

119<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 8259

To ensure meaningful consultation and cooperation between Federal and local entities in the operation of Federal water projects in the Reclamation States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2026

Mr. BENTZ (for himself and Mr. FULCHER) introduced the following bill;  
which was referred to the Committee on Natural Resources

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## A BILL

To ensure meaningful consultation and cooperation between Federal and local entities in the operation of Federal water projects in the Reclamation States, 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 “Federal Water Projects  
5 Consultation Improvement Act of 2026”.

1 **SEC. 2. CONSULTATION WITH AFFECTED CONTRACTORS OF**  
2 **FEDERAL WATER PROJECTS.**

3 (a) RESOLUTION OF WATER RESOURCE ISSUES.—In  
4 furtherance of the policy established by section 2(c)(2) of  
5 the Endangered Species Act of 1973 (16 U.S.C.  
6 1531(c)(2)), in a consultation or reconsultation under sec-  
7 tion 7 of that Act (16 U.S.C. 1536) with respect to the  
8 operation of a Federal water project, the head of each ac-  
9 tion agency, the Secretary, or the head of an action agency  
10 and the Secretary working in coordination, as applicable,  
11 shall ensure that each covered entity that so requests  
12 shall—

13 (1) have routine and continuing opportunities—

14 (A) to discuss and submit information to  
15 the action agency for consideration during the  
16 development of any biological assessment; and

17 (B) engage with the action agency with re-  
18 spect to the preparation of the biological assess-  
19 ment;

20 (2) if the head of an action agency suggests or  
21 considers an agency action that would not result in  
22 full delivery of water pursuant to a contract for con-  
23 tractors of the Federal water project, be informed  
24 and engaged as to—

25 (A) the legal authority invoked by the ac-  
26 tion agency to support that such agency action

1 would be within the scope of the authority of  
2 the action agency;

3 (B) how each component of the agency ac-  
4 tion would contribute to avoiding jeopardizing  
5 the continued existence of any threatened spe-  
6 cies or endangered species and destroying or  
7 adversely modifying critical habitat and the sci-  
8 entific data or information that supports each  
9 component of the agency action under consider-  
10 ation; and

11 (C) why any other agency actions that  
12 would have fewer adverse water supply and eco-  
13 nomic impacts are inadequate to avoid jeopard-  
14 izing the continued existence of any threatened  
15 species or endangered species and destroying or  
16 adversely modifying critical habitat;

17 (3) be informed by the head of the action agen-  
18 cy of the schedule for preparation of a biological as-  
19 sessment;

20 (4) be informed by the Secretary of the sched-  
21 ule for preparation of the biological opinion at such  
22 time as the biological assessment is submitted to the  
23 Services by the action agency;

24 (5) receive a copy of draft biological opinion  
25 and have the opportunity to review each such draft

1 biological opinion and provide comment to the Sec-  
2 retary through engagement with the action agency,  
3 which comments shall be afforded due consideration  
4 during the consultation;

5 (6) have the opportunity to confer and engage  
6 with the head of the action agency and applicant, if  
7 any, with respect to reasonable and prudent alter-  
8 natives prior to the identification of any reasonable  
9 and prudent alternative for consideration;

10 (7) if the Secretary suggests a reasonable and  
11 prudent alternative, be informed and engaged with  
12 respect to—

13 (A) how each component of the reasonable  
14 and prudent alternative will contribute to avoid-  
15 ing jeopardizing the continued existence of any  
16 threatened species or endangered species and  
17 destroying or adversely modifying critical habi-  
18 tat and the scientific data or information that  
19 supports each component of the reasonable and  
20 prudent alternative; and

21 (B) why any other proposed reasonable  
22 and prudent alternatives that would have fewer  
23 adverse water supply and economic impacts are  
24 inadequate to avoid jeopardizing the continued  
25 existence of any threatened species or endan-

1           gered species and destroying or adversely modi-  
2           fying critical habitat; and

3           (8) if the Secretary proposes a reasonable and  
4           prudent measure to avoid or minimize take of  
5           threatened species or endangered species, or terms  
6           and conditions to implement such reasonable and  
7           prudent measure, be informed and engaged with re-  
8           spect to—

9                   (A) how the reasonable and prudent meas-  
10                  ure or terms and conditions relate to avoiding  
11                  or minimizing such take; and

12                   (B) whether the reasonable and prudent  
13                  measure or terms and conditions conform to  
14                  any applicable limitations.

15 **SEC. 3. DEFINITIONS.**

16       In this Act:

17           (1) ACTION AGENCY.—The term “action agen-  
18           cy” means the Federal agency responsible for au-  
19           thorizing, funding, or carrying out an action subject  
20           to consultation under section 7 of the Endangered  
21           Species Act of 1973 (16 U.S.C. 1536).

22           (2) AGENCY ACTION.—The term “agency ac-  
23           tion” has the meaning given the term in section  
24           7(a)(2) of the Endangered Species Act of 1973 (16  
25           U.S.C. 1536(a)(2)).

1           (3) BIOLOGICAL ASSESSMENT.—The term “bio-  
2           logical assessment” means a biological assessment  
3           conducted under section 7(c) of the Endangered  
4           Species Act of 1973 (16 U.S.C. 1536(c)).

5           (4) BIOLOGICAL OPINION.—The term “biologi-  
6           cal opinion” means a written statement provided by  
7           the Secretary under section 7(b)(3) of the Endan-  
8           gered Species Act of 1973 (16 U.S.C. 1536(b)(3)).

9           (5) CONTRACTOR.—The term “contractor”  
10          means any public agency, quasi-municipal corpora-  
11          tion, irrigation district, water users association, or  
12          similar entity that has entered into a water service,  
13          repayment, or other contract with the United States  
14          related to storage, diversion, or delivery of water  
15          from a Federal water project.

16          (6) COVERED ENTITY.—The term “covered en-  
17          tity” means a public or quasi-municipal agency or  
18          water users association that has a contract with the  
19          Bureau of Reclamation for municipal or agricultural  
20          water supply from a Federal water project.

21          (7) CRITICAL HABITAT.—The term “critical  
22          habitat” has the meaning given the term in section  
23          3 of the Endangered Species Act of 1973 (16 U.S.C.  
24          1532).

1           (8) ENDANGERED SPECIES.—The term “endan-  
2           gered species” has the meaning given the term in  
3           section 3 of the Endangered Species Act of 1973 (16  
4           U.S.C. 1532).

5           (9) ENGAGE.—The term “engage” means to  
6           conduct direct written and in-person communications  
7           recognizing the unique interest of the contractor and  
8           promoting maximum candor and cooperation.

9           (10) FEDERAL WATER PROJECT.—The term  
10          “Federal water project” means any project or facil-  
11          ity—

12                 (A) in a Reclamation State described in  
13                 subparagraphs (B) through (R) of section  
14                 128(a)(7) of the EXPLORE Act (16 U.S.C.  
15                 8426(a)(7)); and

16                 (B) operated or managed by a Federal  
17                 agency for the authorized purpose of municipal  
18                 or agricultural water supply.

19          (11) REASONABLE AND PRUDENT ALTER-  
20          NATIVE.—The term “reasonable and prudent alter-  
21          native” means a reasonable and prudent alternative  
22          suggested by the Secretary under section 7(b)(3) of  
23          the Endangered Species Act of 1973 (16 U.S.C.  
24          1536(b)(3)).

1           (12) REASONABLE AND PRUDENT MEASURE.—  
2           The term “reasonable and prudent measure” means  
3           a reasonable and prudent measure specified by the  
4           Secretary under section 7(b)(4) of the Endangered  
5           Species Act of 1973 (16 U.S.C. 1536(b)(4)).

6           (13) SECRETARY.—The term “Secretary” has  
7           the meaning given the term in section 3 of the En-  
8           dangered Species Act of 1973 (16 U.S.C. 1532).

9           (14) TAKE.—The term “take” has the meaning  
10          given the term in section 3 of the Endangered Spe-  
11          cies Act of 1973 (16 U.S.C. 1532).

12          (15) THREATENED SPECIES.—The term  
13          “threatened species” has the meaning given the  
14          term in section 3 of the Endangered Species Act of  
15          1973 (16 U.S.C. 1532).

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