

118TH CONGRESS  
1ST SESSION

# H. R. 4018

To amend the Healthy Forests Restoration Act of 2003 to reauthorize and improve the Water Source Protection Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2023

Mr. COSTA (for himself and Mr. VALADAO) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Healthy Forests Restoration Act of 2003 to reauthorize and improve the Water Source Protection Program, 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 “Headwaters Protection  
5 Act of 2023”.

1 **SEC. 2. WATER SOURCE PROTECTION PROGRAM REAU-**  
2 **THORIZATION AND IMPROVEMENTS.**

3 Section 303 of the Healthy Forests Restoration Act  
4 of 2003 (16 U.S.C. 6542) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1)—

7 (i) by redesignating subparagraphs  
8 (G) and (H) as subparagraphs (K) and  
9 (L), respectively; and

10 (ii) by inserting after subparagraph  
11 (F) the following:

12 “(G) an acequia association;

13 “(H) a local, regional, or other public enti-  
14 ty that manages stormwater or wastewater re-  
15 sources or other related water infrastructure;

16 “(I) a land-grant mercedes;

17 “(J) a local, regional, or other private enti-  
18 ty that has water delivery authority;”;

19 (B) by redesignating paragraphs (1)  
20 through (7) as paragraphs (2) through (8), re-  
21 spectively; and

22 (C) by inserting before paragraph (2) (as  
23 so redesignated) the following:

24 “(1) **ADJACENT LAND.**—The term ‘adjacent  
25 land’ means non-Federal land, including State, local,  
26 and private land, that is adjacent to, and within the

1 same watershed as, National Forest System land on  
2 which a watershed protection and restoration project  
3 is carried out under this section.”;

4 (2) in subsection (b)—

5 (A) by inserting “and adjacent land” be-  
6 fore the period at the end;

7 (B) by striking “The Secretary shall” and  
8 inserting the following:

9 “(1) IN GENERAL.—The Secretary shall”; and

10 (C) by adding at the end the following:

11 “(2) REQUIREMENTS.—A watershed protection  
12 and restoration project under the Program shall—

13 “(A) protect and restore watershed health,  
14 water supply and quality, a municipal or agri-  
15 cultural water supply system, and water-related  
16 infrastructure;

17 “(B) protect and restore forest health from  
18 insect infestation and disease or wildfire; or

19 “(C) advance any combination of the pur-  
20 poses described in subparagraphs (A) and (B).

21 “(3) PRIORITIES.—In selecting watershed pro-  
22 tection and restoration projects under the Program,  
23 the Secretary shall give priority to projects that  
24 would—

1           “(A) provide risk management benefits as-  
2           sociated with drought, wildfire, post-wildfire  
3           conditions, extreme weather, or flooding, includ-  
4           ing minimizing risks to watershed health, water  
5           supply and quality, and water-related infra-  
6           structure, including municipal and agricultural  
7           water supply systems;

8           “(B) be designed to support aquatic res-  
9           toration and conservation efforts that com-  
10          plement existing or planned forest restoration  
11          or wildfire risk reduction efforts;

12          “(C) include—

13               “(i) partners with demonstrated ca-  
14               pacity and success in designing and imple-  
15               menting ecological restoration projects,  
16               wildfire risk reduction efforts, or post-wild-  
17               fire restoration projects; or

18               “(ii) in the case of disadvantaged  
19               communities that have historically lacked  
20               access to adequate resources, partners with  
21               a strong likelihood of success in designing  
22               and implementing a watershed protection  
23               and restoration project; and

24          “(D)(i) include a contribution of funds or  
25          in-kind support from non-Federal partners in

1 an amount greater than the amount required  
2 under subsection (g)(2);

3 “(ii) provide quantifiable benefits to water  
4 supply or quality and include the use of nature-  
5 based solutions, such as restoring wetland and  
6 riparian ecosystems;

7 “(iii) be designed to improve—

8 “(I) resilience to climate change; or

9 “(II) watershed and fire resilience; or

10 “(iv) include such other characteristics as  
11 the Secretary determines to be appropriate.

12 “(4) CONDITIONS FOR PROJECTS ON ADJACENT  
13 LAND.—

14 “(A) IN GENERAL.—No project or activity  
15 may be carried out under this section on adja-  
16 cent land unless the owner of the adjacent land  
17 provides express support for, and is a willing  
18 and engaged partner in, carrying out that  
19 project or activity.

20 “(B) EFFECT.—Nothing in this section  
21 authorizes any change in—

22 “(i) the ownership of adjacent land on  
23 which a project or activity is carried out  
24 under this section; or

1           “(ii) the management of adjacent land  
2           on which a project or activity is carried out  
3           under this section, except during the car-  
4           rying out of that project or activity.”;

5           (3) in subsection (c)—

6           (A) in paragraph (1)—

7           (i) by inserting “and adjacent land”  
8           after “watersheds”;

9           (ii) by striking the period at the end  
10          and inserting “; or”;

11          (iii) by striking “with end water  
12          users” and inserting the following: “with—  
13          “(A) end water users”; and

14          (iv) by adding at the end the fol-  
15          lowing:

16          “(B) end waters users to protect and re-  
17          store the condition of National Forest water-  
18          sheds and adjacent land that provide water for  
19          the benefit of another end water user.”;

20          (B) in paragraph (2)—

21          (i) in subparagraph (C), by striking  
22          “or” after the semicolon;

23          (ii) by redesignating subparagraph  
24          (D) as subparagraph (E); and

1 (iii) by inserting after subparagraph  
2 (C) the following:

3 “(D) a good neighbor agreement entered  
4 into under section 8206 of the Agricultural Act  
5 of 2014 (16 U.S.C. 2113a); or”; and

6 (C) by adding at the end the following:

7 “(3) LEADERSHIP BY NON-FEDERAL PART-  
8 NERS.—The Secretary shall facilitate a leadership  
9 role for non-Federal partners in carrying out assess-  
10 ments, planning, project design, and project imple-  
11 mentation under this section.”;

12 (4) in subsection (d)—

13 (A) in paragraph (2), by striking “shall be  
14 conducted” and inserting the following: “shall  
15 be—

16 “(A) designed to protect and restore eco-  
17 logical integrity (as defined in section 219.19 of  
18 title 36, Code of Federal Regulations (as in ef-  
19 fect on the date of enactment of this subpara-  
20 graph));

21 “(B) based on the best available scientific  
22 information; and

23 “(C) conducted”; and

24 (B) by adding at the end the following:

1           “(4) REDUCING REDUNDANCY.—An existing  
2 watershed plan, such as a watershed protection and  
3 restoration action plan developed under section  
4 304(a)(3), or other applicable watershed planning  
5 documents may be used as the basis for a water  
6 source management plan under this subsection.”;

7           (5) in subsection (e)(1), by striking “purpose  
8 of—” in the matter preceding subparagraph (A) and  
9 all that follows through the period at the end of sub-  
10 paragraph (C) and inserting “purpose of advancing  
11 any of the purposes described in subsection (b)(2).”;  
12 and

13           (6) in subsection (g)—

14                 (A) in paragraph (2)—

15                         (i) by striking “at least equal to” and  
16 inserting “not less than 20 percent of”;

17                         (ii) by striking “The Secretary” and  
18 inserting the following:

19                                 “(A) IN GENERAL.—Subject to subpara-  
20 graph (B), the Secretary”; and

21                                 (iii) by adding at the end the fol-  
22 lowing:

23                                 “(B) WAIVER.—The Secretary may waive  
24 the requirement under subparagraph (A) in the  
25 discretion of the Secretary.”; and



1 (B) in paragraph (4)—

2 (i) in subparagraph (B), by striking  
3 “\$10,000,000 for each of fiscal years 2019  
4 through 2023” and inserting “\$30,000,000  
5 for each of fiscal years 2024 through  
6 2033”; and

7 (ii) by adding at the end the fol-  
8 lowing:

9 “(D) SET-ASIDE FOR PARTNER PARTICIPA-  
10 TION IN PLANNING AND CAPACITY.—Of the  
11 amounts made available under subparagraph  
12 (B) to carry out this section for each fiscal  
13 year, the Secretary shall use not less than 10  
14 percent for non-Federal partner technical as-  
15 sistance participation and capacity-building ef-  
16 forts in developing or implementing a water  
17 source management plan under subsection  
18 (d).”.

19 **SEC. 3. WATERSHED CONDITION FRAMEWORK IMPROVE-**  
20 **MENTS.**

21 Section 304 of the Healthy Forests Restoration Act  
22 of 2003 (16 U.S.C. 6543) is amended—

23 (1) in subsection (a)—

24 (A) in paragraph (5), by striking “and” at  
25 the end;

1 (B) in paragraph (6), by striking the pe-  
2 riod at the end and inserting “; and”; and

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

4 “(7) that ensures that management activities  
5 and authorizations do not result in long-term deg-  
6 radation of watershed health or lower the classifica-  
7 tion under paragraph (1) of any watershed in a Na-  
8 tional Forest.”; and

9 (2) by adding at the end the following:

10 “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
11 is authorized to be appropriated to carry out this section  
12 \$30,000,000 for each of fiscal years 2024 through 2028.”.

13 **SEC. 4. EFFECT.**

14 Nothing in this Act or an amendment made by this  
15 Act shall be construed—

16 (1) to supersede or in any manner affect or  
17 conflict with State water law, Federal water law,  
18 interstate compacts, or treaty obligations; or

19 (2) to authorize any acquisition of land by the  
20 Federal Government or any exertion of Federal con-  
21 trol over non-Federal land.

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