



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION/WATER RESOURCES **Bureau of Reclamation/California/Dam Safety**

On March 22, the Department of the Interior announced \$100M will be spent on modification of B.F. Sisk Dam by the Bureau of Reclamation (USBR) from funding allocated by the Bipartisan Infrastructure Law (BIL). Completed in 1967, the dam impounds San Luis Reservoir, the nation's largest off stream reservoir, which provides storage for supplemental irrigation water and municipal and industrial use for the federal Central Valley Project (CVP) and California's State Water Project (SWP). In December 2019, USBR and the California Department of Water Resources (CDWR) announced a partnership to begin a \$1.1B seismic upgrade. USBR's largest project under the 1978 Safety of Dams Act, it will add stability berms and other dam safety features to the existing 3.5-mile-long earthen dam. Increasing the dam height will reduce downstream public safety concerns by reducing the likelihood of overtopping if slumping were to occur during a seismic event. The multi-year project will begin in summer 2022.

The BIL provided \$500M over the next five years to support critical dam safety projects, streamline construction management, maintain the operational capacity of Reclamation's dams and minimize risk to the downstream public. Secretary Deb Haaland said: "Investing in and enhancing dam safety is central to the Biden-Harris administration's all-of-government approach to addressing drought and confronting climate change impacts on communities and habitats. This is the first of many projects that will benefit from these historic infrastructure investments." Assistant Secretary for Water and Science Tanya Trujillo said: "This investment in B.F. Sisk Dam, located south of the Sacramento-San Joaquin Delta, will build water supply security for California communities, farmers and ranchers and wildlife refuges, and help the system better adapt to a changing climate." (USBR News Release #4142)

Detailed information on the programs and funding provided in the Bipartisan Infrastructure Law, the Fiscal Year 2022 BIL Spend Plan, and materials from stakeholder listening sessions are available at <https://www.usbr.gov/bil/>.

California/Drought/Water Supply Outlook

On March 18, the USBR and CDWR jointly filed a Temporary Urgency Change Petition (TUCP) with the State Water Resources Control Board to modify requirements in water right permits and licenses for the CVP and SWP between April 1 and June 30. The requested changes are in response to a historically dry January, February, and first half of March, typically California's wettest months, and a third consecutive year of critically dry conditions. The changes are expected to conserve upstream reservoir storage for critical needs later in the year, including public health and safety, and environmental needs.

After a series of strong December storms, USBR and CDWR hoped Folsom and Oroville reservoirs would provide adequate water supplies and a TUCP would not be necessary. However, following the extraordinarily dry January and February, Folsom and Oroville are seeing unprecedented declines in inflow forecasts and cannot support Delta outflows as expected. There is not enough storage in other CVP and SWP reservoirs to meet water supply and environmental needs later in the year.

USBR Regional Director Ernest Conant said: "Reclamation and DWR, along with the federal and state fish agencies, have been coordinating throughout the winter to address increasingly challenging hydrologic conditions for environmental flows and water supply. We all recognize what a difficult year this is going to be for everyone. It's definitely another roll-up-your-sleeves, all-hands-on-deck water year." CDWR Director Karla Nemeth said: "DWR has been planning for conditions to remain dry since the start of the water year on October 1. We are facing tough but important decisions about how to manage the system for a third year of drought." "We are taking critical steps like submitting the [TUCP] in coordination with our federal and state partners, to balance the needs of endangered species, water supply conservation, and water deliveries to Californians."

Additional projects operational flexibility is needed to:

- (1) support minimum health and safety water supplies;
- (2) preserve upstream storage for release later in the summer to control saltwater intrusion into the

Sacramento-San Joaquin Delta; (3) preserving cold water in Shasta Lake and other reservoirs to maintain cool river temperatures for Chinook salmon and steelhead; (4) maintain protections for state and federally endangered and threatened species; and (5) meet critical water supply needs. CDWR also plans to refill the notch in the Emergency Drought Salinity Barrier in the Delta to reduce the amount of saltwater intrusion and the need for releases from upstream reservoirs to conserve water storage. <https://www.usbr.gov/newsroom/#/news-release/4137>

CONGRESS/WATER RIGHTS **Indian Water Rights**

On March 23, the Senate Committee on Indian Affairs held a legislative hearing on several bills, including the Colorado River Indian Tribes Water Resiliency Act (S. 3308) and a bill to amend the White Mountain Apache Water Rights Quantification Act of 2010 (S. 3168). Witnesses providing testimony on the two bills included: Bryan Newland, Assistant Secretary for Indian Affairs, Department of the Interior (DOI); Amelia Flores, Chairwoman of the Colorado River Indian Tribes (CRIT); and Gwendena Lee-Gatewood, Chairwoman of the White Mountain Apache Tribe.

Newland said DOI supports S. 3308, which “would authorize CRIT to enter into agreements to lease, exchange, or store a portion of its decreed water rights in Arizona,” subject to several pre-conditions regarding agreements between CRIT, Arizona, and DOI. The bill provides that “only that portion of CRIT’s water right that was consumptively used in Arizona four of the five years immediately preceding a proposed agreement would be available for lease, exchange, or storage. In addition, the agreements could be entered into only for use in the Lower Basin portion of the State and could not exceed a term of 100 years. CRIT would be responsible for negotiating all agreements, payments would be made directly to CRIT, and the Secretary would have no trust responsibility with respect to funds paid to CRIT.”

Newland noted that CRIT’s water rights were quantified by the U.S. Supreme Court in 2006, and CRIT has historically diverted about 90% of its entitlement. He said the bill is the result of many years of negotiations between the CRIT and the Senate, and that it is “consistent with principles of self-determination and Tribal sovereignty.” DOI “supports the right of all Tribes to achieve economic value from their water rights....”

Flores talked about the water shortages at Lake Mead and efforts under the Drought Contingency Plan. She said: “CRIT is doing its part. We have been following productive farmland to leave water in the Lake Mead since 2016. We have left more than 200 thousand

acre-feet in the Lake, raising it by 3 feet. But without [S.3308], this is the only way we can help. The River needs all the tools that can be made available to survive this continuing trend of less and less water.”

She added, “The CRIT water is the first and highest priority water on the River. The water used by the Arizona metro areas that is delivered by the CAP is the lowest priority, and is getting cut. But unlike many other tribes in the State, we cannot make our water available for deliveries to them until Congress allows it.” She also noted that no new infrastructure was needed to deliver or treat the water, and that no federal dollars were needed to implement the bill.

Lee-Gatewood testified in support of S. 3168 regarding cost overruns on the proposed Miner Flat Dam. She said: “The driving force behind the 2009 water rights settlement and the 2010 Quantification Act was the long-standing need to provide a reliable and safe water supply and delivery system to the members of the White Mountain Apache Tribe.” Drinking well production has continued to fall, underscoring the need for surface water supplies delivered by the White Mountain Apache Tribe Rural Water System (RWS). “Without reservoir storage behind Miner Flat Dam, a feature authorized by the Act, the unregulated stream flows of the North Fork of the White River, supplemented by a sharply reduced Miner Flat Well Field, are together inadequate to meet current, much less future, community demands....” The Tribe’s consulting engineers altered the design of the dam to address seepage and stability issues, and the Tribe and the Bureau of Reclamation have been working together to complete a mutually-satisfactory design. The bill proposes amendments to increase both the authorized cost of the dam and extend the enforceability deadline.

Newland said: “[DOI] agrees with the Tribe that there are significant challenges and cost gaps associated with the design of the [RWS], specifically Miner Flat Dam. The Bureau of Reclamation and the Tribe have been working to reach agreement on the final project design and cost estimates of Miner Flat Dam, but work remains to be done. At this time, the Department cannot determine whether the additional \$250M proposed by S. 3168 would provide sufficient funding to complete the [RWS]. In addition, S. 3168 raises questions about the timing of indexing for newly authorized appropriations. [DOI] would like to resolve those questions with the Tribe and the bill sponsors. [DOI] supports the intent of S. 3168 to provide the means to complete a needed rural water supply project for the Tribe. We agree and support an amendment that would extend the enforceability date of the Quantification Act to 2025. We are committed to working with the Tribe, the bill sponsors, and this committee to develop a more reliable cost estimate and to clarify indexing of any additional appropriations.”

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