



Statement of  
*The Water Resources Coalition*  
Before the  
Subcommittee on Water and Power  
of the  
Senate Committee on Energy and Natural  
Resources  
on the  
Aging Water Resource Infrastructure Operated  
and Maintained or Owned  
By the United States Bureau of Reclamation  
April 17, 2008

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improve, prevent, save  
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Mr. Chairman and Members of the Subcommittee:

## **I. INTRODUCTION AND SUMMARY**

The Water Resources Coalition (WRC) is pleased to offer this statement for the record on the aging water resource infrastructure that is operated and maintained, or owned, by the United States Bureau of Reclamation (Bureau).

The Coalition believes that Congress needs to increase federal financial support for the Bureau in the next three to five years as the agency faces three interrelated infrastructure problems: the level of funding provided to the agency under recent federal budgets; a small, but measurable, decline of the reliability of the water infrastructure facilities and systems under the Bureau's control; and the demonstrated need for more money to address the repair of aging facilities.

## **II. INFRASTRUCTURE ISSUES**

### **A. Current Conditions**

The Bureau of Reclamation was created by Congress in 1902. "The Reclamation Act of 1902 set in motion a massive program to provide federal financing, construction, and operation of water storage and distribution projects to reclaim arid lands in many Western States."<sup>1</sup>

Reclamation operates and maintains 2,122 water and power structures in 17 states of the West. Among these facilities are 472 dams, 348 reservoirs, 58 power plants, and numerous other water delivery facilities. This infrastructure provides water to 31 million people and to 10 million acres of irrigated farmland, and it generates 44 billion kilowatt hours of electricity annually.

Major [Reclamation] water and power systems are now in place, and relatively few large new projects are anticipated. As a consequence, the bureau's focus and workload have shifted from building infrastructure to operating, maintaining, repairing, and modernizing it. ... Reclamation's budget has been level while ... the cost of maintaining and repairing existing infrastructure is rising, in part owing to aging facilities, normal wear and tear, and increased stakeholder attention to environmental issues.<sup>2</sup>

With the nation's population and accompanying development continuing to move into the West, however, the need for new infrastructure to deliver greater quantities of water in future cannot be discounted, according to the National Research Council.

As growth [in the West] occurs, more land in agricultural use is likely to be used for municipal and industrial development. These changes will spur demand for more water and power resources, and that demand may outstrip the supply. Reclamation will be challenged to find ways to manage water and power so that it can meet future demand.<sup>3</sup>

The Bureau reported recently that its current infrastructure systems are in generally good condition. But it acknowledged that the long-term trend shows a slight (but noticeable) decrease in reliability of the facilities under its control in the coming year. Indeed, the Bureau acknowledges that the agency faces approximately \$3 billion worth of rehabilitation needs for its aging infrastructure over the next 20 years.<sup>4</sup>

Based on the agency's own internal "Facility Reliability Rating" system, which measures the percentage of water facilities that are in good or fair condition, the Bureau determined in FY 2007 that 99 percent of all facilities met those criteria. The agency accepted, however, that the reliability index may fall below 90 percent in FY 2009 and following years.<sup>5</sup>

## **B. Operation and Maintenance**

Much of the Bureau's current infrastructure is now 50 years old or older, and its proper operation and maintenance are the agency's top priorities. The administration has proposed \$396.3 million in budget authority for FY 2009 to ensure that its facilities are operated and maintained safely and reliably.<sup>6</sup> This is a slight increase over the \$388 million enacted for O&M in FY 2008. The agency also is requesting \$91.2 million for its dam safety program in FY 2009.

Almost from the beginning, the federal government has wrestled with the problem of repairing the Bureau's infrastructure. It soon decided to require water users to pay for a portion of the repair and maintenance of the facilities.

In 1949, Congress passed the Rehabilitation and Betterment Act to authorize those interests that benefitted from the agency's water projects to enter into loan agreements in order to pay the federal government a share of the cost of the projects' upkeep. The loans were to be repaid "in installments fixed in accordance with [the local beneficiary's] ability to pay."<sup>7</sup>

In addition, the Bureau has an existing program, the Small Reclamation Loan Program, that should be examined for use in this area based on the role that it has played in almost all of the 17 western states.

The Coalition also is disappointed at the failure of the administration to move forward with implementing the Twenty-First Century Water Works Act that was contained in title II of the Rural Water Supply Act of 2005. This Act provided a valuable tool—loan guarantees—that many in the West were looking at with regard to addressing their aging infrastructure. We would ask the Committee to look into the Administration’s failure in this important policy area.

Federal policy today continues to emphasize the need for local interests to assume the largest share of the responsibility for maintaining Reclamation infrastructure. The agency prefers that project beneficiaries perform the day-to-day O&M, where appropriate and in the best interest of the public, through a formal transfer agreement, with Reclamation retaining oversight of the program.<sup>8</sup>

Currently, the O&M responsibility of approximately 66 percent of project facilities Reclamation-wide, totaling nearly 500 facilities, has been transferred to project beneficiaries. In most cases, the remaining “reserved works” are maintained by Reclamation, with the agency’s contracting all O&M activities at approximately seven percent of the reserved works facilities.<sup>9</sup>

Where irrigation is the only authorized purpose, all of the project’s O&M costs are generally paid by the irrigators. Multipurpose projects may have benefits that include hydropower, irrigation, municipal and industrial water, flood control, recreation, and fish and wildlife, and portions of the O&M costs may be allocated to these different purposes. O&M costs allocated to reimbursable purposes are the responsibility of the water users and have no relationship to who is operating the facilities. If the agency performs the O&M, the irrigation beneficiary advances funds to Reclamation for the irrigation component of the facility’s O&M costs.<sup>10</sup>

When Reclamation enters an O&M transfer agreement with a non-federal body, the O&M cost allocation remains the same and payments are exchanged, depending on whether project benefits are "reimbursable" (irrigation, hydropower, municipal and industrial), or "non-reimbursable" (flood control, multipurpose recreation and fish and wildlife).<sup>11</sup>

### **III. INFRASTRUCTURE FUNDING CONSIDERATIONS**

The Reclamation Act also established the “Reclamation Fund” to finance the construction and maintenance of water resources projects.<sup>12</sup> The Fund originally consisted of money received “from the sale and disposal of public lands” in the West.<sup>13</sup>

Because the Fund operates as a revolving loan fund, all income received by the federal government from federally constructed irrigation projects is returned to the Fund for re-investment in irrigation projects.<sup>14</sup> In recent times, however, the Fund has derived virtually all of its revenues from the sale of minerals and hydropower.<sup>15</sup>

The balance in the Reclamation Fund was \$6.5 billion as of September 30, 2007. It will reach an estimated \$7.6 billion on September 30, 2008. The balance is expected to reach \$9.2 billion by the end of FY 2009—an increase of \$2.7 billion (41 percent) in just two years. According to the agency, the balance is growing due to an increase in receipts from the Minerals Management Service and a simultaneous drop in annual congressional appropriations.

Notwithstanding the Bureau's policy of requiring maintenance costs to be absorbed largely by project beneficiaries, we believe the federal government needs to ensure that adequate funding is directed toward the restoration of the Bureau's infrastructure.

Therefore the WRC recommends that Congress amend the Reclamation Act to authorize an appropriation of \$1 billion over four years from the Reclamation Fund to be used exclusively to finance the restoration of the agency's aging infrastructure.

Although a 1927 law appears to authorize the Bureau to expend money repaid to the Fund without an annual appropriation,<sup>16</sup> we believe that these sums (which the agency estimates as approximately six percent of all Fund receipts) are insufficient in the modern era to support an aggressive rehabilitation effort. Congress needs to amend the law to put the restoration of the agency's infrastructure on a sound, sustainable actuarial footing.

#### **IV. OTHER BUDGET CONSIDERATIONS**

The administration has proposed a budget of \$779.32 million for the Bureau's Water and Related Resources program for fiscal year 2009. This is a reduction of more than \$170 million from the \$949.88 million enacted by Congress in FY 2008.

The WRC believes that a minimum of \$200 million should be added into the FY 2009 Water and Related Resources budget for the Bureau. The additional funding should be directed toward the Bureau's drought and water conservation programs; the Title XVI Water Reclamation and Reuse Program; and its authorized Rural Water Projects and the Colorado River Salinity Control Program.

We believe there should also be a greater emphasis to drought preparedness and the expected challenges from climate change with regard to the Reclamation program. We see an unmet need for greater integrated resource planning and water resource planning in the West.

The Bureau has played an important role in the development of the 17 western states over the past one hundred years. We are greatly concerned with the \$170 million reduction in the FY 2009 Reclamation program as proposed by the administration.

When the Water and Related Resources (construction) account of the Bureau is examined, 51 percent of the funding is now for facility maintenance and rehabilitation. The Coalition recognizes the importance of such investment given the aging of the infrastructure and the harsh climatic conditions of the western United States.

Nevertheless, that funding only leaves about \$250 million for the construction work in the water and energy component of the program—a program with a significant backlog of authorized work that holds the potential for meeting critical water needs in the West.

Finally, it is clear that the Bureau has a wide variety of unmet needs and will need to shepherd its resources and set priorities to address the most significant problems. One way to do this is to encourage the Bureau to continue to partner with the private sector to deliver services to the taxpayers. We would urge the Bureau to follow Congress' direction to utilize the extensive capabilities and expertise of the private sector for engineering and design services to ensure more timely project delivery and better value.

That concludes our statement. If you have additional questions for the Water Resources Coalition, please contact Brian Pallasch of the American Society of Civil Engineers at 202-789-7842 or at [bpallasch@asce.org](mailto:bpallasch@asce.org) or Marco Giamberardino of the Associated General Contractors of America at 703-837-5325 or at [giamberm@agc.org](mailto:giamberm@agc.org).

Respectfully submitted,

### **The Water Resources Coalition**

American Society of Civil Engineers • Associated General Contractors of America • American Council of Engineering Companies • American Public Works Association • American Shore and Beach Preservation Association • Atlantic Intracoastal Waterway Association • Association of California Water Agencies • Harris County Flood Control District • National Association of Regional Councils • Dredging Contractors of America • Oregon Water Resources Congress • National Sand, Stone & Gravel Association

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## ENDNOTES

- <sup>1</sup> Orff v. U.S., 545 U.S. 596, 598 (U.S. 2005).
- <sup>2</sup> NAT'L RESEARCH COUNCIL, MANAGING CONSTRUCTION AND INFRASTRUCTURE IN THE 21<sup>ST</sup> CENTURY BUREAU OF RECLAMATION 1-2 (2006), <http://nap.edu>.
- <sup>3</sup> Id. at 2.
- <sup>4</sup> Comm'r Robert W. Johnson, U.S. Bureau of Reclamation, Reclamation Stakeholders Meeting, Washington, D.C. (Apr. 11, 2008).
- <sup>5</sup> U.S. BUREAU OF RECLAMATION, BUDGET JUSTIFICATIONS—FY 2009 13 (2008), <http://www.usbr.gov/budget/2009/CONTENTS.pdf>. The trend will remain at or below 90 percent of all facilities for at least the next four years, according to the agency.
- <sup>6</sup> *Hearing Before the H. Subcomm. on Energy and Water Dev. on the Bureau of Reclamation Budget for FY 2009*, 110<sup>th</sup> Cong. (2008) (statement of Comm'r Robert W. Johnson). <http://www.cq.com>.
- <sup>7</sup> 43 U.S.C. § 504. Congress turned to local cost-sharing because the Great Depression and World War II had diverted federal appropriations for other, more pressing national needs, which left the Bureau's infrastructure in a condition requiring "extensive rehabilitation work." See S. Rep. No. 81-501 (1949), as reprinted in 1949 U.S.C.C.A.N. 2050, 1949 WL 1856.
- <sup>8</sup> Memorandum from Comm'r Robert W. Johnson, to the Acting Deputy Comm'r—Operation, Bureau of Reclamation, on Decision Related to Managing for Excellence Teams 26-27, Final Recommendations (Nov. 16, 2007), [http://www.usbr.gov/excellence/Finals/Team\\_26\\_27-Decision\\_Doc.pdf](http://www.usbr.gov/excellence/Finals/Team_26_27-Decision_Doc.pdf). Facilities owned by the Bureau but rehabilitated by local interests under an agreement with Reclamation are referred to as "transferred works."
- <sup>9</sup> Id.
- <sup>10</sup> Id.
- <sup>11</sup> Id.
- <sup>12</sup> The Reclamation Fund is a restricted fund into which a substantial portion of Reclamation's revenues (mostly repayment of capital investment costs, associated interest, and O&M reimbursements from water and power users) and receipts from other federal agencies (primarily revenues from certain federal mineral royalties and

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hydropower transmission) are deposited. No expenditures are made directly from the Reclamation Fund; however, funds are transferred from the Reclamation Fund into Reclamation's appropriated expenditure funds or to other federal agencies through congressional appropriation acts to invest and reinvest in the reclamation of arid lands in the western United States. See BUREAU OF RECLAMATION, FINANCIAL STATEMENTS AND NOTES, 2007 BUREAU OF RECLAMATION ANNUAL REPORT 130 (2008).

<sup>13</sup> 32 Stat. 388; 43 U.S.C. § 391.

<sup>14</sup> 43 U.S.C. 391a. A 1931 amendment limits the federal share of any single project to a maximum of \$5 million. See id.

<sup>15</sup> U.S. Bureau of Reclamation, Reclamation Fund (2006), [http://www.usbr.gov/excellence/Sacramento/Reclamation\\_Fund\\_Overview.pdf](http://www.usbr.gov/excellence/Sacramento/Reclamation_Fund_Overview.pdf) (estimating that 83 percent of Fund revenues are from mineral royalties received by the Minerals Management Service and the sale of hydropower).

<sup>16</sup> 44 Stat. 957. "Any moneys which may have been heretofore or may be hereafter advanced for operation and maintenance of any project or any division of a project shall be covered into the reclamation fund and shall be available for expenditure for the purposes for which advanced in like manner as if said funds had been specifically appropriated for said purposes." 43 U.S.C. § 397a (emphases added).