

PROVIDING FOR THE CONSIDERATION OF H.R. 3267, THE
SONNY BONO MEMORIAL SALTON SEA RECLAMATION ACT

JULY 14, 1998.—Referred to the House Calendar and ordered to be printed

Mr. DREIER, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 500]

The Committee on Rules, having had under consideration House Resolution 500, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 3267, the “Sonny Bono Memorial Salton Sea Act” under a modified closed rule. The rule provides one hour of debate divided equally between the chairman and ranking minority member of the Committee on Resources.

The rule waives all points of order against consideration in the House. It provides, in lieu of the Resources Committee amendment, that an amendment in the nature of a substitute accompanying this report shall be considered as adopted.

The rule also provides for an amendment to be offered by Representative Miller (CA) or his designee printed in the Congressional Record which shall be considered as read, and shall be debatable for one hour equally divided and controlled by the proponent and an opponent.

Finally, the rule provides for one motion to recommit, with or without instructions.

AMENDMENT IN THE NATURE OF A SUBSTITUTE CONSIDERED AS
ADOPTED

In lieu of the amendment recommended by the Committee on Resources, the amendment in the nature of a substitute considered as adopted:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Sonny Bono Memorial Salton Sea Reclamation Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—SALTON SEA RECLAMATION PROJECT

- Sec. 101. Salton Sea Reclamation Project authorization.
- Sec. 102. Concurrent wildlife resources studies.
- Sec. 103. Salton Sea National Wildlife Refuge renamed as Sonny Bono Salton Sea National Wildlife Refuge.
- Sec. 104. Relationship to other laws and agreements governing the Colorado River.

TITLE II—EMERGENCY ACTION TO IMPROVE WATER QUALITY IN THE ALAMO RIVER AND NEW RIVER

- Sec. 201. Alamo River and New River irrigation drainage water.

SEC. 2. FINDINGS.

The Congress finds the following:

- (1) The Salton Sea, located in Imperial and Riverside Counties, California, is an economic and environmental resource of national importance.
- (2) The Salton Sea is critical as—
 - (A) a reservoir for irrigation, municipal, and stormwater drainage; and
 - (B) a component of the Pacific flyway.
- (3) Reclaiming the Salton Sea will provide national and international benefits.
- (4) The Federal, State, and local governments have a shared responsibility to assist in the reclamation of the Salton Sea.

SEC. 3. DEFINITIONS.

In this Act:

- (1) The term “Committees” means the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.
- (2) The term “Project” means the Salton Sea reclamation project authorized by section 101.
- (3) The term “Salton Sea Authority” means the Joint Powers Authority by that name established under the laws of the State of California by a Joint Power Agreement signed on June 2, 1993.
- (4) The term “Secretary” means the Secretary of the Interior, acting through the Bureau of Reclamation.

TITLE I—SALTON SEA RECLAMATION PROJECT

SEC. 101. SALTON SEA RECLAMATION PROJECT AUTHORIZATION.

(a) **IN GENERAL.**—The Secretary, in accordance with this section, shall undertake a project to reclaim the Salton Sea, California.

(b) **PROJECT REQUIREMENTS.**—The Project shall—

- (1) reduce and stabilize the overall salinity of the Salton Sea;
- (2) stabilize the surface elevation of the Salton Sea;
- (3) reclaim, in the long term, healthy fish and wildlife resources and their habitats;
- (4) enhance the potential for recreational uses and economic development of the Salton Sea; and
- (5) ensure the continued use of the Salton Sea as a reservoir for irrigation drainage.

(c) FEASIBILITY STUDY.—

(1) IN GENERAL.—(A) The Secretary shall promptly initiate a study of the feasibility of various options for meeting the requirements set forth in subsection (b). The purpose of the study shall be to select 1 or more practicable and cost-effective options and to develop a reclamation plan for the Salton Sea that implements the selected options.

(B)(i) The Secretary shall carry out the feasibility study in accordance with a memorandum of understanding entered into by the Secretary, the Salton Sea Authority, and the Governor of California.

(ii) The memorandum of understanding shall, at a minimum, establish criteria for evaluation and selection of options under subparagraph (A), including criteria for determining the magnitude and practicability of costs of construction, operation, and maintenance of each option evaluated.

(2) OPTIONS TO BE CONSIDERED.—Options considered in the feasibility study—

(A) shall consist of—

- (i) use of impoundments to segregate a portion of the waters of the Salton Sea in 1 or more evaporation ponds located in the Salton Sea basin;
- (ii) pumping water out of the Salton Sea;
- (iii) augmented flows of water into the Salton Sea;
- (iv) a combination of the options referred to in clauses (i), (ii), and (iii); and
- (v) any other economically feasible remediation option the Secretary considers appropriate;

(B) shall be limited to proven technologies; and

(C) shall not include any option that—

- (i) develops or promotes an ongoing reliance on Colorado River water; or
- (ii) is inconsistent with section 104 (b) or (c).

(3) PROJECT DESIGN CALCULATIONS.—In making Project design calculations, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that—

(A) encourage water conservation;

(B) account for transfers of water out of the Salton Sea Basin;

(C) are based on the maximum likely reduction in inflows into the Salton Sea Basin; and

(D) include the assumption that inflows into the Salton Sea Basin could be reduced to 800,000 acre-feet or less per year.

(4) CONSIDERATION OF COSTS.—In evaluating the feasibility of options, the Secretary shall consider the ability of Federal,

tribal, State and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs. In that consideration, the Secretary may apply a cost sharing formula to annual operation, maintenance, energy, and replacement costs that is different than the formula that applies to construction costs under subsection (e).

(5) INTERIM REPORT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall submit to the Congress an interim report on the study. The interim report shall include—

(A) a summary of the options considered in the study for the reclamation of the Salton Sea; and

(B) any preliminary findings regarding preferred options for reclamation of the Salton Sea.

(6) REPORT AND PLAN.—Not later than 18 months after funds have been made available to carry out the feasibility study under this subsection, the Secretary shall—

(A) submit to the Committees a report on the findings and recommendations of the feasibility study, including—

(i) the reclamation plan for the Salton Sea pursuant to paragraph (1), including a cost sharing formula for operation and maintenance; and

(ii) complete specifications of the construction activities to be carried out under subsection (e), that are sufficient to use for soliciting bids for those activities, including professional engineering and design specifications and drawings and professional engineer cost estimates; and

(B) complete all environmental compliance and permitting activities required for those construction activities.

(d) CONGRESSIONAL REVIEW OF REPORT AND RECLAMATION PLAN.—

(1) REVIEW BY COMMITTEES.—After receipt of the report of the Secretary under subsection (c)(6), each of the Committees shall—

(A) adopt a resolution approving the reclamation plan included in the report; or

(B) adopt a resolution disapproving the reclamation plan and stating the reasons for that disapproval.

(2) RECLAMATION PLAN DEEMED APPROVED.—If any of the Committees fails to adopt a resolution under paragraph (1)(A) or (B) within 60 legislative days (excluding days on which Congress is adjourned sine die or either House is not in session because of an adjournment of more than 3 days to a day certain) after the date of submission of the report by the Secretary under subsection (c)(6), that Committee is deemed to have approved the reclamation plan included in the report.

(e) CONSTRUCTION.—

(1) INITIATION.—Subject to paragraph (2) of this subsection and the availability of appropriations, the Secretary shall initiate construction of the Project.

(2) COST SHARING.—The Federal share of the costs of construction of the Project shall not exceed 50 percent of the total cost of that construction.

(3) COST SHARING AGREEMENT.—The Secretary may not initiate construction of the Project unless the Secretary, the Governor of California, and the Salton Sea Authority enter into an agreement that—

(A) adopts the cost sharing formula for annual operation, maintenance, energy, and replacement costs that is included in the reclamation plan approved by the Committees under subsection (d); and

(B) implements the cost sharing requirement under paragraph (2) of this subsection for construction costs.

(4) LIMITATION ON EXPENDITURE OF FEDERAL FUNDS.—No Federal funds may be expended for any construction activity under the Project unless there are available to the Secretary from non-Federal sources amounts sufficient to pay the non-Federal share of the cost of the activity.

(f) RELATIONSHIP TO OTHER LAW.—

(1) RECLAMATION LAWS.—Activities authorized by this Act or any other law to implement the Project shall not be subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391 et seq.), and Acts amendatory thereof and supplemental thereto. Amounts expended for those activities shall be considered non-reimbursable for purposes of those laws. Activities carried out to implement the Project and the results of those activities shall not be considered to be a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(2) PRESERVATION OF RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLORADO RIVER.—This Act shall not be considered to supersede or otherwise affect any treaty, law, or agreement governing use of water from the Colorado River. All activities to implement the Project under this Act must be carried out in a manner consistent with rights and obligations of persons under those treaties, laws, and agreements.

(3) JUDICIAL REVIEW.—Any complaint or challenge of any decision, action, or authorization taken pursuant to this Act shall be filed in a United States district court within 60 days after the date of the decision, action, or the authorization. Such court shall have jurisdiction to resolve any complaint or challenge in accordance with chapter 7 of title 5, United States Code, except that the court shall expedite its review as necessary to ensure that remedial actions at the Salton Sea are not unduly or inappropriately delayed. If a temporary restraining order or preliminary injunction is entered into by a court, the court shall proceed to a final judgment in the matter within 90 days thereafter.

(4) LIMITATION ON LIABILITY.—(A) In regard to any actions, programs, or projects implemented by the Secretary under the authority of this Act, the Imperial Irrigation District and Coachella Valley Water District shall not be liable for any damages arising from—

(i) enlargement of the Salton Sea and the encroachment of water onto adjacent lands;

(ii) reduction of the elevation of the Salton Sea, including exposure of lakebed sediments to the environment; or

(iii) any other occurrence which might result in a claim of damage by any owner of property adjacent to the Salton Sea or any other person.

(B) No person, including the Imperial Irrigation District, California, the Coachella Valley Water District, California, the Salton Sea Authority, the Metropolitan Water District of Southern California, and the San Diego County Water Authority, but not including the Government of the United States, shall be liable for damages arising from any effects to the Salton Sea or its bordering area resulting from—

(i) cooperation with the Secretary in regard to any actions, programs, or projects implemented pursuant to this Act;

(ii) any action to comply with an order of the Secretary under this Act, a State or Federal court, or a State or Federal administrative or regulatory agency interpreting this Act; or

(iii) any other action that reduces the volume of water that flows directly or indirectly into the Salton Sea.

(C) This title shall not be construed to exempt any person, including the Imperial Irrigation District, California, the Coachella Valley Water District, California, the Salton Sea Authority, the Metropolitan Water District of Southern California, and the San Diego County Water Authority, from—

(i) any requirements established under the California Environmental Quality Act or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(ii) any obligations otherwise imposed by law.

(D) The limitation on liability of the United States contained in section 3 of the Act entitled “An Act for the control of floods on the Mississippi River and its tributaries, and for other purposes”, approved May 15, 1928 (chapter 569; 33 U.S.C. 702c), shall not apply to surplus flood flows that are diverted to the Salton Sea pursuant to this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out the Project the following:

(A) For the feasibility study under subsection (c), including preparation and any revision of the reclamation plan under subsections (c) and (d), and completion of environmental compliance and permitting required for construction of the Project, \$22,500,000.

(B) For construction of the Project in accordance with a reclamation plan approved by the Committees, \$350,000,000.

(2) ALLOCATION OF APPROPRIATIONS.—Amounts authorized under paragraph (1)(B) may be appropriated to the Administrator of the Environmental Protection Agency and the Secretary of the Interior in amounts that ensure that neither the

Administrator nor the Secretary is appropriated substantially all of the Project construction costs.

(3) APPROPRIATIONS TO THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.—Amounts appropriated under paragraph (1)(B) to the Administrator of the Environmental Protection Agency shall be directly available to the Secretary.

(4) APPROPRIATIONS TO THE SECRETARY OF THE INTERIOR.—Amounts appropriated under paragraph (1)(B) to the Secretary may be—

- (A) derived from the land and water conservation fund;
- (B) appropriated to the Bureau of Reclamation; or
- (C) any combination of subparagraphs (A) and (B);

as specified in appropriations Acts.

SEC. 102. CONCURRENT WILDLIFE RESOURCES STUDIES.

(a) IN GENERAL.—The Secretary shall provide for the conduct, concurrently with the feasibility study under section 101(c), of studies of hydrology, wildlife pathology, and toxicology relating to wildlife resources of the Salton Sea by Federal and non-Federal entities.

(b) SELECTION OF TOPICS AND MANAGEMENT OF STUDIES.—

(1) IN GENERAL.—The Secretary shall establish a committee to be known as the “Salton Sea Research Management Committee”. The committee shall select the topics of studies under this section and manage those studies.

(2) MEMBERSHIP.—The committee shall consist of the following 5 members:

- (A) The Secretary.
- (B) The Governor of California.
- (C) The Executive Director of the Salton Sea Authority.
- (D) The Chairman of the Torres Martinez Desert Cahuilla Tribal Government.
- (E) The Director of the California Water Resources Center.

(c) COORDINATION.—The Secretary shall require that studies under this section are coordinated through the Science Subcommittee which reports to the Salton Sea Research Management Committee. In addition to the membership provided for by the Science Subcommittee’s charter, representatives shall be invited from the University of California, Riverside; the University of Redlands; San Diego State University; the Imperial Valley College; and Los Alamos National Laboratory.

(d) PEER REVIEW.—The Secretary shall require that studies under this section are subjected to peer review.

(e) AUTHORIZATION OF APPROPRIATIONS.—For wildlife resources studies under this section there are authorized to be appropriated to the Secretary from the land and water conservation fund \$5,000,000.

SEC. 103. SALTON SEA NATIONAL WILDLIFE REFUGE RENAMED AS SONNY BONO SALTON SEA NATIONAL WILDLIFE REFUGE.

(a) REFUGE RENAMED.—The Salton Sea National Wildlife Refuge, located in Imperial County, California, is hereby renamed and shall be known as the “Sonny Bono Salton Sea National Wildlife Refuge”.

(b) REFERENCES.—Any reference in any statute, rule, regulation, executive order, publication, map, or paper or other document of the United States to the Salton Sea National Wildlife Refuge is deemed to refer to the Sonny Bono Salton Sea National Wildlife Refuge.

SEC. 104. RELATIONSHIP TO OTHER LAWS AND AGREEMENTS GOVERNING THE COLORADO RIVER.

(a) PRESERVATION OF RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLORADO RIVER.—Nothing in this Act shall be construed to alter, amend, repeal, modify, interpret, or to be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), the Water Treaty of 1944 with Mexico (Treaty Series 944, 59 Stat. 1219 and Minute 242 thereunder), the Colorado River Basin Salinity Control Act of 1974 (94 Stat. 1063), the Flood Control Act of 1944 (58 Stat. 887), the decree entered by the United States Supreme Court in *Arizona v. California, et al.* (376 U.S. 340) (1964) and decrees supplemental thereto, the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (45 Stat. 774), the Colorado River Storage Project Act (70 Stat. 105), the Colorado River Basin Project Act (82 Stat. 885), including the Criteria for Coordinated Long Range Operation of Colorado River Reservoirs and the Annual Operating Plans developed thereunder, the San Luis Rey Indian Water Rights Settlement Act (102 Stat. 4000), any contract entered into pursuant to section 5 of the Boulder Canyon Project Act, or any other entitlement to the use of the Colorado River existing pursuant to or recognized by Federal law. Furthermore, nothing contained in this Act shall be construed as indicating an intent on the part of the Congress to change the existing relationship of Federal law to the laws of the States or political subdivisions of a State with regard to the diversion and use of Colorado River water, or to relieve any person of any obligation imposed by any law of any State, tribe, or political subdivision of a State. No provision of this Act shall be construed to invalidate any provision of State, tribal, or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State or tribe, so that the two cannot be reconciled or consistently stand together.

(b) LIMITATION ON COLORADO RIVER WATER.—Nothing in this Act shall be construed to enlarge an existing entitlement or to create a new entitlement to Colorado River water for California or any user therein.

(c) FLOOD FLOWS.—In no event shall Colorado River water be diverted for Salton Sea restoration except as provided in this subsection. Diversion into the All-American Canal for delivery directly to the Salton Sea of flood flows in the Colorado River that are required by the Water Control Manual for Flood Control, Hoover Dam and Lake Mead, Colorado River, Nevada-Arizona, adopted February 8, 1984, and which would pass to Mexico in excess of the amount required to be delivered pursuant to the Mexican Water Treaty and Minute 242 thereunder may be made available to carry out the purposes of this Act. The volume of water diverted pursuant to this subsection shall be limited to the excess capacity of the All-American Canal to carry such flood flows after, and as, it has

been used to meet existing obligations. The diversion of water from time to time under this subsection shall not give rise to any ongoing right to the recurrent use of such waters or the All American Canal or facilities.

TITLE II—EMERGENCY ACTION TO IMPROVE WATER QUALITY IN THE ALAMO RIVER AND NEW RIVER

SEC. 201. ALAMO RIVER AND NEW RIVER IRRIGATION DRAINAGE WATER.

(a) RIVER ENHANCEMENT.—

(1) **IN GENERAL.**—The Secretary is authorized and directed to promptly conduct research and construct river reclamation and wetlands projects to improve water quality in the Alamo River and New River, Imperial County, California, by treating water in those rivers and irrigation drainage water that flows into those rivers.

(2) **ACQUISITIONS.**—The Secretary may acquire equipment, real property, and interests in real property (including site access) as needed to implement actions under this section if the State of California, a political subdivision of the State, or Desert Wildlife Unlimited has entered into an agreement with the Secretary under which the State, subdivision, or Desert Wildlife Unlimited, respectively, will, effective 1 year after the date that systems for which the acquisitions are made are operational and functional—

(A) accept all right, title, and interest in and to the equipment, property, or interests; and

(B) assume responsibility for operation and maintenance of the equipment, property, or interests.

(3) **TRANSFER OF TITLE.**—Not later than 1 year after the date a system developed under this section is operational and functional, the Secretary shall transfer all right, title, and interest of the United States in and to all equipment, property, and interests acquired for the system in accordance with the applicable agreement under paragraph (2).

(4) **MONITORING AND OTHER ACTIONS.**—The Secretary shall establish a long-term monitoring program to maximize the effectiveness of any wetlands developed under this title and may implement other actions to improve the efficacy of actions implemented pursuant to this section.

(b) **COOPERATION.**—The Secretary shall implement subsection (a) in cooperation with the Desert Wildlife Unlimited, the Imperial Irrigation District, California, and other interested persons.

(c) **CLEAN WATER ACT.**—No permit shall be required under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) for a wetlands filtration or constructed wetlands project authorized by subsection (a)(1) of this section.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—For river reclamation and other irrigation drainage water treatment actions under this

section, there are authorized to be appropriated to the Secretary from the land and water conservation fund \$3,000,000.

