

118TH CONGRESS  
1ST SESSION

# S. 2161

To provide financial assistance for projects to address certain subsidence impacts in the State of California, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide financial assistance for projects to address certain subsidence impacts in the State of California, 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 “Canal Conveyance Ca-  
5 pacity Restoration Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

8 (1) to address severe subsidence impacts that  
9 have substantially reduced the carrying capacity of  
10 the water delivery system of the State; and

1           (2) to provide additional water supply in the  
2 State at a relatively low cost per acre-foot to in-  
3 crease—

4           (A) resiliency to increasingly severe  
5 droughts in the State;

6           (B) groundwater recharge needed to assist  
7 in meeting groundwater sustainability goals es-  
8 tablished under State law; and

9           (C) the reliability of surface or ground-  
10 water supplies, portions of which serve dis-  
11 advantaged communities.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14           (1) **FEDERAL POOL.**—The term “Federal pool”  
15 means each of pools 13 through 21 of the San Luis  
16 Canal/California Aqueduct, which are owned by the  
17 United States and operated by the California De-  
18 partment of Water Resources under the agreement  
19 entitled “Agreement Between the United States of  
20 America and the Department of Water Resources of  
21 the State of California for the Construction and Op-  
22 eration of the Joint-Use Facilities of the San Luis  
23 Unit” and dated December 30, 1961.

24           (2) **NET PRESENT VALUE OF THE LOCAL CON-**  
25 **TRIBUTION TO REIMBURSABLE FEDERAL FUND-**

1       ING.—The term “net present value of the local con-  
2       tribution to reimbursable Federal funding” means,  
3       with respect to a project, the amount equal to the  
4       difference between—

5               (A) the total amount of reimbursable Fed-  
6       eral funds made available for a project; and

7               (B) the amount of the present value, as of  
8       the date of the calculation, of any interest sub-  
9       sidy provided through the repayment terms to  
10      the Treasury over similarly structured munic-  
11      ipal bond financing available to the non-Federal  
12      entity on the disbursement of the reimbursable  
13      Federal funds for the project.

14      (3) NON-FEDERAL POOL.—The term “non-Fed-  
15      eral pool” means each of pools 22 through 40 of the  
16      California Aqueduct, which are owned by the State  
17      and operated by the California Department of Water  
18      Resources.

19      (4) SECRETARY.—The term “Secretary” means  
20      the Secretary of the Interior, acting through the  
21      Commissioner of Reclamation.

22      (5) STATE.—The term “State” means the State  
23      of California.

1 **SEC. 4. FRIANT-KERN CANAL AND DELTA-MENDOTA CANAL**  
2 **SUBSIDENCE MITIGATION PROJECTS.**

3 (a) **IN GENERAL.**—The Secretary may provide finan-  
4 cial assistance for the design, planning, and construction  
5 of—

6 (1) Federal facility improvements to the Friant  
7 Division, Central Valley Project, California, under  
8 section 10201(a)(1) of the San Joaquin River Res-  
9 toration Settlement Act (Public Law 111–11; 123  
10 Stat. 1365); and

11 (2) a project to restore conveyance capacity at,  
12 and to mitigate subsidence-related impacts on, the  
13 Delta-Mendota Canal, through a partnership with—

14 (A) a public water agency that contracts  
15 for the delivery of Central Valley Project water;  
16 or

17 (B) a local joint powers authority formed  
18 under State law by public water agencies that  
19 contract for the delivery of Central Valley  
20 Project water.

21 (b) **COST-SHARING REQUIREMENT.**—

22 (1) **FEDERAL SHARE.**—The Federal share of  
23 the cost of carrying out a project under subsection  
24 (a) shall be not more than 33 percent of the total  
25 cost of the project, including amounts contributed  
26 after October 1, 2018.

1           (2) FORM OF NON-FEDERAL SHARE.—The non-  
2 Federal share of the cost of carrying out a project  
3 under subsection (a) may be provided in the form of  
4 cash or in-kind contributions, including the net  
5 present value of the local contribution to the reim-  
6 bursable Federal funding for the project after Octo-  
7 ber 1, 2018.

8           (c) REQUIRED DETERMINATION BY SECRETARY.—  
9 Federal funds shall not be made available under this Act  
10 for a project under subsection (a) unless the Secretary de-  
11 termines that—

12           (1) there is an adequate non-Federal cost share  
13 to match the total amount of federally appropriated  
14 financial assistance made available for the project as  
15 of the date of the determination of the Secretary;  
16 and

17           (2) the project is designed in a manner—

18           (A) to satisfy the purposes described in  
19 section 2, after taking into account anticipated  
20 future subsidence; and

21           (B) to comply with all applicable require-  
22 ments of Federal and State law, including part  
23 2.74 of division 6 of the California Water Code  
24 (commonly known as the “California Sustain-  
25 able Groundwater Management Act”).

1 **SEC. 5. CALIFORNIA AQUEDUCT SUBSIDENCE MITIGATION**  
2 **PROJECT.**

3 (a) **IN GENERAL.**—The Secretary may provide finan-  
4 cial assistance for the design, planning, and construction  
5 of projects to restore conveyance capacity at, and to miti-  
6 gate subsidence-related impacts on, the Federal pool and  
7 non-Federal pool.

8 (b) **NON-FEDERAL PARTNERS.**—To carry out this  
9 section, the Secretary may enter into partnerships with—

10 (1) the State; or

11 (2) a local joint powers authority formed under  
12 State law by public water agencies that contract for  
13 delivery of water from the Central Valley Project or  
14 the State Water Project.

15 (c) **COST-SHARING REQUIREMENT.**—

16 (1) **FEDERAL SHARE.**—The Federal share of  
17 the cost of carrying out a project under subsection  
18 (a) shall be not more than 33 percent of the total  
19 cost of the project, including any amounts expended  
20 by the State for subsidence repairs in the Federal  
21 pool and non-Federal pool for the project after Octo-  
22 ber 1, 2018.

23 (2) **FORM OF NON-FEDERAL SHARE.**—The non-  
24 Federal share of the cost of a project provided finan-  
25 cial assistance under subsection (a) may be in the  
26 form of cash or in-kind contributions.

1 (d) REQUIRED DETERMINATION BY SECRETARY.—  
2 Federal funds shall not be made available under this Act  
3 for a project under subsection (a) unless the Secretary de-  
4 termines, with the concurrence of the Governor of the  
5 State, that—

6 (1) there is an adequate non-Federal cost share  
7 to match the total amount of federally appropriated  
8 financial assistance made available for the project as  
9 of the date of the determination of the Secretary;  
10 and

11 (2) the project is designed in a manner—

12 (A) to satisfy the purposes described in  
13 section 2, after taking into account anticipated  
14 future subsidence; and

15 (B) to comply with all applicable require-  
16 ments of Federal and State law, including part  
17 2.74 of division 6 of the California Water Code  
18 (commonly known as the “California Sustain-  
19 able Groundwater Management Act”).

20 **SEC. 6. PREPAYMENT OF CERTAIN WATER CONTRACTS.**

21 Section 4013 of the Water Infrastructure Improve-  
22 ments for the Nation Act (43 U.S.C. 390b note; Public  
23 Law 114–322) is amended—

24 (1) in paragraph (1), by striking “and” at the  
25 end;

1           (2) in paragraph (2), by striking the period at  
2           the end and inserting “; and”; and

3           (3) by adding at the end the following:

4           “(3) subsections (a), (b), (c), (d), and (f) of  
5           section 4011, which shall expire on December 31,  
6           2033.”.

7   **SEC. 7. ENVIRONMENTAL COMPLIANCE.**

8           In carrying out a project under this Act, the Sec-  
9   retary shall comply with applicable environmental laws, in-  
10   cluding—

11           (1) the National Environmental Policy Act of  
12           1969 (42 U.S.C. 4321 et seq.);

13           (2) the Endangered Species Act of 1973 (16  
14           U.S.C. 1531 et seq.); and

15           (3) applicable State law.

16   **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

17           (a) IN GENERAL.—There are authorized to be appro-  
18   priated to the Secretary, as adjusted annually to reflect  
19   changes since March 2021 in the Bureau of Reclamation  
20   Construction Cost Trends Index applicable to the types  
21   of construction involved—

22           (1) \$180,000,000 to carry out section 4(a)(1),  
23           consistent with, and in addition to funding author-  
24           ized under, section 10203(c) of the San Joaquin



1 River Restoration Settlement Act (Public Law 111–  
2 11; 123 Stat. 1367);

3 (2) \$183,900,000 to carry out section 4(a)(2);

4 (3) \$194,000,000 to pay the Federal share for  
5 the Federal pool under section 5;

6 (4) \$95,500,000 to pay the Federal share for  
7 the non-Federal pool under section 5; and

8 (5) \$180,000,000 to implement the Restoration  
9 Goal of the settlement described in section 10004 of  
10 the San Joaquin River Restoration Settlement Act  
11 (Public Law 111–11; 123 Stat. 1350), in addition to  
12 the funding authorized under section 10009 of that  
13 Act.

14 (b) LIMITATIONS.—Amounts made available under  
15 subsection (a) may not be used—

16 (1) to build new surface storage;

17 (2) to raise existing reservoirs; or

18 (3) to enlarge the carrying capacity of a canal  
19 constructed by the Bureau of Reclamation, except  
20 for a temporary increase in carrying capacity that is  
21 intended—

22 (A) to mitigate anticipated future subsid-  
23 ence; and

1                   (B) to avoid an increase in carrying capac-  
2                   ity that would otherwise be required on the oc-  
3                   currence of anticipated future subsidence.

4           (c) *ADDITIONAL AMOUNTS*.—Amounts made avail-  
5 able under subsection (a) shall be—

6                   (1) in addition to any other amounts made  
7                   available for the purposes described in that sub-  
8                   section; and

9                   (2) nonreimbursable.

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