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FISH AND GAME CODE - FGC

DIVISION 3. FISH AND GAME GENERALLY [2000 - 2954] (*Division 3 enacted by Stats. 1957, Ch. 456.*)

CHAPTER 13. Salton Sea Restoration Act [2930 - 2954] (*Chapter 13 added by Stats. 2003, Ch. 611, Sec. 1.*)

ARTICLE 1. General Provisions [2930 - 2933] (*Article 1 heading added by Stats. 2010, Ch. 303, Sec. 1.*)

2930. (a) This chapter shall be known, and may be cited, as the Salton Sea Restoration Act.

(b) The state's comprehensive management plan for the Salton Sea, established pursuant to the Governor's directive of May 2015, shall be known, and may be cited, as the John J. Benoit Salton Sea Restoration Plan.

(Amended by Stats. 2017, Ch. 859, Sec. 2. (SB 615) Effective January 1, 2018.)

2931. (a) It is the intent of the Legislature that the State of California undertake the restoration of the Salton Sea ecosystem and the permanent protection of the wildlife dependent on that ecosystem.

(b) This restoration shall be based on the preferred alternative developed as a result of the restoration study and alternative selection process described in Section 2081.7 and using the funds made available in accordance with that section to be deposited in the Salton Sea Restoration Fund and other funds made available by the Legislature and the federal government.

(c) The preferred alternative shall provide the maximum feasible attainment of the following objectives:

(1) Restoration of long-term stable aquatic and shoreline habitat for the historic levels and diversity of fish and wildlife that depend on the Salton Sea.

(2) Elimination of air quality impacts from the restoration projects.

(3) Protection of water quality.

(d) For the purpose of the restoration plan, the Salton Sea ecosystem shall include, but is not limited to, the Salton Sea, the agricultural lands surrounding the Salton Sea, and the tributaries and drains within the Imperial and Coachella Valleys that deliver water to the Salton Sea.

(Amended by Stats. 2004, Ch. 614, Sec. 3. Effective January 1, 2005.)

2931.5. (a) The construction of facilities to separate fresh water from highly saline water for the purposes of implementing restoration activities pursuant to this chapter shall not be subject to review, approval, inspection, or any fees associated with implementing Division 3 (commencing with Section 6000) of the Water Code.

(b) No barrier in the Salton Sea within or below the minus 220 foot contour based on the North American Vertical Datum of 1988 shall be considered a dam.

(Added by Stats. 2017, Ch. 859, Sec. 3. (SB 615) Effective January 1, 2018.)

2932. There is hereby established the Salton Sea Restoration Fund which shall be administered by the director. Money deposited in the fund shall be expended, upon appropriation by the Legislature, for the following purposes:

(a) Environmental and engineering studies related to the restoration of the Salton Sea and the protection of fish and wildlife dependent on the sea.

(b) Implementation of conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea, including adaptive management measurements pursuant to Section 2081.7. These conservation measures shall be limited to the Salton Sea and lower Colorado River ecosystems, including the Colorado River Delta.

(c) Implementation of the preferred Salton Sea restoration alternative.

(d) Administrative, technical, and public outreach costs related to the development and selection of the preferred Salton Sea restoration alternative.

(Added by Stats. 2003, Ch. 611, Sec. 1. Effective January 1, 2004.)

2932.2. Of the funds appropriated pursuant to Section 79565 of the Water Code, not less than eight million five hundred thousand dollars (\$8,500,000) shall be made available for transfer or direct expenditure for acquisition, grants, or other activities that directly restore the Salton Sea and its transboundary watersheds, consistent with Section 2932.

(Added by Stats. 2005, Ch. 81, Sec. 1. Appropriation reduced by the Governor. Effective July 19, 2005. Note: This text reflects the reduction, from \$12,000,000 to \$8,500,000, prescribed in the Governor's item-veto message.)

2932.3. Any moneys made available by paragraph (3) of subdivision (b) of Section 75050 of the Public Resources Code and deposited in the Salton Sea Restoration Fund shall be expended, upon appropriation by the Legislature in the annual Budget Act, for a restoration project at the Salton Sea that is consistent with subdivision (c) of Section 2931. The activities and expenditures authorized by this section shall be limited to funding those activities identified in the Resources Agency report entitled "Salton Sea Ecosystem Restoration Program Preferred Alternative Report and Funding Plan," and dated May 2007, for completion in the first five years of implementation identified in the report as "Period I." The activities specified for completion in Period I include, but are not limited to, a demonstration project, early start habitat, and additional biological, inflow, sediment quality,

water quality, and air quality investigations. For purposes of carrying out these activities and expending the funds made available, the Resources Agency shall act as the lead agency and work cooperatively with designated staff from the Department of Water Resources, the State Air Resources Board, the State Water Resources Control Board, and the department. The Resources Agency shall remain the lead agency for implementation, in partnership with one or more of its departments, unless and until legislation is enacted on or after January 1, 2009, establishing a new governance structure for restoration of the Salton Sea. This section is not legislative approval or denial of the preferred alternative identified in the Secretary of the Resources Agency's recommendations contained in the "Salton Sea Ecosystem Restoration Program Preferred Alternative Report and Funding Plan," dated May 2007 and submitted to the Legislature.

(Added by Stats. 2008, Ch. 374, Sec. 2. Effective January 1, 2009.)

2932.5. Moneys deposited in the fund created pursuant to Section 2932 shall not be expended for mitigation except for mitigation undertaken by the State of California.

(Added by Stats. 2004, Ch. 614, Sec. 4. Effective January 1, 2005.)

2933. The Department of Water Resources may contract with water suppliers to purchase and sell water made available pursuant to Section 1745.02 of the Water Code to achieve the goals of this chapter.

(Added by Stats. 2003, Ch. 611, Sec. 1. Effective January 1, 2004.)



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CHAPTER 13. Salton Sea Restoration Act [2930 - 2954] (*Chapter 13 added by Stats. 2003, Ch. 611, Sec. 1.*)

ARTICLE 2. Salton Sea Restoration [2940 - 2945] (*Article 2 added by Stats. 2013, Ch. 402, Sec. 1.*)

2940. The Legislature finds and declares all of the following:

- (a) The Salton Sea is California's largest inland water body with beneficial uses that include fisheries and wildlife habitat and preservation of endangered species, and is a repository for agricultural drainage.
- (b) The Salton Sea ecosystem is a critical link on the international Pacific Flyway and supports over 400 species of birds.
- (c) The Salton Sea is threatened by increasing salinity and reduced inflows. Mitigation water inflows ordered by the State Water Resources Control Board in 2002 will expire at the end of 2017. Combined, these changes increasingly threaten the unparalleled wildlife resources at the sea, as well as air quality in the region.
- (d) In cooperation with local governments, nonprofit organizations, private businesses, and the public, the State of California can help protect wildlife habitats and endangered species, improve water and air quality, and enhance recreational opportunities in the region.
- (e) The State of California and the United States Department of the Interior committed through a memorandum of understanding signed on August 31, 2016, to protect the ecological values of the Salton Sea and to prevent dust emissions from at least 25,000 acres of lakebed exposed by reduced agricultural inflows resulting from the implementation of the Quantification Settlement Agreement.
- (f) In restoring the Salton Sea, it is the intent of the Legislature to do all of the following:
 - (1) Protect and provide long-term conservation of fish and wildlife that are dependent on the Salton Sea ecosystem.
 - (2) Restore the long-term stable aquatic and shoreline habitat for fish and wildlife that depend on the Salton Sea.
 - (3) Mitigate air quality impacts from restoration projects using the best available technology or best available control measures, as determined by the South Coast Air Quality Management District and the Imperial County Air Pollution Control District.
 - (4) Protect water quality.
 - (5) Maintain the Salton Sea as a vital link along the Pacific Flyway.
 - (6) Preserve local tribal heritage and cultural values associated with the Salton Sea.
 - (7) Minimize noxious odors and other water and air quality problems.
 - (8) Coordinate with local, state, and federal agencies that are responsible for air quality, endangered species, and other environmental mitigation implementation requirements of the Quantification Settlement Agreement.
 - (9) Enhance economic development opportunities that will provide sustainable financial improvements benefiting the local environment and the economic quality of life for communities around the Salton Sea.

(Amended by Stats. 2017, Ch. 859, Sec. 4. (SB 615) Effective January 1, 2018.)

2941. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this article.

- (a) "Agency" means the Natural Resources Agency.
- (b) "Habitat mosaics" means two or more proximate habitat types, such as saltwater shoreline abutting riverine deltas and irrigated farmland.
- (c) "Quantification Settlement Agreement" has the same meaning as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002.
- (d) "Salton Sea Authority" or "authority" means the joint powers authority comprised of the County of Imperial, the County of Riverside, the Imperial Irrigation District, the Coachella Valley Water District, and the Torres Martinez Desert Cahuilla Indian Tribe.
- (e) "Secretary" means the Secretary of the Natural Resources Agency.
- (f) "Vector management" means services that eliminate or reduce the risk of illness caused by any organism transporting a pathogen.

(Added by Stats. 2013, Ch. 402, Sec. 1. (AB 71) Effective January 1, 2014.)

2942. (a) (1) The secretary, in consultation and coordination with the authority, shall lead the Salton Sea restoration efforts that shall include all of the following:

- (A) Early start habitat demonstration projects.
- (B) Biological investigations relating to the restoration of the Salton Sea.

(C) Investigations of water quality, sedimentation, and inflows relating to the restoration of the Salton Sea.

(D) Air quality investigations, in consultation and coordination with local and regional air quality agencies, relating to the restoration of the Salton Sea.

(E) Geotechnical investigations relating to the restoration of the Salton Sea.

(F) Financial assistance grant programs to support restoration activities of local stakeholders.

(2) Nothing in this article shall alter any state responsibility under the Quantification Settlement Agreement or the state's authority to carry out any responsibility under the Quantification Settlement Agreement.

(3) (A) To the extent that funding is appropriated to the department for Salton Sea restoration activities, the Department of Water Resources, in coordination and under agreement with the department, may undertake restoration efforts identified in this subdivision.

(B) The department and the Department of Water Resources shall do all of the following for the Salton Sea Species Conservation Habitat Project:

(i) Immediately make available relevant information relating to the factors that influence the cost and size of the alternatives discussed in the environmental impact report or environmental impact statement for the species habitat conservation program.

(ii) Release all available detail on a final project design immediately, or upon final determination of a least environmentally damaging preferred alternative by the United States Army Corps of Engineers. Details of a final project design shall include location, configuration, size, and cost.

(iii) Immediately make available project evaluation protocols that include the following principles of adaptive management:

(I) Goals and objectives of the project.

(II) The project design and an operations plan.

(III) A monitoring plan that will include metrics that identify benefits to the species.

(IV) A performance evaluation based on species population identified through monitoring.

(V) A decisionmaking framework to evaluate project performance and guide operations and management changes.

(b) (1) The authority may lead a feasibility study, in coordination and under contract with the secretary, to do the following:

(A) Investigate access and utility agreements that may contribute to the future funding of restoration activities at the Salton Sea.

(B) Analyze all feasible funding sources for restoration program components and activities.

(C) Analyze economic development opportunities, including, but not limited to, renewable energy, biofuels, mineral development, and algae production for the purposes of identifying new revenue sources for the Salton Sea restoration efforts.

(D) Identify state procurement and royalty sharing opportunities.

(E) Review existing long-term plans for restoration of the Salton Sea and recommend to the secretary changes to existing restoration plans. In any review pursuant to this subparagraph, the authority shall consider the impacts of the restoration plan on air quality, fish and wildlife habitat, water quality, and the technical and financial feasibility of the restoration plan and shall consider the impacts on other agencies responsible for air quality, endangered species, and other environmental mitigation requirements for implementation of the Quantification Settlement Agreement.

(2) No evaluation, study, review, or other activity pursuant to this article shall delay the planning and implementation of ongoing and planned restoration or mitigation projects, including, but not limited to, the Salton Sea Species Conservation Habitat Project or other measures pursuant to existing state and federal programs and agreements.

(c) Notwithstanding any other law, the Department of Water Resources is authorized to use design-build procurement authority for projects constructed at the Salton Sea in accordance with Article 6 (commencing with Section 10187) of Chapter 1 of Part 2 of Division 2 of the Public Contract Code.

(Amended by Stats. 2016, Ch. 340, Sec. 7. (SB 839) Effective September 13, 2016.)

2943. For the purposes of considering local, publicly derived input concerning habitat objectives and actions, types and levels of public access, and integration of air quality management and habitat restoration, the secretary shall seek input from the authority with regard to the following components of restoration of the Salton Sea:

(a) Design opportunities and constraints, including the integration of the habitat, public access, and air quality management objectives.

(b) Public access and recreational components.

(c) Opportunities for economic development.

(d) Habitat mosaics and location.

(e) Vector management and predator control.

(f) Feasible financial resources to fund all recommended restoration program components.

(Added by Stats. 2013, Ch. 402, Sec. 1. (AB 71) Effective January 1, 2014.)

2945. (a) Nothing in this article interferes with or prevents the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(b) Nothing in this article affects requirements imposed under any other provision of law.

(Added by Stats. 2013, Ch. 402, Sec. 1. (AB 71) Effective January 1, 2014.)





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CHAPTER 13. Salton Sea Restoration Act [2930 - 2954] (*Chapter 13 added by Stats. 2003, Ch. 611, Sec. 1.*)

ARTICLE 3. Lithium [2950 - 2954] (*Article 3 added by Stats. 2022, Ch. 63, Sec. 1.*)

2950. For purposes of this article, the following definitions apply:

- (a) "Agency" means the Natural Resources Agency.
 - (b) "Disadvantaged community" has the same meaning as defined in Section 80002 of the Public Resources Code.
 - (c) "Nonprofit corporation" means a nonprofit corporation qualified to do business in California and exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
 - (d) "Salton Sea Management Plan" means the Salton Sea Management Program Phase I: 10-Year Plan published in August 2018, or revised thereafter.
 - (e) "Secretary" means the Secretary of the Natural Resources Agency.
 - (f) "Severely disadvantaged community" has the same meaning as defined in Section 80002 of the Public Resources Code.
- (Amended by Stats. 2022, Ch. 251, Sec. 2. (AB 209) Effective September 6, 2022.)

2951. (a) There is hereby created the Salton Sea Lithium Fund within the State Treasury to be administered by the Natural Resources Agency.

(b) Pursuant to Section 47100 of the Revenue and Taxation Code, moneys generated by the lithium extraction excise tax imposed pursuant to Section 47010 of the Revenue and Taxation Code, and any other moneys as directed by the Legislature, are deposited into the Salton Sea Lithium Fund.

(c) Notwithstanding Section 13340 of the Government Code, the Salton Sea Lithium Fund is hereby continuously appropriated without regard to fiscal years to the agency for purposes of this article.

(d) The agency shall allocate the moneys in the Salton Sea Lithium Fund for the following purposes, except as specified in subdivision (f):

(1) Operations and maintenance of restoration projects, or other public works projects, that are in existence on January 1, 2023, or are developed by the state pursuant to the Salton Sea Management Plan or an applicable State Water Resources Control Board order, including Orders WRO 2002-0013 and WR 2017-0134 and orders issued on or after January 1, 2023.

(2) Restoration projects required to meet the state's obligations as identified in any state plan or order related to the management of the Salton Sea, including the Salton Sea Management Plan or an applicable State Water Resources Control Board order, including Orders WRO 2002-0013 and WR 2017-0134 and orders issued on or after January 1, 2023.

(3) Grants for community engagement, public amenity, capital improvement, or community-benefit projects, including projects to help build capacity for meaningful public participation and outreach, at or around the Salton Sea and those communities impacted by the Salton Sea's restoration and development, as found by the secretary to be necessary and consistent with the state management objectives in the Salton Sea Management Plan. Entities eligible for these grants include, but are not limited to, tribal governments, nonprofit corporations, and local governments that serve disadvantaged communities or severely disadvantaged communities, as found by the secretary to be necessary and consistent with the state management objectives in the Salton Sea Management Plan.

(e) When awarding a grant pursuant to paragraph (3) of subdivision (d) to a nonprofit corporation, the agency shall give preference to a nonprofit corporation that meets all of the following criteria:

(1) The nonprofit corporation is in good standing by having complied with all state and federal requirements applicable to nonprofit corporations and having not been subject to any form of sanction, suspension, or disciplinary censure.

(2) The nonprofit corporation has a demonstrated presence in the Salton Sea region and experience working across different sectors, including, but not limited to, community stakeholders, local and state agencies, academia, independent contractors, and researchers, and the nonprofit corporation's staff implementing the grant will be located in or near disadvantaged communities located near the Salton Sea.

(3) The nonprofit corporation possesses experience relating to environmental justice initiatives, health intervention programs, direct assistance services, and civic education and engagement with community stakeholders across disadvantaged communities in the Salton Sea region.

(f) Notwithstanding subdivision (d), the agency shall not allocate moneys pursuant to this article for purposes of funding an otherwise legally required mitigation project by a third party under any other existing agreement.

(g) (1) When allocating moneys pursuant to this article, the agency shall prioritize allocations immediately necessary for operations and maintenance, but may allocate those moneys for any of the purposes described in subdivision (d) based on expected revenue.

(2) Each fiscal year, the agency shall allocate a portion of the revenues deposited into the Salton Sea Lithium Fund for the purposes described in paragraph (3) of subdivision (d).

(3) The agency may maintain a prudent reserve in the Salton Sea Lithium Fund.

(Amended by Stats. 2022, Ch. 251, Sec. 3. (AB 209) Effective September 6, 2022.)

2952. (a) Before allocating moneys pursuant to this article, the agency shall develop and adopt project solicitation and evaluation guidelines.

(b) The guidelines may include monitoring and reporting requirements, a limit on the dollar amount of grant awards, and other requirements, including eligibility requirements.

(c) The guidelines shall encourage, where feasible, inclusion of the following project components:

(1) Efficient use of water supplies and other natural resources.

(2) Protection and preservation of habitat.

(3) Mitigation of dust or other human health hazards.

(4) Protection of tribal cultural resources.

(5) Operation and maintenance of built infrastructure.

(6) Access and inclusion of underserved or underrepresented communities in public processes.

(d) Before adopting the guidelines, the agency shall consult with tribes and hold two public meetings to consider tribal input and public comments.

(e) Before holding a public meeting related to the guidelines, the agency shall publish a draft of the guidelines on its internet website.

(f) All public meetings related to the guidelines shall be conducted in the vicinity of the Salton Sea.

(g) The secretary shall cause to be posted, in an electronic form, the adopted guidelines on the agency's internet website.

(h) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development and adoption of the guidelines.

(Added by Stats. 2022, Ch. 63, Sec. 1. (SB 125) Effective June 30, 2022.)

2953. For purposes of implementing this article, the agency may enter into agreements with other agencies, including the Department of Water Resources.

(Added by Stats. 2022, Ch. 63, Sec. 1. (SB 125) Effective June 30, 2022.)

2954. On or before June 30 of each fiscal year, the agency shall report on its internet website the projected operating and maintenance costs of state-developed or -managed public works or restoration projects at the Salton Sea for the following fiscal year that will be funded through the Salton Sea Lithium Fund.

(Amended by Stats. 2022, Ch. 251, Sec. 4. (AB 209) Effective September 6, 2022.)