



TO: TFG Clients

DATE: November 12, 2021

## Summary of Water and Natural Resource Provisions in the Bipartisan Infrastructure Investment and Jobs Act of 2021

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Congress passed [H.R. 3684, the bipartisan Infrastructure Investment and Jobs Act](#) on November 5, 2021. President Biden is set to sign the legislation into law on November 15. This memo summarizes the provisions in the Act dealing with water and natural resource infrastructure programs for local and state governments and tribes.

### Waterways and Ports

#### Investigations

**\$150 million for Army Corps of Engineers (Corps)** for investigations program over five years. Not later than 60 days after the date of enactment of this Act, the Chief of Engineers shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the funds identified for fiscal year 2022. Within that same timeframe, the Chief of Engineers shall also provide a briefing to the House and Senate Committees on Appropriations on an implementation plan, including a schedule for solicitation of projects and expenditure of funds, for the funding provided for fiscal year 2023. **Does District Qualify? NO**

#### Construction

**\$11.615 billion for Corps** infrastructure priorities for construction projects over five years to help address the huge backlog of authorized projects that have yet to receive funding. Included under Corps construction are specific funding set-asides for Navigation, Inland Waterways, Aquatic Ecosystem Restoration, Environmental Infrastructure, Continuing Authorities Program, Flood Control, Shore Protection, and Remote and Subsistence Harbor Projects. \$200 million of the total amount shall be for water-related environmental infrastructure assistance. \$115 million of the total amount shall be used under the aquatic ecosystem restoration program under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330) to restore fish and wildlife passage by removing in-stream barriers and provide technical assistance to non-Federal interests carrying out such activities, at full Federal expense and notwithstanding the individual project cost limitation set forth in that section. \$1.9 billion of the total shall be for aquatic ecosystem restoration projects, of which not less than \$1 billion shall be for multi-purpose projects or multi-purpose programs that include aquatic

ecosystem restoration as a purpose. Not later than 60 days after the date of enactment of this Act, the Chief of Engineers shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the funds provided under this heading in this Act for each fiscal year, including a list of project locations and new construction projects selected to be initiated. The bill directs the \$2.5 billion for inland waterway appropriations to give priority to projects in the Corps' Capital Investment Strategy and adds a general provision that projects in the Corps' appropriation should not be limited by cost-benefit analysis when determining benefits to disadvantaged communities. **Does District Qualify? NO**

## Operations and Maintenance

**\$4 billion for Corps Operations and Maintenance**, which would be spent over a three-year period, and includes funding for dredging Federal navigation projects and repairing damages to Corps Projects caused by natural disasters. In addition, there is \$808 million for Corps Mississippi Rivers and Tributaries (MR&T) Projects and includes funding to address emergencies for Corps projects caused by natural disasters. Also, there is \$160 million for Corps Regulatory program; \$251 million for flood control and coastal emergencies; and \$40 million for expenses. **Does District Qualify? NO**

## Water Infrastructure Finance and Innovation Program (WIFIA)

**\$75 million for "Water Infrastructure Finance and Innovation Program (WIFIA) Account"** to remain available until expended: with \$64,000,000 for the cost of direct loans and for the cost of guaranteed loans, for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of state, local government, public utility, or private; \$11 million for administrative expenses.

For projects that are carried **out** with these funds, the Secretary of the Army and the Director of the Office of Management and Budget shall consider other factors in addition to the benefit-cost ratio when determining the economic benefits of projects that benefit disadvantaged communities. **Does District Qualify? YES for Pure Water Monterey expansion - Competitive**

## Western Water and Drought Resiliency

### Aging Infrastructure

**\$3.2 billion over five years for the Aging Infrastructure Account.** The Aging Infrastructure Account was created in the 2020 Consolidated Appropriations bill. Its function is to provide funds and funding assistance to the Bureau of Reclamation for direct loans to finance the non-federal share of costs of certain major, nonrecurring maintenance of Reclamation-owned water infrastructure at water projects across the West that need major upgrades or replacement. As those facilities, most of which are more than 50 years old, continue to age, the issue of storing and delivering water effectively, efficiently, and in a timely manner only increases. Long term low interest loans would be provided under the authority provided by P.L. 111-11.

(A) \$100 million shall be made available for Bureau of Reclamation reserved or transferred works that have suffered a critical failure, in accordance with section 40904(a). This section authorizes nonreimbursable funding from Reclamation for projects where construction of the reserved or transferred work began on or before January 1, 1915; and a unit of the reserved or transferred work suffered a critical failure in Bureau of Reclamation infrastructure during the 2-year period ending on the date of enactment of the Act that resulted in the failure to deliver water to project beneficiaries; and

(B) \$100 million shall be made available for the rehabilitation, reconstruction, or replacement of a dam in accordance with section 40904(b). This section authorizes nonreimbursable funding from Reclamation for a dam the construction of which began on or after January 1, 1905; that was developed pursuant to section 4 of the "Carey Act"; that the Governor of the State in which the dam is located has determined the dam has reached its useful life, determined the dam poses significant health and safety concerns, and has requested Federal support; and for which the estimated rehabilitation, reconstruction, or replacement, engineering, and permitting costs would exceed \$50,000,000. **Does District Qualify? NO**

## WIIN Act Storage

**\$1.15 billion for WIIN Act Storage.** \$1.05B for water storage, groundwater storage, and conveyance projects in accordance with section 40902, of which \$100M shall be made available to provide grants to plan and construct small surface water and groundwater storage projects in accordance with section 40903.

Section 40903 authorizes the Secretary to establish a competitive grant program. The non-Federal project sponsor of any project must be in a Reclamation State, including the State of Alaska or Hawaii, determined by the Secretary to be feasible. The non-Federal sponsor is eligible to apply for 25% grant for the planning, design, and construction of a small storage project between 2,000 and 30,000AF in size, with the maximum grant set at \$30 million per project. **Does District Qualify? NO**

## Rural Water

**\$1 billion for rural water projects** that have been authorized by an Act of Congress before July 1, 2021, in accordance with the Reclamation Rural Water Supply Act of 2006. **Does District Qualify? NO**

## Water Recycling and Reuse

**\$1 billion for water recycling and reuse projects**, of which—

(a) \$550M shall be made available for water recycling and reuse projects authorized in accordance with the Reclamation Wastewater and Groundwater Study and Facilities Act that are authorized or approved for construction funding by an Act of Congress before the date of enactment of this Act; or selected for funding under the competitive grant program authorized pursuant to section 1602(f) of the Reclamation Wastewater and Groundwater Study and Facilities Act, with funding to be provided in accordance with that section, notwithstanding section 4013 of the Water Infrastructure Improvements for the Nation (WIIN) Act, except that section 1602(g)(2) of the Reclamation Wastewater and Groundwater Study and Facilities Act shall not apply to amounts made available under this subparagraph; and **Does District Qualify? YES for Pure Water Monterey, but may be "capped" out.**

(b) \$450M shall be made available for largescale non-federal water recycling and reuse projects in accordance with section 40905 (authorizes a 25% grant (no cap) for Western water recycling and reuse projects where the total costs to plan, design and construct exceed \$500 million). **Does District Qualify? NO**

## Water Desalination

**\$250 million for water desalination projects and studies** authorized in accordance with the Water Desalination Act of 1996 that are— (A) authorized or approved for construction funding by an Act of Congress before July 1, 2021; or (B) selected for funding under the Water Desalination Act of 1996. **Does District Qualify? NO**

## Dam Safety

**\$500 million for the Reclamation Safety of Dams (SOD) Program**, in accordance with the Reclamation Safety of Dams Act of 1978. The Reclamation SOD program provides for Reclamation owned dam rehabilitation projects with a 15% reimbursable component taken over all project purposes. **Does District Qualify? NO**

## WaterSMART Grants

**\$400 million for WaterSMART grants** in accordance with section 9504 of the Omnibus Public Land Management Act of 2009 (50-50 cost shared grant), of which \$100M shall be made available for projects that would improve the condition of a natural feature or nature-based feature (50-75% cost shared grants, as those terms are defined in section 9502 of the Omnibus Public Land Management Act of 2009). **Does District Qualify? YES**

## Drought Contingency Planning

**\$300 million over 5 years for Drought Contingency Plan Funding**. The Drought Contingency Plan (DCP) was agreed between the 7 states of the Upper and Lower Colorado Basins, and approved by Congress, to prepare for increasingly harsh drought conditions. This section provides \$50 million to the Upper Basin and \$250 million to the Lower Basin to implement the DCP and for drought contingency operations, such Federal water contributions and monitoring at Lake Powell and Lake Mead. **Does District Qualify? NO**

## Watershed Management

**\$100 million for watershed management** projects to provide financial assistance in accordance with subtitle A of title VI of the Omnibus Public Land Management Act of 2009 (established the Cooperative Watershed Management Program where diverse stakeholder groups in a watershed are eligible for grants (50%-100% federal share) to form and/or carry out projects to restore or enhance watershed function). **Does District Qualify? NO**

## Aquatic Ecosystem Restoration

**\$250 million for design, study, and construction of aquatic ecosystem** restoration and protection projects in accordance with section 1109 of division FF of the Consolidated Appropriations Act, 2021 (which authorized the Secretary of the Interior to negotiate and enter into an agreement on behalf of the United States to fund up to 65% of the design, study, and construction of an aquatic ecosystem restoration and protection project in a Reclamation State if the Secretary determines that the project is likely to improve the health of fisheries, wildlife or aquatic habitat, including through habitat restoration and improved fish passage via the removal or bypass of barriers to fish passage, with limitations). **Does District Qualify? Possibly YES**

## Multi-Benefit Projects

**\$100 million for multi-benefit projects** to improve watershed health in accordance with section 40907 (which authorizes and directs the Secretary of the Interior, in consultation with the heads of relevant agencies, to establish a competitive grant program (50% - 75% federal share) for grants to eligible applicants for the design, implementation, and monitoring of conservation outcomes of habitat restoration projects that improve watershed health in a river basin that is adversely impacted by a Bureau of Reclamation water project). **Does District Qualify? NO**

## Endangered Species Recovery

**\$50 million for endangered species** recovery and conservation programs in the Colorado River Basin.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Interior shall submit to the House and Senate Committees on Appropriations a detailed spend plan, including a list of project locations of the preceding proviso, to be funded for fiscal year 2022; and beginning not later than 120 days after the enactment of this Act, the Secretary of the Interior shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of the funds provided under this heading in this Act. **Does District Qualify? NO**

## Fish and Wildlife Restoration

### Fish Passage

**\$1 billion to the Secretary of Transportation** to establish an annual competitive grant program to award grants (up to 80% federal share) to eligible entities (states/local governments/tribes) for projects for the replacement, removal, and repair of culverts or weirs that— “(1) would meaningfully improve or restore fish passage for anadromous fish; and “(2) with respect to weirs, may include— “(A) infrastructure to facilitate fish passage around or over the weir; and “(B) weir improvements. The legislation also authorizes an additional \$800 million annually for the program for each of FYs 2022—2026. **Does District Qualify? Possibly YES**

**\$10 million to the USFWS and NOAA Fisheries** for the removal of non-hydropower Federal dams and for providing dam removal technical assistance in support of listed ESA species. **Does District Qualify? NO**

**\$200 million to the Secretary of the Interior** to be used for restoring fish and wildlife passage by removing in-stream barriers and providing technical assistance under the National Fish Passage Program. **Does District Qualify? YES**

**\$400 million to the Secretary of Commerce (NOAA)** to be used for restoring fish passage by removing in-stream barriers and providing technical assistance pursuant to section 117 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891a), of which up to 15 percent shall be reserved for Indian Tribes or partnerships of Indian Tribes in conjunction with an institution of higher education, non-profit, commercial (for profit) organizations, U.S. territories, and state or local governments, and of which the remaining amount shall be for all eligible entities, including Indian Tribes and such partnerships of Indian Tribes **Does District Qualify? Possibly YES**

### Ecosystem and Habitat Restoration

**\$255 million to the Secretary of the Interior** to be used for regional ecosystem restoration purposes, including \$162 million for Klamath Basin restoration activities; \$17 million for Lake Tahoe restoration; and \$50 million for the sagebrush steppe ecosystem. **Does District Qualify? NO**

**\$491 million to the Secretary of Commerce (NOAA)** to be used for contracts, grants, and cooperative agreements to provide funding and technical assistance for purposes of restoring marine, estuarine, coastal, or Great Lakes ecosystem habitat, or constructing or protecting ecological features that protect coastal communities from flooding or coastal storms. **Does District Qualify? NO**

**\$492 million to the Secretary of Commerce (NOAA)** to be used for coastal and inland flood and inundation mapping and forecasting, and next-generation water modeling activities, including modernized precipitation frequency and probable maximum studies. **Does District Qualify? NO**

**\$77 million to the Secretary of Commerce (NOAA)** for habitat restoration projects through the National Estuarine Research Reserve System (16 U.S.C. 1456c), including ecosystem conservation pursuant to section 12502 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1456–1). **Does District Qualify? NO**

**\$172 million to the Secretary of Commerce (NOAA)** for Pacific Coastal Salmon Recovery. **Does District Qualify? YES - Competitive**

## Forest Restoration and Ecosystem Health

**\$2.130 billion authorization (not appropriated in the Act – to be spent from future operating funds) for forest ecosystem restoration projects** on federal, tribal and non-federal lands to the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, for described activities, including water quality and fish passage, for the period of fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$250 million to the Secretary of Agriculture to restore passages for fish** and other aquatic species by improving, repairing, or replacing culverts and other infrastructure; and removing barriers, as the Secretary determines appropriate, from the passages; and to remove unauthorized roads and trails in the National Forest System (USFS Legacy Road and Trail Remediation Program), for the period of fiscal years 2022 through 2026.

**Does District Qualify? Possibly YES**

## Watershed Resiliency

**\$618 million over five years for USDA NRCS Watershed Programs.** Provides \$500 million for Watershed and Flood Prevention Operations (WFPO) and \$118 million for Watershed Rehabilitation Programs. Both programs are critically important to Western and Midwestern states being hit by drought. WFPO helps units of federal, state, local, and tribal governments protect and restore watersheds up to 250,000 acres. This program provides for cooperation between the Federal government and the states and their political subdivisions to work together to prevent erosion; floodwater and sediment damage; to further the conservation development, use and disposal of water; and to further the conservation and proper use of land in authorized watersheds. The Watershed Rehabilitation Program helps project sponsors rehabilitate aging dams that are reaching the end of their design lives. This rehabilitation addresses critical public health and safety concerns. **Does District Qualify? NO**

**\$300 million to USDA NRCS for “Emergency Watershed Protection Program”** to repair damages to the waterways and watersheds resulting from natural disasters. **Does District Qualify? YES through local RCS if damages**

## Tribal Programs

**\$216 million over five years for Tribal Climate Resilience.** Provides \$216 million for tribal climate resilience, adaptation, and community relocation planning, design, and implementation of projects that address the varying climate challenges facing tribal communities across the country. Of that, \$130 million is for community relocation and \$86 million is for climate resilience and adaptation projects. **Does District Qualify? NO**

**\$250 million for construction, repair, improvement, and maintenance** of irrigation and power systems, safety of dams, water sanitation, and other facilities. **Does District Qualify? NO**

## Drinking Water Programs

**\$17.343 billion** to the EPA in appropriations for Drinking Water State Revolving Fund (SRF) capitalization grants for fiscal years 2022 through 2026. Authorizes an additional **\$14.65 billion** for the Drinking Water SRF over FYs 2022—2026. Additional authorities are provided for further subsidizations from the SRF. **Does District Qualify? YES for Pure Water Monterey**

**\$15 billion** to the EPA in appropriations for Drinking Water SRF capitalization grants to replace lead service lines, with 49% of the funding distributed by the states as forgivable loans or grants for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$4 billion** to the EPA in appropriations for Drinking Water SRF capitalization grants to address per- and polyfluoroalkyl substances (PFAS) for fiscal years 2022 through 2026. **\$5 billion** to the EPA in appropriations under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a) to address PFAS for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$175 million** to the EPA for technical assistance and grants for emergencies affecting public water systems for fiscal years 2022 through 2026. **Does District Qualify? Possibly YES**

**\$510 million** to the EPA in funding for the Assistance for Small and Disadvantaged Communities Program for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$500 million** to the EPA for the Lead Reduction Projects Grant Program for fiscal years 2022 through 2026. There is an additional **\$10 million** authorized, until expended, for a Lead Inventorying Utilization Grant Pilot Program to provide grants to eligible entities to carry out lead reduction projects that are demonstrated to exist or are suspected to exist, based on available data, information, or resources, including existing lead inventorying of those eligible entities. **Does District Qualify? NO**

**\$250 million** to the EPA for the Drinking Water System Infrastructure Resilience and Sustainability Program for fiscal years 2022 through 2026. Stipulates a 90 percent federal cost share for aid to small, rural, and disadvantaged communities. **Does District Qualify? NO**

**\$250 million** to the EPA for the Indian Reservation Drinking Water Program for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$50 million** to the EPA for an Advanced Drinking Water Technologies grant program for fiscal years 2022 through 2026. The program is for public water systems that serve a population of 100,000 or fewer people or disadvantaged communities. The grant program is designed to identify and/or deploy drinking water infrastructure technology that is new or emerging, but proven to enhance the treatment, monitoring, affordability, efficiency, and safety of the drinking water provided. **Does District Qualify? UNLIKELY**

## Clean Water Programs

**\$19.908 billion** to the EPA in appropriations for Clean Water SRF capitalization grants for fiscal years 2022 through 2026. Authorizes an additional **\$14.65 billion** for the Clean Water SRF over FYs 2022—2026. Additional authorities are provided for further subsidizations from the SRF. **Does District Qualify? Yes for PWM**

**\$1 billion** to the EPA in appropriations for Clean Water SRF capitalization grants to address per- and polyfluoroalkyl substances (PFAS) for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$100 million** to the EPA for the Wastewater Efficiency Grant Program for fiscal years 2022 through 2026. The program provides funding to publicly owned treatment works to create or improve waste-to-energy systems. Grants may be awarded for sludge collection systems, anaerobic digesters, methane capture or transfer, and other emerging technologies that transform waste to energy. **Possibly for M1W and Waste District**

**\$125 million** to the EPA for the Pilot Program for Alternative Water Source Projects for fiscal years 2022 through 2026. The grants may be used for engineering, design, construction, and final testing of alternative water source projects designed to meet critical water supply needs. Alternative water source projects include those projects that provide alternative sources of water through conserving, managing, reclaiming, or reusing water, stormwater, or wastewater. **Possibly for M1W**

**\$1.4 billion** to the EPA for the Sewer Overflow and Stormwater Reuse Municipal Grants Program for fiscal years 2022 through 2026, placing a particular emphasis on projects in rural and financially distressed communities. The federal cost share for rural or financially distressed communities would be no less than 90 percent. The bill also expands eligible projects to include “notification systems to inform the public of combined sewer or sanitary overflows that result in sewage being released into rivers and other waters.” **Does District Qualify? NO**

**\$125 million** to the EPA for the Clean Water Infrastructure Resiliency and Sustainability Program to provide grants for protecting water systems from weather events and cybersecurity risks for fiscal years 2022 through 2026. **Does District Qualify? UNLIKELY**

**\$50 million** to the EPA for the Small and Medium Publicly Owned Treatment Works Circuit Rider Program for fiscal years 2022 through 2026. The program awards grants to provide on-site technical assistance to owners and operators of small and medium publicly owned treatment works. **Does District Qualify? NO**

**\$250 million** to the EPA for a grant program that allows nonprofit organizations to receive funds for the construction, repair, or replacement of decentralized wastewater systems for low- or moderate-income households, or groups of such households for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$200 million** to the EPA for a program to provide grants to publicly owned treatment works or nonprofit organizations to cover the costs incurred from connecting a household to a municipal or private wastewater system for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$25 million** to the EPA for the Innovative Water Infrastructure Workforce Development Program for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$75 million** to the EPA for a water data sharing pilot program aimed at ensuring the coordination of data and information regarding water quality and needs between state and local governments for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$250 million** to the EPA for WIFIA for fiscal years 2022 through 2026. Requires the EPA to develop and begin implementation of an outreach plan to promote WIFIA assistance to small communities and rural communities. The legislation also changes the WIFIA requirement that mandates each WIFIA project applicant must provide two final agency rating opinion letters. Under this section, project applicants will only need to provide one final agency rating opinion letter, like the requirements of other federal loan programs, prior to final acceptance and financing of the project. **Does District Qualify? UNCLEAR**



**\$50 million** to the EPA for a Stormwater Infrastructure Technology program that provides grants to eligible entities to carry out stormwater control infrastructure projects that incorporate new and emerging, but proven, stormwater control technologies for fiscal years 2022 through 2026. Authorizes an additional **\$25 million** for FYs 2022—2026 to the EPA to establish Centers of Excellence for stormwater control infrastructure and create a public website to share the results of the research. **Does District Qualify? NO, but M1W might**

**\$25 million** to the EPA to conduct and complete an assessment of wastewater system capital improvement needs of all treatment works in the United States that are eligible for assistance from state water pollution control revolving funds established under the CWA for fiscal years 2022 through 2026. **Does District Qualify? NO**

**\$25 million** to the EPA to provide funding to carry out groundwater research on enhanced aquifer use and recharge in support of sole-source aquifers for fiscal years 2022 through 2026. **Does District Qualify? UNCLEAR**

Authorizes a new Small Publicly Owned Treatment Works Efficiency Grant Program at the EPA for small publicly owned treatment works to support water and energy efficiency in disadvantaged communities, as well as those in rural areas with a population of less than 10,000. The bill does not provide a specific authorized funding level for this program. **Does District Qualify? NO**