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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 late 2020, Congress had appropriated \$603 million for these projects, and Reclamation had allocated more than half of these funds to 12 projects in three states. Project allocations for the remaining appropriations would require further congressional action.

Background

Traditionally, Reclamation's role in water project development has been limited to geographically specific projects authorized in federal statutes (federal law that applies to reclamation projects is generally 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. In turn, Congress designates those projects by name in an enacted appropriations act.

Any project that meets the WIIN Act criteria is initially 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 be under construction by December 17, 2021.

Differences from Traditional Reclamation Water Storage Project Model

In contrast to the traditional model of full financing up-front, Section 4007 authorizes partial, up-front federal funding, with the nonfederal share of funding also required up front. Proponents of these changes argue they are advantageous compared to the traditional model, because they stretch scarce federal funds and provide 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; it allowed Reclamation to move forward with construction *without* direct legislative approval from congressional authorizing committees (i.e., only the appropriators must approve). By requiring designation of Administration recommendations by name in appropriations acts, Section 4007 effectively shifted project approval decisions from the authorization committees to the appropriations committees.

Recent Funding, Project Allocations

From FY2017 to FY2021, Congress appropriated \$603 million for Section 4007 projects (i.e., more than the \$335 million originally 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). Reclamation has transmitted four 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
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
Upper San Joaquin River Basin Storage Investigation (CA)	\$1.50	—	—	—
Friant-Kern Canal Subsidence Challenges Project (CA)	\$2.20	\$2.35	\$71.00	\$135.00
Boise River Basin Feasibility Study (ID)	\$0.75	\$1.75	\$2.88	\$10.00
Yakima River Basin Water Enhancement Project—Cle Elum Pool Raise (WA)	\$2.00	\$4.00	\$1.00	\$2.00
Upper Yakima System Storage Feasibility Study (WA)	\$2.50	—	—	—
Del Puerto Water District Feasibility Study (CA)	—	\$1.50	\$1.50	—
Los Vaqueros Reservoir Phase 2 Expansion (CA)	—	\$2.16	\$7.85	\$4.10
Delta Mendota Canal Subsidence Correction (CA)	—	—	\$3.00	—
San Luis Low Point Improvement Project (CA)	—	—	\$1.70	—
Sacramento Regional Water Bank (CA)	—	—	\$0.87	—
Total	\$33.30	\$17.76	\$93.80	\$160.80

Sources: Bureau of Reclamation Reports to House and Senate Committees on Appropriations in January 2018, February 2019, June 2020, and December 2020; enacted appropriations legislation for FY2018 (P.L. 115-141), FY2020 (P.L. 116-94), and FY2021 (P.L. 116-260).

- a. In proposed project allocations in 2019 and 2020, Reclamation proposed a total of \$172 million for the Shasta Dam and Reservoir Enlargement Project. Congress did not agree to these allocations.

Congress has approved Reclamation's WIIN Act allocations for 12 projects: 9 in California, 2 in Washington, and 1 in Idaho. The Trump Administration transmitted its last proposals in June 2020 (\$108.8 million for 10 projects) and December 2020 (\$260.8 million for 6 projects). In the FY2021 Consolidated Appropriations Act (P.L. 116-260), Congress approved all of these recommendations with the exception of \$115 million in construction funding proposed in the two lists for the Shasta Dam and Reservoir Enlargement project. Accounting for that decision, approximately \$306 million of the \$603 million in enacted appropriations had been approved for individual projects as of the end of 2020.

Projects Eligible for Ongoing Funding

Six projects with prior funding allocations were found feasible prior to the WIIN Act deadline of January 1, 2021, and are eligible for ongoing funding: the Friant-Kern Canal Subsidence Challenges Project, Los Vaqueros Reservoir Phase 2 Expansion Project, Boise River Basin Feasibility Study, Yakima River Basin Water Enhancement Project, North-of-the-Delta Offstream Storage Investigation, and Shasta Dam and Reservoir Enlargement project.

Additionally, one nonfederal feasibility study *without* prior WIIN Act funding—the B.F. Sisk Dam Raise and Reservoir Expansion Project in California—was found feasible prior to the WIIN Act deadline and appears to be eligible for construction funding allocations in 2021. As stated above, projects must be under construction by December 17, 2021,

to continue receiving funding under the WIIN Act's authority.

Issues for Congress

The Biden Administration is likely to continue proposing project-level allocations for outstanding Section 4007 appropriations. Similar to prior lists, these allocations would require congressional approval. Significantly more appropriations would be required to complete most of the ongoing WIIN Act projects; thus, demand for new appropriations also is likely to continue. Supporters of the authority argue these projects warrant funding because they will increase water availability and address climate change. Opponents argue there should be little or no federal role for projects that largely benefit nonfederal entities. They also argue that aid for surface water supply storage should give way to support of environmentally friendly methods to augment water supplies.

Apart from advocating for additional appropriations, some support extension and/or changes to Section 4007. In past Congresses, proposed changes included waivers from the congressional approval requirement for smaller projects and a return to authorizing committee involvement in project approval.

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