

A BILL TO PROVIDE FOR OUTLET MODIFICATIONS TO FOLSOM DAM, CALIFORNIA, RECONSTRUCTION OF NORTHFORK AMERICAN RIVER COFFERDAM, TRANSFER OF AUBURN DAM SITE, AND FOR OTHER PURPOSES

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OCTOBER 12, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

## REPORT

together with

## DISSENTING VIEWS

[To accompany H.R. 4111]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4111) to provide for outlet modifications to Folsom Dam, a study for reconstruction of the Northfork American River Cofferdam, and the transfer to the State of California all right, title, and interest in and to the Auburn Dam, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

### SECTION 1. OUTLET MODIFICATIONS TO FOLSOM DAM.

(a) IN GENERAL.—The Secretary shall carry out the new outlets plan for modifications of Folsom Dam, California, substantially in accordance with the Sacramento Area Flood Control Agency report entitled “Folsom Dam Modification Report, New Outlets Plan”, dated March, 1998.

(b) VARIABLE STORAGE SPACE.—Upon completion of the project authorized by this section, the Secretary shall operate the Folsom Dam and Reservoir to the variable 400,000/600,000 acre-feet of flood control storage capacity.

(c) COST SHARE.—The Federal share of the cost of the project authorized by this section shall be 65 percent and the non-Federal share of the cost of such project shall be 35 percent.

**SEC. 2. RECONSTRUCTION OF NORTHFORK AMERICAN RIVER COFFERDAM.**

(a) **STUDY.**—Not later than 6 months after the date of the enactment of this Act, the Secretary shall complete a study to determine the feasibility of a project to reconstruct and make safety improvements (including construction of a spillway or other overflow or outlet structure) to Northfork American River Cofferdam, for the purpose of enabling such Cofferdam to impound safely a minimum of 180,000 acre/feet of water.

(b) **DETERMINATION; CONSTRUCTION.**—If, after conducting the study pursuant to subsection (a), the Secretary determines that such a project, when combined with the modifications to Folsom dam identified under section 1, would provide greater flood control benefits at a lower cost and with fewer downstream impacts than the Stepped Release Plan described in the Army Corps of Engineers' report entitled "March 1996 Supplemental Information Report of the Chief of Engineers", the Secretary shall carry out the Northfork American River Cofferdam project referred to in subsection (a).

(c) **COST SHARE.**—The Federal share of the cost of the project authorized by this section shall be 65 percent and the non-Federal share of the cost of such project shall be 35 percent.

**SEC. 3. TRANSFER OF AUBURN DAM SITE.**

(a) **PROJECT DEFINED.**—For the purposes of this section, the term "Auburn Project" means the Auburn Dam and Reservoir portion of the Auburn-Folsom South Unit, Central Valley Project.

(b) **TRANSFER.**—At the request of the Governor of California, in consideration of the State of California accepting the obligations of the United States related to the Auburn Project, the Secretary shall transfer to the State of California all right, title, and interest of the United States to the Auburn Project not later than 1 year after completion of the projects authorized by sections 1 and 2.

(c) **RESERVATION.**—Notwithstanding subsection (b), the United States shall reserve sufficient interests in the lands, rights-of-way, water rights, and facilities described in subsection (a) to enable the United States—

(1) to perform the contractual obligations of the United States to the Placer County Water Agency, as set forth in the contracts which provide for pumping facilities for, and the delivery of water to, the Placer County Water Agency and are numbered 14-06-200-5082(A), 14-06-859-308, and 14-06-859-308(a); and

(2) to grant to Georgetown Divide Public Utility District real property rights sufficient to enable such utility district to construct and operate facilities necessary to divert, treat, and store water supplies from American River, and to treat and dispose of sewage and wastewater.

(d) **REVERSIONARY INTEREST.**—All right, title, and interest in and to all property and interests transferred under subsection (b) shall revert to the United States on the date on which the State of California uses any of such property or interests for other than a purpose that is for both water resources development and flood control.

(e) **LIABILITY.**—On and after the date of the transfer of the Project to the State of California pursuant to subsection (b), the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence relating to the Project.

**SEC. 4. SECRETARY DEFINED AND CLARIFIED.**

For the purposes of this Act, the term "Secretary" shall mean the Secretary of the Interior. The Secretary shall carry out this Act through the Bureau of Reclamation.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

(a) **FOLSOM DAM MODIFICATIONS.**—There is hereby authorized to be appropriated to the Secretary of the Interior to carry out the project authorized by section 1 the sum of \$101,100,000.

(b) **NORTHFORK AMERICAN RIVER COFFERDAM.**—There is hereby authorized to be appropriated to the Secretary of the Interior to carry out the project authorized by section 2 the sum of \$130,000,000.

**PURPOSE OF THE BILL**

The purpose of H.R. 4111 is to authorize the Secretary of Interior to provide for outlet modifications to Folsom Dam, a study for reconstruction of the Northfork American River Cofferdam, and the transfer to the State of California all right, title, and interest in and to the Auburn Dam.

## BACKGROUND AND NEED FOR LEGISLATION

The American River descends from the Sierra Nevada crest to the largest river in California, the Sacramento. A 115,000-acre floodplain lies at the confluence, encompassing much of Sacramento. Historically, this region has been prone to flooding. Approximately 400,000 people and 165,000 structures, including the State Capitol, are contained within the 400-year floodplain.

Congress authorized the Bureau of Reclamation of the Department of the Interior to construct the Auburn Dam on the Northfork of the American River in 1965. Reclamation intended Auburn Dam to be the largest in the Central Valley Project. Construction began in 1967. An earthquake in 1975 caused the Bureau to evaluate the dam's quake-resistance and halted construction which has not been resumed. In 1986, severe flooding raised the issue of whether the region had sufficient flood protection. At the direction of Congress, the Army Corps of Engineers, along with the State of California Reclamation Board, and later the Sacramento Area Flood Control Agency proceeded to study the issue.

## COMMITTEE ACTION

H.R. 4111 was introduced by Congressman John T. Doolittle (R-CA) on June 23, 1998. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On June 25, 1998, the Subcommittee held a hearing on the bill. After the hearing concluded, the Subcommittee met to consider H.R. 4111 that same day. Congressman Doolittle offered an amendment en bloc which required that the transfer be initiated at the request of the Governor of California; the amendment was adopted by voice vote. No other amendments were offered and the bill was ordered favorably reported to the Full Resources Committee by a roll call vote of 10 to 4, as follows:

## SUBCOMMITTEE ON WATER AND POWER—RECORDED VOTES

Date: June 25, 1998.

Bill No./subject matter: H.R. 4111/Auburn Dam site final passage.

Rollcall: Passed.

Republicans	Yea	Nay	Present	Democrats	Yea	Nay	Present
Doolittle .....	X	.....	.....	DeFazio .....	.....	X	.....
Calvert .....	X	.....	.....	Miller .....	.....	X	.....
Pombo .....	X	.....	.....	Pickett .....	.....	.....	.....
Chenoweth .....	X	.....	.....	Dooley .....	.....	X	.....
Smith, Linda .....	X	.....	.....	Farr .....	.....	X	.....
Radanovich .....	X	.....	.....	Smith, Adam .....	.....	.....	.....
Thornberry .....	X	.....	.....	Kind .....	.....	.....	.....
Shadegg .....	.....	.....	.....	Doggett .....	.....	.....	.....
Ensign .....	X	.....	.....	.....	.....	.....	.....
Smith, Bob .....	.....	.....	.....	.....	.....	.....	.....
Cannon .....	X	.....	.....	.....	.....	.....	.....
Crapo .....	X	.....	.....	.....	.....	.....	.....
Total Republicans ....	10	.....	.....	Total Democrats .....	.....	4	.....

On July 15, 1998, the Full Resources Committee met to consider H.R. 4111. No further amendments were offered and the bill as

amended was ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 24–8, as follows:

Bill No. H.R. 4111, short title Auburn Dam.

Amendment or matter voted on: Final passage.

Member	Yea	Nay	Present	Member	Yea	Nay	Present
Mr. Young (Chairman)	X			Mr. Miller		X	
Mr. Tauzin	X			Mr. Markey			
Mr. Hansen	X			Mr. Rahall			
Mr. Saxton	X			Mr. Vento			
Mr. Gallegly				Mr. Kildee		X	
Mr. Duncan				Mr. DeFazio		X	
Mr. Hefley				Mr. Faleomavaega			
Mr. Doolittle	X			Mr. Abercrombie			
Mr. Gilchrest				Mr. Ortiz	X		
Mr. Calvert	X			Mr. Pickett	X		
Mr. Pombo	X			Mr. Pallone			
Mrs. Cubin	X			Mr. Dooley		X	
Mrs. Chenoweth	X			Mr. Romero-Barceló			
Mrs. Linda Smith	X			Mr. Hinchey		X	
Mr. Radanovich	X			Mr. Underwood			
Mr. Jones	X			Mr. Farr		X	
Mr. Thornberry	X			Mr. Kennedy			
Mr. Shadegg	X			Mr. Adam Smith			
Mr. Ensign	X			Mr. Delahunt		X	
Mr. Bob Smith	X			Mr. John			
Mr. Cannon	X			Ms. Green			
Mr. Brady	X			Mr. Kind		X	
Mr. Peterson	X			Mr. Doggett			
Mr. Hill	X						
Mr. Schaffer							
Mr. Gibbons	X						
Mr. Crapo	X						

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 4111.

#### COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 4111. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

## COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 4111 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of H.R. 4111 would require new spending subject to appropriation and increase offsetting receipts by less than \$7,500 per year beginning in 2004.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 4111.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4111 from the Director of the Congressional Budget Office.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 20, 1998.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4111, a bill to provide for outlet modifications to Folsom Dam, a study for reconstruction of the Northfork American River Cofferdam, and the transfer to the state of California of all right, title, and interest in and to the Auburn Dam, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Gary Brown.

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

Enclosure.

*H.R. 4111—A bill to provide for outlet modifications to Folsom Dam, a study for reconstruction of the Northfork American River Cofferdam, and the transfer to the state of California all right, title, and interest in and to the Auburn Dam, and for other purposes*

Summary: H.R. 4111 would authorize the Secretary of the Interior, acting through the Bureau of Reclamation (BOR), to modify Folsom Dam and construct a dam on the American River. It would authorize the appropriation of \$231 million for these purposes and such sums as necessary for operating and maintaining these projects and for related expenses. The bill also would authorize the Secretary to transfer the Auburn Project to the state of California.

CBO estimates that implementing the bill would require new spending subject to appropriation totaling \$196 million over the 1999–2003 period. (The remaining amounts authorized by the bill would be spent after 2003.) Enacting H.R. 4111 would not affect direct spending or receipts for the next five years; therefore, pay-as-you-go procedures would not apply. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

The proposed modifications to Folsom Dam, the dam proposed for the American River, and the Auburn Project are intended primarily for controlling flooding in and around Sacramento, California. The Auburn Project is only partially complete. BOR ceased construction of the Auburn Dam in 1975 after an earthquake raised concerns about its quake resistance. Although most experts now concur that a seismically safe dam can be built, environmental and cost sharing concerns have prevented the bureau from resuming construction. The state of California has expressed interest in obtaining title to and completing the project.

**Estimated cost to the Federal Government:** The estimated budgetary impact of H.R. 4111 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Estimated authorization level <sup>1</sup> .....	2	2	2	2	2	2
Estimated outlays .....	2	2	2	2	2	2
Proposed changes:						
Estimated authorization level .....	0	12	12	69	69	69
Estimated outlays .....	0	8	10	49	61	69
Spending under H.R. 4111:						
Estimated authorization level <sup>1</sup> .....	2	14	14	71	71	71
Estimated outlays .....	2	10	12	51	63	71

<sup>1</sup>The 1998 level is the amount appropriated for that year for operating and maintaining Folsom Dam and the Auburn Project. Continuation of these annual expenses is authorized under current law.

Note: H.R. 4111 also would affect direct spending by increasing offsetting receipts, but the receipts would be less than \$7,500 a year and would not begin until 2004.

**Basis of estimate:** For purposes of this estimate, CBO assumes that:

- H.R. 4111 will be enacted by the beginning of fiscal year 1999,
- nonfederal parties will pay those costs identified in the bill as nonfederal,
- the amounts authorized are for construction costs only, and additional amounts subject to appropriation will be needed for studies, operations, maintenance, and related expenses, and
- the amounts needed for implementing the bill will be appropriated for each year.

Amounts of annual appropriations needed to meet anticipated construction schedules were estimated by CBO based on information provided by BOR. Estimated outlays are based on historical rates of spending for the activities authorized by the bill.

*Spending subject to appropriation*

**Modifying Folsom Dam.**—The bill would authorize the appropriation of \$101 million for modifying Folsom Dam. Additional amounts totaling about \$54 million would be paid by nonfederal sponsors. Based on information provided by BOR, we expect that the agency would begin designing the improvements in 1999, that construction would begin in fiscal year 2001, and that the modifications would be completed by the end of 2003. In addition, an average of less than \$2 million a year would be needed beginning in 2004, the year after the modifications are complete, to pay for new operational requirements.

**Constructing an additional dam.**—The bill would authorize \$130 million for constructing a dam on the American River. Additional amounts totaling \$70 million would be paid by nonfederal sponsors. The dam would be constructed only if a feasibility study indicates that the project compares favorably to an alternative flood control project that has been proposed for the area. For purposes of this estimate, CBO assumes that the dam would be constructed and that design and construction would follow roughly the same schedule as the modifications proposed for Folsom Dam. Based on information provided by BOR, CBO estimates that, in addition to the amounts authorized for constructing the project, less than \$100,000 would be needed in 1999 for conducting the feasibility study and less than \$100,000 would be needed each year beginning in 2004 for operating and maintaining the project.

**Auburn project.**—CBO estimates that transferring the Auburn Project to the state of California would reduce future spending subject to appropriation by about \$1 million per year beginning in 2004, assuming appropriations are reduced to reflect lower federal obligations related to the project. The bill would authorize the Secretary of the Interior, at the request of the governor of California, to transfer the Auburn Project to the state within one year after completing the other projects authorized by the bill. In exchange, the state of California would accept certain obligations of the United States related to the project, including the federal share of the cost of managing the project site.

Under current law, BOR pays the state of California about \$1 million annually for managing the project site. These costs would be borne by the state if transferred. Because the transfer would not take place until the other projects authorized by the bill are completed, CBO expects that any transfer could not occur until 2004.

*Direct spending*

Enacting the bill would increase offsetting receipts by less than \$7,500 per year beginning in 2004. Nonfederal entities are required under current law to pay a share of the cost of operating and maintaining Folsom Dam. The modifications to Folsom Dam that are proposed in H.R. 4111 would increase the cost of operating and maintaining the dam by less than \$10,000 a year. Based on information provided by BOR, CBO estimates that up to 75 percent of the estimated increase in the cost of operating and maintaining the dam would be repaid.

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: H.R. 4111 contains no intergovernmental mandates as defined in UMRA. Both the projects authorized by this bill—modification of the Folsom Dam and reconstruction of the Northfork American River Cofferdam—would be completed only if nonfederal partners agree to contribute 35 percent of total project costs. Assuming costs consistent with the amounts authorized by this bill, CBO estimates that nonfederal contributions would total \$124 million over fiscal years 1999 through 2003. In addition, CBO estimates that these nonfederal entities would contribute a small amount each year, beginning in 2004, towards operating and maintaining the Folsom Dam.

The bill would authorize transfer of the Auburn Dam site to the state of California only if such a transfer were requested by the governor. Should the state accept this transfer, it would also assume responsibility for the cost of managing the site—about \$1 million per year.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Gary Brown and Impact on State, local, and tribal governments: Marjorie Miller.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 4111 contains no unfunded mandates.

#### CHANGES IN EXISTING LAW

If enacted, H.R. 4111 would make no changes in existing law.

## DISSENTING VIEWS

The projects and land transfer conceived under this bill are premature, environmentally destructive, and contrary to the express wishes of the City of Sacramento for federal flood control legislation.

The bill authorizes an entirely new project, to “reconstruct” the Auburn Dam cofferdam. That cofferdam is no longer in existence, and this bill would authorize construction of an entirely new dam—a dam that has never been the subject of any feasibility study.

This bill suffers from the same problem as the Salton Sea legislation passed by the House earlier this year—it “pre-authorizes” a project before feasibility studies have been completed. The amount authorized is smaller—\$130 million rather than \$350 million—but this preauthorization is not the way we normally proceed on water projects, and it is not the way we should proceed in this case.

Although this project is described as a “reconstruction” of the cofferdam at the Auburn site, this is a clear misrepresentation of the facts. This is a flood control dam, pure and simple, it doesn’t matter what you call it. At a constructed height of nearly 300 feet, this dam ranks in size with some of the biggest dams ever built by the Bureau of Reclamation, including:

- Keswick Dam, Friant Dam, and Lewiston Dam in California (Central Valley Project);
- Monticello Dam in California (Solano Project);
- Pueblo Dam in Colorado (Fryingpan-Arkansas Project);
- Lahontan Dam in Nevada (Newlands Project);
- Canyon Ferry Dam in Montana (Pick-Sloan Missouri Basin Program);
- Elephant Butte Dam in New Mexico (Rio Grande Project);
- Theodore Roosevelt Dam in Arizona (Salt River Project).

The proposed “reconstructed” cofferdam would flood many miles of the American River. This is not a minor cofferdam—it would be a major, permanent dam on one of our premier northern California rivers. We cannot undertake a project of this magnitude without careful review.

There are more objections to H.R. 4111:

The project has no identified local sponsor.

There have been no feasibility studies on the design, costs, or seismic safety of the proposed dam. There has been no environmental review. H.R. 4111 requires only a limited economic and performance comparison with the preferred local/Army project.

There is no effective support for this proposal in the Senate or the Administration.

H.R. 4111 transfers a Bureau of Reclamation project without any clear provisions for repayment of expended funds.

The project is a flood control project being authorized in a House Committee without clear jurisdiction over flood control. The enormous costs and environmental impacts of a large Auburn Dam have led several federal agencies and this Congress to reject its construction. Most recently, it was rejected in the CALFED review of potential water storage options for California. The smaller dam authorized in this bill would have many of the same impacts. These upstream impacts are conveniently ignored by this bill, which requires consideration only of downstream impacts.

Apart from the environmental consequences, we must consider whether construction of this dam and transfer of the lands to the State of California will assist with the flood control solution endorsed by the City of Sacramento.

The Sacramento City Council and the Sacramento Area Flood Control Agency have endorsed the flood control solutions included in H.R. 3698, to improve the Folsom Dam outlet works and the downstream levee bypass systems. We should be helping the people of Sacramento to improve their flood protection projects, not diverting attention by preauthorizing construction of a new and environmentally destructive large flood control dam. For these reasons, I must oppose H.R. 4111.

GEORGE MILLER.

