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

In Section 4007 of the Water Infrastructure Improvements for the Nation Act (WIIN Act; P.L. 114-322), Congress created a new authority for the Bureau of Reclamation (Reclamation, part of the Department of the Interior) to support water storage project construction in the western United States. To date, Congress has appropriated \$469 million for these projects. Reclamation has allocated a portion of these funds on a number of water storage projects, while project-specific allocations for a large portion of funds would need further congressional action.

Background

Traditionally, Reclamation's role in water project development has been limited to geographically specific projects authorized in federal statute. Congress, 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 "reimbursable" 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 classified as "nonreimbursable" under federal law 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. 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

Congress enacted a new authority for Reclamation to support water storage projects under Section 4007 of the WIIN Act. The act authorized \$335 million in discretionary appropriations for new and improved federal and nonfederal water storage projects. The authority expires on January 1, 2021, except for projects found feasible prior to that date (which may continue to receive funding).

Funding for water storage projects under Section 4007 is available for two primary project types. *Federally owned storage projects* (surface or groundwater storage projects to which the United States holds title and which were authorized to be constructed pursuant to reclamation law and regulations) may be no more than 50% federally funded. *State-led storage projects* (surface water or groundwater storage projects constructed, operated, and maintained by states or political subdivisions) 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 requires that at least 50% of its benefits be federal in nature). Project sponsors also must agree to pay their portion of project costs up front. Finally, appropriations under this section become available only after the Secretary of the Interior transmits recommended projects and funding levels to Congress and Congress designates those projects by name in an enacted appropriations act.

Differences from Traditional Reclamation Water Storage Project Model

Instead of full, up-front federal financing, with reimbursable funding to be repaid by beneficiaries over time (i.e., the "traditional" model for Reclamation projects), Section 4007 has been interpreted to authorize partial, up-front federal funding (i.e., funding for both reimbursable and nonreimbursable costs), 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, by requiring a large up-front cost share from nonfederal users, the new authority may not be attractive for sponsors who cannot afford such large 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 (i.e., only the appropriators must weigh in). By requiring designation of Administration recommendations by name in appropriations acts, Section 4007 effectively shifted project approval decisions (formerly the domain of the authorization committees) to the appropriations process.

Recent Funding, Project Allocations

Congress has appropriated \$469 million for Section 4007 projects, 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 transmitted four rounds of project recommendations for these funds that, if approved by Congress, release funding to individual projects. Congress approved most of Reclamation's January 2018 and February 2019 list of recommendations, and the latest recommendations (from June 2020 and December 2020) are awaiting congressional action in FY2021. **Table 1** shows approved and proposed funding to date for individual projects.

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

(\$s in millions)

Project (State)	Jan. 2018 List (approved)	Feb. 2019 List (approved)	June 2020 List (proposed)	Dec. 2020 List (proposed)
Shasta Dam and Reservoir Enlargement Project (CA)	\$20.00	— ^a	\$15.00	\$100.00
Sites Reservoir Storage Project (CA)	\$4.35	\$4.00	\$4.00	\$9.70
Upper San Joaquin River Basin Storage Investigation (CA)	\$1.50	—	—	—
Friant-Kern Canal Subsidence Challenges Project (CA)	\$2.20	\$2.35	\$71.00	\$135.00
Boise River Basin Feasibility Study (ID)	\$0.75	\$1.75	\$2.88	\$10.00
Yakima River Basin Water Enhancement Project— Cle Elum Pool Raise (WA)	\$2.00	\$4.00	\$1.00	\$2.00
Upper Yakima System Storage Feasibility Study (WA)	\$2.50	—	—	—
Del Puerto Water District Feasibility Study (CA)	—	\$1.50	\$1.50	—
Los Vaqueros Reservoir Phase 2 Expansion (CA)	—	\$2.16	\$7.85	\$4.10
Delta Mendota Canal Subsidence Correction (CA)	—	—	\$3.00	—
San Luis Low Point Improvement Project (CA)	—	—	\$1.70	—
Sacramento Regional Water Bank (CA)	—	—	\$0.87	—
Total	\$33.30	\$15.76	\$108.80	\$260.80

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).

- a. 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 a total of nine projects in three states. In June 2020, Reclamation recommended an additional \$108.8 million for 10 projects, and in December 2020 Reclamation proposed another \$260.8 million for 6 projects. If Congress approves the recommendations in their entirety, approximately \$419 million of the \$469 million in appropriations will have been allocated at the project level.

The project proposed for the most funding, the Shasta Dam and Reservoir Enlargement Project, is controversial. California state law prohibits participation in 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 Lake Shasta, a linchpin for the federal Central Valley Project (for more information, see CRS Report R45342, *Central Valley Project: Issues and Legislation*). It 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 is the only Section 4007 project that the Administration recommended for funding (in the 2019 list) that was not approved by Congress in enacted appropriations language.

Legislation and Issues for Congress

Future Administrations are 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, and thus some groups have requested 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, as enacted by the House, includes an authorization of \$750 million for these projects through FY2026, as well as alterations to Section 4007 eligibility and approval processes.

Supporters advocate for continued funding for Section 4007 projects. They argue that these projects would increase water availability in the West and help address the effects of climate change on water availability. Opponents of this authority argue there should be little or no federal role in projects that largely benefit nonfederal entities.

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