



June 13, 2022

The Honorable Diane Feinstein  
United States Senate  
331 Hart Senate Office Bldg.  
Washington, D.C. 20510

**RE: Opposition to S. 4231 (STREAM Act)**

Dear Senator Feinstein:

On behalf of the Natural Resources Defense Council, Defenders of Wildlife, Pacific Coast Federation of Fishermen's Association, and Golden State Salmon Association, we are writing to respectfully oppose the STREAM Act (S. 4231). NRDC supports several elements of the bill, such as the increased funding and competitive grant process for new water recycling projects in section 101, and we appreciate the work done by your staff to address some of our prior concerns. However, on balance S. 4231 disproportionately funds environmentally harmful new dams and water storage projects without adequate environmental safeguards, undermines the beneficiary pays principle that underlies Reclamation law (which requires that federal taxpayer funds be used to benefit the public), and proposes to undo several key provisions of the bipartisan Infrastructure Investment and Jobs Act. As a result, our organizations must respectfully oppose S. 4231.

First, S. 4231 fails to provide a balanced approach to federal funding for water supply infrastructure, disproportionately funding new dams and water storage projects compared to more sustainable and cost-effective water supply projects. In California, unsustainable water diversions from the Bay-Delta watershed are driving salmon and other native fish populations to the brink of extinction, and new storage projects could exacerbate these problems, whereas water recycling and other sustainable local and regional water supply projects could avoid these impacts and reduce reliance on the Delta, consistent with State law. *See* Cal. Water Code § 85021. Reducing water diversions from the Bay-Delta and investing in local and regional water supply solutions is essential if California is going to sustain the salmon fishery for future generations, maintain water quality for farms and cities in the Delta, and protect native fish and wildlife.

However, while Section 103 of the bill proposes to authorize \$750M in appropriations for new non-federal dams and water storage projects, section 101 of the bill would authorize less than half that amount (\$300M) for water recycling projects. Moreover, the bill does not authorize any appropriations to fund projects to improve municipal, industrial, or agricultural water use efficiency, which is one of the most cost effective and sustainable ways to improve water supply.

This lack of parity is problematic, especially in view of the extensive unmet demand for funding of water recycling projects and the more than \$1 billion in appropriations for water storage projects provided in the IJA last year.

In our view, S. 4231 also fails to require adequate Congressional review and approval of new storage projects. Section 103 allows a future Administration to provide up to \$250 million in a single federal grant for a new non-federal dam or storage project without Congressional approval. Section 103 also allows a future Administration to provide up to \$250 million for new storage projects that are subject to standing authorizations, without Congressional review and approval.

Second, S. 4231 fails to ensure that dams and new storage projects funded by the bill protect and restore the aquatic environment, and the thousands of fishing jobs, Native American Tribes, and communities that depend on healthy rivers and fisheries. Dams and other water storage projects in California have caused devastating environmental harm to our native fish and wildlife, and new storage projects should be required to achieve environmental benefits to be eligible for taxpayer funding, an approach adopted in California's 2014 Proposition 1 that was similarly proposed in H.R. 3404 by Rep. Huffman and approved by the House of Representatives during the 116th Congress as part of H.R. 2. Our organizations do not oppose all new storage projects, but it is critical that storage projects include adequate environmental safeguards. While we appreciate that section 403 requires that non-federal storage projects comply with state and federal environmental laws, S. 4231 does not require that new dams and water storage projects achieve environmental benefits to be eligible for funding. As a result, the bill could subsidize and advance new dams and water storage projects that harm native fish and wildlife and the thousands of jobs and communities that they sustain.

Moreover, unlike the IJA, which prohibited funding for the enlargement of Shasta Dam in California, S. 4231 appears to advance this unlawful and destructive project. As you know, the Trump Administration sought to enlarge Shasta Dam over objections from the State of California that this federal storage project would violate state law, forcing the state to file a lawsuit to stop this project. Enlarging Shasta Dam would inundate Native American sacred sites, harm salmon and other wildlife, and flood a river that is protected under state law. Not only does S. 4231 not prohibit funding for this destructive project, but section 403 of the bill also does not require that federal storage projects comply with state environmental laws. As a result, the bill's establishment of a new process to streamline Congressional approval of certain new dams and storage projects, which includes federal storage projects, would advance the enlargement of Shasta Dam in violation of state law. Other provisions of the bill, particularly section 103(m), appear intended to allow the enlargement of Shasta Dam to be funded notwithstanding the requirements of the IJA.

Third, S. 4231 undermines the beneficiary pays principle, which has been the heart of Reclamation law for decades, expanding taxpayer subsidies for new dams and water supply projects benefitting private businesses. The bill creates a new category of "federal benefits" that

are distinct from “public benefits” under traditional Reclamation law, yet these federal benefits are treated as non-reimbursable expenses (meaning that taxpayers, rather than the water districts that benefit from these projects, pay these costs). The definitions in section 1 of the bill also appears to define hydropower as a public benefit eligible for taxpayer subsidies, contrary to existing law. As a result, under section 103(f) of the bill non-federal storage projects would be eligible for a 25% federal cost share even where the public benefits of the project are only 12.5 percent, and under section 103(c) non-federal storage projects are eligible for federal funding even if they do not provide any public benefits. Other sections of the bill, such as section 107, also appear to undermine the beneficiary pays principle by expanding taxpayer subsidies for extraordinary maintenance costs as nonreimbursable expenses. This means that taxpayers in West Virginia could help subsidize water supply for large corporate agribusinesses.

Finally, S. 4231 unnecessarily amends the IJA in ways that are problematic and undermine this bipartisan legislation. In particular, section 301(b) of S. 4231 amends the IJA to expand the use of taxpayer funds to pay for habitat restoration projects that are existing mitigation and compliance obligations, undermining the beneficiary pays principle and resulting in fewer restoration projects being implemented. Section 301(c) also creates new programs that would divert funding under the IJA from traditional habitat restoration projects, and section 301(g) creates a new bureaucratic process to oversee these funds. In addition, Section 401 would amend the IJA to allow water districts to use COVID relief funds as their matching share for non-federal storage projects, diverting that funding away from its intended use and reducing or eliminating the local cost share that project beneficiaries have to pay.

For all of these reasons, we must respectfully oppose S. 4231. We appreciate your continued efforts to address water issues in California and across the West, and we look forward to working with your staff to try to address these significant issues.

Thank you for consideration of our views.

Sincerely,



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Natural Resources Defense Council



Mary Beth Beetham  
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Pacific Coast Federation of Fishermen's  
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John McManus  
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