116TH CONGRESS
2D SESSION

H. R.

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

IN THE HOUSE OF REPRESENTATIVES

Mr. Cox of California introduced the following bill; which was referred to the Committee on ______________________

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Western Water Storage Infrastructure Act”.

SEC. 2. SURFACE AND GROUNDWATER STORAGE AND SUPPORTING PROJECTS.

(a) DEFINITIONS.—In this section:
(1) **Appropriate Committees of Congress.**—The term “appropriate committees of Congress” means—

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

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

(C) the Committee on Appropriations of the Senate;

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

(2) **Design; Study.**—The terms “design” and “study” include any design, permitting, materials engineering or testing, surveying, or preconstruction activity relating to a water storage facility.

(3) **Eligible Entity.**—The term “eligible entity” means—

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

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

(C) a water users’ association;
(D) an agency established by an interstate compact; or

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

(4) Federally owned storage project.—The term “federally owned storage project” means any project in a Reclamation State—

(A) that involves the construction, expansion, upgrade, or capital repair of—

(i) a surface or groundwater storage facility; or

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

(B) to which the United States holds title;

and

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

(i) the Reclamation laws; or

(ii) the Act of August 11, 1939 (commonly known as the “Water Conservation and Utilization Act”) (16 U.S.C. 590y et seq.).

(5) Non-federal storage project.—The term “non-Federal storage project” means any facility or project in a Reclamation State that—
(A) involves the construction, expansion, upgrade, or capital repair by an eligible entity of—

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

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

(B) the construction, expansion, upgrade, or capital repair of such facility or project provides a Federal benefit in accordance with Reclamation laws (including regulations).

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

(7) RECLAMATION STATE.—The term “Reclamation State” has the meaning given the term in section 4014 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322).

(8) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
(b) GRANT PROGRAM.—The Secretary may provide a grant under this section to an eligible entity to carry out, within a Reclamation State—

(1) a federally owned storage project in accordance with subsection (c); or

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

(c) FEDERALLY OWNED STORAGE PROJECTS.—

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

(2) CONDITIONS FOR FEDERAL CONSTRUCTION FUNDING.—The construction of a federally owned storage project that is the subject of an agreement under this section shall not commence until the Secretary—

(A) determines that—

(i) the federally owned storage project is feasible in accordance with the Reclamation laws;
(ii) the federally owned storage project provides a Federal benefit in accordance with the Reclamation laws; and

(iii) in return for the Federal cost-share investment, not less than a proportionate share of the benefits of the federally owned storage project are Federal benefits, including water supplies dedicated to specific purposes, such as water quality improvements or fish and wildlife protection and restoration, including a wildlife refuge; and

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

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

(4) Expansion or Upgrade.—The Secretary shall require, as a condition for design, study, or any
other participation in the expansion or upgrade of a
federally owned storage project, the agreement of—

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

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

(d) NON-FEDERAL STORAGE PROJECTS.—

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

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

(A) the Governor, political subdivision, department, or public agency of the State in which the non-Federal storage project is located supports Federal funding of the non-Federal storage project; and

(B) the Secretary has identified the potential for Federal benefit sufficient to proceed.

(3) CONDITIONS FOR FEDERAL CONSTRUCTION, EXPANSION, UPGRADE, OR CAPITAL REPAIR FUNDING.—Participation by the Secretary in the construction, expansion, upgrade, or capital repair of a non-Federal storage project under this section shall be by negotiated agreement between the United States and the applicable non-Federal entity, and shall not occur unless—

(A) the Governor, political subdivision, department, or public agency of the State in which the non-Federal storage project is located supports Federal funding for the project; and

(B) the applicable eligible entity determines, and the Secretary concurs, that—

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

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

(iii) in return for the Federal cost-share investment, not less than a proportionate share of the benefits of the non-Federal storage project are Federal benefits, including water supplies dedicated to specific purposes, such as water quality improvements or fish and wildlife protection and restoration, including a wildlife refuge; and

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

(C) Not less than $10,000,000 of the funding identified in subsection (g) shall be allocated to non-Federal storage projects that further 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 participating in the non-Federal storage project, including feasibility or equivalent studies, environmental analyses,
and other pertinent reports and analyses; but

(II) retain responsibility for making the independent determinations described in paragraphs (2) and (3); and

(ii) may prepare studies supplementary to the studies described in clause (i)(I), on request of the eligible entity participating in the non-Federal storage project.

(B) GUIDELINES.—

(i) DRAFT GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue draft guidelines for determining whether a non-Federal storage project is financially feasible. The guidelines shall be consistent with and meet the requirements in title XVI of Public Law 102–575 for a feasibility study report, including the economic 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 information for making the independent determinations described in paragraphs (2) and (3); and

(II) the condition that the Bureau of Reclamation shall not bear responsibility for the technical adequacy of any design, study, cost estimate, construction, expansion, upgrade, or capital repair relating to a non-Federal storage project.

(ii) Final Guidelines.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall finalize the guidelines issued under clause (i).

(c) 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, constructed, expanded, upgraded, or repaired under this Act shall be allocated in such manner as may be mutually agreed to by the Secretary and the party or
parties to the agreement executed pursuant to sub-
section (e)(1).

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

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

(g) FUNDING.—

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

(2) CONGRESSIONAL APPROVAL INITIALLY RE-
QUIRED.—

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

(B) CONSTRUCTION FUNDING.—A federally owned storage project or a non-Federal storage project shall only receive initial construction funding under this Act if the project is designated funding by name in an Act of appropriations.

(C) RECLAMATION RECOMMENDATIONS.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall submit to the appropriate committees of Congress recommendations regarding the initial award of design and study funding, and of construction funding, for each federally owned storage project and non-Federal storage project subject to consideration under subparagraphs (A) and (B).

(ii) REQUIREMENT.—The Secretary shall confer with the appropriate committees of Congress before submitting the recommendations under clause (i).

(3) SUBSEQUENT FUNDING AWARDS.—
(A) Design and Study Funding.—After a federally owned storage project or a non-Federal storage project receives an initial award of design or study funding under paragraph (2), additional design or study funding for that project shall not be subject to paragraph (2).

(B) Construction Funding.—After a federally owned storage project or a non-Federal storage project receives an initial award of construction funding under paragraph (2), additional construction funding for that project shall not be subject to paragraph (2).

(4) Preliminary Studies.—Of the amounts made available under paragraph (1), not more than 25 percent shall be provided for appraisal studies, feasibility studies, or other preliminary studies.

(5) WIIN Act Storage Funding.—

(A) Appropriations.—Each federally owned storage project and non-Federal storage project shall be eligible to receive any amounts made available pursuant to section 4007(h) of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) (as in effect on the day before the
date of the enactment of this Act), in accordance with paragraphs (2) and (3).

(B) INDIVIDUAL PROJECTS.—

(i) FEDERALLY OWNED STORAGE PROJECTS.—If the Secretary determines that a federally owned storage project is eligible for funding under section 4007(b) of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322), the federally owned storage project shall remain eligible for funding under subsection (c).

(ii) NON-FEDERAL STORAGE PROJECTS.—If the Secretary determines that a non-Federal storage project is eligible for funding as a State-led storage project under section 4007(c) the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322), the non-Federal storage project shall remain eligible for funding under subsection (d).

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

SEC. 3. DELTA OPERATIONS.

Section 4013 of the Water Infrastructure Improvements for the Nation Act (130 Stat. 1883) is amended—

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

(2) in paragraph (1)—

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

and

(B) by striking “and” at the end; and

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

SEC. 4. CALFED.

(a) PARTNERSHIP AND AGREEMENTS RELATING TO CERTAIN WATER STORAGE PROJECTS.—The Secretary of the Interior may enter into a partnership or other agreement relating to a water storage project described in section 103 of the Calfed Bay-Delta Authorization Act (Public Law 108–361; 118 Stat. 1683) with a local joint-powers authority established pursuant to State law by 1 or more irrigation districts or other local water districts or units of local government within the applicable hydrologic region, to advance the project.

SEC. 5. SAVINGS CLAUSE.

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

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

(2) affects or modifies any obligation under applicable Federal environmental law.