

118TH CONGRESS
1ST SESSION

S. 2077

To amend the Federal Agriculture Improvement and Reform Act of 1996 to ensure that producers who rely on acequia systems have access to drought protections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 21, 2023

Mr. LUJÁN (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Federal Agriculture Improvement and Reform Act of 1996 to ensure that producers who rely on acequia systems have access to drought protections, 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. SHORT TITLE.**

4 This Act may be cited as the “Acequia Communities
5 Empowered by Qualifying Upgrades for Infrastructure
6 Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) Water delivery systems known as acequias,
 2 or community ditches, are a centuries-old system
 3 used for water distribution.

4 (2) A combination of Spanish and Indigenous
 5 irrigation methods, acequias were expanded in New
 6 Mexico during the 16th century to allow for farming
 7 to sustain the needs of the community.

8 (3) Acequias are a vital component of the econ-
 9 omy of the State of New Mexico (referred to in this
 10 section as the “State”).

11 (4) Acequias are a centuries-old form of water
 12 governance and are recognized as political subdivi-
 13 sions of the State.

14 (5) Acequias consist of water rights holders,
 15 often called parciantes, who are responsible for the
 16 upkeep and maintenance of the acequias and who in-
 17 ternally elect a board to monitor and administer sur-
 18 face water rights.

19 (6) In the State, acequias have created a cul-
 20 tural landscape and way of life centered around local
 21 agriculture, water governance, and a custom of shar-
 22 ing scarce water.

23 (7) Acequias—

24 (A) play an integral role in maintaining
 25 forest and watershed health;

1 (B) serve as examples of responsible land
2 and water stewardship by providing benefits
3 such as groundwater recharge, flood attenu-
4 ation, and groundwater contaminants filtration;
5 and

6 (C) support native vegetation and provide
7 habitat for wildlife species.

8 (8) Despite their contribution to local food pro-
9 duction and watershed stewardship, acequias are
10 managing already limited water resources under con-
11 ditions of aridification, changing irrigation and
12 growing seasons, and encroachment of invasive spe-
13 cies.

14 (9) To address crop loss, planting challenges,
15 and yield reductions, parciantes rely on direct finan-
16 cial assistance from Department of Agriculture pro-
17 grams, including the noninsured crop disaster assist-
18 ance program established by section 196 of the Fed-
19 eral Agriculture Improvement and Reform Act of
20 1996 (7 U.S.C. 7333).

21 **SEC. 3. ENSURING FARMERS AND RANCHERS HAVE ACCESS**
22 **TO DROUGHT AND DISASTER PROTECTIONS.**

23 Section 196(c)(2) of the Federal Agriculture Im-
24 provement and Reform Act of 1996 (7 U.S.C. 7333(c)(2))
25 is amended by adding at the end the following:

“(C) ACEQUIA SYSTEMS.—On making a determination described in subsection (a)(3) for producers who rely on acequia systems, the Secretary shall provide assistance under this section to those producers from all losses suffered as a result of the cause described in subsection (a)(3).”.

SEC. 4. SPECIAL USE PERMITS NOT REQUIRED FOR ROUTINE MAINTENANCE AND MINOR IMPROVEMENTS OF ACEQUIAS.

(a) DEFINITIONS.—In this section:

(1) ACEQUIA.—The term “acequia” has the meaning of the term “community ditch” as that term is construed under New Mexico Stat. 73–2–27.

(2) COMMUNITY USER.—The term “community user” means an employee, contractor, delegate, representative, volunteer, or other authorized personnel of the governing body of an acequia.

(3) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) the Secretary of Agriculture, with respect to land under the jurisdiction of the Secretary of Agriculture; and

1 (B) the Secretary of the Interior, with re-
2 spect to land under the jurisdiction of the Sec-
3 retary of the Interior.

4 (b) PROHIBITION.—A special use permit shall not be
5 required for—

6 (1) the presence or use of an acequia on Fed-
7 eral land or the use of the water therein; or

8 (2) routine maintenance and minor improve-
9 ments described in subsection (c) conducted by a
10 community user or governing body of an acequia on
11 an acequia on Federal land.

12 (c) ROUTINE MAINTENANCE AND MINOR IMPROVE-
13 MENTS DESCRIBED.—Routine maintenance and minor im-
14 provements referred to in subsection (b)(2) are—

15 (1) cleaning, maintenance, repair, or replace-
16 ment-in-kind of infrastructure;

17 (2) annual ditch cleaning, including removal of
18 silt; and

19 (3) any other traditional activity that preserves
20 the state of the acequia, as agreed to in writing by
21 the Secretary concerned and the governing body of
22 the acequia.

23 **SEC. 5. DEPARTMENT OF AGRICULTURE REPORTING.**

24 Not later than 2 years after the date of enactment
25 of this Act, the Secretary of Agriculture shall submit to

1 the Committee on Agriculture, Nutrition, and Forestry of
2 the Senate and the Committee on Agriculture of the
3 House of Representatives a report that includes the fol-
4 lowing information:

5 (1) The number of agricultural producers in the
6 most recent calendar year who rely on acequia sys-
7 tems or other traditional infrastructure that is vul-
8 nerable to drought conditions.

9 (2) The amount of assistance provided under
10 the noninsured crop disaster assistance program es-
11 tablished by section 196 of the Federal Agriculture
12 Improvement and Reform Act of 1996 (7 U.S.C.
13 7333) to producers described in subsection (c)(2)(C)
14 of that section, in each county, during the most re-
15 cent calendar year.

16 (3) An analysis of the ability of agricultural
17 producers who rely on acequia systems or other tra-
18 ditional infrastructure that is vulnerable to drought
19 conditions to access all programs administered by
20 the Farm Service Agency and the Natural Resources
21 Conservation Service.

22 (4) A summary of any Department of Agri-
23 culture programs or initiatives in the most recent
24 calendar year that provide technical or financial as-
25 sistance targeted to agricultural producers who rely

- 1 on acequia systems or other traditional infrastruc-
- 2 ture that is vulnerable to drought conditions.

