

113TH CONGRESS
2D SESSION

S. 2470

To provide for drought relief measures in the State of New Mexico, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2014

Mr. UDALL of New Mexico (for himself and Mr. HEINRICH) introduced the
following bill; which was read twice and referred to the Committee on En-
ergy and Natural Resources

A BILL

To provide for drought relief measures in the State of New
Mexico, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “New Mexico Drought Relief Act of 2014”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Water acquisition program.
- Sec. 4. Water conservation.
- Sec. 5. Middle Rio Grande peak flow restoration.
- Sec. 6. National Academy of Sciences study.

Sec. 7. Emergency funding.
 Sec. 8. Secure Water Act reauthorization.
 Sec. 9. Reclamation States Emergency Drought Relief Act reauthorization.
 Sec. 10. Rio Grande Pueblo irrigation infrastructure reauthorization.
 Sec. 11. Regional conservation partnership program.
 Sec. 12. Conservation reserve program.
 Sec. 13. Effect on State law.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) BASIN.—The term “Basin” means each
 4 of—

5 (A) the Upper Rio Grande Basin;

6 (B) the Middle Rio Grande Basin;

7 (C) the Lower Rio Grande Basin;

8 (D) the Lower Pecos River Basin;

9 (E) the Gila River Basin;

10 (F) the Canadian River Basin;

11 (G) the San Francisco River Basin; and

12 (H) the San Juan River Basin.

13 (2) DISTRICT.—The term “District” means the
 14 Middle Rio Grande Conservancy District.

15 (3) PUEBLO.—The term “Pueblo” means each
 16 of the following pueblos in the State:

17 (A) Cochiti.

18 (B) Santo Domingo.

19 (C) San Felipe.

20 (D) Santa Ana.

21 (E) Sandia.

22 (F) Isleta.

1 (4) SECRETARIES.—The term “Secretaries”
2 means—

3 (A) the Administrator of the Environ-
4 mental Protection Agency;

5 (B) the Secretary of Commerce; and

6 (C) the Secretary of the Interior.

7 (5) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior.

9 (6) STATE.—The term “State” means the State
10 of New Mexico.

11 **SEC. 3. WATER ACQUISITION PROGRAM.**

12 (a) IN GENERAL.—The Secretary, acting through the
13 Commissioner of Reclamation, shall carry out in the Ba-
14 sins a water acquisition program in coordination with the
15 other appropriate Federal agencies, State agencies, and
16 non-Federal stakeholders, under which the Secretary
17 shall—

18 (1) make acquisitions of water in the Basins;

19 and

20 (2) take any other actions that the Secretary
21 determines would achieve the purposes of the water
22 acquisition program described in subsection (b).

23 (b) PURPOSES.—The purposes of the water acqui-
24 sition program are—

1 (1) to enhance stream flow to benefit fish and
2 wildlife (including endangered species), water qual-
3 ity, and river ecosystem restoration in the Basins;
4 and

5 (2) to enhance stewardship and conservation of
6 working land, water, and watersheds in the Basins,
7 consistent with the purpose described in paragraph
8 (1).

9 (c) COORDINATION.—To assist in developing and ad-
10 ministering the program, the Secretary may provide funds
11 to a federally established nonprofit entity with particular
12 expertise in western water transactions.

13 (d) DISTRICT PROJECTS.—Subject to State law, the
14 Secretary may develop programs to provide—

15 (1) cost-share assistance to the District or agri-
16 cultural producers and irrigators in the District for
17 making irrigation system improvements that in-
18 crease system efficiency;

19 (2) for the use of agricultural leasing agree-
20 ments to allow the District to provide water for the
21 purpose of providing benefits to species listed under
22 the Endangered Species Act of 1973 (16 U.S.C.
23 1531 et seq.) and other river ecosystem benefits; and

24 (3) cost-share assistance to the District to im-
25 plement infrastructure or operational changes that

1 will allow for effective management of a leasing pro-
2 gram, while maintaining adequate water deliveries to
3 other agricultural producers and irrigators.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated to the Secretary to carry
6 out this section \$30,000,000.

7 **SEC. 4. WATER CONSERVATION.**

8 (a) IN GENERAL.—The Secretary, in cooperation
9 with the District and in consultation with the Pueblos,
10 may provide funding and technical assistance for the in-
11 stallation of metering and measurement devices and the
12 construction of check structures on irrigation diversions,
13 canals, laterals, ditches, and drains—

14 (1) to ensure the conservation and efficient use
15 of water within the District by reducing actual con-
16 sumptive use or not increasing the use of water; and

17 (2) to improve the measurement and allocation
18 of water acquired through the water acquisition pro-
19 gram established under section 3.

20 (b) RIO GRANDE, SAN ACACIA REACH.—

21 (1) IN GENERAL.—The Secretary shall provide
22 for development of a comprehensive plan for the San
23 Acacia reach to plan, design, construct and prioritize
24 projects that balance river maintenance, water avail-

1 ability, use, and delivery, and ecosystem benefits, in-
2 cluding—

3 (A) planning, permitting, and construction
4 of a pumping station at Bosque del Apache Na-
5 tional Wildlife Refuge for the purpose of more
6 efficiently using water to provide—

7 (i) a stable supply for the Refuge; and

8 (ii) additional water to the Rio
9 Grande for the benefit of the endangered
10 silvery minnow and Southwestern willow
11 flycatcher;

12 (B) planning, permitting, and construction
13 of a channel realignment project near the Rio
14 Grande mile-83 for the purpose addressing
15 channel aggradation while maintaining flood-
16 plain connectivity;

17 (C) planning, permitting, and construction
18 of a controlled outlet for the low flow convey-
19 ance channel to the Rio Grande between Fort
20 Craig, New Mexico and Rio Grande mile-60 for
21 the purpose of water use and delivery, enhance-
22 ment and development of habitat areas, and
23 possible creation of a single-channel river eco-
24 system;

1 (D) planning, permitting, and modification
 2 or possible removal of the San Acacia Diversion
 3 Dam for purposes of reducing habitat frag-
 4 mentation and securing fish passage, including
 5 channel restoration as necessary, while ensuring
 6 adequate water supplies for irrigators; and

7 (E) development of a San Acacia reach
 8 study to identify additional projects and main-
 9 tenance activities with water use and delivery
 10 and ecosystem benefits and prioritize implemen-
 11 tation of all projects and activities.

12 (2) PUBLIC PARTICIPATION.—In carrying out
 13 this subsection, the Secretary shall provide a process
 14 for public participation and comment during plan
 15 development and alternative analysis.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
 17 authorized to be appropriated to the Secretary to carry
 18 out this section \$18,000,000.

19 **SEC. 5. MIDDLE RIO GRANDE PEAK FLOW RESTORATION.**

20 (a) IN GENERAL.—During the 5-year period begin-
 21 ning on the date of enactment of this Act, the Secretary
 22 of the Army shall continue the temporary deviation in the
 23 operation of Cochiti Lake and Jemez Canyon Dam that
 24 was initiated in 2009 to evaluate the benefits of a potential
 25 permanent reauthorization of the reservoirs.

1 (b) GOALS.—The deviation mandated under sub-
2 section (a) shall provide for the detention and release of
3 native Rio Grande water and San Juan-Chama Project
4 water with the goals of—

5 (1) restoring natural river processes to the Rio
6 Grande, including a Spring peak flow to the Rio
7 Grande;

8 (2) increasing the spawning and recruitment of
9 endangered Rio Grande silvery minnows;

10 (3) creating overbanking flows that are nec-
11 essary—

12 (A) to maintain a healthy bosque; and

13 (B) to support habitat for the South-
14 western willow flycatcher and other wildlife; and

15 (4) maintaining channel capacity.

16 (c) MONITORING.—The Secretary of the Army, in co-
17 operation with the Secretary and other members of the
18 Middle Rio Grande Endangered Species Collaborative Pro-
19 gram, shall—

20 (1) monitor the environmental effects, benefits,
21 and results of the deviation mandated under this
22 section; and

23 (2) compile any data necessary to evaluate the
24 need for further amendment to the authorizations

1 and water control manuals for Cochiti Lake or
2 Jemez Canyon Dam.

3 (d) CONSULTATION REQUIRED.—Before imple-
4 menting the proposed deviation under this section, as re-
5 quired by the applicable water control manuals, the Sec-
6 retary of the Army shall first obtain approval from—

7 (1) Pueblo de Cochiti regarding the effect of
8 the deviation on the easement of Pueblo de Cochiti;

9 (2) Pueblo of Santa Ana; and

10 (3) the Rio Grande Compact Commission.

11 (e) REPORTS.—The Secretary of the Army shall pre-
12 pare and submit to Congress—

13 (1) for each year in which the deviation is being
14 carried out under this section, annual reports that
15 describe the data compiled under subsection (c)(2);
16 and

17 (2) at the end of the period described in sub-
18 section (a), a final, cumulative report that summa-
19 rizes the data obtained during that period.

20 **SEC. 6. NATIONAL ACADEMY OF SCIENCES STUDY.**

21 (a) IN GENERAL.—Not later than 60 days after the
22 date of enactment of this Act, the Secretary of the Army
23 and the Secretary shall enter into an arrangement with
24 the National Academy of Sciences to carry out a study
25 on water and reservoir management and operation issues

1 along the Rio Grande (including the Heron, El Vado,
2 Abiquiu, Cochiti, Jemez Canyon, Elephant Butte, and
3 Caballo Dams and Reservoirs), which shall include—

4 (1) an evaluation of existing Rio Grande res-
5 ervoir authorizations and legal requirements;

6 (2) a summary of—

7 (A) the physical-hydrologic understanding
8 of existing Rio Grande reservoir operations; and

9 (B) any potential constraints on the Rio
10 Grande reservoir in light of climate change pro-
11 jections;

12 (3) an identification of opportunities to opti-
13 mize water management to benefit the Rio Grande
14 ecosystem, irrigators and municipal users, and to
15 promote water conservation through reauthorization
16 of, reoperation of, or physical improvements to the
17 reservoirs;

18 (4) an evaluation of the physical-hydrologic fea-
19 sibility of the identified future reservoir management
20 scenarios;

21 (5) an identification of water use, supply, and
22 accounting impacts to other stakeholders in the
23 State;

24 (6) consideration of operations such as—

1 (A) the storage of supplemental water ac-
2 quired by and under the control of the Bureau
3 of Reclamation;

4 (B) the carryover storage of San Juan-
5 Chama Project contract water and Pueblo Prior
6 and Paramount operation water;

7 (C) changes in timing of water released to
8 offset municipal pumping;

9 (D) changes in the timing of storage and
10 release of floodwaters;

11 (E) the reduction of evaporative losses
12 from reservoirs;

13 (F) conservation of water resulting from
14 irrigation operation changes;

15 (G) the impacts of deliveries of New Mex-
16 ico Rio Grande Compact water;

17 (H) the impacts of management and oper-
18 ations on recreation and hydropower;

19 (I) the impacts of management and oper-
20 ations on the Rio Grande ecosystem and the
21 habitats that support species listed under the
22 Endangered Species Act of 1973 (16 U.S.C.
23 1531 et seq.); and

24 (J) any other factors the Academy deter-
25 mines to be necessary for purposes of fully eval-

1 uating opportunities to achieve greater water
2 conservation, drought resiliency, and ecological
3 health; and

4 (7) recommendations for future management
5 scenarios and measures that Congress should take to
6 assist the agencies in establishing more flexible oper-
7 ating procedures to improve the performance of res-
8 ervoir operations in accommodating multiple pur-
9 poses.

10 (b) COSPONSORS.—The Secretary of the Army and
11 the Secretary may solicit cosponsors for the study under
12 subsection (a), as appropriate, including State or private
13 organizations.

14 (c) PUBLIC AVAILABILITY OF STUDY.—On the date
15 on which the National Academy of Sciences completes the
16 study under this section, the National Academy of
17 Sciences shall make available to the public the results of
18 the study.

19 (d) REPORT.—Not later than 18 months after the
20 date of enactment of this Act, the National Academy of
21 Sciences shall submit to the Secretary of the Army and
22 the Secretary a report that contains a summary of the
23 results of the study conducted under this section.

24 (e) DUE DEFERENCE.—The Secretary of the Army
25 and the Secretary shall provide for due deference to the

1 study and report prepared under this section in water
2 management activities undertaken by the Secretary of the
3 Army and the Secretary in the Rio Grande.

4 **SEC. 7. EMERGENCY FUNDING.**

5 (a) FINANCIAL ASSISTANCE.—

6 (1) IN GENERAL.—Financial assistance may be
7 made available under the Reclamation States Emer-
8 gency Drought Relief Act of 1991 (43 U.S.C. 2201
9 et seq.), title XII of the Food Security Act of 1985
10 (16 U.S.C. 3801 et seq.), and any other applicable
11 Federal law (including regulations), to be divided
12 among each applicable program at the discretion of
13 the Secretaries for eligible water projects to assist
14 the State and other Western States address drought-
15 related impacts to water supplies or any other imme-
16 diate water-related crisis or conflict.

17 (2) ADDITIONAL AVAILABILITY.—Financial as-
18 sistance may be made available under this section to
19 organizations and entities, including tribal govern-
20 ments, that are engaged in collaborative processes to
21 restore the environment or are part of a basin-wide
22 solution for restoration.

23 (b) TYPES OF ASSISTANCE.—Assistance under sub-
24 section (a) shall include a range of projects, including—

1 (1) the installation of pumps, temporary bar-
2 riers, or operable gates for water diversion and fish
3 protection;

4 (2) the installation of drought-relief ground-
5 water wells for Indian tribes and in wildlife refuges
6 and other areas;

7 (3) the acquisition or assistance in the acquisi-
8 tion of water from willing sellers to enhance stream
9 flow for the benefit of fish and wildlife (including en-
10 dangered species), water quality, river ecosystem res-
11 toration, and other beneficial purposes;

12 (4) agricultural and urban conservation and ef-
13 ficiency projects providing multiple water supply
14 benefits;

15 (5) exchanges with any water district willing to
16 provide water to meet the emergency water needs of
17 other water districts in return for the delivery of
18 equivalent quantities of water later that year or in
19 future years;

20 (6) maintenance of cover crops to prevent pub-
21 lic health impacts from severe dust storms;

22 (7) emergency pumping projects for critical
23 health and safety purposes;

1 (8) activities to reduce water demand consistent
2 with a comprehensive program for environmental
3 restoration and settlement of water rights claims;

4 (9) the use of new or innovative on-farm water
5 conservation technologies or methods that may—

6 (A) assist in sustaining permanent crops in
7 areas with severe water shortages; and

8 (B) make water available for other bene-
9 ficial uses;

10 (10) activities that protect, restore, or enhance
11 fish and wildlife habitat or otherwise improve envi-
12 ronmental conditions, including water quantity or
13 quality concerns and improved fish passage;

14 (11) activities reducing or preventing ground-
15 water depletion or promoting groundwater recharge;

16 (12) technical assistance to improve existing ir-
17 rigation practices to provide water supply benefits;

18 (13) the investigation of, and pilot projects for,
19 brackish water development and aquifer storage and
20 recovery;

21 (14) the lining of irrigation ditches and canals
22 to reduce water loss and improve efficiency;

23 (15) assistance to municipal water management
24 entities for water supply planning in preparation for

and in response to dry, critically dry, and below normal water years, including—

(A) hydrological forecasting;

(B) identification of alternative water supply sources; and

(C) guidance on potential water transfer partners; and

(16) any other assistance the Secretary determines to be necessary to increase available water supplies, maintain the health of river ecosystems, or mitigate drought impacts.

SEC. 8. SECURE WATER ACT REAUTHORIZATION.

Section 9504 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(H)—

(i) in clause (i), by striking “or” after the semicolon at the end;

(ii) in clause (ii), by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following:

“(iii) to plan for or address the impacts of drought.”; and

(B) in paragraph (3)(E), by adding at the end the following:

“(v) AUTHORITY OF COMMISSIONER.—The Commissioner of Reclamation may, at the discretion of the Commissioner—

“(I) waive any cost-share requirements to address emergency drought situations;

“(II) prioritize projects based on the ability of the projects—

“(aa) to expeditiously yield multiple water supply benefits during periods of drought; or

“(bb) to prevent any other immediate water-related crisis or conflict; and

“(III) give priority to projects demonstrating innovative conservation tools or methods that balance instream and out-of-stream water supply needs, including water conservation and water marketing.”; and

(2) in subsection (e), by striking “\$200,000,000” and inserting “\$300,000,000”.

1 **SEC. 9. RECLAMATION STATES EMERGENCY DROUGHT RE-**
 2 **LIEF ACT REAUTHORIZATION.**

3 Section 301 of the Reclamation States Emergency
 4 Drought Relief Act of 1991 (43 U.S.C. 2241) is amend-
 5 ed—

6 (1) by striking “\$90,000,000” and inserting
 7 “\$190,000,000”; and

8 (2) by striking “2012” and inserting “2018”.

9 **SEC. 10. RIO GRANDE PUEBLO IRRIGATION INFRASTRUC-**
 10 **TURE REAUTHORIZATION.**

11 Section 9106 of the Omnibus Public Land Manage-
 12 ment Act of 2009 (Public Law 111–11; 123 Stat. 1304)
 13 is amended—

14 (1) in subsection (c)(4), by striking “2 years
 15 after the date of enactment of this Act” and insert-
 16 ing “December 31, 2016”; and

17 (2) in subsection (g)(2)—

18 (A) by striking “\$6,000,000” and inserting
 19 “\$12,000,000”; and

20 (B) by striking “2010 through 2019” and
 21 inserting “2015 through 2024”.

22 **SEC. 11. REGIONAL CONSERVATION PARTNERSHIP PRO-**
 23 **GRAM.**

24 The Secretary of Agriculture may allocate financial
 25 assistance made available under subtitle I of title XII of
 26 the Food Security Act of 1985 (16 U.S.C. 3871 et seq.)

1 to establish special conservation initiatives at the local,
 2 State, or regional level to assist producers in implementing
 3 eligible activities on agricultural land in the western States
 4 for the purposes of—

5 (1) mitigating the effects of drought on agricul-
 6 tural production and the environment;

7 (2) improving water quality and quantity, in-
 8 cluding reducing groundwater depletion;

9 (3) restoring, enhancing, and preserving fish
 10 and wildlife habitat; and

11 (4) promoting innovative and collaborative con-
 12 servation tools and approaches.

13 **SEC. 12. CONSERVATION RESERVE PROGRAM.**

14 (a) CONSERVATION PRIORITY AREAS.—Section
 15 1231(f) of the Food Security Act of 1985 (16 U.S.C.
 16 3831(f)) is amended—

17 (1) in paragraph (2), by striking “or” and all
 18 that follows through the period at the end and in-
 19 serting “, water quantity, or habitat impacts related
 20 to agricultural production activities.”;

21 (2) in paragraph (3), by striking “or” and all
 22 that follows through the period at the end and in-
 23 serting “, water quantity, or habitat impacts related
 24 to agricultural production activities.”; and

1 (3) in paragraph (4), by striking “water quality
2 and habitat benefits” and inserting “water quality,
3 water quantity, and habitat benefits”.

4 (b) SPECIAL CONSERVATION RESERVE ENHANCE-
5 MENT PROGRAM.—Section 1234(g)(2)(B) of the Food Se-
6 curity Act of 1985 (16 U.S.C. 3834(g)(2)(B)) is amended
7 by inserting “, including improving water conservation and
8 drought mitigation” before the period at the end.

9 **SEC. 13. EFFECT ON STATE LAW.**

10 (a) IN GENERAL.—An action taken by any of the
11 Secretaries or other entity under this Act or an amend-
12 ment made by this Act shall comply with applicable State
13 laws in effect on the date of enactment of this Act, includ-
14 ing a law described in subsection (b).

15 (b) STATE LAW.—Nothing in this Act or an amend-
16 ment made by this Act affects, is intended to affect, or
17 interferes with a law of the State relating to the control,
18 appropriation, use, or distribution of water, or any vested
19 right acquired under the law.

○