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SENATE

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### SECURE WATER AMENDMENTS ACT OF 2014

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JULY 31, 2014.—Ordered to be printed

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Ms. LANDRIEU, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany S. 2019]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2019) to reauthorize and update certain provisions of the Secure Water Act, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, strike lines 24 and 25 and insert the following: to carry out this section \$100,000,000”.
2. On page 3, strike lines 6 through 8 and insert the following: by striking “2009 through 2013” and inserting “2014 through 2018”.

#### PURPOSE

The purpose of S. 2019 is to reauthorize and update certain provisions of the Secure Water Act.

#### BACKGROUND AND NEED

The Department of the Interior’s WaterSMART program is a key component of the Bureau of Reclamation’s implementation of the SECURE Water Act of 2009 (42 U.S.C. 10361 et seq.). It includes grants to fund locally cost-shared water management improvements that save significant amounts of water. Completed WaterSMART grant projects and other conservation activities are already saving an estimated 616,000 acre-feet per year of water—enough water for more than 2.4 million people. WaterSMART grants leverage non-federal investment at greater than a 2:1 ratio.

Authorized appropriations for WaterSMART grants will likely be fully expended this year. To ensure that the Bureau of Reclamation can continue to operate this program, S. 2019 is needed to increase the authorization ceiling, to clarify that activities to plan for and reduce the impacts of drought are eligible for WaterSMART grants, and to make projects in the State of Hawaii eligible for grants.

This bill also amends section 9508 of the Secure Water Act of 2009 (42 U.S.C. 10368) to extend the authorization for the program through FY 2018. This program will provide resources for states to gather and analyze water supply and use information in a consistent manner, which would create a uniform, dependable national assessment of water availability and use.

#### LEGISLATIVE HISTORY

Senators Schatz, Heinrich, Hirono, Udall of Colorado, Udall of New Mexico, and Wyden introduced S. 2019 on February 12, 2014. The Subcommittee on Water and Power held a hearing on S. 2019 (S. Hrg. 113–284) on February 27, 2014. At its business meeting on June 18, 2014, the Senate Energy and Natural Resources Committee ordered S. 2019 favorably reported with two amendments.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on June 18, 2014, by a voice vote of a quorum present, recommends that the Senate pass S. 2019, if amended as described herein. Senators Lee and Scott asked to be recorded as voting no.

#### COMMITTEE AMENDMENTS

During its consideration of S. 2019, the committee adopted two amendments. The first amendment strikes the authorization of “such sums as are necessary” and inserts an authorization limit of \$100 million. The second amendment reduces the period during which funds are authorized to carry out the grant program in section 9508(c) of the Omnibus Public Land Management Act of 2009 from 10 years to 5 years.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides a short title.

*Section 2(a)(1)* amends section 9504 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364) to allow the Secretary to provide grants and cooperative agreements that plan for or address the impacts of drought and to expand the applicant eligibility to include those from Hawaii.

Subsection 2(a)(2) amends authorization of the appropriations to be \$100,000,000.

*Section 3* amends section 9508(e)(2) of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10368(e)(2)) to authorize appropriations to carry out the State water resource agencies grant program for the period of fiscal years 2014 through 2018.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

*S. 2019—SECURE Water Amendments Act of 2014*

Summary: S. 2019 would authorize the Bureau of Reclamation to provide grants to eligible nonfederal partners to carry out projects to mitigate drought conditions, conserve water, and restore watersheds in 17 western states, certain U.S. Territories, and Hawaii. The bill also would authorize grants to state water agencies to develop and maintain data on water availability. S. 2019 would authorize the appropriation of \$113 million for those activities.

Based on information from the Bureau of Reclamation, and assuming appropriation of specified amounts, CBO estimates that implementing S. 2019 would cost \$111 million over the 2015–2019 period. Enacting S. 2019 would not affect direct spending or revenues; therefore pay-as-you-go procedures do not apply.

S. 2019 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 2019 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2015	2016	2017	2018	2019	2015–2019
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
WaterSMART Grants:						
Estimated Authorization Level .....	25	35	30	10	0	100
Estimated Outlays .....	15	27	31	19	7	99
State Water Agency Grants:						
Estimated Authorization Level .....	3	3	3	3	0	13
Estimated Outlays .....	2	3	3	3	1	12
Total Changes:						
Estimated Authorization Level .....	28	38	33	13	0	113
Estimated Outlays .....	17	30	34	22	8	111

Note: Components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that S. 2019 will be enacted near the end of fiscal year 2014 and that the authorized amounts will be appropriated over the next four years. Estimated outlays are based on historical spending patterns for those activities.

Under current law, the bureau provides grants to nonfederal partners in 17 western states and certain U.S. Territories—subject to a 50 percent cost share—to design and construct projects to conserve water, generate renewable energy, and restore watersheds. In fiscal year 2014, appropriations for that program—known as WaterSMART—reached the current authorization ceiling of \$200 million. S. 2019 would authorize the appropriation of an additional \$100 million for the program. The bill also would make nonfederal partners in Hawaii eligible to participate in WaterSMART and clarify that drought planning is an authorized activity under the program.

S. 2019 would reauthorize a water assessment program that provides grants to state agencies to develop and integrate data about

water availability for local planners. In addition to reauthorizing the program—which expired in 2013—the bill would authorize the appropriation of \$12.5 million for the program.

Based on information from the bureau, CBO estimates that implementing those provisions would cost \$111 million over the 2015–2019 period, assuming appropriation of specified amounts.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 2019 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal entities would benefit from federal grants and cooperative agreements authorized in the bill that would support water management and assessment programs. Any costs to those entities, including matching funds, would be incurred voluntarily as a condition of receiving federal assistance.

Estimate prepared by: Federal Costs: Aurora Swanson; Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2019.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2019, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 2019, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Reclamation at the February 27, 2014 Subcommittee on Water and Power hearing on S. 2019 follows:

##### STATEMENT OF ROBERT QUINT, SENIOR ADVISOR, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Chairman Schatz and members of the Subcommittee, I am Bob Quint, Senior Advisor at the Bureau of Reclamation (Reclamation). Thank you for the opportunity to provide the views of the Department of the Interior (Department) on S. 2019. The bill would raise the authorization ceiling for water and energy conservation grants under the Secure Water Act of 2009 (42 USC 10364(e)), clarify that activities related to drought are authorized under the pro-

gram, and revise the program's eligibility to include the State of Hawaii as discussed below. The Department supports this bill.

Reclamation owns and operates water projects that promote and sustain economic development within the 17 Western States. The mission of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. Since it was established in 1902, Reclamation has constructed more than 600 dams and reservoirs including Hoover Dam on the Colorado River and Grand Coulee on the Columbia River. Reclamation is the largest wholesaler of water in the country, delivering water to more than 31 million people, and providing one out of five western farmers with irrigation water for 10 million acres of farmland across the United States. Reclamation is also the second largest producer of hydroelectric power in the United States, and provides significant amounts of renewable energy to customers throughout the West.

On February 10, 2010, Secretary Ken Salazar signed a Secretarial order establishing the Department's WaterSMART Initiative, which implements the Secure Water Act. The "SMART" in WaterSMART stands for "Sustain and Manage America's Resources for Tomorrow." The WaterSMART Program includes WaterSMART Grants, Reclamation's Basin Studies, Landscape Conservation Cooperatives, West-Wide Climate Risk Assessments, the Title XVI Water Reclamation and Recycling program, the Cooperative Watershed Management Program, the Water Conservation Field Service Program, USGS's Water Availability and Use Assessments, and the WaterSMART Clearinghouse. Through the WaterSMART Program, the Department works with states, tribes, local governments, and non-governmental organizations to secure and stretch water supplies for use by existing and future generations to benefit people, the economy, and the environment and will identify measures needed to address climate change and future demands.

WaterSMART activities are the most effective means the Department of the Interior has to assist state and local water providers and users address volatility of supplies, economic security, and create resilience in the face of climate change. WaterSMART allows the Department to provide incentives and tools to achieve sustainable supplies, while supporting water managers who make their own decisions about what programs and activities will be the best and most practical fit in their particular watersheds.

WaterSMART Grants are directly aligned with the Department's Priority Goal for Water Conservation: to enable capability to increase the available water supply to 730,000 acre-feet of water savings per year by September 2013 and to a cumulative goal of 790,000 acre-feet by September 2014. Reclamation has met the September 2013 goal and is on track to meet the 2014 target: together,

projects funded through WaterSMART and Reclamation's other water conservation activities from 2010 through 2013 are expected to result in over 734,000 acre-feet of water savings per year. This would not have been possible without the ingenuity and resourcefulness of our water and power customers who apply for and implement WaterSMART's water and energy efficiency grant projects at the district level. The projects funded by the WaterSMART program not only play a major role in helping minimize the effects of drought on the environment and agriculture and urban communities, but also contribute to drought resiliency.

WaterSMART also acknowledges the nexus between energy and water use. In addition to saving water, WaterSMART Grant projects from 2010–2013 are expected by their sponsors to save over 45 million kilowatt-hours annually—enough power for 3,900 households—and additional savings are expected in the future. Additional milestones are described in the program's three-year progress report, online at <http://www.usbr.gov/WaterSMART>.

Reclamation is committed to continuing WaterSMART, and it is anticipated that the program will exhaust its authorized appropriations for WaterSMART Grants. Therefore, in order to continue use of this highly valuable and continually oversubscribed program, which is significantly contributing to drought resiliency in the West, an increase in the authorization ceiling will be needed. S. 2019 would amend Section 9504(e) of the Secure Water Act, raising the ceiling from \$200 million to an authorization to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2015 through 2023. A ceiling raise is consistent with part of the Appropriations language section of Reclamation's FY 2014 budget request. A ceiling raise to \$250 million, as was included in the budget request, would ensure that these important water management improvements could continue temporarily but would not likely allow for funding beyond 2016. For that reason, Reclamation supports the language in S. 2019 to authorize funding for the program through 2023.

Section 2 of S. 2019 would make clear that Section 9504(a) authorizes Reclamation to provide financial assistance to plan for or address the impacts of drought. Reclamation shares the sponsor's view that activities related to drought are appropriately addressed under this section and appreciates the clarification of this authority.

Section 2 of S. 2019 would also revise the eligibility language in the Secure Water Act to allow entities located in Hawaii to be eligible for WaterSMART grant funding opportunities. WaterSMART Grants funding opportunity announcements have been limited to the States and U.S. Territories identified under 43 U.S.C. § 391. With a number of exceptions, Reclamation's primary mission has generally been constrained to the 17 continental Western States, which all share an arid climate and a well-established history of prior appropriations water rights doctrines. One

such exception is the State of Hawaii, which shares many of the same features as the U.S. Territories, and also already participates in several Reclamation programs such as the Title XVI program, limited application of the Reclamation States Emergency Drought Relief Program, and water resource studies authorized under P.L. 106–566 and P.L. 102–575. However, Reclamation notes that we do not support adding additional states to the WaterSMART program at this time, as the piece-meal incorporation of additional states would be a significant expansion of Reclamation’s mission when the agency is already struggling to fulfill its commitments within its traditional and currently authorized area of operations. For these reasons, the Department believes that this expansion of authority should be limited to the State of Hawaii.

Finally, Section 3 of S. 2019 would extend the authority of the Secretary to provide grants to State water resource agencies. This authority ran out in 2013 and the Department supports the language in Section 3 that extends the grant program in Section 9508(c) for another decade for such sums as may be necessary to remain available until expended. The valuable partnership with State water resource agencies is a critical national asset for determining water availability nationwide.

In conclusion, the Department is committed to continuing the WaterSMART Program, as the Federal government has a responsibility to provide leadership and tools to address the increasing and widespread challenges of imbalance between supply and demand. Sustainable water supplies are the underpinning of a stable economic base, employment continuity, and smart growth. We can provide incentives to encourage water conservation and reuse, leadership in new technology to increase usable supplies, and assistance for ecosystem restoration efforts that increase the certainty of water supplies for the future. All of these efforts depend on partnerships with local utilities, states, tribes, and others.

This concludes my statement. Again, the Department supports S. 2019. I would be pleased to answer questions at the appropriate time.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2019, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009**

Public Law 111–11

AN ACT To designate certain land as components of the National wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes

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

(a) SHORT TITLE.—This Act may be cited as the “Omnibus Public Land Management Act of 2009”.

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**TITLE IX—BUREAU OF RECLAMATION AUTHORIZATIONS**

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**Subtitle F—Secure Water**

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**SEC. 9504. WATER MANAGEMENT IMPROVEMENT.**

(a) AUTHORIZATION OF GRANTS AND COOPERATIVE AGREEMENTS.—

(1) AUTHORITY OF SECRETARY.—The Secretary may provide any grant to, or enter into an agreement with, any eligible applicant to assist the eligible applicant in planning, designing, or constructing any improvement—

\* \* \* \* \*

(H) TO CARRY OUT ANY OTHER ACTIVITY—

(i) to address any climate-related impact to the water supply of the United States that increases ecological resiliency to the impacts of climate change; **[or]**

(ii) to prevent any water-related crisis or conflict at any watershed that has a nexus to a Federal reclamation project located in a service area **[.]**; *or*

*(iii) to plan for or address the impacts of drought.*

(2) APPLICATION.—To be eligible to receive a grant, or enter into an agreement with the Secretary under paragraph (1), an eligible applicant shall—

**[(A) be located within the States]** *(A) be located in—*

*(i) the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391)[; and]* **[; or]**

*(ii) the State of Hawaii; and*

(B) submit to the Secretary an application that includes a proposal of the improvement or activity to be planned, designed, constructed, or implemented by the eligible applicant.

\* \* \* \* \*

(e) AUTHORIZATION OF APPROPRIATIONS.—

**[There is authorized to be appropriated to carry out this section \$200,000,000]** *There are authorized to be appropriated to*



*carry out this section \$100,000,000, to remain available until expended.*

\* \* \* \* \*

**SEC. 9508. NATIONAL WATER AVAILABILITY AND USE ASSESSMENT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary, in coordination with the Advisory Committee and State and local water resource agencies, shall establish a national assessment program to be known as the “national water availability and use assessment program”—

\* \* \* \* \*

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.— There is authorized to be appropriated to carry out subsections (a), (b), and (d) \$20,000,000 for each of fiscal years 2009 through 2023, to remain available until expended.

(2) GRANT PROGRAM.—There is authorized to be appropriated to carry out subsection (c) \$12,500,000 for the period of fiscal years **[2009 through 2013]** *2014 through 2019*, to remain available until expended.

\* \* \* \* \*