



Updated October 15, 2021

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

Congress created a new authority for the Bureau of Reclamation (Reclamation, part of the Department of the Interior) to build new water storage projects in Section 4007 of the Water Infrastructure Improvements for the Nation Act (WIIN Act; P.L. 114-322). The authority provides federal support for the construction of new and augmented surface water storage projects in the 17 arid *reclamation states*. As of October 2021, Congress had appropriated \$603 million for these projects, and Reclamation had allocated (and Congress had approved) \$511 million to 13 projects in 3 states. Allocation of remaining appropriations is subject to further congressional action.

Background

Traditionally, Reclamation's role in water project development had been limited to geographically specific projects authorized in federal statutes (federal law that applies to reclamation projects generally is referred to as *reclamation law*). Congress provided full, up-front funding for the construction costs of these facilities through discretionary appropriations to Reclamation. Project beneficiaries (i.e., irrigators, municipal water suppliers, and hydropower contractors) would then repay their portion of "reimbursable" project construction or development costs over a 40-50 year term. The amount of the up-front investment recouped by the federal government typically depends on several factors, including the portion of project benefits that are classified as fully or partially nonreimbursable (e.g., fish and wildlife enhancements, flood control, recreation) and adjustments for irrigators' ability to pay.

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 a total of \$335 million in discretionary appropriations for new and improved water storage projects, and it used a different approach than under traditional reclamation law.

Funding for water storage projects under Section 4007 is available for two primary project types. *Federally owned storage projects* (surface water 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. Prior to the WIIN Act, Congress had not authorized Reclamation to fund state-led water storage projects.

Before projects can be constructed under the authority, several milestones must be met. The Secretary of the Interior must find that the project is *feasible* and provides benefits proportionate to the federal government's cost share, and project sponsors must agree to pay their portion of project costs up front. Appropriations under the Section 4007 authority are available only after the Secretary transmits a list of recommended projects and funding levels to Congress, and Congress designates those projects by name in an enacted appropriations act.

Any project that meets the WIIN Act criteria initially is eligible for funding allocations. However, Congress also stipulated that in order to move forward, the Secretary must find projects feasible by January 1, 2021, and projects must initiate construction by December 17, 2021.

Differences from Traditional Reclamation Water Storage Project Model

In contrast to the traditional model of full federal financing up-front, Section 4007 authorizes partial, up front federal funding. Proponents of this change assert that it stretches scarce federal funds and provides increased incentive for local involvement in projects. At the same time, because the new authority requires a large up-front cost share from nonfederal users, it may not be a viable option for project sponsors who lack the means to finance their part of a project's costs.

Section 4007 also significantly altered the role of congressional authorizing and appropriations committees. Since recommended projects require approval only from appropriators, it allowed Reclamation to move forward with construction *without* legislative approval from congressional authorizing committees. By requiring designation of Administration recommendations by name in appropriations acts, Section 4007 essentially shifted project approval decisions from the authorization committees to the appropriations committees.

Recent Funding, Project Allocations

From FY2017 to FY2021, Congress appropriated a total of \$603 million for Section 4007 projects (compared with the \$335 million authorized in the WIIN Act), including funding in enacted Energy and Water Development appropriations acts for FY2017 (\$67 million), FY2018 (\$134 million), FY2019 (\$134 million), FY2020 (\$134 million), and FY2021 (\$134 million). During the same period, Reclamation has transmitted five lists of project recommendations for these funds that, after congressional approval, released funding to individual projects. **Table 1** shows approved funding to date for individual projects.

Table 1. Congressionally Approved Allocations for Section 4007 Water Storage Projects
(\$s in millions)

Project (State)	Jan. 2018 List	Feb. 2019 List	June 2020 List	Dec. 2020 List	July 2021 List
Shasta Dam and Reservoir Enlargement Project (CA)	\$20.00	— ^a	— ^a	— ^a	—
Sites Reservoir Storage Project (CA)	\$4.35	\$6.00	\$4.00	\$9.70	\$80.00
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	—	\$15.00
Los Vaqueros Reservoir Phase 2 Expansion (CA)	—	\$2.16	\$7.85	\$4.10	\$50.00
Delta Mendota Canal Subsidence Correction (CA)	—	—	\$3.00	—	—
San Luis Low Point Improvement Project (CA)	—	—	\$1.70	—	—
Sacramento Regional Water Bank (CA)	—	—	\$0.87	—	—
B.F. Sisk Dam Raise and Reservoir Expansion (CA)	—	—	—	—	\$60.00
Total	\$33.30	\$17.76	\$93.80	\$160.80	\$205.00

Sources: Bureau of Reclamation Reports to Congress in January 2018, February 2019, June 2020, December 2020, and July 2021; enacted appropriations legislation for FY2018 (P.L. 115-141), FY2020 (P.L. 116-94), FY2021 (P.L. 116-260), and FY2022 (P.L. 117-43).

Note: Projects in bold were recommended for construction prior to the WIIN Act deadline of January 1, 2021.

a. Reclamation proposed a total of \$172 million in project allocations for 2019 and 2020. Congress did not agree to these allocations.

In FY2022 continuing appropriations (P.L. 117-43), Congress approved the \$205 million in proposed allocations for four projects from the July 2023 Reclamation list. To date, Congress has approved all of Reclamation's project recommendations, with the exception of \$172 million in funding proposed for the Shasta Dam and Reservoir Enlargement project in 2019 and 2020.

As of October 2021, Congress had approved Reclamation's allocations for 13 projects: 10 in California, 2 in Washington, and 1 in Idaho. Altogether, eight projects (shown in bold in **Table 1**) were found feasible prior to the WIIN Act deadline of January 1, 2021, and thus are eligible for ongoing funding.

Issues for Congress

The Biden Administration may continue proposing project-level allocations for remaining Section 4007 appropriations. Similar to prior lists, these allocations would require congressional approval in appropriations legislation.

Significantly more future appropriations would be required to complete ongoing WIIN Act projects under Section 4007.

Apart from funding, some support extension and/or other changes to Section 4007. In the past, proposed changes included waivers from the congressional approval requirement for smaller projects and a return to authorizing committee involvement in approval of some projects. Supporters of the current Section 4007 authority contend the authority will provide crucial flexibility in the face of expected future water supply uncertainty in the West. Opponents prefer that federal support for more environmentally friendly water supply options take precedent over surface water storage.

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IF10626

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