

## BUREAU OF RECLAMATION TRANSPARENCY ACT

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DECEMBER 3, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 1107]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1107) to require the Secretary of the Interior to submit to Congress a report on the efforts of the Bureau of Reclamation to manage its infrastructure assets, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Bureau of Reclamation Transparency Act”.

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the water resources infrastructure of the Bureau of Reclamation provides important benefits related to irrigated agriculture, municipal and industrial water, hydropower, flood control, fish and wildlife, and recreation in the 17 Reclamation States;

(2) as of 2013, the combined replacement value of the infrastructure assets of the Bureau of Reclamation was \$94,500,000,000;

(3) the majority of the water resources infrastructure facilities of the Bureau of Reclamation are at least 60 years old;

(4) the Bureau of Reclamation has previously undertaken efforts to better manage the assets of the Bureau of Reclamation, including an annual review of asset maintenance activities of the Bureau of Reclamation known as the “Asset Management Plan”; and

(5) actionable information on infrastructure conditions at the asset level, including information on maintenance needs at individual assets due to aging infrastructure, is needed for Congress to conduct oversight of Reclamation facilities and meet the needs of the public.

#### SEC. 3. DEFINITIONS.

In this Act:

## (1) ASSET.—

(A) IN GENERAL.—The term “asset” means any of the following assets that are used to achieve the mission of the Bureau of Reclamation to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the people of the United States:

- (i) Capitalized facilities, buildings, structures, project features, power production equipment, recreation facilities, or quarters.
- (ii) Capitalized and noncapitalized heavy equipment and other installed equipment.

(B) INCLUSIONS.—The term “asset” includes assets described in subparagraph (A) that are considered to be mission critical.

## (2) ASSET MANAGEMENT REPORT.—The term “Asset Management Report” means—

(A) the annual plan prepared by the Bureau of Reclamation known as the “Asset Management Plan”; and

(B) any publicly available information relating to the plan described in subparagraph (A) that summarizes the efforts of the Bureau of Reclamation to evaluate and manage infrastructure assets of the Bureau of Reclamation.

(3) MAJOR REPAIR AND REHABILITATION NEED.—The term “major repair and rehabilitation need” means major nonrecurring maintenance at a Reclamation facility, including maintenance related to the safety of dams, extraordinary maintenance of dams, deferred major maintenance activities, and all other significant repairs and extraordinary maintenance.

(4) RECLAMATION FACILITY.—The term “Reclamation facility” means each of the infrastructure assets that are owned by the Bureau of Reclamation at a Reclamation project.

(5) RECLAMATION PROJECT.—The term “Reclamation project” means a project that is owned by the Bureau of Reclamation, including all reserved works and transferred works owned by the Bureau of Reclamation.

(6) RESERVED WORKS.—The term “reserved works” means buildings, structures, facilities, or equipment that are owned by the Bureau of Reclamation for which operations and maintenance are performed by employees of the Bureau of Reclamation or through a contract entered into by the Bureau of Reclamation, regardless of the source of funding for the operations and maintenance.

(7) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(8) TRANSFERRED WORKS.—The term “transferred works” means a Reclamation facility at which operations and maintenance of the facility is carried out by a non-Federal entity under the provisions of a formal operations and maintenance transfer contract or other legal agreement with the Bureau of Reclamation.

**SEC. 4. ASSET MANAGEMENT REPORT ENHANCEMENTS FOR RESERVED WORKS.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress an Asset Management Report that—

(1) describes the efforts of the Bureau of Reclamation—

(A) to maintain in a reliable manner all reserved works at Reclamation facilities; and

(B) to standardize and streamline data reporting and processes across regions and areas for the purpose of maintaining reserved works at Reclamation facilities; and

(2) expands on the information otherwise provided in an Asset Management Report, in accordance with subsection (b).

## (b) INFRASTRUCTURE MAINTENANCE NEEDS ASSESSMENT.—

(1) IN GENERAL.—The Asset Management Report submitted under subsection

(a) shall include—

(A) a detailed assessment of major repair and rehabilitation needs for all reserved works at all Reclamation projects; and

(B) to the extent practicable, an itemized list of major repair and rehabilitation needs of individual Reclamation facilities at each Reclamation project.

(2) INCLUSIONS.—To the extent practicable, the itemized list of major repair and rehabilitation needs under paragraph (1)(B) shall include—

(A) a budget level cost estimate of the appropriations needed to complete each item; and

(B) an assignment of a categorical rating for each item, consistent with paragraph (3).

(3) RATING REQUIREMENTS.—

(A) IN GENERAL.—The system for assigning ratings under paragraph (2)(B) shall be—

- (i) consistent with existing uniform categorization systems to inform the annual budget process and agency requirements; and
- (ii) subject to the guidance and instructions issued under subparagraph (B).

(B) GUIDANCE.—As soon as practicable after the date of enactment of this Act, the Secretary shall issue guidance that describes the applicability of the rating system applicable under paragraph (2)(B) to Reclamation facilities.

(4) PUBLIC AVAILABILITY.—Except as provided in paragraph (5), the Secretary shall make publicly available, including on the Internet, the Asset Management Report required under subsection (a).

(5) CONFIDENTIALITY.—The Secretary may exclude from the public version of the Asset Management Report made available under paragraph (4) any information that the Secretary identifies as sensitive or classified, but shall make available to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a version of the report containing the sensitive or classified information.

(c) UPDATES.—Not later than 2 years after the date on which the Asset Management Report is submitted under subsection (a) and biennially thereafter, the Secretary shall update the Asset Management Report, subject to the requirements of section 5(b)(2).

(d) CONSULTATION.—To the extent that such consultation would assist the Secretary in preparing the Asset Management Report under subsection (a) and updates to the Asset Management Report under subsection (c), the Secretary shall consult with—

- (1) the Secretary of the Army (acting through the Chief of Engineers); and
- (2) water and power contractors.

#### **SEC. 5. ASSET MANAGEMENT REPORT ENHANCEMENTS FOR TRANSFERRED WORKS.**

(a) IN GENERAL.—The Secretary shall coordinate with the non-Federal entities responsible for the operation and maintenance of transferred works in developing reporting requirements for Asset Management Reports with respect to major repair and rehabilitation needs for transferred works that are similar to the reporting requirements described in section 4(b).

(b) GUIDANCE.—

(1) IN GENERAL.—After considering input from water and power contractors of the Bureau of Reclamation, the Secretary shall develop and implement a rating system for transferred works that incorporates, to the maximum extent practicable, the rating system for major repair and rehabilitation needs for reserved works developed under section 4(b)(3).

(2) UPDATES.—The ratings system developed under paragraph (1) shall be included in the updated Asset Management Reports under section 4(c).

#### **PURPOSE OF THE BILL**

The purpose of H.R. 1107 is to require the Secretary of the Interior to submit to Congress a report on the efforts of the Bureau of Reclamation to manage its infrastructure assets.

#### **BACKGROUND AND NEED FOR LEGISLATION**

The goal of H.R. 1107 is to provide Congress, states, localities, and water and power users a better understanding of the estimated cost of repairs at Bureau of Reclamation facilities. According to the agency, Reclamation is the nation's largest wholesale water supplier, providing one out of five Western farmers with irrigation water for 10 million farmland acres that produce 60 percent of the nation's vegetables and one quarter of its fresh fruit and nut crops. It also delivers 10 trillion gallons of water to more than 31 million people annually and is the second largest domestic producer of hydropower. Reclamation's assets include 475 dams and 53 hydroelectric power plants. With much of this infrastructure built over 50 years ago, maintaining these assets is critical for safety and economic security. Despite this need, some believe that Reclamation

has not been transparent in providing the extent of its maintenance backlog.

Reclamation operates a Facility Maintenance and Rehabilitation Program that identifies the needs of both its “transferred works”—infrastructure owned by Reclamation but operated by local project sponsors—and its “reserved works”—projects owned and operated solely by Reclamation. However, such reviews are not typically made public and exclude project specific needs, even though other federal agencies provide such detail. As an example, a Congressional Research Service policy analyst stated last year:

. . . some agencies, such as the Environmental Protection Agency and the Department of Transportation, publish “need assessments” that include project level estimates for needed repairs and upgrades . . . [t]he availability of estimates for individual Reclamation facilities varies, and are generally not compiled or regularly updated in a centralized, public record.

H.R. 1107 requires Reclamation to compile an Infrastructure Needs Assessment Report every two years as part of its existing Asset Management Plan reporting process. In response to the aforementioned criticism and prior legislation, Reclamation is making efforts to be more transparent on its infrastructure. In testimony delivered on this bill in June 2015, an agency official indicated that H.R. 1107 is consistent with its draft “Infrastructure Investment Strategy”.

#### COMMITTEE ACTION

H.R. 1107 was introduced on February 26, 2015, by Congressman Paul A. Gosar (R–AZ). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Power and Oceans. On June 25, 2015, a Subcommittee hearing was held on the bill. On October 7, 2015, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Gosar offered an amendment designated #1. The amendment was adopted by unanimous consent. On October 8, 2015, the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause

3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 1107—Bureau of Reclamation Transparency Act*

H.R. 1107 would require the Bureau of Reclamation (BOR) to assess the maintenance needs of its facilities, develop a ranking system to prioritize the rehabilitation needs of facilities that it operates, and work with nonfederal partners that have taken over the operation of certain other facilities to develop similar systems. Under current law, BOR gathers and analyzes data on its facilities, and makes the results available to the Congress and the public through its budget documents and various other reports throughout the year. Under the bill, BOR would need to consolidate those results into one report every two years including the ranking information and the estimated costs of necessary rehabilitation projects. Based on information from BOR, and assuming appropriation of the necessary amounts, CBO estimates that implementing those provisions would cost \$2 million over the 2016–2020 period.

Enacting H.R. 1107 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 1107 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 1107 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Any costs incurred by public entities to comply with the bill's reporting requirements would result from participating in a voluntary federal program.

On September 3, 2015, CBO transmitted a cost estimate for S. 593, the Bureau of Reclamation Transparency Act, as ordered reported by the Senate Committee on Energy and Natural Resources on July 30, 2015. H.R. 1107 is similar to provisions in S. 593, although S. 593 includes a provision that would reduce the authorization level for the Central Valley Water Recycling Project in Salt Lake County, Utah, by \$2 million. The CBO cost estimates reflect that difference.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, implementing H.R. 1107 would cost \$2 million over the 2016–20 time period, subject to appropriation.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to require the Secretary of the Interior to submit to Congress a report on the efforts of the Bureau of Reclamation to manage its infrastructure assets.

## EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

## COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

## COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

## PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

## CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

