To provide drought relief in the State of California, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Valadao introduced the following bill; which was referred to the Committee on ______________

A BILL

To provide drought relief in the State of California, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Necessary to Ensure Expeditious Delivery of Water Act” or the “NEED Water Act”.

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—RESPONDING TO CALIFORNIA’S DROUGHT EMERGENCY

Sec. 101. Definitions.
Sec. 102. Emergency projects.
Sec. 103. Progress report.
Sec. 104. Status of surface storage studies.

TITLE II—PROTECTION OF THIRD-PARTY WATER RIGHTS

Sec. 201. Offset for State Water Project.
Sec. 203. No redirected adverse impacts.

TITLE III—RENEW WIIN ACT

Sec. 301. Short title.
Sec. 302. Extension of authority.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect on existing obligations.
Sec. 402. Termination of authorities.

1 TITLE I—RESPONDING TO CALIFORNIA’S DROUGHT EMERGENCY

4 SEC. 101. DEFINITIONS.

In this Act:

(1) CENTRAL VALLEY PROJECT.—The term “Central Valley Project” has the meaning given the term in section 3403 of the Central Valley Project Improvement Act (106 Stat. 4707).

(2) DELTA.—The term “Delta” means the Sacramento-San Joaquin Delta and the Suisun Marsh, as defined in sections 12220 and 29101 of the California Public Resources Code.

(3) NEGATIVE IMPACT ON THE LONG-TERM SURVIVAL.—The term “negative impact on the long-term survival” means to reduce appreciably the like-
lihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

(4) **Salmonid Biological Opinion.**—The term “salmonid biological opinion” means the biological opinion issued by the National Marine Fisheries Service for long-term operations of the Central Valley Project and State Water Project on October 21, 2019.

(5) **Secretaries.**—The term “Secretaries” means—

(A) the Secretary of Commerce; and

(B) the Secretary of the Interior.

(6) **Smelt Biological Opinion.**—The term “smelt biological opinion” means the biological opinion issued by the United States Fish and Wildlife Service for long-term operations of the Central Valley Project and State Water Project on October 21, 2019.

(7) **State.**—The term “State” means the State of California.

(8) **State Water Project.**—The term “State Water Project” means the water project described by California Water Code section 11550 et seq. and
operated by the California Department of Water Resources.

SEC. 102. EMERGENCY PROJECTS.

(a) IN GENERAL.—Subject to the priority of individuals or entities, including those with Sacramento River Settlement Contracts, that have priority to the diversion and use of water over water rights held by the United States for operations of the Central Valley Project and over rights held by the State for operations of the State Water Project and the United States obligation to make a substitute supply of water available to the San Joaquin River Exchange Contractors, the Secretaries shall direct the operations of the Central Valley Project and allow operations of the State Water Project to provide the maximum quantity of water supplies possible to Central Valley Project agricultural, municipal and industrial, and refuge service and repayment contractors, and State Water Project contractors, by approving, consistent with applicable laws (including regulations)—

(1) any project or operations to provide additional water supplies if there is any possible way whatsoever that the Secretaries can do so unless the project or operations constitute a highly inefficient way of providing additional water supplies; and
(2) any projects or operations as quickly as possible based on available information to address the emergency conditions.

(b) MANDATE.—In carrying out subsection (a), the applicable Secretary shall—

(1) operate the Central Valley Project to meet the United States’ contractual obligations under Sacramento River Settlement Contracts and to make a substitute supply of water available to the San Joaquin River Exchange Contractors;

(2) except as provided by this subsection, operate the Central Valley Project in a manner consistent with the salmonid biological opinion and the smelt biological opinion;

(3) authorize and implement actions to ensure that the Delta Cross Channel Gates remain open to the maximum extent practicable;

(4)(A) operate the Central Valley Project and allow operations of the State Water Project within the ranges provided for in the smelt biological opinion and the salmonid biological opinion to minimize water supply reductions for the Central Valley Project and the State Water Project, manage reverse flow in Old and Middle Rivers at -5000 cubic feet per second (cfs) unless current scientific data
indicate a less negative Old and Middle River flow is necessary to avoid a significant negative impact on the long-term survival of a listed species; and

(B) show in writing that any determination to manage OMR reverse flow at rates less negative than -5000 cubic feet per second is necessary to avoid a significant negative impact on the long-term survival of the Delta smelt, including an explanation of the data examined and the connection between those data and the choice made prior to reducing pumping to a rate less negative than -5000 cfs;

(5) adopt a 1:1 inflow to export ratio for the increment of increased flow of the San Joaquin River, as measured as a 3-day running average at Vernalis during the period from April 1 through May 31, resulting from voluntary sale, transfers, or exchanges of water from agencies with rights to divert water from the San Joaquin River or its tributaries consistent with the Central Valley Project’s and the State Water Project’s permitted water rights;

(6) issue all necessary permit decisions under the authority of the Secretaries within 30 days of receiving a completed application by the State to place and use temporary barriers or operable gates in Delta channels to improve water quantity and qual-
ity for Central Valley Project and State Water Project contractors and other water users, which barriers or gates should provide benefits for species protection and in-Delta water user water quality and shall be designed such that formal consultations under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) would not be necessary;

(7)(A) complete all requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) necessary to make final permit decisions on water transfer requests associated with voluntarily fallowing nonpermanent crops in the State, within 30 days of receiving such a request; and

(B) allow any water transfer request associated with fallowing to maximize the quantity of water supplies available for nonhabitat uses as long as the fallowing and associated water transfer are in compliance with applicable Federal laws (including regulations);

(8) allow any North of Delta agricultural water service or repayment contractor with unused Central Valley Project water to take delivery of such unused water through April 15 of the contract year imme-
diately following the contract year in which such water was allocated, if—

(A) the contractor requests the extension; and

(B) the requesting contractor certifies that, without the extension, the contractor would have insufficient supplies to adequately meet requests for water deliveries within the contractor’s service area;

(9) to the maximum extent possible based on the availability and quality of groundwater and without causing land subsidence—

(A) meet the Level 2 and Level 4 water supply needs of units of the National Wildlife Refuge System in the Central Valley of California, the Gray Lodge, Los Banos, Volta, North Grasslands, and Mendota State wildlife management areas, and the Grasslands Resources Conservation District in the Central Valley of California through the improvement or installation of wells to use groundwater resources and the purchase of water from willing sellers; and

(B) make a quantity of Central Valley Project water obtained from the measures im-
plemented under subparagraph (A) available to
Central Valley Project water service or repay-
ment contractors; and

(10) implement instream and offsite projects in
the Delta and upstream in the Sacramento River
and San Joaquin basins, in coordination with the
California Department of Water Resources and the
California Department of Fish and Wildlife, that
offset the effects on species listed as threatened or
endangered under the Endangered Species Act of
1973 (16 U.S.C. 1531 et seq.) due to actions taken
under this Act.

(c) OTHER AGENCIES.—To the extent that a Federal
agency other than agencies headed by the Secretaries has
a role in approving projects described in subsections (a)
and (b), the provisions of this section shall apply to those
Federal agencies.

(d) ACCELERATED PROJECT DECISION AND ELE-
VATION.—

(1) IN GENERAL.—Upon the request of the
State, the heads of Federal agencies shall use the
expedited procedures under this subsection to make
final decisions relating to a Federal project or oper-
ation to provide additional water supplies or address
emergency drought conditions pursuant to subsections (a) and (b).

(2) Request for resolution.—

(A) In general.—Upon the request of the State, the head of an agency referred to in subsection (a), or the head of another Federal agency responsible for carrying out a review of a project, as applicable, the Secretary of the Interior shall convene a final project decision meeting with the heads of all relevant Federal agencies to decide whether to approve a project to provide emergency water supplies.

(B) Meeting.—The Secretary of the Interior shall convene a meeting requested under subparagraph (A) not later than 7 days after receiving the meeting request.

(3) Notification.—Upon receipt of a request for a meeting under this subsection, the Secretary of the Interior shall notify the heads of all relevant Federal agencies of the request, including the project to be reviewed and the date for the meeting.

(4) Decision.—Not later than 10 days after the date on which a meeting is requested under paragraph (2), the head of the relevant Federal
agency shall issue a final decision on the project in writing.

(5) MEETING CONVENED BY SECRETARY.—The Secretary of the Interior may convene a final project decision meeting under this subsection at any time, at the discretion of the Secretary, regardless of whether a meeting is requested under paragraph (2).

SEC. 103. PROGRESS REPORT.

Ninety days after the date of the enactment of this Act and every 90 days thereafter, the Secretaries shall provide a progress report describing the implementation of sections 101 and 102 to the Committee on Natural Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate.

SEC. 104. STATUS OF SURFACE STORAGE STUDIES.

One year after the date of the enactment of this Act, the Secretary of the Interior shall provide a progress report on the status of feasibility studies undertaken pursuant to section 102(d)(1) to the Committee on Natural Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate. The report shall include timelines for study completion, draft environmental impact statements, final environmental impact statements, and Records of Decision.
TITLE II—PROTECTION OF THIRD-PARTY WATER RIGHTS

SEC. 201. OFFSET FOR STATE WATER PROJECT.

(a) IMPLEMENTATION IMPACTS.—In the event operations of the State Water Project are restricted under an incidental take permit issued by the California Department of Fish and Wildlife for operations of the State Water Project beyond restrictions imposed by the salmonid biological opinion or smelt biological opinion, the Secretary of the Interior shall operate the Central Valley Project, to the extent excess capacity in Central Valley Project facilities exists, to divert water that otherwise would have been diverted by the State Water Project. Additional water diverted by the Central Valley Project pursuant to this subsection shall be made available to the State Water Project for delivery to State Water Project contractors to offset losses resulting from the restrictions imposed by the incidental take permit.

(b) NOTIFICATION RELATED TO WATER AVAILABILITY.—The Secretary of the Interior shall immediately notify the Director of the California Department of Water Resources in writing if the Secretary of the Interior determines that additional water will be made available to the State Water Project as a result of the implementation of subsection (a).
SEC. 202. AREA OF ORIGIN PROTECTIONS.

(a) IN GENERAL.—The Secretary of the Interior is directed, in the operation of the Central Valley Project, to adhere to California’s water rights laws governing water rights priorities and to honor water rights senior to those held by the United States for operation of the Central Valley Project, regardless of the source of priority, including any appropriative water rights initiated prior to December 19, 1914, as well as water rights and other priorities perfected or to be perfected pursuant to California Water Code Part 2 of Division 2. Article 1.7 (commencing with section 1215 of chapter 1 of part 2 of division 2, sections 10505, 10505.5, 11128, 11460, 11461, 11462, and 11463, and sections 12200 to 12220, inclusive).

(b) DIVERSIONS.—Any action undertaken by the Secretaries pursuant to both this Act and section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that requires that diversions from the Sacramento River or the San Joaquin River watersheds upstream of the Delta be bypassed shall not be undertaken in a manner that alters the water rights priorities established by California law.

(c) ENDANGERED SPECIES ACT.—Nothing in this title alters the existing authorities provided to and obligations placed upon the Federal Government under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).
(d) CONTRACTS.—With respect to individuals and ent-
tities with water rights on the Sacramento River, the man-
dates of this section may be met, in whole or in part, 
through a contract with the Secretary executed pursuant 
to section 14 of Public Law 76–260; 53 Stat. 1187 (43 
U.S.C. 389) that is in conformance with the Sacramento 
River Settlement Contracts renewed by the Secretary in 
2005.

SEC. 203. NO REDIRECTED ADVERSE IMPACTS.

(a) IN GENERAL.—The Secretary of the Interior shall 
ensure that, except as otherwise provided for in a water 
service or repayment contract, actions taken in compliance 
with legal obligations imposed pursuant to or as a result 
of this Act, including such actions under section 7 of the 
and other applicable Federal and State laws, shall not di-
rectly or indirectly—

(1) result in the involuntary reduction of water 
supply or fiscal impacts to individuals or districts 
who receive water from either the State Water 
Project or the United States under water rights set-
tlement contracts, exchange contracts, water service 
contracts, repayment contracts, or water supply con-
tracts; or
(2) cause redirected adverse water supply or fiscal impacts to those within the Sacramento River watershed, the San Joaquin River watershed or the State Water Project service area.

(b) Costs.—To the extent that costs are incurred solely pursuant to or as a result of this Act and would not otherwise have been incurred by any entity or public or local agency or subdivision of the State of California, such costs shall not be borne by any such entity, agency, or subdivision of the State of California, unless such costs are incurred on a voluntary basis.

(c) Rights and Obligations Not Modified or Amended.—Nothing in this Act shall modify or amend the rights and obligations of the parties to any existing—

(1) water service, repayment, settlement, purchase, or exchange contract with the United States, including the obligation to satisfy exchange contracts and settlement contracts prior to the allocation of any other Central Valley Project water; or

(2) State Water Project water supply or settlement contract with the State.
TITLE III—RENEW WIIN ACT

SEC. 301. SHORT TITLE.
This title may be cited as the “Responsible, No-Cost Extension of Western Water Infrastructure Improvements Act” or the “RENEW WIIN Act”.

SEC. 302. EXTENSION OF AUTHORITY.
Subtitle J of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322) is amended—

(1) in section 4007 (43 U.S.C. 390(b) note), in subsection (i), by striking “January 1, 2021” and inserting “January 1, 2031”; and

(2) in section 4013 (43 U.S.C. 390(b) note)—

(A) in the first sentence, by striking “the date that is 5 years after the date of its enactment” and inserting “December 31, 2031”; and

(B) in paragraph (1), by striking “10 years after the date of its enactment” and inserting “on December 31, 2036”.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON EXISTING OBLIGATIONS.
Nothing in this Act modifies any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State
law relating to the control, appropriation, use, or distribution of water, including established water rights priorities.

SEC. 402. TERMINATION OF AUTHORITIES.

Title I and title II of this Act shall expire on September 30, 2023, or the date on which the Governor of the State suspends the state of drought emergency declaration, whichever is later.