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HOUSE OF REPRESENTATIVES

REPORT
118–709

COLORADO RIVER SALINITY CONTROL FIX ACT

OCTOBER 22, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WESTERMAN, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 7872]

The Committee on Natural Resources, to whom was referred the bill (H.R. 7872) to amend the Colorado River Basin Salinity Control Act to modify certain requirements applicable to salinity control units, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 7872 is to amend the Colorado River Basin Salinity Control Act to modify certain requirements applicable to salinity control units, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Congress enacted the Colorado River Basin Salinity Control Act (Salinity Control Act, P.L. 93–320) in June of 1974. The Salinity Control Act authorized salinity control projects in Colorado, Wyoming, Utah, and Nevada and planning studies in Arizona, California, New Mexico, and Wyoming. High salinity levels in water can reduce crop yields, and at higher concentrations over long periods, can kill trees and make the land unsuitable for agricultural purposes. The Bureau of Reclamation's Basin States Program and the U.S. Department of Agriculture's Natural Resources Conservation Service's (NRCS) Environmental Quality Incentives Program (EQIP) provide cost-share assistance to landowners who install salinity control measures.

The Colorado River Basin Salinity Control Program (Program) is funded through appropriations and power revenues. Generally, the Program receives 70 percent of its funds from appropriations (also

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referred to as the "nonreimbursable portion") and power revenues (the "reimbursable portion"). The Salinity Control Act dictates that 15 percent of the reimbursable money is funded by the Upper Colorado River Basin Fund (Upper Basin Fund) and that the remaining 85 percent of reimbursable funds are from the Lower Colorado River Basin Fund (Lower Basin Fund).

Unlike the Upper Basin Fund, where rates can be adjusted to cover allocated costs, salinity dollars to the Lower Basin Fund are fixed by the Hoover Power Plant Act (P.L. 98–381) at $2.50 per MWh regardless of Program needs. This has created an imbalance of up-front, reimbursable funding between the lower basin (Arizona, California, and Nevada) and upper basin states (Colorado, New Mexico, Utah, and Wyoming), particularly as the lower basin has struggled with reduced levels of hydropower production.

H.R. 7872 represents the work of the seven Colorado River basin states to address this imbalance by keeping funding arrangements in place but adjusting the percentages of reimbursable and nonreimbursable funds. First, the legislation reduces the reimbursable portion of operations and maintenance at three Bureau of Reclamation projects, freeing up $1.2 million in the Lower Basin Fund. Additionally, the legislation reduces the EQIP reimbursable portion from 30 percent to 15 percent. This change would save the Lower Basin Fund an additional $3.1 million. This legislation will ensure that the costs associated with salinity control units are shared equally across the Upper and Lower Colorado River Basins.

H.R. 7872 has five Republican cosponsors and four Democrat cosponsors.

Committee Action

H.R. 7872 was introduced on April 5, 2024, by Rep. John Curtis (R–UT). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Wildlife and Fisheries. On March 22, 2024, the Subcommittee on Water, Wildlife and Fisheries held a hearing on the bill. On June 12, 2024, the Committee on Natural Resources met to consider the bill. The Subcommittee on Water, Wildlife and Fisheries was discharged from further consideration of H.R. 7872 by unanimous consent. The bill was ordered favorably reported to the House of Representatives by unanimous consent.

Hearings

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Water, Wildlife and Fisheries held on March 22, 2024.

Section-by-Section Analysis

Section 1. Short title

Establishes the short title of this bill as the "Colorado River Salinity Control Fix Act."

Section 2. Salinity control units

Amends Section 205 of the Colorado River Salinity Control Act (43 U.S.C. 1595).

Adjusts the cost share aspects of the Colorado River salinity control units. The principal funding agreement remains in place, but percentages of reimbursable funds and non-reimbursable funds are adjusted. The reimbursable percentage of operations is reduced at three Bureau of Reclamation projects and the reimbursable portion of EQIP is reduced from 30 percent to 15 percent.

Committee Oversight Findings and Recommendations

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

Compliance With House Rule XIII and Congressional Budget Act

1. *Cost of Legislation and the Congressional Budget Act.* Pursuant to clause 3(c)(2) of House rule XIII and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of House rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a budgetary analysis and a cost estimate of this bill.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Colorado River Basin Salinity Control Act to modify certain requirements applicable to salinity control units, and for other purposes.

Earmark Statement

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

Unfunded Mandates Reform Act Statement

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee, if such estimate is not publicly available on the Congressional Budget Office website.

Existing Programs

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

SECTION 205 OF THE COLORADO RIVER BASIN SALINITY CONTROL ACT

⟦SEC. 205. (a) The Secretary⟧

SEC. SALINITY CONTROL UNITS; AUTHORITY AND FUNCTIONS OF THE SECRETARY OF THE INTERIOR.

(a) ALLOCATION OF COSTS.—The Secretary shall allocate the total costs (excluding costs borne by non-federal participants) of the on-farm measures authorized by section 202(c), of all measures to replace incidental fish and wildlife values foregone, and of each unit or separable feature thereof authorized by section 202(a) of this title, as follows:

⟦(1) In recognition of Federal responsibility for the Colorado River as an interstate stream and for international comity with Mexico, Federal ownership of the lands of the Colorado River Basin from which most of the dissolved salts originate, and the policy embodied in the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816), 75 per centum of the total costs of construction, operation, maintenance, and replacement of each unit or separable feature thereof authorized by section 202(a)(1), (2), and (3), including 75 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, 70 per centum of the total costs of construction, operation, maintenance, and replacement of each unit, or separable feature thereof authorized by paragraphs (4) through (6) of section 202(a), including 70 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, and 70 per centum of the total costs of implementation of the on-farm measures authorized by section 202(c), including 70 per centum of the total costs of the associated measures to replace incidental fish and wildlife values foregone, shall be nonreimbursable. The total costs remaining after these allocations shall be reimbursable as provided for in paragraphs (2), (3), (4), and (5), of section 205(a)]

(1) NONREIMBURSABLE COSTS; REIMBURSABLE COSTS.—

(A) NONREIMBURSABLE COSTS.—

(i) IN GENERAL.—In recognition of Federal responsibility for the Colorado River as an interstate stream and for international comity with Mexico, Federal ownership of the land of the Colorado River Basin from which most of the dissolved salts originate, and the policy established in the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and except as provided in clause (ii), the following shall be nonreimbursable:

(I) 75 percent of the total costs of construction and replacement of each unit or separable feature of a unit authorized by section 202(a)(1), including 90 percent of—

(aa) the costs of operation and maintenance of each unit or separable feature of a unit authorized by that section; and

(bb) the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone.

(II) 75 percent of the total costs of construction and replacement of each unit or separable feature of a unit authorized by section 202(a)(2), including 100 percent of—

(aa) the costs of operation and maintenance of each unit or separable feature of a unit authorized by that section; and

(bb) the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone.

(III) 75 percent of the total costs of construction, operation, maintenance, and replacement of each unit or separable feature of a unit authorized by section 202(a)(3), including 75 percent of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone.

(IV) 70 percent of the total costs of construction, operation, maintenance, and replacement of each unit or separable feature of a unit authorized by paragraphs (4) and (6) of section 202(a), including 70 percent of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone.

(V) 70 percent of the total costs of construction and replacement of each unit or separable feature

of a unit authorized by section 202(a)(5), including 100 percent of—

(aa) the costs of operation and maintenance of each unit or separable feature of a unit authorized by that section; and

(bb) the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone.

(VI) 85 percent of the total costs of implementation of the on-farm measures authorized by section 202(c), including 85 percent of the total costs of the associated measures to replace incidental fish and wildlife values foregone.

(ii) SPECIAL RULE FOR NONREIMBURSABLE COSTS FOR FISCAL YEARS 2024 AND 2025.—Notwithstanding clause (i), for each of fiscal years 2024 and 2025, the following shall be nonreimbursable:

(I) 75 percent of all costs described in clause (i)(I).

(II) 75 percent of all costs described in clause (i)(II).

(III) 70 percent of all costs described in clause (i)(V).

(IV) The percentages of all costs described in subclauses (III), (IV), and (VI) of clause (i).

(B) REIMBURSABLE COSTS.—The total costs remaining after the allocations under clauses (i) and (ii) of subparagraph (A) shall be reimbursable as provided for in paragraphs (2), (3), (4), and (5).

(2) The reimbursable portion of the total costs shall be allocated between the Upper Colorado River Basin Fund established by section 5(a) of the Colorado River Storage Project Act (70 Stat. 107) and the Lower Colorado River Basin Development Fund established by section 403(a) of the Colorado River Basin Project Act (82 Stat. 895), after consultation with the Advisory Council created in section 204 (a) of this title and consideration of the following items:

(i) benefits to be derived in each basin from the use of water of improved quality and the use of works for improved water management;

(ii) causes of salinity; and

(iii) availability of revenues in the Lower Colorado River Basin Development Fund and increased revenues to the Upper Colorado River Basin Fund made available under section 205(d) of this title: Provided, That costs allocated to the Upper Colorado River Basin Fund under section 205(a)(2) of this title shall not exceed 15 per centum of the costs allocated to the Upper Colorado and the Lower Colorado River Basin Development Fund.

(3) Costs of construction and replacement of each unit or separable feature thereof authorized by sections 202(a)(1), (2), and (3) and costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the units authorized by sections 202(a)(1), (2), and (3), allocated to the upper basin and to the lower basin under section 205(a)(2) of this

title shall be repaid within a fifty-year period or within a period equal to the estimated life of the unit, separable feature thereof, or replacement, whichever is less, without interest from the date such unit, separable feature, or replacement is determined by the Secretary to be in operation.

(4)(i) Costs of construction and replacement of each unit or separable feature thereof authorized by paragraphs (4) through (6) of section 202, costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the on-farm measures authorized by section 202(c) or of the unit authorized by paragraphs (4) through (6) of section 202, and costs of implementation of the on-farm measures authorized by section 202(c) allocated to the upper basin and to the lower basin under section 205(a)(2) of this title shall be repaid as provided in subparagraphs (ii) and (iii), respectively, of this paragraph.

(ii) Costs allocated to the upper basin shall be repaid with interest within a fifty-year period, or within a period equal to the estimated life of the unit, separable feature thereof, replacement, or on-farm measure, whichever is less, from the date such unit, separable feature thereof, replacement, or on-farm measure is determined by the Secretary or the Secretary of Agriculture to be in operation.

(iii) Costs allocated to the lower basin shall be repaid without interest as such costs are incurred to the extent that money is available from the Lower Colorado River Basin development fund to repay costs allocated to the lower basin. If in any fiscal year the money available from the Lower Colorado River Basin development fund for such repayment is insufficient to repay the costs allocated to the lower basin, as provided in the preceding sentence, the deficiency shall be repaid with interest as soon as money becomes available in the fund for repayment of those costs.

(iv) The interest rates used pursuant to this Act shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period during the month preceding the date of enactment of the Act entitled "An Act to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title I1 of such Act, and for other purposes" for costs outstanding at that date, or, in the case of costs incurred subsequent to enactment of such Act, during the month preceding the fiscal year in which the costs are incurred.

(5) Costs of operation and maintenance of each unit or separable feature thereof authorized by section 202(a) and of measures to replace incidental fish and wildlife values foregone allocated to the upper basin and to the lower basin under section 205(a)(2) of this title shall be repaid without interest in the fiscal year next succeeding the fiscal year in which such costs are incurred. In the event that revenues are not available to repay the portion of operation and maintenance costs allocated to the Upper Colorado River Basin fund and to the Lower Colorado River Basin development fund in the year next succeeding the fiscal year in which such costs are incurred, the deficiency shall be repayed with interest calculated in the same manner as provided in section 205(a)(4)(iv).

Any reimbursement due non-Federal entities pursuant to section 202(b)(2) shall be repaid without interest in the fiscal year next succeeding the fiscal year in which such operation and maintenance costs are incurred.

【(b)(1) Costs of construction】

(b) COSTS PAYABLE FROM LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—

(1) IN GENERAL.—Costs of construction, operation, maintenance, and replacement of each unit or separable feature thereof authorized by section 202(a), costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 202(c) allocated for repayment by the lower basin under section 205(a)(2) of this title shall be paid in accordance with subsection 205(b)(2) of this title, from the Lower Colorado River Basin Development Fund.

(2) [Omitted—Amends other Act]

【(c) Costs of construction】

(c) COSTS PAYABLE FROM UPPER COLORADO RIVER BASIN FUND.—Costs of construction, operation, maintenance, and replacement of each unit or separable feature thereof authorized by section 202(a), costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 202(c) allocated for repayment by the upper basin under section 205 (a)(2) of this title shall be paid in accordance with section 205(d) of this title from the Upper Colorado River Basin Fund within the limit of the funds made available under section 205(e) of this title.

(d) [Omitted—Amends other Act]

【(e) The Secretary is 】

(e) UPWARD ADJUSTMENT OF RATES FOR ELECTRICAL ENERGY.—The Secretary is authorized to make upward adjustments in rates charged for electrical energy under all contracts administered by the Secretary under the Colorado River Storage Project Act (70 Stat. 105, 43 U.S.C. 620) as soon as practicable and to the extent necessary to cover the costs allocated to the Upper Colorado River Basin Fund under section 205(a)(2) and in conformity with section 205(a)(3), section 205(a)(4) and section 205(a)(5) of this title: Prozyided, That revenues derived from said rate adjustments shall be available solely for the construction, operation, maintenance, and replacement of salinity control units, for the construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and for the implementation of on-farm measures in the Colorado River Basin herein authorized.

(f) UP-FRONT COST SHARE.—

(1) IN GENERAL.—Effective beginning on the date of enactment of this paragraph, subject to paragraph (3), the cost share obligations required by this section shall be met through an up-front cost share from the Basin Funds, in the same proportions as the cost allocations required under subsection (a), as provided in paragraph (2).

(2) BASIN STATES PROGRAM.—The Secretary shall expend the required cost share funds described in paragraph (1) through

the Basin States Program for salinity control activities established under section 202(a)(7).

(3) EXISTING SALINITY CONTROL ACTIVITIES.—The cost share contribution required by this section shall continue to be met through repayment in a manner consistent with this section for all salinity control activities for which repayment was commenced prior to the date of enactment of this paragraph.

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