

112TH CONGRESS
1ST SESSION

H. R. 1604

To facilitate certain activities, alleviate the extra regulatory burdens, and reduce costs related to carrying out projects of the Central Valley Project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. DENHAM (for himself, Mr. NUNES, Mr. CARDOZA, Mr. HERGER, and Mr. MCCARTHY of California) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To facilitate certain activities, alleviate the extra regulatory burdens, and reduce costs related to carrying out projects of the Central Valley Project, and for other purposes.

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. APPLICABILITY OF CERTAIN LAWS.**

4 Submission of a Notice of Determination for a CVP
5 project or issuance of a permit related to a CVP project
6 in accordance with the California Environmental Quality
7 Act shall be deemed to meet the requirements of section

1 102(2)(C) of the National Environmental Protection Act
2 of 1969 (42 U.S.C. 4332(2)(C)) for that project or permit.

3 **SEC. 2. CONTINUATION OF PROJECT.**

4 The Bureau of Reclamation shall not be required to
5 cease activity on a project of the Central Valley Project
6 pending completion of a review or legal challenge of a No-
7 tice of Determination for a CVP project or issuance of
8 a permit related to a CVP project.

9 **SEC. 3. JUDICIAL PROCEEDINGS.**

10 (a) VENUE.—Notwithstanding section 1391 of title
11 28, United States Code, or other applicable law, an au-
12 thorized CVP project conducted under this title shall be
13 subject to judicial review only in the United States district
14 court for a district in which the authorized CVP project
15 is located.

16 (b) INJUNCTIONS.—

17 (1) IN GENERAL.—Subject to paragraph (2),
18 the length of any preliminary injunctive relief and
19 stays pending appeal covering an authorized CVP
20 project carried out under this Act shall not exceed
21 60 days.

22 (2) RENEWAL.—

23 (A) IN GENERAL.—A court of competent
24 jurisdiction may issue one or more renewals of

1 any preliminary injunction, or stay pending ap-
2 peal, granted under paragraph (1).

3 (B) UPDATES.—In each renewal of an in-
4 junction in an action, the parties to the action
5 shall present the court with updated informa-
6 tion on the status of the authorized CVP
7 project.

8 (3) BALANCING OF SHORT- AND LONG-TERM
9 EFFECTS.—As part of its weighing the equities while
10 considering any request for an injunction that ap-
11 plies to an agency action under an authorized CVP
12 project, the court reviewing the project shall balance
13 the impact to the ecosystem likely affected by the
14 project of—

15 (A) the short- and long-term effects of un-
16 dertaking the agency action; against

17 (B) the short- and long-term effects of not
18 undertaking the agency action.

19 **SEC. 4. PROJECT DEFINED.**

20 For the purposes of this Act:

21 (1) CVP.—The term “CVP” means the Central
22 Valley Project.

23 (2) PROJECT.—The term “project”—

24 (A) means an activity that—

- 1 (i) is undertaken by a public agency,
2 funded by a public agency, or that requires
3 an issuance of a permit by a public agency;
- 4 (ii) has a potential to result in phys-
5 ical change to the environment; and
- 6 (iii) may be subject to several discre-
7 tionary approvals by governmental agen-
8 cies; and
- 9 (B) may include construction activities,
10 clearing or grading of land, improvements to
11 existing structures, and activities or equipment
12 involving the issuance of a permit.

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