# The Reclamation Fund: A Primer

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# Summary

The Reclamation Fund was established in 1902 to fund the development of irrigation projects on arid and semiarid lands of the 17 western states. It originated as a revolving fund for construction projects and was supported by the proceeds of the sale of land and water in the western United States. Over time, it was amended to receive proceeds from a number of other sources. It is currently derived from repayments and revenues associated with federal water resources development as well as the sales, rentals, and leases (including natural resource leasing) of federal land in the western United States. Portions of the fund's balance are appropriated annually by Congress for multiple purposes, including some of the operational expenditures of the Bureau of Reclamation (Reclamation) and the Power Marketing Administrations. Through FY2012, collections deposited into the Reclamation Fund totaled more than $40 billion, while total appropriations from the fund totaled more than $30 billion.

The Reclamation Fund did not finance all Reclamation investments in the western United States. As a result of limited funding availability, a number of large dams and other Reclamation investments were financed by the General Fund of the U.S. Treasury. Notwithstanding advances to the Reclamation Fund by Congress in 1910 and 1931, deposits into and appropriations out of the fund have been roughly equal over time. From the 1940s until the 1990s, the fund maintained a small, relatively stable balance. Beginning in the mid-1990s, balances in the fund began to increase significantly as receipts from mineral leasing and power sales increased, while appropriations from the fund largely remained static. At the end of FY2012, the fund had a balance of more than $10.8 billion, and it is expected to continue to grow.

Receipts deposited into the Reclamation Fund are made available to Reclamation by Congress through annual discretionary appropriations bills, which are subject to congressional budgetary allocations. Some have proposed that Congress appropriate some portion of the surplus balance in the Reclamation Fund to reclamation activities in western states, including new water storage projects or the rehabilitation of existing projects. These interests argue that the Reclamation Fund was set up to benefit western states and should now be used to increase investments in these areas.

As the balance of the Reclamation Fund continues to increase, Congress may reevaluate the Reclamation Fund's status, including its financing of new or ongoing activities. The Omnibus Lands Act of 2009 (P.L. 111-11) included provisions that will transfer $120 million per year from the fund from FY2020 through FY2034, without further appropriation, to a separate fund that provides for Indian Water Settlement construction projects. In the 113th Congress, a bill before the Senate (S. 715) proposes to redirect funding that would otherwise go to the Reclamation Fund for the construction of rural water projects. Major changes to the Reclamation Fund may have scoring implications in the annual budget and under congressional pay-as-you-go rules.

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# Introduction

The Reclamation Fund was established in 1902 as a special fund within the United States Treasury to aid the development of irrigation on the arid lands of western states.[1] It originated as a revolving fund supported by the proceeds of the sale of land and water in the western United States. Over time it, has been amended to receive proceeds from a number of disparate sources, including power generation and mineral leasing.

Since the mid-1990s, balances in the Reclamation Fund have increased significantly as appropriations made from the fund have not kept pace with receipts coming in to the fund. As of the end of FY2011, the fund had a balance in excess of $9.6 billion. Barring major changes by Congress in the form of increased appropriations from the fund or a redirection of its receipts, the fund's balance is expected to continue to increase.

This report provides general background information on the Reclamation Fund, including a short history of the fund and trends in its deposits and appropriations. It includes a brief analysis of the issues associated with using the current surplus balance for other means.

# Background

## Early History

The Reclamation Act of 1902[2] authorized the Secretary of the Interior to construct irrigation works in western states and established the Reclamation Fund to pay for these projects. The Reclamation Fund was established as a special fund within the U.S. Treasury and was designated to receive receipts from the sale of federal land in the western United States.[3]

> All moneys received from the sale and disposal of public lands in … [the western United States.] … shall be, and the same are hereby, reserved set aside, and appropriated as a special fund in the Treasury to be known as the "reclamation fund, " to be used in the examination and survey for and the construction and maintenance of irrigation works for the storage, diversion, and development of waters for the reclamation of arid and semiarid lands in the said States and Territories, and for the payment of all other expenditures provided for in this Act.

The 1902 act made funding from the Reclamation Fund available for the purposes outlined in the legislation without further appropriation by Congress. This requirement was later revised in the Reclamation Extension Act (1914) to limit Reclamation's expenditures for carrying out the 1902 act to only those items for which funds are made available annually by Congress.[4]

Between 1902 and 1910, the Reclamation Service (later changed to the Bureau of Reclamation) authorized 24 projects across the West, and the balance in the fund reached as much as $68

[1] In the early part of the 20th century, such efforts were commonly referred to as "reclamation" projects because they were "reclaiming" the lands for human use.

[2] 32 Stat 388; 43 U.S.C. §391. This act is also often referred to as the "Newland Act" or the "National Reclamation Act of 1902."

[3] Special funds are fund accounts for receipts and spending with specific taxes or revenues earmarked for a specific purpose. They are maintained separately from the General Fund of the U.S. Treasury (which funds most government operations). If a special fund takes in more receipts than it spends in a year, its surplus is added to the unified budget surplus.

[4] 43 U.S.C. §414.

million.[5] However, by 1910, estimates indicated that anticipated income and repayments would not be adequate to carry on the authorized construction program, and funds were borrowed from the U.S. Treasury on multiple occasions. In the act of June 25, 1910,[6] Congress authorized an advance of $20 million to the Reclamation Fund from the General Fund of the U.S. Treasury. Congress authorized an additional advance of $5 million from the General Fund in the act of March 3, 1931.[7] These funds were eventually reimbursed in 1938 under the Hayden-O'Mahoney Amendment, which among other things directed the Secretary of the Treasury to transfer funding accruing to the western states from lands within naval petroleum reserves.[8]

The Reclamation Fund was not adequate to fund many of Reclamation's large investments in water infrastructure. Dating to the late 1920s, Congress directed that the General Fund (in lieu of the Reclamation Fund) finance part or all of some of Reclamation's largest construction projects. By the end of the 1930s, most major Reclamation projects under construction were financed by the General Fund of the Treasury.[9] For instance, the Boulder Canyon Project Act of 1928 provided that construction of Hoover Dam would be financed from the General Fund of the Treasury rather than the Reclamation Fund.[10] In the 1950s and 1960s, other large, multiple-purpose Reclamation projects were built with support from the General Fund. Among these projects were those authorized in the Colorado River Storage Project Act (P.L. 485, which authorized Glen Canyon Dam, built in 1956) and the Colorado River Basin Project Act (P.L. 90-537, which authorized the Central Arizona Project in 1968).[11]

## Revenue Sources

The Reclamation Fund was originally established to serve as a "revolving" fund,[12] but this concept proved impractical over time. When the fund was created, it was expected that project repayment and receipts from the sale of public lands (under the original statute, the fund receives 95% of these proceeds) would finance expenditures on new or ongoing projects. As previously noted, around 1910 Congress recognized that the existing Reclamation Fund revenue stream was inadequate to finance ongoing expenditures. Congress made the fund subject to annual appropriations in 1914, and directed additional receipts toward the Reclamation Fund over time, including those from revenues associated water and power uses and from sales, leases, and rentals of federal lands and resources (e.g., oil, gas, and minerals) in the 17 western states. Of these, natural resource royalties and power revenues (discussed below) have proven to be the most significant sources of revenue for the Reclamation Fund.

Receipts from natural resource royalties were initiated in the Mineral Leasing Act of 1920.[13] These receipts, which include 40% of the royalty payments received by the federal government

[5] Correspondence with the Bureau of Reclamation, April 26, 2011.

[6] 43 U.S.C. §397.

[7] 43 U.S.C. §391a.

[8] 43 U.S.C. §391a-1.

[9] Correspondence with the Bureau of Reclamation, April 26, 2011.

[10] 45 Stat 1057. This act authorized construction of Hoover Dam.

[11] A solicitor opinion later found that the Reclamation Fund was not a proper financing source for some projects, including projects constructed under the Small Reclamation Projects Act of 1956 (70 Stat 1044) and the Colorado River Basin Salinity Control Act (88 Stat 266).

[12] Generally speaking, in a "revolving fund" a set of receipts continually finances a related set of expenditures, usually without further appropriation from Congress.

[13] 30 U.S.C. §191. Under the original act, in 1921, the Reclamation Fund received 52.5% of these proceeds. The act

for the production of oil, gas, coal, potassium, and other minerals on federal lands, currently generate the most revenue for the Reclamation Fund (see **Figure 1**). In recent years, these receipts have increased significantly (see the section, "Recent Trends").

Hydropower receipts were authorized to be received by the Reclamation Fund through the aforementioned Hayden-O'Mahoney Amendment, enacted on May 9, 1938.[14] The amendment provided that revenues associated with irrigation projects' power features be deposited into the Reclamation Fund.[15] The practical function of the change was to secure for the fund power revenues from large projects then under construction, such as Coulee Dam, Shasta Dam, and Parker Dam.[16] An additional significant source of revenues into the Reclamation Fund is sales of water contracts, which was authorized by Congress in 1920.[17] The primary sources of revenue for the Reclamation Fund are summarized below in **Table 1**.

**Table 1. Reclamation Fund: Selected Major Sources of Revenue**

| Revenue Source | Description/Percentage | Year First Authorized | Code Reference |
|---|---|---|---|
| Public Land Sales | 95% of proceeds from public land sales in western states | 1902 | 43 U.S.C. §391 |
| Reclamation Project Repayments | 100% of receipts | 1902 | 43 U.S.C. §391 |
| Reclamation Project Water Contracts/Sales | 100% of proceeds | 1902 | 43 U.S.C. §392a |
| Reclamation Project Power Revenues | 100% of proceeds | 1938 | 43 U.S.C. §392a |
| Natural Resource/Mineral Royalties | 40% of bonuses, royalties, and rentals from onshore public lands[0] | 1920 | 30 U.S.C. §191 |

**Notes:** Several smaller sources of revenue are not included in this table.

a. Pursuant to statutory requirements, receipts from mineral leasing in Alaska are collected and distributed to that state separately.

was amended in 1976 to decrease this amount to 40%.

[14] 43 USC, §391a-1, 392a.

[15] The amendment provided that after net power revenues have repaid project construction costs allocable to power, they are to be transferred to the General Fund as "miscellaneous receipts."

[16] The Boulder Canyon Project was specifically exempted from the act. These power revenues are directed to a separate fund, the Lower Colorado River Basin Project Fund, per the Colorado River Project Storage Act.

[17] 43 U.S.C. §521. Moneys derived from these sales are credited to the project from which the water is supplied.

## Appropriations from the Reclamation Fund

Congress makes appropriations from the Reclamation Fund in annual appropriations acts. Appropriations from the Reclamation Fund are typically made for three separate accounts: the Bureau of Reclamation's Water and Related Resource account, the Bureau of Reclamation's Policy and Administration account, and the Western Area Power Administration's (WAPA's) Construction, Rehabilitation, and Operation and Maintenance account. Funds are made available from the Reclamation Fund only for projects authorized under the fund. Funds have been provided to WAPA since 1978, when the power marketing function of Reclamation was transferred to the Department of Energy.[18] Appropriations are typically provided in annual Energy & Water Development Appropriation bills.

## Recent Trends: Increasing Balances

After the early financial issues between the Reclamation Fund's establishment in 1902 and the supplemental funding from the General Fund in the 1930s, the fund maintained a relatively stable balance until the early 1990s. Beginning in the mid-1990s, the fund's balance began to increase significantly as revenues from power sales and natural resource royalties significantly exceeded appropriations from the fund. For every year since FY1994, receipts going into the Reclamation Fund have exceeded appropriations made from it by more than $100 million, and in some years receipts have exceeded appropriations by more than $1 billion.[19] The exception to this trend was FY2009, when the American Recovery and Reinvestment Act (ARRA, P.L. 111-5) appropriated funding for Reclamation from the Reclamation Fund. As of the end of FY2012, the fund had a balance in excess of $10.8 billion. Trends in the Reclamation Fund from 1990 to 2010 are summarized below in **Figure 1**.

Receipts deposited into the Reclamation Fund are derived from five general categories: natural resource royalties, sales of federal land, hydropower receipts, timber sales receipts, and other proprietary receipts.[20] Of these, natural resource royalties and hydropower revenues make up the majority of incoming receipts. From FY1990 to FY2011, an average of 87% of the Reclamation Fund's receipts came from these two sources.[21] In recent years, even more receipts have come from these sources. From FY2006 to FY2011, an average of 91% came from the two sources (79% from natural resource royalties and 11% from hydropower receipts). A breakdown of the fund's receipts in FY2012 is provided in **Figure 2**.

Limited data is available on the source (by state) of the receipts going into the Reclamation Fund for various purposes. For the largest portion of revenues, mineral royalties (which accounted for approximately 79% of all receipts in the last five years), CRS estimates that from FY2006 to FY2011, an average of 93% of the receipts from onshore public mineral leasing came from five western states: Wyoming, New Mexico, Colorado, California, and Utah.[22] Two states, Wyoming and New Mexico, accounted for about 64% of these receipts. For power revenues, Reclamation

[18] These functions were transferred in the Department of Energy Organization Act (P.L. 95-91). 42 U.S.C. §7152.

[19] In FY2006, receipts exceeded appropriations by $1.06 billion. In FY2008, receipts exceeded appropriations by $1.24 billion.

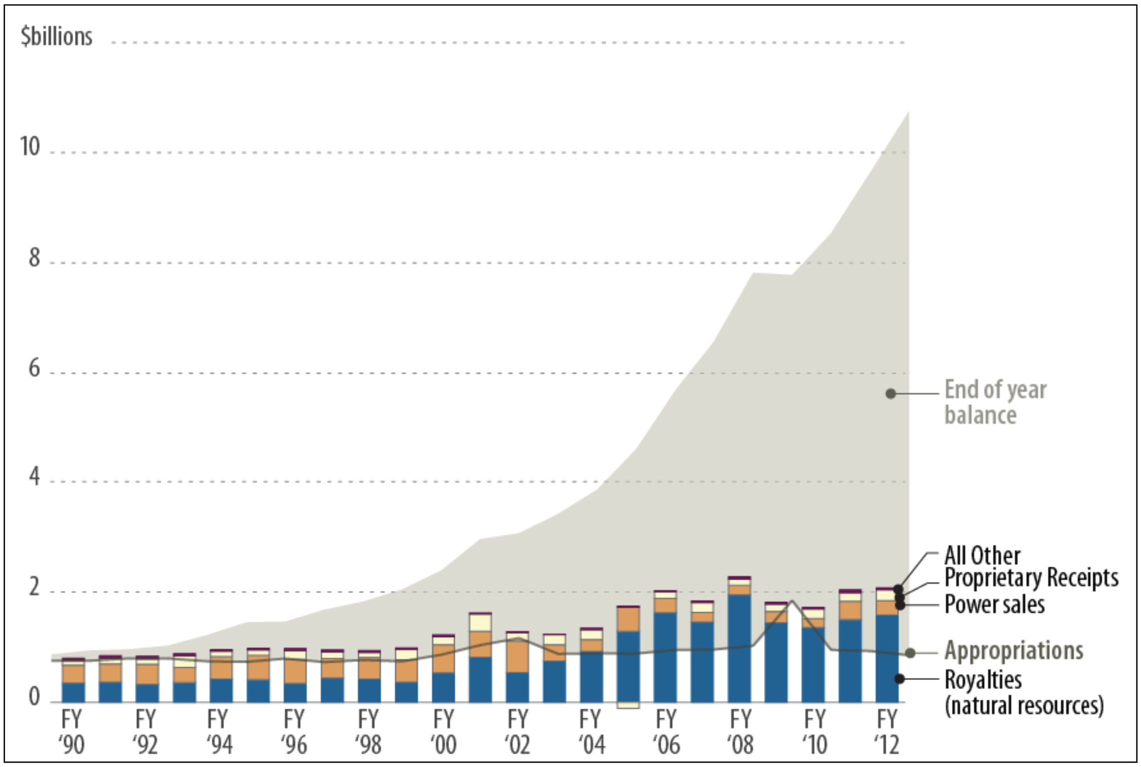
[20] Reclamation reports that these receipts include repayment of certain expenditures for construction and operations and maintenance, as well as sale of water at some projects, including the Central Valley Project.

[21] CRS, using Reclamation data.

[22] CRS estimate based on data from MMS, Summary of Mineral Revenues Distributed to States, 1920-2000. http://www.onrr.gov/Stats/pdfdocs/DisbAll01.PDF.

reported that the majority come from power generated on the Columbia River, the Central Valley Project, the Parker-Davis Project, and the Pick-Sloan Missouri Basin Program.[23] On average, this power generated about 16% of Reclamation Fund revenues between 2000 and 2010.

**Figure 1. Reclamation Fund, FY1990-FY2012**

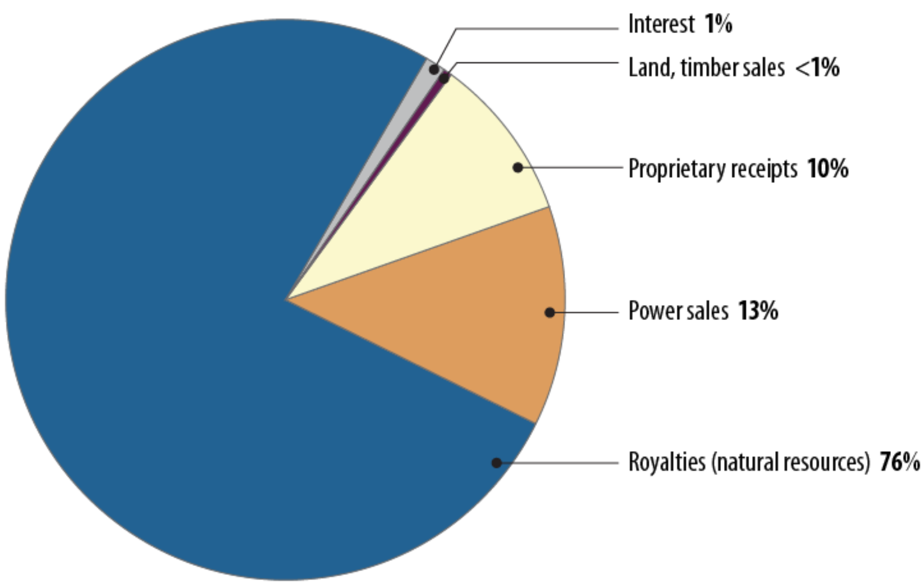



**Source:** CRS, with Bureau of Reclamation data. FY2012 data are estimates derived from the FY2013 budget request.

**Notes:** Increased appropriations in FY2008 and FY2009 reflect ARRA funding appropriated from the Reclamation Fund pursuant to statute. "All Other" includes multiple revenue streams, including timber sales (no more than $29 million annually since FY1990), land sales (no more than $20 million), and interest on the fund balance (no more than $55 million). "Power Sales" includes receipts from the sale of power by WAPA and Bonneville Power Administration (BPA). "Proprietary Receipts" includes several categories of Reclamation receipts, including those for repayment of operation and maintenance, construction, and loans, as well as those from rental of land and sale of project water and power (i.e., power not marketed by WAPA or BPA).

[23] Correspondence with the Bureau of Reclamation, April 29, 2011.

**Figure 2. Reclamation Fund Receipts, FY2012**




**Source:** CRS, with Bureau of Reclamation data.

**Notes:** Total receipts deposited into the fund in FY2012 were approximately $2 billion.

# Proposals to Use the Reclamation Fund's Surplus Balance

The increasing balance of the Reclamation Fund has caused some to call for directing these funds for new purposes or to supplement ongoing authorized expenditures. Such a change could take one or more forms, each of which may have an associated budget scoring impact. For instance, Congress could increase appropriations from the Reclamation Fund in annual discretionary appropriations, but such an increase would have to compete with other appropriations (including General Fund appropriations) subject to congressional 302 (b) allocations.[24] Separately, Congress could dedicate a stream of revenue from the Reclamation Fund for a subset of projects and make it available, with or without further appropriations (i.e., discretionary funding or mandatory funding) required. Congressional PAYGO requirements may necessitate offsets in spending corresponding to some of these changes.[25]

Some, including water users and others benefitting from Reclamation projects, note that the Reclamation Fund was intended to benefit water resource projects in western states, and spending its balance on the fund's intended purposes is a logical use of the fund. However, others may view other potential uses of the fund's surplus as being more pressing in the current fiscal climate. These same interests argue that the large increases to mineral receipts were not foreseen

[24] 302(b) scoring allocations establish the maximum spending levels for each of the 12 appropriations bills. For more information, see CRS Report R40472, *The Budget Resolution and Spending Legislation*, by Megan S. Lynch.

[25] "PAYGO" refers to requirements that legislation projected to increase direct spending or reduce incoming revenues must include equivalent amounts of spending cuts or revenue increases (or both). For more information, see CRS Report RL32835, *PAYGO Rules for Budget Enforcement in the House and Senate*, by Robert Keith and Bill Heniff Jr.

when those disbursements were originally authorized, and may advocate for redirecting surplus balances to debt reduction or the states.

## Congressional Interest

A change to the Reclamation Fund enacted by Congress in 2009 provides an example of the challenges associated with dedicating Reclamation Fund balances toward a particular purpose. In Title X of the Omnibus Lands Act of 2009 (P.L. 111-11), Congress redirected a portion of Reclamation Fund receipts for Indian water rights settlement projects. The bill established a separate fund (known as the Reclamation Water Settlements Fund) in the Treasury and directed the Secretary of the Treasury to transfer into the new fund up to $120 million annually between FY2020 and FY2034 that would otherwise go to the Reclamation Fund.[26] Significantly, the law directed that this funding be made available without further appropriation. However, in this case, the appropriation was made outside of the congressional scoring window for PAYGO costs, and thus did not require an offset.[27]

More recently, a bill in the Senate in the 113th Congress, the Authorized Rural Water Projects Completion Act (S. 715), proposes to establish a new fund for rural water projects (similar to the Water Settlements Fund referenced above) that would receive, without further appropriation, approximately $80 million per year in funding that would otherwise revert to the Reclamation Fund.[28] In contrast to the aforementioned water settlements fund, some of this funding would be redirected to projects over the next 10 years.

## Author Information

Charles V. Stern
Specialist in Natural Resources Policy

## Disclaimer



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[26] 43 U.S.C. §407.

[27] In its cost estimate for the Senate-passed bill, the Congressional Budget Office estimated that the change would result in $900 million in costs outside of the 10-year scoring window.

[28] In the past, these projects have been funded annually through discretionary appropriations to the Water & Related Resources account at levels below those proposed in the bill.