

California Emergency Drought Relief Act of 2014

Bill Summary

California is facing a historic drought, with estimates that it could be worse than the historic drought conditions of 1976 and 1977. While Congress cannot make rain or snow, steps can and should be taken to ensure the best use of the water available and to assist families and farmers through this difficult time.

This bill is focused on providing as much relief as possible in 2014. While California faces long-term water challenges—the state needs more storage, for example—the immediate goal should be to focus on measures that can have an effect in the short-term.

Mandate: Federal agency leaders are required to approve any project to provide additional water supplies consistent with existing law and must approve projects as quickly as possible to address emergency conditions.

Emergency projects: Under applicable federal laws and regulations, federal agencies *must* carry out the following actions to produce the maximum water supplies possible for California during the drought emergency:

- **Water pumping:** While remaining consistent with the *Endangered Species Act* and the Delta smelt biological opinion, federal agencies must utilize existing flexibility to provide maximum water supplies possible from Delta pumping. The biological opinion allows, under specified conditions, pumping that results in “reverse flows” of water between -1,250 and -5,000 cubic-feet-per-second for Old and Middle Rivers from December through June, so that water can be drawn from the rivers into the South Delta for water users.
- **Delta Cross Channel Gates:** On January 31, the State Water Resources Control Board decided to open the Delta Cross Channel Gates on an experimental basis to improve water quality for Delta communities while protecting salmon. The action would also increase water to the Central Delta. The bill builds on the Board’s decision and requires federal agencies to open the Delta Cross Channel Gates for as long as possible on the condition that it is consistent with the Water Board’s January 31 order.
- **1:1 inflow-to-export ratio:** Directs the Department of the Interior to maintain in April and May a 1:1 “inflow-to-export ratio” for San Joaquin River flows

that result from water transfers and exchanges. This means water districts that are willing to sell or trade surplus supplies to districts with less water can move 100 percent of that surplus water through the Delta instead of just a fraction. This will also allow greater water transfers if California receives additional rain.

- **Rescheduled water:** To ensure water contractors retain access to the water they stored for future use, the bill mandates that rescheduled water supplies held for contractors must be kept and made available unless there is not enough storage space in the San Luis and Millerton Reservoirs to keep both new and rescheduled water.
- **Temporary barriers and operable gates:** Stringent pumping restrictions are in place to protect fish. The bill would provide emergency funding and strict 30-day project approval deadlines to build temporary barriers and operable gates in the Delta. These barriers and gates would help protect the fish in order to allow additional flexibility for pumping of Delta channels and to improve water quantity and quality for water users.
- **Voluntary fallowing of non-permanent crops:** In times of droughts, some farmers may choose to not plant crops and allow transfer of water to other users. The bill sets a strict time limit of 30 days for federal agencies to decide whether to approve water contractors' requests to voluntarily fallow their non-permanent crops.
- **Emergency projects to provide drinking water:** Directs the EPA to prioritize projects under the Clean Water and Drinking Water State Revolving Funds programs that can immediately provide water to areas at risk of public health and safety problems.
- **Extension of water deliveries:** In order to provide additional flexibility to water contractors who have unused water, the bill extends the time period from February 28 to April 15 during which North-of-Delta water contractors can still take deliveries of their 2013 water supplies while waiting for 2014 supplies.
- **Turbidity control:** If California experiences multiple storms, runoff will cause turbid or cloudy waters to enter the Delta. The bill requires Reclamation to use updated models to determine how best to operate the water projects to ensure turbid waters and the endangered Delta smelt that are attracted to them are not

pulled into the pumps in the South Delta. Protecting smelt helps avoid pumping restrictions so more water can be made available for use.

- **Emergency funding:** Provide \$100 million in emergency funding to the Department of the Interior for a range of water supply projects, including but not limited to groundwater wells, temporary Delta barriers, water purchases, WATERSMART grants and other conservation technologies and projects yielding water supply benefits in the immediate term, and other infrastructure.
- **WaterSMART grants:** Prioritize WaterSMART grant funding to assist communities with emergency water needs, to prevent loss of permanent crops and to minimize economic loss from the drought.
- **Alternative sources for refuge water:** Allow Reclamation to meet refuge water requirements by installing or improving wells for groundwater, or by purchasing water from willing sellers. This would allow some surface water to be freed up for delivery to water contractors.
- **Off-site mitigation:** Implement environmental projects in other locations to offset the effects of the emergency projects on endangered species.
- **Deferred payments:** Water contractors will have relief from some fees from the federal water projects, so that their financial burdens are lessened as they confront the drought and its aftermath.
- **Real-time operations:** Direct the agencies to use every scientific tool at their disposal so that they can make more accurate and real-time adjustments to the operations of the water projects to increase water supply.

Agency decision making

- **Emergency environmental reviews:** Existing regulations allow environmental reviews under the *National Environmental Policy Act* to be shortened for emergencies. The bill requires agencies to use those regulations to expedite reviews so that water projects can be done more quickly.
- **Accelerated project decisions:** If federal approval for a project to provide water supplies is delayed, the state has the option to require the head of the federal agency to make a final decision within 10 days of the state's request.

- **Project approvals:** Require federal agencies to approve projects to increase water supplies while the governor's emergency drought declaration is in effect as long as approvals do not violate existing laws.

Increased drought disaster assistance

- **Federal disaster declaration:** The *Stafford Act* created the national disaster assistance framework for how states and citizens can receive critical federal assistance to cope with the impact of a major disaster. Currently, the *Stafford Act* includes assistance for droughts; however, no state in over 30 years has qualified for federal assistance when it has faced a drought. The bill amends the *Stafford Act* to clarify that it is the intent of Congress that droughts can be declared a major disaster. The Act is further amended so that a state is given easier access to federal assistance, including disaster unemployment assistance, emergency nutrition assistance and crisis counseling.
- **Reclamation States Emergency Drought Relief Act reauthorization:** Increase the authorization for this drought relief law from \$90 million to \$190 million and extending the spending authority from 2012 to 2017 so that the money provided under this bill can be spent to relieve the drought crisis.
- **Secure Water Act reauthorization:** Increase funding authorization for the WaterSMART program from \$200 million to \$250 million so that more water projects can be funded by the Bureau of Reclamation. The provision would also give Reclamation's commissioner authority to waive cost-share requirements in emergencies, and prioritize those projects that are most helpful in a drought.
- **Disaster authorities:**
 - \$100 million through the Department of Agriculture to mitigate drought impacts for farmers through both the Emergency Conservation Program and Emergency Watershed Protection Program.
 - \$25 million to the Emergency Community Water Assistance Grants for water conservation and water systems' protection and upgrades.
 - \$25 million for Pre-Disaster Mitigation Grants that fund community projects to reduce the impact of the drought.
 - \$25 million in grants to public and non-profit institutions that provide emergency services to low-income seasonal and migrant farm workers impacted by drought conditions.

- \$25 million in grants to private forest landowners for conservation measures related to drought or wildfire.
- \$2 million to the Inspector General of the Department of Agriculture to conduct oversight activities of emergency drought programs.
- **Drought planning assistance:** Direct Interior to provide water supply planning assistance to individual CVP contractors when those contractors request such help.

Other provisions

- ***CALFED Bay-Delta Act reauthorization:*** Reauthorize the CALFED water program, a significant source of funding for federal actions to improve California's water supply, through 2018.
- **Klamath Basin:** Authorize water planning and management activities to reduce water use in the Klamath Basin.

Duration

- Many of the authorities under this act will terminate when the governor of California suspends the emergency drought declaration.