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SALTON SEA PROJECTS IMPROVMENT ACT

OCTOBER 18, 2022.—Ordered to be printed

Filed under authority of the order of the Senate of October 14, 2022

Mr. MANCHIN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 2693]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2693), to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize additional projects related to the Salton Sea, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENTS

The amendments are as follows:

1. On page 2, line 25, strike “and”.
2. On page 3, strike lines 1 through 3 and insert the following:
 - (3) in subsection (c) (as so redesignated), by striking “project referred to in subsection (a)” and inserting “projects referred to in subsections (a) and (b)”; and
 - (4) in subsection (e) (as so redesignated), by striking “\$10,000,000” and inserting “\$250,000,000”.
3. At the end, add the following:

SEC. 3. EXTENSION OF CERTAIN DEADLINES RELATING TO PILOT PROJECTS TO INCREASE COLORADO RIVER SYSTEM WATER TO ADDRESS EFFECTS OF HISTORIC DROUGHT CONDITIONS.

Section 206 of the Energy and Water Development and Related Agencies Appropriations Act, 2015 (43 U.S.C. 620 note; Public Law 113-235), is amended—

- (1) in subsection (b)(2)—
 - (A) by striking “additional”; and
 - (B) by striking “this Act” and inserting “the Salton Sea Projects Improvements Act”;
- (2) in subsection (c)(2), by striking “2022” and inserting “2026”; and
- (3) in subsection (d), by striking “2018” and inserting “2027”.

PURPOSE

The purpose of S. 2693, as ordered reported, is to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize additional projects related to the Salton Sea, and to amend the Energy and Water Development and Related Agencies Appropriations Act of 2015 to extend certain deadlines applicable to pilot projects to increase Colorado River System water to address effects of historic drought conditions.

BACKGROUND AND NEED

Throughout the West, communities are experiencing high levels of drought that reduce available water supplies for people, agriculture, and the environment. Current drought conditions have contributed to reduced streamflows and low reservoir water levels in several states across the West. S. 2693, as ordered reported, addresses the impacts of drought by authorizing the Bureau of Reclamation (Reclamation) to participate and fund public health protection and environmental restoration projects in the Salton Sea, and by extending the authority of Reclamation’s Colorado River System Conservation Pilot Program.

SALTON SEA

The Salton Sea is California’s largest inland body of water, spanning 360 miles in Southern California across Imperial Valley and the lower portion of the Coachella Valley. The Salton Sea was created in 1905, when the failure of a large irrigation canal gate led to 18 months of flooding into an ancient lakebed known as the Salton Basin. The Sea has been maintained for more than a century by agricultural runoff from farms that use Colorado River water to irrigate. Water flows into the Salton Sea have gradually diminished over the course of several decades, largely due to changes in agricultural practices, such as more efficient irrigation, that have decreased the amount of excess water running through farm drainage and to the Sea. The Salton Sea’s total volume is expected to shrink by 60 percent in the coming years.

Deteriorating conditions at the Salton Sea are raising both public health and environmental concerns. Dust-blown sediment from the exposed lakebed contributes to air pollution in the region. The Salton Sea is a crucial stop on the Pacific Flyway for migratory birds, and it provides habitat for the desert pupfish, an endangered species. Declining water levels at the Sea are projected to lead to increases in salinity, with implications for fish, the birds that rely on them as a food source, and the invertebrate species that are critical to ecosystem health.

Reclamation's Salton Sea Research Project, authorized under the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575), conducts research on methods to control salinity levels, provides habitat for endangered species, enhances fisheries, and protects the recreational values of the Salton Sea. Currently, Reclamation is limited in its ability to participate in the Salton Sea Management Program run by California, due both to funding constraints and the requirement that all projects have a research function. S. 2693, as ordered reported, ensures that Reclamation has the authority to carry out and fund public health protection and environmental restoration projects in the Salton Sea.

COLORADO RIVER SYSTEM CONSERVATION PILOT PROGRAM

The Colorado River System Conservation Pilot Program was created out of collaborative efforts between Reclamation, the Colorado River Basin States, and Colorado River water users to explore ideas that could mitigate the impacts of the ongoing drought and help offset declining reservoir levels at Lake Mead and Lake Powell. In 2014, Reclamation partnered with several major Colorado River basin water supply agencies, such as Central Arizona Water Conservation District, Southern Nevada Water Authority, Metropolitan Water District of Southern California, and Denver Water, to provide funding for voluntary conservation projects and reductions of water use. The goal of these activities was to conserve Colorado River water to be applied toward storage in Lake Mead or Lake Powell, which would create new Colorado River system water for the benefit of all of water users in the basin.

In 2015, Congress formally authorized federal participation in these efforts to create Colorado River system water in the Energy and Water Development and Related Agencies Appropriations Act (Public Law 113-235, Division D) through fiscal year (FY) 2018. In 2019, Congress extended this authority through the end of FY2022 with the stipulation that the Upper Basin agreements could not proceed without the participation of the Upper Basin states, which includes Colorado, New Mexico, Utah, and Wyoming, through the Upper Colorado River Commission. S. 2693, as ordered reported, extends the authorization of Reclamation's System Conservation Pilot Program through FY2026.

LEGISLATIVE HISTORY

S. 2693 was introduced by Senator Padilla on August 10, 2021. A similar bill, H.R. 3877, was introduced by Representative Ruiz on June 14, 2021. The Subcommittee on Water and Power held a hearing on S. 2693 on May 25, 2022. At its business meeting on July 21, 2022, the Committee on Energy and Natural Resources ordered S. 2693 favorably reported with amendments.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 21, 2022, by a voice vote of a quorum present, recommends that the Senate pass S. 2693, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 2693, the Committee adopted two substantive amendments. One extends the cost-share requirement in existing law to apply to the Salton Sea projects authorized by the bill as introduced. The other amends section 206 of the Energy and Water Development and Related Agencies Appropriations Act, 2015 to extend the authorization of the Bureau of Reclamation's System Conservation Pilot Program. The Committee also adopted minor technical and conforming amendments.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the Act as "Salton Sea Projects Improvements Act".

Sec. 2. Research project

Section 2 amends section 1101 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4661), relating to the Salton Sea Project. Section 2(1) redesignates the subsections in section 1101 of the Act. Section 2(2) amends section 1101 by inserting a new subsection (b). The new subsection (b) authorizes the Bureau of Reclamation to provide grants and enter into contracts and cooperative agreements that improve water quality, air quality, fish and wildlife habitat, and recreational opportunities in the area of the Salton Sea. Section 2(3) increases the authorization of appropriations from \$10 million to \$250 million for these activities, including previously authorized research activities under the Bureau of Reclamation's Salton Sea Research Project.

Sec. 3. Extension of certain deadlines relating to pilot projects to increase Colorado River system water to address effects of historic drought conditions

Section 3 amends the Energy and Water Development and Related Agencies Appropriations Act of 2015 to extend the authority of the Bureau of Reclamation's Colorado River System Conservation Pilot Program through FY2026. This section also extends the report deadline on evaluating projects funded under this program through FY2027. Section 3 clarifies references to the amended Act and clarifies acceptable funding for this pilot program.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of S. 2693, as ordered reported, has been requested but was not received at the time the report was filed. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at www.cbo.gov.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2693.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2693, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2693, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the May 25, 2022, subcommittee hearing on S. 2693 follows:

STATEMENT OF CAMILLE CALIMLIM TOUTON, COMMISSIONER, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

The Salton Sea Projects Improvement Act, S. 2693, amends the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize additional projects to improve wildlife habitat, recreation, and air and water quality at the Salton Sea. S. 2693 specifically authorizes dust suppression projects, a crucial component to improving local air quality conditions and allows the federal government to be proactive in reducing emissions.

The Department, through Reclamation, using multiple authorities, has provided more than \$16 million since 2016 for dust suppression, wetland restoration, water quality improvements, environmental compliance and land use authorizations at the Salton Sea. On August 31, 2016, the Department signed a Memorandum of Understanding (MOU) with the California Natural Resources Agency (CNRA) for purposes of coordinating efforts at the Salton Sea. The MOU recognizes the State of California (State) will have the lead role in the cooperative effort to restore the Salton Sea, and commits the Department to pursue \$30 million in funding to help support State-initiated efforts.

Federal partners, including Reclamation, Bureau of Land Management, U.S. Fish and Wildlife Service, United States Geological Survey, U.S. Army Corps of Engineers, and U.S. Department of Agricultural Natural Resources Conservation Service meet regularly to coordinate activities and secure funding that supports State-led activities.

Section 2 of the Salton Sea Projects Improvement Act amends Section 1101 of the Reclamation Projects Authorization and Adjustment Act of 1992 (P.L. 102-575) to specifically allow the Secretary of the Interior to enter into grants, agreements, and contracts in partnership with State, Tribal, and local governments; water districts; joint

powers authorities; nonprofit organizations; and institutions of higher education to carry out projects at the Sea. The ability to work with multiple types of partners, including universities and non-governmental organizations will provide for opportunities to take advantage of non-governmental funding. For example, Reclamation is working with the National Audubon Society in FY 2020 to enhance habitat and mitigate dust on approximately 900 acres near the community of Bombay Beach.

Reclamation provided \$1,000,000 to plan, design and permit the project, which was an important but unfunded step in getting to a project design that would allow Audubon to receive approximately \$6 million in matching funds. Reclamation funding bridged this gap, providing Audubon the opportunity to access additional, non-federal funds. Reclamation has also collaborated with California Natural Resources Agency, Imperial County, Imperial County Air Pollution Control District, and provided \$1.2 million to the Salton Sea Authority to advance the Desert Shores Channel Restoration Project. The project would create habitat and suppress dust by refilling currently dewatered channels with water at a salinity level that provides habitat for fish and supports piscivorous birds. The proposed legislation would streamline these processes and increase opportunities in the future.

Finally, S. 2693 amends P.L. 102-575 to include activities such as construction, operation, and maintenance costs which will increase Reclamation's flexibility and opportunity to work with partners at the Sea to implement projects that create habitat and improve water and air quality. The proposed language increases the authorized appropriations ceiling from \$13 million to \$250 million, which will allow Reclamation to continue to implement projects that improve conditions at the Salton Sea, particularly as Reclamation is near the \$13 million ceiling under the existing authority. An increase in the ceiling to \$250 million, when followed by Congressional appropriations, would provide flexibility for the federal government to match existing appropriated State funding (\$402.6 million) to implement, monitor, operate, and maintain the California Natural Resources Agency Salton Sea Management Program Phase 1: 10-Year Plan.

The Department appreciates the work of the sponsors on the Salton Sea Projects Improvement Act and supports S. 2693. The Department looks forward to working with the bill sponsor and the Committee as the bill moves forward.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2693, as ordered 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):

Public Law 102-575

AN ACT To authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming.

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TITLE XI—SALTON SEA RESEARCH PROJECT, CALIFORNIA

SEC. 1101. RESEARCH PROJECT.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity, provide endangered species habitat, enhance fisheries, and protect human recreational values in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) ADDITIONAL PROJECT AUTHORITIES.—

(1) IN GENERAL.—*The Secretary of the Interior, acting through the Commissioner of Reclamation, may provide grants and enter into contracts and cooperative agreements to carry out projects located in the area of the Salton Sea in southern California to improve air quality, fish and wildlife habitat, recreational opportunities, and water quality, in partnership with—*

(A) State, Tribal, and local governments;

(B) water districts;

(C) joint powers authorities, including the Salton Sea Authority;

(D) nonprofit organizations; and

(E) institutions of higher education.

(2) INCLUDED ACTIVITIES.—*The projects described in paragraph (1) may include—*

(A) construction, operation, maintenance, permitting, and design activities required for the projects; and

(B) dust suppression projects.

[(b)] (c) COST SHARE.—The non-Federal share of the cost of the [project referred to in subsection (a)] *projects referred to in subsections (a) and (b)* shall be 50 percent of the cost of the project.

[(c)] (d) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding the results of the project referred to in subsection (a).

[(d)] (e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated [\$10,000,000] \$250,000,000 to carry out the purposes of this title.

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Public Law 113–235

AN ACT Making consolidated appropriations for the fiscal year ending September 30, 2015, and for other purposes.

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DIVISION D—ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2015

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TITLE II

DEPARTMENT OF THE INTERIOR

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GENERAL PROVISIONS—DEPARTMENT OF THE INTERIOR

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SEC. 206. FUNDING OR PARTICIPATION IN PILOT PROJECTS TO INCREASE COLORADO RIVER SYSTEM WATER IN LAKE MEAD.

(a) IN GENERAL.—The Secretary of the Interior may fund or participate in pilot projects to increase Colorado River System water in Lake Mead and the initial units of Colorado River Storage Project reservoirs, as authorized by the first section of the Act of April 11, 1956 (43 U.S.C. 620), to address the effects of historic drought conditions.

(b) ADMINISTRATION.—Pilot projects under this section are authorized to be funded through—

(1) grants by the Secretary to public entities that use water from the Colorado River Basin for municipal purposes for projects that are implemented by 1 or more non-Federal entities; or

(2) grants or other appropriate financial agreements to provide [additional] funds for renewing or implementing water conservation agreements that are in existence on the date of enactment of [this Act] *the Salton Sea Projects Improvement Act*.

(c) LIMITATIONS.—

(1) Funds in the Upper Colorado River Basin Fund established by section 5 of the Colorado River Storage Project Act (43 U.S.C. 620d) and the Lower Colorado River Basin Development Fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543) shall not be used to carry out this section; and

(2) the authority to fund these pilot projects through grants shall terminate on September 30, [2022] 2026: Provided, That the Secretary shall not fund pilot projects in the Upper Colorado River Basin without the participation of the Upper Colo-

rado River Division States, acting through the Upper Colorado River Commission.

(d) REPORT AND RECOMMENDATION.—Not later than September 30, **[2018]** 2027, the Secretary shall submit to the Committees on Appropriations and Natural Resources of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate a report evaluating the effectiveness of the pilot projects described in subsection (a) and a recommendation to Congress whether the activities undertaken by the pilot projects should be continued.

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