

AMENDMENTS TO THE ENERGY AND WATER DEVELOPMENT, AND  
RELATED AGENCIES APPROPRIATIONS BILL FY2023

Full Committee Markup  
House Appropriations Committee  
June 28, 2022

ADOPTED - VV

#1

Kaptur  
FY23 – EW  
Amendment

**House Committee on Appropriations**  
Subcommittee on Energy and Water Development and Related Agencies

Fiscal Year 2023 Energy and Water Development  
and Related Agencies Appropriations Bill

**MANAGER'S AMENDMENT**

Offered by Ms. Kaptur of Ohio  
(Kaptur)

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**In the REPORT:**

On page 10, after the first partial paragraph, insert the following:

*Lithium-ion Battery Technology.*—The Committee recognizes that battery metals are a critical resource for domestic manufacturing and supporting the U.S. supply chain and that other countries are investing funds to grow their own lithium-ion battery supply chains. In order to effectively compete internationally, the United States must accelerate current lithium production and the pursuit of future production to support national security and other applications, including electric vehicle manufacturing. The Committee urges the Department of Energy and the Corps of Engineers to support the expeditious development and production of lithium-ion battery technology.

On page **35**, after the sixth full paragraph, insert the following:

*Implementation of Projects Receiving Supplemental Funds.*—The Committee continues to have significant concerns with the Administration’s implementation of funding provided via supplemental appropriations Acts. As stated in the fiscal year 2022 Act, the Committee is troubled by the continued challenges with execution, cost overruns, and significant delays in completing projects funded under the Bipartisan Budget Act of 2018 (Public Law 115–123). In addition, the Administration, without notice or explanation to Congress, changed its interpretation of bill language that had not changed from previous supplemental appropriations Acts when allocating funding under the Disaster Relief Supplemental Appropriations Act of 2022 (DRSAA) (Public Law 117–43). Specifically, it has ignored congressional intent that construction projects receiving an allocation of funds under DRSAA be funded to completion using those funds and that ongoing construction projects be completed at full federal expense. The Committee recognizes that following a major disaster, non-federal sponsors likely do not have funding available to cost-share these lifesaving projects according to the normal rules. By allocating only incremental funding for some ongoing construction projects, the Administration’s decision means that the non-federal sponsors remain responsible for significant costs. Not later than 30 days after enactment of this Act, the Administration shall provide to the Committee a briefing on the legal and policy justification for the changed interpretation of law, plans for completing all construction projects funded under DRSAA, and options for addressing cost share issues that have arisen as a result of the Administration’s decision.

On page **86**, after the fifth full paragraph, insert the following:

*Tualatin Project, Scoggins Dam, Oregon.*—The Committee supports the budget request and remains concerned about the high risk associated with the project. Reclamation is encouraged to expeditiously complete the final environmental assessment and submit the formal safety of dam modification report thereafter.

On page **131**, after the first full paragraph, insert the following new paragraph:

The fiscal year 2022 Act directed the Department to provide a report related to thorium molten-salt reactors. The Committee is still awaiting this report and directs the Department to provide the report not later than 15 days after enactment of this Act. The Department is encouraged to conduct advanced fuel cycle research, development, demonstration, and commercial application programs to improve fuel cycle performance, minimize environmental and public health and safety impacts, and support a variety of options for used nuclear fuel storage, use, and disposal, including advanced reactor and non-reactor concepts.

On page **132**, after the second full paragraph, insert the following new paragraph:

The Committee recognizes that the long-term availability of HALEU is necessary for potential customers to fully commit to the purchase and construction of advanced reactors. As such, the Department is encouraged to utilize a competitive solicitation process to send a signal to potential domestic and international customers that the United States strongly supports the deployment of advanced reactors on the earliest possible schedule. Upon approval from the Committee, the Department may proceed with issuing a solicitation, awarding selections, and expeditiously executing the contracts without any further delays.



On page **132**, after the third full paragraph, insert the following new paragraph:

The Committee recognizes that the availability of HALEU to the ARDP reactors is critical to meeting deployment schedules and that the commercial production of HALEU may not meet the needs for the first core loads. The Department is directed to provide to the Committee not later than 30 days after enactment of this Act a report explaining how the Department plans to support the first core loads needed by the ARDP awardees to maintain and not delay the scheduled timelines of the demonstration projects.

On page **229**, after the first partial paragraph, insert the following new paragraph:

*Diablo Canyon Power Plant.*—The Nuclear Regulatory Commission is directed to provide to the Committee not later than 180 days after enactment of this Act a plan for the continued operation of the Diablo Canyon Power Plant. The plan shall include the steps necessary for the license process including extensions, timeframes necessary to ensure continued operation, and explanation of any certification that the plant can operate safely. Further, the Commission shall provide to the Committee not later than 180 days after enactment of this Act a report regarding its authority, and any changes to authority that would be required, to ensure the continued operation of a nuclear power plant in the absence of a license application extension request.

ROLL CALL #1  
26-30 NOT ADOPTED

#2

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Simpson  
FY23 Energy Water

**AMENDMENT TO ENERGY AND WATER  
DEVELOPMENT, AND RELATED AGENCIES  
APPROPRIATIONS BILL  
OFFERED BY MR. SIMPSON OF IDAHO**

At the end of the bill (before the short title), insert  
the following:

1        SEC. 50\_\_. None of the funds made available by this  
2 or any other Act may be used to develop, propose, finalize,  
3 implement, enforce, or administer new regulations defin-  
4 ing the term “waters of the United States”, as used in  
5 the Federal Water Pollution Control Act (33 U.S.C. 1251  
6 et seq.), during the period beginning on the date of enact-  
7 ment of this Act and ending on the date on which the  
8 Supreme Court issues a decision in Sackett v. Environ-  
9 mental Protection Agency, docket number 21-454.



WITHDRAWN

#3

Rep. Henry Cuellar  
FY23 – EW  
Amendment

## Prohibition of federal funds for private interim storage of spent nuclear fuel

At the end of the bill (before the short title), insert the following:

SEC. \_\_. (a) In this section:

(1) The terms “disposal”, “monitored retrievable storage facility”, “repository”, “spent nuclear fuel”, and “storage” have the meanings given the terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(2) The term “monitored retrievable storage” has the same meaning as in subtitle C of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10161 et seq.).

(b) Notwithstanding any other provision of law, no Federal funds made available under any Act, including amounts made available under the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code (commonly known as the “Judgment Fund”), for any fiscal year may be used for any costs associated with the identification, development, licensing, granting of rights-of-way, construction, operation, decommissioning, or post-decommissioning maintenance and monitoring of any privately owned—

(1) monitored retrievable storage facility;

(2) consolidated interim storage facility that serves the purpose and function of monitored retrievable storage under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.); or

(3) spent nuclear fuel storage facility that—

(A) is not—

(i) colocated at the site of a nuclear fuel production, fabrication, or utilization facility; or



(ii) in operation as of the date of enactment of this Act;  
and

(B) serves the purpose and function of monitored retrievable storage under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

(c) No funds of the Department of Energy shall be used to pay to any privately owned facility described in subsection (b) any damages awarded in any civil action in an appropriate district court of the United States relating to the prohibition under subsection (b).

At the appropriate place in the report:

The prohibition described in Section \_\_\_\_ extends to contracting for the services of a private company for any storage of spent nuclear fuel at, or transportation of spent nuclear fuel to, a privately owned facility that serves the purpose and function of monitored retrievable storage under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) for the purpose of consolidating the storage of domestic spent nuclear fuel at one or more facilities.

The bill language does not prohibit a manufacturer of nuclear reactors or fabricator of nuclear fuel from accepting spent nuclear fuel at the site where the spent nuclear fuel is fabricated or generated; an operating or decommissioned nuclear power plant from accepting spent nuclear fuel for interim storage at the site of the plant; the use of Federal funds for the costs described in that subsection that are associated with the activities described in paragraphs (1) and (2) of Section \_\_\_\_; the use of Federal funds for storage of spent nuclear fuel at, or the transportation of spent nuclear fuel to, federally owned facilities at Department of Energy sites in existence as of the date of enactment of this Act; or, the transfer of spent nuclear fuel owned by the Department of Energy between Department of Energy sites.

Nothing in Section \_\_\_\_ shall be construed to imply that, prior to the date of enactment of this Act, any privately owned facility described in subsection (b) may receive any funds from the Federal Government for the activities prohibited under that subsection.



WITHDRAWN

#4

Rep. Ben Cline  
FY23 - Energy and Water  
Amendment # 1

**AMENDMENT TO ENERGY AND WATER**

**APPROPRIATIONS BILL**

**OFFERED BY MR. CLINE OF VIRGINIA**

At the end of the bill (before the short title), insert  
the following:

1        SEC. 401. (a) None of the funds made available in  
2 this Act may be used by the Secretary of Energy to pro-  
3 mulgate a new energy efficiency standard, with respect to  
4 residential furnaces, that does not include a creation of  
5 separate product classes for condensing and non-con-  
6 densing furnaces.



WITHDRAWN

#5

Rep. Chuck Fleischmann  
FY23 – EWD  
Amendment #1

**AMENDMENT TO ENERGY AND WATER DEVELOPMENT  
APPROPRIATIONS BILL OFFERED BY MR. CHUCK FLEISCHMANN**

**In the Bill:**

On page 37, line 18, strike "\$16,333,065,000" and insert "\$16,618,065,000."

**In the Report:**

On page 199, for the project titled "06-D-141 Uranium Processing Facility, Y-12" in the column titled "Bill", strike "362,000" and insert "647,000," and amend the table accordingly. Amend the report accordingly.

ROLL CALL #2  
24-32 NOT ADOPTED

#6

Rep. Ken Calvert  
FY23 - EW  
Amendment #2

**AMENDMENT TO ENERGY AND WATER  
APPROPRIATIONS BILL  
OFFERED BY MR. CALVERT OF CALIFORNIA**

Page 17, line 18, strike the period at the end and insert the following: “: *Provided further*, That in accordance with section 4007 of Public Law 114–322, and as recommended by the Secretary in letters dated February 13, 2019, June 22, 2020, and December 3, 2020, funding provided for such purposes in this and prior fiscal years shall be made available to the Shasta Dam and Reservoir Enlargement Project.”.

Strike section 208.





ROLL CALL #3  
25-31 NOT ADOPTED

#7  
Rep. David Valadao  
FY23 – Energy & Water  
#1

**AMENDMENT TO ENERGY AND WATER  
APPROPRIATIONS BILL  
OFFERED BY MR. VALADAO OF CALIFORNIA**

At the end of title V (before the short title), add the following:

**SEC. \_\_. EXTENSION OF AUTHORITY.**

Title III, Subtitle J of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322) is amended—

- (1) in section 4007(i), by striking “2021” and inserting “2023”; and
- (2) in section 4013—
  - (A) in paragraph (1), by striking “and”;
  - (B) by redesignating paragraph (2) as paragraph (3); and
  - (C) by inserting after paragraph (1) the following:

“(2) section 4007, which shall expire on December 16, 2023; and”.

**SEC. \_\_. CRITICALLY DESIGNATED PROJECTS.**

(a) IN GENERAL. – There is authorized to be appropriated to the Secretary of the Interior, \$100,000,000 for each of the fiscal years 2023 through 2026 for a grant program for the acceleration and completion of repairs to canal infrastructure facilities in Reclamation States.

(b) ELIGIBILITY – A project eligible for funding under this section is a project where:

- (1) Repairs are major, non-recurring maintenance; and
- (2) In the case of repairs to conveyance assets, the Secretary, or the Governor of a state, determines that the canal facility has lost 10 percent or more of its designed carrying capacity along some portion of the facility, as a result of land subsidence; and
- (3) Restoring carrying capacity of a conveyance asset would assist in meeting groundwater sustainability goals defined under state law; or
- (4) Is a facility owned or operated by a state and meets the requirements of subparagraphs (1), (2), and (3) above.

(c) COST SHARING. –

- (1) FEDERAL SHARE – The Federal share of the cost of carrying out an activity described in this section shall not be more than 50 percent.

(2) NON-FEDERAL SHARE – The non-federal share of the cost of carrying out an activity described in the section

(A) shall be not less than 50 percent and:

(B) may be provided in cash or in kind.

(d) RESTRICTIONS – Funds authorized to be appropriated under this section may not be used to build new surface storage or raise existing reservoirs.

(e) SAVINGS – Federal funds provided under this Section shall be in addition to any and all Federal funding authorized in statute for such purposes, and shall be non-reimbursable.

(f) DEFINITIONS – In this section:

(1) Reclamation State. – The term “Reclamation State” has the meaning given such term in section 4014 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114-322).

ROLL CALL #4  
24-32 NOT ADOPTED

#8

Rep. David Valadao  
FY23 – Energy & Water  
#2

**AMENDMENT TO ENERGY AND WATER  
APPROPRIATIONS BILL  
OFFERED BY MR. VALADAO OF CALIFORNIA**

At the end of title V (before the short title), add the following:

**SEC. \_\_. BIOLOGICAL OPINION IN COMPLIANCE WITH APPLICABLE LAW.**

**(a) IN GENERAL.—**

(1) It is the sense of Congress that the Central Valley Project and the State Water Project shall be operated, notwithstanding any other law, in a manner consistent with the Salmonid Biological Opinion and Smelt Biological Opinion.

(2) The Congress finds that the Biological Opinion on the Long-Term Operational Criteria and Plan for coordination of the Central Valley Project and State Water Project issued by the United States Fish and Wildlife Service on December 15, 2008, and the Biological Opinion on the Long-Term Operations of the Central Valley Project and State Water Project issued by the National Marine Fisheries Service on June 4, 2009, no longer reflect the best available science and are not in compliance with the Endangered Species Act of 1973.

**(b) FUNDING. —**

(1) None of the funds made available by this Act may be used for the reinitiation of consultation on the long-term operations of the Central Valley Project and State Water Project.

**(c) DEFINITIONS.—In this section—**

(1) the term “Central Valley Project” has the meaning given the term in section 3403 of the Central Valley Project Improvement Act (106 Stat. 4707);

(2) the term “Salmonid Biological Opinion” means the Biological Opinion issued by the National Marine Fisheries Service for long-term operations of the Central Valley Project and State Water Project on October 21, 2019;

(3) the term “Secretaries” means—

(A) the Secretary of Commerce; and



(B) the Secretary of the Interior;

(4) the term “Smelt Biological Opinion” means the Biological Opinion issued by the United States Fish and Wildlife Service for long-term operations of the Central Valley Project and State Water Project on October 21, 2019;

(5) the term “State” means the State of California; and

(6) the term “State Water Project” means the water project described by California Water Code section 11550 et seq. and operated by the California Department of Water Resources.

ROLL CALL #5  
24-32 NOT ADOPTED

#9

Rep. David Valadao  
FY23 – Energy & Water  
#3

**AMENDMENT TO ENERGY AND WATER  
APPROPRIATIONS BILL  
OFFERED BY MR. VALADAO OF CALIFORNIA**

**In the report:**

On page 86, after the last paragraph, insert the following new paragraph:

*“Biological Opinions.—* The Committee directs the Bureau to provide the Committee a justification in writing within 30 days of enactment on the decision to reinitiate consultation on the Long-Term Coordinated Operation of the Central Valley Project and State Water Project. The report shall include a detailed explanation why the Biological Opinion issued by the National Marine Fisheries Service on October 21, 2019, and the Biological Opinion issued by the U.S. Fish and Wildlife Service on October 21, 2019, are inadequate to avoid jeopardizing the continued existence of any listed species or destroying or adversely modifying designated critical habitat of any listed species. Furthermore, the report shall identify the scientific and commercial data reviewed by the Secretaries and shall articulate a rational connection between those data and the conclusion that operations of the projects consistent with the 2019 biological opinions would jeopardize the continued existence of a listed species or would destroy or adversely modify designated critical habitat of a listed species.”

ROLL CALL #6  
25-31 NOT ADOPTED

#10

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Rep. Steve Womack  
FY-23 - Energy and Water  
#1

**AMENDMENT TO ENERGY AND WATER  
APPROPRIATIONS BILL  
OFFERED BY MR. WOMACK OF ARKANSAS**

Page 57, after line 6, insert the following:

1        SEC. 3 \_\_\_\_ . Section 161 of the Energy Policy and  
2 Conservation Act (42 U.S.C. 6241) is amended by adding  
3 at the end the following new subsection:  
4        “(k) PLAN.—  
5                “(1) IN GENERAL.—Except in the case of a se-  
6 vere energy supply interruption described in sub-  
7 section (d), the Secretary may not execute the first  
8 drawdown of petroleum products in the Reserve  
9 after the date of enactment of this subsection,  
10 whether through sale, exchange, or loan, until the  
11 Secretary has developed a plan to increase the per-  
12 centage of Federal lands (including submerged lands  
13 of the Outer Continental Shelf) under the jurisdic-  
14 tion of the Secretary of Agriculture, the Secretary of  
15 Energy, the Secretary of the Interior, and the Sec-  
16 retary of Defense leased for oil and gas production  
17 by the same percentage as the percentage of petro-  
18 leum in the Strategic Petroleum Reserve that is to  
19 be drawn down in that first and subsequent



1 drawdowns, subject to the limitation under para-  
2 graph (2).

3 “(2) LIMITATION.—The plan required by para-  
4 graph (1) shall not provide for a total increase in  
5 the percentage of Federal lands described in para-  
6 graph (1) leased for oil and gas production in excess  
7 of 10 percent.

8 “(3) CONSULTATION.—The Secretary shall pre-  
9 pare the plan required by paragraph (1) in consulta-  
10 tion with the Secretary of Agriculture, the Secretary  
11 of the Interior, and the Secretary of Defense.”.



ROLL CALL # 7  
20-30 NOT ADOPTED

#11

Rep. Guy Reschenthaler  
FY23 E&W  
Amendment #1

**AMENDMENT TO ENERGY AND WATER  
APPROPRIATIONS BILL  
OFFERED BY MR. RESCHENTHALER OF  
PENNSYLVANIA**

Page 57, after line 6, insert the following:

- 1        SEC. 3 \_\_\_\_ . Section 3 of the Natural Gas Act (15  
2        U.S.C. 717b) is amended—  
3                (1) by striking subsections (a) through (c);  
4                (2) by redesignating subsections (e) and (f) as  
5        subsections (a) and (b), respectively;  
6                (3) by redesignating subsection (d) as sub-  
7        section (e), and moving such subsection after sub-  
8        section (b), as so redesignated;  
9                (4) in subsection (a), as so redesignated, by  
10        amending paragraph (1) to read as follows: “(1) The  
11        Commission shall have the exclusive authority to ap-  
12        prove or deny an application for the siting, construc-  
13        tion, expansion, or operation of a facility to export  
14        natural gas from the United States to a foreign  
15        country or import natural gas from a foreign coun-  
16        try, including an LNG terminal. Except as specifi-  
17        cally provided in this Act, nothing in this Act is in-  
18        tended to affect otherwise applicable law related to

1 any Federal agency's authorities or responsibilities  
2 related to facilities to import or export natural gas,  
3 including LNG terminals.”; and

4 (5) by adding at the end the following new sub-  
5 section:

6 “(d)(1) Nothing in this Act limits the authority of  
7 the President under the Constitution, the International  
8 Emergency Economic Powers Act (50 U.S.C. 1701 et  
9 seq.), the National Emergencies Act (50 U.S.C. 1601 et  
10 seq.), part B of title II of the Energy Policy and Conserva-  
11 tion Act (42 U.S.C. 6271 et seq.), the Trading With the  
12 Enemy Act (50 U.S.C. 4301 et seq.), or any other provi-  
13 sion of law that imposes sanctions on a foreign person or  
14 foreign government (including any provision of law that  
15 prohibits or restricts United States persons from engaging  
16 in a transaction with a sanctioned person or government),  
17 including a country that is designated as a state sponsor  
18 of terrorism, to prohibit imports or exports.

19 “(2) In this subsection, the term ‘state sponsor of ter-  
20 rorism’ means a country the government of which the Sec-  
21 retary of State determines has repeatedly provided sup-  
22 port for international terrorism pursuant to—

23 “(A) section 1754(c)(1)(A) of the Export Con-  
24 trol Reform Act of 2018 (50 U.S.C. 4318(c)(1)(A));



1           “(B) section 620A of the Foreign Assistance  
2    Act of 1961 (22 U.S.C. 2371);  
3           “(C) section 40 of the Arms Export Control Act  
4    (22 U.S.C. 2780); or  
5           “(D) any other provision of law.”.

