

116TH CONGRESS
2D SESSION

H. R. 6617

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2020

Mr. COX of California (for himself, Mr. HARDER of California, Mr. GARAMENDI, and Mr. COSTA) 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;

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

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

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 a surface or groundwater storage fa-
14 cility;

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

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

19 (i) the Reclamation laws; or

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

1 (5) NON-FEDERAL STORAGE PROJECT.—The
2 term “non-Federal storage project” means any
3 project in a Reclamation State that—

4 (A) involves the construction, expansion,
5 upgrade, or capital repair by an eligible entity
6 of—

7 (i) a surface or groundwater storage
8 facility to which the United States does
9 not hold title; or

10 (ii) a facility conveying water to or
11 from a surface or groundwater storage fa-
12 cility to which the United States does not
13 hold title; and

14 (B) the construction, expansion, upgrade,
15 or capital repair of such facility provides a Fed-
16 eral benefit in accordance with Reclamation
17 laws (including regulations).

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

22 (7) RECLAMATION STATE.—The term “Rec-
23 lamation State” has the meaning given the term in
24 section 4014 of the Water Infrastructure Improve-

1 ments for the Nation Act (43 U.S.C. 390b note;
2 Public Law 114–322).

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

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

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

10 (2) a non-Federal storage project in accordance
11 with subsection (d).

12 (c) FEDERALLY OWNED STORAGE PROJECTS.—

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

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

1 (A) determines that—

2 (i) the federally owned storage project
3 is feasible in accordance with the Reclama-
4 tion laws;

5 (ii) the federally owned storage
6 project provides a Federal benefit in ac-
7 cordance with the Reclamation laws; and

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

17 (B) secures an agreement providing such
18 funding as is necessary to pay the non-Federal
19 share of the capital costs of the federally owned
20 storage project.

21 (3) NOTIFICATION.—The Secretary shall sub-
22 mit to the appropriate committees of Congress a
23 written notification that an agreement that satisfies
24 the requirements in paragraph (2)(B) has been se-

1 cured not later than 30 days after the agreement is
2 secured.

3 (4) EXPANSION OR UPGRADE.—The Secretary
4 shall require, as a condition for design, study, or any
5 other participation in the expansion or upgrade of a
6 federally owned storage project, the agreement of—

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

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

21 (d) NON-FEDERAL STORAGE PROJECTS.—

22 (1) IN GENERAL.—Subject to the requirements
23 of this section, the Secretary may participate in the
24 design, study, construction, expansion, upgrade, or
25 capital repair of a non-Federal storage project in an

1 amount equal to not more than 25 percent of the
2 total cost of the non-Federal storage project.

3 (2) CONDITIONS FOR FEDERAL DESIGN AND
4 STUDY FUNDING.—The Secretary shall only partici-
5 pate in the design or study of a non-Federal storage
6 project under this section if—

7 (A) the Governor, political subdivision, de-
8 partment, or public agency of the State in
9 which the non-Federal storage project is located
10 supports Federal funding of the non-Federal
11 storage project; and

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

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

22 (A) the Governor, political subdivision, de-
23 partment, or public agency of the State in
24 which the non-Federal storage project is located
25 supports Federal funding for the project; and

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

3 (i) the non-Federal storage project is
4 technically and financially feasible in ac-
5 cordance with guidelines established by the
6 Secretary;

7 (ii) the non-Federal storage project
8 provides a Federal benefit in accordance
9 with the Reclamation laws;

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

19 (iv) each entity participating in the
20 non-Federal project is financially capable
21 of funding its proportionate share of the
22 non-Federal share of the project costs.

23 (C) Not less than \$10,000,000 of the fund-
24 ing identified in subsection (g) shall be allo-
25 cated to non-Federal storage projects that fur-

ther the Department of the Interior’s priority of sustainably developing natural resources and are—

(i) included in the Bureau of Reclamation’s 2015 Water Management Goal Investment Strategy Final Report;

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

(iii) equipped with an approved fish screen; and

(iv) have both conveyance and recirculation benefits.

(4) NOTIFICATION.—The Secretary shall submit to the appropriate committees of Congress a written notification that an agreement that satisfies the requirements in paragraph (2) has been secured not later than 30 days after the agreement is secured.

(5) INFORMATION.—

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

(i) shall—

(I) generally, rely on reports prepared by an eligible entity partici-

1 pating in the non-Federal storage
2 project, including feasibility or equiva-
3 lent studies, environmental analyses,
4 and other pertinent reports and anal-
5 yses; but

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

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

15 (B) GUIDELINES.—

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

Manual Directive & Standard Title XVI
Water Reclamation and Reuse Program
Feasibility Study Review Process (WTR
11–01), subject to—

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

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

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

(e) RIGHTS TO USE CAPACITY.—

(1) FEDERALLY OWNED STORAGE PROJECT.—

The right to use the capacity of a federally owned
storage project that was designed, studied, con-
structed, expanded, upgraded, or repaired under this

1 Act shall be allocated in such manner as may be mu-
2 tually agreed to by the Secretary and the party or
3 parties to the agreement executed pursuant to sub-
4 section (c)(1).

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

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

19 (g) FUNDING.—

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

24 (2) CONGRESSIONAL APPROVAL INITIALLY RE-
25 QUIRED.—

1 (A) DESIGN AND STUDY FUNDING.—A fed-
2 erally owned storage project or a non-Federal
3 storage project shall only receive initial design
4 or study funding under this Act if the project
5 is designated funding by name in an Act of ap-
6 propriation.

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

13 (C) RECLAMATION RECOMMENDATIONS.—

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

23 (ii) REQUIREMENT.—The Secretary
24 shall confer with the appropriate commit-

1 tees of Congress before submitting the rec-
2 ommendations under clause (i).

3 (3) SUBSEQUENT FUNDING AWARDS.—

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

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

16 (4) PRELIMINARY STUDIES.—Of the amounts
17 made available under paragraph (1), not more than
18 25 percent shall be provided for appraisal studies,
19 feasibility studies, or other preliminary studies.

20 (5) WIIN ACT STORAGE FUNDING.—

21 (A) APPROPRIATIONS.—Each federally
22 owned storage project and non-Federal storage
23 project shall be eligible to receive any amounts
24 made available pursuant to section 4007(h) of
25 the Water Infrastructure Improvements for the

1 Nation Act (43 U.S.C. 390b note; Public Law
2 114–322) (as in effect on the day before the
3 date of the enactment of this Act), in accord-
4 ance with paragraphs (2) and (3).

5 (B) INDIVIDUAL PROJECTS.—

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

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

1 (h) CONSISTENCY WITH STATE LAW.—Nothing in
2 this section preempts or modifies any obligation of the
3 United States or an eligible entity to act in accordance
4 with applicable State law.

5 **SEC. 3. CALFED.**

6 (a) PARTNERSHIP AND AGREEMENTS RELATING TO
7 CERTAIN WATER STORAGE PROJECTS.—The Secretary of
8 the Interior may enter into a partnership or other agree-
9 ment relating to a water storage project described in sec-
10 tion 103 of the Calfed Bay-Delta Authorization Act (Pub-
11 lic Law 108–361; 118 Stat. 1683) with a local joint-pow-
12 ers authority established pursuant to State law by 1 or
13 more irrigation districts or other local water districts or
14 units of local government within the applicable hydrologic
15 region, to advance the project.

16 (b) REAUTHORIZATION.—Title I of the Calfed Bay-
17 Delta Authorization Act (Public Law 108–361; 118 Stat.
18 1681; 123 Stat. 2860; 128 Stat. 164; 128 Stat. 2312; 129
19 Stat. 2407; 130 Stat. 1866) is amended by striking
20 “2020” each place it appears and inserting “2024”.

21 **SEC. 4. SAVINGS CLAUSE.**

22 Nothing in this Act or an amendment made by this
23 Act shall be interpreted or implemented in a manner
24 that—

- 1 (1) preempts or modifies any obligation of the
2 United States or an eligible entity under Federal law
3 to act in accordance with applicable State law, in-
4 cluding applicable State water law; or
- 5 (2) affects or modifies any obligation under ap-
6 plicable Federal environmental law.

