

116TH CONGRESS
1ST SESSION

H. R. 4659

To amend the Omnibus Public Land Management Act of 2009 to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds under that Act, to establish a review of flood control rule curves pilot project within the Bureau of Reclamation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 2019

Mr. NEWHOUSE (for himself, Mr. AMODEI, and Ms. SCHRIER) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Omnibus Public Land Management Act of 2009 to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds under that Act, to establish a review of flood control rule curves pilot project within the Bureau of Reclamation, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Water Supply Infra-
3 structure Rehabilitation and Utilization Act”.

4 **SEC. 2. AGING INFRASTRUCTURE ACCOUNT.**

5 Section 9603 of the Omnibus Public Land Manage-
6 ment Act of 2009 (43 U.S.C. 510b) is amended by adding
7 at the end the following:

8 “(d) AGING INFRASTRUCTURE ACCOUNT.—

9 “(1) ESTABLISHMENT.—There is established in
10 the general fund of the Treasury a special account,
11 to be known as the ‘Aging Infrastructure Account’
12 (referred to in this subsection as the ‘Account’), to
13 provide funds to, and provide for the extended re-
14 payment of the funds by, a transferred works oper-
15 ating entity or project beneficiary responsible for re-
16 payment of reimbursable costs for the conduct of ex-
17 traordinary operation and maintenance work at a
18 project facility, which shall consist of—

19 “(A) any amounts that are specifically ap-
20 propriated to the Account under section 9605;
21 and

22 “(B) any amounts deposited in the Ac-
23 count under paragraph (3)(B).

24 “(2) EXPENDITURES.—Subject to appropria-
25 tions and paragraph (3), the Secretary may expend
26 amounts in the Account to fund and provide for ex-

1 tended repayment of the funds for eligible projects
2 identified in a report submitted under paragraph
3 (5)(A).

4 “(3) REPAYMENT CONTRACT.—

5 “(A) IN GENERAL.—The Secretary may
6 not expend amounts under paragraph (2) with
7 respect to an eligible project described in that
8 paragraph unless the transferred works oper-
9 ating entity or project beneficiary responsible
10 for repayment of reimbursable costs has entered
11 into a contract to repay the amounts under sub-
12 section (b)(2).

13 “(B) DEPOSIT OF REPAID FUNDS.—

14 Amounts repaid by a transferred works oper-
15 ating entity or project beneficiary responsible
16 for repayment of reimbursable costs receiving
17 funds under a repayment contract entered into
18 under this subsection shall be deposited in the
19 Account and shall be available to the Secretary
20 for expenditure in accordance with this sub-
21 section without further appropriation.

22 “(4) APPLICATION FOR FUNDING.—

23 “(A) IN GENERAL.—Not less than once per
24 fiscal year, the Secretary shall accept, during
25 an application period established by the Sec-

1 retary, applications from transferred works op-
2 erating entities or project beneficiaries respon-
3 sible for payment of reimbursable costs for
4 funds and extended repayment for eligible
5 projects.

6 “(B) ELIGIBLE PROJECT.—A project eligi-
7 ble for funding and extended repayment under
8 this subsection is a project that—

9 “(i) qualifies as an extraordinary op-
10 eration and maintenance work under this
11 section;

12 “(ii) is for the major, non-recurring
13 maintenance of a mission-critical asset;
14 and

15 “(iii) is not eligible to be carried out
16 or funded under the repayment provisions
17 of section 4(c) of the Reclamation Safety
18 of Dams Act of 1978 (43 U.S.C. 508(c)).

19 “(C) GUIDELINES FOR APPLICATIONS.—
20 Not later than 60 days after the date of enact-
21 ment of this subsection, the Secretary shall
22 issue guidelines describing the information re-
23 quired to be provided in an application for
24 funding and extended repayment under this
25 subsection that require, at a minimum—

1 “(i) a description of the project for
2 which the funds are requested;

3 “(ii) the amount of funds requested;

4 “(iii) the repayment period requested
5 by the transferred works operating entity
6 or project beneficiary responsible for re-
7 payment of reimbursable costs;

8 “(iv) alternative non-Federal funding
9 options that have been evaluated;

10 “(v) the financial justification for re-
11 questing an extended repayment period;
12 and

13 “(vi) the financial records of the
14 transferred works operating entity or
15 project beneficiary responsible for repay-
16 ment of reimbursable costs.

17 “(D) REVIEW BY THE SECRETARY.—The
18 Secretary shall review each application sub-
19 mitted under subparagraph (A)—

20 “(i) to determine whether the project
21 is eligible for funds and an extended repay-
22 ment period under this subsection;

23 “(ii) to determine if the project has
24 been identified by the Bureau of Reclama-

1 tion as part of the major rehabilitation and
2 replacement of a project facility; and

3 “(iii) to conduct a financial analysis
4 of—

5 “(I) the project; and

6 “(II) the transferred works oper-
7 ating entity or project beneficiary re-
8 sponsible for repayment of reimburs-
9 able costs.

10 “(5) REPORT.—Not later than 90 days after
11 the date on which an application period closes under
12 paragraph (4)(A), the Secretary shall submit to the
13 Committees on Energy and Natural Resources and
14 Appropriations of the Senate and the Committees on
15 Natural Resources and Appropriations of the House
16 of Representatives a report that—

17 “(A) identifies each project eligible for
18 funding and extended repayment under this
19 subsection;

20 “(B) with respect to each eligible project
21 identified under subparagraph (A), includes—

22 “(i) a description of—

23 “(I) the eligible project;

24 “(II) the anticipated cost and du-
25 ration of the eligible project; and

1 “(III) any remaining engineering
2 or environmental compliance that is
3 required before the eligible project
4 commences;

5 “(ii) an analysis of—

6 “(I) the repayment period pro-
7 posed in the application; and

8 “(II) if the Secretary rec-
9 ommends a minimum necessary repay-
10 ment period that is different than the
11 repayment period proposed in the ap-
12 plication, the minimum necessary re-
13 payment period recommended by the
14 Secretary; and

15 “(iii) an analysis of alternative non-
16 Federal funding options; and

17 “(C) describes the balance of funds in the
18 Account as of the date of the report.

19 “(6) EFFECT OF SUBSECTION.—Nothing in this
20 subsection affects—

21 “(A) any funding provided, or contracts
22 entered into, under subsection (a) before the
23 date of enactment of this subsection; or

1 “(B) the use of funds otherwise made
2 available to the Secretary to carry out sub-
3 section (a).”.

4 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR THE**
5 **RECLAMATION SAFETY OF DAMS ACT OF 1978.**

6 Section 5 of the Reclamation Safety of Dams Act of
7 1978 (43 U.S.C. 509) is amended, in the first sentence,
8 by inserting “, and, effective October 1, 2019, not to ex-
9 ceed an additional \$550,000,000 (October 1, 2019, price
10 levels)” before “, plus or minus”.

11 **SEC. 4. REVIEW OF FLOOD CONTROL RULE CURVES PILOT**
12 **PROJECT.**

13 (a) DEFINITIONS.—In this section:

14 (1) BUREAU.—The term “Bureau” means the
15 Bureau of Reclamation.

16 (2) ELIGIBLE WORKS.—

17 (A) IN GENERAL.—The term “eligible
18 works” means a reserved works, or a trans-
19 ferred works for which—

20 (i) the flood control rule curve has not
21 been substantially adjusted during the 10-
22 year period ending on the date of enact-
23 ment of this Act; and

24 (ii) the Secretary receives a request in
25 accordance with subsection (c)(1)(A).

1 (B) EXCLUSIONS.—The term “eligible
2 works” does not include—

3 (i) any project authorized by the
4 Boulder Canyon Project Act (43 U.S.C.
5 617 et seq.);

6 (ii) any project authorized by the Act
7 of April 11, 1956 (commonly known as the
8 “Colorado River Storage Project Act”) (43
9 U.S.C. 620 et seq.); or

10 (iii) any project of the Pick-Sloan
11 Missouri River Basin Program (authorized
12 by section 9 of the Act of December 22,
13 1944 (commonly known as the “Flood
14 Control Act of 1944”) (58 Stat. 891, chap-
15 ter 665)).

16 (3) PILOT PROJECT.—The term “pilot project”
17 means the pilot project established under subsection
18 (b).

19 (4) RESPONSIBLE PARTY.—The term “respon-
20 sible party” means—

21 (A) with respect to a reserved works—

22 (i) a non-Federal water user or power
23 contractor that has an active repayment,
24 water service, or power service contract
25 with the Bureau;

1 (ii) a power contractor that has an ac-
2 tive contract with a Federal power mar-
3 keting administration for energy, capacity,
4 or energy and capacity, from a hydropower
5 facility owned by the Bureau; or

6 (iii) a non-Federal operating entity,
7 including a joint powers authority or board
8 of control, that has assumed responsibility
9 on behalf of multiple water users, through
10 a contract with the Bureau, for the oper-
11 ation and maintenance of the reserved
12 works; and

13 (B) with respect to a transferred works,
14 the operating entity of the transferred works.

15 (5) SECRETARY.—The term “Secretary” means
16 Secretary of the Interior.

17 (b) ESTABLISHMENT OF PILOT PROJECT.—The Sec-
18 retary, in consultation with the Secretary of the Army,
19 shall establish within the Bureau a pilot project to adjust
20 flood control rule curves in accordance with subsection (d).

21 (c) SELECTION OF ELIGIBLE WORKS.—

22 (1) REQUEST.—

23 (A) IN GENERAL.—In order for an eligible
24 works to be selected for inclusion in the pilot
25 project, a responsible party shall submit a writ-

1 ten request to the Secretary seeking a flood
2 control rule curve adjustment.

3 (B) NOTICE.—Not later than 30 days
4 after the date on which the Secretary receives
5 a request under subparagraph (A), the Sec-
6 retary shall notify—

7 (i) each responsible party of that re-
8 quest, using lists maintained by the Bu-
9 reau; and

10 (ii) if applicable, the appropriate Fed-
11 eral power marketing administration.

12 (2) SELECTION.—Each year, the Secretary
13 shall—

14 (A) select 1 or more eligible works for in-
15 clusion in the pilot project; and

16 (B) submit a list of those eligible works
17 to—

18 (i) the Secretary of the Army;

19 (ii) the Committee on Natural Re-
20 sources of the House of Representatives;
21 and

22 (iii) the Committee on Energy and
23 Natural Resources of the Senate.

24 (3) EXCLUSION.—The Secretary shall not select
25 an eligible works for inclusion in the pilot project

1 under paragraph (2)(A) if, not later than 60 days
2 after the date on which the notice is provided to
3 each responsible party under paragraph (1)(B)(i), a
4 majority of the responsible parties submit to the
5 Secretary an objection to the inclusion of the eligible
6 works in the pilot project.

7 (d) ADJUSTMENT OF A FLOOD CONTROL RULE.—

8 (1) IN GENERAL.—The flood control rule curve
9 of an eligible works shall be adjusted pursuant to
10 section 7 of the Act of December 22, 1944 (33
11 U.S.C. 709), if the Secretary of the Army deter-
12 mines that the adjustment would enhance the au-
13 thORIZED purposes of the eligible works.

14 (2) CONSIDERATIONS.—In the adjustment of a
15 flood control rule curve under paragraph (1), the fol-
16 lowing factors shall be considered:

17 (A) Forecast-informed reservoir operations.

18 (B) Improved hydrologic forecasting for—

19 (i) precipitation;

20 (ii) snowpack;

21 (iii) runoff; and

22 (iv) soil moisture conditions.

23 (C) Any new watershed data, including
24 data provided by a responsible party for the eli-
25 gible works.

1 (3) CONSULTATION.—In the adjustment of a
2 flood control rule curve under paragraph (1), the fol-
3 lowing entities shall be consulted:

4 (A) Each responsible party for the eligible
5 works.

6 (B) In the case of an eligible works that
7 produces power marketed by the Federal Gov-
8 ernment, the Federal power marketing adminis-
9 tration that markets the power.

10 (C) The Secretary.

11 (e) CONSULTATION.—The Secretary shall consult
12 with the Secretary of the Army with respect to any action
13 taken by the Secretary of the Army—

14 (1) pursuant to section 7 of the Act of Decem-
15 ber 22, 1944 (33 U.S.C. 709); and

16 (2) that relates to the pilot project.

17 (f) FUNDING.—The Secretary or the Secretary of the
18 Army, as appropriate, may accept amounts from respon-
19 sible parties for eligible works to fund all or a portion of
20 the cost of carrying out an adjustment of a flood control
21 rule under subsection (d), including a review or revision
22 of operational documents (including water control plans,
23 water control manuals, water control diagrams, release
24 schedules, rule curves, operational agreements with non-

1 Federal entities, and any associated environmental docu-
2 mentation).

3 (g) EFFECT.—Nothing in this section—

4 (1) affects or modifies any existing authority to
5 review or modify—

6 (A) reservoir operations, including any ex-
7 isting forecast-informed reservoir operations at
8 a facility of the Corps of Engineers, such as
9 Coyote Dam; and

10 (B) flood control operations; or

11 (2) affects or modifies any authorized purpose
12 of any project carried out by the Secretary.

13 (h) TERMINATION.—

14 (1) IN GENERAL.—The pilot project shall termi-
15 nate on the date that is 15 years after the date of
16 enactment of this Act.

17 (2) EFFECT.—Termination of the pilot project
18 under paragraph (1) shall not affect any flood con-
19 trol rule curve developed as part of the pilot project.

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