

S. 3021

# One Hundred Fifteenth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,  
the third day of January, two thousand and eighteen*

## An Act

To provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, to provide for water pollution control activities, and for other purposes.

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

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as “America’s Water Infrastructure Act of 2018”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—WATER RESOURCES DEVELOPMENT

Sec. 101. Short title.

Sec. 102. Secretary defined.

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Sec. 1101. Sense of Congress regarding water resources development bills.

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Sec. 1103. Study on economic and budgetary analyses.

Sec. 1104. Dissemination of information.

Sec. 1105. Non-Federal engagement and review.

Sec. 1106. Lake Okeechobee regulation schedule review.

Sec. 1107. Access to real estate data.

Sec. 1108. Aquatic invasive species research.

Sec. 1109. Harmful algal bloom technology demonstration.

Sec. 1110. Bubbly Creek, Chicago ecosystem restoration.

Sec. 1111. Dredge pilot program.

Sec. 1112. Hurricane and storm damage protection program.

Sec. 1113. Operation and maintenance of existing infrastructure.

Sec. 1114. Assistance relating to water supply.

Sec. 1115. Property acquisition.

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Sec. 1117. Inclusion of project or facility in Corps of Engineers workplan.

Sec. 1118. Geomatic data.

Sec. 1119. Local government reservoir permit review.

Sec. 1120. Transparency and accountability in cost sharing for water resources development projects.

Sec. 1121. Upper Missouri Mainstem Reservoir water withdrawal intake easement review.

Sec. 1122. Limitation on contract execution.

Sec. 1123. Certain levee improvements.

Sec. 1124. Cost-share payment for certain projects.

Sec. 1125. Locks on Allegheny River.

Sec. 1126. Purpose and need.

Sec. 1127. Prior project authorization.

Sec. 1128. Mississippi River and Tributaries Project.

Sec. 1129. Inclusion of Tribal interests in project consultations.

Sec. 1130. Beneficial use of dredged material.

Sec. 1131. Ice jam prevention and mitigation.

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- Sec. 1132. Rehabilitation of Corps of Engineers constructed dams.
- Sec. 1133. Columbia River.
- Sec. 1134. Missouri River Reservoir sediment management.
- Sec. 1135. Reauthorization of lock operations pilot program.
- Sec. 1136. Credit or reimbursement.
- Sec. 1137. Non-Federal implementation pilot program.
- Sec. 1138. Surplus water contracts and water storage agreements.
- Sec. 1139. Post-disaster watershed assessments in territories of the United States.
- Sec. 1140. Expedited consideration.
- Sec. 1141. Project studies subject to independent peer review.
- Sec. 1142. Feasibility of Chicago Sanitary and Ship Canal Dispersal Barriers Project, Illinois.
- Sec. 1143. Acknowledgment of credit.
- Sec. 1144. Levee safety initiative reauthorization.
- Sec. 1145. Funding to process permits.
- Sec. 1146. Reservoir sediment.
- Sec. 1147. Clarification for integral determination.
- Sec. 1148. Beneficial use of dredged sediment.
- Sec. 1149. Inclusion of alternative measures for aquatic ecosystem restoration.
- Sec. 1150. Regional sediment management.
- Sec. 1151. Operation and maintenance of navigation and hydroelectric facilities.
- Sec. 1152. Study of water resources development projects by non-Federal interests.
- Sec. 1153. Construction of water resources development projects by non-Federal interests.
- Sec. 1154. Corps budgeting; project deauthorizations; comprehensive backlog report.
- Sec. 1155. Indian Tribes.
- Sec. 1156. Inflation adjustment of cost-sharing provisions for territories and Indian Tribes.
- Sec. 1157. Corps of Engineers continuing authorities program.
- Sec. 1158. Hurricane and storm damage reduction.
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- Sec. 1160. Emergency response to natural disasters.
- Sec. 1161. Cost and benefit feasibility assessment.
- Sec. 1162. Extended community assistance by the Corps of Engineers.
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- Sec. 1219. Great Lakes coastal resiliency study.
- Sec. 1220. McMicken Dam, Arizona, and Muddy River, Massachusetts.
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- Sec. 1309. Kissimmee River restoration, Florida.
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- Sec. 1311. Green River and Barren River Locks and Dams, Kentucky.
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- Sec. 1314. Boston harbor reserved channel deauthorizations.
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- Sec. 1316. Plymouth Harbor, Massachusetts.
- Sec. 1317. Portsmouth Harbor and Piscataqua River.
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- Sec. 1320. Passaic River Federal Navigation Channel, New Jersey.
- Sec. 1321. Fargo-Moorhead Metropolitan Area Diversion Project, North Dakota.
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- Sec. 2002. Clean, safe, reliable water infrastructure.
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- Sec. 2004. Sense of Congress relating to access to nonpotable water.
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- Sec. 2010. Additional considerations for compliance.
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- Sec. 2012. Asset management.
- Sec. 2013. Community water system risk and resilience.
- Sec. 2014. Authorization for grants for State programs.
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- Sec. 4201. WIFIA reauthorization and innovative financing for State loan funds.

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- Sec. 4302. Snake River Basin flood prevention action plan.
- Sec. 4303. GAO audit of contracts and Tainter gate repairs of Harlan County Dam.
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- Sec. 4310. Authority to make entire active capacity of Fontenelle Reservoir available for use.
- Sec. 4311. Blackfeet water rights settlement.
- Sec. 4312. Indian irrigation fund reauthorization.
- Sec. 4313. Reauthorization of repair, replacement, and maintenance of certain Indian irrigation projects.
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## TITLE I—WATER RESOURCES DEVELOPMENT

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Water Resources Development Act of 2018”.

**SEC. 102. SECRETARY DEFINED.**

In this title, the term “Secretary” means the Secretary of the Army.

make the final guidance available to the public on the publicly accessible website described in subsection (b)(2).

(f) DEFINITIONS.—In this section:

(1) COVERED PROVISION OF LAW.—The term “covered provision of law” means a provision of law under the jurisdiction of the Secretary contained in, or amended by, a covered water resources development law, with respect to which—

(A) the Secretary determines guidance is necessary in order to implement the provision; and

(B) no such guidance has been issued as of the date of enactment of this Act.

(2) COVERED WATER RESOURCES DEVELOPMENT LAW.—The term “covered water resources development law” means—

(A) the Water Resources Reform and Development Act of 2014;

(B) the Water Resources Development Act of 2016;

(C) this Act; and

(D) any Federal water resources development law enacted after the date of enactment of this Act.

**SEC. 1106. LAKE OKEECHOBEE REGULATION SCHEDULE REVIEW.**

The Secretary shall expedite completion of the Lake Okeechobee regulation schedule to coincide with the completion of the Herbert Hoover Dike project, and may consider all relevant aspects of the Comprehensive Everglades Restoration Plan described in section 601 of the Water Resources Development Act of 2000 (114 Stat. 2680).

**SEC. 1107. ACCESS TO REAL ESTATE DATA.**

(a) IN GENERAL.—Using available funds, the Secretary shall make publicly available, including on a publicly accessible website, information on all Federal real estate assets in the United States that are owned, operated, or managed by, or in the custody of, the Corps of Engineers.

(b) REQUIREMENTS.—

(1) IN GENERAL.—The real estate information made available under subsection (a) shall include—

(A) existing standardized real estate plat descriptions of assets described in subsection (a); and

(B) existing geographic information systems and geospatial information associated with such assets.

(2) COLLABORATION.—In making information available under subsection (a), the Secretary shall consult with the Administrator of General Services. Such information may be made available, in whole or in part, in the Federal real property database published under section 21 of the Federal Assets Sale and Transfer Act of 2016 (Public Law 114–287), as determined appropriate by the Administrator of General Services. Nothing in this paragraph shall be construed as requiring the Administrator of General Services to add additional data elements or features to such Federal real property database if such additions are impractical or would add additional costs to such database.

(c) LIMITATION.—Nothing in this section shall compel or authorize the disclosure of data or other information determined by the Secretary to be confidential, privileged, national security information, personal information, or information the disclosure of which is otherwise prohibited by law.

(d) **TIMING.**—The Secretary shall ensure that the implementation of subsection (a) occurs as soon as practicable.

(e) **EFFECT ON OTHER LAWS.**—Nothing in this section shall be construed as modifying, or exempting the Corps of Engineers from, the requirements of the Federal real property database published under section 21 of the Federal Assets Sale and Transfer Act of 2016 (Public Law 114–287).

**SEC. 1108. AQUATIC INVASIVE SPECIES RESEARCH.**

(a) **IN GENERAL.**—As part of the ongoing activities of the Engineer Research and Development Center to address the spread and impacts of aquatic invasive species, the Secretary shall undertake research on the management and eradication of aquatic invasive species, including Asian carp and zebra mussels.

(b) **LOCATIONS.**—In carrying out subsection (a), the Secretary shall work with Corps of Engineers district offices representing diverse geographical regions of the continental United States that are impacted by aquatic invasive species, such as the Atlantic, Pacific, and Gulf coasts and the Great Lakes.

(c) **REPORT.**—Not later than 180 days after the date of enactment of this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report recommending a plan to address the spread and impacts of aquatic invasive species.

**SEC. 1109. HARMFUL ALGAL BLOOM TECHNOLOGY DEMONSTRATION.**

(a) **IN GENERAL.**—The Secretary, acting through the Engineer Research and Development Center, shall implement a 5-year harmful algal bloom technology development demonstration program under the Aquatic Nuisance Research Program. To the extent practicable, the Secretary shall support research that will identify and develop improved strategies for early detection, prevention, and management techniques and procedures to reduce the occurrence and effects of harmful algal blooms in the Nation's water resources.

(b) **SCALABILITY REQUIREMENT.**—The Secretary shall ensure that technologies identified, tested, and deployed under the harmful algal bloom technology development demonstration program have the ability to scale up to meet the needs of harmful-algal-bloom-related events.

**SEC. 1110. BUBBLY CREEK, CHICAGO ECOSYSTEM RESTORATION.**

The Secretary shall enter into a memorandum of understanding with the Administrator of the Environmental Protection Agency to facilitate ecosystem restoration activities at the South Fork of the South Branch of the Chicago River (commonly known as Bubbly Creek).

**SEC. 1111. DREDGE PILOT PROGRAM.**

(a) **IN GENERAL.**—The Secretary is authorized to carry out a pilot program to award contracts with a duration of up to 5 years for the operation and maintenance of harbors and inland harbors referred to in section 210(a)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(a)(2)).

(b) **SCOPE.**—In carrying out the pilot program under subsection (a), the Secretary may award a contract described in such subsection, which may address one or more harbors or inland harbors

1910 (36 Stat. 633), and the Act of July 3, 1930 (46 Stat. 919), and lying upstream of a line commencing at point N627942.09, E879709.18 thence running southwesterly about 125 feet to a point N627832.03, E879649.91 is no longer authorized beginning on the date of enactment of this Act.

**SEC. 1307. DELAWARE RIVER NAVIGATION PROJECT.**

Section 1131(3) of the Water Resources Development Act of 1986 (100 Stat. 4246) is amended by striking “ten feet” and inserting “35 feet”.

**SEC. 1308. COMPREHENSIVE EVERGLADES RESTORATION PLAN, CENTRAL AND SOUTHERN FLORIDA, EVERGLADES AGRICULTURAL AREA, FLORIDA.**

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary is authorized to carry out the project for ecosystem restoration, Central and Southern Florida, Everglades Agricultural Area, Florida, in accordance with section 601 of the Water Resources Development Act of 2000 (114 Stat. 2680), as recommended in the addendum to the Central Everglades Planning Project Post Authorization Change Report, Feasibility Study and Draft Environmental Impact Statement prepared by the South Florida Water Management District and dated May 2018, with such modifications as the Secretary considers appropriate.

(b) REQUIREMENT.—

(1) IN GENERAL.—The project authorized by subsection (a) may be constructed only after the Secretary prepares a report that addresses the concerns, recommendations, and conditions identified by the Secretary in the review assessment titled “Review Assessment of South Florida Water Management District’s Central Everglades Planning Project, Section 203 Post Authorization Change Report, Integrated Feasibility Study and DRAFT Environmental Impact Statement (March 2018, Amended May 2018)” and dated May 2018.

(2) EXPEDITED COMPLETION.—The Secretary shall expedite the completion of the report under paragraph (1) and shall complete such report not later than 90 days after the date of enactment of this section.

(c) CONSULTATION.—In reviewing the report identified in subsection (a), and completing the report identified in subsection (b), the Secretary shall consult with the South Florida Water Management District on any project modifications.

(d) CONSIDERATION.—Nothing in this section shall be construed to delay the design, construction, and implementation of components and features of the project for ecosystem restoration, Central Everglades, authorized by section 1401(4) of the Water Resources Development Act of 2016 (130 Stat. 1713), that are not directly affected by the project authorized by subsection (a).

**SEC. 1309. KISSIMMEE RIVER RESTORATION, FLORIDA.**

The Secretary may credit work performed or to be performed by the non-Federal sponsor of the project for ecosystem restoration, Kissimmee River, Florida, authorized by section 101(8) of the Water Resources Development Act of 1992 (106 Stat. 4802), as an in-kind contribution under section 221(a)(4) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)(4)), in accordance with the report of the Director of Civil Works relating to the Central and Southern Florida Project, Kissimmee River Restoration Project, dated April

27, 2018, subject to the availability of appropriations for any payments due, if the Secretary determines that the work was carried out in accordance with the requirements of subchapter 4 of chapter 31, and chapter 37, of title 40, United States Code.

**SEC. 1310. LEVEE L-212, FOUR RIVER BASIN, OCKLAWAHA RIVER, FLORIDA.**

The portions of the project for flood control and other purposes, Four River Basins, Florida, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1183), consisting of levee L-212 along the Ocklawaha River, Florida, are no longer authorized beginning on the date of enactment of this Act.

**SEC. 1311. GREEN RIVER AND BARREN RIVER LOCKS AND DAMS, KENTUCKY.**

Section 1315 of the Water Resources Development Act of 2016 (130 Stat. 1698) is amended—

(1) in subsection (b)—

(A) in paragraph (3)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(ii) in the matter preceding clause (i) (as so redesignated), by striking “The Secretary” and inserting the following:

“(A) IN GENERAL.—The Secretary”; and

(iii) by adding at the end the following:

“(B) USE OF FUNDS.—If the Secretary determines that removal of Lock and Dam 5 or a portion of Lock and Dam 5 is necessary before the conveyance under subparagraph (A), the Secretary—

“(i) shall proceed with that removal; and

“(ii) to carry out that removal—

“(I) may use appropriated funds or accept and use funds contributed by entities described in that subparagraph; and

“(II) may work with entities described in that subparagraph.”; and

(B) in paragraph (5)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(ii) in the matter preceding clause (i) (as so redesignated), by striking “The Secretary” and inserting the following:

“(A) IN GENERAL.—The Secretary”; and

(iii) by adding at the end the following:

“(B) USE OF FUNDS.—If the Secretary determines that removal of Lock and Dam 1 or a portion of Lock and Dam 1 is necessary before the conveyance under subparagraph (A), the Secretary—

“(i) shall proceed with that removal; and

“(ii) to carry out that removal—

“(I) may use appropriated funds or accept and use funds contributed by entities described in that subparagraph; and

“(II) may work with entities described in that subparagraph.”; and