

Updated July 2, 2020

Reclamation Water Storage Projects: Section 4007 of the Water Infrastructure Improvements for the Nation Act

Section 4007 of the Water Infrastructure Improvements for the Nation Act (WIIN Act; P.L. 114-322) created a new authority for the Bureau of Reclamation (Reclamation, part of the Department of the Interior) to build water storage projects in the western United States. From FY2017 to FY2020, Congress appropriated \$469 million for these projects, and Reclamation has allocated a portion of these funds to progress on a number of water storage projects in its service area.

Background

In the early and mid-20th century, Reclamation built hundreds of large dams and water diversion structures throughout the West. Traditionally, Reclamation's role in water project development has been limited to geographically specific projects authorized in federal statute. Typically the federal government, through discretionary appropriations to Reclamation, has provided full, up-front funding for the construction costs of these facilities. Project beneficiaries, which are irrigators, municipal water suppliers, and hydropower contractors, repay their portion of project construction or development costs over a 40-50 year term. The amount recouped by the federal government typically depends on several factors, including the portion of project benefits that are nonreimbursable because they are considered federal in nature (e.g., fish and wildlife enhancements, flood control, recreation), as well as adjustments for irrigators' ability to pay. Additionally, irrigation beneficiaries are not charged interest on their repayment obligations. As a result, the total amount repaid to the federal government for these projects is typically less than the full cost of construction.

Section 4007 of the WIIN Act

Section 4007 of the WIIN Act authorized a new structure for Reclamation to support water storage infrastructure projects, including both surface water and groundwater storage projects. The act authorized \$335 million in discretionary appropriations for new and improved federal and nonfederal water storage projects. Any appropriated funds are to be made available for qualifying water storage projects approved for construction prior to January 1, 2021.

Funding for water storage project construction under Section 4007 is available for two primary project types. "Federally-owned storage projects," defined to be any project to which the United States holds title and which was authorized to be constructed pursuant to Reclamation's laws and regulations, may be no more than 50% federally funded. "State-led" storage projects, defined to be groundwater or surface water storage projects constructed, operated, and maintained by states or political subdivisions that are found to have a federal benefit in accordance with

reclamation laws, may be no more than 25% federally funded.

For federal participation in the construction of a project under either designation, the Secretary of the Interior must find that the project is feasible and provides federal benefits proportionate to the federal government's cost share (e.g., a project providing 50% federal support appears to require that 50% of its benefits be federal in nature, whereas a project providing 25% federal support must have 25% federal benefits). Project sponsors also must agree to pay their portion of project costs up front (i.e., at the time of construction). After the Secretary's recommended projects have been transmitted to Congress, the project must be designated by name in an enacted appropriations act.

Differences from Traditional Reclamation Water Storage Project Construction

Instead of full, up-front federal financing to be repaid over time (i.e., the "traditional" model for Reclamation projects), Section 4007 essentially authorizes partial, up-front federal funding, with the corresponding nonfederal share of funding also required up-front. Proponents of these changes argue that they stretch scarce federal funds and provide increased incentive for local involvement in storage projects. At the same time, in requiring a large initial cost share from nonfederal users, the new authority may not be attractive for sponsors who cannot afford large, up-front payments.

Section 4007 also significantly altered the role of congressional authorizing and appropriations committees in project development. It allows Reclamation to move forward with construction *without* direct legislative approval from congressional authorizing committees. By requiring designation of Administration recommendations by name in appropriations acts, Section 4007 effectively shifted project approval (i.e., authorization) decisions to the appropriations process.

Recent Funding, Project Allocations

Congress appropriated \$469 million for Section 4007 projects as of mid-2020, including funding in enacted Energy and Water Development appropriations acts for FY2017 (\$67 million), FY2018 (\$134 million), FY2019 (\$134 million), and FY2020 (\$134 million). For its part, Reclamation has issued three rounds of funding allocations for Section 4007 that, once approved by Congress, release portions of this funding to individual projects. Reclamation's recommendations in January 2018 and February 2019 have been approved by Congress, and the latest recommendations (from June 2020) are awaiting congressional action as of the date of this report (**Table 1**).

Table 1. Approved and Proposed Allocations for Section 4007 Water Storage Projects

(\$ in millions)

Project (State)	Jan 2018 (approved)	Feb 2019 (approved)	June 2020 (proposed)
Shasta Dam and Reservoir Enlargement Project (CA)	\$20.0	.*	\$15.0
Sites Reservoir Storage Project (CA)	\$4.35	\$4.0	\$4.0
Upper San Joaquin River Basin Storage Investigation (CA)	\$1.5	-	-
Friant-Kern Canal Subsidence Challenges Project (CA)	\$2.2	\$2.35	\$71.0
Boise River Basin Feasibility Study (ID)	\$0.75	\$1.75	\$2.88
Yakima River Basin Water Enhancement Project—Cle Elum Pool Raise (WA)	\$2.0	\$4.0	\$1.0
Upper Yakima System Storage Feasibility Study (WA)	\$2.5	-	-
Del Puerto Water District Feasibility Study (CA)	-	\$1.5	\$1.5
Los Vaqueros Reservoir Phase 2 Expansion (CA)	-	\$2.16	\$7.85
Delta Mendota Canal Subsidence Correction (CA)	-	-	\$3.0
San Luis Low Point Improvement Project (CA)	-	-	\$1.7
Sacramento Regional Water Bank (CA)	-	-	\$0.87
Total	\$33.30	\$15.76	\$108.79

Sources: Bureau of Reclamation Reports to House and Senate Committees on Appropriations, January 2018, February 2019, and June 2020; and enacted appropriations legislation for FY2018 (P.L. 115-141) and FY2020 (P.L. 116-94).

Notes: *In 2019, Reclamation proposed \$57 million for the Shasta Dam and Reservoir Enlargement Project, but Congress did not agree to this allocation.

In the first two allocations (finalized in FY2018 and FY2020 appropriations, respectively), Congress approved Reclamation recommendations for nine projects in three states. In June 2020, Reclamation recommended an additional \$108.8 million for 10 projects. If this funding were approved, approximately \$160 million of the \$469 million will have been allocated to individual projects.

The project which has been recommended for the most funding as of 2020, the Shasta Dam and Reservoir Enlargement Project, is controversial and is opposed by the State of California. California state law prohibits any expansion of storage at Lake Shasta that would inundate state-protected portions of the McCloud River, a tributary of the reservoir. The Shasta project would raise Shasta Dam and expand the capacity of the largest storage reservoir in California—Lake Shasta—a linchpin for the federal Central Valley Project (CVP). The project would create an estimated additional 634,000 acre-feet of storage and 51,000 acre-feet of yield (i.e., additional water supplies) for CVP contractors. To date, this project is the only project that has been recommended for funding by the Administration (in 2019) but not approved by Congress in enacted appropriations language.

Legislation and Issues for Congress

In the future, the Administration is likely to continue proposing funding allocations for Section 4007 projects for congressional approval. These decisions may have

implications for water storage priorities throughout the West. Demand for additional funds under this authority is likely to continue, thus Congress may also be asked to consider additional appropriations, as well as increases to and extension of Section 4007. S. 1932 would extend the authority for these projects through FY2025 and authorize \$670 million in additional funding. H.R. 2 includes an authorization for \$750 million in additional funding for these projects through FY2026, as well as alterations to eligibility requirements and the approval process for Section 4007 projects.

Supporters have advocated for continuing and increasing funding for Section 4007 projects. They argue that new construction would increase water availability in the West and help to address the effects of climate change on availability of water resources, thus it warrants federal prioritization. They also note that more funding is required to complete the projects that initially received these funds. Opponents of extending the Section 4007 authority believe there should be little or no federal role in projects that otherwise would be the responsibility of nonfederal entities. Some would also prefer that Congress focus on promoting alternatives seen as more environmentally friendly, such as water conservation and water reuse.

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IF10626

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