

## **Report to the House and Senate Committees on Appropriations**

### **Distribution of Additional FY 2021 Funding for Water and Related Resources, Bureau of Reclamation and Discussion of Criteria**

#### Summary

The Consolidated Appropriations Act, 2021 (P.L. 116-260) provided the Bureau of Reclamation with a total of \$1,521,125,000 for its Water & Related Resources account. The accompanying Explanatory Statement includes language regarding \$427,679,000 in funding provided for “Additional Funding for Water and Related Resources Work” in five categories within Water and Related Resources—for studies, projects, and activities. The Statement requested that “Reclamation shall provide to the Committees on Appropriations of both Houses of Congress a report delineating how these funds are to be distributed, in which phase the work is to be accomplished, and an explanation of the criteria and rankings used to justify each allocation.”

As requested by the Joint Explanatory Statement to P.L. 116-260, the Bureau of Reclamation has allocated funding to projects within the program areas of Rural Water (\$114.7 million); Water Conservation and Delivery (\$255.1 million); Environmental Restoration or Compliance (\$42.5 million); Fish Passage and Fish Screens (\$11.4 million); and Facilities Operation, Maintenance, and Rehabilitation (\$4.0 million). Reclamation has prioritized allocation of these funds “...to advance and complete ongoing work, including preconstruction activities and where environmental compliance has been completed; improve water supply reliability; improve water deliveries; enhance national, regional, or local economic development; promote job growth; advance Tribal and non-Tribal water settlement studies and activities; or address critical backlog maintenance and rehabilitation activities.”

Reclamation based its decisions on a thorough review at the regional, program and national levels to ensure a balanced approach that considered projects and programs consistent with the Joint Explanatory Statement, while adhering to existing authorizations and mission priorities. In many cases, the funding allows Reclamation to accelerate the selected projects to meet priority needs sooner than would otherwise be the case, while stimulating regional economies. A significant proportion of the funding is dedicated to modernizing water infrastructure and supply, and to advance means of alleviating the impact of future drought. The overall considerations used in the decision-making included:

- Consideration of Departmental priorities, such as modernizing the Nation’s infrastructure, enhancing Tribal sovereignty, and conservation stewardship.
- Consideration of Reclamation’s ability to complete projects or discrete segments of the projects;
- Continued focus on public safety as well as ongoing operation and maintenance requirements;

- Consideration of requirements in Federal or court ordered requirements;
- Consideration of progress towards project completion without increasing future budget requirements;
- Support for priority programs and activities, and program requirements;
- Consideration as to financial feasibility, such as the acceleration of construction underway, which would achieve more efficient construction schedules, probable cost reductions and an earlier realization of project benefits;
- Consideration of positive economic impacts to communities;
- Consideration of Reclamation’s responsibility to Tribal nations, especially in addressing water rights settlements; and
- Support for programs that through cost sharing or partnerships could leverage these Federal dollars (where not specifically precluded—see Rural Water section below).

The Explanatory Statement specifies that “Of the additional funding provided under the heading ‘Water Conservation and Delivery’, \$134,000,000 shall be for water storage projects as authorized in section 4007 of the WIIN Act (Public Law 114-322). Of the additional funding provided under the heading ‘Water Conservation and Delivery’, not less than \$8 million shall be for construction activities related to projects found to be feasible by the Secretary and which are ready to initiate for the repair of critical Reclamation canals where operational conveyance capacity has been seriously impaired by factors such as age or land subsidence, especially those that would imminently jeopardize Reclamation’s ability to meet water delivery obligations.”

Of the additional funding provided under the heading ‘Water Conservation and Delivery’, \$40,000,000 shall be for water conservation activities in areas that are experiencing extended drought conditions; and with priority for activities related to the implementation of the agreements authorized by the Colorado River Drought Contingency Plan Authorization Act of 2019 (Public Law No. 116-14). Of the additional funding provided under the heading ‘Environmental Restoration or Compliance’, “not less than \$40,000,000 shall be for activities authorized under sections 4001 and 4010 of Public Law 114-322 or as set forth in federal-state plans for restoring threatened and endangered fish species affected by the operation of the Bureau of Reclamation’s water projects.”

In accordance with Section 4007 of the Water Infrastructure Improvement for the Nation Act (P.L. 114-322, or “WIIN”), “Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to this section and transmits such recommendations to the appropriate committees of Congress.”

### Rural Water Construction (\$114.7 million)

Reclamation has been working diligently to advance the completion of all authorized rural water projects consistent with current fiscal and resource constraints with the goal of delivering potable water to Tribal and non-Tribal residents within the rural water project areas. At the request of Congress, Reclamation has developed a set of criteria for allocating rural water construction funds, which provide greater transparency in the allocation of these funds.

Reclamation's prioritization criteria incorporate factors such as time and financial resources committed, urgent and compelling need, Tribal members served<sup>1</sup>, economic impacts, and water use efficiency. Reclamation then allocated the additional funds based on each project's ability to use those funds to complete discrete construction segments which would significantly advance the provision of potable water to people.

As specified in the Explanatory Statement, voluntary funding in excess of legally required cost shares, while acceptable, was not "used by Reclamation as a criterion for allocating additional funding provided... [nor] for budgeting in future years."

### Water Conservation and Delivery (255.1 million), Environmental Restoration or Compliance (\$42.5 million), and Fish Passage and Fish Screens, (\$11.4 million)

Reclamation continually works to address the increasing water demands of the West while protecting the environment and attending to our responsibility for being good stewards of our shared resources.

The funds in these categories have been largely allocated to projects that satisfy the Administration's and Congress's priority of modernizing infrastructure. In addition, advancing Indian water rights settlements was a major factor in our allocation decisions.

Meeting our environmental responsibilities to western rivers, streams and estuaries is required to provide reliable water and power. As in FY 2020, this year's allocation of the Water Conservation and Delivery funding continues Reclamation's efforts to alleviate the impact of severe drought conditions, particularly in the Colorado River Basin. The Basin—crucial for seven States and a number of Tribes, in addition to two countries—is enduring historic drought.

*Water Conservation and Delivery:* \$134.0 million of the total \$255.1 million is reserved for water storage projects as authorized under section 4007 of WIIN. The Secretary of the Interior will provide recommendations for storage projects to Congress at a later date. Reclamation has allocated the balance of the Water Conservation and Delivery funding (\$121.1 million) to the most important West-wide

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<sup>1</sup> The FY 2021 Joint Explanatory Statement included the following instruction: "Reclamation is reminded that the following activities are eligible to compete for funding under the appropriate heading: activities authorized under Indian Water Rights Settlements; ... all authorized rural water projects, including those with Tribal components, those with non-Tribal components, and those with both;..."

projects for this category. In accord with Congressional intent to provide \$40.0 million to drought-stricken areas, \$22 million has been allocated to the Colorado River Basin in support of efforts to address the very severe drought conditions.

*Environmental Restoration or Compliance* - Consistent with the Explanatory Statement, most of the Environmental Restoration and Compliance funding of \$42.5 million is allocated to California under WIIN sections 4001 and 4010 of Public Law 114-322. A total of \$40 million was allocated under this provision, and it is included within this spend plan as it does not require placement in bill language. Although there are specific needs for the divisions listed within the CVP project, Reclamation's proposal maintains the maximum flexibility to respond quickly to the greatest water needs—or those that affect the largest population—that are triggered by this year's hydrology. CVP water project operators continue to monitor daily "real time" conditions with fisheries and water quality experts to effectuate timely changes to dynamic or emergent water operations.

*Fish Passage and Fish Screens* – Reclamation distributed funding in this category to projects in which significant progress could be made or project completion.

*Overall Criteria:* Projects selected for the additional funding in these four areas reflect Reclamation's overall considerations. Funds for these activities were prioritized considering the project's ability to begin and/or complete the work in FY 2021. In addition, consideration was given to the project's ability to effectively address water shortage issues in the West, to promote water conservation and improved water management, and to take actions to mitigate adverse environmental impacts of projects. While enhancing regional and local economic development and advancing Tribal settlements, Reclamation prioritized projects:

- that would advance infrastructure development;
- that could make significant progress toward species recovery and protection—especially where the concerns of the Endangered Species Act (ESA) must be addressed; and
- that would maximize and stabilize the water supply benefits to a given basin.

This funding was then distributed according to Reclamation's West-wide priorities, to ensure the continued delivery of public benefits, the operation and maintenance of facilities in a safe and reliable manner, the protection of the health and safety of the public and Reclamation employees, and compliance with environmental requirements and opportunities for ecosystem restoration.

#### Facilities, Operation, Maintenance & Rehabilitation (\$4.0 million)

Reclamation will use these funds to address infrastructure needs of selected projects, for maintaining system reliability, resilience, and safety; and for supporting sustainable water management by promoting established asset management practices. Limits on available funding in the face of deficit reduction pressures require that innovative procedures and incentives be explored to provide a means of prioritizing funding to address the most urgent of these needs. Reclamation has developed the following Extraordinary Maintenance (XM) prioritization criteria, that take into consideration two fundamental factors—risk and benefits:

Engineering Need - The extent to which engineering analyses demonstrate the facility faces existing or potential conditions that could severely impair its ability to continue delivering project benefits or that could lead to failure of the facility. The effective age of the facility is also factored in.

Consequences of Failure - The value of project benefits that would likely be lost in the event of failure of the facility, as well as population at risk and potential property damages resulting from such failure.

Financial Considerations - The extent to which the project beneficiaries responsible for the reimbursable share of the work demonstrate the ability to repay the reimbursable share of the work.

Efficiency Opportunities - The extent to which the proposed work demonstrates a significant opportunity to substantially reduce future routine Operation and Maintenance costs associated with the facility and improves the Facility Condition Index.

Scheduling - The duration of the project activities for design and construction.