

ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR  
THE RECLAMATION SAFETY OF DAMS ACT OF 1978

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OCTOBER 7, 2004.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed  
—————

Mr. POMBO, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 4893]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4893) to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 4893 is to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978.

BACKGROUND AND NEED FOR LEGISLATION

Approximately 50 percent of the Bureau of Reclamation's dams were built between 1900 and 1950. The majority of these dams were built before current state-of-the-art design and construction practices. Congress authorized the Reclamation Safety of Dams (SOD) program in 1978 to identify potential infrastructure risk within the agency's aging dams and to carry out corrective actions expeditiously when unreasonable public risk is identified. The original SOD Act (the Act) provided \$100 million in spending authority for modifications. This authority has been subsequently increased by Congress over the last twenty years; however the program's current authorization is entirely committed to ongoing projects.

To date, the Bureau of Reclamation has performed 64 SOD modifications and several others are currently underway. In the course

of implementing the SOD Program, the agency believes there are a number of activities that require sufficient appropriations to be available before the activity is initiated. The current authorization levels of the Act will be reached in fiscal years 2004 and 2005. While sufficient funds will be available to carry out planned activities identified in these years, the Bureau of Reclamation believes that legislation is needed to increase the SOD authorization ceiling so it can prepare for future SOD modifications. The agency believes that without a program ceiling increase, the result could be restricted reservoir levels to manage the public risks associated with aging structures. Reservoir restrictions typically do not protect the public as effectively as structural modification and can have economic impacts on water users, recreation, fish and wildlife, and other benefits of a project.

H.R. 4893 raises the SOD authorization level by \$540 million. The agency estimates that this will provide enough spending authority for an additional ten years. The bill also requires the Bureau of Reclamation to consult with project beneficiaries upon performing SOD modifications. Since local project beneficiaries pay for a share of the modifications, some believe that requiring more beneficiary input and knowledge will reduce costs and bring another dimension of thinking into the process.

#### COMMITTEE ACTION

Congressman Ken Calvert (R-CA) introduced H.R. 4893 on July 22, 2004. The bill was referred to the Committee on Resources and within the Committee to the Subcommittee on Water and Power. A hearing was held on the bill on September 9, 2004. On September 15, 2004, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from further consideration by unanimous consent. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

#### COMPLIANCE WITH HOUSE RULE XIII

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

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978.

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

SEPTEMBER 17, 2004.

Hon. RICHARD W. POMBO,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4893, a bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978.

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

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

*H.R. 4893—A bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978*

Summary: H.R. 4893 would increase the ceiling on amounts authorized to be appropriated for the Reclamation Safety of Dams Act by \$540 million (excluding adjustments for inflation). Assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost \$135 million over the 2005–2009 period and an additional \$465 million after 2009 (including costs to cover anticipated inflation). Enacting H.R. 4893 would not affect direct spending or revenues.

In addition, the bill would increase the cost threshold from \$750,000 to \$1.25 million that causes the Bureau of Reclamation to prepare a safety of dams modification report for the Congress and would make other administrative changes to the program. Based on information from the bureau, CBO expects that these provisions would have no significant cost.

H.R. 4893 contains no intergovernmental or private-sector mandates as defined in Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Any costs incurred by state or local governments to match or reimburse the federal funds authorized by this legislation would result from participating in a voluntary federal program.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4893 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION						
Dam Safety Spending Under Current Law						
Estimated Authorization Level <sup>1</sup> .....	55	48	57	0	0	0
Estimated Outlays .....	30	37	49	24	13	6
Proposed Changes:						
Estimated Authorization Level .....	0	0	0	60	62	63
Estimated Outlays .....	0	0	0	31	47	57
Dam Safety Spending Under H.R. 4893						
Estimated Authorization Level .....	55	48	57	60	62	63
Estimated Outlays .....	30	37	49	55	60	63

<sup>1</sup>The 2004 amount is an estimate of the amount appropriated for the bureau's Dam Safety Program. The 2005 and 2006 levels are the agency's estimate of the use of the remaining authorization level for this program.

**Basis of estimate:** This bill would increase the amounts authorized to be appropriated for the Reclamation Safety of Dams Act of 1978 by \$540 million (excluding adjustments for inflation).

Under current law, \$105 million remains to be appropriated of the program authorization level. The current ceiling on amounts authorized to be appropriated for this program is about \$1 billion, including adjustments for inflation. The Bureau of Reclamation estimates that its plan to upgrade dams will use this remaining authorization level by fiscal year 2006 to fund ongoing and future projects.

For this estimate, CBO assumes that H.R. 4893 will be enacted near the start of 2005. Including adjustments for anticipated inflation, CBO estimates that the authorization ceiling for the program would increase by \$600 million. CBO expects that the additional authorization level under the bill would be needed starting in fiscal year 2007 and would fund projects through 2015. Based on information from the bureau, CBO estimates that implementing this bill would cost \$135 million over the 2005–2009 period and \$465 million after that period (including costs to cover anticipated inflation).

**Intergovernmental and private-sector impact:** H.R. 4893 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Any costs incurred by state or local governments to match or reimburse the federal funds authorized by this legislation result from participating in a voluntary federal program.

**Previous CBO estimate:** On June 23, 2003, CBO transmitted a cost estimate for S. 1727 as ordered reported by the Senate Committee on Energy and Natural Resources on June 16, 2004. The two versions of the legislation are identical, and our cost estimates are the same.

**Estimate prepared by:** Federal Costs: Julie Middleton. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Jean Talarico.

**Estimate approved by:** Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

## PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**RECLAMATION SAFETY OF DAMS ACT OF 1978**

\* \* \* \* \*

SEC. 4. (a) \* \* \*

\* \* \* \* \*

[(c) With respect to the additional \$650,000,000 authorized to be appropriated in The Reclamation Safety of Dams Act Amendments of 1984, and the additional \$95,000,000 further authorized to be appropriated by amendments to that Act in 2000, and the additional \$32,000,000 further authorized to be appropriated by amendments to the Act in 2001]

(c) *REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.*—*With respect to the additional amounts authorized to be appropriated by section 5, costs incurred in the modification of structures under this Act, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed necessary for safety purposes, shall be reimbursed to the extent provided in this subsection.*

\* \* \* \* \*

(e)(1) *During the construction of the modification, the Secretary shall consider cost containment measures recommended by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.*

(2) *The Secretary shall provide to project beneficiaries on a periodic basis notice regarding the costs and status of the modification.*

SEC. 5. There are hereby authorized to be appropriated for fiscal year 1979 and ensuing fiscal years such sums as may be necessary and, effective October 1, 1983, not to exceed an additional \$650,000,000 (October 1, 1983, price levels), and, effective October 1, 2000, not to exceed an additional \$95,000,000 (October 1, 2000, price levels), and, effective October 1, 2001, not to exceed an additional \$32,000,000 (October 1, 2001, price levels), and, effective October 1, 2003, not to exceed an additional \$540,000,000 (October 1, 2003, price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein, to carry out the provisions of this Act to remain available until expended if so provided by the appropriations Act: *Provided, That no funds exceeding* **[\$750,000]** *\$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes, shall be obligated for carrying out actual construction to modify an existing dam under authority of this Act prior to 30 calendar days from the date that the Secretary has*

transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such finding shall be accompanied by a technical report containing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

*SEC. 5A. (a) On identifying a Bureau of Reclamation facility for modification, the Secretary shall provide to the project beneficiaries written notice—*

- (1) describing the need for the modification and the process for identifying and implementing the modification; and*
- (2) summarizing the administrative and legal requirements relating to the modification.*

*(b) The Secretary shall—*

- (1) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the proposed modification; and*
- (2) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in paragraph (1).*

*(c)(1) Prior to submitting the reports required under section 5, the Secretary shall consider any alternative submitted in writing, in accordance with the timeframes established under subsection (b), by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.*

*(2) The Secretary shall provide to the project beneficiary a timely written response describing proposed actions, if any, to address the recommendation.*

*(3) The response of the Secretary shall be included in the reports required by section 5.*

*(d) The Secretary may waive 1 or more of the requirements of subsections (a), (b), and (c), if the Secretary determines that implementation of the requirement could have an adverse impact on dam safety or security.*

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