

116TH CONGRESS
2D SESSION

H. R. 8166

To support surface and groundwater storage and supporting projects in
Reclamation States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 4, 2020

Mr. COX of California (for himself, Mr. COSTA, and Mr. GARAMENDI) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To support surface and groundwater storage and supporting
projects in Reclamation States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Western Water Stor-
5 age Infrastructure Act”.

6 **SEC. 2. SURFACE AND GROUNDWATER STORAGE AND SUP-**
7 **PORTING PROJECTS.**

8 (a) DEFINITIONS.—In this section:

1 (1) APPROPRIATE COMMITTEES OF CON-
2 GRESS.—The term “appropriate committees of Con-
3 gress” means—

4 (A) the Committee on Appropriations of
5 the House of Representatives; and

6 (B) the Committee on Natural Resources
7 of the House of Representatives.

8 (C) the Committee on Appropriations of
9 the Senate;

10 (D) the Committee on Energy and Natural
11 Resources of the Senate;

12 (2) DESIGN; STUDY.—The terms “design” and
13 “study” include any design, permitting, materials
14 engineering or testing, surveying, or preconstruction
15 activity relating to a water storage facility.

16 (3) ELIGIBLE ENTITY.—The term “eligible enti-
17 ty” means—

18 (A) any State, political subdivision of a
19 State, department of a State, or public agency
20 organized pursuant to State law;

21 (B) an Indian tribe (as defined in section
22 4 of the Indian Self-Determination and Edu-
23 cation Assistance Act (25 U.S.C. 5304)) or an
24 entity controlled by an Indian tribe;

25 (C) a water users’ association;

1 (D) an agency established by an interstate
2 compact; or

3 (E) an agency established under State law
4 for the joint exercise of powers.

5 (4) FEDERALLY OWNED STORAGE PROJECT.—
6 The term “federally owned storage project” means
7 any project in a Reclamation State—

8 (A) that involves the construction, expan-
9 sion, upgrade, or capital repair of—

10 (i) a surface or groundwater storage
11 facility; or

12 (ii) a facility conveying water to or
13 from surface or groundwater storage;

14 (B) to which the United States holds title;
15 and

16 (C) that was authorized to be constructed,
17 operated, and maintained pursuant to—

18 (i) the Reclamation laws; or

19 (ii) the Act of August 11, 1939 (com-
20 monly known as the “Water Conservation
21 and Utilization Act”) (16 U.S.C. 590y et
22 seq.).

23 (5) NON-FEDERAL STORAGE PROJECT.—The
24 term “non-Federal storage project” means any facil-
25 ity or project in a Reclamation State that—

1 (A) involves the construction, expansion,
2 upgrade, or capital repair by an eligible entity
3 of—

4 (i) a surface or groundwater storage
5 project to which the United States does
6 not hold title; or

7 (ii) a facility conveying water to or
8 from surface or groundwater storage to
9 which the United States does not hold
10 title; and

11 (B) the construction, expansion, upgrade,
12 or capital repair of such facility or project pro-
13 vides a Federal benefit in accordance with Rec-
14 lamation laws (including regulations).

15 (6) RECLAMATION LAWS.—The term “Reclama-
16 tion laws” means Federal Reclamation law (the Act
17 of June 17, 1902 (32 Stat. 388, chapter 1093), and
18 Acts supplemental to and amendatory of that Act.

19 (7) RECLAMATION STATE.—The term “Rec-
20 lamation State” has the meaning given the term in
21 section 4014 of the Water Infrastructure Improve-
22 ments for the Nation Act (43 U.S.C. 390b note;
23 Public Law 114–322).

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

1 (b) GRANT PROGRAM.—The Secretary may provide
2 a grant under this section to an eligible entity to carry
3 out, within a Reclamation State—

4 (1) a federally owned storage project in accord-
5 ance with subsection (c); or

6 (2) a non-Federal storage project in accordance
7 with subsection (d).

8 (c) FEDERALLY OWNED STORAGE PROJECTS.—

9 (1) IN GENERAL.—Subject to the requirements
10 of this section, on request of an eligible entity, the
11 Secretary may negotiate and enter into an agree-
12 ment on behalf of the United States for the design,
13 study, construction, expansion, upgrade, or capital
14 repair of a federally owned storage project in an
15 amount equal to not more than 50 percent of the
16 total cost of the federally owned storage project.

17 (2) CONDITIONS FOR FEDERAL CONSTRUCTION
18 FUNDING.—The construction of a federally owned
19 storage project that is the subject of an agreement
20 under this section shall not commence until the Sec-
21 retary—

22 (A) determines that—

23 (i) the federally owned storage project
24 is feasible in accordance with the Reclama-
25 tion laws;

1 (ii) the federally owned storage
2 project provides a Federal benefit in ac-
3 cordance with the Reclamation laws; and

4 (iii) in return for the Federal cost-
5 share investment, not less than a propor-
6 tionate share of the benefits of the feder-
7 ally owned storage project are Federal ben-
8 efits, including water supplies dedicated to
9 specific purposes, such as water quality im-
10 provements or fish and wildlife protection
11 and restoration, including a wildlife refuge;
12 and

13 (B) secures an agreement providing such
14 funding as is necessary to pay the non-Federal
15 share of the capital costs of the federally owned
16 storage project.

17 (3) NOTIFICATION.—The Secretary shall sub-
18 mit to the appropriate committees of Congress a
19 written notification that an agreement that satisfies
20 the requirements in paragraph (2)(B) has been se-
21 cured not later than 30 days after the agreement is
22 secured.

23 (4) EXPANSION OR UPGRADE.—The Secretary
24 shall require, as a condition for design, study, or any

1 other participation in the expansion or upgrade of a
2 federally owned storage project, the agreement of—

3 (A) if applicable, any entity that has an
4 existing water service contract or repayment
5 contract for more than 60 percent of the capac-
6 ity or yield of the federally owned storage
7 project, that the expansion will not adversely af-
8 fect any right or interest of the entity under the
9 water service contract or repayment contract,
10 as applicable; and

11 (B) if applicable, a non-Federal entity
12 that, pursuant to a formal operations and main-
13 tenance transfer contract or other legal agree-
14 ment with the Secretary carries out the oper-
15 ations and maintenance of the federally owned
16 storage project.

17 (d) NON-FEDERAL STORAGE PROJECTS.—

18 (1) IN GENERAL.—Subject to the requirements
19 of this section, the Secretary may participate in the
20 design, study, construction, expansion, upgrade, or
21 capital repair of a non-Federal storage project in an
22 amount equal to not more than 25 percent of the
23 total cost of the non-Federal storage project.

24 (2) CONDITIONS FOR FEDERAL DESIGN AND
25 STUDY FUNDING.—The Secretary shall only partici-

1 pate in the design or study of a non-Federal storage
2 project under this section if—

3 (A) the Governor, political subdivision, de-
4 partment, or public agency of the State in
5 which the non-Federal storage project is located
6 supports Federal funding of the non-Federal
7 storage project; and

8 (B) the Secretary has identified the poten-
9 tial for Federal benefit sufficient to proceed.

10 (3) CONDITIONS FOR FEDERAL CONSTRUCTION,
11 EXPANSION, UPGRADE, OR CAPITAL REPAIR FUND-
12 ING.—Participation by the Secretary in the con-
13 struction, expansion, upgrade, or capital repair of a
14 non-Federal storage project under this section shall
15 be by negotiated agreement between the United
16 States and the applicable non-Federal entity, and
17 shall not occur unless—

18 (A) the Governor, political subdivision, de-
19 partment, or public agency of the State in
20 which the non-Federal storage project is located
21 supports Federal funding for the project; and

22 (B) the applicable eligible entity deter-
23 mines, and the Secretary concurs, that—

24 (i) the non-Federal storage project is
25 technically and financially feasible in ac-

1 cordance with guidelines established by the
2 Secretary;

3 (ii) the non-Federal storage project
4 provides a Federal benefit in accordance
5 with the Reclamation laws;

6 (iii) in return for the Federal cost-
7 share investment, not less than a propor-
8 tionate share of the benefits of the non-
9 Federal storage project are Federal bene-
10 fits, including water supplies dedicated to
11 specific purposes, such as water quality im-
12 provements or fish and wildlife protection
13 and restoration, including a wildlife refuge;
14 and

15 (iv) each entity participating in the
16 non-Federal project is financially capable
17 of funding its proportionate share of the
18 non-Federal share of the project costs.

19 (C) Not less than \$10,000,000 of the fund-
20 ing identified in subsection (g) shall be allo-
21 cated to non-Federal storage projects that fur-
22 ther the Department of the Interior's priority of
23 sustainably developing natural resources and
24 are—

1 (i) included in the Bureau of Rec-
2 lamation's 2015 Water Management Goal
3 Investment Strategy Final Report;

4 (ii) capable of providing water to a
5 Federal wildlife refuge;

6 (iii) equipped with an approved fish
7 screen; and

8 (iv) have both conveyance and recir-
9 culation benefits.

10 (4) NOTIFICATION.—The Secretary shall sub-
11 mit to the appropriate committees of Congress a
12 written notification that an agreement that satisfies
13 the requirements in paragraph (2) has been secured
14 not later than 30 days after the agreement is se-
15 cured.).

16 (5) INFORMATION.—

17 (A) IN GENERAL.—In participating in a
18 non-Federal storage project under this section,
19 the Secretary—

20 (i) shall—

21 (I) generally, rely on reports pre-
22 pared by an eligible entity partici-
23 pating in the non-Federal storage
24 project, including feasibility or equiva-
25 lent studies, environmental analyses,

1 and other pertinent reports and anal-
2 yses; but

3 (II) retain responsibility for mak-
4 ing the independent determinations
5 described in paragraphs (2) and (3);
6 and

7 (ii) may prepare studies supple-
8 mentary to the studies described in clause
9 (i)(I), on request of the eligible entity par-
10 ticipating in the non-Federal storage
11 project.

12 (B) GUIDELINES.—

13 (i) DRAFT GUIDELINES.—Not later
14 than 180 days after the date of the enact-
15 ment of this Act, the Secretary shall issue
16 draft guidelines for determining whether a
17 non-Federal storage project is financially
18 feasible. The guidelines shall be consistent
19 with and meet the requirements in title
20 XVI of Public Law 102–575 for a feasi-
21 bility study report, including the economic
22 analysis contained in the Reclamation
23 Manual Directive & Standard Title XVI
24 Water Reclamation and Reuse Program

1 Feasibility Study Review Process (WTR
2 11–01), subject to—

3 (I) any additional requirements
4 necessary to provide sufficient infor-
5 mation for making the independent
6 determinations described in para-
7 graphs (2) and (3); and

8 (II) the condition that the Bu-
9 reau of Reclamation shall not bear re-
10 sponsibility for the technical adequacy
11 of any design, study, cost estimate,
12 construction, expansion, upgrade, or
13 capital repair relating to a non-Fed-
14 eral storage project.

15 (ii) FINAL GUIDELINES.—Not later
16 than 1 year after the date of the enact-
17 ment of this Act, the Secretary shall final-
18 ize the guidelines issued under clause (i).

19 (e) RIGHTS TO USE CAPACITY.—

20 (1) FEDERALLY OWNED STORAGE PROJECT.—

21 The right to use the capacity of a federally owned
22 storage project that was designed, studied, con-
23 structed, expanded, upgraded, or repaired under this
24 Act shall be allocated in such manner as may be mu-
25 tually agreed to by the Secretary and the party or

1 parties to the agreement executed pursuant to sub-
2 section (c)(1).

3 (2) NON-FEDERAL STORAGE PROJECT.—The
4 right to use the capacity of a non-Federal storage
5 project that was designed, studied, constructed, ex-
6 panded, upgraded, or repaired under this Act shall
7 be allocated in such manner as may be mutually
8 agreed to by the Secretary and the relevant eligible
9 entity or entities.

10 (f) FEDERAL BENEFITS.—In making a determina-
11 tion relating to Federal benefits under this Act, the Sec-
12 retary may consider any benefit realized from the exist-
13 ence of operational flexibility to optimize the achievement
14 of any authorized project purpose (whether reimbursable
15 or nonreimbursable), including through the coordinated
16 management of Federal and non-Federal facilities.

17 (g) FUNDING.—

18 (1) AUTHORIZATION OF APPROPRIATIONS.—
19 There is authorized to be appropriated to the Sec-
20 retary to carry out this section \$800,000,000 for the
21 period of fiscal years 2021 through 2025.

22 (2) CONGRESSIONAL APPROVAL INITIALLY RE-
23 QUIRED.—

24 (A) DESIGN AND STUDY FUNDING.—A fed-
25 erally owned storage project or a non-Federal

1 storage project shall only receive initial design
2 or study funding under this Act if the project
3 is designated funding by name in an Act of ap-
4 propriation.

5 (B) CONSTRUCTION FUNDING.—A feder-
6 ally owned storage project or a non-Federal
7 storage project shall only receive initial con-
8 struction funding under this Act if the project
9 is designated funding by name in an Act of ap-
10 propriations.

11 (C) RECLAMATION RECOMMENDATIONS.—

12 (i) IN GENERAL.—Subject to clause
13 (ii), the Secretary shall submit to the ap-
14 propriate committees of Congress rec-
15 ommendations regarding the initial award
16 of design and study funding, and of con-
17 struction funding, for each federally owned
18 storage project and non-Federal storage
19 project subject to consideration under sub-
20 paragraphs (A) and (B).

21 (ii) REQUIREMENT.—The Secretary
22 shall confer with the appropriate commit-
23 tees of Congress before submitting the rec-
24 ommendations under clause (i).

25 (3) SUBSEQUENT FUNDING AWARDS.—

1 (A) DESIGN AND STUDY FUNDING.—After
2 a federally owned storage project or a non-Fed-
3 eral storage project receives an initial award of
4 design or study funding under paragraph (2),
5 additional design or study funding for that
6 project shall not be subject to paragraph (2).

7 (B) CONSTRUCTION FUNDING.—After a
8 federally owned storage project or a non-Fed-
9 eral storage project receives an initial award of
10 construction funding under paragraph (2), ad-
11 ditional construction funding for that project
12 shall not be subject to paragraph (2).

13 (4) PRELIMINARY STUDIES.—Of the amounts
14 made available under paragraph (1), not more than
15 25 percent shall be provided for appraisal studies,
16 feasibility studies, or other preliminary studies.

17 (5) WIIN ACT STORAGE FUNDING.—

18 (A) APPROPRIATIONS.—Each federally
19 owned storage project and non-Federal storage
20 project shall be eligible to receive any amounts
21 made available pursuant to section 4007(h) of
22 the Water Infrastructure Improvements for the
23 Nation Act (43 U.S.C. 390b note; Public Law
24 114–322) (as in effect on the day before the

1 date of the enactment of this Act), in accord-
2 ance with paragraphs (2) and (3).

3 (B) INDIVIDUAL PROJECTS.—

4 (i) FEDERALLY OWNED STORAGE
5 PROJECTS.—If the Secretary determines
6 that a federally owned storage project is el-
7 igible for funding under section 4007(b) of
8 the Water Infrastructure Improvements for
9 the Nation Act (43 U.S.C. 390b note; Pub-
10 lic Law 114–322), the federally owned
11 storage project shall remain eligible for
12 funding under subsection (c).

13 (ii) NON-FEDERAL STORAGE
14 PROJECTS.—If the Secretary determines
15 that a non-Federal storage project is eligi-
16 ble for funding as a State-led storage
17 project under section 4007(c) the Water
18 Infrastructure Improvements for the Na-
19 tion Act (43 U.S.C. 390b note; Public Law
20 114–322), the non-Federal storage project
21 shall remain eligible for funding under sub-
22 section (d).

23 (h) CONSISTENCY WITH STATE LAW.—Nothing in
24 this section preempts or modifies any obligation of the

1 United States or an eligible entity to act in accordance
2 with applicable State law.

3 **SEC. 3. DELTA OPERATIONS.**

4 Section 4013 of the Water Infrastructure Improve-
5 ments for the Nation Act (130 Stat. 1883) is amended—

6 (1) in the first sentence, by striking “5” and
7 inserting “13”;

8 (2) in paragraph (1)—

9 (A) by striking “10” and inserting “18”;

10 and

11 (B) by striking “and” at the end; and

12 (3) in paragraph (2), by inserting “; and (3)
13 section 4007, which shall expire 5 years after the
14 date of its enactment” before the final period.

15 **SEC. 4. CALFED.**

16 (a) PARTNERSHIP AND AGREEMENTS RELATING TO
17 CERTAIN WATER STORAGE PROJECTS.—The Secretary of
18 the Interior may enter into a partnership or other agree-
19 ment relating to a water storage project described in sec-
20 tion 103 of the Calfed Bay-Delta Authorization Act (Pub-
21 lic Law 108–361; 118 Stat. 1683) with a local joint-pow-
22 ers authority established pursuant to State law by 1 or
23 more irrigation districts or other local water districts or
24 units of local government within the applicable hydrologic
25 region, to advance the project.

1 (b) REAUTHORIZATION.—Title I of the Calfed Bay-
2 Delta Authorization Act (Public Law 108–361; 118 Stat.
3 1681; 123 Stat. 2860; 128 Stat. 164; 128 Stat. 2312; 129
4 Stat. 2407; 130 Stat. 1866) is amended by striking
5 “2020” each place it appears and inserting “2024”.

6 **SEC. 5. SAVINGS CLAUSE.**

7 Nothing in this Act or an amendment made by this
8 Act shall be interpreted or implemented in a manner
9 that—

10 (1) preempts or modifies any obligation of the
11 United States or an eligible entity under Federal law
12 to act in accordance with applicable State law, in-
13 cluding applicable State water law; or

14 (2) affects or modifies any obligation under ap-
15 plicable Federal environmental law.

○