

Testimony of the Western States Water Council

Submitted to the House Committee on Natural Resources Subcommittee on Energy and Mineral Resources

Regarding H.R. 3846 – POWER Counties Act

April 18, 2018

I. INTRODUCTION

My name is Tony Willardson, and I am the Executive Director of the Western States Water Council (WSWC), a government entity and instrumentality of each and every participating member state. Created pursuant to a western governors' resolution in 1965, our members are appointed and serve at the pleasure of their respective Governors, advising them on water policy issues. Our mission is to ensure that the West has an adequate, secure and sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future.¹

The Western States Water Council strongly supports the appropriation and use of receipts that accrue to the Reclamation Fund for their intended purpose of financing authorized western water projects and programs. Moreover, the Council has recommended the Administration and the Congress investigate the advantages of restoring the Reclamation Fund as a true revolving trust fund with annual receipts appropriated for authorized purposes in the year following their deposit.²

The Council is currently comprised of 18 States, including the 17 Reclamation States and Alaska, covering an expansive and diverse geographic, topographic, climatologic, meteorological, hydrologic and political spectrum. It should also be noted that "... federal land ownership generally is concentrated in the West. Specifically, 61.3% of Alaska is federally owned, as is 46.4% of the eleven coterminous western states. By contrast, the federal government owns 4.2% of lands in the other states."³

In the West, water and energy are inextricably connected. Western energy resources are vast and diverse,⁴ while western water resources are often scarce. Water is indeed our "life blood." It is a vital resource the availability of which has and continues to circumscribe growth, development, economic opportunity and our social and environmental quality of life. The wise conservation and management of our water resources is critical, particularly with respect to energy development and production.

II. THE RECLAMATION FUND

Recognizing the importance of water to the development of the arid West, the Congress passed the Reclamation Act on June 17, 1902. It provided that monies be "reserved, set aside,

and appropriated as a special fund in the Treasury to be known as the ‘reclamation fund,’ to be used in the examination and survey for and the construction and maintenance of irrigation works for the storage, diversion, and development of water for the reclamation of arid and semiarid land...” in the seventeen western states, to be continually invested and reinvested.

President Theodore Roosevelt stated, “The work of the Reclamation Service in developing the larger opportunities of the western half of our country for irrigation is more important than almost any other movement. The constant purpose of the Government in connection with the Reclamation Service has been to use the water resources of the public lands for the ultimate greatest good of the greatest number; in other words, to put upon the land permanent homemakers, to use and develop it for themselves and for their children and children’s children....”⁵

Under the Reclamation Act of 1902, the Reclamation Fund was envisioned as the principle means to finance federal western water and power projects with revenues from western resources. Its receipts are derived from water and power sales, project repayments, certain receipts from public land sales, leases and rentals in the 17 western states, as well as certain oil and mineral-related royalties – but these receipts are only available for discretionary federal expenditures pursuant to annual appropriation acts. This includes construction and operational expenditures of the Bureau of Reclamation and the Western Area Power Marketing Administration.

The Reclamation Fund was established originally as a revolving fund for development of irrigation projects on the arid and semiarid lands of the 17 western states. However, receipts were not sufficient to fund early Reclamation projects.

The Mineral Leasing Act of 1920 provided for the deposit of receipts from natural resource royalties into the Reclamation Fund. Originally over 50% of receipts, in 1976 that amount was reduced to 40% of federal royalty payments from the production of oil, gas, coal, potassium, and other minerals on federal lands. Such payments currently account for more than half the Fund’s receipts. In recent years, these receipts have also increased significantly.⁶

According to the Administration’s FY2019 budget request,⁷ actual receipts accruing to the Reclamation Fund from various sources were \$1.942 billion for FY2017, with estimated receipts of \$1.702 billion for FY2018, and \$1.8 billion for FY2019.⁸ By way of comparison, actual appropriations were \$1.054 billion for FY 2017, and estimated appropriations are \$1.057 billion for FY 2018, with the President’s initial budget request of \$827 million for FY 2019.⁹

The unobligated balance in the Reclamation Fund at the end of FY2017 was \$13.824 billion. It is estimated to be \$14.469 billion at the end of FY2018, and \$15.442 billion by the end of FY2019.¹⁰

This unobligated balance continues to grow as appropriated funds are substantially less than receipts. The unobligated figure gets larger and larger, but the money in the Reclamation Fund is in fact spent elsewhere for other federal purposes contrary to the Congress’ original

intent. Any unobligated balance essentially reduces federal borrowing to finance other federal expenditures.

The Council urges the Congress to investigate the advantages of converting the Reclamation Fund from a special Treasury account to a true revolving trust fund with annual receipts appropriated for authorized purposes in the year following their deposit (similar to some other federal authorities and trust accounts).¹¹

Any diversion of Reclamation Fund receipts for other purposes would delay or supplant expenditures for essential water and power development, environmental restoration and water conservation projects and programs.

III. BUREAU OF RECLAMATION BUDGET

Bureau of Reclamation facilities include 337 reservoirs with the capacity to store 245 million acre-feet of water and irrigating approximately 10 million acres of farmland that produce 60 percent of the nation's vegetables and 25 percent of its fruits and nuts. Reclamation projects also provide water to about 31 million people for municipal and industrial uses, while generating more than 40 billion kilowatt hours of energy each year from 53 hydroelectric power plants serving some 3.5 million households. Reclamation and its partners manage 289 recreation areas, with over 90 million visits annually. Reclamation projects further providing flood control, and fish and wildlife benefits.¹²

Reclamation's dams and reservoirs, water conveyance systems, and power generating facilities are integral components of the Nation's infrastructure. Effectively managing the benefits provided by these structures are among the many significant challenges that Reclamation faces over the next five years and beyond in its ability to achieve progress on its mission objectives. Changing demographics and competing demands are increasingly stressing already strained systems. Reclamation's water and power projects and activities throughout the western United States are not only essential for sustainable and safe water supplies for both agricultural, municipal and industrial purposes, but also provide energy in the form of hydropower, and maintain ecosystems that support fish and wildlife, hunting and recreation, as well as rural economies.¹³

As the largest supplier and manager of raw water in the nation and the second largest producer of hydroelectric power, Reclamation's projects and programs are vital for maintaining the quality of life in hundreds of watersheds throughout western states, provide an economic contribution of \$48.1 billion, and support approximately 388,000 jobs.¹⁴

The Reclamation Act succeeded as a catalyst for the settlement of the arid West, which is now among the most urbanized regions in the Nation. The water and power resources developed and provided by the Bureau of Reclamation (as well as the flood control benefits) over more than a century supported the growth and continue to be critical to the maintenance of the water supply for the major metropolitan areas of Albuquerque, Amarillo, Boise, Denver, El Paso, Las Vegas, Los Angeles, Lubbock, Phoenix, Portland, Reno, Sacramento, Salt Lake City, Seattle, Tucson and numerous other smaller cities and diverse rural communities across the West.

The FY2019 budget request includes \$1.0 billion for Reclamation's water resource programs. Reclamation's 5-year estimate of major rehabilitation and replacement needs total \$2.1 billion for extraordinary maintenance, \$337 million in deferred maintenance, and \$358 million for dam safety. Other estimated construction needs include \$1.2 billion for authorized Title XVI water reclamation and reuse projects, \$1.3 billion for authorized rural water projects (\$13.8 million is requested in the President's FY2019 budget), \$1.5 billion for projects related to Indian water rights settlements (\$100.7 million requested for FY2019), and \$1.6 billion for new water and power projects, related to the Central Valley Project in California, the Yakima Integrated Plan in Washington, and the Platte River. Reclamation is also working with water contractors on potential new water storage, such as raising Shasta Dam and Upper San Joaquin River storage in California.¹⁵

Similarly, the President's FY2019 budget request for Reclamation's WaterSMART grants and programs, including basin studies, water conservation and field services, drought response and plans, resilient infrastructure and cooperative watershed management totals \$19.9 million compared to FY2017 enacted levels of \$83.5 million.¹⁶

Requested and appropriated funds have not been sufficient to complete many authorized projects in a timely manner or address many identified program needs. Increasing appropriations from the Reclamation Fund proportionate to receipts would expedite work to meet pressing water resources infrastructure and conservation and management program priorities. Reducing the percentage of Reclamation Fund receipts from mineral leasing royalties by half could seriously impede opportunities to address the backlog of authorized projects and fully fund Reclamation's programs. Mineral leasing receipts for 2017 totaled \$1.136 billion, which reduced by half would be \$568 million. Estimated reductions for 2018 and 2019 would be \$676.5 million and \$699 million respectively.

IV. STATE MINERAL LEASING REVENUES

As explained by the Tax Foundation, "The existing federal mineral royalty system is a result of the way in which lands in the U.S. were historically developed. Royalties collected by the federal government from mineral production on public lands is disbursed to a variety of areas, one of which serves as compensation to states for the costs accrued from production.... Rather than divest land from federal to state ownership, the government has opted to compensate states that contain federal lands on which production occurs via the disbursement of a portion of royalty revenues to affected states.... Mineral royalties collected by the federal government are disbursed to a variety of funds. Fifty percent of onshore lease revenue goes to the state in which the lease is located (except in the case of Alaska, where 90 percent of the royalties go back to the state), 40 percent is disbursed to the national Reclamation Fund (except in the case of Alaska, where no Reclamation Fund disbursement takes place), and the remaining 10 percent goes to the U.S. Treasury."¹⁷

The State share of federal mineral leasing royalties can be a significant portion of states' budgeted income. It is intended to recognize the external costs of development borne by States in the form of increased needs for services and capital investments. The state share covers impacts related to growth and development, such as the need to build new or expand existing

public infrastructure, including roads and schools. The equally vital need to construct, repair and rebuild water-related infrastructure should not be discounted.

V. WATER INFRASTRUCTURE FUNDING

The Western States Water Council supports collaboration and leadership at all government levels – federal, state, tribal, and local – and the private sector – to address the Nation’s infrastructure needs and establish water infrastructure improvements as a public policy priority.¹⁸ The West depends on an intricate and aging system of weirs, diversions, dams, reservoirs, pipelines, aqueducts, pumps, canals, laterals, drains, levees, wells, stormwater systems and water and wastewater treatment, and hydroelectric power plants. Maintaining and delivering sufficient water supplies of suitable quality is key to the West’s economic prosperity, environmental needs, and our quality of life, both now and in the future. Appropriate water-related infrastructure investments ensure our continued ability to store, manage, conserve, and control water during both floods and droughts – as well as protect and treat our water resources. Existing and new infrastructure is critical to meet drinking water, wastewater treatment, irrigation, hydropower, flood control, interstate compact, tribal and international treaty, fish and wildlife habitat needs.

Substantial and sustained investments in water project construction, maintenance, rehabilitation and replacement is necessary and pays long-term dividends to the economy, public health and safety, and the environment. Inconsistent, inadequate, and untimely funding increases project construction and financing costs, as well as risk, including the failure of critical infrastructure. Existing federal, state and local programs to publicly finance water-related infrastructure projects are crucial, but insufficient to meet water quality and water resources management challenges related to future growth, including municipal, industrial, agricultural, environmental, and energy needs.

The federal government has a significant role to play in financing and cost-sharing for water-related infrastructure given federal economic and environmental objectives, federal tribal trust and treaty obligations, other past commitments, and federal regulatory mandates. Aging federal water infrastructure has deteriorated – due to underfunded and deferred maintenance, repair, and replacement needs – and in many cases has exceeded its useful lifespan, raising public health and safety issues, risking loss of life and threatening public and private property. Federal financial resources are limited and many authorized federal water infrastructure projects have not been started or remain incomplete for decades.

VI. THE WATER/ENERGY NEXUS IN THE WEST

The West enjoys diverse and abundant energy resources, including renewable and non-renewable resources, but water is scarce in much of the region and may or may not be sufficient for all proposed uses. Current law regarding receipts and expenditures from the Reclamation Fund recognize the importance of providing financial assistance to ensure adequate water is available in the West to meet its current and future needs, including water for energy needs.

Maintaining adequate and sustainable supplies of clean water and energy present interrelated challenges given a growing population, increasing water and energy demands, and an

uncertain climate subject to multi-year drought and other extremes. An integrated approach to water and energy resource planning, development, diversification, management and protection is necessary to achieve a thriving and sustainable future for the West.

The Western States Water Council supports collaboration and leadership at all government levels – federal, state, tribal, and local – as well as the private sector – to address the Nation’s infrastructure needs and establish water infrastructure improvements as a public policy priority. The Council supports appropriate federal investments in water-related infrastructure projects and programs that provide jobs and economic security, while protecting the environment.

The Administration and Congress should work together to ensure adequate, stable, and continuing federal appropriations for constructing, maintaining, and replacing critical federal water projects and to assist States and local governments as they address their water infrastructure needs.

The Council supports the creation and maintenance of dedicated water infrastructure funding through special accounts with dedicated receipts to be promptly appropriated for authorized purposes following their deposit, as well as a variety of grant, loan, credit enhancement and other financial incentive programs to help meet diverse needs at all scales.

The Council also supports a method of congressional budget scoring that considers the unique timing of the costs and benefits of water infrastructure investments, and accounts for long-term public health and safety, economic and environmental benefits, with fair and appropriate discounting.¹⁹

VII. CONCLUSION

In conclusion, the Western States Water Council would suggest the Congress carefully consider present and future needs for investment in water resources infrastructure, given existing financial resources, including appropriate infrastructure asset management and capital budgeting. It is vital that the West maintain sustainable, reliable and robust infrastructure systems necessary to deliver adequate supplies of clean water and energy to meet present and future needs. Further, the Congress should investigate the advantages of converting the Reclamation Fund from a special account into a true revolving trust fund with receipts promptly and fully appropriated for their intended purpose in the continuing conservation, development and wise use of western water resources and work with the states to meet their future water, energy and infrastructure needs.

NOTES

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- ¹ http://www.westernstateswater.org/wp-content/uploads/2014/01/Revised-Rules-of-Organization_2015_July_10.pdf. The purpose of the Western States Water Council shall be to accomplish effective cooperation among western states in matters relating to the planning, conservation, development, management, and protection of their water resources, in order to ensure that the West has an adequate, sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future.
- ² https://www.westernstateswater.org/wp-content/uploads/2012/10/408_WSWC-Position-on-the-Reclamation-Fund_2017Jun29.pdf
- ³ Congressional Research Service, *Federal Land Ownership: Overview and Data*, <https://fas.org/sgp/crs/misc/R42346.pdf>
- ⁴ <http://westgov.org/reports/state-of-energy-in-the-west>
- ⁵ Theodore Roosevelt, Seventh Annual Message to Congress, December 3, 1907. The Reclamation Service preceded today's U.S. Bureau of Reclamation.
- ⁶ Stern, Charles V., The Reclamation Fund: A Primer, Congressional Research Service, R41844, April 18, 2013.
- ⁷ <https://www.whitehouse.gov/wp-content/uploads/2018/02/int-fy2019.pdf>
- ⁸ Actual receipts were \$ 1.969 billion for FY 2016, compared to what was estimated to be \$1.475 billion.
- ⁹ Actual appropriations were \$996 million for FY 2016, and estimated appropriations were \$ 1 billion for FY 2017, and \$878 million for FY 2018.
- ¹⁰ In FY2018, the unobligated balance at the end of each fiscal year were respectively calculated or estimated to be \$15.133 billion in FY2016, \$15.608 billion in FY2017, and \$16.308 billion in FY2018.
- ¹¹ http://www.westernstateswater.org/wp-content/uploads/2012/10/408_WSWC-Position-on-the-Reclamation-Fund_2017Jun29.pdf
- ¹² <https://www.usbr.gov/newsroom/presskit/factsheet/detail.cfm?recordid=1>.
- ¹³ https://www.usbr.gov/budget/2019/FY_2019_Budget_Justifications.pdf, page 2.
- ¹⁴ Department of the Interior's Economic Report FY 2016.
- ¹⁵ FY_2019_President%u2019s_Budget_Stakeholders_Briefing.pptx; Slide 10.
- ¹⁶ Ibid, Slide 19.
- ¹⁷ Tax Foundation Fiscal Fact, No. 371, May 30, 2013.
- ¹⁸ WSWC Position #419 – Infrastructure; <http://www.westernstateswater.org/policies-2/>.
- ¹⁹ WSWC Position #420 – Integrating Water and Energy Planning and Policy; <http://www.westernstateswater.org>.