



## H.R. 2898—Western Water and American Food Security Act of 2015 (Rep. Valadao, R-CA)

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**FLOOR SCHEDULE:** SCHEDULED FOR CONSIDERATION ON JULY 16, 2015 SUBJECT TO A [RULE](#).

**TOPLINE SUMMARY:** [H.R. 2898](#) would reform the current regulatory framework that governs the movement and storage of water, particularly in California and other Western states.

**CONSERVATIVE CONCERNS:** There are no conservative concerns.

- **Expand the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

**DETAILED SUMMARY AND ANALYSIS:** H.R. 2898 would address the federal Central Valley Project (CVP)'s management of Delta smelt and salmon species listed as threatened or endangered under the federal [Endangered Species Act](#) by requiring the government to use increased real-time monitoring and updated science into the management of the fish species. The Director of the United States Fish and Wildlife Service is directed to use the best scientific and commercial data available to complete a review and, modify the method used to calculate the incidental take levels for adult and juvenile Delta smelt in the smelt biological opinion that takes into account all life stages.

**COST:** The Congressional Budget Office (CBO) [estimates](#) that H.R.2898 bill would reduce direct spending by a total of \$883 over the 2016-2025 period. CBO estimates that changes in direct spending and revenues would decrease budget deficits over that 10-year period by \$794 million. Because the legislation would affect direct spending and revenues, pay-as-you-go procedures apply.

The bill would additionally provide the federal government increased operational flexibility in times of drought by reforming the way agencies conduct emergency environmental reviews, and water transfers. The Secretary of Commerce and the Secretary of the Interior are mandated to authorize and implement activities to ensure that the [Delta Cross Channel Gates](#) remain open to the maximum extent practicable using findings from the United States Geological Survey on diurnal behavior of juvenile salmonids.

H.R. 2898 would direct the Bureau of Reclamation to complete certain surface storage feasibility studies by specified deadlines, and authorize the bureau to partner with local joint powers authorities to advance projects. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, would be authorized to partner or enter into an agreement on water storage projects with local joint powers authorities formed by irrigation districts and other local water districts and local governments within the applicable hydrologic region, to advance those projects.

The legislation would additionally implement water right protections by requiring the Secretary of the Interior to confer with the California Department of Fish and Wildlife, to adhere to California's water rights and ensure that actions taken in compliance with legal obligations would not directly or indirectly result in the involuntary reduction of the water supply or fiscal impacts to individuals or districts who receive water from either the State Water Project or the United States.

The bill would expand the CVP's authorized service area, and establish an oversight board for the Central Valley Project Restoration Fund (CVPRF) composed of 11 members appointed by the Secretary of the Interior. H.R. 2898 would also establish the Bureau of Reclamation as the lead agency for coordinating and expediting all reviews or other approvals to construct qualifying water storage projects. The secretary, after public notice, would be authorized to accept and expend funds contributed by a non-federal public entity to expedite the evaluation of the entity's permit related to a qualifying project. The bill would further streamline Bureau of Reclamation projects by requiring that project studies initiated by the Secretary of the Interior be completed not later than 3 years after the date of initiation; have a maximum federal cost of \$3,000,000; and ensure that personnel from the local project area, region, and headquarters levels of the Bureau of Reclamation concurrently conduct a review.

The bill would direct, upon the contractors' request, the Secretary of the Interior to accelerate the repayment to the federal government of certain water service construction costs. The Secretary of the Interior would be required to convert any water service contract in effect on the date of the bill's enactment and between the United States and a water users' association to allow for the payment of a repayment contract under mutually agreeable terms and conditions. H.R. 2898 would additionally provide for the development of additional benefits at dam safety projects; and define and address the treatment of water rights in connection with the use of federal lands.

According to the findings of the bill, severe drought conditions have persisted in California since 2012, and are likely to persist into the future. "The water supplies of the State are at record-low levels, as indicated by the fact that all major Central Valley Project reservoir levels were at 20–35 percent of capacity as of September 25, 2014. The lack of precipitation has been a significant contributing factor to the 6,091 fires experienced in the State as of September 15, 2014, and which covered nearly 400,000 acres." The legislation seeks to not only address issues related to the Delta smelt and other fish species, but also drought and water management broadly in California and in other Western states.

The House Report (H. Rept. 114-197) accompanying H.R. 2898 can be found [here](#). The House Committee on Natural Resources fact sheet on the bill can be found [here](#). Congressional Research Service reports on H.R. 2898 and on drought in the United States can be found [here](#) and [here](#).

#### **AMENDMENTS MADE IN ORDER:**

- **[#10 McClintock \(R-CA\)](#) (Manager's amendment):** would make technical and conforming changes.
- **[#4 McNerney \(D-CA\)](#):** would add water hyacinth to the list of invasive species to be considered for the pilot project established under section 204 of the legislation. The legislation would require the Secretary of the Interior, in collaboration with the Secretary of Commerce, and the Director of the California Department of Fish and Wildlife to begin pilot projects to implement an invasive species control program.
- **[#23 Garamendi \(D-CA\)](#):** would require the Secretaries of Commerce and Interior to collaborate with the California Department of Water Resources to install a fish screen at the Delta Cross Channel Gates in coordination with operations to protect migrating smelt and salmonids.

- [#27 LaMalfa \(R-CA\)](#): would modify a requirement that the Secretary of the Interior, through the Commissioner of Reclamation, complete water storage feasibility studies and submit them to Congress to align the requirements with a recently signed memorandum of understanding between the project joint powers authority and the Bureau of Reclamation.
- [#30 Calvert \(R-CA\)](#): would amend section 602, which would establish a Restoration Fund Advisory Board to include a member representing a wildlife entity that primarily focuses on waterfowl.
- [#21 Costa \(D-CA\)](#): would require the Secretary of the Interior, in consultation with the Secretary of Commerce and the Secretary of Natural Resources of the State of California, to publish an annual report detailing instream flow releases from the Central Valley Project and California State Water Project, their explicit purpose and authority, and all measured environmental benefit as a result of the releases.
- [#8 LaMalfa \(R-CA\)](#): would allow Klamath Project contractors, a federal water project in California and Oregon, to be accorded all the rights and responsibilities extended to applicants in the consultation process under the Endangered Species Act, if the Bureau of Reclamation initiates or reinitiates consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service. The contractors would additionally be allowed to be represented through an association or organization.
- [#12 Grijalva \(D-AZ\)](#): would require the Secretary of the Interior to allocate amounts collected under the surface water storage account from the prepayment of contracts for projects that reclaim and reuse wastewaters.

**COMMITTEE ACTION:** This bill was introduced on June 25, 2015 and was referred to the House Committee on Natural Resources which ordered it to be reported (amended) by the yeas and nays: 23 – 12 on July 9, 2015.

**ADMINISTRATION POSITION:** According to the [White House Statement of Administration Policy](#), the administration strongly opposes H.R. 2898. If the president were presented with H.R. 2898, his senior advisors would recommend that he veto the bill.

**CONSTITUTIONAL AUTHORITY:** Congress has the power to enact this legislation pursuant to the following: Clauses 1, 3, and 18 of section 8 and clause 7 of section 9 of article I, of the Constitution of the United States.

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