Statement of Estevan López, Commissioner
Bureau of Reclamation
U.S. Department of the Interior
before the
Committee on Natural Resources
Subcommittee on Water, Power and Oceans
U.S. House of Representatives
on
HR 2749, Dams Accountability, Maintenance, and Safety Act
June 25, 2015

Chairman Fleming and members of the Subcommittee, I am Estevan López, Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to provide the views of the Department of the Interior (Department) on HR 2749, the Dams Accountability, Maintenance, and Safety Act. HR 2749 amends the Reclamation Safety of Dams Act of 1978 (Public Law 98-404, as amended) to authorize construction of additional project benefits in conjunction with dam safety work, under certain conditions. The Department appreciates the active channel of communication with this bill's sponsors, and with amendments to address the concerns described below, the Department could support this bill.

Reclamation's inventory of 475 dams includes 366 classified as "high hazard" dams located at 246 water storage facilities across the 17 Reclamation states. The dam safety program helps to ensure the safety and reliability of these facilities. Approximately 50 percent of Reclamation's dams were built between 1900 and 1950, and approximately 90 percent of the dams were built before current state-of-the-art design and construction practices. Considering the age of Reclamation dams, the ongoing monitoring, facility reviews, analysis, investigations, and emergency management are critical components of the dam safety program. We are proud of our dam safety work, but we also realize we must never take safety for granted.

In its 113-year history, Reclamation has had one dam failure that resulted in loss of life and damage to property. Teton Dam failed in 1976 during initial filling due to a design and construction deficiency. After the Teton Dam disaster, Congress enacted the Reclamation Safety of Dams Act in 1978, Public Law 95-578, and Reclamation began its current dam safety program.

The original Safety of Dams (SOD) 1978 statute has been amended four times, beginning in 1984. In the first amendment, Public Law 98-404, Congress increased the authorization for appropriations by $650 million, as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes. Public Law 98-404 also instituted a 15 percent non-Federal repayment requirement for modifications made as a result of new hydrologic or seismic information or changes in the state-of-the-art technology. While considering other amendments to the Safety of Dams Act, it may be an appropriate time for the Congress to consider revisiting this non-Federal repayment requirement to ensure that project beneficiaries are paying an appropriate cost-share for improvements that will provide them, and the projects they benefit from, with significant benefit, primarily at the taxpayer's expense.

Public Law 106-377 in 2000 increased the ceiling another $95 million, and two years later, Public Law 107-117 added $32 million. The last amendment, Public Law 108-439, was enacted in 2004 and provided the current program ceiling of $1.417 billion. Approximately $400 million remains available under that ceiling. Apart from changes to the program's authorization ceiling, the 1984 amendments also directed Reclamation to submit to Congress, prior to taking corrective actions, a report on any modifications expected to exceed $750,000 in actual construction costs. Public Law 108-439 increased the amount to $1,250,000 (October 1, 2003, price levels).

In the last several years, dam safety improvements have been identified at two locations in particular where project beneficiaries are also interested in modifications that generate additional conservation storage capacity and project yield. Those locations are Scoggins Dam/Henry Hagg Lake, part of the Tualatin Project in Oregon, and B.F. Sisk Dam/San Luis Reservoir, a feature of the Central Valley Project (CVP) in California. At both facilities, Reclamation expects to complete Modification Reports within the next two to four years that will identify necessary dam safety modifications each in the range of $400 million to $500 million. And at both of those locations, non-federal stakeholders have indicated their interest in potentially combining forthcoming dam safety construction work with modifications to create additional conservation storage.

Under the current language in Section 3 of the Safety of Dams Act, Congress limits the ability to construct additional benefits in conjunction with dam safety work, stating, "Construction authorized by this Act shall be for purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs." This draws a bright line between the repayment provisions of dam safety work, which is usually 85 percent non-reimbursable, and traditional project additions, which would typically be 100% reimbursable, depending on the given project's purposes (i.e. water supply, flood control, fish and wildlife, power, etc.) and its particular statutory authorization.

HR 2749 authorizes the construction of additional project benefits provided they would enhance water management; comport with findings in an authorized Reclamation feasibility study; and be repaid consistent with Reclamation law. The Department sees merit in this proposal as a potential means to efficiently combine projects and maximize the benefit of existing facilities.

Reclamation has experience combining dam safety projects with other construction to achieve successful outcomes. One example is the Folsom Dam Joint Federal Project in California; a $962-million cooperative effort between Reclamation and the U.S. Army Corps of Engineers. This partnership addresses dam safety issues at Folsom Dam as well as flood damage reduction objectives in the Sacramento area. Reclamation and the Corps will be able to complete the dam safety modifications and improve the ability to more effectively manage floods through the Sacramento area in a more timely and cost effective manner than if performed as separate projects.

Another example exists at the previously mentioned Scoggins Dam near Portland, Oregon. At that location Reclamation is conducting its SOD process to evaluate seismic-related dam safety risks and potential corrective actions, while simultaneously working with a group of local

stakeholders to investigate the potential for a 12-foot raise of Scoggins Dam. The objective of this collaborative work is to determine if a water-storage project could be implemented in conjunction with SOD actions designed to address seismic risks. The joint efforts are coordinated through an Oversight Management Group, established to assure management-level input from the involved entities, and in accordance with a Memorandum of Agreement which defines task responsibilities. The dam raise studies are being conducted under existing water supply feasibility study authority (Section 215 of PL 108-137, Tualatin River Basin, OR), and under existing law, any construction involving additional benefits would require additional authority. The integration of Reclamation's dam safety modifications with the Tualatin Basin Water Supply Project may allow federal, state and local agencies to leverage their shared investments in order to ensure public safety; secure the region's primary water supply; and help meet the long-term water supply needs of the area.

Reclamation is aware of language similar to that of HR 2749 currently pending in Section 205 of the Senate version of the 2016 Energy and Water Development Appropriations bill (HR 2028) reported on May 21, 2015. In order for those provisions or this bill to be applied, Reclamation and the Department would evaluate the authorization of additional project benefits language from the perspective of preserving the effectiveness of the dam safety program, while also upholding the 'beneficiaries pay' principle that underlies Reclamation law. Any authorization should ensure that the beneficiaries of the non-safety-related project construction pay their full share of the costs as a condition of construction, i.e., that there be no repayment contract for that portion of the project.

It would also be important to assure, if HR 2028 or HR 2749 were to be enacted and its provisions utilized, that adequate appropriations authorization (i.e. "ceiling") specific to the additional benefits was available for the particular project where the new authority would be applied. Reclamation would need to certify this authority on a case-by-case basis in order to apply this new authority consistent with Congressional intent.

Appropriate construction cost allocation should also be acknowledged in any amendment to the Safety of Dams Act authorizing the construction of additional project benefits, and we would like to work with the sponsor of HR 2749 and this subcommittee to refine this language in view of this issue.

In summary, the Department appreciates the intent of HR 2749 to potentially combine large construction projects and achieve cost savings. We appreciate the active role of this subcommittee and Reps. Valadao and Costa in drafting this bill, and we stand ready to work with you to further refine the language.

This concludes my written statement. I would be glad to answer questions at the appropriate time. #