

Bureau of Reclamation Provisions in the Infrastructure Investment and Jobs Act (P.L. 117-58)

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In the Infrastructure Investment and Jobs Act (IIJA, also referred to as the Bipartisan Infrastructure Law; P.L. 117-58), Congress provided a major influx of funding for the Bureau of Reclamation (Reclamation), a water resources management agency within the Department of the Interior. Congress provided \$8.3 billion to Reclamation in the IIJA and made the funds available in equal installments for each of the five fiscal years from FY2022 to FY2026 (i.e., \$1.66 billion per year). The resources directed to Reclamation under the act were almost five times Reclamation's FY2021 enacted appropriation and more than eight times Reclamation's previously largest supplemental funding appropriation. IIJA included funding for the following areas (listed in the order in which they appear in the legislation):

- \$1.05 billion for water storage projects, including projects authorized under Section 4007 of P.L. 114-322
- \$100 million for small water storage project grants
- \$3.2 billion for aging infrastructure projects
- \$1.0 billion for rural water projects
- \$1.0 billion for water recycling and reuse projects
- \$250 million for water desalination projects
- \$500 million for safety of dams projects
- \$400 million for WaterSMART water and energy efficiency and other grant projects
- \$250 million for a new program for aquatic ecosystem restoration projects
- \$100 million for the Cooperative Watershed Management Program
- \$100 million for a new program for watershed health improvement projects
- \$300 million for Colorado River Drought Contingency Plan projects
- \$50 million for Colorado River endangered species recovery projects

In addition to the \$8.3 billion Congress provided directly to Reclamation in the IIJA, the act provided \$2.5 billion to the Secretary of the Interior for a newly created Indian Water Rights Settlement Completion Fund.

Congress included limited guidance for Reclamation funding in the IIJA. The act provided several individual Reclamation programs with more funding than the programs had received—in cumulative terms—since their initial authorizations, and directed significant funding toward entirely new Reclamation authorities. Congress also enacted new authorities for Reclamation that did not receive funding within the act or that clarified existing law.

Reclamation published its plans for its annual spending under the IIJA in FY2022, FY2023, FY2024, and FY2025. These plans lay out funding allocations for the portion of Reclamation's IIJA funding available in each of those years (i.e., \$1.66 billion). Reclamation also has released additional program- and project-specific annual allocations and addendums since enactment of the IIJA. Some Reclamation programs have solicited applications or grant proposals for IIJA-funded activities (depending on the activity), while other areas have allocated IIJA funding through internal processes, resulting in project- or program-specific funding allocations.

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The Bureau of Reclamation (Reclamation), an agency within the Department of the Interior (DOI), manages and develops water resources in the 17 conterminous states west of the Mississippi River, often referred to as the *Reclamation states*.¹ Reclamation operates more than 180 individual *Reclamation projects* for multiple purposes. The primary purpose of most Reclamation projects is agricultural irrigation, but the agency also operates projects for hydropower, flood control, recreation, municipal and industrial water supplies, and fish and wildlife benefits. Water users are responsible for repaying their share of project costs. One of Reclamation's recent challenges has been maintaining the portfolio of existing Reclamation projects as they age.

In recent years, Congress has directed Reclamation to participate in the construction of new and augmented surface water storage projects. Congress also has increased funding to Reclamation for various types of nonfederal water project development, including water reuse and recycling projects, grants for water and energy conservation efforts, and funding for rural water projects and water infrastructure associated with congressionally authorized Indian water rights settlements, among other activities.

In the Infrastructure Investment and Jobs Act (IIJA, also referred to as the Bipartisan Infrastructure Law; P.L. 117-58), Congress provided \$8.3 billion to Reclamation. The resources directed to Reclamation in the IIJA were almost five times Reclamation's FY2021 enacted discretionary appropriation (the year before the first IIJA appropriation) and more than eight times Reclamation's previously largest supplemental funding appropriation. For several Reclamation programs, the IIJA provided more funds than the programs had received cumulatively since their original authorizations. In other cases, Congress directed significant funding toward entirely new Reclamation authorities. Congress also enacted several new Reclamation authorities that did not receive funding within the act or that clarified existing law.

This report discusses Reclamation funding that Congress enacted in the IIJA. It provides background on the programs and authorities funded, discusses congressional guidance in the legislation, and provides information on funding allocations and spending plans issued in accordance with the act. The report also includes potential oversight and implementation issues for congressional consideration.

IIJA Summary

The IIJA provided significant new funding authorizations to Reclamation: \$8.3 billion in Division D, Title IX, of the act. Congress appropriated this funding in Division J, Title III, of the IIJA and made the funds available in equal installments for each of the five fiscal years from FY2022 to FY2026 (i.e., \$1.66 billion per year). Congress provided this funding to Reclamation in the following areas (listed in the order they appear in the legislation):

- \$1.05 billion (13% of Reclamation's funding in the act) for water storage projects, including projects authorized under Section 4007 of the Water Infrastructure Improvements for the Nation Act (WIIN Act; P.L. 114-322), as well as other authorities
- \$100 million (1%) for a new grant program for small water storage projects
- \$3.2 billion (39%) for aging infrastructure projects (including several subcategories of projects)

¹ The 17 Reclamation states are Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

- \$1 billion (12%) for authorized rural water projects
- \$1 billion (12%) for authorized water recycling and reuse projects (i.e., the Title XVI program), including a new “large-scale” water reuse and recycling category
- \$250 million (3%) for authorized water desalination projects
- \$500 million (6%) for authorized dam safety projects
- \$400 million (5%) for nonfederal water and energy efficiency and other grant projects under Reclamation’s WaterSMART Program
- \$250 million (3%) for a new program for ecosystem restoration projects
- \$100 million (1%) for the Cooperative Watershed Management Program
- \$100 million (1%) for a new program for watershed health projects
- \$300 million (4%) for projects associated with the Upper and Lower Colorado River Basin drought contingency plans
- \$50 million (< 1%) for projects associated with Colorado River endangered fish species.

Congress provided additional guidance for several of the aforementioned categories, including sub-allocations or set-asides for specific types of projects. It also directed prioritization and cost sharing for other authorities receiving funding under the IIJA. Most of the authorities funded under the act were enacted and have been funded previously by Reclamation. However, some of the authorities that Congress funded in the IIJA were newly created. The IIJA also included a section clarifying nonfederal partners’ ability to use certain coronavirus relief funds for water resources project cost sharing.

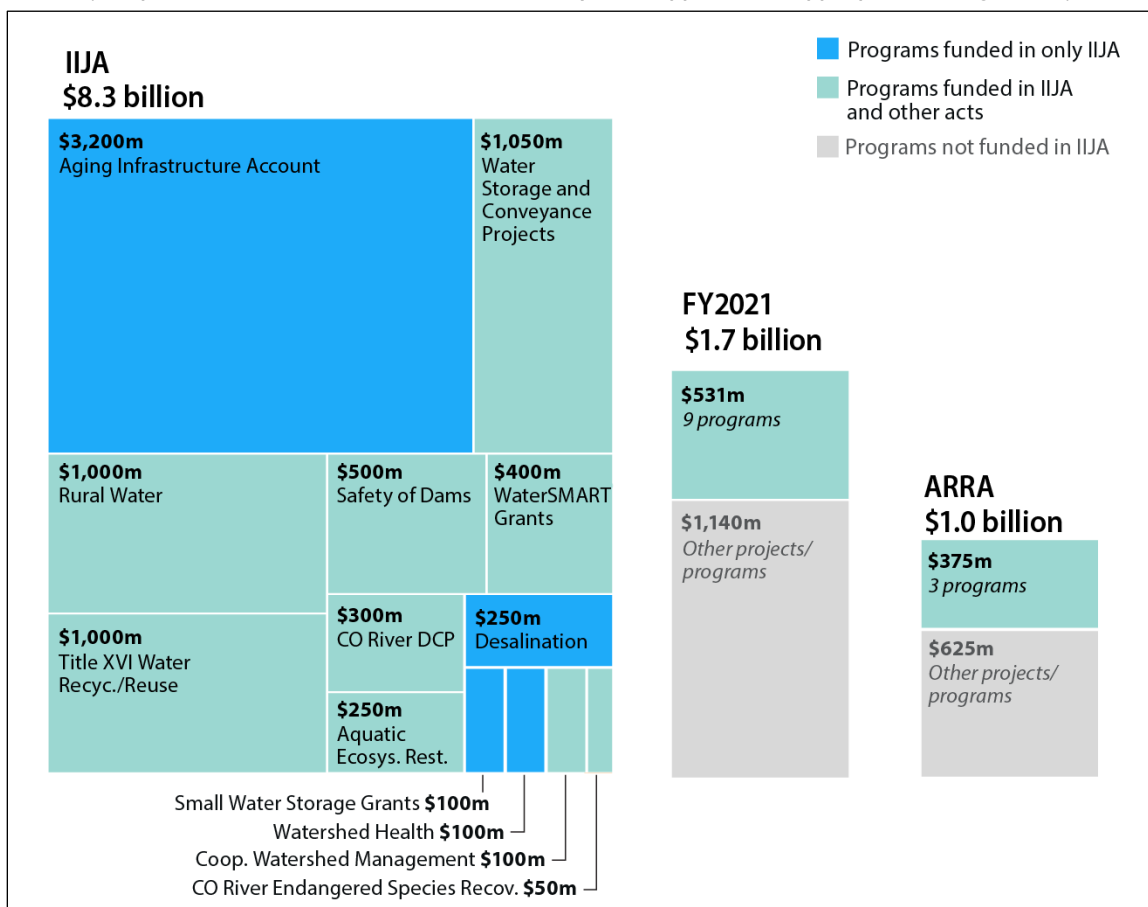
In addition to the \$8.3 billion provided directly to Reclamation, the IIJA provided \$2.5 billion to the Secretary of the Interior for previously approved Indian water rights settlements in a newly created Indian Water Rights Settlement Completion Fund.

The influx of Reclamation funding enacted under the IIJA is significant relative to the bureau’s historic budgetary resources (**Figure 1**). The following sections discuss major areas of Reclamation funding in the IIJA, as well as other relevant provisions.² Each section includes background on the Reclamation program funded in the IIJA and a description of the act’s relevant provisions.

² This report does not include information about other supplemental funding proposals for the Bureau of Reclamation, such as those proposed in the Build Back Better Act (H.R. 5376).

Figure 1. Infrastructure Investment and Jobs Act (IIJA): Bureau of Reclamation Funding Compared with Other Appropriations Legislation

(comparison with recent enacted discretionary and supplemental appropriations legislation)



Source: Congressional Research Service (CRS), based on Bureau of Reclamation funding data and P.L. 117-58, P.L. 116-260, and P.L. 111-5.

Notes: Does not reflect suballocations within all programs. ARRA = American Recovery and Reinvestment Act of 2009 (P.L. 111-5); CO River = Colorado River; DCP = drought contingency plans; IIJA = Infrastructure Investment and Jobs Act (P.L. 117-58); m = million.

Spending Plans and Allocation of Funds

In the past, Reclamation has allocated funding appropriated by Congress in *spend plans*; it has continued this practice for IIJA funding. Reclamation has released spend plans for IIJA for FY2022, FY2023, FY2024, and FY2025. These spend plans allocate annual funding in terms of categories and sections where Reclamation received IIJA funding.³ Each spend plan allocates the available \$1.66 billion in funding for the upcoming fiscal year and updates prior year allocation levels. Generally speaking, these allocations have not been in equal shares compared with their overall allocation in the IIJA (**Table 1**). For instance, some of the more established, ongoing Reclamation programs and projects (e.g., Title XVI water recycling/reuse and Rural Water Projects) received FY2022 spend plan allocations in excess of their overall IIJA Reclamation funding allocation (in terms of percentage of the total allocation), whereas other new authorities received no funding in the FY2022 spend plan (e.g., Aquatic Ecosystem Restoration and Protection). However, these programs have received more funding in subsequent years, after program guidance and related funding criteria were established. In addition to funding for items outlined in the IIJA, Reclamation's spend plans also set aside funding for administrative activities (capped at \$49.8 million, or 3% of Initial Spend Plan funding) and a flexible reserve to be used on "emerging requirements" (\$281 million, or 17% of Initial Spend Plan funding).

Reclamation also has released addendums that allocate these funds at project and program levels and has in some cases provided specific information about how various projects and programs are to be implemented.

³ Spend plans and related documents are available at Bureau of Reclamation, "Bipartisan Infrastructure Law Investments," <https://www.usbr.gov/bil/index.html>.

Table I. Bureau of Reclamation Infrastructure Investment and Jobs Act (IIJA): Funding and Annual Allocations

(funding in millions of dollars)

Program/Project	Total IIJA Appropriations	FY2022 Allocation	FY2023 Allocation	FY2024 Allocation	FY2025 Allocation	Funding Distribution
Water Storage and Conveyance Projects	\$1,050.0	\$255.1	\$106.9	\$242.0	\$207.3	Internal Formulation
Small Surface Water and Ground Water Storage Project Grants	\$100.0	—	\$20.0	\$25.0	\$26.0	Funding Opportunities
Aging Infrastructure (general)	\$3,000.0	\$240.3	\$649.0	\$680.0	\$670.4	Application Periods
Aging Infrastructure: Critical Facilities	\$100.0	\$3.5	\$85.0	\$3.5	\$2.5	Application Periods
Aging Infrastructure: Carey Act Dams	\$100.0	—	\$5.0	\$30.0	\$31.0	Application Periods
Rural Water Projects	\$1,000.0	\$450.0	\$248.0	\$108.0	\$82.0	Internal Formulation
Title XVI Water Recycling and Reuse	\$550.0	\$309.8	\$150.0	\$29.0	\$22.4	Funding Opportunities
Title XVI Water Recycling and Reuse: Large-Scale Projects	\$450.0	—	\$50.0	\$130.0	\$128.3	Funding Opportunities
Desalination Projects	\$250.0	\$15.0	\$8.1	\$16.0	\$101.7	Funding Opportunities
Safety of Dams Projects	\$500.0	\$100.0	—	\$130.0	\$127.5	Internal Formulation
WaterSMART Grants	\$300.0	\$120.0	\$112.5	\$50.5	\$8.0	Funding Opportunities
WaterSMART Grants: Natural or Nature-Based Features	\$100.0	\$40.0	\$37.0	\$17.0	\$1.5	Funding Opportunities
Cooperative Watershed Management Program	\$100.0	\$18.0	\$20.0	\$20.0	\$19.5	Funding Opportunities
Aquatic Ecosystem Restoration and Protection	\$250.0	—	\$45.0	\$65.0	\$66.3	Funding Opportunities
Watershed Health Improvement	\$100.0	—	\$20.0	\$25.0	\$26.0	Funding Opportunities
Lower Colorado River Drought Contingency Plan	\$250.0	\$50.0	\$25.0	\$25.0	\$71.3	Internal Formulation
Upper Colorado River Drought Contingency Plan	\$50.0	—	\$8.7	\$29.8	\$5.0	Internal Formulation
Colorado River Endangered Species Recovery	\$50.0	\$8.5	\$20.0	\$20.0	—	Funding Opportunities
No Funding in IIJA						
Reserve for Emerging Requirements ^a	NA	—	—	\$14.3	\$14.3	NA
Administrative Activities ^a	[\$240.0]	\$49.8	\$49.8	—	\$38.6	NA
Total	\$8,300.0	\$1,660.0	\$1,660.0	\$1,660.0	\$1,660.0	

Program/Project	Total IJA Appropriations	FY2022 Allocation	FY2023 Allocation	FY2024 Allocation	FY2025 Allocation	Funding Distribution
Non-Reclamation Funding						
Indian Water Rights Settlements Settlement Completion Fund	\$2,500.0	—	\$460.0	\$207.0	—	Internal Formulation

Source: CRS, based on P.L. 117-58 and Bureau of Reclamation, “IJA/Bipartisan Infrastructure Law Annual Spend Plans for FY2022-FY2025,” <https://www.usbr.gov/bil/2022-spendplan.html>.

Notes: Reflects final allocations for FY2022-FY2024 and initial allocation for FY2025 (if available). NA = Not Applicable.

- a. The IJA did not include explicit funding for these activities. The act capped the portion of funding that may be used for administrative expenses at 3% (or no more than \$249 million total (\$49.8 million per year)).

IIJA Funding by Category

Water Storage and Conveyance Projects

Prior to 2016, Congress had not authorized significant new Reclamation water storage and conveyance projects dating to the late 1970s. In Section 4007 of the WIIN Act, Congress enacted new construction authority for Reclamation to build surface and groundwater storage and conveyance projects.⁴ Prior to the IIJA's enactment, Congress appropriated a total of approximately \$603 million under this authority between FY2016 and FY2021.

In Section 40901 of the IIJA, Congress authorized a total of \$1.05 billion for water storage projects in accordance with Section 40902 of the act.⁵ Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the act. Section 40902 delineated the circumstances under which projects are eligible for this funding and provided that most of this funding may be used for feasibility studies and construction of water storage projects, provided certain criteria are met. In Section 40902(a)(1)(A) of the IIJA, Congress provided that three kinds of feasibility studies are eligible for funding authorized under Section 40901:

1. Feasibility studies authorized by Congress by the date of enactment of the IIJA
2. Feasibility studies with funding approved under Section 4007 of the WIIN Act
3. Feasibility studies carried out under the Verde Reservoirs Sediment Mitigation Project (AZ) and the Tualatin River Basin Project (OR)⁶

Similar to the IIJA's approach for feasibility studies, Section 40902(a)(2) of the act provided that one or more criteria must be met for a project to be eligible for construction funding authorized under Section 40901. Specifically, a project is eligible for IIJA construction funding if any of the following has occurred as of the date of the IIJA's enactment:

1. An act of Congress authorized construction funding.
2. Congress approved construction funding under Section 4007 of the WIIN Act.
3. Congress approved feasibility study funding for a project, as detailed above, provided that the Secretary of the Interior must find that the project is technically and financially feasible, that sufficient nonfederal funding is available for the nonfederal cost share, and that the project is in the public interest and recommended for construction.⁷

Cost shares for construction projects under this section are to be made in accordance with project-specific authorizing legislation; the WIIN Act (for projects approved in accordance with that legislation); or, for all other projects, 50% for federally owned projects and 25% for nonfederal

⁴ For more information on this authority, see CRS In Focus IF10626, *Reclamation Water Storage Projects: Section 4007 of the Water Infrastructure Improvements for the Nation (WIIN) Act*, by Charles V. Stern.

⁵ While the total authorization was for \$1.15 billion for water storage projects, Congress stipulated that \$100 million of this funding go toward a newly established grant program for small water storage projects, as established in Section 40903 of the IIJA (P.L. 117-58). See this report's section "Small Water Storage Project Grants."

⁶ P.L. 117-58, §40902(a)(1)(A). In its Initial Spend Plan, Reclamation reported that it had approved an appraisal report for the Verde Reservoirs Sediment Mitigation Project, thus that project would be eligible for feasibility study funding. Reclamation, "Bipartisan Infrastructure Law Spend Plans," <https://www.usbr.gov/bil/2022-spendplan.html>. Hereinafter, Bureau of Reclamation, "Spend Plans."

⁷ P.L. 117-58, §40902(a)(2).

projects, as applicable.⁸ Two types of projects are explicitly noted as *ineligible* for construction funding: (1) projects for which Congress did not approve recommended funding in at least one year prior to the act and (2) projects for which state funding was rescinded prior to the enactment of IIJA. These requirements appear to exclude the Shasta Dam and Reservoir Enlargement Project and the Upper San Joaquin River Basin Storage Investigation from construction funding.

Based on the Congressional Research Service's (CRS's) preliminary review, as many as 15 projects in five states could be eligible for feasibility study funding under Section 40902 of the IIJA.⁹ Furthermore, as many as 13 projects in the same five states *could* be eligible for construction funding under Section 40902 of the IIJA. However, whether all of these projects will actually be eligible for and receive funding depends in part on the result of feasibility studies, including a recommendation for construction by the federal government.

The funding that Congress provided for water storage projects in the IIJA is almost twice as much as was appropriated for these projects from FY2016 to FY2021. Combined with prior appropriations, this funding could meet much of the outstanding federal cost-share obligations for these projects, which to date have mostly been located in the state of California. The extent to which Reclamation is successful in implementing these projects may determine whether Congress continues to appropriate funding for new Reclamation water storage construction in the future.

Allocations/Implementation

For water storage projects under Section 40902 of IIJA, Reclamation generally has focused its funding allocations to date on a few projects. The majority of funding allocated to date has gone to two projects: the Arkansas Valley Conduit in Colorado and Los Vaqueros Reservoir Expansion in California. In its FY2024 and FY2025 spend plans, Reclamation allocated additional funding of \$242 million and \$207.3 million for all projects (**Table 1**), but it had not announced project-level allocations for this funding as of the date of this report. **Table 2** provides Reclamation's IIJA water storage project allocations to date.

Table 2. Bureau of Reclamation Infrastructure Investment and Jobs Act (IIJA) Water Storage Project Allocations

(funding for eligible projects in millions of dollars)

Potentially Eligible Projects (State)	FY2022	FY2023
Arkansas Valley Conduit (CO)	\$60.0	\$100.0
B.F. Sisk Dam Raise and Reservoir Expansion (CA)	\$25.0	\$10.0
Boise River Basin Feasibility Study (ID)	—	—
Del Puerto Water District Feasibility Study (CA)	—	—
Delta Mendota Canal Subsidence Correction (CA)	—	—
Friant-Kern Canal Subsidence Challenges Project (CA)	—	—
Dry Redwater Regional Water System Feasibility Study (MT)	\$3.0	—

⁸ P.L. 117-58, §40902(b).

⁹ Some of these studies have been completed, put on hold, or are no longer pursuing study funding for other reasons.

Potentially Eligible Projects (State)	FY2022	FY2023
Los Vaqueros Reservoir Phase 2 Expansion (CA)	\$82.0	\$10.0
Sacramento Regional Water Bank (CA)	—	—
San Luis Low Point Improvement Project (CA)	—	—
Shasta Dam and Reservoir Enlargement Project (CA)	—	—
Sites Reservoir Storage Project (CA)	\$30.0	\$30.0
Upper San Joaquin River Basin Storage Investigation (CA)	—	—
Upper Yakima System Storage Feasibility Study (WA)	—	\$1.0
Verde Reservoirs Sediment Mitigation Project Feasibility Study (AZ)	\$5.0	—
Yakima River Basin Water Enhancement Project: Cle Elum Pool Raise (WA)	\$5.0	\$1.0
Total	\$210.0	\$152.0

Source: CRS, based on the Bureau of Reclamation IIJA spend plan addendums for storage projects for FY2022 and FY2023, <https://www.usbr.gov/bil/2022-spendplan.html>.

Notes: Does not reflect regular funding. FY2024 and FY2025 project allocations have not been reported as of the date of this report.

Small Water Storage Project Grants

In Section 40903 of the IIJA, Congress directed the Secretary of the Interior to establish a new competitive grant program for small water storage projects, which are allocated \$100 million of the total water storage funding authorized under Section 40901. Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the act. Eligible projects are defined as projects in Reclamation states, Hawaii, or Alaska with water storage capacity of 200-30,000 acre-feet (AF) or that convey water directly or indirectly from surface or groundwater storage. Federal costs under this section are to be no more than the lesser of 25% of the project's total costs or \$30 million.¹⁰

The IIJA grant authority for small water storage projects allows Reclamation to operate a new program that funds nonfederal water storage projects within the limits authorized by Congress. The cost shares for this authority are similar to that available to nonfederal projects initiated under the authorities of the WIIN Act (see above section, "Water Storage and Conveyance Projects"). Although these projects are hypothetically eligible to pursue WIIN Act funding, the new grant program sets aside funding for these projects to compete with one another. Similar to Reclamation's funding for nonfederal WIIN Act projects, this program continues a trend of Reclamation (and the federal government) serving as a project reviewer/funder/participant, as opposed to a project owner.

¹⁰ P.L. 117-58, §40903(c).

Allocations/Implementation

Reclamation published the first grant funding opportunity for small water storage projects on September 14, 2022; the application period closed on December 9, 2022. Projects had to have a completed feasibility study to be deemed eligible for the grant funding opportunity. Reclamation announced its first funding allocation for these projects in FY2023, allocating \$20 million to four projects in California and Utah (**Table 3**). Reclamation has allocated another \$25 million for grant awards in this category in both FY2024 and FY2025 (**Table 1**) but has yet to announce the recipients.

Table 3. Bureau of Reclamation Small Water Storage Projects: Infrastructure Investment and Jobs Act (IIJA): FY2023 Funding Allocations

(in millions of dollars)

Project Name (State)	FY2023
Imperial Irrigation District Upstream Operational Reservoir Storage Project (CA)	\$9.47
Kern Fan Groundwater Storage Project- Phase I (CA)	\$4.74
Washington County Water District Ash Creek Project—Toquer Reservoir (UT)	\$4.74
Del Puerto Water District: Orestimba Creek Groundwater Recharge and Recovery Expansion Project (CA)	\$1.04

Source: Bureau of Reclamation (Reclamation), *Addendum-WaterSMART – WEEG, Drought Contingency Plan for LC & UC, Small Storage FY2023, and Water Desal Spend Plan*, May 2, 2023, <https://www.usbr.gov/bil/docs/spendplan-2023/Reclamation-BIL-Spend-Plan-Addendum-05-02-2023.pdf>.

Notes: No funding was made available for these projects in FY2022. Although Reclamation released FY2024 and FY2025 spend plans, no water storage project allocations have been reported as of the date of this report.

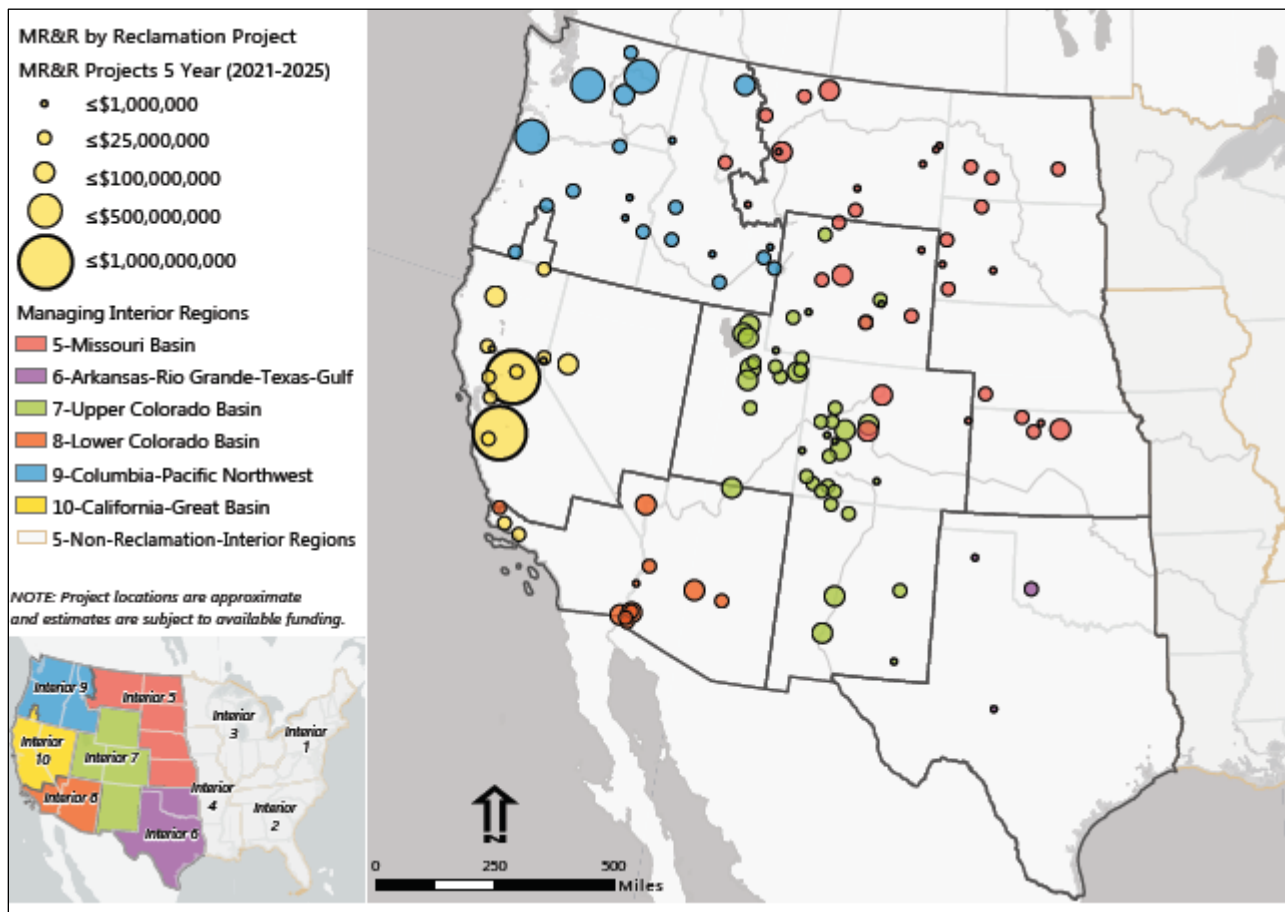
Aging Infrastructure

Aging infrastructure represents a significant challenge for Reclamation; most of the bureau's facilities are 60-100 years old. As of 2015, Reclamation estimated the total replacement value of these facilities at approximately \$99 billion.¹¹ In April 2021, Reclamation estimated needs of \$2.3 billion over the FY2021-FY2025 period for appropriated non-dam safety projects, along with additional needs for dam safety projects and projects such as power facilities, which typically are not funded with appropriations (**Figure 2**).¹² This amount is significantly more than Reclamation typically requests to meet these needs on an annualized basis.

¹¹ Bureau of Reclamation, *Infrastructure Investment Strategy*, May 2015, p. 1, https://www.usbr.gov/infrastructure/docs/Infrastructure_Investment_Strategy_Final_Report_1SEP15.pdf.

¹² Bureau of Reclamation, *Asset Management Report Pursuant to the John D. Dingell, Jr. Conservation, Management, and Recreation Act of March 12, 2019*, April 2021, <https://www.usbr.gov/infrastructure/mrr/docs/asset-management-report-to-congress.pdf>.

Figure 2. Bureau of Reclamation: Major Rehabilitation and Repair (MR&R) Needs
(five-year MR&R needs as of 2021)



Source: Bureau of Reclamation, *Asset Management Report Pursuant to the John D. Dingell, Jr. Conservation, Management, and Recreation Act of March 12, 2019*, April 2021.

Reclamation generally operates under a *beneficiary-pays* model in which Congress must appropriate funding for repairs and project sponsors must repay this funding. However, most Reclamation contractors do not own the facilities from which they benefit and therefore may have difficulty financing their share of project repairs.¹³ In the context of aging infrastructure, this situation poses a challenge for upkeep of Reclamation facilities.

To address Reclamation's aging infrastructure issues, Congress established an Aging Infrastructure Account in Section 9603 of the Omnibus Lands Act of 2009 (P.L. 111-11) and amended this authority in Section 1101, Title XI, of P.L. 116-260. The account is authorized to receive congressional appropriations for Reclamation to provide for the conduct of extraordinary operation and maintenance work at a Reclamation facility that is to be repaid by users over periods of up to 50 years, in accordance with existing project cost allocations. In turn, these repayments would be available for expenditures, without further appropriation, for future projects (i.e., a revolving fund).

¹³ To provide borrowers with financial support, some creditors require collateral in the form of the borrower's infrastructure assets. If the borrower does not possess the assets for which it is borrowing funding, it can be difficult to obtain financing.

In Section 40901 of the IIJA, Congress authorized a total of \$3.2 billion for the Aging Infrastructure Account, with \$200 million of this funding designated for specific purposes under Section 40904 of the act. Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the act. The funding is Reclamation's first such funding for this account. One hundred million dollars of this funding authorized under Section 40904(a) was set aside for Reclamation projects built prior to 1915 that suffered critical failures within the past two years; this funding was designated by Congress as nonreimbursable (i.e., a 100% federal expense, not subject to repayment).¹⁴ An additional \$100 million of the Aging Infrastructure Account funding was set aside for dam rehabilitation, replacement, and construction under Section 40904(b), which authorizes funds for dam safety efforts at specific dams that were constructed after 1905, in accordance with the Carey Act of 1894, with repair costs in excess of \$50 million.¹⁵ Whereas funding under Section 40904(a) is stipulated as nonreimbursable, no such designation was made for Section 40904(b).

Allocations/Implementation

As stated above, some portion of the aging infrastructure funding is expected to be repaid over time and is subject to the terms of a repayment contract with Reclamation (i.e., similar to traditional reclamation project funding). To be eligible for federal funding under this authority, the work must be major, nonrecurring maintenance that is intended to continue the delivery of project benefits, and it must meet a cost threshold that is greater than either \$100,000 or 10% of the operating budget for that facility. Potential applicants include transferred works operators and project beneficiaries that are responsible for a share of reimbursable costs on the relevant facility. Tribes are included as eligible applicants.

Reclamation has solicited funding requests and awarded funding for aging infrastructure projects under Section 40902, with the first funding notice (for FY2022 funds) in December 2021. Reclamation reported that demand for those initial funds exceeded the \$240 million in funding that it had available for awards in FY2022 but that a much larger percentage of project applications were funded in FY2023, when Reclamation made available \$585 million (**Table 4**). Reclamation allocated another \$680 million for these projects in each of FY2024 and FY2025, although it has yet to announce project awards for these allocations (**Table 1**). In December 2023, Reclamation reported that a total of seven contractors (six from FY2022 and one from FY2023) decided to decline the funding allocated to their projects; thus, these funds were to remain in the aging infrastructure account and be made available to other projects.¹⁶

¹⁴ Other projects funded by the Aging Infrastructure Account are subject to reimbursement by project users, in accordance with project cost allocations.

¹⁵ 43 U.S.C. §641.

¹⁶ Bureau of Reclamation, Implementation of the Bipartisan Infrastructure Law, Addendum—Rural Water, WaterSMART Environmental, Aquatic Ecosystem Restoration, December 19, 2023, <https://www.usbr.gov/bil/docs/spendplan-2024/Reclamation-BIL-Spend-Plan-Addendum-12-19-2023.pdf>.

**Table 4. Bureau of Reclamation Infrastructure Investment and Jobs Act (IIJA)
Extraordinary Maintenance Requests and Allocations**

(funding as of March 2024 in millions of dollars)

	Number of Projects Requested	Requested Funding	Number of Project Awards	Funding Awards
FY2022	136	\$1,081	46	\$240
FY2023	89	\$2,084	83	\$585
Total	225	\$3,165	129	\$825

Source: Bureau of Reclamation (Reclamation), FY2022 and FY2023 IIJA Aging Infrastructure reports, <https://www.usbr.gov/bil/2022-spendplan.html>.

Notes: Reclamation has reported that seven contractors (six in FY2022 and one in FY2023) decided not to accept funding allocations.

Rural Water

Since 1980, Congress has authorized Reclamation to undertake the design and construction, and sometimes the operations and maintenance (O&M), of specific *rural water supply projects* intended to deliver potable water supplies to rural communities in western states.¹⁷ These projects are largely located in North Dakota, South Dakota, Montana, and New Mexico and serve tribal reservations and nontribal rural communities with nonexistent, substandard, or declining water supply or water quality. Many rural water projects are large in scope, taking water from one location and moving it across long distances to tie to existing systems. Although municipal and industrial portions of most Reclamation water supply facilities require 100% repayment with interest, in various laws Congress has authorized rural water projects that receive some or all funding from the federal government on a nonreimbursable basis (i.e., a de facto grant). For example, the federal government pays up to 100% of costs for tribal rural water supply projects, including O&M. For nontribal rural water supply projects, the federal cost share for current projects ranges from 75% to 80%.¹⁸

Reclamation continues to construct rural water projects and to provide O&M assistance for some tribal components. Each rural water project authorization requires the construction cost ceilings in the authorizing law to be adjusted for inflation. In early 2020, Reclamation reported that \$1.2 billion was needed to complete the construction for its five authorized, ongoing rural water projects.¹⁹ In addition to the five ongoing projects, in the Clean Water for Rural Communities Act (Division FF, Title XI, Section 1110, of P.L. 116-260), Congress directed the Secretary of the Interior to enter into a cooperative agreement to provide assistance at a 65% federal cost share for the planning, design, and construction of the Musselshell-Judith Rural Water System.²⁰

¹⁷ For more background on these projects, see CRS Report R46308, *Bureau of Reclamation Rural Water Projects*, by Anna E. Normand.

¹⁸ Personal correspondence between CRS and Reclamation on January 9, 2020.

¹⁹ At the time of reporting the backlog, Reclamation and the Jicarilla Apache Nation were not in discussions regarding the incomplete Jicarilla Apache Rural Water System project. Personal correspondence between CRS and Reclamation on February 21, 2020.

²⁰ The Clean Water for Rural Communities Act (Section 1110 of Title XI of Division FF of P.L. 116-260) authorized appropriations at \$56.7 million subject to cost indexing for the 2014 cost estimate of the feasibility report. The act also authorized \$5.0 million for reviewing the Dry-Redwater Regional Water Authority System submitted to Reclamation (continued...)

In Section 40901 of the IIJA, Congress authorized \$1 billion for Reclamation’s rural water projects. Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the act. Congress limited eligibility for this funding to Reclamation rural water projects that were authorized in an act of Congress before July 1, 2021, in accordance with the Reclamation Rural Water Supply Act of 2006 (43 U.S.C. §§2401 et seq.).²¹

Allocations/Implementation

Reclamation has allocated IIJA funding in FY2022 through FY2024 for construction of various authorized rural water projects as outlined in spend plans and press releases (see **Table 5**). Reclamation stated that it plans to allocate \$82.0 million in FY2025. While IIJA funding was anticipated to address much of the authorized federal backlog for rural water construction projects, Congress has appropriated and Reclamation continues to request and allocate funding through the annual appropriations process for a number of projects.

Table 5. Bureau of Reclamation Rural Water Construction Funding in the Infrastructure Investment and Jobs Act (IIJA)

(millions of dollars)

Rural Water Project	FY2022 ^a	FY2023 ^b	FY2024 ^c
Garrison Diversion Unit, ND	\$51.0	\$26.3	\$27.0
Fort Peck Reservation – Dry Prairie, MT ^d	\$7.0	\$15.0	—
Rocky Boy’s / North Central Montana, MT	\$57.5	\$77.6	\$11.0
Jicarilla Apache, NM ^e	—	\$12.0	\$10.0
Lewis & Clark, SD, IA, and MN	\$75.5	\$60.0	\$7.0
Eastern New Mexico, NM	\$160.0	\$62.1	\$7.0
Musselshell-Judith, MT	\$37.0	\$25.0	\$3.0

Source: Spend plan and budget request documents at Bureau of Reclamation (Reclamation), “Bipartisan Infrastructure Law Spend Plans,” <https://www.usbr.gov/bil/2022-spendplan.html>; Reclamation, “Bureau of Reclamation Budget,” <https://www.usbr.gov/budget/>; and Reclamation, “Share Biden-Harris Administration Announces \$65 Million in Rural Water Funding from President’s Investing in America Agenda,” October 30,

on September 1, 2010, and for completing any additional work to ensure the study complied with Reclamation’s feasibility standards.

²¹ Section 40901 of Title IX of Division D and Title III of Division J of the IIJA. The Rural Water Supply Act of 2006 (Title I of P.L. 109-451) created the Rural Water Supply Program, a structured program for developing and recommending future rural water supply projects. This program was to replace the previous process of authorizing projects individually—often without the level of analysis and review (e.g., feasibility studies) required for Reclamation’s other projects. Under the Rural Water Supply Program, Congress authorized Reclamation to work with rural communities and tribes to identify municipal and industrial water needs and options to address such needs through appraisal investigations and feasibility studies. Congress would then consider feasibility studies recommended by the Administration before authorizing specific project construction in legislation. In 2015, the Central Montana Rural Water Authority submitted the *Musselshell-Judith Rural Water System Feasibility Study* to Reclamation for technical review under this program. Ultimately, Reclamation did not recommend and Congress did not authorize any projects before the authority for the program expired in 2016. However, the Clean Water for Rural Communities Act authorized federal assistance for the Musselshell-Judith Rural Water System in 2020. In addition, pursuant to Section 104 of P.L. 109-451, the Secretary of the Interior developed a comprehensive assessment of the status and plans for completing the design and construction of rural water supply projects that were individually authorized prior to enactment of the Rural Water Supply Act of 2006.

2023, <https://www.doi.gov/pressreleases/biden-harris-administration-announces-65-million-rural-water-funding-presidents>.

Notes: IIJA = Infrastructure Investment and Jobs Act (P.L. 117-58).

- a. IIJA FY2022 spend plan also included \$32.0 million of reserved funding. IIJA FY2025 spend plan adjusted the total provided to Rural Water in FY2022 from \$420.0 million to \$450.0 million.
- b. IIJA FY2024 spend plan stated that \$30.0 million of these funds were carryover from FY2022.
- c. IIJA FY2024 spend plan stated that Reclamation plans allocate \$108 million in FY2024, but only one press release announced \$65.0 million in funding to the projects as listed as of March 2024.
- d. FY2024 budget requests state that the project was anticipated to be substantially completed in FY2023.
- e. The Jicarilla Apache, NM, project was on hold until allocation of IIJA funding.

Title XVI Water Recycling/Reuse

Reclamation's Title XVI program provides assistance for nonfederal studies and construction projects to reclaim and reuse wastewater and naturally impaired surface and groundwater.²² The original Title XVI legislation, authorized under the Reclamation Projects Authorization and Adjustment Act of 1992 (P.L. 102-575), approved construction of five reclamation wastewater projects and six wastewater and groundwater recycling/reclamation studies. Congress added new projects between 1992 and 2009, resulting in the authorization of 53 individual, geographically specific Title XVI projects.²³

Amendments to the Title XVI program, enacted in December 2016 under Section 4009(c) of the WIIN Act, approved a new mechanism to authorize Title XVI projects. The WIIN Act authorized the Secretary of the Interior to accept and review nonfederal Title XVI feasibility studies to determine eligibility for future planning, design, and construction funding. To be eligible for federal funding, projects must be transmitted to Congress by the Secretary of the Interior, then recommended for funding by the Secretary, and ultimately designated by Congress to receive funding in enacted appropriations legislation.²⁴ From 2017 to 2021, this process resulted in the approval of 61 additional projects and multiple rounds of project-specific funding. Accounting for inactive and completed projects, CRS estimates that total remaining federal contributions for active Title XVI projects prior to enactment of the IIJA were in excess of \$700 million.²⁵

Title XVI project funding is awarded as grants to sponsors of nonfederal projects. Reclamation conducts separate grant solicitations for those projects authorized individually by Congress and those authorized and approved pursuant to the WIIN Act. For most Title XVI projects, the federal cost share is up to 25% of project costs, not to exceed \$20 million.²⁶

In Section 40901 of the IIJA, Congress authorized a total of \$1 billion for water recycling and reuse projects. Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the act. Of the \$1 billion for these projects, Congress designated \$550 million for Title XVI projects in general. For projects funded in the IIJA, Congress waived the WIIN Act's requirement that these projects be designated by name in enacted appropriations legislation.²⁷ Title XVI

²² The program name refers to the bill's authorization for these projects, Title XVI of P.L. 102-575.

²³ Many of these projects are complete or are no longer seeking funding.

²⁴ 43 U.S.C. §390h(g)(2).

²⁵ CRS analysis of Bureau of Reclamation data, updated in May 2021.

²⁶ 43 U.S.C. §390h-13. Although the \$20 million statutory cap for these projects was authorized to be indexed to October 1996 prices, as of enactment of the IIJA, Reclamation continued to apply a cap of \$20 million for most Title XVI projects.

²⁷ P.L. 117-58, §40901(4)(A)(ii).

projects eligible under the IIJA appear to include not only projects that Reclamation has approved but also future projects that may be approved under the WIIN Act authority.

The remaining \$450 million in funding is reserved for grants to “large-scale water recycling and reuse” projects, as authorized under Section 40905 of the IIJA. Congress defined these projects to include water recycling and reuse projects (including conveyance projects) in a Reclamation state with total costs in excess of \$500 million for each project. In contrast to traditional Title XVI projects (which are limited to the lesser of \$20 million or 25% federal cost share), projects under this section are entitled to a federal cost share of 25% of project costs with no dollar cap on federal support. Several projects approved for Title XVI support appear to meet the eligibility criteria for this funding; however, this authority is not limited to previously approved Title XVI projects.

Allocations/Implementation

Reclamation allocated \$309.8 million in IIJA funding for 24 Title XVI projects in FY2022, \$150 million for these projects in FY2023, \$29 million for these projects in FY2024, and \$22.4 million for these projects in FY2025 (**Table 1**). Based on responses to funding solicitations, Reclamation has announced project-specific allocations for 24 projects selected to receive FY2022 funds; Reclamation reported that the total funding level was an increase from initially announced allocation levels due to the “high quality” of the applications received.²⁸ Reclamation allocated no funding for large-scale projects in FY2022 but allocated \$50 million for these projects in FY2023, \$130 million for these projects in FY2024, and \$128 million for these projects in FY2025 (**Table 1**).

Desalination Projects

Reclamation and other offices within DOI have supported desalination research and development since the early 1950s. In recent decades, Reclamation has worked to advance desalination with internal research, grants on specific topics of interest, and, at Congress’s direction, construction and operations of a facility for testing brackish desalination technologies.²⁹ Section 4009(a) of the WIIN Act expanded the federal role in desalination facilities by authorizing the Secretary of the Interior to provide federal funding of up to 25% of the total cost of an eligible desalination project in a Reclamation state.³⁰ The authority includes desalination of both seawater and brackish water and applies to facilities constructed, operated, or sponsored by an entity of a state. Similar to the process for Title XVI projects, a project may apply for and receive grant funding under the WIIN Act authority only after Reclamation has recommended the project for funding and Congress has approved it by name in an enacted appropriations bill.³¹ Between 2016 and 2021, Reclamation approved 13 desalination projects for potential funding under this authority and began to recommend funding for individual projects.³²

²⁸ Bureau of Reclamation, *Implementation of the Bipartisan Infrastructure Law, Addendum-August to January 14, 2022, Initial Spend Plan*, August 31, 2022, <https://www.usbr.gov/bil/docs/spendplan-2023/Reclamation-BIL-Spend-Plan-Addendum-05-02-2023.pdf>.

²⁹ Most of these activities were formally authorized in the Water Desalination Act of 1996 (P.L. 104-298).

³⁰ §4009(a) of the WIIN Act included no per-project cap on grant funding. Reclamation previously has capped these awards at the lesser of 25% of total project costs or \$20 million.

³¹ 42 U.S.C. §10301 note.

³² For individual project eligibility and awards, see Bureau of Reclamation, “WaterSMART, Desalination,” <https://www.usbr.gov/watersmart/desalination/index.html>.

In Section 40901 of the IIJA, Congress authorized \$250 million for desalination project grants pursuant to Section 4009(a) of the WIIN Act. Congress appropriated this funding over five years (FY2022-FY2026) in Division D of the IIJA. As with the waiver it provided for WIIN Act Title XVI projects in the IIJA, Congress waived the WIIN Act requirement for desalination projects to be designated by name in enacted appropriations legislation.³³ Eligible desalination projects appear to include not only projects that Reclamation has approved but also future desalination projects approved under the WIIN Act authority.

Unlike the Title XVI funding in the IIJA, there is no carve-out of IIJA desalination funds for larger facilities that are exempt from administrative caps, and the legislation did not place a cap on per-project funding under this authority.

Allocations/Implementation

Reclamation requested \$15 million for IIJA desalination project funding in FY2022. For FY2023 funding, Reclamation allocated \$8.1 million. For FY2024, Reclamation allocated a net of \$16 million to the program (i.e., after a transfer to the Colorado River Endangered Species line, see below), and for FY2025 Reclamation allocated \$101.7 million for desalination projects (**Table 1**). Reclamation also published grant solicitations for these allocations, and in 2023 announced awards for planning and feasibility study activities associated with desalination in 2023.³⁴

Safety of Dams Projects

Reclamation manages 489 dams throughout Reclamation states.³⁵ Reclamation's Dam Safety Program provides for inspection and repairs to qualifying projects at Reclamation dams.³⁶ Reclamation conducts dam safety inspections through the Safety Evaluation of Existing Dams (SEED) program.³⁷ Reclamation carries out corrective actions, if necessary, through the Initiate Safety of Dams Corrective Action (ISCA) program. With ISCA appropriations, Reclamation funds modifications on priority structures based on an evolving identification of risks and needs.

In April 2021, Reclamation estimated the needs for dam safety projects over the FY2021-FY2025 period at \$1.4 billion.³⁸ The analysis provided further details on estimated needs over a 30-year period (FY2021-FY2050) for dam safety projects: \$2.1 billion for 12 projects. More than half of this amount would be for the B.F. Sisk Dam modification project, estimated at \$1.1 billion.³⁹

³³ P.L. 117-58, §40901(5)(B).

³⁴ Bureau of Reclamation, "Reclamation Invests \$28.97 Million to Assist with Planning and Feasibility Study Development for 31 Water Recycling and Desalination Projects," press release, September 27, 2023, <https://www.usbr.gov/newsroom/news-release/4639>.

³⁵ Of the total dams, 361 dams at 241 facilities are classified as high and significant hazard (i.e., dam failure could result in fatalities and/or significant economic destruction). Reclamation, *FY2024 Bureau of Reclamation Budget Justifications*, 2023, p. GS-4, <https://www.usbr.gov/budget/>.

³⁶ Funding for Reclamation's dam safety program also supports the Department of the Interior Dam Safety Program (\$1.3 million in FY2023). The Commissioner of Reclamation serves as the Department of the Interior's coordinator for dam safety and advises the Secretary of the Interior on program development and operation of the department's dam safety programs.

³⁷ Bureau of Reclamation, *Dam Safety Public Protection Guidelines: A Risk Framework to Support Dam Safety Decision-Making*, 2011, <https://www.usbr.gov/ssle/damsafety/documents/PPG201108.pdf>.

³⁸ Bureau of Reclamation, *Asset Management Report Pursuant to the John D. Dingell, Jr. Conservation, Management, and Recreation Act of March 12, 2019*, April 2021, <https://www.usbr.gov/infrastructure/mrr/docs/asset-management-report-to-congress.pdf>.

³⁹ The median estimate of need per project over the 30-year timeframe was \$39.0 million.

In Section 40901 of the IIJA, Congress authorized \$500.0 million for the Dam Safety Program, in accordance with the Reclamation Safety of Dams Act of 1978, as amended (43 U.S.C. §§506 et seq.). Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the IIJA. Reclamation may provide funding for various activities within its Dam Safety Program, including SEED and ISCA activities. A nonfederal cost share may be required for some of these activities. The Reclamation Safety of Dams Act Amendments of 1984 (P.L. 98-404) required a 15% cost share from sponsors for dam safety modifications when modifications are based on new hydrologic or seismic data, or changes in state-of-the-art design or construction criteria that are deemed necessary for safety purposes. Congress directed Reclamation to allocate costs resulting from age and normal deterioration or from lack of maintenance according to the purpose for which the structure was authorized for construction.⁴⁰

Allocations/Implementation

Reclamation allocated \$100.0 million in IIJA funding for one authorized dam safety project—B.F. Sisk Dam—in its FY2022 spend plan.⁴¹ According to a 2022 press release, Reclamation used both IIJA and annual appropriations for the initial construction of the project.⁴² For FY2023, Reclamation stated, the “Safety of Dams Program has sufficient funds in the FY2023 request to support all ongoing activities and will not require additional [Bipartisan Infrastructure Law] funding during this period.”⁴³ In its FY2025 spend plan, Reclamation stated it allocated \$130.0 million in FY2024, but did not specify which projects would receive the funding.⁴⁴ The FY2025 spend plan also stated that Reclamation plans to allocate \$127.5 million in FY2025.

WaterSMART Grants

Reclamation provides federal funding for projects in four categories under its WaterSMART Grants program: water and energy efficiency, small-scale water efficiency, water marketing strategy, and environmental water resources projects. Congress originally approved authority for WaterSMART grants in Section 9504 of the Secure Water Act (Title IX of P.L. 111-11) and has amended the authority multiple times.⁴⁵ The program’s initial focus was water and energy efficiency grants, but Reclamation has administratively added other, related grant opportunities over time, such as those for small-scale water efficiency projects and water marketing strategy development (added in FY2017) and for environmental water resources projects (added in FY2022).⁴⁶

Section 9502 of the Secure Water Act, as amended, defined eligible applicants for WaterSMART grants to include states, Indian tribes, irrigation districts, water districts, and other organizations with water or power delivery authority, as well as nonprofit conservation organizations acting in

⁴⁰ 43 U.S.C. §508.

⁴¹ Bureau of Reclamation, *Implementation of the Bipartisan Infrastructure Law, Addendum-DS to January 14, 2022, Initial Spend Plan*, March 22, 2022, <https://www.usbr.gov/bil/docs/spendplan-2022/Reclamation-BIL-Spend-Plan-Dam-Safety-Addendum-DS-3-21-2022.pdf>.

⁴² Bureau of Reclamation, “Interior Department Invests \$100 Million in First Dam Safety Project Through President Biden’s Bipartisan Infrastructure Law,” March 22, 2022, at <https://www.doi.gov/pressreleases/interior-department-invests-100-million-first-dam-safety-project-through-president>.

⁴³ Bureau of Reclamation, “Spend Plans.”

⁴⁴ Bureau of Reclamation, “Spend Plans.”

⁴⁵ 42 U.S.C. §10364.

⁴⁶ For more information on the newest category, see Bureau of Reclamation, “WaterSMART, Environmental Water Resources Projects,” <https://www.usbr.gov/watersmart/ewrp/index.html>.

partnership with one of the aforementioned organizations.⁴⁷ Applicants also must be located in a Reclamation State or Territory (as identified in the Reclamation Act of 1902, as amended) or in Alaska, Hawaii, or Puerto Rico. The statutory maximum amount per grant is generally \$5 million; in practice, Reclamation has set lesser caps for various WaterSMART grant categories.⁴⁸ The federal government funds up to 50% of project costs for most WaterSMART grants; however, the maximum potential federal cost share for environmental water resource projects (authorized in P.L. 116-260) is 75%.

In Section 40901 of the IIJA, Congress authorized \$400 million for WaterSMART grants. Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the act. The only additional stipulations for this funding under the IIJA are that \$100 million must be made available for WaterSMART projects that would improve natural or nature-based features, as defined in Section 5504 of P.L. 111-11.⁴⁹

Allocations/Implementation

Reclamation allocated \$120 million in IIJA funds for WaterSMART grants in FY2022, \$112.5 million in FY2023, \$50.5 million in FY2024, and \$8 million in FY2025 (**Table 1**). This funding has been used for sub-awards in multiple categories of WaterSMART grants, including water and energy efficiency projects, drought resiliency projects, and small scale water efficiency projects.⁵⁰

Apart from “traditional” categories of WaterSMART grants, Reclamation has also allocated funding from the \$100 million appropriated for natural or nature-based projects: \$40 million in FY2022, \$37 million in FY2023, \$17 million in FY2024, and \$1.5 million in FY2025. Reclamation has combined solicitation of the latter funding with two other related categories of its IIJA funding (Cooperative Watershed Management Program and Watershed Health Improvement, see below) under the WaterSMART Environmental Water Resources Projects grant “umbrella,”⁵¹ and has reported on funding awarded in each category in spend plan addendums. For instance, Reclamation reported individual project awards totaling \$51.1 million for Environmental Water Resources Projects in FY2023 and FY2024; of this total, \$23.6 million was for natural or nature-based features projects, \$10 million was for Cooperative Watershed Management projects, and \$17.5 million was for Multi-Benefit Watershed Health Improvement projects.⁵²

Cooperative Watershed Management Program

Subtitle A of Title VI of the Omnibus Public Land Management Act of 2009 (P.L. 111-11 as amended, 16 U.S.C. §§1015 et seq.) authorized the Cooperative Watershed Management Program (CWMP), which provides funding to form watershed groups in the West that develop local

⁴⁷ 42 U.S.C. §10362.

⁴⁸ For more information and grant solicitation links, see Bureau of Reclamation, “WaterSMART,” <https://www.usbr.gov/watersmart/index.html>.

⁴⁹ 42 U.S.C. §10364.

⁵⁰ Bureau of Reclamation, *Implementation of the Bipartisan Infrastructure Law, Addendum, ESA & WaterSMART*, December 2022, <https://www.usbr.gov/bil/docs/spendplan-2023/Reclamation-BIL-Spend-Plan-Addendum-ESA%20WaterSMART12-27-2022.pdf>.

⁵¹ For more information, see Bureau of Reclamation, “Environmental Water Resources Projects,” <https://www.usbr.gov/watersmart/ewrp/index.html>.

⁵² Bureau of Reclamation, *Implementation of the Bipartisan Infrastructure Law, Addendum—Rural Water, WaterSMART Environmental, Aquatic Ecosystem*, December 19, 2023, <https://www.usbr.gov/bil/docs/spendplan-2024/Reclamation-BIL-Spend-Plan-Addendum-12-19-2023.pdf>.

solutions to address water management needs. These groups are self-sustaining, consensus-based stakeholder groups. Funding recipients must be grassroots, nonregulatory entities that address water availability and quality issues within a watershed, represent a diverse group of stakeholders, and are capable of promoting water supply reliability.⁵³

As of 2021, CWMP funding supported two separate phases for projects. Phase I funds watershed group development and watershed restoration projects, providing funds for start-up costs, restoration planning, and project design.⁵⁴ Phase II funds implementation of watershed management projects, providing cost-shared assistance to watershed groups to implement projects. Reclamation awarded \$10.0 million in funding for the establishment and development of 108 watershed groups and \$3.0 million for the implementation of 18 watershed management projects from FY2012 through FY2021.⁵⁵

In Section 40901 of the IIJA, Congress authorized \$100.0 million for watershed management projects (i.e., Phase II projects) in accordance with Title VI, Subtitle A, of P.L. 111-11 (i.e., CWMP). Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the act.

Allocations/Implementation

Reclamation allocated \$18.0 million in IIJA funds for the CWMP in FY2022, \$20.0 million for FY2023, \$20.0 million for FY2024, and \$19.5 million for FY2025 (**Table 1**).⁵⁶ Reclamation chose to solicit project grants under Phase II of the program as “Environmental Water Resources Projects,” a new category of WaterSMART grants as of FY2022 (see previous section, “**WaterSMART Grants**”). To date, Reclamation has reported on grant recipients and allocations for the FY2022 and FY2023 Environmental Water Resources Projects grants. However, through the annual appropriations process, Reclamation is using appropriations for the Cooperative Watershed Management line item to fund both Phase I and Phase II activities.⁵⁷

Watershed Health Improvement

In Section 40907 of the IIJA, Congress directed the Secretary of the Interior to establish a program by November 15, 2022, to award competitive grants to eligible applicants for the design, implementation, and monitoring of multi-benefit habitat restoration projects. These projects are to improve watershed health in a river basin that is adversely impacted by a Reclamation water project.⁵⁸ Eligible applicants may include states, tribal or local governments, organizations with

⁵³ For more information, see Bureau of Reclamation, “WaterSMART, Cooperative Watershed Management Program,” <https://www.usbr.gov/watersmart/cwmp/index.html>.

⁵⁴ Phase I projects may receive assistance of up to \$50,000 per year for a period of up to two years (i.e., \$100,000 total), with no nonfederal cost share required. Funding caps are less than those authorized in the Omnibus Public Land Management Act of 2009 (P.L. 111-11). For more information on the status of the program, which currently only includes Phase I grants, see Bureau of Reclamation, “WaterSMART, Cooperative Watershed Management Program,” <https://www.usbr.gov/watersmart/cwmp/index.html>.

⁵⁵ Bureau of Reclamation, *FY2023 Bureau of Reclamation Budget Justifications*, 2022, p. BW-73, <https://www.usbr.gov/budget/>.

⁵⁶ Bureau of Reclamation, Bipartisan Infrastructure Law (BIL) Annual Spend Plan Update, FY2024 Submission, at <https://www.usbr.gov/bil/2022-spendplan.html>.

⁵⁷ Reclamation still intends to include annual appropriations for Phase II projects under the Environmental Water Resources Projects WaterSMART grant solicitations. Bureau of Reclamation, *FY2025 Bureau of Reclamation Budget Justifications*, 2024, p. BW-72, <https://www.usbr.gov/budget/>.

⁵⁸ Projects must provide one or more of the following objectives: ecosystem benefits; restoration of native species; (continued...)

power or water delivery authority, regional authorities, or nonprofit conservation organizations. The federal cost share for projects is limited to 50% but may be up to 75% for projects where the water conservation and habitat restoration benefits of the project account for at least 75% of the project cost.

In Section 40901 of the IIJA, Congress authorized \$100.0 million for these multi-benefit projects to improve watershed health, in accordance with Section 40907 of the IIJA. In Division J of the act, Congress appropriated this funding over five years (FY2022-FY2026).

Allocations/Implementation

Reclamation allocated \$20.0 million of funding for this program in FY2023 (**Table 1**), which was part of the Environmental Water Resources Projects WaterSMART grant solicitation.⁵⁹ In FY2024, Reclamation allocated \$25.0 million of IIJA funding for these activities, and \$26.0 million in FY2025. As stated above, Reclamation has reported on grant recipients and allocations for FY2023 Environmental Water Resources Projects grants, which was authorized to include Watershed Health Improvement activities. Outside of IIJA funding, Reclamation has not requested, and Congress has not provided, appropriations specifically for Watershed Health Improvement activities.

Aquatic Ecosystem Restoration

Reclamation has performed aquatic ecosystem restoration and other environmental mitigation activities in the Reclamation states; however, prior to 2021, Reclamation often conducted these activities to fulfill requirements in federal laws (e.g., for the conservation of species listed under the authorities of the Endangered Species Act [ESA])⁶⁰ or pursuant to a site-specific authorization. Congress has since provided Reclamation with a broad aquatic ecosystem restoration authority. Section 1109 of Division FF of P.L. 116-260 (33 U.S.C. §2330c) authorized the Secretary of the Interior to enter into agreements with eligible entities to fund the design, study, and construction of aquatic ecosystem restoration and protection projects in Reclamation states.⁶¹ The projects must aim to improve the health of fisheries, wildlife, or aquatic habitat and may include habitat restoration and improved fish passage (e.g., dam removal, fish way construction).⁶² To initiate these projects, eligible entities must enter into an agreement with the Secretary of the Interior to pay no less than 35% of project costs and 100% of operation,

mitigation against the impacts of climate change on fish and wildlife habitats; protection against invasive species; ecosystem restoration; enhancement of commercial, recreational, subsistence, or tribal ceremonial fishing; and enhancement of river-based recreation.

⁵⁹ Bureau of Reclamation, Bipartisan Infrastructure Law (BIL) Annual Spend Plan Update, FY2024 Submission, <https://www.usbr.gov/bil/2022-spendplan.html>.

⁶⁰ 87 Stat. 884; 16 U.S.C. §§1531-1544.

⁶¹ Eligible entities may include states, Indian tribes, irrigation districts, or water districts; state, regional, or local authorities with a water or power delivery authority; other entities or organizations that own a facility eligible for upgrade, modification, or removal; nonprofit conservation organizations acting in partnership with a previously listed entity for a project involving land or infrastructure owned by that entity; combinations of previously listed entities; and agencies established under state law for the joint exercise of powers.

⁶² The Secretary of the Interior also must ensure the project will not hinder existing water delivery obligations; will not negatively affect the environment; is consistent with trust responsibilities for federally recognized Indian tribes; complies with applicable treaties, compacts, and agreements; is in the federal interest; and complies with all federal and state laws.

maintenance, replacement, and rehabilitation costs.⁶³ Section 1109 of P.L. 116-260 authorized appropriations of \$15.0 million annually from FY2022 through FY2026. Applicants must be located in a Reclamation state or territory.⁶⁴

In Section 40901 of the IIJA, Congress authorized \$250.0 million for the design, study, and construction of aquatic ecosystem restoration and protection projects in accordance with Section 1109 of Division FF of P.L. 116-260 (33 U.S.C. §2330c). Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the IIJA. The IIJA provided the first appropriations for the Section 1109 authority.

Allocations/Implementation

Reclamation allocated \$45.0 million in IIJA funds for Aquatic Ecosystem Restoration projects in FY2023 (**Table 1**), thereby initiating the first application cycle. It allocated an additional \$65.0 million for these projects in FY2024 and plans to allocate \$66.3 million in FY2025.⁶⁵ Congress also provided the program with \$100,000 in annual discretionary funding in FY2022, \$5.0 million in FY2023, and \$6.5 million in FY2024.⁶⁶ Through its solicitation, Reclamation has specified that applicants can request study and design grants from \$500,000 to \$2.0 million and construction project grants from \$3.0 million to \$20.0 million.⁶⁷ As of the date of this report, Reclamation has not reported on grant recipients and allocations for the first application cycle.

Colorado River Drought Contingency Plans

As part of its authorized federal role and the large number of federally managed projects in the Colorado River Basin, the federal government has led multiple efforts attempting to improve the basin's water supply outlook. In 2019 Reclamation and the basin states, as well as Congress (in the Colorado River Drought Contingency Plan Authorization Act; P.L. 116-14), approved the drought contingency plans (DCPs) for the Upper and Lower Colorado River Basins. Among other provisions, the DCPs required reductions beyond previous curtailment plans based on Lake Mead storage levels, committed Reclamation to additional water conservation efforts, and put in place plans to coordinate Upper Basin operations to enhance Lake Powell storage levels and hydropower generation.⁶⁸

One of the primary federal contributions to the DCPs approved by Congress in P.L. 116-14 was additional grant support for voluntary conservation projects in the Colorado River Basin whose

⁶³ Reclamation states that this cost sharing requirement is not applicable to American Samoa, Guam, the Northern Mariana Islands, or the Virgin Islands. Bureau of Reclamation, "WaterSMART, Aquatic Ecosystem Restoration Program," <https://www.usbr.gov/watersmart/aquatic/index.html>.

⁶⁴ Unlike WaterSMART grants, projects in Alaska, Hawaii, and Puerto Rico are not eligible.

⁶⁵ Unlike the previous two sections, the Aquatic Ecosystem Restoration Program is separate from Environmental Water Resources Projects WaterSMART grants. Bureau of Reclamation, *Bipartisan Infrastructure Law (BIL) Annual Spend Plan Update, FY2024 Submission*, <https://www.usbr.gov/bil/2022-spendplan.html>.

⁶⁶ Bureau of Reclamation, *FY2024 Bureau of Reclamation Budget Justifications*, 2023, p. W&RR-6, <https://www.usbr.gov/budget/>.

⁶⁷ Bureau of Reclamation, "WaterSMART, Aquatic Ecosystem Restoration Program," <https://www.usbr.gov/watersmart/aquatic/index.html>.

⁶⁸ Reclamation and the basin states approved another set of similar, but more stringent, reductions in 2023 (i.e., after the IIJA was enacted). For more information about drought and the Colorado River, see CRS Report R45546, *Management of the Colorado River: Water Allocations, Drought, and the Federal Role*, by Charles V. Stern and Pervaze A. Sheikh.

water savings are dedicated to basin-wide *system water*.⁶⁹ Congress originally authorized federal participation in these efforts in 2015 (Consolidated and Further Continuing Appropriations Act, 2015; P.L. 113-235, Division D). As of September 2019, Reclamation estimated the Lower Basin program had conserved 175,347 AF of system water, at an average cost of \$170.14 per AF.⁷⁰ Both the Upper and the Lower Basin DCPs included provisions to expand these efforts.

In Section 40901 of the IIJA, Congress authorized \$300 million for implementation of the 2019 DCPs. Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the act. The only additional stipulations for this funding under the IIJA are that \$50 million must be made available for efforts associated with the Upper Basin DCP.

DCP signees aim to conserve an overall amount of water in the Colorado River system using federal seed funding, but there is no comprehensive estimate of the potential water savings (including likely costs per AF) associated with future DCP-related grant agreements for system conservation and other efforts. Apart from IIJA funding for the DCPs, in August 2022 Congress approved another \$4 billion for general drought mitigation in Reclamation river basins (with a focus on the Colorado River Basin) in P.L. 117-169, popularly known as the Inflation Reduction Act (IRA).⁷¹

Allocations/Implementation

For FY2022-FY2025, Reclamation allocated funding for both Lower and Upper Colorado River DCP activities, as authorized in the IIJA (**Table 6**). Reclamation announced project-specific allocation of some of its FY2022 and FY2023 Lower Basin DCP funds in an addendum to the FY2023 spend plan, including \$82.2 million for the Gila River Indian Community Reclaimed Water Pipeline. The same addendum announced \$8.7 million in funding for “limited-duration data-gathering and analysis program needs” in the Upper Basin.⁷²

Table 6. Infrastructure Investment and Jobs Act (IIJA) Colorado River Drought Contingency Plan (DCP) Allocations

	IIJA Appropriations	FY2022	FY2023	FY2024	FY2025
Lower Basin Colorado River DCP	\$250.0	\$50.0	\$25.0	\$25.0	\$71.3
Upper Basin Colorado River DCP	\$50.0	—	\$8.7	\$29.8	\$5.0
Total	\$300.0	\$50.0	\$33.7	\$54.8	\$76.3

Source: Bureau of Reclamation, Bipartisan Infrastructure Law Annual Spend Plans for FY2022-FY2025, <https://www.usbr.gov/bil/2022-spendplan.html>.

⁶⁹ *System water* refers to water that is provided to increase water supplies as a whole, without being directed toward additional consumptive use for specific contractors or water users.

⁷⁰ Lower Colorado Region, “Pilot System Conservation Program,” <https://www.usbr.gov/lc/region/programs/PilotSysConsProg/pilotsystem.html>.

⁷¹ For more information, see CRS In Focus IF12437, *Bureau of Reclamation Funding in the Inflation Reduction Act (P.L. 117-169)*, by Charles V. Stern and Anna E. Normand.

⁷² Bureau of Reclamation, Implementation of the Bipartisan Infrastructure Law, Addendum-WaterSMART – WEEG, Drought Contingency Plan for LC & UC, Small Storage FY2023, and Water Desal Spend Plan, May 2, 2023, <https://www.usbr.gov/bil/docs/spendplan-2023/Reclamation-BIL-Spend-Plan-Addendum-05-02-2023.pdf>.

Colorado River Endangered Species Activities

As part of Reclamation's role in Colorado River Basin water management, Reclamation and its partners operate several programs that fund activities to protect and restore fish species in the Colorado River and its tributaries. Some of these programs provide the federal and nonfederal project compliance with the ESA. These programs include the following:

- **The Upper Colorado and the San Juan River Basins Endangered Fish Recovery Programs (Fish Programs).** The Fish Programs were established in 1988 and 1992, respectively, and were formally authorized by Congress in P.L. 106-392. The programs provide compliance with the ESA and allow federal and nonfederal water and power projects in the Upper Basin to operate without violating ESA.
- **The Lower Colorado River Multispecies Conservation Program (MSCP).** The MSCP is a 50-year, multi-stakeholder initiative to maintain ESA compliance and conserve 27 special status species (including 8 species listed under ESA) along the Lower Colorado River, while maintaining water and power supplies for users. DOI formally established the program in 2005, and Congress authorized it under Subtitle E of Title IX of P.L. 111-11.
- **The Glen Canyon Dam Adaptive Management Program (AMP).** The AMP was established in 1997 in response to a directive from Congress under the Grand Canyon Protection Act of 1992 (P.L. 102-575).⁷³ Among other aims, the AMP attempts to integrate dam operations, downstream resource protection and management, and monitoring and research in the Lower Colorado River.

Pursuant to their authorizing legislation, for more than two decades, the Fish Programs and the AMP were funded by Upper Basin hydropower revenues transferred from the Department of Energy's Western Area Power Administration.⁷⁴ However, due to a revised statutory interpretation, additional appropriations from Congress have been required to make these funds available since FY2019. The MSCP typically is funded with discretionary appropriations for Reclamation's Lower Colorado River Operations program.

In Section 40901 of the IIJA, Congress authorized \$50 million for the Fish Programs, the AMP, and the MSCP. Congress appropriated this funding over five years (FY2022-FY2026) in Division J of the act. Congress did not specify how the funding is to be allocated among individual programs. The additional funding for the Fish Programs and the AMP in the IIJA supplement potential funding shortfalls faced by these programs. Although all of these authorities generally benefit environmental activities in the Colorado River Basin, their specific benefits are concentrated in different parts of the basin and affect different basin interests to varying extents.

⁷³ In P.L. 102-575, Congress provided that Reclamation operate Glen Canyon Dam "in such a manner as to protect, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established."

⁷⁴ Normally, these funds would be slated for repayment of Colorado River Storage Project costs to the Department of the Treasury.

Allocations/Implementation

Reclamation announced funding allocations of \$8.5 million for these programs in FY2022, \$20 million in FY2023, \$20 million in FY2024,⁷⁵ and no funding in FY2025 (**Table 1**). The FY2022 funding went entirely to one project under the MSCP.⁷⁶ Reclamation announced some FY2023 programmatic funding, including funding for Upper Colorado Endangered Fish Programs in Colorado (\$6.4 million) and Utah (\$2.8 million), as well as the San Juan River Basin Recovery Implementation Program (\$3.0 million) and the MSCP in both California and Arizona (\$6.0 million).⁷⁷

Indian Water Rights Settlement Completion Fund

Indian water rights settlements stem from Indian reserved water rights, first recognized by the Supreme Court in *Winters v. United States* in 1908.⁷⁸ Under the *Winters* doctrine, when Congress reserves land (i.e., for an Indian reservation), it implicitly reserves water sufficient to fulfill the purpose of the reservation.⁷⁹ Although *Winters* effectively provided many Indian tribes with senior water rights, the quantification of these rights is in many cases undetermined. In lieu of litigation to quantify Indian water rights, negotiated settlements have been the preferred means among many (including the federal government) for resolving Indian water rights disputes.⁸⁰ These settlements can be attractive because they include terms and conditions that resolve long-standing uncertainty and end conflict by avoiding litigation.

Many Indian water rights settlements require congressional approval and/or federal funding for implementation. As of enactment of the IIJA in late 2021, 38 Indian water rights settlements had been federally approved (35 of those approved by Congress), with total estimated costs in excess of \$8 billion.⁸¹ Congress often supports these settlements with discretionary funds in annual appropriations bills and has appropriated mandatory funding for certain settlements.⁸² Congress typically specifies funding agencies and vehicles in authorizing legislation, with most settlements funded by Reclamation or the Bureau of Indian Affairs (or both). A prominent source of mandatory funding for these settlements in recent years has been the Reclamation Water Settlements Fund; pursuant to P.L. 111-11, Reclamation is allocating \$1.2 billion over 10 years (\$120 million per year) in mandatory funds to qualifying tribal settlements.

⁷⁵ For FY2024, the funding allocation was increased to \$20 million via transfers from the Desalination allocation from the prior year. See Bureau of Reclamation, *Annual Spend Plan Update, 2025 OMB Submission*, at <https://www.usbr.gov/bil/docs/spendplan-2025/FY-2025-Reclamation-BIL-Spend-Plan.pdf>.

⁷⁶ Bureau of Reclamation, *Implementation of the Bipartisan Infrastructure Law, Addendum-August to January 14, 2022, Initial Spend Plan*, August 31, 2022, <https://www.usbr.gov/bil/docs/spendplan-2022/Reclamation-BIL-Spend-Plan-August-Addendum-8-31-2022.pdf>.

⁷⁷ Bureau of Reclamation, *Implementation of the Bipartisan Infrastructure Law, Addendum- ESA & WaterSMART – to FY2023 Initial Spend Plan, and to FY2022 and FY2023 Spend Plans*, December 2022, <https://www.usbr.gov/bil/docs/spendplan-2023/Reclamation-BIL-Spend-Plan-Addendum-ESA%20WaterSMART12-27-2022.pdf>.

⁷⁸ *Winters v. United States*, 207 U.S. 564, 575-77 (1908).

⁷⁹ Some tribes also have time immemorial rights to water resources based on tribal water uses that preceded the establishment of reservations. These rights are commonly referred to as *aboriginal* water rights.

⁸⁰ For more information on Indian water rights settlements in general, see CRS Report R44148, *Indian Water Rights Settlements*, by Charles V. Stern.

⁸¹ CRS estimate as of December 2021.

⁸² This includes mandatory funding of \$120 million per year, from FY2020 to FY2029, which was appropriated by Congress in 2009 under Title X of P.L. 111-11.

In Division G, Section 70101, of the IJA, Congress established an Indian Water Rights Settlement Completion Fund in the Treasury of the United States and provided that, on the date of the enactment of the IJA, the Secretary of the Treasury shall deposit \$2.5 billion into this fund, to remain available until expended. Subsection 70101(c) of the IJA authorized the Secretary of the Interior to use these funds “for transfers to funds or accounts authorized to receive discretionary appropriations, or to satisfy other obligations identified by the Secretary of the Interior, under an Indian water settlement approved and authorized by an Act of Congress before the date of enactment of this Act.” This provision appears to allow the Secretary of the Interior to transfer resources from the new fund to any enacted Indian water rights settlement, based on secretarial determinations, as long as the settlement was enacted prior to November 5, 2021.

The IJA funding for Indian water rights settlements offsets a major area of Reclamation budgetary needs that is not addressed elsewhere in the bill. However, Congress provided no specific criteria for the Secretary of the Interior to use in allocating funds and did not designate a timeframe for allocations.

Allocation/Implementation

There is no formal reporting process for Indian Water Rights Settlement Completion Fund projects. The Department of the Interior has announced Indian Water Rights Settlement Completion Fund allocations for individual settlements, in amounts combined together with the Reclamation Water Settlement Fund allocations. For FY2023, the department reported that it allocated \$460 million from the Indian Water Rights Completion Fund for 14 settlements (\$580 million from both funds combined).⁸³ For FY2024, the department allocated \$207 million for 11 settlements (\$327 million from both funds combined).⁸⁴

Authorization-Only Provisions

Congress included several *authorization-only* provisions (i.e., authorizations without a corresponding appropriation) in the IJA. These related to rehabilitation of the pumping plant at Grand Coulee Dam (Section 40113), pumped storage hydropower (Sections 40335 and 40336), and groundwater recharge (Section 40910). Congress also included one section (Section 40909) clarifying the use of previously appropriated coronavirus relief funding for Reclamation project cost shares. These provisions are discussed below.

Pumped Storage Hydropower

Reclamation and the Federal Energy Regulatory Commission (FERC) both have authorities to permit nonfederal hydropower development at Reclamation facilities. Reclamation permits this development via Lease of Power Privilege for small conduit and hydropower-authorized dams at its facilities, while FERC is charged with permitting hydropower at Reclamation dams that are not explicitly authorized for hydropower. As with the division of responsibility for Reclamation dams, pumped storage hydropower projects involving Reclamation reservoirs are subject to either

⁸³ Department of the Interior, “Bipartisan Infrastructure Law Supports \$580 Million Investment to Fulfill Indian Water Rights Settlements,” press release, February 2, 2023, <https://www.doi.gov/pressreleases/bipartisan-infrastructure-law-supports-580-million-investment-fulfill-indian-water>.

⁸⁴ Department of the Interior, “President Biden’s Investing in America Agenda Supports \$327 Million Investment to Fulfill Indian Water Rights Settlements,” press release, October 26, 2023, <https://www.doi.gov/pressreleases/president-bidens-investing-america-agenda-supports-327-million-investment-fulfill>.

the FERC permitting process or Reclamation's Lease of Power Privilege process, based on whether the Reclamation facility was originally authorized for hydropower development.

Title V, Sections 40335 and 40336, of the IIJA both deal with Reclamation and FERC's authorities for pumped storage hydropower development. Section 40335 clarifies that Reclamation has the sole authority to develop pumped storage hydropower at facilities involving only Reclamation reservoirs (i.e., regardless of whether these facilities were authorized for hydropower). Section 40336 lays out specific requirements that Reclamation must adhere to before it can permit a specific proposed Lease of Power Privilege project—the Banks Lake Pumped Storage Project at Roosevelt Lake and Banks Lake in Washington. (Because of Section 40335, this project would now be under Reclamation's exclusive jurisdiction). To proceed with this project, the lessee and the Secretary must enter into an agreement with and make certain accommodations for the Confederated Tribes of the Colville Reservation and the Spokane Tribes. Both tribal reservations border Lake Roosevelt and possess water rights for waters involved in this development.

In Section 40113 of the IIJA, Congress included a project-specific pumped storage hydropower funding authorization for Reclamation. Congress authorized \$100 million in nonreimbursable budget authority for Reclamation to rehabilitate the John W. Keys Pump Generating Plant, a pumped storage plant that originally came online in 1951 at Grand Coulee Dam in Washington. Apart from this specific authorization under the IIJA, these rehabilitation costs typically would be reimbursed by project power users.

Groundwater Recharge Authority

Groundwater storage, aquifer recharge, and similar projects are increasingly viewed as an option in lieu of (or in addition to) traditional water development projects or as a means to reduce groundwater pumping. Reclamation has some authorities to facilitate groundwater storage projects and aquifer recharge, storage, and recovery efforts, including authority to provide financial support for groundwater storage projects under Section 4007 of the WIIN Act.⁸⁵ In Section 40910 of the IIJA, Congress authorized the Secretary of the Interior to provide technical or financial assistance for, participate in, and enter into agreements for—including agreements with irrigation entities—groundwater recharge, aquifer storage and recovery projects, and water source substitution for aquifer protection projects.⁸⁶ For a project to receive construction assistance under this authority, it must meet the same criteria as the WIIN Act project requirements under Section 40902(a)(2)(C)(ii) of the IIJA.⁸⁷ The section stipulates that to receive funding, the Secretary of the Interior must first find that (1) a project is technically and financially feasible, (2) sufficient nonfederal funding is available for the nonfederal cost share, (3) a project is in the public interest, and (4) the project is recommended for construction. Congress provided no appropriation for this new authority in the IIJA.

⁸⁵ For example, Division FF, Title XI of P.L. 116-260 included new flexibilities for Reclamation to support aquifer storage and recharge efforts with project facilities and water. Reclamation also has authority under Section 4007 of the WIIN Act to provide financial support for both surface water and groundwater storage projects. For additional information, see CRS Report R45259, *The Federal Role in Groundwater Supply*, by Peter Folger et al.

⁸⁶ P.L. 117-58, §40910(a).

⁸⁷ P.L. 117-58, §40910(c) and (d).

Nonfederal Cost Sharing for Reclamation Projects

Nonfederal Reclamation project sponsors and other Reclamation project partners are required to share the costs of many Reclamation projects and grants. For example, WIIN Act water storage project sponsors must pay for 25%-50% of the total costs for these projects, depending on project type. In Section 40909 of the IIJA, Congress provided that the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund (i.e., holding funds previously appropriated for Coronavirus Disease 2019 response/recovery under the American Rescue Plan Act of 2021 [P.L. 117-2]) may be used for Reclamation project cost-share requirements.⁸⁸ Specifically, Congress directed that the Coronavirus State Fiscal Recovery Fund may be used for “matching requirements” for authorized Reclamation water projects and that both funds may be used for “matching, maintenance of effort, or other nonfederal expenditure requirement[s].”

The enactment of these provisions may allow Reclamation cost-sharing partners to use federal funds for some or all of their portion of costs for water resources projects receiving assistance from the IIJA, depending on how the Department of the Treasury (which oversees the funds) interprets the provisions.⁸⁹ Congress may be interested in whether guidance on these provisions is sufficient to achieve congressional intent, in particular which specific projects and programs qualify for this support and the extent to which the use of these funds facilitates expedited project implementation.

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⁸⁸ For more on these funds, see CRS Insight IN11665, *The American Rescue Plan Act, Section 9901—The Coronavirus State Fiscal Recovery Fund*, by Grant A. Driessen; and CRS Insight IN11664, *The American Rescue Plan Act, Section 9901—The Coronavirus Local Fiscal Recovery Fund*, by Grant A. Driessen.

⁸⁹ Department of the Treasury, “Coronavirus State and Local Fiscal Recovery Funds,” 87 *Federal Register* 4416, January 27, 2022.