

116TH CONGRESS
2D SESSION

S. 4189

To provide for drought preparedness and improved water supply reliability.

IN THE SENATE OF THE UNITED STATES

JULY 2, 2020

Mr. WYDEN (for himself and Mr. MERKLEY) introduced the following bill;
which was read twice and referred to the Committee on Energy and Nat-
ural Resources

A BILL

To provide for drought preparedness and improved water
supply reliability.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Water for Conservation and Farming Act”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—INFRASTRUCTURE DEVELOPMENT

Sec. 101. Technical amendment to the Water Desalination Act of 1996.
Sec. 102. Bureau of Reclamation Infrastructure Fund.

Sec. 103. Watersmart extension and expansion.

TITLE II—ECOSYSTEM PROTECTION AND RESTORATION

Sec. 201. Waterbird and shorebird habitat creation program.

Sec. 202. Sustaining biodiversity during droughts.

Sec. 203. Reauthorization and expansion of Cooperative Watershed Management Program.

Sec. 204. Multibenefit projects to improve watershed health.

Sec. 205. Drought planning and preparedness for critically important fisheries.

Sec. 206. Aquatic connectivity restoration.

Sec. 207. Reauthorization of the Fisheries Restoration and Irrigation Mitigation Act of 2000.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **FUND.**—The term “Fund” means the Bu-
4 reau of Reclamation Infrastructure Fund established
5 by section 102(a).

6 (2) **RECLAMATION STATE.**—The term “Rec-
7 lamation State” has the meaning given the term in
8 section 4014 of the Water Infrastructure Improve-
9 ments for the Nation Act (43 U.S.C. 390b note;
10 Public Law 114–322).

11 (3) **SECRETARY.**—The term “Secretary” means
12 the Secretary of the Interior.

13 **TITLE I—INFRASTRUCTURE** 14 **DEVELOPMENT**

15 **SEC. 101. TECHNICAL AMENDMENT TO THE WATER DESALI-** 16 **NATION ACT OF 1996.**

17 Section 4(a) of the Water Desalination Act of 1996
18 (42 U.S.C. 10301 note; Public Law 104–298) is amended

1 by redesignating the second paragraph (1) (relating to eli-
2 gible desalination projects) as paragraph (2).

3 **SEC. 102. BUREAU OF RECLAMATION INFRASTRUCTURE**
4 **FUND.**

5 (a) ESTABLISHMENT.—There is established in the
6 Treasury of the United States a fund, to be known as the
7 “Bureau of Reclamation Infrastructure Fund”, consisting
8 of—

9 (1) such amounts as are deposited in the Fund
10 under subsection (b)(1); and

11 (2) any interest earned on investment of
12 amounts in the Fund under subsection (c)(1)(B).

13 (b) DEPOSITS TO FUND.—

14 (1) IN GENERAL.—For each of fiscal years
15 2031 through 2061, the Secretary of the Treasury
16 shall deposit in the Fund \$300,000,000 of the reve-
17 nues that would otherwise be deposited for the fiscal
18 year in the reclamation fund established by the first
19 section of the Act of June 17, 1902 (32 Stat. 388,
20 chapter 1093), of which—

21 (A) \$100,000,000 shall be expended by the
22 Secretary for water reclamation and reuse
23 projects authorized under—

1 (i) the Reclamation Wastewater and
 2 Groundwater Study and Facilities Act (43
 3 U.S.C. 390h et seq.); or

4 (ii) section 4(a)(2) of the Water De-
 5 salination Act of 1996 (42 U.S.C. 10301
 6 note; Public Law 104–298);

7 (B) \$100,000,000 shall be expended by the
 8 Secretary for grants authorized under section
 9 9504 of the Omnibus Public Land Management
 10 Act of 2009 (42 U.S.C. 10364); and

11 (C) \$100,000,000 shall be expended by the
 12 Secretary to perform modifications to preserve
 13 the structural safety of Bureau of Reclamation
 14 dams and related facilities to ensure that Bu-
 15 reau of Reclamation facilities do not present
 16 unreasonable risks to public safety, property, or
 17 the environment, if the expenditures—

18 (i) account for not more than 85 per-
 19 cent of the total costs for any dam safety
 20 project; and

21 (ii) are made in accordance with sec-
 22 tion 3 of the Reclamation Safety of Dams
 23 Act of 1978 (43 U.S.C. 507).

24 (2) AVAILABILITY OF AMOUNTS.—Amounts de-
 25 posited in the Fund under paragraph (1) shall—

1 (A) be made available in accordance with
 2 this section, without further appropriation; and

3 (B) be in addition to amounts appropriated
 4 for the purposes described in this section under
 5 any other provision of law.

6 (c) EXPENDITURES FROM FUND.—

7 (1) IN GENERAL.—Subject to paragraph (2),
 8 for each of fiscal years 2031 through 2061, the Sec-
 9 retary may expend from the Fund, in accordance
 10 with this section, not more than an amount equal to
 11 the sum of—

12 (A) the amounts deposited in the Fund for
 13 the applicable fiscal year under subsection
 14 (b)(1); and

15 (B) the amount of interest accrued in the
 16 Fund for the fiscal year in which the expendi-
 17 tures are made.

18 (2) ADDITIONAL EXPENDITURES.—

19 (A) IN GENERAL.—The Secretary may ex-
 20 pend more in any fiscal year than the amounts
 21 described in paragraph (1) if the additional
 22 amounts are available in the Fund as a result
 23 of a failure of the Secretary to expend all of the
 24 amounts available under paragraph (1) in 1 or
 25 more prior fiscal years.

1 (B) RETENTION IN ACCOUNTS.—Any addi-
 2 tional amounts referred to in subparagraph (A)
 3 shall—

4 (i) accrue interest in accordance with
 5 this section; and

6 (ii) only be expended for the purposes
 7 for which expenditures from the Fund are
 8 authorized.

9 **SEC. 103. WATERSMART EXTENSION AND EXPANSION.**

10 (a) DEFINITION OF ELIGIBLE APPLICANT.—Section
 11 9502 of the Omnibus Public Land Management Act of
 12 2009 (42 U.S.C. 10362) is amended—

13 (1) in the matter preceding paragraph (1), by
 14 striking “section” and inserting “subtitle”; and

15 (2) by striking paragraph (7) and inserting the
 16 following:

17 “(7) ELIGIBLE APPLICANT.—The term ‘eligible
 18 applicant’ means—

19 “(A) any State, Indian tribe, irrigation dis-
 20 trict, or water district;

21 “(B) any State, regional, or local author-
 22 ity, the members of which include 1 or more or-
 23 ganizations with water or power delivery au-
 24 thority;

1 “(C) any other organization with water or
2 power delivery authority; and

3 “(D) any nonprofit conservation organiza-
4 tion, acting in partnership with any entity listed
5 in subparagraphs (A) through (C), with respect
6 to a project involving land or infrastructure
7 owned by the entity.”.

8 (b) WATER MANAGEMENT IMPROVEMENT.—Section
9 9504(a) of the Omnibus Public Land Management Act of
10 2009 (42 U.S.C. 10364(a)) is amended—

11 (1) in paragraph (1)—

12 (A) in the matter preceding subparagraph
13 (A), by inserting “or carrying out any activity”
14 after “any improvement”;

15 (B) by striking subparagraphs (A) through
16 (E);

17 (C) by redesignating subparagraphs (F)
18 through (H) as subparagraphs (B) through
19 (D), respectively;

20 (D) by inserting before subparagraph (B)
21 (as so redesignated) the following:

22 “(A) to assist States and water users in
23 complying with interstate compacts or reducing
24 basin water supply-demand imbalances, includ-
25 ing through temporary, voluntary, and com-

1 pensated transactions that decrease consump-
 2 tive water use at a regional or watershed
 3 scale;”;

4 (E) in subparagraph (B) (as so redesign-
 5 nated), by striking “to prevent” and inserting
 6 “to achieve the prevention of”;

7 (F) in subparagraph (C) (as so redesign-
 8 nated), by striking “to accelerate” and inserting
 9 “to achieve the acceleration of”; and

10 (G) in subparagraph (D) (as so redesign-
 11 nated)—

12 (i) by striking clause (i) and inserting
 13 the following:

14 “(i) to increase ecological resilience to
 15 climate change by addressing climate-re-
 16 lated impacts or vulnerability to the water
 17 supply of the United States, including by
 18 enhancing natural water storage within a
 19 floodplain or riparian wetland;”;

20 (ii) in clause (ii), by striking the pe-
 21 riod at the end and inserting “; or”; and

22 (iii) by adding at the end the fol-
 23 lowing:

24 “(iii) to plan for or address the im-
 25 pacts of drought.”;

1 (2) by redesignating paragraphs (2) and (3) as
2 paragraphs (3) and (4), respectively;

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

5 “(2) ELIGIBLE PROJECTS.—The improvements
6 or activities eligible for assistance under paragraph
7 (1) may include improvements or activities—

8 “(A) using an approach that—

9 “(i) conserves water;

10 “(ii) increases water use efficiency;

11 “(iii) facilitates water markets; or

12 “(iv) enhances water management, in-
13 cluding increasing the use of renewable en-
14 ergy in the management and delivery of
15 water or increasing natural water storage;

16 “(B) to improve the condition of natural
17 water recharge infrastructure; or

18 “(C) to achieve the acceleration of the
19 adoption and use of advanced water treatment
20 technologies to increase water supply.”;

21 (4) in paragraph (3) (as so redesignated), by
22 striking subparagraph (B) and inserting the fol-
23 lowing:

24 “(B) submit to the Secretary an applica-
25 tion that includes—

1 “(i) a proposal of the improvement or
 2 activity to be planned, designed, con-
 3 structed, or implemented by the eligible ap-
 4 plicant; and

5 “(ii)(I) a proposal for a pre- and post-
 6 project monitoring plan that would dem-
 7 onstrate ways in which the proposed im-
 8 provement or activity would result in im-
 9 proved streamflows and aquatic habitat;

10 “(II) an analysis of ways in which the
 11 proposed improvement or activity would
 12 improve compliance with interstate com-
 13 pacts; or

14 “(III) an analysis of ways in which
 15 the proposed improvement or activity
 16 would reduce basin-scale water supply-de-
 17 mand imbalances.”; and

18 (5) in paragraph (4) (as so redesignated)—

19 (A) in subparagraph (A), by striking “(F)”
 20 and inserting “(G)”;

21 (B) in subparagraph (B)(i), by striking
 22 subclause (II) and inserting the following:

23 “(II) to use the assistance pro-
 24 vided under a grant or agreement to
 25 increase the consumptive use of water

1 for agricultural operations above the
2 pre-project levels, as determined pur-
3 suant to the law of the State in which
4 the operation of the eligible applicant
5 is located.”;

6 (C) in subparagraph (E)—

7 (i) by striking clause (i) and inserting
8 the following:

9 “(i) FEDERAL SHARE.—The Federal
10 share of the cost of any infrastructure im-
11 provement or activity that is the subject of
12 the grant or other agreement entered into
13 between the Secretary and an eligible ap-
14 plicant under paragraph (1)—

15 “(I) shall not exceed 50 percent
16 of the cost of the infrastructure im-
17 provement or activity; or

18 “(II) in the case of an infrastruc-
19 ture improvement or activity that pro-
20 vides benefits to consumptive water
21 users and nonconsumptive ecological
22 or recreational values in which the
23 nonconsumptive benefit accounts for
24 at least 30 percent of the cost of the
25 improvement or activity, as deter-

mined by the Secretary, shall not exceed 75 percent of the cost of the infrastructure improvement or activity.”; and

(ii) in clause (ii), in the matter preceding subclause (I), by striking “paragraph (2)” and inserting “paragraph (3)”; and

(D) by adding at the end the following:

“(G) LIMITATION.—Not more than 30 percent of the total amounts provided to eligible applicants through grants or other agreements for a fiscal year under paragraph (1) shall be provided to nonprofit conservation organizations.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 9504 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364) is amended by striking subsection (e) and inserting the following:

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out this section—

“(A) \$50,000,000 for fiscal year 2021;

1 “(B) \$55,000,000 for fiscal year 2022;

2 “(C) \$60,000,000 for fiscal year 2023;

3 “(D) \$65,000,000 for fiscal year 2024;

4 and

5 “(E) \$70,000,000 for fiscal year 2025.

6 “(2) REQUIREMENT.—Of the amounts made
7 available under paragraph (1), \$50,000,000 for the
8 period of fiscal years 2021 through 2025 shall be
9 used to carry out section 206 of the Energy and
10 Water Development and Related Agencies Approp-
11 riation Act, 2015 (43 U.S.C. 620 note; Public Law
12 113–235).”.

13 (2) CONFORMING AMENDMENT.—Section
14 4009(d) of Public Law 114–322 (42 U.S.C. 10364
15 note; Public Law 114–322) is amended by striking
16 “on the condition that of that amount, \$50,000,000
17 of it is used to carry out section 206 of the Energy
18 and Water Development and Related Agencies Ap-
19 propriation Act, 2015 (43 U.S.C. 620 note; Public
20 Law 113–235)”.

1 **TITLE II—ECOSYSTEM PROTEC-**
2 **TION AND RESTORATION**

3 **SEC. 201. WATERBIRD AND SHOREBIRD HABITAT CRE-**
4 **ATION PROGRAM.**

5 (a) AUTHORIZATION OF HABITAT CREATION PRO-
6 GRAM.—

7 (1) IN GENERAL.—Subject to paragraphs (2)
8 and (3), the Secretary shall establish a program
9 under which the Secretary shall provide financial as-
10 sistance to eligible agricultural producers in Rec-
11 lamation States, in the form of direct payments or
12 credits, as applicable, to compensate the eligible ag-
13 ricultural producers for the creation and mainte-
14 nance of waterbird and shorebird habitats.

15 (2) LIMITATION ON AMOUNT OF FINANCIAL AS-
16 SISTANCE.—Not more than a total of \$3,500,000 of
17 financial assistance may be provided for each fiscal
18 year under paragraph (1).

19 (3) CONDITIONS.—Financial assistance shall be
20 provided under paragraph (1) only if the Secretary
21 determines that the activities receiving the financial
22 assistance would—

23 (A) create new habitat that would not oth-
24 erwise be created; or

1 (B) maintain existing habitat that would
2 not otherwise be maintained.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to the Secretary \$3,500,000
5 to carry out this section for each of fiscal years 2021
6 through 2026, to remain available until expended.

7 (c) REPORT.—Not later than October 1, 2021, and
8 every 2 years thereafter, the Secretary shall submit to
9 Congress a report that describes the environmental per-
10 formance of activities that are receiving, or have received,
11 financial assistance under the program established under
12 subsection (a)(1) during the period covered by the report.

13 **SEC. 202. SUSTAINING BIODIVERSITY DURING DROUGHTS.**

14 Section 9503(b) of the Omnibus Public Land Man-
15 agement Act of 2009 (42 U.S.C. 10363(b)) is amended—

16 (1) in paragraph (3)(D), by inserting “and na-
17 tive biodiversity” after “wildlife habitat”; and

18 (2) in paragraph (4)(B), by inserting “and
19 drought biodiversity plans to address sustaining na-
20 tive biodiversity during periods of drought” after
21 “restoration plans”.

1 **SEC. 203. REAUTHORIZATION AND EXPANSION OF COOPER-**
 2 **ATIVE WATERSHED MANAGEMENT PROGRAM.**

3 (a) DEFINITIONS.—Section 6001 of the Omnibus
 4 Public Land Management Act of 2009 (16 U.S.C. 1015)
 5 is amended—

6 (1) by redesignating paragraphs (2) through
 7 (6) as paragraphs (3) through (7), respectively;

8 (2) by inserting after paragraph (1) the fol-
 9 lowing:

10 “(2) DISADVANTAGED COMMUNITY.—The term
 11 ‘disadvantaged community’ means a community (in-
 12 cluding a city, town, county, or reasonably isolated
 13 and divisible segment of a larger municipality) with
 14 an annual median household income that is less than
 15 100 percent of the statewide annual median house-
 16 hold income for the State in which the community
 17 is located, according to the most recent decennial
 18 census.”;

19 (3) in paragraph (6)(B)(i) (as so redesign-
 20 nated)—

21 (A) in subclause (VIII), by striking “and”
 22 at the end;

23 (B) in subclause (IX), by adding “and”
 24 after the semicolon at the end; and

25 (C) by adding at the end the following:

1 “(X) disadvantaged commu-
 2 nities;”; and

3 (4) in paragraph (7) (as so redesignated)—

4 (A) in subparagraph (D), by striking “or”
 5 at the end;

6 (B) by redesignating subparagraph (E) as
 7 subparagraph (F); and

8 (C) by inserting after subparagraph (D)
 9 the following:

10 “(E) generates environmental benefits,
 11 such as benefits to fisheries, wildlife, and aquat-
 12 ic habitat; or”.

13 (b) APPLICATION.—Section 6002 of the Omnibus
 14 Public Lands Management Act (16 U.S.C. 1015a) is
 15 amended—

16 (1) by striking subsection (b) and inserting the
 17 following:

18 “(b) ESTABLISHMENT OF APPLICATION PROCESS;
 19 CRITERIA.—Not later than March 30, 2021, the Secretary
 20 shall update—

21 “(1) the application process for the program;
 22 and

23 “(2) in consultation with the States, the
 24 prioritization and eligibility criteria for considering

1 applications submitted in accordance with the appli-
 2 cation process.”; and

3 (2) by striking subsection (g) and inserting the
 4 following:

5 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated to carry out this sec-
 7 tion—

8 “(1) \$20,000,000 for each of fiscal years 2012
 9 through 2020; and

10 “(2) \$40,000,000 for each of fiscal years 2021
 11 through 2024.”.

12 **SEC. 204. MULTIBENEFIT PROJECTS TO IMPROVE WATER-**
 13 **SHED HEALTH.**

14 (a) DEFINITION OF ELIGIBLE APPLICANT.—In this
 15 section, the term “eligible applicant” means—

16 (1) any Reclamation State, Indian Tribe, irriga-
 17 tion district, water district, or organization with
 18 water or power delivery authority;

19 (2) any Reclamation State, regional authority,
 20 or local agency or authority; and

21 (3) any nonprofit conservation organization.

22 (b) ESTABLISHMENT OF COMPETITIVE GRANT PRO-
 23 GRAM.—Not later than 1 year after the date of enactment
 24 of this Act, the Secretary, in consultation with the heads
 25 of relevant agencies, shall establish a competitive grant

1 program under which the Secretary shall award grants to
2 eligible applicants for the design, implementation, and
3 monitoring of conservation outcomes of habitat restoration
4 projects that improve watershed health in a Reclamation
5 State by accomplishing 1 or more of the following:

6 (1) Ecosystem benefits.

7 (2) Restoration of native species beyond exist-
8 ing or planned measures necessary to comply with
9 Federal or State laws relating to species recovery.

10 (3) Mitigation against the impacts of climate
11 change to fish and wildlife habitats.

12 (4) Protection against invasive species.

13 (5) Restoration of aspects of the natural eco-
14 system.

15 (6) Enhancement of commercial or recreational
16 fishing.

17 (7) Enhancement of river-based recreation,
18 such as kayaking, rafting, and canoeing.

19 (c) REQUIREMENTS.—

20 (1) IN GENERAL.—In awarding a grant to an
21 eligible applicant under subsection (b), the Sec-
22 retary—

23 (A) shall give priority to an eligible appli-
24 cant that would carry out a habitat restoration

1 project that achieves more than 1 of the bene-
2 fits described in that subsection; and

3 (B) may not provide a grant to carry out
4 a habitat restoration project, the purpose of
5 which is to meet existing environmental mitiga-
6 tion or compliance obligations under Federal or
7 State law.

8 (2) COMPLIANCE.—A habitat restoration
9 project awarded a grant under subsection (a) shall
10 comply with all applicable Federal and State laws.

11 (d) COST-SHARING REQUIREMENT.—The Federal
12 share of the cost of any habitat restoration project that
13 is awarded a grant under subsection (b)—

14 (1) shall not exceed 50 percent of the cost of
15 the habitat restoration project; or

16 (2) in the case of a habitat restoration project
17 that provides benefits to ecological or recreational
18 values in which the nonconsumptive water conserva-
19 tion benefit or habitat restoration benefit accounts
20 for at least 75 percent of the cost of the habitat res-
21 toration project, as determined by the Secretary,
22 shall not exceed 75 percent of the cost of the habitat
23 restoration project.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
 2 authorized to be appropriated to carry out this section
 3 \$150,000,000 for each of fiscal years 2021 through 2024.

4 **SEC. 205. DROUGHT PLANNING AND PREPAREDNESS FOR**
 5 **CRITICALLY IMPORTANT FISHERIES.**

6 (a) DEFINITIONS.—In this section:

7 (1) CRITICALLY IMPORTANT FISHERY.—The
 8 term “critically important fishery” means—

9 (A) a fishery located in a Reclamation
 10 State that is commercially, culturally, or
 11 recreationally important;

12 (B) a fishery located in a Reclamation
 13 State that contains fish species that are listed
 14 as threatened or endangered pursuant to the
 15 Endangered Species Act of 1973 (16 U.S.C.
 16 1531 et seq.); and

17 (C) a fishery located in a Reclamation
 18 State that is used by 1 or more Indian Tribes
 19 in the Reclamation State for ceremonial subsist-
 20 ence or commercial purposes.

21 (2) INDIAN TRIBE.—The term “Indian Tribe”
 22 has the meaning given the term “Indian tribe” in
 23 section 4 of the Indian Self-Determination and Edu-
 24 cation Assistance Act (25 U.S.C. 5304).

1 (3) QUALIFIED TRIBAL GOVERNMENT.—The
 2 term “qualified Tribal Government” means any gov-
 3 ernment of an Indian Tribe that the Secretary deter-
 4 mines—

5 (A) is involved in fishery management and
 6 recovery activities, including activities under the
 7 Endangered Species Act of 1973 (16 U.S.C.
 8 1531 et seq.); and

9 (B) has the management and organiza-
 10 tional capability to maximize the benefits of as-
 11 sistance provided under subsection (c).

12 (4) SECRETARY.—The term “Secretary” means
 13 the Secretary, acting through the Director of the
 14 United States Fish and Wildlife Service.

15 (b) DROUGHT PLAN FOR CRITICALLY IMPORTANT
 16 FISHERIES.—

17 (1) IN GENERAL.—Not later than January 1,
 18 2021, and every 3 years thereafter, the Secretary, in
 19 consultation with the Director of the National Ma-
 20 rine Fisheries Service, the Commissioner of Rec-
 21 lamation, the Chief of Engineers, applicable State
 22 fish and wildlife agencies, and qualified Tribal Gov-
 23 ernments, shall prepare a plan to sustain the sur-
 24 vival of critically important fisheries during future
 25 periods of extended drought through—

1 (A) voluntary, compensated actions by pri-
2 vate landowners and water right holders; or

3 (B) other investments in drought prepared-
4 ness made by the Secretary.

5 (2) CONSIDERATIONS.—In preparing the plan
6 under paragraph (1), the Secretary shall consider—

7 (A) habitat restoration efforts designed to
8 provide drought refugia and increased fishery
9 resilience during droughts;

10 (B) relocating the release location and tim-
11 ing of hatchery fish to avoid predation and tem-
12 perature impacts;

13 (C) barging of hatchery release fish to im-
14 prove survival and reduce straying;

15 (D) coordination with water users, the
16 Commissioner of Reclamation, State fish and
17 wildlife agencies, qualified Tribal Governments,
18 and interested public water agencies regarding
19 voluntary water transfers, including through
20 groundwater substitution activities, to deter-
21 mine if water releases can be collaboratively
22 managed in a way that provides additional ben-
23 efits for critically important fisheries without
24 negatively impacting wildlife habitat;

1 (E) hatchery management modifications,
2 such as expanding hatchery production of fish
3 during periods of extended drought, if appropriate for a particular river basin;
4

5 (F) hatchery retrofit projects, such as the
6 installation and operation of filtration equipment and chillers, to reduce disease outbreak,
7 egg mortality, and other impacts of droughts in
8 high water temperatures;
9

10 (G) increasing rescue operations of upstream migrating fish;
11

12 (H) improving temperature modeling and
13 related forecasted information to predict water
14 management impacts to the habitat of critically
15 important fisheries with a higher degree of accuracy than current models;
16

17 (I) programs to reduce predation losses at
18 artificially created predation hot spots;

19 (J) habitat restoration efforts designed to
20 provide drought refugia and increased fisheries
21 resilience during droughts; and

22 (K) retrofitting existing water facilities to
23 provide improved temperature conditions for
24 fish.

1 (c) PUBLIC COMMENT.—Before finalizing a plan
 2 under subsection (b), the Secretary shall provide for a
 3 public comment period of not less than 90 days.

4 (d) AUTHORIZATION OF APPROPRIATIONS FOR FISH
 5 RECOVERY EFFORTS.—There is authorized to be appro-
 6 priated to the Secretary to carry out fish, stream, and
 7 hatchery activities relating to fish recovery efforts, includ-
 8 ing activities carried out in coordination with the Director
 9 of the National Marine Fisheries Service, the Commis-
 10 sioner of Reclamation, the Chief of Engineers, applicable
 11 State fish and wildlife agencies, or a qualified Tribal Gov-
 12 ernment, \$25,000,000 for fiscal year 2021.

13 (e) EFFECT.—Nothing in this section affects any ob-
 14 ligation under any Federal environmental law.

15 **SEC. 206. AQUATIC CONNECTIVITY RESTORATION.**

16 (a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
 17 tion, the term “eligible entity” means—

- 18 (1) a Reclamation State;
- 19 (2) a department, agency, or political subdivi-
 20 sion of a Reclamation State;
- 21 (3) a public agency organized pursuant to the
 22 laws of a Reclamation State;
- 23 (4) an Indian tribe (as that term is defined in
 24 section 4 of the Indian Self-Determination and Edu-

1 cation Assistance Act (25 U.S.C. 5304)) in a Rec-
2 lamation State; or

3 (5) a nonprofit organization operating in a Rec-
4 lamation State.

5 (b) GENERAL AUTHORITY.—Subject to the require-
6 ments of this section, on the request of any eligible entity,
7 the Secretary may negotiate and enter into an agreement
8 to fund the design, study, and construction of an aquatic
9 ecosystem restoration and protection project, if the Sec-
10 retary determines that the project is likely to improve the
11 quality of the environment in a Reclamation State by im-
12 proving fish passage through the removal or bypass of bar-
13 riers to fish passage.

14 (c) REQUIREMENTS.—

15 (1) IN GENERAL.—Construction of a project
16 under this section may be initiated only after—

17 (A) except as provided in paragraph (2),
18 an eligible entity has entered into an agreement
19 with the Secretary to pay not less than 35 per-
20 cent of the costs of project construction; and

21 (B) the Secretary determines that the pro-
22 posed project—

23 (i) would not harm the water rights of
24 water right holders of the water source;

1 (ii) would not result in an unmitigated
2 result to the environment; and

3 (iii) is consistent with the responsibil-
4 ities of the Secretary, as agreed to by all
5 entities that own or operate any fish pas-
6 sage barrier affected by the project—

7 (I) in the role of the Secretary as
8 trustee for Indian tribes; and

9 (II) to ensure compliance with
10 any applicable international and Trib-
11 al treaties and agreements and inter-
12 state compacts and agreements;

13 (iv) is in the financial interest of the
14 United States, based on the determination
15 that the project advances Federal objec-
16 tives, including environmental enhance-
17 ment objectives in a Reclamation State;
18 and

19 (v) protects the public aspects of the
20 eligible facility, including water rights
21 managed for public purposes, such as flood
22 control or fish and wildlife.

23 (2) EXCEPTION.—Paragraph (1)(A) shall not
24 apply to an eligible entity described in subsection
25 (a)(4).

1 (d) PRIORITY FOR PROJECTS PROVIDING PUBLIC
2 SAFETY AND REGIONAL BENEFITS.—In providing assist-
3 ance for projects under this section, the Secretary shall
4 give priority to projects that—

5 (1) are likely to provide public safety benefits;
6 and

7 (2) are regional in nature, including projects
8 that span 2 or more river basins.

9 (e) ENVIRONMENTAL LAWS.—In participating in a
10 project under this section, the Secretary shall comply
11 with—

12 (1) any applicable Federal environmental law,
13 including the National Environmental Policy Act of
14 1969 (42 U.S.C. 4321 et seq.); and

15 (2) any environmental law of the Reclamation
16 State in which the project is located that relates to
17 the construction, expansion, or operation of a water
18 storage project or fish and wildlife protection, if the
19 law of the Reclamation State does not relieve the
20 Secretary of any Federal requirement otherwise ap-
21 plicable under this section.

22 (f) FUNDING.—There is authorized to be appro-
23 priated to carry out this section \$25,000,000 for each of
24 fiscal years 2021 through 2026, to remain available until
25 expended.

1 **SEC. 207. REAUTHORIZATION OF THE FISHERIES RESTORA-**
2 **TION AND IRRIGATION MITIGATION ACT OF**
3 **2000.**

4 (a) DEFINITION OF PACIFIC DRAINAGE AREA.—Sec-
5 tion 2(1) of the Fisheries Restoration and Irrigation Miti-
6 gation Act of 2000 (16 U.S.C. 777 note; Public Law 106–
7 502) is amended by inserting “or a terminal lake” before
8 the period at the end.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
10 10(a) of the Fisheries Restoration and Irrigation Mitiga-
11 tion Act of 2000 (16 U.S.C. 777 note; Public Law 106–
12 502) is amended by striking “\$15,000,000 through 2021”
13 and inserting “\$25,000,000 for each of fiscal years 2021
14 through 2027”.

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