

105TH CONGRESS
2D SESSION

H. R. 3267

To direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1998

Mr. HUNTER (for himself, Mr. LEWIS of California, Mr. CALVERT, and Mr. BROWN of California) introduced the following bill; which was referred to the Committee on Resources

A BILL

To direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea.

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 “Sonny Bono Memorial Salton Sea Reclamation Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

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. Alamo River and New River irrigation drain water.

TITLE II—EMERGENCY ACTION TO STABILIZE SALTON SEA
SALINITY

- Sec. 201. Findings and purposes.
 Sec. 202. Emergency action required.

1 SEC. 2. FINDINGS.

2 The Congress finds the following:

3 (1) The Salton Sea, located in Imperial and
 4 Riverside Counties, California, is an economic and
 5 environmental resource of national importance.

6 (2) The Salton Sea is critical as—

7 (A) a reservoir for irrigation, municipal,
 8 and stormwater drainage; and

9 (B) a component of the Pacific flyway.

10 (3) Reclaiming the Salton Sea will provide na-
 11 tional and international benefits.

12 (4) The Federal, State, and local governments
 13 have a shared responsibility to assist in the reclama-
 14 tion of the Salton Sea.

15 SEC. 3. DEFINITIONS.

16 In this Act:

17 (1) The term “Project” means the Salton Sea
 18 reclamation project authorized by section 101.

1 (2) The term “Salton Sea Authority” means
2 the Joint Powers Authority by that name established
3 under the laws of the State of California by a Joint
4 Power Agreement signed on June 2, 1993.

5 (3) The term “Secretary” means the Secretary
6 of the Interior, acting through the Bureau of Rec-
7 lamation.

8 **TITLE I—SALTON SEA**
9 **RECLAMATION PROJECT**

10 **SEC. 101. SALTON SEA RECLAMATION PROJECT AUTHOR-**
11 **IZATION.**

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

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

16 (1) reduce and stabilize the overall salinity of
17 the Salton Sea to a level between 35 and 40 parts
18 per thousand;

19 (2) stabilize the surface elevation of the Salton
20 Sea to a level between 240 feet below sea level and
21 230 feet below sea level;

22 (3) reclaim, in the long term, healthy fish and
23 wildlife resources and their habitats;

24 (4) enhance the potential for recreational uses
25 and economic development of the Salton Sea; and

1 (5) ensure the continued use of the Salton Sea
2 as a reservoir for irrigation drainage.

3 (c) FEASIBILITY STUDY.—

4 (1) IN GENERAL.—The Secretary shall promptly
5 ly initiate a study of the feasibility of various options
6 for meeting the requirements set forth in subsection
7 (b). The purpose of the study shall be to select 1 or
8 more practicable and cost-effective options and to
9 develop a reclamation plan for the Salton Sea that
10 implements the selected options. The study shall be
11 conducted in accordance with the memorandum of
12 understanding under paragraph (5).

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

15 (A) shall consist of—

16 (i) use of impoundments to segregate
17 a portion of the waters of the Salton Sea
18 in 1 or more evaporation ponds located in
19 the Salton Sea basin;

20 (ii) pumping water out of the Salton
21 Sea;

22 (iii) augmented flows of water into the
23 Salton Sea; and

24 (iv) a combination of the options re-
25 ferred to in clauses (i), (ii), and (iii); and

1 (B) shall be limited to proven technologies.

2 (3) CONSIDERATION OF COSTS.—In evaluating
3 the feasibility of options, the Secretary shall consider
4 the ability of Federal, tribal, State and local govern-
5 ment sources and private sources to fund capital
6 construction costs and annual operation, mainte-
7 nance, energy, and replacement costs. In that con-
8 sideration, the Secretary may apply a different cost-
9 sharing formula to capital construction costs than is
10 applied to annual operation, maintenance, energy,
11 and replacement costs.

12 (4) SELECTION OF OPTIONS AND REPORT.—
13 Not later than 12 months after commencement of
14 the feasibility study under this subsection, the Sec-
15 retary shall—

16 (A) submit to the Congress a report on the
17 findings and recommendations of the feasibility
18 study, including—

19 (i) a reclamation plan for the Salton
20 Sea that implements the option or options
21 selected under paragraph (1); and

22 (ii) specification of the construction
23 activities to be carried out under sub-
24 section (d); and

1 (B) complete all environmental compliance
2 and permitting activities required for those con-
3 struction activities.

4 (5) MEMORANDUM OF UNDERSTANDING.—(A)
5 The Secretary shall carry out the feasibility study in
6 accordance with a memorandum of understanding
7 entered into by the Secretary, the Salton Sea Au-
8 thority, and the Governor of California.

9 (B) The memorandum of understanding shall,
10 at a minimum, establish criteria for evaluation and
11 selection of options under paragraph (1), including
12 criteria for determining the magnitude and prac-
13 ticability of costs of construction, operation, and
14 maintenance of each option evaluated.

15 (d) CONSTRUCTION.—

16 (1) INITIATION.—Upon expiration of the 60-day
17 period beginning on the date of submission of the
18 feasibility study report under subsection (c)(4), and
19 subject to paragraph (2) of this subsection, the Sec-
20 retary shall initiate construction of the Project.

21 (2) COST-SHARING AGREEMENT.—The Sec-
22 retary may not initiate construction of the Project
23 unless, within the 60-day period referred to in para-
24 graph (1), the Secretary, the Governor of California,
25 and the Salton Sea Authority enter into an agree-

1 ment establishing a cost-sharing formula that ap-
2 plies to that construction.

3 (e) DETERMINATION OF METHOD FOR DISPOSING OF
4 PUMPED-OUT WATER.—The Secretary shall, concurrently
5 with conducting the feasibility study under subsection (c),
6 initiate a process to determine how and where to dispose
7 permanently of water pumped out of the Salton Sea in
8 the course of the Project.

9 (f) RELATIONSHIP TO OTHER LAW.—

10 (1) RECLAMATION LAWS.—Activities authorized
11 by this section or any other law to implement the
12 Project shall not be subject to the Act of June 17,
13 1902 (32 Stat. 388; 43 U.S.C. 391 et seq.), and
14 Acts amendatory thereof and supplemental thereto.
15 Amounts expended for those activities shall be con-
16 sidered nonreimbursable and nonreturnable for pur-
17 poses of those laws. Activities carried out to imple-
18 ment the Project and the results of those activities
19 shall not be considered to be a supplemental or addi-
20 tional benefit for purposes of the Reclamation Re-
21 form Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa
22 et seq.).

23 (2) PRESERVATION OF RIGHTS AND OBLIGA-
24 TIONS WITH RESPECT TO THE COLORADO RIVER.—
25 This section shall not be considered to supersede or

1 otherwise affect any treaty, law, or agreement gov-
2 erning use of water from the Colorado River. All ac-
3 tivities to implement the Project under this section
4 must be carried out in a manner consistent with
5 rights and obligations of persons under those trea-
6 ties, laws, and agreements.

7 (3) LIMITATION ON ADMINISTRATIVE AND JUDI-
8 CIAL REVIEW.—(A) The actions taken pursuant to
9 this title which relate to the construction and com-
10 pletion of the Project, and that are covered by the
11 final environmental impact statement for the Project
12 issued under subsection (c)(4)(B), shall be taken
13 without further action under the National Environ-
14 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

15 (B) Subject to paragraph (2), actions of Fed-
16 eral agencies concerning the issuance of necessary
17 rights-of-way, permits, leases, and other authoriza-
18 tions for construction and initial operation of the
19 Project shall not be subject to judicial review under
20 any law, except in a manner and to an extent sub-
21 stantially similar to the manner and extent to which
22 actions taken pursuant to the Trans-Alaska Pipeline
23 Authorization Act are subject to review under sec-
24 tion 203(d) of that Act (43 U.S.C. 1651(d)).

1 (g) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary to carry
3 out the Project the following:

4 (1) For the feasibility study under subsection
5 (c) and completion of environmental compliance and
6 permitting required for construction of the Project,
7 \$22,500,000.

8 (2) For construction of the Project,
9 \$300,000,000.

10 **SEC. 102. CONCURRENT WILDLIFE RESOURCES STUDIES.**

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

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

18 (1) IN GENERAL.—The Secretary shall establish
19 a committee to be known as the “Salton Sea Re-
20 search Management Committee”. The Committee
21 shall select the topics of studies under this section
22 and manage those studies.

23 (2) MEMBERSHIP.—The committee shall consist
24 of 5 members appointed as follows:

25 (A) 1 by the Secretary.

1 (B) 1 by the Governor of California.

2 (C) 1 by the Salton Sea Authority.

3 (D) 1 by the Torres Martinez Desert
4 Cahuilla Tribal Government.

5 (E) 1 appointed jointly by the California
6 Water Resources Center, the Los Alamos Na-
7 tional Laboratory, and the Salton Sea Univer-
8 sity Research Consortium.

9 (c) COORDINATION.—The Secretary shall require
10 that studies under this section are conducted in coordina-
11 tion with appropriate Federal agencies and California
12 State agencies, including the California Department of
13 Water Resources, California Department of Fish and
14 Game, California Resources Agency, California Environ-
15 mental Protection Agency, California Regional Water
16 Quality Board, and California State Parks.

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

19 (e) AUTHORIZATION OF APPROPRIATIONS.—For
20 wildlife resources studies under this section there are au-
21 thorized to be appropriated to the Secretary \$5,000,000.

1 **SEC. 103. SALTON SEA NATIONAL WILDLIFE REFUGE RE-**
2 **NAMED AS SONNY BONO SALTON SEA NA-**
3 **TIONAL WILDLIFE REFUGE.**

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

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

13 **SEC. 104. ALAMO RIVER AND NEW RIVER IRRIGATION**
14 **DRAIN WATER.**

15 (a) RIVER ENHANCEMENT.—The Secretary shall
16 conduct research and implement actions, which may in-
17 clude river reclamation, to treat irrigation drainage water
18 that flows into the Alamo River and New River, Imperial
19 County, California.

20 (b) COOPERATION.—The Secretary shall implement
21 subsection (a) in cooperation with the Desert Wildlife Un-
22 limited, the Imperial Irrigation District, California, and
23 other interested persons.

24 (c) PERMIT EXEMPTION.—No permit shall be re-
25 quired under section 402 of the Federal Water Pollution

1 Control Act (33 U.S.C. 1342) for actions taken under sub-
2 section (a).

3 (d) AUTHORIZATION OF APPROPRIATIONS.—For
4 river reclamation and other irrigation drainage water
5 treatment actions under this section, there are authorized
6 to be appropriated to the Secretary \$2,000,000.

7 **TITLE II—EMERGENCY ACTION**
8 **TO STABILIZE SALTON SEA**
9 **SALINITY**

10 **SEC. 201. FINDINGS AND PURPOSES.**

11 (a) FINDINGS.—The Congress finds the following:

12 (1) High and increasing salinity levels in Salton
13 Sea are causing a collapse of the Salton Sea eco-
14 system.

15 (2) Ecological disasters have occurred in the
16 Salton Sea in recent years, including the die-off of
17 150,000 eared grebes and ruddy ducks in 1992, over
18 20,000 water birds in 1994, 14,000 birds in 1996,
19 including more than 1,400 endangered brown peli-
20 cans, and other major wildlife die-offs in 1998.

21 (b) PURPOSES.—The purpose of this title is to pro-
22 vide an expedited means by which the Federal Govern-
23 ment, in conjunction with State and local governments,
24 will begin arresting the ecological disaster that is over-
25 coming the Salton Sea.

1 **SEC. 202. EMERGENCY ACTION REQUIRED.**

2 The Secretary shall promptly initiate actions to re-
3 duce the salinity levels of the Salton Sea, including—

4 (1) salt expulsion by pumping sufficient water
5 out of the Salton Sea prior to December 1, 1998, to
6 accommodate diversions under paragraph (2); and

7 (2) diversion into the Salton Sea of water avail-
8 able as a result of high-flow periods in late 1998 and
9 early 1999.

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