To support water infrastructure in Reclamation States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. GARDNER (for himself, Mrs. FEINSTEIN, Ms. MCSALLY, and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To support water infrastructure in Reclamation States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Drought Resiliency and Water Supply Infrastructure Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) DESIGN; STUDY.—The terms “design” and “study” include any design, permitting, materials
engineering or testing, surveying, or preconstruction activity relating to a water storage facility.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 3. SURFACE AND GROUNDWATER STORAGE AND SUPPORTING PROJECTS.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

(A) the Committee on Appropriations of the Senate;

(B) the Committee on Energy and Natural Resources of the Senate;

(C) the Committee on Appropriations of the House of Representatives; and

(D) the Committee on Natural Resources of the House of Representatives.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) any State, political subdivision of a State, department of a State, or public agency organized pursuant to State law;

(B) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Edu-
cipation Assistance Act (25 U.S.C. 5304)) or an entity controlled by an Indian tribe;

(C) a water users’ association;

(D) an agency established by an interstate compact; and

(E) an agency established under State law for the joint exercise of powers.

(3) **Federally owned storage project.**—

The term “federally owned storage project” means any project in a Reclamation State—

(A) that involves the construction, expansion, upgrade, or capital repair of—

(i) a surface water storage facility; or

(ii) a facility conveying water to or from a surface or groundwater storage facility;

(B) to which the United States holds title; and

(C) that was authorized to be constructed, operated, and maintained pursuant to—

(i) the reclamation laws; or

(ii) the Act of August 11, 1939 (commonly known as the “Water Conservation and Utilization Act”) (16 U.S.C. 590y et seq.).
(4) **NON-FEDERAL STORAGE PROJECT.**—The term “non-Federal storage project” means any project in a Reclamation State that—

(A) involves the construction, expansion, upgrade, or capital repair by an eligible entity of—

(i) a surface or groundwater storage facility that is not federally owned; or

(ii) a facility that is not federally owned conveying water to or from a surface or groundwater storage facility; and

(B) provides a benefit in meeting any obligation under applicable Federal law (including regulations).

(5) **RECLAMATION LAWS.**—The term “reclamation laws” means Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act.

(6) **RECLAMATION STATE.**—The term “Reclamation State” has the meaning given the term in section 4014 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322).
(b) Grant Program.—The Secretary may provide a grant under this section to an eligible entity to carry out, within a Reclamation State—

(1) a federally owned storage project in accordance with subsection (c); or

(2) a non-Federal storage project in accordance with subsection (d).

(c) Federally Owned Storage Projects.—

(1) Agreements.—On request of an eligible entity, the Secretary may negotiate and enter into an agreement on behalf of the United States for the design, study, construction, expansion, upgrade, or capital repair of a federally owned storage project located in a Reclamation State in accordance with this subsection.

(2) Federal Share.—Subject to the requirements of this subsection, the Secretary may participate in a federally owned storage project in an amount equal to not more than 50 percent of the total cost of the federally owned storage project.

(3) Conditions for Federal Construction Funding.—The construction of a federally owned storage project that is the subject of an agreement under this subsection shall not commence until the Secretary—
(A) determines that the proposed federally owned storage project is feasible in accordance with the reclamation laws;

(B) determines that—

(i) the federally owned storage project provides a Federal benefit in accordance with the reclamation laws; and

(ii) not less than a proportionate share of the benefits of the federally owned storage project are Federal benefits, including water supplies dedicated to specific purposes, such as water quality improvements or fish and wildlife protection and restoration, including a wildlife refuge; and

(C) secures an agreement providing such upfront funding as is necessary to pay the non-Federal share of the capital costs of the federally owned storage project.

(4) Notification.—The Secretary shall submit to the appropriate committees of Congress a written notification of the determinations under paragraph (3) by not later than 30 days after the date of the determinations.

(5) Environmental laws.—In participating in a federally owned storage project under this sub-
section, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(6) EXPANSION OR UPGRADE.—The Secretary shall require, as a condition for design, study, or any other participation in the expansion or upgrade of a federally owned storage project—

(A) the agreement of any single entity that has an existing water service contract or repayment contract for more than 60 percent of the capacity or yield of the federally owned storage project that the expansion will not adversely affect any right or interest of the entity under the water service contract or repayment contract, as applicable; and

(B) the agreement of the non-Federal entity that, pursuant to a formal operations and maintenance transfer contract or other legal agreement with the Secretary, acting through the Commissioner of Reclamation, carries out the operations and maintenance of the federally owned storage project, if applicable.

(d) NON-FEDERAL STORAGE PROJECTS.—
(1) In general.—Subject to the requirements of this subsection, the Secretary may participate in the design, study, construction, expansion, upgrade, or capital repair of a non-Federal storage project in an amount equal to not more than 25 percent of the total cost of the non-Federal storage project.

(2) Conditions for federal design and study funding.—The Secretary shall only fund a design or study activity for a non-Federal storage project under this subsection if—

(A) Federal participation has been requested by the Governor of the State in which the non-Federal storage project is located; and

(B) the Secretary has identified the potential for Federal benefit sufficient to proceed.

(3) Conditions for federal construction funding.—Participation by the Secretary in the construction of a non-Federal storage project under this subsection shall not occur unless—

(A) the Governor of the State in which the non-Federal storage project is located has requested Federal participation at the time construction was initiated; and

(B) the applicable non-Federal sponsor determines, and the Secretary concurs, that—
(i) the non-Federal storage project is technically and financially feasible;

(ii) the non-Federal storage project provides a Federal benefit in accordance with the reclamation laws;

(iii) not less than a proportionate share of the benefits of the non-Federal storage project are Federal benefits, including water supplies dedicated to specific purposes, such as water quality improvements or fish and wildlife protection and restoration, including a wildlife refuge; and

(iv) each sponsor of the non-Federal project is financially capable of funding the non-Federal share of the project costs.

(4) NOTIFICATION.—The Secretary shall submit to the appropriate committees of Congress a written notification of the determinations under paragraphs (2) and (3) by not later than 30 days after the date of the determinations.

(5) ENVIRONMENTAL LAWS.—In participating in a non-Federal storage project under this subsection, the Secretary shall comply with all applicable environmental laws, including the National Envi-
10


(6) INFORMATION.—

(A) IN GENERAL.—In participating in a non-Federal storage project under this subsection, the Secretary—

(i) shall—

(I) generally, rely on reports prepared by the sponsor of the non-Federal storage project, including feasibility or equivalent studies, environmental analyses, and other pertinent reports and analyses; but

(II) retain responsibility for making the independent determinations described in paragraphs (2) and (3); and

(ii) may prepare studies supplementary to the studies described in clause (i)(I), on—

(I) request of the sponsor of the non-Federal storage project; and

(II) agreement by the Secretary.

(B) GUIDELINES.—
(i) DRAFT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue draft guidelines for feasibility or equivalent studies for non-Federal storage projects prepared by a project sponsor that shall be consistent with requirements for a title XVI Feasibility Study Report, including the economic analysis, contained in the Reclamation Manual Directives and Standards numbered WTR 11–01, subject to—

(I) any additional requirements necessary to provide sufficient information for making the independent determinations described in paragraphs (2)(B) and (3); and

(II) the condition that the Bureau of Reclamation shall not bear responsibility for the technical adequacy of any design, cost estimate, or construction relating to a non-Federal storage project.

(ii) FINAL.—The Secretary shall finalize the guidelines under clause (i) by not
later than 1 year after the date of enactment of this Act.

(c) Rights to Use Capacity.—Subject to compliance with applicable Reclamation State water rights laws, the right to use the capacity of a federally owned storage project or non-Federal storage project with respect to which the Secretary has entered into an agreement under this subsection shall be allocated in such manner as may be mutually agreed to by the Secretary and each other party to the agreement, including any party described in subsection (c)(6)(B).

(f) Federal Benefits.—In making a determination relating to a Federal benefit under this section, the Secretary may include any benefit realized from the existence of operational flexibility to optimize the achievement of an authorized project purpose (whether reimbursable or nonreimbursable), taking into consideration the hydrology of a given water year, including through the coordinated management of Federal and non-Federal facilities.

(g) Funding.—

(1) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out this section $670,000,000 for the period of fiscal years 2020 through 2024.
(2) **CONGRESSIONAL APPROVAL INITIALLY REQUIRED.**—

(A) **DESIGN AND STUDY FUNDING.**—Each initial award under this section for design and study of a federally owned storage project or a non-Federal storage project shall be approved in an appropriations Act.

(B) **CONSTRUCTION FUNDING.**—Each initial award under this section for construction of a federally owned storage project or a non-Federal storage project shall be approved in an appropriations Act.

(C) **RECLAMATION RECOMMENDATIONS.**—

(i) **IN GENERAL.**—Subject to clause (ii), the Commissioner of Reclamation shall submit to the appropriate committees of Congress recommendations regarding the initial award of design and study funding, and of construction funding, for each federally owned storage project and non-Federal storage project subject to consideration under subparagraphs (A) and (B).

(ii) **REQUIREMENT.**—The Commissioner of Reclamation shall confer with the appropriate committees of Congress before
submitting the recommendations under clause (i).

(3) Subsequent Funding Awards.—

(A) Design and Study Funding.—After approval by Congress of an initial award of design and study funding for a federally owned storage project or a non-Federal storage project under paragraph (2), the Secretary may award additional design and study funding for the federally owned storage project or non-Federal storage project without further congressional approval.

(B) Construction Funding.—After approval by Congress of an initial award of construction funding for a federally owned storage project or a non-Federal storage project under paragraph (2), the Secretary may award additional construction funding for the federally owned storage project or non-Federal storage project without further congressional approval.

(4) Preliminary Studies.—Of the amounts made available under paragraph (1), not more than 25 percent shall be provided for appraisal studies, feasibility studies, or other preliminary studies.

(5) WIIN Act Storage Funding.—
(A) Appropriations.—Each federally owned storage project and non-Federal storage project shall be eligible to receive any amounts made available pursuant to section 4007(h) of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) (as in effect on the day before the date of enactment of this Act), in accordance with paragraphs (2) and (3).

(B) Individual Projects.—

  (i) Federally owned storage projects.—If the Secretary determines that a federally owned storage project is eligible for funding under section 4007(b) of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322), the federally owned storage project shall remain eligible for funding under subsection (c).

  (ii) Non-Federal storage projects.—If the Secretary determines that a non-Federal storage project is eligible for funding as a State-led storage project under section 4007(c) the Water Infrastructure Improvements for the Na-
tion Act (43 U.S.C. 390b note; Public Law 114–322), the non-Federal storage project shall remain eligible for funding under subsection (d).

(h) CONSISTENCY WITH STATE LAW.—Nothing in this section preempts or modifies any obligation of the United States or an eligible entity to act in accordance with applicable State law.

(i) PARTNERSHIP AND AGREEMENTS RELATING TO CERTAIN WATER STORAGE PROJECTS.—The Secretary, acting through the Commissioner of Reclamation, may enter into a partnership or other agreement relating to a water storage project described in section 103 of the Calfed Bay-Delta Authorization Act (Public Law 108–361; 118 Stat. 1683) with a local joint-powers authority established pursuant to State law by 1 or more irrigation districts or other local water districts or units of local government within the applicable hydrologic region, to advance the project.


(k) CONFORMING AMENDMENT.—Section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) is repealed.

SEC. 4. WATER RECYCLING AND REUSE.

(a) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h) is amended by striking paragraph (2) of subsection (f) and all that follows through the end of subsection (g) and inserting the following:

“(2) PRIORITIES AND DIVERSITY OF PROJECT TYPES.—In providing grants under paragraph (1), the Secretary shall—

“(A) give priority to projects that—

“(i) are likely to provide a more-reliable water supply for a unit of State or local government;

“(ii) are likely to increase the water management flexibility and reduce impacts on environmental resources; or

“(iii) provide multiple benefits, including water supply reliability, ecosystem benefits, groundwater management and enhancements, and water quality improvements; and
“(B) take into consideration selecting a diversity of project types, including projects that serve—

“(i) a region or more than 1 community;

“(ii) a rural or small community; or

“(iii) an urban community or city.

“(g) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to the Secretary to carry out subsections (e) and (f) $100,000,000 for the period of fiscal years 2020 through 2024.

“(2) FUNDING OPPORTUNITY ANNOUNCEMENT.—The Commissioner of Reclamation shall release a funding opportunity announcement for the competitive grant program under subsection (f) by not later than 75 days after the date of enactment of an Act that provides funding for the program.

“(3) CONGRESSIONAL APPROVAL INITIALLY REQUIRED.—

“(A) IN GENERAL.—Each initial award under this section for design and study, or for construction, of a project under subsection (e)
or (f) shall be approved in an appropriations Act.

“(B) RECLAMATION RECOMMENDATIONS.—The Commissioner of Reclamation shall submit recommendations regarding the initial award of design and study funding and construction funding for consideration under subparagraph (A) to—

“(i) the Committee on Appropriations of the Senate;

“(ii) the Committee on Energy and Natural Resources of the Senate;

“(iii) the Committee on Appropriations of the House of Representatives; and

“(iv) the Committee on Natural Resources of the House of Representatives.

“(4) SUBSEQUENT FUNDING AWARDS.—After approval by Congress of an initial award of design and study funding or construction funding for a project under paragraph (3), the Commissioner of Reclamation may award additional design and study funding or construction funding, respectively, for the project without further congressional approval.”.
(b) LIMITATION ON FUNDING.—Section 1631(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–13(d)) is amended—

(1) in paragraph (1)—

(A) by striking “by paragraph (2)” and inserting “in paragraphs (2) and (3)”; and

(B) striking “$20,000,000 (October 1996 prices)” and inserting “$30,000,000 (in prices as determined for January 2019)”;

(2) in paragraph (2)—

(A) in subparagraph (B)—

(i) by striking “(B) In the case” and inserting the following:

“(B) SAN GABRIEL BASIN.—In the case”;

and

(ii) by indenting clauses (i) and (ii) appropriately; and

(B) by striking “(2)(A) Subject to” and inserting the following:

“(2) PROJECTS FUNDED AS OF 2020.—The Federal share of the cost of any single project authorized under this title shall be $20,000,000 if the project has received that amount as of December 31, 2020.

“(3) OLDER PROJECTS.—
“(A) IN GENERAL.—Subject to”.

SEC. 5. DESALINATION.

Section 4(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended by striking the second paragraph (1) (relating to projects) and inserting the following:

“(2) PROJECTS.—

“(A) DEFINITION OF ELIGIBLE DESALINATION PROJECT.—In this paragraph, the term ‘eligible desalination project’ means any project located in a Reclamation State, or for which the construction, operation, sponsorship, or funding is the responsibility of, and the primary water supply benefit accrues to, 1 or more entities in a Reclamation State, that—

“(i) involves an ocean or brackish water desalination facility—

“(I) constructed, operated, and maintained by a State, Indian Tribe, irrigation district, water district, or other organization with water or power delivery authority; or

“(II) sponsored or funded by any State, department of a State, political subdivision of a State, or public agen-
organized pursuant to State law,
including through—

“(aa) direct sponsorship or
funding; or

“(bb) indirect sponsorship or
funding, such as by paying for
the water provided by the facility;

and

“(ii) provides a Federal benefit in ac-
cordance with the reclamation laws.

“(B) FEDERAL SHARE.—Subject to the re-
quirements of this paragraph, the Secretary
may participate in an eligible desalination
project in an amount equal to not more than 25
percent of the total cost of the eligible desalina-
tion project.

“(C) STATE ROLE.—Participation by the
Secretary in an eligible desalination project
under this paragraph shall not occur unless—

“(i)(I) the eligible desalination project
is included in a State-approved plan; or

“(II) the participation has been re-
quested by the Governor of the State in
which the eligible desalination project is lo-
cated; and
“(ii) the State or local sponsor of the eligible desalination project determines, and the Secretary concurs, that—

“(I) the eligible desalination project—

“(aa) is technically and financially feasible; and

“(bb) provides a Federal benefit in accordance with the reclamation laws; and

“(II) the non-Federal project sponsor is financially capable of funding the non-Federal share of the project costs; and

“(iii) the Secretary submits to Congress a written notification of the determinations under clause (ii) by not later than 30 days after the date of the determinations.

“(D) ENVIRONMENTAL LAWS.—In participating in an eligible desalination project under this paragraph, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
“(E) INFORMATION.—In participating in an eligible desalination project under this subsection, the Secretary—

“(i) may rely on reports prepared by the sponsor of the eligible desalination project, including feasibility or equivalent studies, environmental analyses, and other pertinent reports and analyses; but

“(ii) shall retain responsibility for making the independent determinations described in subparagraph (C).

“(F) FUNDING.—

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $60,000,000 for the period of fiscal years 2020 through 2024.

“(ii) FUNDING OPPORTUNITY ANNOUNCEMENT.—The Commissioner of Reclamation shall release a funding opportunity announcement for a grant program under this paragraph by not later than 75 days after the date of enactment of an Act that provides funding for the program.
“(iii) Congressional approval initially required.—

“(I) In general.—Each initial award under this paragraph for design and study, or for construction, of an eligible desalination project shall be approved in an appropriations Act.

“(II) Reclamation recommendations.—The Commissioner of Reclamation shall submit recommendations regarding the initial award of design and study funding and construction funding for consideration under subclause (I) to—

“(aa) the Committee on Appropriations of the Senate;

“(bb) the Committee on Energy and Natural Resources of the Senate;

“(cc) the Committee on Appropriations of the House of Representatives; and

“(dd) the Committee on Natural Resources of the House of Representatives.
“(iv) Subsequent Funding Awards.—After approval by Congress of an initial award of design and study funding or construction funding for an eligible desalination project under clause (iii), the Commissioner of Reclamation may award additional design and study funding or construction funding, respectively, for the eligible desalination project without further congressional approval.”.

SEC. 6. RECLAMATION INFRASTRUCTURE FINANCE AND INNOVATION PILOT PROGRAM.

(a) Establishment.—The Secretary shall establish and carry out a pilot program under which the Secretary shall provide to eligible entities described in subsection (c) financial assistance in accordance with this section to carry out eligible projects described in subsection (b).

(b) Eligible Projects.—

(1) In general.—A project eligible to receive assistance under the pilot program under this section is a water supply project that, as determined by the Secretary—

(A) is located in—

(i) the State of Alaska;

(ii) the State of Hawaii; or
(iii) a State or territory described in the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391);

(B) would contribute directly or indirectly (including through groundwater recharge) to a safe, adequate water supply for domestic, agricultural, environmental, or municipal or industrial use; and

(C) is otherwise eligible for assistance under this section.

(2) Projects associated with Bureau of Reclamation facilities.—A project that supports an improvement to, or is associated with, a Bureau of Reclamation facility shall be eligible to receive assistance under the pilot program under this section if—

(A) the project meets the criteria described in paragraph (1);

(B) the eligible entity carrying out the project demonstrates to the satisfaction of the Secretary that the eligible entity is initiating and implementing the project for non-Federal purposes;
(C) the eligible entity retains or secures, through a long-term Federal property lease, operation and maintenance transfer agreement that provides for self-funding, or easement agreement with the Secretary, substantial control over the assets, operation, management, and maintenance of the project; and

(D) the project meets such other criteria as the Secretary may establish.

(3) SMALL COMMUNITY PROJECTS.—For projects eligible for assistance under this section and section 5028(a)(2)(B) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3907(a)(2)(B)), the Secretary may assist applicants in combining 1 or more projects into a single application in order to meet the minimum project cost of $5,000,000 required under that section.

(c) ELIGIBLE ENTITIES.—The following entities are eligible to receive assistance under this section:


(2) A conservancy district, Reclamation district, irrigation district, or water district.

(3) A canal company or mutual water company.
(4) A water users’ association.

(5) An agency established by an interstate compact.

(6) An agency established under State law for the joint exercise of powers.

(7) Any other individual or entity that has the capacity to contract with the United States under the reclamation laws.

(d) REQUIREMENTS.—

(1) PROJECT SELECTION.—In selecting eligible projects to receive assistance under the pilot program under this section, the Secretary shall ensure diversity with respect to—

(A) project type; and

(B) geographical location within the States referred to in subsection (b)(1)(A).

(2) IMPORTATION OF OTHER REQUIREMENTS.—The following provisions of law shall apply to the pilot program under this section:

(A) Sections 5022, 5024, 5027, 5028, 5029, 5030, 5031, 5032, and 5034(a) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3901, 3903, 3906, 3907, 3908, 3909, 3910, 3911, 3913(a)), except that—
(i) any reference contained in those sections to the Secretary of the Army shall be considered to be a reference to the Secretary;

(ii) any reference contained in those sections to an eligible project shall be considered to be a reference to an eligible project described in subsection (b);

(iii) paragraphs (1)(E) and (6)(B) of subsection (a), and subsection (b)(3), of section 5028 of that Act (33 U.S.C. 3907) shall not apply with respect to this section; and

(iv) subsections (e) and (f) of section 5030 of that Act (33 U.S.C. 3909) shall not apply with respect to this section.

(B) The agreement between the Administrator of the Environmental Protection Agency and the Commissioner of Reclamation required under section 4301 of the America’s Water Infrastructure Act of 2018 (Public Law 115–270), pursuant to which the Administrator shall retain responsibility for administering any loans under this section.
(C) Other applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out the pilot program under this section $150,000,000 for the period of fiscal years 2021 through 2025, to remain available until expended.

(2) ADMINISTRATIVE COSTS.—Of the funds made available pursuant to paragraph (1), the Secretary may use for administrative costs of carrying out the pilot program under this section (including for the provision of technical assistance to project sponsors pursuant to paragraph (3), to obtain any necessary approval, and for transfer to the Administrator of the Environmental Protection Agency to provide assistance in administering and servicing Federal credit instruments under the pilot program) not more than $5,000,000 for each applicable fiscal year.

(3) SMALL COMMUNITY PROJECTS.—

(A) IN GENERAL.—Subject to subsection (b), the Commissioner may use the funds made available under paragraph (2) to provide assist-
ance, including assistance to pay the costs of acquiring the rating opinion letters under para-
graph (1)(D) of section 5028(a) of the Water Resources Reform and Development Act of
2014 (33 U.S.C. 3907(a)), to assist project sponsors in obtaining the necessary approvals for small community projects that are eligible for assistance under paragraph (2)(B) of that section or subsection (b)(3).

(B) LIMITATION.—Assistance provided to a project sponsor under subparagraph (A) may not exceed an amount equal to 75 percent of the total administrative costs incurred by the project sponsor in securing financial assistance under this section.

SEC. 7. RESTORATION AND ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—The Secretary may participate in—

(1) environmental restoration activities benefit-
ting species—

(A) listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that are adversely affected by the operation of water projects of the Bu-
reau of Reclamation; or
(B) through water delivery from a Reclamation project to a wildlife refuge;

(2) environmental compliance activities, including stream gauging, monitoring, and other data collection activities, to assist water projects of the Bureau of Reclamation in—

(A) achieving the purposes of the projects;

and

(B) fulfilling the duties of the Bureau under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536); and

(3) a forest, meadow, or watershed restoration activity on Federal land—

(A) that has the potential—

(i) to restore healthy forest or watershed conditions that improve the quality, timing, or other attributes of runoff to—

(I) a Bureau of Reclamation facility or project; or

(II) a surface or groundwater storage facility that is operated in conjunction with a Bureau of Reclamation facility or project;

(ii) to reduce the rate of sedimentation of a Bureau of Reclamation facility; or
(iii) to reduce the threat of wildfire that could affect runoff to, or sedimentation or structural integrity of, a Bureau of Reclamation facility; and

(B) with respect to which—

(i) the proportion that the amount of Federal funding under this section bears to the total cost of the project is approximately equal to, or less than, the proportion that water-related benefits bears to the total benefits of the project, as calculated by the Secretary using a methodology at the discretion of the Secretary; and

(ii) Federal water contractors are likely to receive at least part of the water supply or water quality benefits of the project.

(b) PRIORITY.—In carrying out this section, the Secretary shall give priority to restoration or environmental compliance activities that—

(1) implement congressional direction, such as projects described in—

(A) subsection (a)(3);
(B) section 4001 or 4010 of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322; 130 Stat. 1851); or

(C) congressionally authorized species recovery programs on the Colorado River;

(2) are recommended by collaborative processes or plans developed by Federal agencies in conjunction with States, water contractors, environmental or fishing interests, or other stakeholders; or

(3) implement settlements with State agencies or requirements under State water laws to restore species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or other species adversely affected by the operation of water projects of the Bureau of Reclamation.

(c) COST-SHARE.—

(1) IN GENERAL.—The Federal share of the cost of any individual program, activity, or project carried out using funds made available pursuant to this section—

(A) shall be not more than 50 percent; and

(B) shall be nonreimbursable.

(2) PROGRAM-LEVEL CALCULATION.—The Federal cost-share described in paragraph (1) shall be
calculated at the program level, at which a group of activities or projects are considered to be a part of a broader, cohesive program.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary—

(1) $20,000,000 to carry out subsection (a)(3) for the period of fiscal years 2020 and 2021; and

(2) $120,000,000 to carry out this section for the period of fiscal years 2022 through 2024.

(e) Applicable Law.—Nothing in this section shall be interpreted or implemented in a manner that—

(1) preempts or modifies any obligation of the United States under Federal law to act in accordance with applicable State law, including applicable State water law; or

(2) affects or modifies any obligation under Federal environmental law.

SEC. 8. DEAUTHORIZATION OF CERTAIN WATER RECYCLING PROJECTS.

(a) Purpose; Definition.—

(1) Purpose.—The purpose of this section is to establish an efficient and transparent 1-time process for deauthorizing Bureau of Reclamation title XVI projects that have failed—
(A) to receive a minimum level of Federal investment; or

(B) to initiate construction.

(2) DEFINITION OF TITLE XVI PROJECT.—In this section, the term “title XVI project” means a project authorized by title XVI of Public Law 102–575 (43 U.S.C. 390h et seq.).

(b) BACKLOG LIST.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and make available on a publicly accessible internet website in a manner that is downloadable, searchable, and sortable, a list of—

(1) title XVI projects—

(A) that are authorized; and

(B) for which, during the fiscal year in which this Act is enacted and each of the preceding 10 fiscal years—

(i) no application for Federal funding has been received; and

(ii) no construction has occurred; and

(2) for each title XVI project listed under paragraph (1)—
(A) the date of authorization of the title XVI project, including any subsequent modifications to the original authorization;

(B) a brief description of the title XVI project; and

(C) any amounts appropriated for the title XVI project that remain unobligated.

(c) INTERIM DEAUTHORIZATION LIST.—

(1) IN GENERAL.—The Secretary shall develop and make publicly available an interim deauthorization list that identifies each title XVI project described in subsection (b)(1).

(2) PUBLIC COMMENT AND CONSULTATION.—

(A) IN GENERAL.—The Secretary shall solicit and accept, for a period of not less than 90 days, comments relating to the interim deauthorization list under paragraph (1) from—

(i) the public; and

(ii) the Governor of each applicable State.

(B) PROJECT SPONSORS.—As part of the public comment period under subparagraph (A), the Secretary shall provide to title XVI project sponsors the opportunity to provide to the Secretary a notice of the intent to initiate construc-
tion of the title XVI project by not later than
the date that is 2 years after the date of publi-
cation of the preliminary final deauthorization
list under subsection (d).

(3) SUBMISSION TO CONGRESS; PUBLICA-
TION.—Not later than 90 days after the date of sub-
mission of the backlog list under subsection (b), the
Secretary shall—

(A) submit the interim deauthorization list
under paragraph (1) to the Committee on En-
ergy and Natural Resources of the Senate and
the Committee on Natural Resources of the
House of Representatives; and

(B) publish the interim deauthorization list
in the Federal Register.

(d) PRELIMINARY FINAL DEAUTHORIZATION LIST.—

(1) IN GENERAL.—The Secretary shall develop
a preliminary final deauthorization list that includes
each title XVI project identified pursuant to para-
graph (2).

(2) IDENTIFICATION OF PROJECTS.—

(A) EXCLUSIONS.—The Secretary may
identify a title XVI project described in sub-
section (b)(1) for exclusion from the prelimi-
nary final deauthorization list if the Secretary
determines, on a case-by-case basis following receipt of public comments, that the title XVI project is critical for interests of the United States, based on the practicable impact of the title XVI project on—

(i) public health and safety;

(ii) the national economy; or

(iii) the environment.

(B) SUBJECT TO DEAUTHORIZATION DESIGNATION.—Any title XVI project the sponsor of which has provided to the Secretary a notice of the intent to initiate construction by not later than 2 years after the date of publication of the preliminary final deauthorization list under this subsection shall be designated on that list as “subject to deauthorization”.

(C) APPENDIX.—The Secretary shall include as part of the preliminary final deauthorization list under this subsection an appendix that—

(i) identifies each title XVI project included on the interim deauthorization list under subsection (e) that is not included on the preliminary final deauthorization list; and
(ii) describes the reasons why each title XVI project identified under clause (i) is not included on the preliminary final deauthorization list.

(3) Submission to Congress; Publication.—Not later than 120 days after the date of expiration of the public comment period under subsection (c)(2)(A), the Secretary shall—

(A) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives the preliminary final deauthorization list and the appendix required under this subsection; and

(B) publish the preliminary final deauthorization list and appendix in the Federal Register.

(e) Deauthorization; Congressional Review.—Effective beginning on the date that is 180 days after the date of submission to Congress of the preliminary final deauthorization list under subsection (d)(3)(A), each title XVI project included on that list is deauthorized, unless—

(1) the title XVI project is designated as “subject to deauthorization” pursuant to subsection (d)(2)(B); or
(2) Congress has enacted a joint resolution disapproving the preliminary final deauthorization list.

(f) UPDATED FINAL DEAUTHORIZATION LIST.—

(1) PUBLICATION.—Not later than the date that is 2 years after the date of publication of the preliminary final deauthorization list under subsection (d)(3)(B), the Secretary shall publish an updated final deauthorization list.

(2) PROJECTS SUBJECT TO DEAUTHORIZATION.—On the updated final deauthorization list under this subsection, the Secretary shall describe any title XVI project designated as “subject to deauthorization” on the preliminary final deauthorization list pursuant to subsection (d)(2)(B) as—

(A) authorized, if the Secretary has received evidence that the sponsor of the title XVI project has substantially initiated construction on the title XVI project; or

(B) deauthorized, if the Secretary has not received the evidence described in subparagraph (A).

(3) DEAUTHORIZATION.—Any project described as deauthorized pursuant to paragraph (2)(B) shall be deauthorized on the date that is 180 days after the date of submission of the updated final de-
authorization list under paragraph (1), unless Con-
gress has enacted a joint resolution disapproving
that list.

(g) TREATMENT OF PROJECT MODIFICATIONS.—For
purposes of this section, if a title XVI project has been
modified by an Act of Congress, the date of authorization
of the title XVI project shall be considered to be the date
of the most recent modification.

SEC. 9. OFFSETS.

(a) DEFINITION OF WATER USERS’ ASSOCIATION.—

In this section:

(1) IN GENERAL.—The term “water users’ asso-
ciation” means an entity that is—

(A) organized and recognized under appli-
cable State law; and

(B) eligible to enter into contracts with the
Bureau of Reclamation—

(i) to receive contract water for deliv-
er to end users of the water; and

(ii) to pay applicable charges relating
to that water.

(2) INCLUSIONS.—The term “water users’ asso-
ciation” includes—

(A) an association;

(B) a conservancy district;
(C) an irrigation district;
(D) a municipality;
(E) a water project contract unit; and
(F) any similar entity described in para-

(b) PREPAYMENT OF CERTAIN REPAYMENT CON-

TRACTS.—

(1) CONVERSION AND PREPAYMENT.—On re-
ceipt of a request from a party to the contract, the
Secretary shall convert any water service contract in
effect on the date of enactment of this Act between
the United States and a water users’ association to
allow for prepayment of the contract pursuant to
paragraph (2) under mutually agreeable terms and
conditions, subject to the conditions that—

(A) a water service contract entered into
under subsection (e) of section 9 of the Act of
August 4, 1939 (53 Stat. 1193, chapter 418),
proposed to be converted under this subsection
shall be converted to a repayment contract
under subsection (d) of that section; and

(B) a water service contract entered into
under subsection (e)(2) of section 9 of the Act
of August 4, 1939 (53 Stat. 1193, chapter
418), proposed to be converted under this sub-
section shall be converted to a contract under subsection (e)(1) of that section.

(2) PREPAYMENT.—Except for a repayment contract under which the contractor has previously negotiated for prepayment, on request of a party to the contract, a repayment contract under section 9(d) of the Act of August 4, 1939 (53 Stat. 1195, chapter 418), in effect on the date of enactment of this Act, and all contracts converted pursuant to paragraph (1)(A), shall—

(A) provide for the repayment, in lump sum or by accelerated prepayment, of the remaining construction costs identified in water project-specific irrigation rate repayment schedules, as adjusted to reflect payments not reflected in those schedules, and properly assignable for ultimate return by the contractor, or if made in approximately equal installments, not later than 3 years after the effective date of the repayment contract, subject to the conditions that—

(i) the amount shall be discounted by $\frac{1}{2}$ the Treasury rate; and

(ii) an estimate of the remaining construction costs, as adjusted, shall be pro-
vided by the Secretary to the contractor by
not later than 90 days after the date of re-
ceipt of a request from the contractor;

(B) require that construction costs or
other capitalized costs incurred after the effec-
tive date of the contract or not reflected in the
rate schedule referred to in subparagraph (A),
and properly assignable to the contractor, shall
be repaid—

(i) by not later than 5 years after the
date of notification of the allocation if the
amount is a result of a collective annual al-
location of capital costs to the contractors
exercising contract conversion under this
subsection of less than $5,000,000; or

(ii) if the amount is equal to
$5,000,000 or more, in accordance with
applicable reclamation laws;

(C) provide that power revenues will not be
available to aid in repayment of construction
costs allocated to irrigation under the contract;
and

(D) continue in effect for the period during
which the contractor pays applicable charges, in
accordance with section 9(d) of the Act of Au-
gust 4, 1939 (53 Stat. 1195, chapter 418), and other applicable law.

(3) COVERED CONTRACT REQUIREMENTS.—

(A) DEFINITION OF COVERED CONTRACT.—In this paragraph:

(i) IN GENERAL.—The term “covered contract” means—

(I) on request of the contractor, a repayment contract under subsection (c)(1) of section 9 of the Act of August 4, 1939 (53 Stat. 1193, chapter 418), that is in effect on the date of enactment of this Act; and

(II) a contract converted pursuant to paragraph (1)(B).

(ii) EXCLUSION.—The term “covered contract” does not include a repayment contract under which the contractor has previously negotiated for prepayment.

(B) REQUIREMENTS.—Each covered contract shall—

(i) provide for the repayment, in lump sum, of the remaining construction costs identified in water project-specific irrigation rate repayment schedules, as adjusted
to reflect payments not reflected in those schedules, and properly assignable for ultimate return by the contractor, subject to the condition that the contractor shall submit to the Secretary an estimate of any remaining construction costs, as adjusted, by not later than 90 days after the date of submission of the initial request of the contractor;

(ii) require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referred to in clause (i), and properly assignable to the contractor, shall be repaid—

(I) by not later than 5 years after the date of notification of the allocation, if the amount is a result of a collective annual allocation of capital costs to the exercising contract conversion under this subsection of less than $5,000,000; or

(II) in accordance with applicable reclamation laws, if the amount is $5,000,000 or more; and
(iii) continue in effect for the period during which the contractor pays applicable charges, in accordance with section 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1194, chapter 418), and other applicable law.

(4) CONDITIONS.—A contract entered into pursuant to paragraph (1), (2), or (3)—

(A) shall not be adjusted on the basis of the type of prepayment financing used by the applicable water users’ association;

(B) shall conform to any other agreements, such as applicable settlement agreements and newly constructed appurtenant facilities agreements; and

(C) shall not modify any other water service, repayment, exchange, or transfer contractual right between the applicable water users’ association and the Bureau of Reclamation, or any right, obligation, or relationship of the water users’ association and any affected landowner in accordance with applicable State law.

(e) ACCOUNTING.—

(1) FINAL COST ALLOCATION.—Any amount paid pursuant to subsection (b) shall be subject to
adjustment after a final cost allocation by the Secretary.

(2) CONTRACTOR RESPONSIBILITY.—

(A) IN GENERAL.—If a final cost allocation under paragraph (1) indicates that a cost properly assignable to a contractor covered by this section is greater than the amount paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs in accordance with an additional repayment contract under subparagraph (B).

(B) ADDITIONAL REPAYMENT CONTRACTS.—Subject to any other provision mutually agreed to by all affected parties, the term of an additional repayment contract under subparagraph (A) shall be—

(i) not less than 1 year; and

(ii) not more than 10 years.

(3) CREDIT.—If a final cost allocation under paragraph (1) indicates that a cost properly assignable to a contractor are less than the amount paid by the contractor, the Secretary shall credit the amount of the overpayment as an offset against any outstanding or future obligation of the contractor, with the exception of any Central Valley Project
51

Restoration Fund charge assessed pursuant to section 3407(d) of Public Law 102–575 (106 Stat. 4727).

(d) **Applicability of Certain Provisions.**—

(1) **Effect of existing law.**—On compliance by a contract or with, and discharge of, an obligation of repayment of construction costs pursuant to a contract under subsection (b)(2)(A), subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm) shall apply to any affected land.

(2) **Effect of other obligations.**—On payment by a contractor of any amount required under a repayment contract under subsection (b)(2)(A), the obligation of a contractor to repay construction costs or other capitalized costs described in subsection (b)(2)(B), (b)(3)(B), or (c) shall not affect—

(A) the status of the contractor as having repaid all construction costs assignable to the contractor; or

(B) the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm).

(e) **Effect on existing law.**—Nothing in this sec-


(1) any repayment obligation of a water service or repayment contractor receiving water from the same water project, or shifts any cost that would otherwise have been properly assignable to—

(A) a water users' association identified in paragraph (1), (2), or (3) of subsection (b), including—

(i) operation and maintenance costs;

(ii) construction costs; or

(iii) any other capitalized cost incurred after the date of enactment of this Act; or

(B) another contractor;

(2) any specific requirement for the disposition of amounts received as repayment by the Secretary under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.));

(3) the priority of a water service or repayment contractor to receive water; or

(4) except as expressly provided in this section, any obligation under the reclamation laws, including the continuation of any Central Valley Project Restoration Fund charge assessed pursuant to section
3407(d) of Public Law 102–575 (106 Stat. 4727), of a water service or repayment contractor making a prepayment pursuant to this section.

(f) CONFORMING AMENDMENT.—Section 4011 of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322; 130 Stat. 1878) is repealed.

SEC. 10. SAVINGS CLAUSE.

Nothing in this Act or an amendment made by this Act shall be interpreted or implemented in a manner that—

(1) preempts or modifies any obligation of the United States or an eligible entity under Federal law to act in accordance with applicable State law, including applicable State water law; or

(2) affects or modifies any obligation under Federal environmental law.