

**Statement of David Palumbo,
Deputy Commissioner,
U.S. Bureau of Reclamation
Before the
House Committee on Natural Resources,
Water, Wildlife, and Fisheries Subcommittee
On**

H.R. 7938, the Klamath Basin Water Agreement Support Act of 2024; H. R. 7872, the Colorado River Salinity Control Fix Act of 2024; H.R. 7776, the Help Hoover Dam Act; and H.R. 8263, the Rural Jobs and Hydropower Expansion Act.

May 22, 2024

Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, I am David Palumbo, Deputy Commissioner for the Bureau of Reclamation (Reclamation) within the Department of the Interior (Interior). Thank you for the opportunity to provide the Subcommittee an update on Reclamation's hydropower efforts and provide Interior's views on these four bills.

H.R. 7938, Klamath Basin Water Agreement Support Act of 2024

The Klamath Project is one of the oldest in Reclamation's entire portfolio, and we have been part of life in the Basin for more than a century. In more recent years, Reclamation and the Department of the Interior have worked closely with our federal and state partners, Klamath Basin Indian Tribes, farmers and ranchers, and other Basin stakeholders on several Klamath agreements to provide a more comprehensive solution for water, fisheries, and power issues in the Basin. These included the 2010 Klamath Hydroelectric Settlement Agreement (KHSA) and the Klamath Basin Restoration Agreement (KBRA).

When the KBRA expired in 2015 due to lack of federal legislation, the KHSA was amended and the Klamath Power and Facilities Agreement (KPFA) was executed with an intent to address, in part, the issues that remained unresolved after expiration of the KBRA.

H.R. 7938, as written, addresses certain commitments made within the KPFA. If enacted, the legislation would amend Section 4 of the Klamath Basin Water Supply Enhancement Act of 2000 (Enhancement Act, P.L. 106-498) to authorize the Secretary to plan, design, construct, operate, and maintain certain restoration projects in the Klamath Basin watershed, including: a) facilities to reduce fish entrainment, b) projects that reduce or avoid impacts on aquatic resources of facilities involved in the storage or diversion of water for irrigation, and c) projects that restore habitats in the Klamath Basin watershed.

The language would also authorize the Secretary to undertake certain studies (including feasibility studies) and improvements, and to enter into contracts, memoranda of understanding, cost-sharing agreements, and other appropriate agreements with State, Tribal, and local government agencies and private parties, all toward the goals of reducing or resolving the short- and long-term conflicts relating to Basin water and protecting the natural resources in the Basin watershed. The bill encourages collaboratively developed agreements to meet these goals.

Additionally, H.R. 7938 would direct the Secretary to implement the findings and recommendations documented in the report prepared pursuant to the 2018 amendments to the 2000 Enhancement Act,¹ to reduce power costs within the Basin, and to regularly report to Congress on progress and changes; it would also address replacement of the C Canal Flume and reimbursement of certain costs incurred for the operation and maintenance of Pumping Plant D by increasing the federal share of costs and reducing the amounts that would be reimbursable by the project beneficiaries. Unlike its Senate companion, S. 482, H.R. 7938 explicitly states that certain past and future costs not explicitly identified in the contracts between the Secretary and the Klamath Project contractor shall not be allocated to or considered for reimbursement by the contractor. Reclamation understands the intention of this language is to meet the commitments of the KHSA and KPFA to make certain additional activities for environmental protection non-reimbursable to the contractors. However, the effect of this language, as currently written, is not fully understood and may extend beyond the commitments within those agreements. Reclamation would like to work with the committee to better understand the intent of this section and provide technical edits to address Reclamation's concerns.

Importantly, H.R. 7938 would direct the Secretary to comply with the terms of the KPFA, including Attachment A. This would confirm that Link River Dam and Keno Dam would be operated consistent with existing contracts and historic practice and subject to applicable law, and direct that any construction, operation, maintenance, rehabilitation, betterment, or other costs associated with Link River Dam and the Keno facility be non-reimbursable by Klamath Project users. H.R. 7938, unlike S.482, explicitly states that no modification of Keno Dam infrastructure to modify current fish passage capability and no artificial action to introduce or reintroduce aquatic species above the dam shall occur until 90 days after the Secretary has certified to House Natural Resources and Senate Energy and Natural Resources that all State and Federal parties are in compliance with sections II.B.2.a and III.C. of the 2016 KPFA and section 1.9 of the KHSA. Reclamation remains committed to the KPFA and KHSA and continuing efforts to resolve the water, fisheries, lands, agriculture, refuges, and economic sustainability issues through coordination, dialogue, and consensus building among all of the parties. However, Reclamation would like to work with the committee to better understand the intent of this language and recommend amendments, as it may have unintended consequences and may not be feasible to implement.

Reclamation supports the intent of H.R. 7938, which would authorize the Department to undertake restoration activities and partner with States, Tribes, and local governments in efforts to address the Basin's water challenges in a collaborative manner. The activities described in the bill would provide additional certainty to water users and stakeholders throughout the Basin. Reclamation remains committed to the intent of the Klamath settlement agreements and is seeking pathways to fund its commitments with other appropriated dollars.

H.R. 7872, Colorado River Salinity Control Fix Act of 2024

¹ P.L. 115-270, Title IV, Subtitle C, Section 4308.

The Colorado River and its tributaries provide municipal and industrial water to more than 40 million people across seven U.S. states, 30 Tribal reservations, and two states in Mexico. The river provides irrigation water to 5.5 million acres of land in the United States and 500,000 acres in Mexico. The threat of salinity is a major concern in both the United States and Mexico. High salinity levels in the Colorado River water reduce agricultural production and add significant treatment and maintenance costs to municipal and industrial water users. Reclamation participates in the Colorado River Basin Salinity Control Program which includes U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS), the Bureau of Land Management, the U.S. Geological Survey, the Environmental Protection Agency, and the 7 Colorado River Basin states. Reclamation also works with hundreds of local agencies, organizations, and companies. The Program has existed for 50 years and has spent approximately \$1 billion in Federal funding, Basin states cost share dollars, and cost sharing by program participants which include farmers, Tribes, other water users, and canal companies. The Program has reduced annual salt loading into the Colorado River by 1.33 million tons per year and reduced quantifiable damages by approximately \$300 million per year.

The Colorado River Basin Salinity Control Act of 1974 (Salinity Control Act, P.L. 93-320) and amendments thereto authorizes and supports salinity control projects and research across the American West through Reclamation's Basin-wide and Basin States Programs, and NRCS's Environmental Quality Incentives Program. These programs provide aid to farmers and canal companies who utilize salinity control measures to improve water quality for downstream users. The Salinity Control Act allocated specific non-federal cost sharing amounts from hydropower revenues based on historic levels of hydropower generation within the Colorado River Basin. However, since then, the Colorado River has experienced historic and ongoing multi-decade drought conditions that have reduced hydropower generation and created an imbalance between the obligations of the program and the costs payable through hydropower.

For these reasons, when funding is appropriated for salinity control through either Reclamation or NRCS programs, and the Salinity Control Act requires up-front cost sharing at fixed amounts from hydropower generation revenues, hydropower revenue availability limits the amount of salinity control. The Colorado River Salinity Control Fix Act would seek to address this challenge by reducing the cost-share percentages from hydropower revenues and increasing the federal non-reimbursable costs for these salinity control programs across the Colorado River Basin.

H.R. 7872 would also modify specific requirements applicable to salinity control units. The Act acknowledges the federal obligation concerning the Colorado River as a waterway spanning states and for maintaining harmony with Mexico on an international level, as well as the Federal ownership of the land in the Colorado River Basin.

Reclamation supports the intent of this legislation.

H.R. 7776, Help Hoover Dam Act

Hoover Dam is one of the iconic landmarks in the American West and a testament to our country's ability to construct monolithic projects in the midst of adverse economic conditions. However, the operations and maintenance needs of critical aging infrastructure like Hoover are significant.

H.R. 7776 authorizes the Secretary of the Interior to utilize funds that have been or will be recovered on a non-reimbursable basis. Since 2000, these funds have been collected from Boulder Canyon Project (BCP) Contractors as part of the hydropower rate of the facility for the unfunded costs of employee retirement benefits and consist of Health Insurance Benefits (FEHB), Life Insurance Benefits (FEGLI), and Civil Service Retirement System (CSRS)/Federal Employee Retirement System (FERS) pensions. However, these Post-retirement Benefit (PRB) funds are unable to and not needed to be used for their intended purpose and have been collecting within a unique account, separate from the BCP operating funds.

At present, Reclamation does not have the authority to spend these funds. Reclamation currently holds approximately \$46 million of this funding as available budget, with approximately \$2 million collected additionally per year, in a non-interest-bearing account. H.R. 7776 would grant the Secretary of the Interior the flexibility to utilize these funds recovered from the Boulder Canyon Project for various essential purposes without the requirement for reimbursement. These funds can support ongoing operations, maintenance, and necessary upgrades within the Boulder Canyon Project at Hoover Dam, ensuring the continued functionality and efficiency of the infrastructure. Additionally, they can be allocated towards investigative and cleanup actions, addressing any environmental concerns or remediation efforts necessary to preserve the surrounding ecosystem and community well-being.

Over the next five years, current estimates are that Hoover Dam will require \$110 million in major plant investment over and above routine operation and maintenance, and another \$117 million over the subsequent six years. These costs are the responsibility of BCP Contractors and will be included within future hydropower rates. However, the \$46 million in funding that has already been collected by BCP Contractors could be used to stabilize future hydropower rates that are already facing increased pressure due to drought conditions on the Colorado River without deferring important major plant investments.

Federal employees receive their defined retirement benefits under the Federal Employees' Retirement System (FERS) or the Civil Service Retirement System (CSRS). Employer and employee contributions deposited in the Civil Service Retirement and Disability Fund finance future retirement benefits. These benefits are administered by the Office of Personnel Management. If enacted, Reclamation would utilize the approximately \$46 million in funding already collected from the BCP Contractors to address operations, maintenance, and necessary upgrades within the BCP. Reclamation would use this funding over time, in coordination with the BCP Contractors, to avoid the deferral of important plant investments and consequent additions to the backlog of maintenance and repair, and to help stabilize hydropower rates at the BCP.

Reclamation supports the intent of this legislation as it helps maintain critical infrastructure, helps stabilize hydropower rates, and allows for the use of funding that currently cannot be accessed.

H.R. 8263, Rural Jobs and Hydropower Expansion Act

Reclamation is the second largest producer of hydropower in the country. Reclamation owns and operates 53 hydroelectric plants, comprising over 14.7 megawatts of installed capacity. Each year on average, Reclamation plants generate 40,000 megawatt-hours of electricity (equivalent to the demand of 3.5 million homes). Reclamation's hydropower program supports Administration and Department clean energy and climate change initiatives by increasing hydropower capabilities and value, and facilitating incremental, low-carbon energy generation on Reclamation projects. In administering Reclamation's hydropower program, Reclamation always seeks opportunities to maintain and enhance the value of Reclamation power resources and improve program effectiveness and reliability.

A lease of power privilege (LOPP) is a contractual right issued by Reclamation to a non-federal entity to use a Reclamation project site for hydroelectric power generation consistent with Reclamation project purposes. Reclamation supports non-federal hydropower development on Reclamation projects, as it allows for additional hydropower generation and utility of existing federal infrastructure. A LOPP project must not impair the efficiency of Reclamation-generated power or water deliveries, impact the structural integrity of the Reclamation project, jeopardize public safety, further negatively impact imperiled species, or negatively affect any other Reclamation project purpose.

At present, both Reclamation and the Federal Energy Regulatory Commission (FERC) are authorized to permit the use of Reclamation project sites to non-federal entities for the purposes of hydropower development – Reclamation via a LOPP and FERC via a License. The two agencies have entered into Memorandum of Understanding (MOU) agreements to define jurisdictional boundaries, roles, and responsibilities. Per the MOUs, unless otherwise specified in law, the two agencies administer a site-specific jurisdictional determination process for projects proposed on Reclamation project sites.

H.R. 8263 builds on past, successful bipartisan efforts to streamline the permitting process, spurring additional, non-federal hydropower development on Reclamation projects. As written, H.R. 8263 would amend the Reclamation Project Act of 1939 to explicitly expand LOPP authorities across all Reclamation project sites, not just conduits as described in the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act (P.L. 113-24), and offer further streamlining opportunities for our operating partners and beneficiaries.

The act would allow any existing FERC authorization to be renewed and remain active under FERC. If and when the FERC authorization becomes inactive, site jurisdiction would shift to Reclamation.

Reclamation supports the intent of the legislation to streamline the permitting process.