

**Statement of Michael Brain,
Principal Deputy Assistant Secretary for Water and Science,
Department of the Interior
Before the
U.S. Senate Committee on Energy and Natural Resources,
Subcommittee on Water and Power
to examine drought impacts on drinking water access and water availability.
September 20, 2023**

Chair Wyden, Ranking Member Risch, and members of the Subcommittee, I am Michael Brain, Principal Deputy Assistant Secretary for Water and Science within the Department of the Interior. Thank you for the opportunity to provide the Subcommittee an update on the Bureau of Reclamation's (Reclamation) activities to mitigate the impact of drought across the west and improve drinking water access and availability.

Access to reliable and clean drinking water is an essential human need that is critical to the public health, well-being, educational attainment, and economic development of all communities in the United States. Over the last decade the West has experienced successive and compounding years of dry hydrology, interspersed by short periods of high precipitation and extreme weather events. The changing climate in the West is expected to reduce water availability due to drought and climatic stresses.

Reclamation advances its mission by addressing drought resilience, water security, climate change adaptation, and ecosystem health. Reclamation focuses its efforts to tackle the challenges of water access for underserved communities across the west through investments in Tribal water rights settlements, the Native American Affairs technical assistance program, rural drinking water projects, and investments in specific projects for underserved communities through programs such as WaterSMART. Reclamation is committed to investing public dollars equitably, including through the Justice40 Initiative, a Biden-Harris Administration, government-wide effort toward a goal that 40 percent of the overall benefits from certain Federal investments in climate, clean energy, and other areas reach disadvantaged communities that are marginalized and overburdened by pollution and underinvestment.

To support this mission, over the last several years, Reclamation has significantly increased funding for the Native American Affairs Program – from approximately \$12-13 million in annual funding prior to FY2021 to a request of \$35.5 million in FY 2024 – to improve Reclamation's capacity to work with and support Tribes in the resolution of their water rights claims and increase opportunities for Tribes to develop, manage and protect their water and related resources.

In addition, the Bipartisan Infrastructure Law (P.L. 117-58) (BIL) and Inflation Reduction Act (P.L. 117-169) (IRA) provided substantial funding to help Reclamation advance the Reclamation mission. Combined, these laws represent the largest investments in climate resilience in the nation's history and provide unprecedented resources to support the Administration's comprehensive, government-wide approach to make western communities more resilient to drought and climate change. For Reclamation, this includes a \$13 billion total investment in

western water infrastructure as well as a share in executing the \$2.5 billion for authorized water rights settlement projects. These additional resources made available by Congress have significantly increased Reclamation's efforts to mitigate for drought while advancing substantial investments to increase water access for underserved communities.

Inflation Reduction Act Drought Implementation

The IRA included significant funding for Reclamation to prepare for a changing west by developing and implementing short- and long-term solutions to address and mitigate drought, with particular focus on the Colorado River Basin. Over the last year, the Department has engaged with all the Colorado River Basin parties, including the seven Basin States and the Colorado River Tribes, to promote a collaborative plan to protect critical elevations at Lake Powell and Lake Mead. The funding from the IRA has provided Reclamation with significant resources for system conservation and investment in long-term solutions to improve drought mitigation and resiliency with consideration for disadvantaged communities.

We are also closely monitoring the need for drought mitigation in regions throughout the entire west. This includes, among other basins, persistent droughts in the Rio Grande Basin, the Deschutes Basin, the Central Valley of California, as well as the Klamath Basin. Reclamation recently sought and received input from stakeholders on recommended criteria and potential projects for regions with comparable levels of long-term drought. We will keep the Subcommittee informed regarding progress.

Section 50231 of the IRA provided \$550 million specifically to tackle the issue of water access for disadvantaged communities – allowing for Reclamation to provide funding for planning, design, or construction of water projects to provide domestic water supplies to communities or households that don't have reliable access to domestic water supplies. The funding provided under Section 50231 provides a unique authority and opportunity for Reclamation – while Reclamation's analogous authorities generally require a cost share and/or repayment, this section allows us to provide up to 100 percent of the cost of the planning, design, or construction of water projects. Reclamation expects this flexibility to significantly benefit communities that do not have reliable access to domestic water supplies and may require additional funding assistance. Since enactment, Reclamation has worked with Tribes and stakeholders across the west to understand how to best implement this funding and ensure that the federal investment delivers benefits to disadvantaged communities.

In early May, Reclamation announced \$5.5 million for the four U.S. Territories with funding from Section 50231, and this summer, posted two WaterSMART funding opportunities that provide funding for the planning, design, and construction of water supply systems for communities or households that don't have reliable access to domestic water supplies. This included the WaterSMART Planning and Project Design Grants and the WaterSMART Drought Resiliency Projects. Typically, WaterSMART would require a 50% non-federal cost-share for these types of activities; therefore, the addition of IRA related activities into WaterSMART allows Reclamation to support potential applications that could otherwise not meet the 50% non-federal cost-share.

Reclamation is in the process of developing the program for the majority of the Section 50231 IRA funding. Reclamation is pursuing a whole of government approach and seeking opportunities to collaborate with other federal and state agencies. Reclamation expects to share additional updates before the end of the calendar year.

Finally, Reclamation is also moving forward with implementation of the remaining two sections of the IRA, including Section 50232 to provide \$25 million for projects to cover water conveyance facilities with solar panels, and Section 80004 to provide \$12.5 million for emergency drought relief for Tribes impacted by operations of a Reclamation water project. These additional authorities provide Reclamation with new and exciting opportunities to consider and address challenges across the west. Reclamation is developing both programs for these sections and expects to announce additional details soon.

Bipartisan Infrastructure Law Implementation

In the two years since Reclamation has been charged with implementation of the BIL, our focus has been on using the historic investments in water infrastructure in an effective and efficient way while ensuring it has tangible impacts in the communities we serve. Due to the strength of our partnerships and the hard work of Reclamation's dedicated staff, we have allocated \$2.7 billion of BIL funding to 370 projects across more than 12 program areas and sub-categories identified in the law, and in all 17 western states as well as Hawaii and Puerto Rico. The BIL made substantial investments in designated programs, including significant funding for programs that directly address mitigating drought and increasing water access.

This has included significant progress for rural drinking water projects. To date, Reclamation has announced approximately \$700 million to accelerate construction of water treatment plants and intakes, supporting work related to pipeline connections, pump systems, and reservoir construction, and advancing other efforts to provide potable water to rural and Tribal communities, with some projects being brought to completion over the next five years. This includes more than \$77 million for projects across North Dakota, including Tribal construction programs and non-Tribal projects such as the Northwest Area Water Supply Project which—after decades of planning and analysis—will be able to make significant progress to address long-standing water supply and quality programs for 81,000 residents in North Dakota as authorized by the Garrison Diversion Reformulation Act (P.L. 89-108).

Further, the BIL includes significant investments to increase water storage capacity and conveyance to deliver reliable and safe drinking water to build resiliency for communities most impacted by drought. To date, Reclamation has allocated \$362 million from BIL for specific surface and groundwater storage projects in Arizona, California, Colorado, Montana and Washington state. This includes \$60 million for the Sites Reservoir Project to construct off stream storage of up to 1.5 million acre-feet of water in the Sacramento River system located in the Coast range mountains west of Maxwell, California. It further includes \$160 million for the Arkansas Valley Conduit to facilitate the conveyance and delivery of a safe, long-term water supply to an estimated 50,000 people in 40 rural communities along the Arkansas River. These allocations occurred in fiscal years 2022 and 2023, with additional BIL water storage allocations planned as we move through the rest of BIL implementation.

BIL has also enabled Reclamation to develop and initiate four brand new programs: Large-scale Water Recycling Projects; Small Surface Water and Groundwater Storage Projects; the Aquatic Ecosystem Restoration Program (originally authorized in 2020 but majority funded through BIL); and Multi-Benefit Projects for Watershed Health (being implemented through the WaterSMART Program). Collectively, these programs and the resources BIL provides have and will further enable Reclamation to expand the water reliability and environmental restoration benefits of the modern Reclamation mission to more communities across the west.

Indian water rights settlements are one of the many areas in which the Department and Reclamation are working to uphold the federal government's trust responsibilities to Tribes. These settlements help ensure that Tribal Nations have safe and reliable water supplies that provide the foundation for future economic development. Investments in Indian water rights settlements lead to real change on the ground for Tribal communities. To date, the Biden-Harris Administration has invested more than \$2.8 billion towards Indian water rights settlements. This includes more than \$2.2 billion from the Indian Water Right Settlement Completion Fund (Completion Fund) enacted under the BIL. Over \$600 million from the Completion Fund has been allocated to help fulfill Reclamation obligations under existing Indian Water Rights Settlements.

In addition to the Completion Fund, Fiscal Year 2024 represents the fifth year of availability of funding from the Reclamation Water Settlements Fund, which provides \$120 million in annual mandatory authority for Indian water rights settlements. Additionally, funding made available by previous mandatory authorities, such as that authorized in the Claims Resolution Act, remains available for settlement implementation.

Building upon investments in the BIL, the Biden-Harris Administration recently transmitted a proposal to the Senate and House for \$250 million annually in mandatory funding over 10 years to expand the Indian Water Rights Settlement Completion Fund to cover the costs of enacted and future water rights settlements and \$34 million annually in mandatory funding over 10 years for ongoing costs including operations and maintenance costs associated with enacted water settlements managed by the Bureau of Reclamation. These annual requirements are associated with the Ak Chin Indian Water Rights Settlement Project, the Animas-La Plata Project (Colorado Ute Settlement), the Columbia and Snake River Salmon Recovery Project (Nez Perce Settlement), and the Navajo-Gallup Water Supply Project. Providing a stable, dedicated funding source for Indian water rights settlements helps to ensure these commitments are honored and Tribal communities have safe, reliable water supplies to support public and environmental health and economic opportunity.

Conclusion

The Department appreciates the opportunity that Congress has entrusted to enact the IRA and BIL to mitigate for the effects of drought and improve water access. We look forward to continuing our work with Tribes, States, irrigation districts, and the Subcommittee to ensure these investments are provided in an effective, efficient way while also taking care to be responsible stewards of taxpayer funds. Thank you for the opportunity to provide testimony on this important issue. This concludes my written statement.