

**COLORADO RIVER BASIN
SALINITY CONTROL
PROGRAM**

**REPORT TO CONGRESS
ON THE
BUREAU OF RECLAMATION
BASIN STATES PROGRAM**

**Submitted Pursuant to
Public Law 110-246
An Act to Amend the Colorado River Basin
Salinity Control Act of 1974**

**United States Department of the Interior
Bureau of Reclamation
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SUMMARY

Congress created the Colorado River Basin Salinity Control Program (Program) in 1974 with the enactment of the Colorado River Basin Salinity Control Act, Public Law 93-320 (Act). The Program is a cooperative effort among water users in the Colorado River Basin, the seven Colorado River Basin states (Basin States), the USDA-Natural Resources Conservation Service (NRCS), the Bureau of Reclamation (Reclamation), and the Bureau of Land Management (BLM) to reduce the amount of salt in the Colorado River (River) and its impacts on water users. The cooperating partners have made significant strides in keeping the salinity concentrations in the River within a range that does not limit consumptive uses of the River while uses of the River have increased pursuant to interstate river compacts and applicable law.

Section 205 of the Act directs Reclamation to expend funds from the Upper Colorado River Basin Fund and the Lower Colorado River Basin Development Fund (Basin Funds) to: 1) repay the Treasury the reimbursable allocated costs of salinity projects or 2) provide the authorized cost share amounts. Revenues from the Basin Funds have been used to cost share in the implementation of the NRCS salinity measures by funding – through state agencies in Colorado, Utah, and Wyoming – salinity control measures. Cost share funds have also been used in concert with appropriated funds in the implementation of Reclamation’s portion of the Program.

To clarify the authority for the administration of the expenditure of cost-share funds, the Basin States prepared draft legislation that was included in the 2008 Farm Bill to amend the Act to create the Basin States Program (BSP). Moneys from the Basin Funds used for cost-sharing in the Reclamation and NRCS programs will now be administered through the BSP. Because this change simply clarifies how the required cost share moneys will be expended, this amendment is funding neutral. The amendment does not change the amount of Federal appropriation or the moneys drawn from either of the two Basin Funds.

The 2008 amendment requires that a planning report describing the implementation of the BSP be transmitted to the appropriate Committees of the Congress. This report is prepared pursuant to, and complies with, that requirement.

INTRODUCTION

Near its headwaters in the Rocky Mountains, the salinity concentration of the River is typically 50 milligrams per liter (mg/l) or less. Large amounts of salt load are added as the River flows downstream. At Hoover Dam, with concentrations several hundreds of mg/l greater, the River has historically delivered about 9 million tons of dissolved salts a year. Historically, upon reaching the last diversion point in the United States at Imperial Dam, the concentration frequently exceeded 800 mg/l.

Congress created the Colorado River Basin Salinity Control Program (Program) in 1974 with the enactment of the Act. Section 205 (a) (1) of the Act specifically recognizes the Federal responsibility for the River as an interstate stream, that it is an international resource shared with the Republic of Mexico and that it is from Federally-managed lands "... from which most of the dissolved salts originate ...".

The Program is a cooperative effort among water users in the Colorado River Basin, the seven Colorado River Basin states (Basin States), the NRCS, Reclamation, and the BLM. This interstate and interagency partnership effort is being carried out to reduce the amount of salt in the river and its impacts. Since the Program's initiation in 1974, the cooperating partners have made significant strides in keeping the salinity concentrations in the River within a range that does not limit consumptive uses of the River while uses of the River have increased pursuant to interstate river compacts and applicable law. The Act's overall strategy includes preventing salts from dissolving and mixing with the River's flow. This includes the interception and control of non-point sources such as surface runoff, as well as point sources such as wastewater discharges and saline springs.

The Basin States are Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming. Prior to the enactment of the Act, the Basin States established the Colorado River Basin Salinity Control Forum (Forum) in 1973 to provide an organization for the states' representatives to confer on water quality issues, search for solutions, find ways to meet water quality standards and to support and advise involved federal agencies. The Forum members are appointed by the Basin States' Governors. The Colorado River Basin Salinity Control Advisory Council (Advisory Council), established by Section 204 of the Act, is composed of up to 21 members (no more than three from each state) appointed by the Governors of the seven Basin States. Usually, Forum members also serve as members of the Advisory Council.

ISSUE IDENTIFICATION

Section 205 of the Act directs Reclamation to expend funds from the Upper Colorado River Basin Fund and the Lower Colorado River Basin Development Fund (Basin Funds) to either 1) repay the Treasury the reimbursable allocated costs of salinity projects or 2) provide the authorized cost share amounts in a manner that is consistent with the Act. The Basin Funds, separate accounts in the Treasury, receive revenues, including those from the sale of power generated at the hydropower facilities along the River.

Section 202 of the Act includes salinity control measures implemented by the NRCS under their Environmental Quality Incentives Program (EQIP). Since 1996, Basin Funds have been used to cost share in the implementation of the NRCS salinity measures by funding – through state agencies in Colorado, Utah, and Wyoming – salinity control measures. Cost share funds have also been used in concert with appropriated funds in the implementation of Reclamation’s portion of the Program. The Advisory Council, Forum and Forum’s Work Group agreed with and encouraged Reclamation to expend moneys from the Basin funds in this manner.

An internal review of the Salinity Control Program, conducted by Reclamation, raised questions regarding the specific direction or authority Reclamation should use in expending the required cost share moneys associated with EQIP expenditures. As a result, the Forum determined it best to seek express authorization for the salinity control practices and funding mechanisms that had been occurring.

RECENT LEGISLATION

The inclusion of Section 2806, entitled “USE OF FUNDS IN BASIN FUNDS FOR SALINITY CONTROL ACTIVITIES UPSTREAM OF IMPERIAL DAM,” in the Food, Conservation and Energy Act of 2008, enacted June 18, 2008, (PL 110-246) is the direct result of the initiative undertaken by the Basin States and their Congressional delegations. Section 2806 is attached to this report as Appendix A.

The 2008 amendments direct that:

1. the Secretary, acting through Reclamation, shall implement the BSP to carry out salinity control activities in the Colorado River Basin using cost share funds from the Basin Funds.
2. the Secretary, acting through Reclamation, in consultation with the Advisory Council, shall carry out BSP salinity control activities.
3. the cost share obligations shall be met through up-front cost sharing from the Basin Funds.

4. all up-front cost-share moneys from the Basin Funds, created due to expenditure of annual federal appropriations for salinity control, be managed through the BSP.

The annual federal appropriations consist of those received by Reclamation for the construction and operation and maintenance of the Paradox, Grand Valley, Lower Gunnison, and McElmo Creek (Dolores) Salinity Units, and for grants through the Basinwide Program, and those expended by the NRCS for salinity control activities under its EQIP. Therefore, the amount of funding available in the BSP is directly dependent on the amount of federal appropriations received by Reclamation and the NRCS for salinity control. Without appropriations for salinity control, there would be no funding in the BSP since it will not receive direct appropriations or other revenues.

The 2008 amendments simply clarify how the required cost share moneys will be expended. The amendments do not change any of the cost share allocation percentages, mandate additional Federal appropriations, or draw additional funds from the Basin Funds. Because of these facts, the amendments are funding neutral. One of the anticipated advantages of the BSP is flexibility in meeting the objectives of the Act.

The 2008 amendments require that a planning report describing the implementation of the BSP be transmitted to the appropriate Committees of the Congress not later than 30 days before Reclamation begins implementing the BSP. This report is prepared pursuant to, and complies with, that requirement.

IMPLEMENTATION PRINCIPLES

The following general principles will guide implementation of the BSP:

- The 2008 amendments provide express authority for the salinity activities and projects to be funded by the BSP.
- Reclamation will account for the expenditures of BSP funds consistent with appropriate Federal and State laws and regulations.
- Reclamation will administer the BSP through existing contracting techniques, rules, and regulations.
- Reclamation, in consultation with the Advisory Council, will decide how the cost share funds from the Basin Funds in the BSP will be used in compliance with appropriate Federal requirements. Reclamation will expend BSP funds for salinity control purposes in a cost effective manner that meet the objectives of the Act that enhance salinity control in the River Basin.

- The operation of the existing Reclamation salinity control units and Basinwide Program and the NRCS salinity program under the EQIP will not be affected by the 2008 amendments.
- Generally, cost sharing funds from the Basin Funds in the BSP for appropriations received by Reclamation for the construction and operation and maintenance of the salinity control units, and for grants through the Basinwide Program will continue to be used with the appropriations for the salinity control units and the Basinwide Program.

Administration

The BSP will be administered as follows:

- At the beginning of each fiscal year Reclamation will calculate the amounts of required cost sharing funds from the Basin Funds to be generated by the estimated expenditure of Federal appropriations by Reclamation for each of the salinity control units and the Basinwide Program and by the NRCS for its salinity program under EQIP.
- The above amount of cost sharing funds will be reported to the Advisory Council as the amount to be administered through the BSP.
- Reclamation will draw sufficient funds from the Basin Funds each year to fund anticipated expenditures and reimbursements of the year.
- Reclamation will expend appropriations and the cost sharing funds at the required-by-law percentage for the salinity control activities.
- The Advisory Council and Reclamation will first fully discuss salinity control opportunities and activities and the Advisory Council will make recommendations to Reclamation as to the disbursement of the BSP funds for salinity control activities authorized by Section 202(a)(7) of the Act by the appropriate federal and non-federal participants.
- Reclamation will execute the necessary agreements with the federal and non-federal program participants to accomplish the desired salinity control activities as recommended by the Advisory Council and as authorized by the Section 202(a)(7) of the Act.
- The agreements will require that the federal or non-federal party submit an accomplishments report to Reclamation at the end of each fiscal year summarizing its expenditures of BSP funds and accomplishments of salinity control activities. Reclamation will compile the accomplishments reports and summarize the expenditures and provide them to the Advisory Council prior to its annual fall meeting.

Salinity Control Activities

The following are a non-exhaustive listing of the type of salinity control activities that Reclamation anticipates it will administer through the BSP:

- Salinity control measures eligible for EQIP, but not funded due to lack of EQIP funding.
- Salinity control measures not eligible for EQIP because of benefit limits, not an eligible entity, or outside of a salinity area.
- Salinity control measures providing connection between on-farm and off-farm activities
- Studies, planning, and administration.
- Accelerating certain salinity projects to achieve more efficient use of funds and other resources.
- Identifying new areas for salt control projects.
- Replacing fish and wildlife values foregone as a result of implementing salinity control measures.
- Special studies to understand dissolution and transport of salts.
- Analyses of program effectiveness.
- Coordination and networking to find new and improved techniques and science for salinity control.
- Incentive Programs to agricultural producers to increase participation in the salinity control program.
- The construction and operation and maintenance of the salinity control units.
- Grants through Reclamation's Basinwide Program.

Appendix A – Public Law 110-246, Section 2806

“(2) RESPONSIBILITY.—A coordinator for a council shall be directly responsible for the provision of technical assistance to the council.”.

(d) PROGRAM EVALUATION.—Section 1534 of the Agriculture and Food Act of 1981 (16 U.S.C. 3457) is repealed.

SEC. 2806. USE OF FUNDS IN BASIN FUNDS FOR SALINITY CONTROL ACTIVITIES UPSTREAM OF IMPERIAL DAM.

(a) IN GENERAL.—Section 202(a) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(a)) is amended by adding at the end the following new paragraph:

“(7) BASIN STATES PROGRAM.—

“(A) IN GENERAL.—A Basin States Program that the Secretary, acting through the Bureau of Reclamation, shall implement to carry out salinity control activities in the Colorado River Basin using funds made available under section 205(f).

“(B) ASSISTANCE.—The Secretary, in consultation with the Colorado River Basin Salinity Control Advisory Council, shall carry out this paragraph using funds described in subparagraph (A) directly or by providing grants, grant commitments, or advance funds to Federal or non-Federal entities under such terms and conditions as the Secretary may require.

“(C) ACTIVITIES.—Funds described in subparagraph (A) shall be used to carry out, as determined by the Secretary—

“(i) cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources;

“(ii) operation and maintenance of salinity control features constructed under the Colorado River Basin salinity control program; and

“(iii) studies, planning, and administration of salinity control activities.

“(D) REPORT.—

“(i) IN GENERAL.—Not later than 30 days before implementing the program established under this paragraph, the Secretary shall submit to the appropriate committees of Congress a planning report that describes the proposed implementation of the program.

“(ii) IMPLEMENTATION.—The Secretary may not expend funds to implement the program established under this paragraph before the expiration of the 30-day period beginning on the date on which the Secretary submits the report, or any revision to the report, under clause (i).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended—

(A) in subsection (a), in the matter preceding paragraph

(1), by striking “program” and inserting “programs”; and

(B) in subsection (b)(4)—

(i) by striking “program” and inserting “programs”; and

(ii) by striking “and (6)” and inserting “(6), and (7)”.

(2) Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended by striking subsection (f) and inserting the following new subsection:

“(f) UP-FRONT COST SHARE.—

Effective date.

“(1) IN GENERAL.—Effective beginning on the date of enactment of this paragraph, subject to paragraph (3), the cost share obligations required by this section shall be met through an up-front cost share from the Basin Funds, in the same proportions as the cost allocations required under subsection (a), as provided in paragraph (2).

“(2) BASIN STATES PROGRAM.—The Secretary shall expend the required cost share funds described in paragraph (1) through the Basin States Program for salinity control activities established under section 202(a)(7).

“(3) EXISTING SALINITY CONTROL ACTIVITIES.—The cost share contribution required by this section shall continue to be met through repayment in a manner consistent with this section for all salinity control activities for which repayment was commenced prior to the date of enactment of this paragraph.”.

SEC. 2807. DESERT TERMINAL LAKES.

Section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is amended—

(1) in subsection (a)—

(A) by striking “(a)” and all that follows through “\$200,000,000” and inserting “(a) TRANSFER.—Subject to subsection (b) and paragraph (1) of section 207(a) of Public Law 108–7 (117 Stat. 146), notwithstanding paragraph (3) of that section, on the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture shall transfer \$175,000,000”; and

(B) by striking the quotation marks at the beginning of paragraphs (1) and (2); and

(2) by striking subsection (b) and inserting the following new subsection:

“(b) PERMITTED USES.—In any case in which there are willing sellers, the funds described in subsection (a) may be used—

“(1) to lease water; or

“(2) to purchase land, water appurtenant to the land, and related interests in the Walker River Basin in accordance with section 208(a)(1)(A) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268).”.

Subtitle J—Miscellaneous Conservation Provisions

Texas.

SEC. 2901. HIGH PLAINS WATER STUDY.

Notwithstanding any other provision of this Act, no person shall become ineligible for any program benefits under this Act or an amendment made by this Act solely as a result of participating in a 1-time study of recharge potential for the Ogallala Aquifer in the High Plains of the State of Texas.