

BUREAU OF RECLAMATION AND BUREAU OF INDIAN  
AFFAIRS WATER PROJECT STREAMLINING ACT

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NOVEMBER 2, 2018.—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

together with

DISSENTING VIEWS

[To accompany H.R. 4419]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4419) to facilitate and streamline the Bureau of Reclamation and Bureau of Indian Affairs processes for creating or expanding certain water projects, and for other purposes, 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; TABLE OF CONTENTS.**

This Act may be cited as the “Bureau of Reclamation and Bureau of Indian Affairs Water Project Streamlining Act”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) ENVIRONMENTAL IMPACT STATEMENT.—The term “environmental impact statement” means the detailed statement of environmental impacts of a project required to be prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term “environmental review process” means the process of preparing an environmental impact statement, environmental assessment, categorical exclusion, or other document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project study.

(B) INCLUSIONS.—The term “environmental review process” includes the process for and completion of any environmental permit, approval, review, or study required for a project study under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) FEDERAL JURISDICTIONAL AGENCY.—The term “Federal jurisdictional agency” means a Federal agency with jurisdiction delegated by law, regulation, order, or otherwise over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a project study under applicable Federal laws (including regulations).

(4) FEDERAL LEAD AGENCY.—The term “Federal lead agency” means the Bureau of Reclamation or Bureau of Indian Affairs.

(5) PROJECT.—The term “project” means—

(A) a surface water project, a project under the purview of title XVI of Public Law 102–575, a rural water supply project investigated under Public Law 109–451, or a Federal portion of an integrated water resource management plan that has been subject to a review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and is to be carried out, funded or operated in whole or in part by the Secretary pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.); or

(B) Indian irrigation projects in the western United States that, on the date of enactment of this Act, are owned by the Federal Government, as listed in the Federal inventory required by Executive Order 13327 (40 U.S.C. 121 note; relating to Federal real property asset management).

(6) PROJECT SPONSOR.—The term “project sponsor” means a State, regional, tribal, or local authority or instrumentality or other qualifying entity, such as a water conservation district, irrigation district, water conservancy district, joint powers authority, mutual water company, canal company, rural water district or association, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

(7) PROJECT STUDY.—The term “project study” means a feasibility study for a project carried out pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

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

(9) SURFACE WATER STORAGE.—The term “surface water storage” means any surface water reservoir or impoundment that would be owned, funded or operated in whole or in part by the Bureau of Reclamation or the Bureau of Indian Affairs or that would be integrated into a larger system owned, operated or administered in whole or in part by the Bureau of Reclamation or the Bureau of Indian Affairs.

### SEC. 3. ACCELERATION OF STUDIES.

(a) IN GENERAL.—To the extent practicable, a project study initiated by the Secretary, after the date of enactment of this Act, shall—

(1) result in the completion of a final feasibility report not later than 3 years after the date of initiation;

(2) have a maximum Federal cost of \$3,000,000; and

(3) ensure that personnel from the local project area, region, and headquarters levels of the Bureau of Reclamation or the Bureau of Indian Affairs concurrently conduct the review required under that section.

(b) EXTENSION.—If the Secretary determines that a project study described in subsection (a) will not be conducted in accordance with subsection (a), the Secretary, not later than 30 days after the date of making the determination, shall—

(1) prepare an updated project study schedule and cost estimate;

(2) notify the non-Federal project cost-sharing partner that the project study has been delayed; and

(3) provide written notice to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate as to the reasons the requirements of subsection (a) are not attainable.

(c) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding the requirements of subsection (a), the Secretary may extend the timeline of a project study by a period not to exceed 3 years, if the Secretary determines that the project study is too complex to comply with the requirements of subsection (a).

(2) FACTORS.—In making a determination that a study is too complex to comply with the requirements of subsection (a), the Secretary shall consider—

(A) the type, size, location, scope, and overall cost of the project;

(B) whether the project will use any innovative design or construction techniques;

(C) whether the project will require significant action by other Federal, State, or local agencies;

(D) whether there is significant public dispute as to the nature or effects of the project; and

(E) whether there is significant public dispute as to the economic or environmental costs or benefits of the project.

(3) NOTIFICATION.—Each time the Secretary makes a determination under this subsection, the Secretary shall provide written notice to the Committee on Natural Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate as to the results of that determination, including an identification of the specific one or more factors used in making the determination that the project is complex.

(4) LIMITATION.—The Secretary shall not extend the timeline for a project study for a period of more than 7 years, and any project study that is not completed before that date shall no longer be authorized.

(d) REVIEWS.—Not later than 90 days after the date of the initiation of a project study described in subsection (a), the Secretary shall—

(1) take all steps necessary to initiate the process for completing federally mandated reviews that the Secretary is required to complete as part of the study, including the environmental review process under section 5;

(2) convene a meeting of all Federal, tribal, and State agencies identified under section 5(d) that may—

(A) have jurisdiction over the project;

(B) be required by law to conduct or issue a review, analysis, opinion, or statement for the project study; or

(C) be required to make a determination on issuing a permit, license, or other approval or decision for the project study; and

(3) take all steps necessary to provide information that will enable required reviews and analyses related to the project to be conducted by other agencies in a thorough and timely manner.

(e) INTERIM REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate and make publicly available a report that describes—

(1) the status of the implementation of the planning process under this section, including the number of participating projects;

(2) a review of project delivery schedules, including a description of any delays on those studies initiated prior to the date of the enactment of this Act; and

(3) any recommendations for additional authority necessary to support efforts to expedite the project.

(f) FINAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate and make publicly available a report that describes—

(1) the status of the implementation of this section, including a description of each project study subject to the requirements of this section;

(2) the amount of time taken to complete each project study; and

(3) any recommendations for additional authority necessary to support efforts to expedite the project study process, including an analysis of whether the limitation established by subsection (a)(2) needs to be adjusted to address the impacts of inflation.

#### SEC. 4. EXPEDITED COMPLETION OF REPORTS.

The Secretary shall—

(1) expedite the completion of any ongoing project study initiated before the date of enactment of this Act; and

(2) if the Secretary determines that the project is justified in a completed report, proceed directly to preconstruction planning, engineering, and design of the project in accordance with the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

#### SEC. 5. PROJECT ACCELERATION.

(a) APPLICABILITY.—

(1) IN GENERAL.—This section shall apply to—

(A) each project study that is initiated after the date of enactment of this Act and for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the extent determined appropriate by the Secretary, to other project studies initiated before the date of enactment of this Act and for which an environmental review process document is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(C) any project study for the development of a non-federally owned and operated surface water storage project for which the Secretary determines there is a demonstrable Federal interest and the project—

(i) is located in a river basin where other Bureau of Reclamation or the Bureau of Indian Affairs water projects are located;

(ii) will create additional water supplies that support Bureau of Reclamation or the Bureau of Indian Affairs water projects; or

(iii) will become integrated into the operation of Bureau of Reclamation or the Bureau of Indian Affairs water projects.

(2) FLEXIBILITY.—Any authority granted under this section may be exercised, and any requirement established under this section may be satisfied, for the conduct of an environmental review process for a project study, a class of project studies, or a program of project studies.

(3) LIST OF PROJECT STUDIES.—

(A) IN GENERAL.—The Secretary shall annually prepare, and make publicly available, a list of all project studies that the Secretary has determined—

(i) meets the standards described in paragraph (1); and

(ii) does not have adequate funding to make substantial progress toward the completion of the project study.

(B) INCLUSIONS.—The Secretary shall include for each project study on the list under subparagraph (A) a description of the estimated amounts necessary to make substantial progress on the project study.

(b) PROJECT REVIEW PROCESS.—

(1) IN GENERAL.—The Secretary shall develop and implement a coordinated environmental review process for the development of project studies.

(2) COORDINATED REVIEW.—The coordinated environmental review process described in paragraph (1) shall require that any review, analysis, opinion, statement, permit, license, or other approval or decision issued or made by a Federal, State, or local governmental agency or an Indian tribe for a project study described in subsection (b) be conducted, to the maximum extent practicable, concurrently with any other applicable governmental agency or Indian tribe.

(3) TIMING.—The coordinated environmental review process under this subsection shall be completed not later than the date on which the Secretary, in consultation and concurrence with the agencies identified under section 5(d), establishes with respect to the project study.

(c) LEAD AGENCIES.—

(1) JOINT LEAD AGENCIES.—

(A) IN GENERAL.—Subject to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the requirements of section 1506.8 of title 40, Code of Federal Regulations (or successor regulations), including the concurrence of the proposed joint lead agency, a project sponsor may serve as the joint lead agency.

(B) PROJECT SPONSOR AS JOINT LEAD AGENCY.—A project sponsor that is a State or local governmental entity may—

(i) with the concurrence of the Secretary, serve as a joint lead agency with the Federal lead agency for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) prepare any environmental review process document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) required in support of any action or approval by the Secretary if—

(I) the Secretary provides guidance in the preparation process and independently evaluates that document;

(II) the project sponsor complies with all requirements applicable to the Secretary under—

(aa) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(bb) any regulation implementing that Act; and

(cc) any other applicable Federal law; and

(III) the Secretary approves and adopts the document before the Secretary takes any subsequent action or makes any approval

based on that document, regardless of whether the action or approval of the Secretary results in Federal funding.

(2) DUTIES.—The Secretary shall ensure that—

(A) the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection; and

(B) any environmental document prepared by the project sponsor is appropriately supplemented to address any changes to the project the Secretary determines are necessary.

(3) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency making any determination related to the project study to the same extent that the Federal agency could adopt or use a document prepared by another Federal agency under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

(4) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project study, the Federal lead agency shall have authority and responsibility—

(A) to take such actions as are necessary and proper and within the authority of the Federal lead agency to facilitate the expeditious resolution of the environmental review process for the project study; and

(B) to prepare or ensure that any required environmental impact statement or other environmental review document for a project study required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

(d) PARTICIPATING AND COOPERATING AGENCIES.—

(1) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to carrying out the environmental review process for a project study, the Secretary shall identify, as early as practicable in the environmental review process, all Federal, State, and local government agencies and Indian tribes that may—

(A) have jurisdiction over the project;

(B) be required by law to conduct or issue a review, analysis, opinion, or statement for the project study; or

(C) be required to make a determination on issuing a permit, license, or other approval or decision for the project study.

(2) STATE AUTHORITY.—If the environmental review process is being implemented by the Secretary for a project study within the boundaries of a State, the State, consistent with State law, may choose to participate in the process and to make subject to the process all State agencies that—

(A) have jurisdiction over the project;

(B) are required to conduct or issue a review, analysis, opinion, or statement for the project study; or

(C) are required to make a determination on issuing a permit, license, or other approval or decision for the project study.

(3) INVITATION.—

(A) IN GENERAL.—The Federal lead agency shall invite, as early as practicable in the environmental review process, any agency identified under paragraph (1) to become a participating or cooperating agency, as applicable, in the environmental review process for the project study.

(B) DEADLINE.—An invitation to participate issued under subparagraph (A) shall set a deadline by which a response to the invitation shall be submitted, which may be extended by the Federal lead agency for good cause.

(4) PROCEDURES.—Section 1501.6 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), shall govern the identification and the participation of a cooperating agency.

(5) FEDERAL COOPERATING AGENCIES.—Any Federal agency that is invited by the Federal lead agency to participate in the environmental review process for a project study shall be designated as a cooperating agency by the Federal lead agency unless the invited agency informs the Federal lead agency, in writing, by the deadline specified in the invitation that the invited agency—

(A)(i) has no jurisdiction or authority with respect to the project;

(ii) has no expertise or information relevant to the project; or

(iii) does not have adequate funds to participate in the project; and

(B) does not intend to submit comments on the project.

(6) ADMINISTRATION.—A participating or cooperating agency shall comply with this section and any schedule established under this section.

(7) EFFECT OF DESIGNATION.—Designation as a participating or cooperating agency under this subsection shall not imply that the participating or cooperating agency—

(A) supports a proposed project; or

(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

(8) CONCURRENT REVIEWS.—Each participating or cooperating agency shall—

(A) carry out the obligations of that agency under other applicable law concurrently and in conjunction with the required environmental review process, unless doing so would prevent the participating or cooperating agency from conducting needed analysis or otherwise carrying out those obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(e) NON-FEDERAL PROJECTS INTEGRATED INTO RECLAMATION SYSTEMS.—The Federal lead agency shall serve in that capacity for the entirety of all non-Federal projects that will be integrated into a larger system owned, operated or administered in whole or in part by the Bureau of Reclamation or the Bureau of Indian Affairs.

(f) NON-FEDERAL PROJECT.—If the Secretary determines that a project can be expedited by a non-Federal sponsor and that there is a demonstrable Federal interest in expediting that project, the Secretary shall take such actions as are necessary to advance such a project as a non-Federal project, including, but not limited to, entering into agreements with the non-Federal sponsor of such project to support the planning, design and permitting of such project as a non-Federal project.

(g) PROGRAMMATIC COMPLIANCE.—

(1) IN GENERAL.—The Secretary shall issue guidance regarding the use of programmatic approaches to carry out the environmental review process that—

(A) eliminates repetitive discussions of the same issues;

(B) focuses on the actual issues ripe for analyses at each level of review;

(C) establishes a formal process for coordinating with participating and cooperating agencies, including the creation of a list of all data that are needed to carry out an environmental review process; and

(D) complies with—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) all other applicable laws.

(2) REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall—

(A) as the first step in drafting guidance under that paragraph, consult with relevant Federal, State, and local governmental agencies, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches;

(B) emphasize the importance of collaboration among relevant Federal, State, and local governmental agencies, and Indian tribes in undertaking programmatic reviews, especially with respect to including reviews with a broad geographical scope;

(C) ensure that the programmatic reviews—

(i) promote transparency, including of the analyses and data used in the environmental review process, the treatment of any deferred issues raised by Federal, State, and local governmental agencies, Indian tribes, or the public, and the temporal and special scales to be used to analyze those issues;

(ii) use accurate and timely information in the environmental review process, including—

(I) criteria for determining the general duration of the usefulness of the review; and

(II) the timeline for updating any out-of-date review;

(iii) describe—

(I) the relationship between programmatic analysis and future tiered analysis; and

(II) the role of the public in the creation of future tiered analysis; and

(iv) are available to other relevant Federal, State, and local governmental agencies, Indian tribes, and the public;

- (D) allow not fewer than 60 days of public notice and comment on any proposed guidance; and
  - (E) address any comments received under subparagraph (D).
- (h) COORDINATED REVIEWS.—
- (1) COORDINATION PLAN.—
    - (A) ESTABLISHMENT.—The Federal lead agency shall, after consultation with and with the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, establish a plan for coordinating public and agency participation in, and comment on, the environmental review process for a project study or a category of project studies.
    - (B) SCHEDULE.—
      - (i) IN GENERAL.—As soon as practicable but not later than 45 days after the close of the public comment period on a draft environmental impact statement, the Federal lead agency, after consultation with and the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, shall establish, as part of the coordination plan established in subparagraph (A), a schedule for completion of the environmental review process for the project study.
      - (ii) FACTORS FOR CONSIDERATION.—In establishing a schedule, the Secretary shall consider factors such as—
        - (I) the responsibilities of participating and cooperating agencies under applicable laws;
        - (II) the resources available to the project sponsor, joint lead agency, and other relevant Federal and State agencies, as applicable;
        - (III) the overall size and complexity of the project;
        - (IV) the overall schedule for and cost of the project; and
        - (V) the sensitivity of the natural and historical resources that could be affected by the project.
      - (iii) MODIFICATIONS.—The Secretary may—
        - (I) lengthen a schedule established under clause (i) for good cause; and
        - (II) shorten a schedule only with concurrence of the affected participating and cooperating agencies and the project sponsor or joint lead agency, as applicable.
      - (iv) DISSEMINATION.—A copy of a schedule established under clause (i) shall be—
        - (I) provided to each participating and cooperating agency and the project sponsor or joint lead agency, as applicable; and
        - (II) made available to the public.
  - (2) COMMENT DEADLINES.—The Federal lead agency shall establish the following deadlines for comment during the environmental review process for a project study:
    - (A) DRAFT ENVIRONMENTAL IMPACT STATEMENTS.—For comments by Federal and State agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of the draft environmental impact statement, unless—
      - (i) a different deadline is established by agreement of the Federal lead agency, the project sponsor or joint lead agency, as applicable, and all participating and cooperating agencies; or
      - (ii) the deadline is extended by the Federal lead agency for good cause.
    - (B) OTHER ENVIRONMENTAL REVIEW PROCESSES.—For all other comment periods established by the Federal lead agency for agency or public comments in the environmental review process, a period of not more than 30 days after the date on which the materials on which comment is requested are made available, unless—
      - (i) a different deadline is established by agreement of the Federal lead agency, the project sponsor, or joint lead agency, as applicable, and all participating and cooperating agencies; or
      - (ii) the deadline is extended by the Federal lead agency for good cause.
  - (3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project study, including the issuance or denial of a permit or license, is required to be made by the date described in subsection (i)(5)(B), the Secretary shall submit to the Committee

on Natural Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate—

(A) as soon as practicable after the 180-day period described in subsection (i)(5)(B), an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project study have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection reduces any time period provided for public comment in the environmental review process under applicable Federal law (including regulations).

(5) TRANSPARENCY REPORTING.—

(A) REPORTING REQUIREMENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish and maintain an electronic database and, in coordination with other Federal and State agencies, issue reporting requirements to make publicly available the status and progress with respect to compliance with applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal, State, or local approval or action required for a project study for which this section is applicable.

(B) PROJECT STUDY TRANSPARENCY.—Consistent with the requirements established under subparagraph (A), the Secretary shall make publicly available the status and progress of any Federal, State, Tribal, or local decision, action, or approval required under applicable laws for each project study for which this section is applicable.

(i) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The Federal lead agency, the cooperating agencies, and any participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or result in the denial of any approval required for the project study under applicable laws.

(2) FEDERAL LEAD AGENCY RESPONSIBILITIES.—

(A) IN GENERAL.—The Federal lead agency shall make information available to the cooperating agencies and participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(B) DATA SOURCES.—The information under subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

(3) COOPERATING AND PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the Federal lead agency, cooperating and participating agencies shall identify, as early as practicable, any issues of concern regarding the potential environmental or socioeconomic impacts of the project, including any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project study.

(4) ACCELERATED ISSUE RESOLUTION AND ELEVATION.—

(A) IN GENERAL.—On the request of a participating or cooperating agency or project sponsor, the Secretary shall convene an issue resolution meeting with the relevant participating and cooperating agencies and the project sponsor or joint lead agency, as applicable, to resolve issues that may—

- (i) delay completion of the environmental review process; or
- (ii) result in denial of any approval required for the project study under applicable laws.

(B) MEETING DATE.—A meeting requested under this paragraph shall be held not later than 21 days after the date on which the Secretary receives the request for the meeting, unless the Secretary determines that there is good cause to extend that deadline.

(C) NOTIFICATION.—On receipt of a request for a meeting under this paragraph, the Secretary shall notify all relevant participating and cooperating agencies of the request, including the issue to be resolved and the date for the meeting.

(D) ELEVATION OF ISSUE RESOLUTION.—If a resolution cannot be achieved within the 30-day period beginning on the date of a meeting under this paragraph and a determination is made by the Secretary that all information necessary to resolve the issue has been obtained, the Secretary shall forward the dispute to the heads of the relevant agencies for resolution.



(E) CONVENTION BY SECRETARY.—The Secretary may convene an issue resolution meeting under this paragraph at any time, at the discretion of the Secretary, regardless of whether a meeting is requested under subparagraph (A).

(5) FINANCIAL PENALTY PROVISIONS.—

(A) IN GENERAL.—A Federal jurisdictional agency shall complete any required approval or decision for the environmental review process on an expeditious basis using the shortest existing applicable process.

(B) FAILURE TO DECIDE.—

(i) IN GENERAL.—

(I) TRANSFER OF FUNDS.—If a Federal jurisdictional agency fails to render a decision required under any Federal law relating to a project study that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, statement, opinion, or other approval by the date described in clause (ii), the amount of funds made available to support the office of the head of the Federal jurisdictional agency shall be reduced by an amount of funding equal to the amount specified in item (aa) or (bb) of subclause (II), and those funds shall be made available to the division of the Federal jurisdictional agency charged with rendering the decision by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C).

(II) AMOUNT TO BE TRANSFERRED.—The amount referred to in subclause (I) is—

(aa) \$20,000 for any project study requiring the preparation of an environmental assessment or environmental impact statement; or

(bb) \$10,000 for any project study requiring any type of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) other than an environmental assessment or environmental impact statement.

(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—

(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) LIMITATIONS.—

(i) IN GENERAL.—No transfer of funds under subparagraph (B) relating to an individual project study shall exceed, in any fiscal year, an amount equal to 1 percent of the funds made available for the applicable agency office.

(ii) FAILURE TO DECIDE.—The total amount transferred in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 5 percent of the funds made available for the applicable agency office for that fiscal year.

(iii) AGGREGATE.—Notwithstanding any other provision of law, for each fiscal year, the aggregate amount of financial penalties assessed against each applicable agency office under this Act and any other Federal law as a result of a failure of the agency to make a decision by an applicable deadline for environmental review, including the total amount transferred under this paragraph, shall not exceed an amount equal to 9.5 percent of the funds made available for the agency office for that fiscal year.

(D) NOTIFICATION OF TRANSFERS.—Not later than 10 days after the last date in a fiscal year on which funds of the Federal jurisdictional agency may be transferred under subparagraph (B)(5) with respect to an individual decision, the agency shall submit to the appropriate committees of the House of Representatives and the Senate written notification that includes a description of—

(i) the decision;

(ii) the project study involved;

(iii) the amount of each transfer under subparagraph (B) in that fiscal year relating to the decision;

- (iv) the total amount of all transfers under subparagraph (B) in that fiscal year relating to the decision; and
- (v) the total amount of all transfers of the agency under subparagraph (B) in that fiscal year.

(E) NO FAULT OF AGENCY.—

(i) IN GENERAL.—A transfer of funds under this paragraph shall not be made if the applicable agency described in subparagraph (A) notifies, with a supporting explanation, the Federal lead agency, cooperating agencies, and project sponsor, as applicable, that—

(I) the agency has not received necessary information or approvals from another entity in a manner that affects the ability of the agency to meet any requirements under Federal, State, or local law;

(II) significant new information, including from public comments, or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application; or

(III) the agency lacks the financial resources to complete the review under the scheduled timeframe, including a description of the number of full-time employees required to complete the review, the amount of funding required to complete the review, and a justification as to why not enough funding is available to complete the review by the deadline.

(ii) LACK OF FINANCIAL RESOURCES.—If the agency provides notice under clause (i)(III), the Inspector General of the agency shall—

(I) conduct a financial audit to review the notice; and

(II) not later than 90 days after the date on which the review described in subclause (I) is completed, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate the results of the audit conducted under subclause (I).

(F) LIMITATION.—The Federal agency from which funds are transferred pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

(G) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

(j) MEMORANDUM OF AGREEMENTS FOR EARLY COORDINATION.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other, State and local agencies, and Indian tribes on environmental review and Bureau of Reclamation project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, prevent potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

(B) the cooperation referred to in subparagraph (A) should include the development of policies and the designation of staff that advise planning agencies and project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(2) TECHNICAL ASSISTANCE.—If requested at any time by a State or project sponsor, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the maximum extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or project sponsor in carrying out early coordination activities.

(3) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or project sponsor, the Federal lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, Indian tribes, State and local governments, and other appropriate entities to carry out the early coordination activities, including providing technical assistance in identifying potential impacts and mitigation issues in an integrated fashion.

(k) LIMITATIONS.—Nothing in this section preempts or interferes with—

(1) any obligation to comply with the provisions of any Federal law, including—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

- (B) any other Federal environmental law;
  - (2) the reviewability of any final Federal agency action in a court of the United States or in the court of any State;
  - (3) any requirement for seeking, considering, or responding to public comment; or
  - (4) any power, jurisdiction, responsibility, duty, or authority that a Federal, State, or local governmental agency, Indian tribe, or project sponsor has with respect to carrying out a project or any other provision of law applicable to projects.
- (l) TIMING OF CLAIMS.—
- (1) TIMING.—
    - (A) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or other approval issued by a Federal agency for a project study shall be barred unless the claim is filed not later than 3 years after publication of a notice in the Federal Register announcing that the permit, license, or other approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law that allows judicial review.
    - (B) APPLICABILITY.—Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of a permit, license, or other approval.
  - (2) NEW INFORMATION.—
    - (A) IN GENERAL.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under title 40, Code of Federal Regulations (including successor regulations).
    - (B) SEPARATE ACTION.—The preparation of a supplemental environmental impact statement or other environmental document, if required under this section, shall be considered a separate final agency action and the deadline for filing a claim for judicial review of the action shall be 3 years after the date of publication of a notice in the Federal Register announcing the action relating to such supplemental environmental impact statement or other environmental document.
- (m) CATEGORICAL EXCLUSIONS.—
- (1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—
    - (A) survey the use by the Bureau of Reclamation and the Bureau of Indian Affairs of categorical exclusions in projects since 2005;
    - (B) publish a review of the survey that includes a description of—
      - (i) the types of actions that were categorically excluded or could be the basis for developing a new categorical exclusion; and
      - (ii) any requests previously received by the Secretary for new categorical exclusions; and
    - (C) solicit requests from other Federal agencies and project sponsors for new categorical exclusions.
  - (2) NEW CATEGORICAL EXCLUSIONS.—Not later than 1 year after the date of enactment of this Act, if the Secretary has identified a category of activities that merit establishing a categorical exclusion that did not exist on the day before the date of enactment of this Act based on the review under paragraph (1), the Secretary shall publish a notice of proposed rulemaking to propose that new categorical exclusion, to the extent that the categorical exclusion meets the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (or successor regulation).
- (n) REVIEW OF PROJECT ACCELERATION REFORMS.—
- (1) IN GENERAL.—The Comptroller General of the United States shall—
    - (A) assess the reforms carried out under this section; and
    - (B) not later than 5 years and not later than 10 years after the date of enactment of this Act, submit to the Committee on Natural Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate a report that describes the results of the assessment.
  - (2) CONTENTS.—The reports under paragraph (1) shall include an evaluation of impacts of the reforms carried out under this section on—
    - (A) project delivery;
    - (B) compliance with environmental laws; and
    - (C) the environmental impact of projects.

(o) **PERFORMANCE MEASUREMENT.**—The Secretary shall establish a program to measure and report on progress made toward improving and expediting the planning and environmental review process.

(p) **CATEGORICAL EXCLUSIONS IN EMERGENCIES.**—For the repair, reconstruction, or rehabilitation of a Bureau of Reclamation or Bureau of Indian Affairs project that is in operation or under construction when damaged by an event or incident that results in a declaration by the President of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall treat such repair, reconstruction, or rehabilitation activity as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations (or successor regulations), if the repair or reconstruction activity is—

(1) in the same location with the same capacity, dimensions, and design as the original Bureau of Reclamation or Bureau of Indian Affairs project as before the declaration described in this section; and

(2) commenced within a 2-year period beginning on the date of a declaration described in this subsection.

**SEC. 6. ANNUAL REPORT TO CONGRESS.**

(a) **IN GENERAL.**—Not later than February 1 of each year, the Secretary shall develop and submit to the Committee on Natural Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate an annual report, to be entitled “Report to Congress on Future Water Project Development”, that identifies the following:

(1) **PROJECT REPORTS.**—Each project report that meets the criteria established in subsection (c)(1)(A).

(2) **PROPOSED PROJECT STUDIES.**—Any proposed project study submitted to the Secretary by a non-Federal interest pursuant to subsection (b) that meets the criteria established in subsection (c)(1)(A).

(3) **PROPOSED MODIFICATIONS.**—Any proposed modification to an authorized water project or project study that meets the criteria established in subsection (c)(1)(A) that—

(A) is submitted to the Secretary by a non-Federal interest pursuant to subsection (b); or

(B) is identified by the Secretary for authorization.

(4) **EXPEDITED COMPLETION OF REPORT AND DETERMINATIONS.**—Any project study that was expedited and any Secretarial determinations under section 4 of this Act.

(b) **REQUESTS FOR PROPOSALS.**—

(1) **PUBLICATION.**—Not later than May 1 of each year, the Secretary shall publish in the Federal Register a notice requesting proposals from non-Federal interests for proposed project studies and proposed modifications to authorized projects and project studies to be included in the annual report.

(2) **DEADLINE FOR REQUESTS.**—The Secretary shall include in each notice required by this subsection a requirement that non-Federal interests submit to the Secretary any proposals described in paragraph (1) by not later than 120 days after the date of publication of the notice in the Federal Register in order for the proposals to be considered for inclusion in the annual report.

(3) **NOTIFICATION.**—On the date of publication of each notice required by this subsection, the Secretary shall—

(A) make the notice publicly available, including on the Internet; and

(B) provide written notification of the publication to the Committee on Natural Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate.

(c) **CONTENTS.**—

(1) **PROJECT REPORTS, PROPOSED PROJECT STUDIES, AND PROPOSED MODIFICATIONS.**—

(A) **CRITERIA FOR INCLUSION IN REPORT.**—The Secretary shall include in the annual report only those project reports, proposed project studies, and proposed modifications to authorized projects and project studies that—

(i) are related to the missions and authorities of the Bureau of Reclamation or the Bureau of Indian Affairs;

(ii) require specific congressional authorization, including by an Act of Congress;

(iii) have not been congressionally authorized;

(iv) have not been included in any previous annual report; and

(v) if authorized, could be carried out by the Bureau of Reclamation or the Bureau of Indian Affairs.

- (B) DESCRIPTION OF BENEFITS.—
- (i) DESCRIPTION.—The Secretary shall describe in the annual report, to the extent applicable and practicable, for each proposed project study and proposed modification to an authorized water resources development project or project study included in the annual report, the benefits, as described in clause (ii), of each such study or proposed modification.
  - (ii) BENEFITS.—The benefits (or expected benefits, in the case of a proposed project study) described in this clause are benefits to—
    - (I) the protection of human life and property;
    - (II) improvement to domestic irrigated water and power supplies;
    - (III) the national economy;
    - (IV) the environment; or
    - (V) the national security interests of the United States.
- (C) IDENTIFICATION OF OTHER FACTORS.—The Secretary shall identify in the annual report, to the extent practicable—
- (i) for each proposed project study included in the annual report, the non-Federal interest that submitted the proposed project study pursuant to subsection (b); and
  - (ii) for each proposed project study and proposed modification to a project or project study included in the annual report, whether the non-Federal interest has demonstrated—
    - (I) that local support exists for the proposed project study or proposed modification to an authorized project or project study (including the surface water storage development project that is the subject of the proposed feasibility study or the proposed modification to an authorized project study); and
    - (II) the financial ability to provide the required non-Federal cost share.
- (2) TRANSPARENCY.—The Secretary shall include in the annual report, for each project report, proposed project study, and proposed modification to a project or project study included under paragraph (1)(A)—
- (A) the name of the associated non-Federal interest, including the name of any non-Federal interest that has contributed, or is expected to contribute, a non-Federal share of the cost of—
    - (i) the project report;
    - (ii) the proposed project study;
    - (iii) the authorized project study for which the modification is proposed; or
    - (iv) construction of—
      - (I) the project that is the subject of—
        - (aa) the water report;
        - (bb) the proposed project study; or
        - (cc) the authorized project study for which a modification is proposed; or
      - (II) the proposed modification to a project;
  - (B) a letter or statement of support for the water report, proposed project study, or proposed modification to a project or project study from each associated non-Federal interest;
  - (C) the purpose of the feasibility report, proposed feasibility study, or proposed modification to a project or project study;
  - (D) an estimate, to the extent practicable, of the Federal, non-Federal, and total costs of—
    - (i) the proposed modification to an authorized project study; and
    - (ii) construction of—
      - (I) the project that is the subject of—
        - (aa) the project report; or
        - (bb) the authorized project study for which a modification is proposed, with respect to the change in costs resulting from such modification; or
      - (II) the proposed modification to an authorized project; and
  - (E) an estimate, to the extent practicable, of the monetary and nonmonetary benefits of—
    - (i) the project that is the subject of—
      - (I) the project report; or
      - (II) the authorized project study for which a modification is proposed, with respect to the benefits of such modification; or
    - (ii) the proposed modification to an authorized project.

(3) **CERTIFICATION.**—The Secretary shall include in the annual report a certification stating that each feasibility report, proposed feasibility study, and proposed modification to a project or project study included in the annual report meets the criteria established in paragraph (1)(A).

(4) **APPENDIX.**—The Secretary shall include in the annual report an appendix listing the proposals submitted under subsection (b) that were not included in the annual report under paragraph (1)(A) and a description of why the Secretary determined that those proposals did not meet the criteria for inclusion under such paragraph.

(d) **SPECIAL RULE FOR INITIAL ANNUAL REPORT.**—Notwithstanding any other deadlines required by this section, the Secretary shall—

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a notice required by subsection (b)(1); and

(2) include in such notice a requirement that non-Federal interests submit to the Secretary any proposals described in subsection (b)(1) by not later than 120 days after the date of publication of such notice in the Federal Register in order for such proposals to be considered for inclusion in the first annual report developed by the Secretary under this section.

(e) **PUBLICATION.**—Upon submission of an annual report to Congress, the Secretary shall make the annual report publicly available, including through publication on the Internet.

(f) **DEFINITION.**—In this section, the term “project report” means a final feasibility report developed under the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

**SEC. 7. APPLICABILITY OF THE WIIN ACT.**

Sections 3221 through 3226, 4007 and 4009 of the WIIN Act (Public Law 114–322) shall not apply to any project (as defined in section 2 of this Act).

**SEC. 8. PROJECT AUTHORIZATIONS.**

The following projects for water resources development and conservation and other purposes, as identified in the following reports and correspondence are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports and correspondence designated in this section:

State	Name	Date of Feasibility Report	Estimated Costs
WA	Yakima Basin Integrated Plan-Initial Development Phase	March 2, 2012	Non-Federal: \$627,000,000 Federal: \$92,100,000 Total: \$719,100,000
KS	Equus Beds Division of the Wichita Project	January 19, 2010	Non-Federal: \$90,000,000 Federal: \$30,000,000 Total: \$120,000,000
MT	Musselshell-Judith Rural Water System	July 31, 2015	Non-Federal: \$21,801,000 Federal: \$65,301,000 Total: \$87,102,000

**SEC. 9. DEAUTHORIZATIONS.**

(a) **PURPOSES; DEFINITIONS.**—

(1) **PURPOSES.**—The purposes of this section are—

(A) to identify \$187,401,000 in Bureau of Reclamation projects and programs that are no longer feasible due to—

(i) a lack of local support;

(ii) a lack of available Federal or non-Federal resources; or

(iii) an authorized purpose that is no longer relevant or feasible;

(B) to establish an efficient and transparent process for deauthorizing Bureau of Reclamation projects and programs that have failed to receive a minimum level of investment, thereby ensuring active projects can move forward while reducing the backlog of authorized projects;

(C) to create an expedited and definitive process to deauthorize Reclamation projects and programs;

(D) to allow the continued authorization of programs and projects that are feasible; and

(E) to establish a process for identifying authorized Bureau of Reclamation projects and programs that are no longer—

(i) in the Federal interest; or

- (ii) feasible.
- (2) DEFINITIONS.—In this section:
- (A) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (B) RECLAMATION PROJECT OR PROGRAM.—The term “Reclamation project and program” includes any project or program that is administered by the Bureau of Reclamation.
- (b) COMPREHENSIVE REPORTS.—
- (1) MINIMUM FUNDING LIST.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and make available on a publicly accessible Internet website in a manner that is downloadable, searchable, and sortable, a list of—
- (A) reclamation programs that are authorized and for which funding was obligated during the current fiscal year or any of the preceding 5 fiscal years;
- (B) projects or separable elements of projects authorized for construction for which funding has been obligated during the current fiscal year or any of the 5 preceding fiscal years; and
- (C) for each project or element of a project listed pursuant to subparagraph (B)—
- (i) the amount of funding obligated for each such project or separable element per fiscal year;
- (ii) the current phase of each such project or separable element; and
- (iii) the amount required to complete the current phase of each such project or separable element.
- (2) BACKLOG REPORT.—With the report required under paragraph (1), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and make available on a publicly accessible Internet website in a manner that is downloadable, searchable, and sortable, a list of—
- (A) programs that are authorized and for which funding was not obligated during the current fiscal year or any of the preceding 5 fiscal years;
- (B) projects or separable elements that are authorized for construction but have not been completed; and
- (C) for each project or separable element listed pursuant to subparagraph (B)—
- (i) the date of authorization of the project or separable element, including any subsequent modifications to the original authorization;
- (ii) the original budget authority for the project or separable element;
- (iii) a brief description of the project or separable element;
- (iv) the estimated date of completion of the project or separable element;
- (v) the estimated cost of completion of the project or separable element; and
- (vi) any amounts appropriated for the project or separable element that remain unobligated.
- (c) INTERIM DEAUTHORIZATION LIST.—
- (1) IN GENERAL.—The Secretary shall develop an interim deauthorization list that identifies each Reclamation program or project, or separable element of a program or project, authorized 5 years prior to enactment of this Act, for which Federal and non-Federal funding was obligated to before the date of the enactment of this Act, but for which no Federal or non-Federal funds were obligated for the program, project, or separable element of the program or project during the current fiscal year or any of the 5 preceding fiscal years.
- (2) SPECIAL RULE FOR PROJECTS RECEIVING FUNDS FOR POST-AUTHORIZATION STUDY.—A project or separable element of a project may not be identified on the interim deauthorization list, or the final deauthorization list developed under subsection (d), if the project or separable element received Federal funding for a post-authorization study during the current fiscal year or any of the 5 preceding fiscal years.
- (3) PUBLIC COMMENT AND CONSULTATION.—The Secretary shall solicit comments from the public and the Governors of each applicable State on the interim deauthorization list developed under paragraph (1). The public comment period shall be 90 days.
- (4) SUBMISSION TO CONGRESS; PUBLICATION.—Not later than 90 days after the date of the submission of the list required by subsection (b), the Secretary shall—

(A) submit the interim deauthorization list to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives; and

(B) publish the interim deauthorization list in the Federal Register.

(d) FINAL DEAUTHORIZATION LIST.—

(1) IN GENERAL.—The Secretary shall develop a final deauthorization list of each Reclamation program or project, or separable element of a program or project, described in subsection (c)(1) that is identified pursuant to this subsection.

(2) DEAUTHORIZATION AMOUNT.—The Secretary shall include on the final deauthorization list projects and separable elements of projects that have, in the aggregate, an estimated Federal cost to complete that is at least \$187,401,000.

(3) IDENTIFICATION OF PROJECTS.—

(A) SEQUENCING OF PROJECTS.—

(i) IN GENERAL.—The Secretary shall identify projects and separable elements of projects for inclusion on the final deauthorization list according to the order in which the projects and separable elements of the projects were authorized, beginning with the earliest authorized projects and separable elements of projects and ending once the last project or separable element of a project necessary to meet the aggregate amount under paragraph (2) is identified.

(ii) FACTORS TO CONSIDER.—The Secretary may identify programs, projects, and separable elements of programs and projects for exclusion from the final deauthorization list if the Secretary determines, on a case-by-case basis, that a project or separable element of a project is critical for interests of the United States, based on the possible impact of the project or separable element of the project on public health and safety, the national economy, or the environment.

(iii) CONSIDERATION OF PUBLIC COMMENTS.—In making determinations under clauses (i) and (ii), the Secretary shall consider any comments received under subsection (c)(3).

(B) APPENDIX.—The Secretary shall include as part of the final deauthorization list an appendix that—

(i) identifies each program, project, and separable element of a program or project on the interim deauthorization list developed under subsection (c) that is not included on the final deauthorization list; and

(ii) describes the reasons why the program, project, or separable element is not included.

(4) SUBMISSION TO CONGRESS; PUBLICATION.—Not later than 120 days after the date on which the public comment period under subsection (c)(3) expires, the Secretary shall—

(A) submit the final deauthorization list and the appendix to the final deauthorization list to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives; and

(B) publish the final deauthorization list and the appendix to the final deauthorization list in the Federal Register.

(e) DEAUTHORIZATION; CONGRESSIONAL REVIEW.—

(1) IN GENERAL.—Subject to paragraph (2), after the date that is 180 days after the date of submission of the final deauthorization report under subsection (d), a program, project, or separable element of a program or project identified in the report is deauthorized, unless Congress passes a joint resolution disapproving the final deauthorization report prior to the end of that period.

(2) NON-FEDERAL CONTRIBUTIONS.—A program, project, or separable element of a program or project identified in the final deauthorization report under subsection (d) shall not be deauthorized under this subsection if, before the expiration of the 180-day period referred to in paragraph (1), the non-Federal interest of the program, project, or separable element of the project provides sufficient funds to complete the program, project, or separable element of the project.

(f) TREATMENT OF PROJECT MODIFICATIONS.—For purposes of this section, if an authorized water resources development program, project, or separable element of the program or project has been modified by an Act of Congress, the date of authorization of the program, project, or separable element shall be deemed to be the date of the most recent modification.

(g) EXEMPTION.—This section shall not apply to any project that would yield more than 200,000 acre-feet of water per year on average.



## PURPOSE OF THE BILL

The purpose of H.R. 4419 is to facilitate and streamline the Bureau of Reclamation and Bureau of Indian Affairs processes for creating or expanding certain water projects.

## BACKGROUND AND NEED FOR LEGISLATION

The U.S. Bureau of Reclamation (Reclamation) is the largest water wholesaler in the nation, providing water to 31 million people and helping irrigate 10 million acres of farmland that produce 60% of the nation's vegetables and 25% of its fruits and nuts.<sup>1</sup> Many of Reclamation's projects are multi-purpose in nature, and its reservoirs and dams further generate enough emissions-free electricity to serve at least 3.5 million homes annually.<sup>2</sup> This is accomplished through the operation of 53 hydroelectric power plants that have annually produced, on average, 40 billion kilowatt-hours over the last 10 years.<sup>3</sup> In addition, the Bureau of Indian Affairs (BIA) oversees 15 revenue-generating irrigation projects that include 6,200 miles of canals and drains and over 5,000 irrigation structures.<sup>4</sup> These projects serve 25,000 water users and irrigate more than 780,000 acres of land.<sup>5</sup>

Water stored behind many of these Reclamation facilities provides year-round flows and cold-water fishery habitat. The vast majority of these projects are financed under the "beneficiary pays" principle, which requires users to re-pay the initial federal investment in these facilities through long-term contracts. The Columbia Basin Project in Washington State, the Central Valley Project in California and the Central Arizona Project are just some of the Reclamation's projects that have transformed western regional economies. However, these projects contribute to the approximately 90 percent of Reclamation projects that were built more than 50 years ago.<sup>6</sup>

Although it is indisputable that surface storage continues to serve a key role in making the West what it is today, the region's water supply is at a crossroads due to several factors. Population growth is one such factor. In California alone, the current water system was designed to serve 22 million people, yet the State currently has 39 million residents and is expected to double in population by 2050.<sup>7</sup> Calls for new storage in California, where record-setting drought coupled with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and other regulations have diverted water from farms and cities to the ocean, are at a high level.<sup>8</sup>

With a few exceptions, the construction of new multi-purpose surface water storage has largely stalled in the region. Except for the Animas-La Plata project in southwestern Colorado, Reclamation has not built any large multi-purpose dams and reservoirs over the last generation, due in part to environmental permitting and other regulatory requirements and cost. In California specifi-

<sup>1</sup> <http://www.usbr.gov/main/about/fact.html>.

<sup>2</sup> Id. note 1.

<sup>3</sup> <http://www.usbr.gov/main/about/fact.html>.

<sup>4</sup> [https://openet.org/w/images/e/e1/Federal\\_Hydropower\\_-\\_Bureau\\_of\\_Indian\\_Affairs.pdf](https://openet.org/w/images/e/e1/Federal_Hydropower_-_Bureau_of_Indian_Affairs.pdf).

<sup>5</sup> <https://www.bia.gov/bia/ots/dwp/irrigation-power>.

<sup>6</sup> <https://www.usbr.gov/newsroom/presskit/factsheet/detail.cfm?recordid=2>.

<sup>7</sup> <http://www.water.ca.gov/swp/delta.cfm>.

<sup>8</sup> Testimony of Mr. Dan Keppen, before the House Water and Power Subcommittee, Legislative Hearing on H.R. 5412, 113th Congress, p. 2.

ally, Reclamation and the California Department of Water Resources began the North-of-the-Delta Offstream Storage Investigation in 2002 for the proposed Sites Reservoir.<sup>9</sup> As of 2012, Reclamation spent \$12.7 million conducting this study, and it is not yet completed.<sup>10</sup>

Under Reclamation's current feasibility study process (called Directives and Standards), the agency must use a formula to decide the costs and benefits of such project. Specifically, a 1:1 cost-benefit ratio triggers a favorable recommendation for construction but if the costs outweigh the benefits, a negative recommendation occurs. This formula determines the actual cost of constructing the dam and any environmental mitigation for such construction while assessing the water supply, hydropower, recreation, flood control and environmental benefits. Regarding the proposed Sites Reservoir feasibility study process, Mr. Thad Bettner, General Manager of the Glenn-Colusa Irrigation District, said "despite [the \$12.7 million] effort and the many promised benefits . . . we still find ourselves in a place where it is difficult to clearly articulate the benefits of the project, the costs, and how the project will be funded."<sup>11</sup>

In light of these difficulties, H.R. 4419 is designed to speed up and provide more certainty to the feasibility study process on certain water projects that "would be owned, funded, or operated in whole or in part" by the Reclamation or BIA.<sup>12</sup> Specifically, the bill seeks to facilitate the construction of new or expanded surface water storage projects, Title XVI projects, rural water supply projects, and federal portions of an integrated water resources management plan that has been subject to a review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).<sup>13</sup> The legislation establishes reporting and transparency requirements to provide agency justifications on why feasibility studies are not being completed in a timely manner, and also contains a mechanism to offset the federal costs for these projects. H.R. 4419 creates a process for Congress to authorize Reclamation and BIA projects that have met the criteria established in the bill. For example, if a feasibility report is completed for a qualifying project, that study would be included in the reporting mechanism under section 6 of this bill.

As mentioned above, the bill closely resembles provisions included in the Water Resources Reform and Development Act.<sup>14</sup> The conference report for this law, which includes nearly identical provisions for the U.S. Army Corps of Engineers, passed the House 412–4<sup>15</sup> and in the Senate by a 91–7 margin.<sup>16</sup>

<sup>9</sup> Testimony of Mr. Thad Bettner before the House Water and Power Subcommittee, Oversight Hearing on "Water for Our Future and Job Creation: Examining Regulatory and Bureaucratic Barriers to New Surface Storage Infrastructure", 112th Congress, p. 2.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> H.R. 4419, Section 2(9).

<sup>13</sup> H.R. 4419, Section 2(5)(A).

<sup>14</sup> P.L. 113–121 <https://www.gpo.gov/fdsys/pkg/PLAW-113publ121/pdf/PLAW-113publ121.pdf>.

<sup>15</sup> House Roll Call Vote: <http://clerk.house.gov/evs/2013/roll560.xml>.

<sup>16</sup> Senate Roll Call Vote: [https://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm?congress=113&session=2&vote=00163](https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm?congress=113&session=2&vote=00163).

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

This Act may be cited as the “Bureau of Reclamation and Bureau of Indian Affairs Water Project Streamlining Act”.

*Section 2. Definitions*

This section defines several key terms.

*Section 3. Acceleration of studies*

This section requires future feasibility studies for Bureau of Reclamation or Bureau of Indian Affairs (BIA) projects to be completed with three years after the date of initiation and have a maximum federal cost of \$3 million. The section provides for a maximum seven-year extension of that time and cost if the Secretary of the Interior provides a detailed justification to the non-federal project sponsor and Congress.

*Section 4. Expedited completion of reports*

This section requires the Secretary of the Interior to expedite the completion of any ongoing feasibility studies initiated before the date of enactment. If the Secretary determines that the project is justified in a completed report, the Secretary shall proceed to pre-construction planning, engineering and design of the project.

*Section 5. Project acceleration*

This section directs the Secretary to develop and implement a coordinated environmental review process with Reclamation and the non-federal project sponsor as lead agencies for expedited environmental review of a project. The section further directs the lead agencies to establish a schedule for completion of a study and lays out financial penalties if timelines are not met.

*Section 6. Annual report to Congress*

This section directs the Secretary to develop and submit a report to the relevant committees in Congress that identifies project reports, proposed project studies, and proposed modifications to projects and studies. The reports shall include a description of the benefits and federal and non-federal cost estimates. These reports would be similar to the feasibility studies listed in section 7002 of Public Law 113–121, which authorize construction of projects by Congress.

*Section 7. Applicability to the WIIN Act*

This section identifies various sections of the Water Infrastructure Improvement for the National Act (WIIN Act, Public Law 114–322) that are excluded from the process established in this bill.

*Section 8. Project authorizations*

This section contains a table of projects that meet the criteria in the bill and are authorized to be carried out in accordance with this section. These projects include: Phase III of the Yakima River Basin Water Enhancement Project in Washington, Equus Beds Division of the Wichita Project in Kansas, Musselshell-Judith Rural

Water System in Montana, and the Shasta Lake Water Resources Investigation in California.

*Section 9. Deauthorizations*

This section establishes a process to offset the federal costs of projects listed in section 8.

COMMITTEE ACTION

H.R. 4419 was introduced on November 16, 2017, by Congressman Dan Newhouse (R-WA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Power and Oceans. On November 30, 2017, the Subcommittee held a hearing on the legislation. On May 16, 2018, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Doug LaMalfa (R-CA) offered an amendment designated #1; it was adopted by voice vote. Congressman Jared Huffman (D-CA) offered an amendment designated 140; it was not adopted by a roll call vote of 14 yeas and 21 nays, as follows:

**Committee on Natural Resources**  
U.S. House of Representatives  
115th Congress

Date: 05.16.18

Recorded Vote #:1

Meeting on / Amendment on: **FC Markup Huffman amendment [140] to HR 4419 (Rep. Dan Newhouse)**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
<b>Mr. Bishop, UT, Chairman</b>		X		<b>Mr. Cook, CA</b>		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mr. McEachin, VA</i>	X		
<b>Mr. Young, AK, Chairman Emeritus</b>		X		<b>Mr. Westerman, AR</b>			
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Brown, MD</i>			
<b>Mr. Gohmert, TX, Vice Chairman</b>		X		<b>Mr. Graves, LA</b>		X	
<i>Ms. Bordallo, Guam</i>	X			<i>Mr. Clay, MO</i>	X		
<b>Mr. Lamborn, CO</b>		X		<b>Mr. Hice, GA</b>		X	
<i>Mr. Costa, CA</i>		X		<i>Mr. Gomez, CA</i>	X		
<b>Mr. Wittman, VA</b>		X		<b>Mrs. Radewagen, AS</b>			
<i>Mr. Sablan, CNMI</i>				<i>Ms. Velázquez, NY</i>	X		
<b>Mr. McClintock, CA</b>		X		<b>Mr. Webster, FL</b>			
<i>Ms. Tsongas, MA</i>	X			<b>Mr. Bergman, MI</b>		X	
<b>Mr. Pearce, NM</b>				<b>Ms. Cheney, WY</b>		X	
<i>Mr. Huffman, CA</i>	X			<b>Mr. Johnson, LA</b>		X	
<b>Mr. Thompson, PA</b>		X		<b>Ms. González-Colón, PR</b>		X	
<i>Mr. Lowenthal, CA</i>	X			<b>Mr. Gianforte, MT</b>		X	
<b>Mr. Gosar, AZ</b>		X		<b>Mr. Curtis, UT</b>		X	
<i>Mr. Beyer, VA</i>							
<b>Mr. Labrador, ID</b>							
<i>Mr. Gallego, AZ</i>	X						
<b>Mr. Tipton, CO</b>		X					
<i>Ms. Hanabusa, HI</i>	X						
<b>Mr. LaMalfa, CA</b>		X					
<i>Ms. Barragán, CA</i>	X						
<b>Mr. Denham, CA</b>		X					
<i>Mr. Soto, FL</i>	X			<b>TOTAL:</b>	14	21	

No further amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 21 yeas and 14 nays, as follows:

**Committee on Natural Resources**  
U.S. House of Representatives  
115th Congress

Date: 05.16.18

Recorded Vote #2

Meeting on / Amendment on: FC Markup Favorably Report HR 4419 (Rep. Dan Newhouse)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
<b>Mr. Bishop, UT, Chairman</b>	X			<b>Mr. Cook, CA</b>	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. McEachin, VA</i>		X	
<b>Mr. Young, AK, Chairman Emeritus</b>	X			<b>Mr. Westerman, AR</b>			
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Brown, MD</i>			
<b>Mr. Gohmert, TX, Vice Chairman</b>	X			<b>Mr. Graves, LA</b>	X		
<i>Ms. Bordallo, Guam</i>		X		<i>Mr. Clay, MO</i>		X	
<b>Mr. Lamborn, CO</b>	X			<b>Mr. Hice, GA</b>	X		
<i>Mr. Costa, CA</i>	X			<i>Mr. Gomez, CA</i>		X	
<b>Mr. Wittman, VA</b>	X			<b>Mrs. Radewagen, AS</b>			
<i>Mr. Sablan, CNMI</i>				<i>Ms. Velázquez, NY</i>		X	
<b>Mr. McClintock, CA</b>	X			<b>Mr. Webster, FL</b>			
<i>Ms. Tsongas, MA</i>		X		<b>Mr. Bergman, MI</b>	X		
<b>Mr. Pearce, NM</b>				<b>Ms. Cheney, WY</b>	X		
<i>Mr. Huffman, CA</i>		X		<b>Mr. Johnson, LA</b>	X		
<b>Mr. Thompson, PA</b>	X			<b>Ms. González-Colón, PR</b>	X		
<i>Mr. Lowenthal, CA</i>		X		<b>Mr. Gianforte, MT</b>	X		
<b>Mr. Gosar, AZ</b>	X			<b>Mr. Curtis, UT</b>	X		
<i>Mr. Beyer, VA</i>							
<b>Mr. Labrador, ID</b>							
<i>Mr. Gallego, AZ</i>		X					
<b>Mr. Tipton, CO</b>	X						
<i>Ms. Hanabusa, HI</i>		X					
<b>Mr. LaMalfa, CA</b>	X						
<i>Ms. Barragán, CA</i>		X					
<b>Mr. Denham, CA</b>	X						
<i>Mr. Soto, FL</i>		X		<b>TOTAL:</b>	21	14	

## 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 AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 4, 2018.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4419, the Bureau of Reclamation and Bureau of Indian Affairs Water Project Streamlining Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Aurora Swanson.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

*H.R. 4419—Bureau of Reclamation and Bureau of Indian Affairs  
Water Project Streamlining Act*

Summary: H.R. 4419 would authorize the Bureau of Reclamation (BOR) to construct projects for water storage, aquifer recharge, fish conservation, and water supply for certain rural communities. The bill also would direct BOR and the Bureau of Indian Affairs (BIA) to accelerate studies related to their approval or denial of permits needed to construct water infrastructure projects. Under the bill, BOR and BIA would be required to limit the cost and time to complete each study, to construct a publicly accessible database to provide information about the status of each study, and to act as the lead agency in coordinating with state and federal agencies to expedite the environmental reviews necessary to complete those studies.

Using information provided by BOR and BIA, CBO estimates that implementing H.R. 4419 would cost \$174 million over the 2019–2023 period, assuming appropriation of the authorized and necessary amounts.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.



H.R. 4419 would not increase direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 4419 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 4419 is shown in the following table. The costs of the legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—						2019–2023
	2018	2019	2020	2021	2022	2023	
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
BOR Water Resources Infrastructure:							
Estimated Authorization Level .....	0	21	34	34	34	26	148
Estimated Outlays .....	0	12	25	32	34	29	132
Streamlining Feasibility Studies:							
Estimated Authorization Level .....	0	8	6	6	5	5	31
Estimated Outlays .....	0	6	6	6	5	5	29
Accelerating Feasibility Studies, Planning, and Design:							
Estimated Authorization Level .....	0	3	3	3	3	2	14
Estimated Outlays .....	0	2	3	3	3	3	13
Total Changes:							
Estimated Authorization Level .....	0	32	43	43	42	34	193
Estimated Outlays .....	0	20	34	41	42	37	174

Amounts may not sum to totals because of rounding; BOR = Bureau of Reclamation.

**Basis of estimate:** For this estimate, CBO assumes that H.R. 4419 will be enacted near the end of 2018 and that the authorized and necessary amounts will be appropriated for each fiscal year. Estimates of amounts necessary to implement the bill are based on information from BOR and BIA; estimated outlays are based on historical spending patterns for similar projects and programs. Major components of the estimated costs are described below.

#### *BOR water resources infrastructure*

The bill would authorize BOR to construct three new projects or separable elements of ongoing projects. CBO estimates that the total public and private cost to complete those projects would be about \$930 million. H.R. 4419 would authorize the appropriation of \$187 million to cover the federal share. Of that amount, CBO estimates that \$148 million would need to be appropriated over the 2019–2023 period (assuming historical rates of spending for similar projects). Nonfederal entities would be responsible for the remaining \$740 million in costs. CBO estimates that outlays would total \$132 million over the 2019–2023 period. After 2023, federal costs to complete the projects would amount to about \$55 million.

To estimate how appropriated funds would be spent, CBO used information from BOR about when construction for each project could begin, how long it would take to complete, and what funding would be necessary over the anticipated construction period. Construction schedules and the pattern of spending for such projects are uncertain and plans are subject to change because of delays in obtaining funding and other unforeseen circumstances.

Finally, H.R. 4419 would direct BOR to identify projects that are no longer feasible and to establish a process for reauthorizing inac-

tive projects that are no longer in the federal interest, have not received sufficient funding, or lack local support.

*Streamlining feasibility studies*

With the aim of streamlining the process of preparing feasibility studies for proposed projects, H.R. 4419 would require BOR and BIA to consult with Indian tribes, states, and federal agencies about approaches to better coordinate environmental reviews and to report on any possible efficiencies. The bill would direct the agencies to identify water projects previously excluded from environmental reviews because they were determined to have no significant effect on the environment and to develop guidelines based on those results to identify similar new projects that also could be excluded from such reviews. The bill would direct BOR and BIA to act as the lead agency for the projects under their respective authority. That role would include coordinating with states, federal agencies, and the public to expedite environmental reviews; to facilitate the early detection and resolution of environmental issues; and to construct publicly accessible databases that would list requirements for each study and provide information on progress toward completing each requirement.

H.R. 4419 also would require BOR and BIA to use the Federal Register to solicit proposals each year from nonfederal entities to build water infrastructure projects and to report to the Congress on the preliminary costs and benefits of each proposal.

CBO estimates that implementing those provisions would have an average annual cost of about \$6 million (roughly the equivalent of 40 full-time employees) for each agency to prepare an annual report about projects proposed by nonfederal entities, to develop and implement a plan for coordinating environmental reviews, and to develop guidelines for excluding projects from environmental reviews. Over the 2019–2023 period, those costs would total \$29 million.

*Accelerating feasibility studies, planning, and design*

H.R. 4419 would direct BOR and BIA to expedite the completion of current feasibility studies to approve or deny construction of water infrastructure projects. The responsible agency would proceed immediately to preconstruction planning and design if the study recommended construction. Typically, the agencies do not proceed with preconstruction planning and design until the Congress enacts legislation to authorize construction.

For new studies initiated after enactment, the bill would limit the cost of feasibility studies conducted by BOR or BIA to \$3 million each and would require each study to be completed within three years. If a study could not be completed under those limitations, the responsible agency would be required to provide written notice to the Congress and any other agencies involved explaining why completing the study would cost more than \$3 million or would take more than three years.

CBO estimates that annual costs to implement those provisions would total \$3 million (or the equivalent of 18 full-time employees) to expedite the completion of current feasibility studies and for work associated with preconstruction planning and design. Over the 2019–2023 period those costs would total \$13 million.

Pay-As-You-Go Considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 4419 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: H.R. 4419 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Aurora Swanson; Mandates: Zach Byrum.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. 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 facilitate and streamline the Bureau of Reclamation and Bureau of Indian Affairs processes for creating or expanding certain water projects.

#### 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. This bill does not contain any directed rule makings.

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 to existing law.

## DISSENTING VIEWS

H.R. 4419 would establish a misguided, convoluted process to “streamline” environmental reviews for proposed water projects. Broadly speaking, the bill aims to expedite new dam construction by limiting the time available to complete the Bureau of Reclamation’s feasibility report process and the environmental review process under the National Environmental Policy Act (NEPA).

Specific changes include a requirement that all studies for new water projects be completed within three years, at a cost of no more than \$3 million. The bill also imposes deadlines for comment on draft environmental impact statements, sets deadlines for federal agencies to make project-related decisions under laws like the Endangered Species Act, imposes financial penalties on federal agencies that do not make permitting decisions within strict deadlines, and sets irresponsibly short deadlines for all legal challenges to water project studies.

The environmental review process that is established under NEPA and substantive environmental protections from a host of other federal laws are intended to ensure that the environmental impacts of projects funded with federal dollars are fully analyzed, that other federal agencies and the public have input into the decision-making process, that a range of alternatives are considered, and that environmental impacts are mitigated. While H.R. 4419 does not directly amend NEPA or other environmental laws, the bill effectively limits their proper application.

By imposing arbitrary, unworkable deadlines for completing environmental reviews, the legislation restricts federal agencies’ ability to meaningfully assess how new dams will impact fish and wildlife and leaves agencies without time to develop measures to mitigate a dam’s impacts. Commercially important fisheries like salmon are frequently killed by dams that change historic river flow patterns, mortally raise river water temperatures, and block habitat. For example, in California’s Central Valley, dams currently block Chinook salmon and steelhead from more than 90 percent of their historical spawning habitat.<sup>1</sup> Careful design and management of a dam can mitigate some of these effects, but doing so requires expert analysis that is blocked by this bill.

While H.R. 4419 limits meaningful environmental review, it simultaneously creates significant additional bureaucracy by imposing many new, convoluted directives on federal agencies. These new directives include the submittal of new reports to Congress, the creation of new coordination processes among agencies, the establishment and maintenance of a new electronic database, a new process for reviewing and developing categorical exclusions under

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<sup>1</sup>25 NOAA Fisheries, Central Valley Chinook Salmon and Steelhead Recovery Plan (2014) [http://www.westcoast.fisheries.noaa.gov/publications/recovery\\_planning/salmon\\_steelhead/domains/california\\_central\\_valley/cv\\_chin\\_stlhd\\_r\\_plan\\_fs\\_071614.pdf](http://www.westcoast.fisheries.noaa.gov/publications/recovery_planning/salmon_steelhead/domains/california_central_valley/cv_chin_stlhd_r_plan_fs_071614.pdf).

NEPA, and the administration of financial penalties on federal agencies that do not complete environmental reviews within strict timelines established under H.R. 4419.

In all, H.R. 4419 provides for eight new reports to Congress or related Congressional notifications,<sup>2</sup> three new public solicitations,<sup>3</sup> two new guidance or formal rulemaking processes,<sup>4</sup> requires the creation of a new process for the administration of financial penalties and resultant fund transfers among federal agencies,<sup>5</sup> and the establishment of an entirely new program to measure and report on progress.<sup>6</sup> No new funding is provided to carry out these new directives.

Finally, H.R. 4419 includes troubling provisions designed to deauthorize Title XVI water recycling projects. These projects are a popular, environmentally-friendly class of water projects that grow the available water supply by treating and reusing water in several western states.

In sum, H.R. 4419 significantly limits the application of NEPA and other bedrock environmental protections and irresponsibly restricts public participation in the review process for new water projects. For these reasons, we oppose H.R. 4419 as reported.

RAÚL M. GRIJALVA,  
*Ranking Member, Committee  
on Natural Resources.*

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<sup>2</sup>Section 3(e); Section 3(f); Section 5(a)(3)(A); Section 5(h)(3) subparagraphs (A)&(B); Section 5(h)(5)(A), Section 5(k)(1)(B); and Section 6(a).

<sup>3</sup>Section 5(m); Section 6(a); Section 6(b)(1).

<sup>4</sup>Section 5(g)(1); Section 5(m)(2).

<sup>5</sup>Section 5(g)(5)(B)(i) (I).

<sup>6</sup>Section 5(o).