



H.R. 1654 — Water Supply Permitting Coordination Act (Rep. McClintock, R-CA)

CONTACT: [Noelani Bonifacio](#), 202-226-9719

FLOOR SCHEDULE:

Scheduled for consideration on June 22, 2017 under a structured [rule](#).

TOPLINE SUMMARY:

[H.R. 1654](#) would establish the Bureau of Reclamation (BOR) as the lead agency in the review, permitting, licensing and other federal approval processes for water storage projects in the 17 western states. The bill establishes responsibilities for BOR and cooperating agencies, and timelines for approval. Finally, the bill allows non-federal public entities to contribute funds to expedite the permitting approval process.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 1654 would cost \$1 million annually, subject to appropriation, for staff to coordinate agency reviews, compile data and review projects and permits. H.R. 1654 allows non-federal public entities to contribute funds to expedite permit applications. According to CBO and based on information provided from Bureau of Reclamation (BOR), BOR would receive and spend less than \$500,000 in the expedition of applications and the net effect on direct spending would be negligible, though pay-as-you-go procedures would still apply. Revenues would not be affected and the bill would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

This bill would establish the Bureau of Reclamation (BOR), under the Department of the Interior, as the lead agency for the purposes of reviews, permitting, licensing, and other federal approvals for the construction of new surface water storage projects in the following states: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming. Currently these projects are subject to a variety of review and approval processes through multiple state and federal agencies that do not coordinate with each other. This results in procedural delays that affect the project's timeline. According to the [committee report](#), one such project,

the Wyoming High Savery Dam Project, took 14 years to complete the permitting process while construction took only 2 years.

After receiving an application for review, permit, license, or other federal approval, the Commissioner of the BOR must quickly identify any federal agency that may have jurisdiction over the application. BOR must then notify the agency that they have been identified as a cooperating agency within a reasonable timeframe. The agency may respond, however, that they have no jurisdiction or expertise on the matter, or that they do not intend to submit comments or issue a decision except in cooperation with BOR.

The state in which the project is located may also elect to participate as a cooperating agency. The state may make state agencies subject to this bill if the agency has jurisdiction over the project, must conduct a review of the project, or must issue an approval of the project.

H.R. 1654 would establish the following general responsibilities for BOR: (1) BOR is to serve as the point of contact for applicants, state agencies, and Indian tribes; (2) BOR will coordinate the environmental documentation to serve as the basis for federal decisions related to the project; and, (3) BOR is to coordinate federal reviews for the project's development and construction.

The bill would also establish the following coordination responsibilities for BOR: (1) BOR must notify cooperating agencies within 30 days of receiving a proposal. BOR must facilitate a pre-application meeting for the applicant, relevant state and federal agencies, and Indian tribes to discuss the relevant processes, data requirements, submissions, and timeline requirements of the review process; (2) consult with agencies during the review, identify and obtain relevant data, and set deadlines for the agencies; (3) establish a project schedule with the agencies and applicant. In creating the schedule, BOR must take into account the responsibilities and resources of the agencies and applicant, the size, complexity, schedule and cost of the project, and the resources that may be affected by the project; (4) prepare the environmental review document upon which all agencies are to base their approval on. In addition, BOR must help ensure the cooperating agencies issue a decision on federal approval within one year if there is determined to be no significant environmental impact under [42 U.S.C. 4321 et seq.](#) If an environmental impact statement is required, BOR must help ensure the cooperating agencies issue a decision within 1 year and 30 days after the close of the public comment period; (5) maintain a record of the information utilized in agency decisions; (6) ensure the project data is available in electronic format to cooperating agencies, the applicant and the public, to the extent practicable; and (7) appoint a project manager to oversee the project, issue authorizing documents and ensure the completion of all Bureau and cooperating agency responsibilities.

The bill would establish the following responsibilities for the cooperating agencies: (1) after being notified of the application of a project the cooperating agency must submit to BOR a timeframe under which the agency can fulfill all their responsibilities related to the project. BOR will then use this timeframe when creating the project schedule, which the cooperating agency must adhere to; (2) the cooperating agency must submit the environmental review material they produce or compile while complying with federal law; and, (3) the cooperating agency must submit relevant project data to BOR in electronic format, to the extent practicable.

Finally, the bill would allow non-federal public entities to contribute funds to expedite the evaluation process of a project's permit. The bill states that permits reviewed using contributed funds must be reviewed by BOR's regional director and be subject to the same procedures as permit applications that are not expedited with contributed funds. In addition, BOR and cooperating agency must ensure the funds do not impact impartial decision making or affect the regulatory authorities of the cooperating agency. The funds may not be used to conduct permit evaluation reviews and the permit decisions made using contributed funds must be made available to the public online.

The House Report accompanying H.R. 1873 (H. Rept. 115-166) can be found [here](#).

AMENDMENTS:

1. [Rep. LaMalfa](#) (R-CA) – This amendment would ensure state-lead water-shortage projects are eligible for the provisions outlined in this bill.
2. [Rep. Lowenthal](#) (D-CA) – This amendment would prohibit dam project from being expedited if the project could harm commercial fisheries, as determined by the secretary.

COMMITTEE ACTION:

H.R. 1654 was introduced on March 21, 2017. The bill was referred to the House Committees on Natural Resources. A mark-up was held by the Natural Resources Committee and the bill was reported by a vote of 24-16.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the bill's sponsor: Congress has the power to enact this legislation pursuant to the following: "Article 4, Section 3, Clause 2 of the U.S. Constitution, which confers on Congress the power to make all needful Rules and Regulations respecting the property belonging to the United States".