERING COMMITTEE.—The term “Steer-  
4           ing Committee” means the LCR MSCP steering  
5           committee established pursuant to the Program Doc-  
6           uments.

7   **SEC. 3. IMPLEMENTATION AND WATER ACCOUNTING.**

8           (a) IMPLEMENTATION.—The Secretary shall manage  
9           and implement the LCR MSCP in accordance with the  
10          Program Documents.

11          (b) WATER ACCOUNTING.—The Secretary is author-  
12          ized and directed to enter into an agreement with the  
13          States providing for the use of water from the Lower Colo-  
14          rado River for habitat creation and maintenance in ac-  
15          cordance with the Program Documents.

16   **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

17          (a) IN GENERAL.—There is authorized to be appro-  
18          priated to the Secretary such sums as may be necessary  
19          to meet the obligations of the Secretary under the Pro-  
20          gram Documents, to remain available until expended.

21          (b) INVESTMENTS.—The Secretary is authorized to  
22          invest with the Secretary of the Treasury such portions  
23          of appropriations, and any non-Federal contributions  
24          made pursuant to the Program Documents, as are not,  
25          in the judgment of the Secretary, required to meet current

1 expenditures. Such investments shall be made only in in-  
2 terest-bearing obligations of the United States. Funds in-  
3 vested under this subsection and interest on those funds  
4 shall be available to the Secretary to meet the obligations  
5 of the Secretary under the Program Documents.

6 (c) NON-REIMBURSABLE AND NON-RETURNABLE.—  
7 All amounts appropriated to and expended by the Sec-  
8 retary for the LCR MSCP shall be non-reimbursable and  
9 non-returnable.

10 **SEC. 5. APPLICABLE LAW, CONTINUITY OF PROGRAM, EN-**  
11 **FORCEABILITY OF PROGRAM DOCUMENTS.**

12 (a) IN GENERAL.—Nothing in this Act shall impair  
13 any right to the delivery or beneficial consumptive use of  
14 Colorado River water under any compact, treaty, law, de-  
15 cree, or contract in effect on the date of enactment of this  
16 Act.

17 (b) CONTINUITY OF PROGRAM DOCUMENTS.—No fu-  
18 ture act of Congress shall have the effect of modifying the  
19 Program Documents unless expressly made applicable to  
20 the LCR MSCP.

21 (c) ENFORCEABILITY OF PROGRAM DOCUMENTS.—  
22 Any party to any agreement entered into with the United  
23 States or any agency thereof pursuant to the LCR MSCP  
24 may commence a civil action in United States district  
25 court to enforce the agreement or to declare the rights

1 and obligations of the parties under the Program Docu-  
2 ments. The district court shall have jurisdiction with re-  
3 gard to such action, may issue such orders, judgments and  
4 decrees as the court determines are appropriate, and may  
5 award costs of litigation to the prevailing party. Notwith-  
6 standing any other law, the United States may be named  
7 as a defendant in any such action and such action shall  
8 not be dismissed nor relief denied on the ground that it  
9 is against the United States. The United States shall be  
10 deemed to have waived any right to plead that it is not  
11 amenable thereto by reason of its sovereignty, and shall  
12 be subject to judgments, orders and decrees of the court  
13 having jurisdiction, and may obtain review thereof in the  
14 same manner and to the same extent as a private indi-  
15 vidual in like circumstances. Any suit pursuant to this sec-  
16 tion may be brought in any United States district court  
17 in the State in which any non-Federal party to the suit  
18 is situated.

19 (d) APPLICABLE LAW.—The Steering Committee  
20 shall not be subject to the Federal Advisory Committee  
21 Act (5 U.S.C. App.).

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