

Regulatory Streamlining Should Accompany Stimulus Funding

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On January 6, 2009, the 111th Congress will open its doors for business. Another economic stimulus package will be the initial focus of Congress, since Democratic leaders would like to present a completed stimulus legislative package to President Obama on his first or second day in office.

Work on the stimulus package will likely drive every thing else in the new Congress. Among other elements, the new stimulus package would include significant funding for Bureau of Reclamation (Reclamation) infrastructure. As noted in an earlier column I wrote for this paper, House Water and Power Subcommittee Chairwoman Napolitano (D –CA) recently sent a letter to Appropriations Committee leaders requesting that water-related infrastructure be given attention as leaders in the House consider additional actions to stimulate the economy.

The economy benefits from increased investment in construction projects by providing jobs and generating economic activity during the construction phase itself. A recent report by the Congressional Research Service (CRS) estimates that each million dollars in new spending on infrastructure construction, direct and indirect employment is projected to increase by 8.1 to 12.6 jobs.

The stimulus bill will reportedly contain between \$400 billion and \$700 billion. Funding for the Army Corps of Engineers Reclamation infrastructure is likely to be part of the bill. However, concerns are already being voiced about how many projects will actually be constructed due to the legal and process hurdles that currently exist.

Retiring Senate Energy and Natural Resources Committee ranking member Pete Domenici (R-NM) cautioned last week that legal and environmental challenges could delay construction projects and negate the stimulus until the recession is over.

"As we all know, such major projects undertaken by our federal land management agencies are more often than not subject to legal challenges over environmental issues," Domenici said. "This begs the question of whether any natural resource-related jobs will be available within the desired two-year timeframe unless waivers on an expedited NEPA process are addressed in the stimulus package," he added, referring to the National Environmental Policy Act.

Senator Domenici is correct. The often slow and cumbersome federal regulatory process is a major obstacle to realization of projects and actions that could protect and enhance Western

water supplies. For example, the alternatives proposed for assessment by NEPA regulators are frequently inappropriate, unrealistic, difficult-to-implement, and often in conflict with state law. Consequently, the permitting process stalls, and costs increase to the project applicant.

Another problem results from some federal regulatory agencies that are not compelled to consult with other agencies in a timely fashion. Frequently, these agencies do not begin work on Endangered Species Act (ESA) biological opinions until after the NEPA process has been completed. Rather than doing things concurrently, this adds time to the process and increases greatly the potential for last-minute surprises that could endanger the proposal or require significant additional work.

A concerted good-faith effort to address these problems could lead to a streamlined regulatory process that is efficient, fair and effective. The economic stimulus package could provide an excellent opportunity to create jobs, modernize and improve our aging water infrastructure. In the American West, Federal water supply systems are essential components of communities, farms, and the environment. These facilities are part and parcel of the nation's food-production system and their operation helps ensure our ability to provide reliable and secure food for our own citizens and the rest of the world.

Those benefits may be moot if the stimulus legislation does not include waivers or an expedited regulatory permitting process.