

118TH CONGRESS
1ST SESSION

H. R. 215

To provide long-term water supply and regulatory reliability to drought-stricken California, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

Mr. VALADAO (for himself, Mr. MCCARTHY, Mr. CALVERT, Mr. DUARTE, Mr. MIKE GARCIA of California, Mr. ISSA, Mr. KILEY, Mrs. KIM of California, Mr. LAMALFA, Mr. MCCLINTOCK, Mr. OBERNOLTE, and Mrs. STEEL) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To provide long-term water supply and regulatory reliability to drought-stricken California, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Working to Advance
5 Tangible and Effective Reforms for California Act” or the
6 “WATER for California Act”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

TITLE I—CVP AND SWP OPERATIONS

- Sec. 101. Operation of the CVP and SWP.
 Sec. 102. Operations and reviews.
 Sec. 103. Application of State laws.
 Sec. 104. Reconsultation of NOAA Biological Opinion and FWS Biological Opinion.
 Sec. 105. Sunset.
 Sec. 106. Consultation on coordinated operations.

TITLE II—ALLOCATIONS FOR SACRAMENTO VALLEY CONTRACTORS

- Sec. 201. Definitions.
 Sec. 202. Allocations of water.
 Sec. 203. Protection of refuge, municipal and industrial and other contractors.
 Sec. 204. Other contractors.

TITLE III—INFRASTRUCTURE

- Sec. 301. Shasta Reservoir enlargement project.
 Sec. 302. Water supply plan; projects.
 Sec. 303. Conservation fish hatcheries.
 Sec. 304. Storage; duration.
 Sec. 305. Shasta Dam enlargement.

TITLE IV—CVPIA ACTIONS

- Sec. 401. CVPIA restoration actions.

1 **SEC. 3. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) CVP.—The term “CVP” means the Central
 4 Valley Project.

5 (2) CVP CONTRACTOR.—The term “CVP con-
 6 tractor” means any public water agency, water user
 7 organization, or person that has entered into a con-
 8 tract with the United States for water service from
 9 the CVP, whether in the form of a water service
 10 contract, repayment contract, water rights settle-
 11 ment contract, exchange contract, or refuge con-
 12 tract.

1 (3) FWS BIOLOGICAL OPINION.—The term
2 “FWS Biological Opinion” means the United States
3 Fish and Wildlife Service “Biological Opinion for the
4 Reinitiation of Consultation on the Coordinated Op-
5 erations of the Central Valley Project and State
6 Water Project” (Service File No. 08FBTD00–2019–
7 F–0164) signed on October 21, 2019.

8 (4) NOAA BIOLOGICAL OPINION.—The term
9 “NOAA Biological Opinion” means the National
10 Oceanic and Atmospheric Administration Fisheries
11 “Biological Opinion on the Long-term Operation of
12 the Central Valley Project and the State Water
13 Project” (Consultation Tracking Number: WCRO–
14 2016–00069) signed on October 21, 2019.

15 (5) PREFERRED ALTERNATIVE.—The term
16 “Preferred Alternative” means the Alternative 1
17 (Preferred Alternative), as described in the Final
18 Environmental Impact Statement on the Reinitiation
19 of Consultation on the Coordinated Long-Term Op-
20 eration of the Central Valley Project and the State
21 Water Project, issued by the Bureau of Reclamation,
22 and dated December 2019.

23 (6) SWP.—The term “SWP” means the Cali-
24 fornia State Water Project.

1 (7) SWP CONTRACTOR.—The term “SWP con-
2 tractor” means a public agency that has entered into
3 a long-term water supply contract with the Cali-
4 fornia Department of Water Resources for water
5 service from the SWP.

6 **TITLE I—CVP AND SWP**
7 **OPERATIONS**

8 **SEC. 101. OPERATION OF THE CVP AND SWP.**

9 (a) CONGRESSIONAL DIRECTION REGARDING CVP
10 AND SWP OPERATIONS.—The CVP and the SWP shall
11 be operated in accordance with the Preferred Alternative
12 and FWS Biological Opinion and NOAA Biological Opin-
13 ion.

14 (b) APPLICATION OF LAWS AND REGULATIONS TO
15 OTHERS.—Operation of the CVP and SWP shall proceed
16 pursuant to subsection (a) except to the extent changes
17 to operations are undertaken pursuant to one or more
18 agreements, which are voluntarily entered into, approved,
19 and implemented by CVP contractors, for operations of
20 the CVP, and SWP contractors, for operations of the
21 SWP, with all applicable Federal departments and the
22 State of California, including any agency or board of the
23 State of California.

24 (c) COSTS.—No cost, including water supply, finan-
25 cial, mitigation-related, or otherwise, associated with the

1 implementation of any agreement under subsection (b)
2 shall be imposed by any Federal department or agency or
3 the State of California, including any agency or board of
4 the State of California, directly or indirectly on any CVP
5 contractor, SWP contractor, or any other person or entity,
6 unless such costs are incurred on a voluntary basis.

7 (d) ENDANGERED SPECIES ACT.—Notwithstanding
8 subsection (b), implementation of subsection (a) shall not
9 conflict with the FWS Biological Opinion and the NOAA
10 Biological Opinion.

11 (e) NATIVE SPECIES PROTECTION.—The State of
12 California shall not impose any bag, catch, or size restric-
13 tion or limit on the take or harvest of striped bass or any
14 species of black bass, including largemouth bass,
15 smallmouth bass, and spotted bass, that occupy the Sac-
16 ramento-San Joaquin Rivers Delta or its tributaries.

17 **SEC. 102. OPERATIONS AND REVIEWS.**

18 In carrying out section 101(a), the Secretary of the
19 Interior and the Secretary of Commerce shall implement
20 their statutory authorities in a manner that improves
21 water supply reliability and enables the CVP and SWP
22 to provide the maximum quantity of water supplies prac-
23 ticable to CVP agricultural, municipal, and industrial con-
24 tractors, water service or repayment contractors, water
25 rights settlement contractors, exchange contractors, ref-

1 uge contractors, and SWP contractors, in accordance with
2 the Preferred Alternative, NOAA Biological Opinion, and
3 FWS Biological Opinion.

4 **SEC. 103. APPLICATION OF STATE LAWS.**

5 (a) **REDUCED WATER SUPPLY.**—If, as a result of the
6 application of applicable State law or regulation, the State
7 of California (including any agency or board of the State
8 of California) alters operation of the SWP in a manner
9 that directly or indirectly results in reduced water supply
10 to the SWP as compared with the water supply available
11 under the Preferred Alternative, and as a result, CVP
12 yield is greater than it otherwise would have been under
13 the Preferred Alternative, then that additional yield shall
14 be made available to the SWP for delivery to SWP Con-
15 tractors to offset that reduced water supply. If it is nec-
16 essary to reduce water supplies for any authorized uses
17 of the CVP or CVP Contractors to make available to the
18 SWP that additional yield, such reductions shall be ap-
19 plied proportionately to those authorized uses or CVP con-
20 tractors that benefit from that increased yield.

21 (b) **NO RESTRICTION OF CERTAIN WATER**
22 **RIGHTS.**—The State of California (including any agency
23 or board of the State of California) shall not restrict the
24 exercise of any water right obtained pursuant to State law,
25 including but not limited to a pre-1914 appropriative right

1 or riparian right in order to offset any impact resulting
2 from the implementation of this title on any species af-
3 fected by operations of the CVP or the SWP.

4 **SEC. 104. RECONSULTATION OF NOAA BIOLOGICAL OPIN-**
5 **ION AND FWS BIOLOGICAL OPINION.**

6 (a) REQUIREMENT FOR RECONSULTATION.—

7 (1) REQUIREMENT.—Neither the Secretary of
8 the Interior, acting through the Commissioner of
9 Reclamation, nor the Secretary of Commerce or
10 their designees shall commence, complete, or request
11 reinitiation of consultation on the coordinated long-
12 term operation of the Central Valley Project and the
13 State Water Project that will result in changes to or
14 the replacement of the documents listed in para-
15 graph (2) unless—

16 (A) more than 75 percent of California has
17 experienced 4 consecutive years of D3 or D4
18 level drought, as defined by the U.S. Drought
19 Monitor;

20 (B) the Commissioner of Reclamation iden-
21 tifies one specific factor or combination of fac-
22 tors under section 402.16 of title 50, Code of
23 Federal Regulations; and

24 (C) not fewer than 120 days before offi-
25 cially commencing or requesting reinitiation, the

1 Secretary of the Interior notifies the Committee
2 on Natural Resources of the House of Rep-
3 resentatives and Committee on Energy and
4 Natural Resources of the Senate, in writing,
5 of—

6 (i) the intent to commence or request
7 reinitiation under this section; and

8 (ii) the detailed justification for the
9 identification of the specific factor or com-
10 bination of factors under section 402.16 of
11 title 50, Code of Federal Regulations, that
12 was identified to satisfy the requirement in
13 subparagraph (B).

14 (2) DOCUMENTS.—The documents referred to
15 in paragraph (1) are the following:

16 (A) The FWS Biological Opinion.

17 (B) The NOAA Biological Opinion.

18 (C) The Record of Decision for the Reiniti-
19 ation of Consultation on the Coordinated Long-
20 Term Modified Operations of the Central Valley
21 Project and State Water Project, signed on
22 February 18, 2020.

23 (b) APPLICABLE PROCEDURES AND REVIEW.—For
24 the purposes of this Act, before reinitiating consultation
25 on the Long-Term Operation of the CVP and SWP, a re-

1 quest by the Secretary of the Interior, the Secretary of
2 the Commerce, or any other Federal employee, to reini-
3 tiate consultation shall be made in writing and considered
4 a rule under section 551 of title 5, United States Code,
5 and subject to the requirements of sections 801 through
6 808 of that title.

7 (c) COOPERATION.—In implementing this section, the
8 Secretary of the Interior and the Secretary of Commerce
9 shall comply with requirements included in section 4004
10 of Public Law 114–322.

11 (d) EXCLUSION.—Notwithstanding subsection (b), in
12 implementing this section, section 801(b)(2) of title 5,
13 United States Code, shall not apply.

14 **SEC. 105. SUNSET.**

15 Sections 101 through 104 shall have no force or ef-
16 fect on and after the date that is 7 years after the date
17 of the enactment of this Act.

18 **SEC. 106. CONSULTATION ON COORDINATED OPERATIONS.**

19 The Water Infrastructure Improvements for the Na-
20 tion Act (Public Law 114–322) is amended—

21 (1) in section 4004(a)—

22 (A) in paragraph (1), by inserting “or pro-
23 posed action” after “biological assessment,”;

24 (B) in paragraph (2), by inserting “or pro-
25 posed action” after “biological assessment,”;

1 (C) by redesignating paragraphs (3)
2 through (6) as paragraphs (4) through (7), re-
3 spectively;

4 (D) after paragraph (2), by inserting the
5 following new paragraph:

6 “(3) receive a copy of the proposed action and
7 have the opportunity to review that document and
8 provide comment to the action agency, which com-
9 ments shall be afforded due consideration during de-
10 velopment;”; and

11 (E) in paragraph (7), as redesignated by
12 subparagraph (C) of this paragraph—

13 (i) in the matter preceding subpara-
14 graph (A), by inserting “action agency pro-
15 poses a proposed action or” before “the
16 consulting agency”;

17 (ii) in subparagraph (A), by inserting
18 “proposed action or” before “alternative
19 will”; and

20 (iii) in subparagraph (B), by striking
21 “alternative actions” and insert “actions
22 or alternatives”; and

23 (2) in section 4013, by deleting “section 4004,
24 which shall expire 10 years after the date of its en-

1 actment;” and inserting “section 4004, which shall
2 expire on December 16, 2033;”.

3 **TITLE II—ALLOCATIONS FOR**
4 **SACRAMENTO VALLEY CON-**
5 **TRACTORS**

6 **SEC. 201. DEFINITIONS.**

7 In this title, the following definitions apply:

8 (1) The term “existing CVP agricultural water
9 service or repayment contractor within the Sac-
10 ramento River Watershed” means any water service
11 or repayment contractor within the Shasta, Trinity,
12 or Sacramento River division of the CVP that has
13 in effect a water service or repayment contract on
14 the date of enactment of this title that provides
15 water for irrigation.

16 (2) The terms “Above Normal”, “Below Nor-
17 mal”, “Dry”, and “Wet”, with respect to a year,
18 have the meanings given those terms in the Sac-
19 ramento Valley Water Year Type (40–30–30) Index.

20 **SEC. 202. ALLOCATIONS OF WATER.**

21 Subject to section 203, and notwithstanding any
22 changes to operations of the CVP or SWP voluntarily
23 agreed to, approved, and implemented by CVP contrac-
24 tors, the Secretary of the Interior shall make every reason-
25 able effort in the operation of the CVP to allocate water

1 provided for irrigation purposes to each existing CVP agri-
2 cultural water service contractor within the Sacramento
3 River Watershed in accordance with the following:

4 (1) Not less than 100 percent of the contract
5 quantity of the existing CVP agricultural water serv-
6 ice contractor within the Sacramento River Water-
7 shed in a Wet year.

8 (2) Not less than 100 percent of the contract
9 quantity of the existing CVP agricultural water serv-
10 ice contractor within the Sacramento River Water-
11 shed in an Above Normal year.

12 (3) Not less than 100 percent of the contract
13 quantity of the existing CVP agricultural water serv-
14 ice contractor within the Sacramento River Water-
15 shed in a Below Normal year that is preceded by an
16 Above Normal or Wet year.

17 (4) Not less than 50 percent of the contract
18 quantity of the existing CVP agricultural water serv-
19 ice contractor within the Sacramento River Water-
20 shed in a Dry year that is preceded by a Below Nor-
21 mal, Above Normal, or Wet year.

22 (5) In any other year not identified in any sub-
23 sections (a) through (d), not less than twice the allo-
24 cation percentage to south-of-Delta CVP agricultural
25 water service contractors, up to 100 percent.

1 **SEC. 203. PROTECTION OF REFUGE, MUNICIPAL AND IN-**
2 **DUSTRIAL AND OTHER CONTRACTORS.**

3 Nothing in section 202 shall—

4 (1) adversely affect any protections for the envi-
5 ronment, including the obligation of the Secretary of
6 the Interior to make water available to managed
7 wetlands pursuant to section 3406(d) of the Central
8 Valley Project Improvement Act (title XXXIV of
9 Public Law 102–575; 106 Stat. 4722);

10 (2) adversely affect any obligation of the Sec-
11 retary of the Interior or the Secretary of Commerce
12 under the FWS Biological Opinion or the NOAA Bi-
13 ological Opinion;

14 (3) modify any provision of a water service con-
15 tract that addresses municipal or industrial water
16 shortage policies of the Secretary of the Interior;

17 (4) affect or limit the authority of the Secretary
18 of the Interior to adopt or modify municipal and in-
19 dustrial water shortage policies;

20 (5) constrain, govern, or affect, directly or indi-
21 rectly, the operations of the American River division
22 of the CVP or any deliveries from that division or
23 a unit or facility of that division; or

24 (6) affect any allocation to a CVP municipal or
25 industrial water service contractor by increasing or
26 decreasing allocations to the contractor, as compared

1 to the allocation the contractor would have received
2 absent section 202.

3 **SEC. 204. OTHER CONTRACTORS.**

4 Nothing in section 202 shall—

5 (1) affect the priority of any individual or entity
6 with a Sacramento River settlement contract over
7 water service or repayment contractors;

8 (2) affect the United States ability to deliver
9 water to the San Joaquin River exchange contrac-
10 tors from the Sacramento River and the Delta via
11 the Delta-Mendota Canal or modify or amend the
12 rights and obligations under the Purchase Contract
13 between Miller and Lux and the United States and
14 the Second Amended Exchange Contract between
15 the United States, Department of the Interior, Bu-
16 reau of Reclamation and Central California Irriga-
17 tion District, San Luis Canal Company, Firebaugh
18 Canal Water District and Columbia Canal Company;

19 (3) affect the allocation of water to Friant divi-
20 sion contractors of the CVP;

21 (4) result in the involuntary reduction in con-
22 tract water allocations to individuals or entities with
23 contracts to receive water from the Friant division;

24 (5) result in the involuntary reduction in water
25 allocations to refuge contractors; or

1 (6) authorize any actions inconsistent with
2 State water rights law.

3 **TITLE III—INFRASTRUCTURE**

4 **SEC. 301. SHASTA RESERVOIR ENLARGEMENT PROJECT.**

5 Section 40902(a)(2) of the Infrastructure Investment
6 and Jobs Act (Public Law 117–58) is amended—

7 (1) in subparagraph (B)—

8 (A) in the matter preceding clause (i), by
9 striking “this Act, except for any project for
10 which—” and inserting “this Act; or”; and

11 (B) by striking clauses (i) and (ii); and

12 (2) in subparagraph (C), by striking “(except
13 that projects described in clauses (i) and (ii) of sub-
14 paragraph (B) shall not be eligible)”.

15 **SEC. 302. WATER SUPPLY PLAN; PROJECTS.**

16 (a) PLAN.—Not later than 180 days after the date
17 of the enactment of this Act, the Commissioner of Rec-
18 lamation shall develop a water deficit report, which shall
19 identify—

20 (1) projected water supply shortages in the
21 State of California for irrigation water service, mu-
22 nicipal and industrial water service, water supply for
23 wildlife refuges supplied by the CVP or the SWP;
24 and

1 (2) infrastructure projects or actions which, if
2 taken, would—

3 (A) significantly reduce or eliminate the
4 projected water supply shortage; or

5 (B) fulfill water allocations consistent with
6 agricultural, municipal and industrial contrac-
7 tors, water service or repayment contractors,
8 water rights settlement contractors, exchange
9 contractors, and SWP contractors with water
10 delivery contractors on the CVP and SWP.

11 (b) REPORT TO CONGRESS.—The Commissioner of
12 Reclamation shall provide a report described in subsection
13 (a) to the House Committee on Natural Resources and
14 the Senate Committee on Energy and Natural Resources
15 upon its completion.

16 **SEC. 303. CONSERVATION FISH HATCHERIES.**

17 Section 4010(b)(5) of the Water Infrastructure Im-
18 provements for the Nation Act (Public Law 114–322) is
19 amended by adding at the end the following:

20 “(D) SEMI-ANNUAL REPORT.—The Sec-
21 retary of the Interior and the Secretary of
22 Commerce shall submit to the Committee on
23 Natural Resources of the House of Representa-
24 tives and Committee on Energy and Natural
25 Resources of the Senate semi-annual reports

1 that detail activities carried out under this
2 paragraph.”.

3 **SEC. 304. STORAGE; DURATION.**

4 (a) STORAGE.—Section 4007 of the Water Infra-
5 structure Improvements for the Nation Act (Public Law
6 114–322) is amended—

7 (1) in subsection (b)(1), by striking “or any
8 public agency organized pursuant to State law” and
9 inserting “any public agency organized pursuant to
10 State law, or any stakeholder”; and

11 (2) in subsection (i), by striking “January 1,
12 2021” and inserting “January 1, 2028”.

13 (b) DURATION.—Section 4013 of the Water Infra-
14 structure Improvements for the Nation Act (Public Law
15 114–322) is amended—

16 (1) in paragraph (1), by striking “and”;

17 (2) by redesignating paragraph (2) as para-
18 graph (3); and

19 (3) by inserting after paragraph (1) the fol-
20 lowing:

21 “(2) section 4007, which (except as provided in
22 paragraph (3)), shall expire on December 31, 2028;
23 and”.

1 **SEC. 305. SHASTA DAM ENLARGEMENT.**

2 (a) FUNDING.—In accordance with section 4007 of
3 the Water Infrastructure Improvements for the Nation
4 Act (Public Law 114–322), and as recommended by the
5 Secretary in letters dated February 13, 2019; June 22,
6 2020; and December 3, 2020; funds made available in the
7 Water and Related Resources account for the Bureau Rec-
8 lamation in Acts of appropriation for fiscal years 2017,
9 2018, 2019, 2020, and 2021 shall be made available to
10 the Shasta Dam and Reservoir Enlargement Project.

11 (b) CLARIFICATION.—No provision of State law shall
12 preclude or otherwise prevent any public water agency, in-
13 cluding a public agency of the State, that contracts for
14 the delivery of CVP water from assisting or cooperating
15 with, whether by loan, grant, license, or otherwise, the
16 planning and construction of any project undertaken by
17 the Bureau of Reclamation to enlarge Shasta Dam.

18 **TITLE IV—CVPIA ACTIONS**

19 **SEC. 401. CVPIA RESTORATION ACTIONS.**

20 (a) REFUGE WATER SUPPLY PROGRAM.—Not later
21 than two years after the date of enactment of this Act,
22 the Secretary of the Interior shall complete the refuge
23 water supply program under section 3406(d) of the Cen-
24 tral Valley Project Improvement Act (title XXXIV of Pub-
25 lic Law 102–575; 106 Stat. 4722) and shall, within that
26 two-year period, give priority to completing the refuge

1 water supply program when making funding decisions
2 from the Central Valley Project Restoration Fund estab-
3 lished under section 3407 of the Central Valley Project
4 Improvement Act (106 Stat. 4726), the Infrastructure In-
5 vestment and Jobs Act (Public Law 117–25), the Land
6 and Water Conservation Fund Act (Public Law 88–578),
7 and other sources of funding.

8 (b) RESTORATION ACTIONS DEEMED COMPLETE.—
9 Upon completion of the refuge water supply program pur-
10 suant to subsection (a), or September 30, 2025, whichever
11 occurs first, the Secretary of the Interior shall deem com-
12 plete the fish, wildlife, and habitat mitigation and restora-
13 tion actions mandated under section 3406 of the Central
14 Valley Project Improvement Act (title XXXIV of Public
15 Law 102–575; 106 Stat. 4714).

○