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Reclamation Water Storage Projects: Section 4007 of the Water Infrastructure Improvements for the Nation (WIIN) 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). The authority provides federal support for the construction of new and augmented surface water storage projects in the 17 arid *reclamation states*.

Background

Traditionally, Reclamation's role in water project development had been limited to geographically specific projects authorized in federal statutes (federal law that applies to reclamation projects generally is referred to as *reclamation law*). Congress provided full, up-front funding for the construction costs of these facilities through discretionary appropriations to Reclamation. Project beneficiaries (e.g., irrigators, municipal water suppliers, and hydropower contractors) generally then repay their portion of "reimbursable" project construction or development costs over a 40-50 year term. The amount of the up-front investment ultimately 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 this purpose.

Funding for water storage projects under Section 4007 is available for two primary project types. *Federally owned storage projects* are 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. The federal government may fund up to 50% of the cost for these projects. *State-led storage projects* are surface water or groundwater storage projects to be constructed, operated, and maintained by states or political subdivisions. The federal government may fund up to 25% of the costs of these projects. Prior to the WIIN Act, Congress had not authorized Reclamation to fund state-led water storage projects.

Before projects can begin construction under Section 4007, several milestones must be met. To recommend a project

for construction, the Secretary of the Interior must find that the project is *feasible* and provides benefits proportionate to the federal government's cost share. In addition, project sponsors must agree to pay their portion of project costs up front. Appropriations under Section 4007 are available only after the Secretary transmits a list of recommended projects and funding levels to Congress, and Congress designates those projects by name in an enacted appropriations act. The WIIN Act also stipulated that in order to move forward with construction, the Secretary must find projects feasible by January 1, 2021. As a result, only a subset of studies funded under this authority are eligible for construction.

Proponents of the Section 4007 approach assert that it stretches scarce federal funds and increases local and state incentives to engage and invest 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.

The role of congressional authorizing and appropriations committees is significantly different for Section 4007 projects compared to traditional reclamation law. Since only appropriators must act to advance Secretary-recommended projects, Section 4007 allows Reclamation to move forward with construction *without* further formal legislative input from congressional authorizing committees.

Recent Funding, Project Allocations

From FY2017 to FY2023, Congress appropriated a total of \$854 million for Section 4007 projects in annual Energy and Water Development appropriations acts. To date, Reclamation has transmitted five lists of project recommendations for these funds that, after congressional approval, released \$511 million in prior appropriations to 13 projects: 10 in California, 2 in Washington, and 1 in Idaho. The Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58) also appropriated to Reclamation \$1.05 billion for water storage projects (i.e., funding potentially available for Section 4007 projects). Reclamation allocated \$137 million for selected Section 4007 projects using FY2022 IIJA funds. Altogether, eight projects (shown in bold in **Table 1**) were found feasible prior to the WIIN Act deadline of January 1, 2021, and thus are eligible for ongoing construction funding.

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

Project (State)	Jan. 2018 List	Feb. 2019 List	June 2020 List	Dec. 2020 List	July 2021 List	Oct 2022 IIJA
Shasta Dam and Reservoir Enlargement Project (CA)	\$20.00	— ^a	— ^a	— ^a	—	—
Sites Reservoir Storage Project (CA)	\$4.35	\$6.00	\$4.00	\$9.70	\$80.00	\$30.00
Upper San Joaquin River Basin Storage Investigation (CA)	\$1.50	—	—	—	—	—
Friant-Kern Canal Subsidence Challenges Project (CA)	\$2.20	\$2.35	\$71.00	\$135.00	—	—
Boise River Basin Feasibility Study (ID)	\$0.75	\$1.75	\$2.88	\$10.00	—	—
Yakima River Basin Water Enhancement Project, Cle Elum Pool Raise (WA)	\$2.00	\$4.00	\$1.00	\$2.00	—	—
Upper Yakima System Storage Feasibility Study (WA)	\$2.50	—	—	—	—	—
Del Puerto Water District Feasibility Study (CA)	—	\$1.50	\$1.50	—	\$15.00	—
Los Vaqueros Reservoir Phase 2 Expansion (CA)	—	\$2.16	\$7.85	\$4.10	\$50.00	\$82.00
Delta Mendota Canal Subsidence Correction (CA)	—	—	\$3.00	—	—	—
San Luis Low Point Improvement Project (CA)	—	—	\$1.70	—	—	—
Sacramento Regional Water Bank (CA)	—	—	\$0.87	—	—	—
B.F. Sisk Dam Raise and Reservoir Expansion (CA)	—	—	—	—	\$60.00	\$25.00
Total	\$33.30	\$17.76	\$93.80	\$160.80	\$205.00	\$137.00

Sources: Bureau of Reclamation Reports to Congress in January 2018, February 2019, June 2020, December 2020, and July 2021; enacted appropriations legislation for FY2018 (P.L. 115-141), FY2020 (P.L. 116-94), FY2021 (P.L. 116-260), FY2022 (P.L. 117-43), and FY2022 Reclamation Work Plan for the Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58).

Notes: Projects in bold were recommended for construction prior to the WIIN Act deadline of January 1, 2021. Pursuant to congressional direction in the IIJA, October 2022 IIJA allocations were not required to be approved by name in enacted appropriations legislation.

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

Issues for Congress

The Biden Administration may continue proposing project-level funds for unallocated Section 4007 appropriations, and these proposals would require congressional approval in appropriations legislation to move forward with construction. The Administration may also fund Section 4007 projects with IIJA funding in FY2023-FY2026. It is unclear whether this funding will be available for all Section 4007 projects or only those that were approved for construction prior to the January 1, 2021, deadline.

Some stakeholders support extension and/or changes to Section 4007 and argue that it should be a preferred long-

term mechanism for the federal government to support water storage in the West. Previously proposed changes included alterations to cost-share requirements for projects with environmental benefits, waivers from the congressional approval requirement for smaller projects, and a return to involving authorizing committees in project approval.

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