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Water Infrastructure Funding in the American Recovery and Reinvestment Act of 2009

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Summary

On January 28, 2009, the House passed H.R. 1, the American Recovery and Reinvestment Act of 2009. On February 10, the Senate passed an amended version of H.R. 1 (S.Amdt. 570). On February 13, the House and Senate adopted a conference report (H.Rept. 111-16) that reconciled differences between the two bills. The President signed the bill into law on February 17 (P.L. 111-5). This report identifies funding for water infrastructure programs and projects contained in the legislation, including amounts in the House- and Senate-passed versions that preceded the conference agreement. Among the purposes identified in the legislation are preservation and creation of jobs and promotion of U.S. economic recovery, and investment in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.

Under the legislation, additional appropriations are directed to a number of existing federal programs that either directly invest in water infrastructure projects or provide assistance to states and localities for such activities. Water infrastructure funding in the bill, which would be available for obligation for the remainder of FY2009 and through September 30, 2010, is provided to five federal agencies and one commission would total $13.5 billion.

The bill provides funding for locally built wastewater and drinking water treatment projects through assistance programs administered by the Environmental Protection Agency (EPA) and the U.S. Department of Agriculture (USDA). For the EPA wastewater program, the enacted bill provides $4.0 billion. For the EPA drinking water program, P.L. 111-5 provides $2.0 billion in additional funds. These funds will be allocated to states according to established formulas, and states will award actual assistance to projects and communities. For the USDA programs that benefit rural communities, the enacted legislation provides $1.38 billion in grants and loans. Additional funding in the bill for these programs would be three to four times more than the level of current appropriations.

The enacted legislation provides funding for water resources development and management projects administered by four agencies. It provides $4.6 billion for the U.S. Army Corps of Engineers (Corps) and $1.0 billion for the Bureau of Reclamation (Reclamation). The legislation also provides $340 million for USDA's Natural Resources Conservation Service (NRCS) small watershed program, and $220 million for the Department of State's International Boundary and Water Commission (IBWC) levee and dam upgrades. Little is publicly known about how most of these funds will be distributed among individual projects, because water resources programs generally do not distribute based on pre-defined formulas. Which projects and how much each state will receive largely will be determined by the Administration within the eligibility and prioritization direction provided in the legislation and its accompanying conference report.

Even after enactment, implementation of the additional water infrastructure funding in the American Recovery and Reinvestment Act is likely to raise a number of issues, including how the additional funds included in this legislation will influence decisions on regular appropriations bills beyond FY2009. Another issue concerns matching fund requirements. Unless project assistance is provided entirely as grants, communities and project sponsors will need to come up with matching funds, which could be very challenging in the current fiscal environment.

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Introduction

On January 28, 2009, the House passed H.R. 1, the American Recovery and Reinvestment Act of 2009. On February 10, the Senate passed an amended version of H.R. 1 (S.Amdt. 570). On February 13, the House and Senate adopted a conference report (H.Rept. 111-16) that President Obama signed on February 17 (P.L. 111-5). This report identifies funding for water infrastructure programs and projects included in the bill. Among the purposes identified in the legislation are preservation and creation of jobs and promotion of U.S. economic recovery, and investment in transportation, environmental, and other infrastructure that will provide long-term economic benefits. Under the legislation, additional appropriations are directed to a number of existing federal programs that either directly invest in water infrastructure projects or provide assistance to states and localities for such activities. Water infrastructure funding, available for obligation for the remainder of FY2009 and through September 30, 2010, is summarized in **Table 1**.

Table 1. Water Infrastructure Funding in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5)

Agency	Program	H.R. 1 as Passed by the House	Senate Amdt. to H.R. 1	Enacted Version of H.R. 1
EPA	Clean Water State Revolving Fund capitalization grants	$6.0 billion	$4.0 billion	$4.0 billion
EPA	Drinking Water State Revolving Fund capitalization grants	$2.0 billion	$2.0 billion	$2.0 billion
RUS/USDA	Rural water and waste disposal grants and loans	$1.5 billion	$1.375 billion	$1.38 billion
District of Columbia	D.C. Water and Sewer Authority	—-	$125 million	—-
Reclamation/DOI	Water and Related Resources	$500 million	$1.4 billion	1.0 billion
Corps/DOD[a]	Army Corps of Engineers Civil Works Program	$4.5 billion	$4.6 billion	$4.6 billion
NRCS/USDA	Small Watershed Program	$400 million	$340 million	$340 million
IBWC/State Dept.	International Boundary and Water Commission	$224 million	$224 million	$220 million
	Total	**$15.1 billion**	**$14.1 billion**	**$13.5 billion**

Source: Compiled by CRS.

Note: Table does not include funds for the Economic Development Administration's Public Works and Economic Development program or the Department of Housing and Urban Development's Community Development Block Grant program, both of which could be used for water infrastructure and other projects, See discussion on page 5.

a. Amounts include the $25 million for the Corps regulatory program that appeared in the House, Senate, and final versions of the legislation, and $100 million in the S.Amdt. 570 to H.R. 1 and the final bill for the Formerly Utilized Sites Remedial Action Program (FUSRAP).

The infrastructure activities discussed here comprise one of many broad categories of infrastructure that would receive additional funding under the legislation, for construction, repair, and modernization of a range of infrastructure categories both traditional (e.g., highways, airports, passenger rail, and schools) and less traditional (e.g., broadband and the electric power transmission grid). These provisions of the legislation reflect a concept that has drawn much attention by policymakers as one option for addressing the nation's faltering economic conditions: the concept of countering the effect of the current recession with increased government spending on public works in order to create jobs while also promoting long-term economic growth.[1] Proponents have argued that states and localities have hundreds of infrastructure projects that are "ready to go" to construction in 90 or 120 days, except for funding, and thus could contribute quickly to job creation and economic stimulus,[2] especially in the construction sector that has been particularly hard hit by the recession. During House and Senate debate, both supporters and critics of the legislation favored more infrastructure spending, with critics urging changes to increase short-term, stimulative provisions of the bill, including more targeted infrastructure spending, and less spending on activities with less certain quick stimulative effect. Nevertheless, in the floor debates concerning the overall size and composition of the legislation, only one specific proposal to increase infrastructure funds in the bill was adopted.[3] The enacted legislation includes some additional funds for high-speed rail projects that were not included in the House or Senate versions of H.R. 1.[4]

Wastewater and Drinking Water

EPA State Revolving Fund (SRF) Programs

The federal Clean Water Act (CWA) and Safe Drinking Water Act (SDWA) impose regulatory requirements regarding wastewater treatment and drinking water quality in the United States. For wastewater treatment, the CWA prescribes performance levels to be attained by municipal sewage treatment plants in order to prevent the discharge of harmful wastes into the Nation's lakes, rivers, and other surface waters. For drinking water quality, public water systems are subject to federal regulations under the SDWA which limit levels of contaminants in treated water and require, for example, system monitoring, treatment to remove certain contaminants, and reporting. Both of these laws authorize financial assistance so that communities can construct treatment facilities in compliance with these requirements.[5] Under both laws, Congress

[1] For background, see CRS Report R40107, *The Role of Public Works Infrastructure in Economic Stimulus*, coordinated by Claudia Copeland.

[2] State and local water agencies have reportedly identified from $9 to $20 billion in wastewater treatment projects and $10 billion in drinking water projects that are "ready to go." Inside EPA, "States Seek over $9 Billion for Clean Water Projects in Stimulus Bill," September 12, 2008; "AWWA members Asked to Contact Congress on Drinking Water Infrastructure and Stimulus Bill," http://www.awwa.org/Government/Content.cfm?ItemNumber=3821&navItemNumber=1618.

[3] While the House adopted an amendment to increase transit capital grant funding by $3 billion, the Senate rejected an amendment offered by Senators Murray and Feinstein that would have provided $25 billion more for highway, transit, and drinking water and wastewater projects.

[4] For information, see CRS Report R40214, *Transportation and Transportation Security Related Provisions of House and Senate Stimulus Legislation (H.R. 1)*, by John W. Fischer et al.

[5] For additional information, see CRS Report RL30478, *Federally Supported Water Supply and Wastewater Treatment Programs*, coordinated by Claudia Copeland.

appropriates federal capitalization grants as seed money to support State Revolving Funds (SRFs), and states provide matching funds equal to 20% of the federal capitalization grant. States, in turn, provide loans from the SRFs to communities for water infrastructure projects. Over the long term, the loan programs are intended to be sustained through repayment of loans to states, thus creating a continuing source of state assistance for other communities.

The SRF capitalization grants are appropriated through the Environmental Protection Agency's (EPA's) State and Tribal Assistance Grants account (in the Interior and Environment Appropriations bill) and are allocated among the states according to formulas. Historically, the federal government has had a large financial role in assisting communities to meet their wastewater funding needs (having appropriated more than $75 billion since 1973) and also more recently in meeting drinking water treatment needs (more than $10 billion since 1997). However, estimates of funding needs remain very high ($203 billion for wastewater and $277 billion for drinking water), while appropriations for EPA assistance have declined in recent years. The economic recovery legislation provides additional FY2009 funding for the two SRF capitalization grant programs.

The enacted version of H.R. 1 provides an additional $4.0 billion for clean water SRFs and $2.0 billion for drinking water SRFs, as proposed by the Senate. House-passed H.R. 1 would have appropriated $6.0 billion for clean water SRFs and the same $2.0 billion for drinking water SRFs. Total stimulus funding for the two SRF programs would be four times larger than the funding levels for these programs in regular FY2009 appropriations. As requested by many states, the legislation waives the current law requirement that states must provide a 20% match to the federal capitalization grant. Under the enacted bill, states are to use not less than 20% of capitalization grants to support green infrastructure, water efficiency, or other environmentally innovative projects (unless there are insufficient applications for such projects).

Under the legislation, funds appropriated to states would be allocated according to existing formulas, or methods of apportionment. Under current law, clean water SRF capitalization grant allocation is governed by a formulation in the CWA,[6] while drinking water SRF capitalization grants are allocated according to a formula developed by EPA that reflects the proportional share of each state's funding needs.[7] Based on those formulas, **Table A-1** in the Appendix to this report shows amounts that states would receive under the funding levels in the bill. The table reflects that, before funds are distributed to states, 1.5% would be reserved for EPA to provide assistance to Indian Tribes and, under the drinking water SRF, to Alaska Native Village water systems, consistent with current law. Also, the table reflects that an additional 1.0% of the funds would be reserved for program oversight by EPA and would remain available for the agency's use through September 30, 2011. States are to award SRF assistance to projects already included on their Intended Use Plans, lists that states develop to identify which projects in which communities will receive funding.

Under a general provision in section 1602 of P.L. 111-5, preference is to be given to activities that can start and finish quickly, with a goal that at least 50% of the funds go to activities that can be initiated within 120 days of enactment. EPA is directed to submit a report to the House and Senate Appropriations Committees within 30 days of enactment containing a general plan for

[6] For information, see CRS Report RL31073, *Allocation of Wastewater Treatment Assistance: Formula and Other Changes*, by Claudia Copeland.

[7] See http://www.epa.gov/safewater/dwsrf/allotments/funding_dwsrf_allotments_2008.html.

expenditure of funds provided by the legislation, another report within 90 days providing detailed project level information associated with the general plan, and bi-annual reports on implementation, but there are no deadlines for actually awarding the funds in the bill. However, these reports to Congress will not necessarily identify wastewater and drinking water projects that will be funded, because states will be making those decisions, not EPA. States are to give priority to wastewater and drinking water projects that can proceed to construction within 12 months of enactment. Further, the funds are provided as "use it or lose it," because EPA is directed to redistribute any SRF capitalization grant funds that are not under contract or construction within that time.

The enacted bill omits other general provisions in House-passed H.R. 1 concerning timing. The House bill would have required federal agencies to award formula grants within 30 days of enactment and competitive grants within 90 days of enactment. It also would have required that binding commitments for 50% of the funds be made within one year of enactment, and the remainder within two years.

Current law allows states to make low-interest or no-interest loans from the SRF. The House-passed, Senate-passed, and enacted versions allow states to also provide additional subsidization in the form of negative interest loans, principal forgiveness, grants, or a combination, but the legislation sets no project-specific limits on such assistance.[8] Under the final version of the American Recovery and Reinvestment Act, states are to use 50% of the capitalization grant to provide additional subsidization. The final bill omits provisions from the House-passed bill that would have required that 80% of such funds go to municipalities that meet state affordability criteria (presumably meaning economically disadvantaged), and 20% to projects involving water- or energy-efficiency, stormwater mitigation, or other environmentally sensitive projects. The Senate amendment to H.R. 1 did not specify a percentage of funds that must be used for additional subsidization.

Other Federal Programs

Under the EPA SRF programs, rural and non-rural communities compete for funding; rural areas and other small communities have no special priority. For rural areas, the U.S. Department of Agriculture administers grant and loan programs for water and wastewater projects, with eligibility limited to communities of 10,000 or less. These programs are administered at the national level by the Rural Utilities Service (RUS) at USDA.[9] Funding needs in rural areas are high (at least $50 billion, according to EPA surveys), and there is heavy demand for funds. At the end of FY2007, USDA reported a $2.4 billion backlog of requests for 928 water and wastewater projects. The economic recovery legislation also provides additional appropriations for these programs. The enacted version of H.R. 1 provides $1.38 billion ($968 million in grants and $412 million in direct loans). House-passed H.R. 1 would have provided $1.5 billion ($400 million in direct loans, $1.1 billion in grants), and the Senate amendment would have provided $1.375 billion total for the RUS water and waste disposal program. Funding under the enacted bill is more than 2.5 times larger than the funding level in FY2009. The general provision of P.L. 111-

[8] The SDWA already allows principal forgiveness for assistance provided to economically disadvantaged communities.

[9] For information, see CRS Report 98-64, *Rural Water Supply and Sewer Systems: Background Information*, by Claudia Copeland.

5concerning preference for projects that can start quickly, described on page 3, would also apply to these USDA funds.

Funding for a specific wastewater infrastructure project was included in the Senate amendment to H.R. 1, but was omitted from the final bill. The Senate amendment included $125 million for the District of Columbia Water and Sewer Authority to continue its program to remediate sewerage overflow problems. The District is implementing a long-term sewerage overflow remediation program that is estimated to cost more than $2 billion. Under the bill, the District of Columbia would have been required to provide a 100% match for the federal payment.

The economic recovery legislation also includes funding for other federal programs that are not targeted to water infrastructure (or even to infrastructure exclusively), but could potentially be used for such purposes. One is the Public Works and Economic Development program of the Economic Development Administration (EDA, Department of Commerce). EDA is authorized to provide economic development grants to areas experiencing substantial economic distress in order to directly encourage business expansion, diversify local economies, and general or retain long-term jobs in the private sector. Economic development grants may be used for a wide range of purposes. The enacted version of H.R. 1 provides $150 million for EDA grants(as proposed by the Senate; the House bill would have appropriated $250 million). FY2009 funding is $133 million.

The enacted bill also includes $1.0 billion for the Community Development Block Grant (CDBG) program administered by the Department of Housing and Urban Development, as proposed by the House (the Senate bill included no CDBG funding). CDBG funds are used by localities for a broad range of activities intended to result in decent housing in a suitable living environment. Program policy requires that at least 70% of funds must benefit low- and moderate-income persons. FY2009 funding for the CDBG is $3.6 billion.

Discussion

For wastewater and drinking water programs, the House-passed and Senate-passed bills were quite similar, the main differences relating to funding levels (e.g., $6.0 billion in House-passed H.R. 1, compared with $4.0 billion in the Senate amendment, for clean water SRF capitalization grants) to provide additional funding for existing infrastructure programs. The bills also contained some differences concerning specified timing or procedures for awarding or obligating funds (see page 3). The Senate amendment included funds for a specific wastewater project in the District of Columbia that was not addressed in the House-passed bill and which was omitted from P.L. 111-5.

As noted, in the EPA SRF provisions, the legislation allows states to provide subsidization in the form of principal forgiveness, negative interest loans, grants, or a combination. Traditionally, SRF assistance to communities is provided as loans that eventually are repaid to states. The concept of allowing principal forgiveness or negative interest loans means that communities will have less of a repayment burden. There is, however, a tension in how states will use this authority. As much as state budgets are under pressure from the current recession, so, too, are cities' budgets, and recipients of SRF assistance would rather receive a grant or partial grant than a loan that must be fully repaid. If states are generous in the amounts of subsidization that they provide (for example, requiring only small amounts of assistance or even none to be repaid), a few communities will benefit greatly. But if states are more restrictive (for example, providing only a small amount of

additional subsidization), it may be possible to assist more communities in the state, yet those communities will have a larger repayment responsibility.

More broadly, the infrastructure funding provisions of the legislation raise some general issues. Funding infrastructure is a long-term investment, not quick-fix spending, that should lead to something durable, useful, and financially productive. The long-term nature of such investments can be at odds with the stimulus goal of quickly injecting money into the economy. Thus, one question in debating infrastructure spending as part of economic recovery is, what is truly stimulative? Critics contend that the haste to fund "ready to go" projects is likely to result in spending on many projects with marginal value, such as projects with plans that have been backlogged for some time because they lack sufficient merit, but for which now there is an opportunity to get funding. One issue of interest is, will states and communities be able to effectively manage the large increase in project spending provided by the legislation. The legislation includes oversight measures,[10] but these appear to be focused on the important issues of identifying waste, fraud, and abuse, and ensuring compliance with applicable standards and competition requirements in contracts and grants, but not necessarily on evaluating or ensuring the quality of funded projects. That type of accountability will reside with state and local officials who will be responsible for determining priorities and making the majority of actual funding decisions for wastewater and drinking water investments.

Water Resources

The federal government has a long history of involvement in water resource development and management projects, such as dams, levees, coastal protection, and navigation works, to facilitate navigation, expand irrigated agriculture, reduce flood losses, and, more recently, restore aquatic ecosystems. At the federal level, these activities are principally the responsibility of two agencies. Under its civil works program, the U.S. Army Corps of Engineers (Corps, Department of Defense) constructs and operates primarily navigation, flood, coastal protection, and aquatic restoration throughout the country. The Bureau of Reclamation (Reclamation, Department of the Interior) is authorized to construct and manage multi-purpose projects serving irrigation, municipal and industrial water supply, flood control, power production, and recreation purposes in the 17 western states.[11] Congress provides appropriations to support these activities through annual Energy and Water Development appropriations bills.

The economic recovery legislation provides supplemental funding above regular appropriations for the Corps, Reclamation, and other water resources activities at the Department of Agriculture's Natural Resources Conservation Service (NRCS) and Department of State's International Boundary and Water Commission (IBWC). A general provision in section 1602 of the conference bill, which applies to all these water resources activities, states that preference should be given to activities that can start and finish quickly, with a goal that at least 50% of the funds go to activities initiated within 120 days of enactment.

[10] The legislation provides oversight funds for agency Inspectors General and for the Government Accountability Office. It also establishes a Recovery Accountability and Transparency Board to coordinate and conduct oversight and to report quarterly to the President and Congress.

[11] For more information, see CRS Report R40180, *Water Resources Issues in the 111th Congress*, coordinated by Betsy A. Cody.

Corps of Engineers Projects

P.L. 111-5 provides a total of $4.6 billion for the Corps. This is equal to the amount in the Senate amendment to H.R. 1, but the funds are distributed differently across some of the Corps accounts. The enacted bill represents a slight increase above the $4.5 billion in the House-passed version of H.R. 1. All of the funds would go toward Corps civil works activities, however, some of the funds are directed toward activities other than federal water resources projects. All three bills included $25 million for the Corps regulatory program; S.Amdt. 570 to H.R. 1 and P.L. 111-5 include $25 million for the Formerly Utilized Sites Remedial Action Program (FUSRAP), a program to investigate and clean up or control sites that were part of the early atomic energy and weapons program.

The enacted bill directs that these funds be used for either entire projects, programs, or activities, or elements of those. It states that funds are to be directed to activities that can be completed with the stimulus funds, and that do not create future budgetary obligations. It also states that funds provided shall only be used for programs, projects, or activities that "heretofore or hereafter" receive funds provided in Energy and Water Development appropriations acts. This statutory language may indicate that not only may projects previously funded be eligible for stimulus funds, but also activities funded in subsequent legislation, such as regular FY2009 appropriations legislation, which Congress enacted in March 2009 (P.L. 111-8), after enactment of the ARRA. P.L. 111-5 authorizes unlimited reprogramming authority for Corps funds provided under the legislation, as proposed by the Senate. It requires quarterly reports to the House and Senate Appropriations Committees on the allocation, obligation, and expenditure of the funds, as proposed by the House.

The enacted bill reserves $200 million, as proposed by the Senate, for water-related environmental infrastructure projects, which are projects more similar to the municipal water and wastewater systems previously discussed, than the Corps' primary flood, navigation, and aquatic restoration missions.[12] The enacted bill omits language that had been in the Senate bill that specifically directed that $90 million be used for the national levee database, inventory, and related-inspections.

Bureau of Reclamation Projects and Programs

Additional funding for Reclamation in P.L. 111-5 totals $1.0 billion, rather than $500 million under the House bill and $1.4 billion under the Senate amendment. The enacted bill directs that the funds be used for projects, programs, or activities that can be completed with these funding amounts, and that do not create future budgetary obligations. It also authorizes unlimited reprogramming authority for Reclamation funds provided under the legislation. The previous House and Senate versions of the bill restricted funds to projects, programs, or activities previously funded or that are funded in subsequent Energy and Water Resources Development appropriations acts.

Of the total funds in the enacted bill, Reclamation is provided with $126 million for water reclamation and reuse projects (Title XVI projects, which typically treat municipal wastewater for

[12] For information on Corps environmental infrastructure projects, see CRS Report RL30478, *Federally Supported Water Supply and Wastewater Treatment Programs*, coordinated by Claudia Copeland.

reuse rather than discharge or desalinate brackish groundwater or seawater), as proposed by the House. The law also provides $50 million for projects under the Central Utah Project Completion Act, $50 million for projects under the California Bay-Delta, $60 million for rural water projects, and $10 million for inspection of canals in urbanized areas, amounts that were proposed by the Senate.

The enacted bill also authorizes Reclamation to extend up to 50 years, with interest, the timeframe for water supply customers to repay the U.S. government for maintenance and rehabilitation. Short repayment times for major maintenance and rehabilitation projects have been of great concern to Reclamation water users in recent years, and are a growing concern as existing infrastructure ages. In the earlier House and Senate versions of the bill, Reclamation would have been authorized to extend repayment up to 25 years without interest.

Agricultural Watershed Programs

NRCS administers several authorities often referred to as the Small Watershed Program. Under the program, NRCS provides technical advisory services and financial assistance (partial grants) to state and local organizations to plan and install measures to prevent erosion, sedimentation, and flood damage and to conserve, develop, and utilize land and water resources. The program funds land treatment, and nonstructural and structural facilities for flood prevention, erosion reduction, agricultural water management, public recreation development, fish and wildlife habitat development, and municipal or industrial water supplies. Structural measures can include dams, levees, canals, pumping plants, and other facilities.[13]

The economic recovery legislation provides additional funding for two portions of the Small Watershed Program. One is Watershed and Flood Prevention Operations, used to design and build flood prevention, water quality improvement, and similar projects. The enacted legislation provides $290 million, of which $145 million is to be used to purchase and restore floodplain easements. The second portion is Watershed Rehabilitation, which rehabilitates dam projects that have reached the end of their engineering design life. The final bill provides $50 million for these activities. This amount is equal to 4.5 times the appropriations for these NRCS activities in FY2009.

The enacted legislation requires that funds be used to fully fund projects that can be completed and allocated to projects that can be commenced promptly. The conference report, H.Rept. 111-16, provides further direction on how to prioritize the use of the funds.

International Boundary and Water Commission Projects

The legislation includes $220 million for the International Boundary and Water Commission for its water quantity program, rather than $224 million as proposed by the House and Senate. The bill directs that IBWC use the funds for immediate repair and rehabilitation requirements. The four projects along the U.S.-Mexico border specified to receive the funds (Rio Grande Flood Control System, Safety of Dams, Colorado Boundary; and Capacity Preservation) are for flood damage reduction infrastructure upgrades (i.e., levee improvements and dam safety measures).

[13] For information, see CRS Report RL30478, *Federally Supported Water Supply and Wastewater Treatment Programs*, coordinated by Claudia Copeland.

Discussion

Unlike some of the other water infrastructure activities funded in the legislation (including the EPA wastewater and drinking water programs discussed previously), little is publicly known about how most of the water resources funds will be distributed. These programs generally do not use formulas to distribute funds. Instead, Congress typically, in either the text or report language of appropriations bills, distributes most of the appropriated funds across individual Corps and Bureau projects or programs or the distribution is delegated to the agency. Unlike most appropriations bills in which water resources activities receiving funds generally are specified, P.L. 111-5 and the conference report (H.Rept. 111-16) list broad prioritization criteria and identified several broad categories in which it expects the agencies to allocate funds. It will remain largely unknown which projects and how much each state will receive from water resources stimulus spending until the Administration notifies Congress on how it chooses to distribute the funds. Which projects are funded may influence how stakeholders view the appropriateness of the stimulus spending; for example, environmental groups may criticize water resources spending if some controversial projects are supported by stimulus funds.

In recent years, demand for federal assistance for water resources projects has exceeded available funding; this has contributed to agencies having a backlog of authorized, but unfunded or partially funded, projects. The growing backlogs have led to a range of responses, from calls to increase spending to support for culling out the less competitive projects. How projects are selected to receive stimulus funding would determine whether the focus is on completing entire projects or whether project elements of larger projects are funded; different funding approaches may have different effects on reducing the size of the backlog.

Implementation issues that may arise include concern about the local cost share that is required by many water resources projects; the amount of the local cost share depends on the project purpose. For example for a multi-purpose Corps project, project costs associated with municipal water supply are 100% a local sponsor responsibility, while construction of flood damage reduction projects requires 35% local cost share. Some local sponsors, particularly those hardest hit by the current economic conditions, may have difficulty covering these costs.

Water resources projects are often complicated planning and construction efforts that span multiple years; whether federal water resources agencies, and their contracting officers in particular, will be able to obligate and expend stimulus funds in a timely, yet transparent and efficient, manner depends on many factors. The amounts in P.L. 111-5 represent roughly 80% of the typical annual Corps appropriations,[14] 80% of the typical Reclamation appropriations, and 4.5 times current annual small watershed funding.

Concluding Thoughts

The American Recovery and Reinvestment Act of 2009 provides emergency supplemental appropriations for FY2009 and FY2010 for a number of existing federal programs.[15] The

[14] For the Corps, contracting for the civil works stimulus would be occurring concurrently with significant contracting for its domestic and international military operations, including contracts related to defense base closures.

[15] By designating the appropriations as emergency spending, the discretionary spending in the bill is not subject to the constraints of the congressional budget resolution (S.Con.Res. 21, 110th Congress) under provisions of the (continued...)

legislation is unusual in many respects, including the fact that the FY2009 supplemental funds in this legislation were enacted before resolution of the regular FY2009 appropriations for most agencies. As the start of the fiscal year was approaching (October 1, 2008), regular full-year appropriations bills had not been enacted for any of the 12 regular appropriations bills. On September 28, the President signed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (FY2009 CR, P.L. 110-329), generally providing full-year funding for three regular appropriations bills and partial-year funding for nine regular appropriations bills at amounts provided in the FY2008 appropriations laws. Among other programs; the nine part-year bills covered the water infrastructure activities described in this report. P.L. 110-329 provided appropriations from October 1, 2008, through March 6, 2009, and a second short-term CR was enacted on March 6 (P.L. 111-6) while Congress was finishing consideration of a full-year omnibus appropriations bill that the President signed on March 11 (P.L. 111-8). The regular FY2009 appropriations provided in that legislation for water infrastructure programs are about the same as in FY2008.

How the additional funds included in the American Recovery and Reinvestment Act will influence appropriations for FY2010 is largely unknown for now. President Obama presented a budget outline for FY2010 on February 26. It contains few details for water infrastructure programs, except to indicate the Administration's intent to fund the EPA State Revolving Fund programs at a $3.9 billion total, or 2.5 times higher than the combined FY2009 regular appropriations for those programs.[16] Details of the FY2010budget are expected in April.

As described in this report, some of the water infrastructure funds included in the economic stimulus legislation represent a significant increase above current program funding levels—for some, from three to four times higher than the FY2009 amount. Many infrastructure stakeholder groups are likely to urge Congress to sustain similar high levels in regular appropriations in FY2010 and beyond, because infrastructure projects typically involve outlays over multiple years. They are likely to argue that individual project planning and implementation will be disrupted if federal assistance is uneven or unpredictable, very large one year and much lower the next year. But because the infrastructure funds in P.L. 111-5 are to be available for obligation through FY2010 and will be spent out over several years,[17] some policymakers may argue that it will not be necessary to appropriate increased levels for these programs in FY2010. While most analysts believe that it will be very difficult for Congress to continue the high spending levels for all programs included in P.L. 111-5 beyond enactment of that legislation, there likely will be calls for Congress to do that very thing.

(...continued)

Congressional Budget Act of 1974. For information, see CRS Report RL34711, *Consolidated Appropriations Act for FY2009 (P.L. 110-329): An Overview*, by Robert Keith.

[16] See http://www.whitehouse.gov/omb/budget/.

[17] For example, the Congressional Budget Office estimated that 55% of the EPA SRF capitalization grant funds in the legislation will be spent in Fiscal Years 2010 and 2011. Only 3% will be spent in FY2009. A total of 79% will be spent between FY2009 and FY2012. Letter from Douglas W. Elmendorf, Director, Congressional Budget Office, to Honorable Nancy Pelosi, Speaker, U.S. House of Representatives, February 13, 2009, http://www.cbo.gov/ftpdocs/99xx/doc9989/hr1conference.pdf.

Appendix.

Table A-1. State Allocation of EPA Wastewater and Drinking Water Funds in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5)

(Millions of Dollars)

STATES	CLEAN WATER SRF FUNDS ($4 BILLION)	DRINKING WATER SRF FUNDS ($2 BILLION)
Alabama	$44.3	$19.5
Alaska	$23.7	$19.5
Arizona	$26.7	$55.3
Arkansas	$25.9	$24.5
California	$283.1	$159.0
Colorado	$31.7	$34.4
Connecticut	$48.5	$19.5
Delaware	$19.4	$19.5
District of Columbia	$19.4	$19.5
Florida	$133.6	$88.1
Georgia	$66.9	$54.8
Hawaii	$30.7	$19.5
Idaho	$19.4	$19.5
Illinois	$179.0	$79.5
Indiana	95.4	$27.2
Iowa	$53.6	$24.3
Kansas	$35.7	$19.5
Kentucky	$50.4	$20.5
Louisiana	$43.5	$27.6
Maine	$30.6	$19.5
Maryland	$95.7	$26.8
Massachusetts	$134.4	$52.2
Michigan	$170.2	$67.5
Minnesota	$72.8	$35.1
Mississippi	$35/7	$19.5
Missouri	$109.7	$37.9
Montana	$19.4	$19.5
Nebraska	$20.2	$19.5
Nevada	$19.4	$19.5
New Hampshire	$39.6	$39.5
New Jersey	$161.8	$43.2

STATES	CLEAN WATER SRF FUNDS ($4 BILLION)	DRINKING WATER SRF FUNDS ($2 BILLION)
New Mexico	$19.4	$19.5
New York	$436.9	$86.8
North Carolina	$71.4	$65.6
North Dakota	$19.4	$19.5
Ohio	$222.9	$58.5
Oklahoma	$32.0	$31.5
Oregon	$44.7	$28.5
Pennsylvania	$156.8	$65.7
Rhode Island	$26.6	$19.5
South Carolina	$40.6	$19.5
South Dakota	$$19.4	$19.5
Tennessee	$57.5	$20.2
Texas	$180.9	$160.7
Utah	$20.9	$19.5
Vermont	$19.4	$19.5
Virginia	$81.0	$20.8
Washington	$68.8	$41.8
West Virginia	$61.7	$19.5
Wisconsin	$107.0	$37.8
Wyoming	$19.4	$19.5
American Samoa	$3.6	$0.5
Guam	$2.6	$2.1
Northern Mariana Islands	$1.7	$1.8
Puerto Rico	$51.6	$19.5
Virgin Islands	$2.1	$2.0
TOTAL	$3,909.0	$1,950.0

Source: EPA (http://www.epa.gov/recovery/docs/Final_SRF_eco_recovery_allotments.pdf)

Note: Individual state allocations and totals reflect the fact that under the legislation, before funds are allocated to states, 1.5% was reserved for EPA to provide assistance to Indian Tribes, consistent with current law. Also, an additional 1.0% was reserved from the combined funds for program oversight by EPA, for a total of 2.5% in reserved funds.

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