

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3267

---

IN THE SENATE OF THE UNITED STATES

JULY 17, 1998

Received

---

## AN ACT

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,*

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

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

4 (b) TABLE OF CONTENTS.—The table of contents of  
5 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.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) The Salton Sea, located in Imperial and  
9 Riverside Counties, California, is an economic and  
10 environmental resource of national importance.

11 (2) The Salton Sea is critical as—

12 (A) a reservoir for irrigation, municipal,  
13 and stormwater drainage; and

14 (B) a component of the Pacific flyway.

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

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

4 **SEC. 3. DEFINITIONS.**

5           In this Act:

6           (1) The term “Committees” means the Com-  
7           mittee on Resources and the Committee on Trans-  
8           portation and Infrastructure of the House of Rep-  
9           resentatives and the Committee on Energy and Nat-  
10          ural Resources and the Committee on Environment  
11          and Public Works of the Senate.

12          (2) The term “Project” means the Salton Sea  
13          reclamation project authorized by section 101.

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

18          (4) The term “Secretary” means the Secretary  
19          of the Interior, acting through the Bureau of Rec-  
20          lamation.

1                   **TITLE I—SALTON SEA**  
2                   **RECLAMATION PROJECT**

3 **SEC. 101. SALTON SEA RECLAMATION PROJECT AUTHOR-**  
4                   **IZATION.**

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

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

9               (1) reduce and stabilize the overall salinity of  
10 the Salton Sea;

11              (2) stabilize the surface elevation of the Salton  
12 Sea;

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

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

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

19           (c) **FEASIBILITY STUDY.**—

20              (1) **IN GENERAL.**—(A) The Secretary shall  
21 promptly initiate a study of the feasibility of various  
22 options for meeting the requirements set forth in  
23 subsection (b). The purpose of the study shall be to  
24 select one or more practicable and cost-effective op-

1 tions and to develop a reclamation plan for the  
2 Salton Sea that implements the selected options.

3 (B)(i) The Secretary shall carry out the fea-  
4 sibility study in accordance with a memorandum of  
5 understanding entered into by the Secretary, the  
6 Salton Sea Authority, and the Governor of Califor-  
7 nia.

8 (ii) The memorandum of understanding shall,  
9 at a minimum, establish criteria for evaluation and  
10 selection of options under subparagraph (A), includ-  
11 ing criteria for determining the magnitude and prac-  
12 ticability of costs of construction, operation, and  
13 maintenance of each option evaluated.

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

16 (A) shall consist of—

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

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

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

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

3 (v) any other economically feasible re-  
4 mediation option the Secretary considers  
5 appropriate;

6 (B) shall be limited to proven technologies;

7 and

8 (C) shall not include any option that—

9 (i) develops or promotes an ongoing  
10 reliance on Colorado River water; or

11 (ii) is inconsistent with section 104  
12 (b) or (c).

13 (3) PROJECT DESIGN CALCULATIONS.—In mak-  
14 ing Project design calculations, the Secretary shall  
15 apply assumptions regarding water inflows into the  
16 Salton Sea Basin that—

17 (A) encourage water conservation;

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

20 (C) are based on the maximum likely re-  
21 duction in inflows into the Salton Sea Basin;

22 and

23 (D) include the assumption that inflows  
24 into the Salton Sea Basin could be reduced to  
25 800,000 acre-feet or less per year.

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

12          (5) INTERIM REPORT.—Not later than 270  
13          days after the date of enactment of this Act, the  
14          Secretary shall submit to the Congress an interim  
15          report on the study. The interim report shall in-  
16          clude—

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

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

23          (6) REPORT AND PLAN.—Not later than 18  
24          months after funds have been made available to

1 carry out the feasibility study under this subsection,  
2 the Secretary shall—

3 (A) submit to the Committees a report on  
4 the findings and recommendations of the fea-  
5 sibility study, including—

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

10 (ii) complete specifications of the con-  
11 struction activities to be carried out under  
12 subsection (e), that are sufficient to use  
13 for soliciting bids for those activities, in-  
14 cluding professional engineering and design  
15 specifications and drawings and profes-  
16 sional engineer cost estimates; and

17 (B) complete all environmental compliance  
18 and permitting activities required for those con-  
19 struction activities.

20 (d) CONGRESSIONAL REVIEW OF REPORT AND REC-  
21 LAMATION PLAN.—

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

1           (A) adopt a resolution approving the re-  
2           clamation plan included in the report; or

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

6           (2) RECLAMATION PLAN DEEMED APPROVED.—

7           If any of the Committees fails to adopt a resolution  
8           under paragraph (1)(A) or (B) within 60 legislative  
9           days (excluding days on which Congress is adjourned  
10          sine die or either House is not in session because of  
11          an adjournment of more than 3 days to a day cer-  
12          tain) after the date of submission of the report by  
13          the Secretary under subsection (c)(6), that Commit-  
14          tee is deemed to have approved the reclamation plan  
15          included in the report.

16          (e) CONSTRUCTION.—

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

21           (2) COST SHARING.—The Federal share of the  
22           costs of construction of the Project shall not exceed  
23           50 percent of the total cost of that construction.

24           (3) COST SHARING AGREEMENT.—The Sec-  
25           retary may not initiate construction of the Project

1 unless the Secretary, the Governor of California, and  
2 the Salton Sea Authority enter into an agreement  
3 that—

4 (A) adopts the cost sharing formula for  
5 annual operation, maintenance, energy, and re-  
6 placement costs that is included in the reclama-  
7 tion plan approved by the Committees under  
8 subsection (d); and

9 (B) implements the cost sharing require-  
10 ment under paragraph (2) of this subsection for  
11 construction costs.

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

18 (f) RELATIONSHIP TO OTHER LAW.—

19 (1) RECLAMATION LAWS.—Activities authorized  
20 by this Act or any other law to implement the  
21 Project shall not be subject to the Act of June 17,  
22 1902 (32 Stat. 388; 43 U.S.C. 391 et seq.), and  
23 Acts amendatory thereof and supplemental thereto.  
24 Amounts expended for those activities shall be con-  
25 sidered nonreimbursable for purposes of those laws.

1       Activities carried out to implement the Project and  
2       the results of those activities shall not be considered  
3       to be a supplemental or additional benefit for pur-  
4       poses of the Reclamation Reform Act of 1982 (96  
5       Stat. 1263; 43 U.S.C. 390aa et seq.).

6               (2) PRESERVATION OF RIGHTS AND OBLIGA-  
7       TIONS WITH RESPECT TO THE COLORADO RIVER.—  
8       This Act shall not be considered to supersede or oth-  
9       erwise affect any treaty, law, or agreement govern-  
10      ing use of water from the Colorado River. All activi-  
11      ties to implement the Project under this Act must  
12      be carried out in a manner consistent with rights  
13      and obligations of persons under those treaties, laws,  
14      and agreements.

15              (3) JUDICIAL REVIEW.—Any complaint or chal-  
16      lenge of any decision, action, or authorization taken  
17      pursuant to this Act shall be filed in a United States  
18      district court within 60 days after the date of the  
19      decision, action, or the authorization. Such court  
20      shall have jurisdiction to resolve any complaint or  
21      challenge in accordance with chapter 7 of title 5,  
22      United States Code, except that the court shall expe-  
23      dite its review as necessary to ensure that remedial  
24      actions at the Salton Sea are not unduly or inappro-  
25      priately delayed. If a temporary restraining order or

1 preliminary injunction is entered into by a court, the  
2 court shall proceed to a final judgment in the matter  
3 within 90 days thereafter.

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

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

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

15 (iii) any other occurrence which might re-  
16 sult in a claim of damage by any owner of prop-  
17 erty adjacent to the Salton Sea or any other  
18 person.

19 (B) No person, including the Imperial Irriga-  
20 tion District, California, the Coachella Valley Water  
21 District, California, the Salton Sea Authority, the  
22 Metropolitan Water District of Southern California,  
23 and the San Diego County Water Authority, but not  
24 including the Government of the United States, shall

1 be liable for damages arising from any effects to the  
2 Salton Sea or its bordering area resulting from—

3 (i) cooperation with the Secretary in re-  
4 gard to any actions, programs, or projects im-  
5 plemented pursuant to this Act;

6 (ii) any action to comply with an order of  
7 the Secretary under this Act, a State or Fed-  
8 eral court, or a State or Federal administrative  
9 or regulatory agency interpreting this Act; or

10 (iii) any other action that reduces the vol-  
11 ume of water that flows directly or indirectly  
12 into the Salton Sea.

13 (C) This title shall not be construed to exempt  
14 any person, including the Imperial Irrigation Dis-  
15 trict, California, the Coachella Valley Water District,  
16 California, the Salton Sea Authority, the Metropoli-  
17 tan Water District of Southern California, and the  
18 San Diego County Water Authority, from—

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

23 (ii) any obligations otherwise imposed by  
24 law.

1           (D) The limitation on liability of the United  
2 States contained in section 3 of the Act entitled “An  
3 Act For the control of floods on the Mississippi  
4 River and its tributaries, and for other purposes”,  
5 approved May 15, 1928 (chapter 569; 33 U.S.C.  
6 702c), shall not apply to surplus flood flows that are  
7 diverted to the Salton Sea pursuant to this Act.

8 (g) AUTHORIZATION OF APPROPRIATIONS.—

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

11           (A) For the feasibility study under sub-  
12 section (c), including preparation and any revi-  
13 sion of the reclamation plan under subsections  
14 (c) and (d), and completion of environmental  
15 compliance and permitting required for con-  
16 struction of the Project, \$22,500,000.

17           (B) For construction of the Project in ac-  
18 cordance with a reclamation plan approved by  
19 the Committees, \$350,000,000.

20           (2) ALLOCATION OF APPROPRIATIONS.—  
21 Amounts authorized under paragraph (1)(B) may be  
22 appropriated to the Administrator of the Environ-  
23 mental Protection Agency and the Secretary of the  
24 Interior in amounts that ensure that neither the Ad-

1 administrator nor the Secretary is appropriated sub-  
2 stantially all of the Project construction costs.

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

8 (4) APPROPRIATIONS TO THE SECRETARY OF  
9 THE INTERIOR.—Amounts appropriated under para-  
10 graph (1)(B) to the Secretary may be appropriated  
11 to the Bureau of Reclamation as specified in appro-  
12 priations Acts.

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

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

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

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

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

3           (A) The Secretary.

4           (B) The Governor of California.

5           (C) The Executive Director of the Salton  
6 Sea Authority.

7           (D) The Chairman of the Torres Martinez  
8 Desert Cahuilla Tribal Government.

9           (E) The Director of the California Water  
10 Resources Center.

11       (c) COORDINATION.—The Secretary shall require  
12 that studies under this section are coordinated through the  
13 Science Subcommittee which reports to the Salton Sea Re-  
14 search Management Committee. In addition to the mem-  
15 bership provided for by the Science Subcommittee's char-  
16 ter, representatives shall be invited from the University  
17 of California, Riverside; the University of Redlands; San  
18 Diego State University; the Imperial Valley College; and  
19 Los Alamos National Laboratory.

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

22       (e) AUTHORIZATION OF APPROPRIATIONS.—For  
23 wildlife resources studies under this section there are au-  
24 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. RELATIONSHIP TO OTHER LAWS AND AGREE-**  
14 **MENTS GOVERNING THE COLORADO RIVER.**

15 (a) PRESERVATION OF RIGHTS AND OBLIGATIONS  
16 WITH RESPECT TO THE COLORADO RIVER.—Nothing in  
17 this Act shall be construed to alter, amend, repeal, modify,  
18 interpret, or to be in conflict with the provisions of the  
19 Colorado River Compact (45 Stat. 1057), the Upper Colo-  
20 rado River Basin Compact (63 Stat. 31), the Water Trea-  
21 ty of 1944 with Mexico (Treaty Series 944, 59 Stat. 1219  
22 and Minute 242 thereunder), the Colorado River Basin  
23 Salinity Control Act of 1974 (94 Stat. 1063), the Flood  
24 Control Act of 1944 (58 Stat. 887), the decree entered  
25 by the United States Supreme Court in *Arizona v. Califor-*  
26 *nia, et al.* (376 U.S. 340) (1964) and decrees supple-

1 mental thereto, the Boulder Canyon Project Act (45 Stat.  
2 1057), the Boulder Canyon Project Adjustment Act (45  
3 Stat. 774), the Colorado River Storage Project Act (70  
4 Stat. 105), the Colorado River Basin Project Act (82 Stat.  
5 885), including the Criteria for Coordinated Long Range  
6 Operation of Colorado River Reservoirs and the Annual  
7 Operating Plans developed thereunder, the San Luis Rey  
8 Indian Water Rights Settlement Act (102 Stat. 4000),  
9 any contract entered into pursuant to section 5 of the  
10 Boulder Canyon Project Act, or any other entitlement to  
11 the use of the Colorado River existing pursuant to or rec-  
12 ognized by Federal law. Furthermore, nothing contained  
13 in this Act shall be construed as indicating an intent on  
14 the part of the Congress to change the existing relation-  
15 ship of Federal law to the laws of the States or political  
16 subdivisions of a State with regard to the diversion and  
17 use of Colorado River water, or to relieve any person of  
18 any obligation imposed by any law of any State, tribe, or  
19 political subdivision of a State. No provision of this Act  
20 shall be construed to invalidate any provision of State,  
21 tribal, or local law unless there is a direct conflict between  
22 such provision and the law of the State, or political sub-  
23 division of the State or tribe, so that the two cannot be  
24 reconciled or consistently stand together.

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

5           (c) FLOOD FLOWS.—In no event shall Colorado River  
6 water be diverted for Salton Sea restoration except as pro-  
7 vided in this subsection. Diversion into the All-American  
8 Canal for delivery directly to the Salton Sea of flood flows  
9 in the Colorado River that are required by the Water Con-  
10 trol Manual for Flood Control, Hoover Dam and Lake  
11 Mead, Colorado River, Nevada-Arizona, adopted February  
12 8, 1984, and which would pass to Mexico in excess of the  
13 amount required to be delivered pursuant to the Mexican  
14 Water Treaty and Minute 242 thereunder may be made  
15 available to carry out the purposes of this Act. The volume  
16 of water diverted pursuant to this subsection shall be lim-  
17 ited to the excess capacity of the All-American Canal to  
18 carry such flood flows after, and as, it has been used to  
19 meet existing obligations. The diversion of water from  
20 time to time under this subsection shall not give rise to  
21 any ongoing right to the recurrent use of such waters or  
22 the All American Canal or facilities.

1 **TITLE II—EMERGENCY ACTION**  
2 **TO IMPROVE WATER QUALITY**  
3 **IN THE ALAMO RIVER AND**  
4 **NEW RIVER**

5 **SEC. 201. ALAMO RIVER AND NEW RIVER IRRIGATION**  
6 **DRAINAGE WATER.**

7 (a) RIVER ENHANCEMENT.—

8 (1) IN GENERAL.—The Secretary is authorized  
9 and directed to promptly conduct research and con-  
10 struct river reclamation and wetlands projects to im-  
11 prove water quality in the Alamo River and New  
12 River, Imperial County, California, by treating water  
13 in those rivers and irrigation drainage water that  
14 flows into those rivers.

15 (2) ACQUISITIONS.—The Secretary may acquire  
16 equipment, real property, and interests in real prop-  
17 erty (including site access) as needed to implement  
18 actions under this section if the State of California,  
19 a political subdivision of the State, or Desert Wild-  
20 life Unlimited has entered into an agreement with  
21 the Secretary under which the State, subdivision, or  
22 Desert Wildlife Unlimited, respectively, will, effective  
23 1 year after the date that systems for which the ac-  
24 quisitions are made are operational and functional—

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

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

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

14          (4) MONITORING AND OTHER ACTIONS.—The  
15          Secretary shall establish a long-term monitoring pro-  
16          gram to maximize the effectiveness of any wetlands  
17          developed under this title and may implement other  
18          actions to improve the efficacy of actions imple-  
19          mented pursuant to this section.

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) CLEAN WATER ACT.—No permit shall be re-  
25          quired under section 402 of the Federal Water Pollution

1 Control Act (33 U.S.C. 1342) for a wetlands filtration or  
2 constructed wetlands project authorized by subsection  
3 (a)(1) of this section.

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

Passed the House of Representatives July 15, 1998.

Attest:

ROBIN H. CARLE,

*Clerk.*