

117TH CONGRESS
1ST SESSION

S. 2185

To reauthorize certain Bureau of Reclamation programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2021

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To reauthorize certain Bureau of Reclamation programs, 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 Infra-
5 structure Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **GRANDFATHERED PROJECT.**—The term
9 “grandfathered project” means a project that has
10 been included in a feasibility level study by the Sec-

retary that was commenced, including at the appraisal level, on or before January 1, 2021, in anticipation of Federal funding or recommended by the Secretary and approved by an Act of Congress prior to the date of enactment of this Act pursuant to—

(A) section 4007 of the WIIN Act (43 U.S.C. 390b note; Public Law 114–322);

(B) section 4(a)(2) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298); or

(C) section 1602(e) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(e)).

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

SEC. 3. REAUTHORIZATION OF CERTAIN RECLAMATION PROGRAMS.

(a) WATER STORAGE PROGRAM.—Section 4007 of the WIIN Act (43 U.S.C. 390b note; Public Law 114–322) is amended—

(1) in subsection (h)—

(A) in paragraph (1), by striking “(1) \$335,000,000” and inserting the following:

“(1) IN GENERAL.—\$1,600,000,000”; and

1 (B) by striking paragraph (2) and insert-
 2 ing the following:

3 “(2) REQUIREMENT.—

4 “(A) IN GENERAL.—Subject to subpara-
 5 graph (B), a project may only receive funding
 6 under this section if the project has been in-
 7 cluded in an Act of Congress that specifically
 8 approves a project recommendation in an an-
 9 nual report issued in accordance with section 5
 10 of the Western Water Infrastructure Act of
 11 2021.

12 “(B) LIMITATION.—Subparagraph (A)
 13 shall not apply to a grandfathered project (as
 14 defined in section 2 of the Western Water In-
 15 frastructure Act of 2021).”;

16 (2) by striking subsection (i); and

17 (3) by redesignating subsections (j) and (k) as
 18 subsections (i) and (j), respectively.

19 (b) ELIGIBLE DESALINATION PROJECTS.—Section
 20 4(a) of the Water Desalination Act of 1996 (42 U.S.C.
 21 10301 note; Public Law 104–298) is amended—

22 (1) by redesignating the second paragraph (1)
 23 (relating to eligible desalination projects) as para-
 24 graph (2); and

(2) in subparagraph (F) of paragraph (2) (as so redesignated)—

(A) in clause (i)—

(i) by striking “(i) \$30,000,000” and inserting the following:

“(i) IN GENERAL.—\$125,000,000”;

and

(ii) by striking “; and” and at the end and inserting a period; and

(B) by striking clause (ii) and inserting the following:

“(ii) REQUIREMENT.—

“(I) IN GENERAL.—Subject to subclause (II), a project may only receive funding under this section if the project has been included in an Act of Congress that specifically approves a project recommendation in an annual report issued in accordance with section 5 of the Western Water Infrastructure Act of 2021.

“(II) LIMITATION.—Subclause (I) shall not apply to a grandfathered project (as defined in section 2 of the

1 Western Water Infrastructure Act of
2 2021).”.

3 (c) RECLAMATION AND REUSE OF WASTEWATER AND
4 GROUNDWATER.—Section 1602(g) of the Reclamation
5 Wastewater and Groundwater Study and Facilities Act
6 (43 U.S.C. 390h(g)) is amended—

7 (1) in paragraph (1)—

8 (A) by striking the paragraph designation
9 and all that follows through “There is” and in-
10 sserting the following:

11 “(A) IN GENERAL.—There is”; and

12 (B) by striking “\$50,000,000” and insert-
13 ing “\$375,000,000”; and

14 (2) by striking paragraph (2) and inserting the
15 following:

16 “(2) REQUIREMENT.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (B), a project may only receive funding
19 under this section if the project has been in-
20 cluded in an Act of Congress that specifically
21 approves a project recommendation in an an-
22 nual report issued in accordance with section 5
23 of the Western Water Infrastructure Act of
24 2021.

1 “(B) LIMITATION.—Subparagraph (A)
 2 shall not apply to a grandfathered project (as
 3 defined in section 2 of the Western Water In-
 4 frastructure Act of 2021).”.

5 (d) DURATION OF CERTAIN RECLAMATION
 6 PROJECTS.—Section 4013 of the WIIN Act (43 U.S.C.
 7 390b note; Public Law 114–322) is amended—

8 (1) in paragraph (1), by striking “; and” at the
 9 end;

10 (2) in paragraph (2), by striking the period at
 11 the end the following and inserting “; and”; and

12 (3) by adding at the end the following:

13 “(2) sections 4006, 4007 (other than a project
 14 under construction under that section that is covered
 15 by paragraph (2)), 4008, 4009 (other than a project
 16 under construction under the amendment made by
 17 subsection (a) or (c) of section 4009 that is covered
 18 by paragraph (2)), and 4011 (including any amend-
 19 ments made by those sections), which shall expire 5
 20 years after the date of enactment of the Western
 21 Water Infrastructure Act of 2021.”.

22 (e) APPLICABLE LAW.—A grandfathered project
 23 shall continue to be subject to the applicable requirements
 24 of the following:

1 (1) Section 4007 of the WIIN Act (43 U.S.C.
2 390b note; Public Law 114–322).

3 (2) Section 4(a)(2) of the Water Desalination
4 Act of 1996 (42 U.S.C. 10301 note; Public Law
5 104–298).

6 (3) Section 1602(e) of the Reclamation Waste-
7 water and Groundwater Study and Facilities Act (43
8 U.S.C. 390h(e)).

9 **SEC. 4. INCREASED FUNDING FOR WATER MANAGEMENT**
10 **IMPROVEMENT.**

11 Section 9504(e) of the Omnibus Public Land Man-
12 agement Act of 2009 (42 U.S.C. 10364(e)) is amended
13 by striking “\$700,000,000” and inserting
14 “\$1,000,000,000”.

15 **SEC. 5. ANNUAL REPORT TO CONGRESS ON FUTURE WEST-**
16 **ERN WATER STORAGE PROJECTS.**

17 (a) DEFINITIONS.—In this section:

18 (1) ANNUAL REPORT.—The term “annual re-
19 port” means a report required under subsection

20 (b)(1).

21 (2) AUTHORIZED RECLAMATION PROJECT.—

22 (A) IN GENERAL.—The term “authorized
23 Reclamation project” means a project author-
24 ized under—

1 (i) section 4007 of the WIIN Act (43
2 U.S.C. 390b note; Public Law 114–322);

3 (ii) section 4(a)(2) of the Water De-
4 salination Act of 1996 (42 U.S.C. 10301
5 note; Public Law 104–298); or

6 (iii) section 1602(e) of the Reclama-
7 tion Wastewater and Groundwater Study
8 and Facilities Act (43 U.S.C. 390h(e)).

9 (B) EXCLUSION.—The term “authorized
10 Reclamation project” does not include a grand-
11 fathered project.

12 (3) AUTHORIZING COMMITTEES OF CON-
13 GRESS.—The term “authorizing committees of Con-
14 gress” means—

15 (A) the Committee on Energy and Natural
16 Resources of the Senate; and

17 (B) the Committee on Natural Resources
18 of the House of Representatives.

19 (b) ANNUAL REPORT.—

20 (1) IN GENERAL.—Not later than February 1
21 of each year, the Secretary shall develop and submit
22 to the authorizing committees of Congress a report,
23 to be entitled “Report to Congress on Future Water
24 Storage Projects”, that identifies each authorized
25 Reclamation project that the Secretary has deter-

1 mined meets the criteria and eligibility requirements
2 under subsection (a) or (b) of section 4007 of the
3 WIIN Act (43 U.S.C. 390b note; Public Law 114–
4 322), section 4(a)(2) of the Water Desalination Act
5 of 1996 (42 U.S.C. 10301 note; Public Law 104–
6 298), or section 1602(e) of the Reclamation Waste-
7 water and Groundwater Study and Facilities Act (43
8 U.S.C. 390h(e)), as applicable.

9 (2) TRANSPARENCY.—For each authorized Rec-
10 lamation project included in the annual report under
11 paragraph (1), the Secretary shall include—

12 (A) the name of the associated non-Fed-
13 eral entity, including the name of any non-Fed-
14 eral entity that has contributed, or is expected
15 to contribute, a non-Federal share of the cost
16 of the authorized Reclamation project;

17 (B) a letter or statement of support from
18 each associated non-Federal entity; and

19 (C) a summary of the basis for the deter-
20 mination of the Secretary that the authorized
21 Reclamation project meets the eligibility re-
22 quirements referred to in paragraph (1), includ-
23 ing an estimate, to the maximum extent prac-
24 ticable, of the monetary and nonmonetary bene-
25 fits of the authorized Reclamation project.

1 **SEC. 6. CONTRACTS FOR ENHANCED INSPECTION.**

2 (a) DEFINITIONS.—In this section:

3 (1) AGING INFRASTRUCTURE.—The term
4 “aging infrastructure” means any infrastructure
5 subject to an enhanced inspection under this section
6 that is associated with a facility that—

7 (A) was constructed by the Bureau of Rec-
8 lamation (or a precursor to the Bureau of Rec-
9 lamation), in accordance with the reclamation
10 laws; and

11 (B) is greater than 50 years old as of the
12 date of the enhanced inspection.

13 (2) ENHANCED INSPECTION.—The term “en-
14 hanced inspection” means an inspection that uses
15 current or innovative technology, including Light
16 Detection and Ranging (commonly known as
17 “LiDAR”), ground penetrating radar, subsurface
18 imaging, or subsurface geophysical techniques, to de-
19 tect whether the features of aging infrastructure—

20 (A)(i) are structurally sound; and

21 (ii) can operate as intended; or

22 (B) are at risk of failure.

23 (3) RECLAMATION LAWS.—The term “reclama-
24 tion laws” means Federal reclamation law (the Act
25 of June 17, 1902 (32 Stat. 388, chapter 1093), and

1 Acts supplemental to and amendatory of that Act
2 (43 U.S.C. 371 et seq.)).

3 (b) ENHANCED INSPECTION.—

4 (1) IN GENERAL.—The Secretary may carry out
5 enhanced inspections of aging infrastructure, pursu-
6 ant to a contract with the owner or operator of the
7 aging infrastructure.

8 (2) CERTAIN CIRCUMSTANCES.—Subject to the
9 availability of appropriations or funds otherwise
10 available pursuant to subsection (d), the Secretary
11 shall enter into a contract described in paragraph
12 (1), if the owner or operator of the aging infrastruc-
13 ture requests that the Secretary carry out the en-
14 hanced inspections.

15 (3) REIMBURSABILITY.—Any Federal funds
16 used to carry out the enhanced inspections under
17 this section are nonreimbursable.

18 (c) LIMITATION.—The Secretary shall not require an
19 owner or operator of a project under the jurisdiction of
20 another Federal agency to carry out corrective or remedial
21 actions in response to an enhanced inspection carried out
22 under this section.

23 (d) FUNDING.—

24 (1) AUTHORIZATION OF APPROPRIATIONS.—

25 There is authorized to be appropriated to carry out

1 this section \$50,000,000, to remain available until
2 expended.

3 (2) ACCEPTANCE OF FUNDS.—The Secretary
4 may—

5 (A) accept funds from an owner or oper-
6 ator of aging infrastructure to carry out an en-
7 hanced inspection of the aging infrastructure
8 under this section; and

9 (B) use the funds accepted under subpara-
10 graph (A) to carry out an enhanced inspection
11 of the aging infrastructure pursuant to a con-
12 tract entered into with the owner or operator
13 under this section.

14 **SEC. 7. RESERVOIR SEDIMENT MANAGEMENT.**

15 (a) DEFINITION OF SEDIMENT MANAGEMENT
16 PLAN.—In this section, the term “sediment management
17 plan” means a plan for—

18 (1) preventing sediment from reducing water
19 storage capacity at a reservoir; and

20 (2) increasing water storage capacity through
21 sediment removal at a reservoir.

22 (b) SEDIMENT MANAGEMENT PROGRAM.—The Sec-
23 retary shall carry out a program for the development and
24 implementation of sediment management plans for res-

1 ervoirs owned by the Secretary, on request by project
2 beneficiaries.

3 (c) PLAN ELEMENTS.—A sediment management plan
4 under subsection (b) shall—

5 (1) provide opportunities for States, project
6 beneficiaries, and other stakeholders to participate
7 in sediment management decisions;

8 (2) evaluate the volume of sediment in a res-
9 ervoir and impacts on project purposes, including
10 storage capacity;

11 (3) identify sediment management options, in-
12 cluding sediment dikes and dredging;

13 (4) identify constraints;

14 (5) assess technical feasibility, economic jus-
15 tification, and environmental impacts;

16 (6) identify beneficial uses for sediment; and

17 (7) to the maximum extent practicable, use, de-
18 velop, and demonstrate innovative, cost-saving tech-
19 nologies, including structural and nonstructural
20 technologies and designs, to manage sediment.

21 (d) JUSTIFICATION.—In determining the economic
22 justification of a sediment management plan under sub-
23 section (b), the Secretary shall—

24 (1) measure and include flooding, erosion, and
25 accretion damages upstream and downstream of the

1 reservoir that are likely to occur as a result of sedi-
2 ment management within the reservoir compared to
3 the damages that are likely to occur if the sediment
4 management plan is not implemented; and

5 (2) include—

6 (A) lifecycle costs; and

7 (B) a 100-year period of analysis.

8 (e) PRIORITIZATION OF SEDIMENT MANAGEMENT
9 PLANS.—In carrying out the program under this section,
10 the Secretary shall give priority to developing and imple-
11 menting sediment management plans that affect reservoirs
12 that cross State lines.

13 (f) COST SHARE.—

14 (1) IN GENERAL.—The beneficiaries requesting
15 a sediment management plan shall share in the cost
16 of development and implementation of the sediment
17 management plan.

18 (2) ALLOCATION.—There shall be allocated—

19 (A) among the beneficiaries described in
20 paragraph (1) the reimbursable costs of devel-
21 oping and implementing the sediment manage-
22 ment plan; and

23 (B) to the Secretary the nonreimbursable
24 costs of any other public benefits identified in
25 the sediment management plan.

1 (g) CONTRIBUTED FUNDS.—The Secretary may ac-
2 cept funds from non-Federal entities and other Federal
3 agencies to develop and implement a sediment manage-
4 ment plan under this section.

5 (h) GUIDANCE.—The Secretary shall use the knowl-
6 edge gained through the development and implementation
7 of sediment management plans under subsection (b) to de-
8 velop guidance for sediment management at other res-
9 ervoirs.

10 (i) PARTNERSHIP WITH THE CHIEF OF ENGI-
11 NEERS.—

12 (1) IN GENERAL.—The Secretary shall carry
13 out the program established under this section in
14 partnership with the Secretary of the Army, acting
15 through the Chief of Engineers, which shall apply to
16 reservoirs managed or owned by the Corps of Engi-
17 neers.

18 (2) MEMORANDUM OF AGREEMENT.—For sedi-
19 ment management plans that apply to a reservoir
20 managed or owned by the Corps of Engineers under
21 paragraph (1), the Secretary and the Secretary of
22 the Army shall execute a memorandum of agreement
23 establishing—

24 (A) the framework for a partnership; and

1 (B) the terms and conditions for sharing
2 expertise and resources.

3 (3) PAYMENTS.—The Secretary may accept and
4 expend funds from the Secretary of the Army any
5 work under this subsection at a reservoir managed
6 or owned by Corps of Engineers.

7 (4) LEAD AGENCY.—The Secretary or the Sec-
8 retary of the Army, as applicable, based on who has
9 primary jurisdiction over a reservoir, shall take the
10 lead in developing and implementing a sediment
11 management plan for the reservoir.

12 (j) OTHER AUTHORITIES NOT AFFECTED.—Nothing
13 in this section affects—

14 (1) sediment management; or

15 (2) the share of costs paid by Federal and non-
16 Federal entities relating to sediment management
17 under any other provision of law (including regula-
18 tions).

19 (k) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to carry out this section
21 \$100,000,000, to remain available until expended.

22 **SEC. 8. ELIMINATION OF BUREAU OF RECLAMATION MAIN-**
23 **TENANCE BACKLOG.**

24 (a) IN GENERAL.—The Secretary shall use amounts
25 made available under subsection (b)—

(1) to carry out activities to reduce or eliminate all major rehabilitation and replacement needs of the Bureau of Reclamation, as identified in an Asset Management Report (as defined in section 8601 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act (43 U.S.C. 505a)); or

(2) to support the rehabilitation, reconstruction, or replacement of any dam—

(A) the construction of which began on or after January 1, 1905;

(B) that was developed pursuant to section 4 of the Act of August 18, 1894 (commonly known as the “Carey Act”) (28 Stat. 422, chapter 301; 43 U.S.C. 641);

(C) that the Governor of the State in which the dam is located has—

(i) determined reached the useful life of the dam;

(ii) determined poses significant health and safety concerns; and

(iii) requested Federal support; and

(D) for which the estimated rehabilitation, reconstruction, or replacement, engineering, and permitting costs would exceed \$50,000,000.

(b) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There is authorized to be
2 appropriated to the Secretary to carry out this sec-
3 tion \$5,000,000,000 for the period of fiscal years
4 2022 through 2026.

5 (2) REIMBURSEMENT OF COSTS.—Amounts
6 made available to the Secretary under paragraph (1)
7 for maintenance activities at reserved works and
8 transferred works identified in the report described
9 in subsection (a)(1) that are considered to be reim-
10 bursable costs under existing contracts shall be af-
11 forded the repayment terms provided under section
12 9603 of the Omnibus Public Land Management Act
13 of 2009 (43 U.S.C. 510b).

○