

**Statement of Brenda Burman, Commissioner
Bureau of Reclamation
U.S. Department of the Interior**

**before the Committee on Energy and Natural Resources
Subcommittee on Water and Power
U.S. Senate**

on

**S. 1932, the Drought Resiliency and Water Supply Infrastructure Act,
S. 2044, the Water Supply Infrastructure Rehabilitation and Utilization Act,
S. 1570, the Aquifer Recharge Flexibility Act**

July 18, 2019

Chairman McSally, Ranking Member Cortez Masto, and members of the Subcommittee, I am Brenda Burman, Commissioner for the Bureau of Reclamation within the Department of the Interior (Interior). Thank you for the opportunity to provide Interior's views on S. 1932, the Drought Resiliency and Water Supply Infrastructure Act, S. 2044, the Water Supply Infrastructure Rehabilitation and Utilization Act, and S. 1570, the Aquifer Recharge Flexibility Act.

Reclamation's dams and reservoirs, water conveyance systems, and power generating facilities are integral components of the Nation's infrastructure. This infrastructure is key to Reclamation's continued success. Approximately 50 percent of Reclamation's dams were built between 1900 and 1950, and approximately 90 percent of the dams were built before adoption of currently used, state-of-the-art design and construction practices. Effectively managing the modernization of this infrastructure and the benefits that these structures provide is among the significant challenges facing Reclamation in the next several years. The reliability, safety, efficiency, and cost effectiveness of Reclamation's infrastructure to ensure water deliveries and power generation is a high priority. Our FY 2020 budget proposed increases in funding for extraordinary maintenance, including dam safety, to modernize infrastructure. We appreciate that the bill sponsors are working to improve western water reliability.

S. 1932, the Drought Resiliency and Water Supply Infrastructure Act

The Department supports the goals of S. 1932 that build upon the progress of the Water Infrastructure Improvements for the Nation ("WIIN") Act (Pub. L 114-322). We would like the opportunity to continue working with the committee on improvements to key sections of the bill that we believe would clarify and streamline implementation. WIIN contains other operational authorities currently in use, and we would like to work with the committee on the full scope of WIIN amendments.

Water Storage

Section 3 of the Drought Resiliency and Water Supply Infrastructure Act would replace section 4007 of the WIIN Act. Overall, this section is similar to the WIIN Act section 4007, but it also makes some clarifying changes. The applicability is expanded to be more inclusive of different

types of non-Federal partners by defining “non-Federal entities” to include tribes, water users’ associations, inter-state agencies, and joint-powers’ authorities. Storage project definitions are expanded to include conveyance facilities. Subsection (b) establishes a grant program; paragraph (b)(1) appears to allow for grants to be provided to a non-Federal entity to construct a federally-owned facility.

Paragraph (d)(2) of S. 1932 includes specific provisions for Federal participation in State-led studies and design, which is a helpful clarification, because the WIIN Act did not fully address these scenarios. Paragraph (d)(6)(B) requires the Secretary to publish guidelines for non-Federal storage projects that are consistent with Title XVI Feasibility Studies; Title XVI is a well-established program. Subsection (f) expands on the definition of Federal benefits to include operational flexibility, where it would optimize achievement of other authorized project purposes. Paragraph (g)(3) authorizes the Secretary to continue funding projects that have already been approved by Congress, which would allow for greater program flexibility and could help avoid work stoppages due to variations in appropriations act timing. Paragraph (g)(5) would allow for a continuous transition from the WIIN Act for eligible projects.

Water Recycling and Reuse

Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (P.L. 102-575) would provide authority for Reclamation’s water reclamation and reuse program. The WIIN Act amended Title XVI in 2016 to provide a path for new water reclamation and reuse projects to compete for program funding. Section 4 of S. 1932 would increase the program-wide amount of funding that may be appropriated for Title XVI projects that are eligible under the WIIN Act amendments from \$50 million to \$100 million and would increase the maximum per-project amount of Federal funding that all Title XVI projects can receive from \$20 million to \$30 million. While some adjustment for inflation may be appropriate, the program remains successful at the current project-specific ceiling of \$20 million. Section 4 would also streamline the process of awarding funding to projects that had been selected through the competitive process in previous years.

The WIIN Act also amended the Water Desalination Act of 1996, giving Reclamation the authority to provide funding for the planning, design, and construction of ocean and brackish water desalination facilities. Reclamation released its first funding opportunity for these projects in fiscal year 2018. Section 5 of this Act would authorize \$60 million to be appropriated for the period of fiscal years 2020 through 2024, in addition to the \$30 million authorized under the WIIN Act amendments for eligible desalination projects. This would increase the total amount of appropriations for eligible desalination projects to \$90 million and would allow Reclamation to offer additional funding opportunities for these projects through 2024.

Reclamation Infrastructure Finance and Innovation Pilot Program

S. 1932 would provide Reclamation with the authority to establish a pilot loan program similar to the Environmental Protection Agency (EPA) Water Infrastructure Finance and Innovation Act (WIFIA) program. The bill would also require compliance with the 2018 Water Resource Development Act (Public Law No: 115-270), which directs the EPA to enter into an agreement with Reclamation to provide assistance in administering and servicing any Federal credit

instruments Reclamation is authorized to make available. Section 6 would provide Reclamation with authority and funding for such a credit instrument.

Reclamation has not yet completed the agreement referenced in P.L. 115-270. The forthcoming work with EPA on that agreement will help inform a final Departmental position on Section 6 of S. 1932.

Restoration and Environmental Compliance

Section 7 of S. 1932 would authorize the Secretary to participate in environmental restoration activities benefiting Federally listed species adversely affected by Reclamation project operations; environmental compliance activities achieving the purpose of the project or fulfilling Reclamation responsibilities under Section 7 of the Endangered Species Act; and forest, meadow or watershed restoration activities on Federal land. The third category expands Reclamation's existing environmental restoration authorities. Currently Reclamation works with partner agencies via cooperative agreements and other methods to address issues outside of Reclamation's existing authorities and therefore do not believe this expanded authority is necessary.

Section 7(a)(B)(i) describes the proportion of Federal funding in relation to the total cost of the project and leaves discretion to the Secretary to develop a methodology.

Deauthorization and Offsets

Section 8 of S. 1932 would establish a process for deauthorizing Title XVI projects that have not sought Federal funding and are not being implemented by the project sponsor. Reclamation believes this section would achieve the objective of deauthorizing inactive projects but would appreciate the opportunity to work with the committee on technical edits to the bill that could streamline this process.

Section 9 of S. 1932 repeals Section 4011 of the WIIN Act, replacing subsections (a) through (d) concerning conversion of water service contracts to repayment contracts and prepayment of repayment obligations and eliminating subsection (e), which created the Reclamation Water Storage Account to be funded out of prepayment receipts. Section 9 would make permanent contract conversion and prepayment authorities set to expire in 2021 under the WIIN Act, without substantive revision. It repeals provisions related to the funding of the Reclamation Water Storage Account, which would have committed prepayment receipts to WIIN Act section 4007 storage projects, through appropriations, and recognizes these receipts as offsets more generally against the appropriations funding the activities authorized under the bill.

Reclamation would like to continue working with the Committee on edits to the bill that could clarify a few areas and help to ensure the intent of the bill can be fully achieved.

S. 2044, Water Supply Infrastructure Rehabilitation and Utilization Act

The Department supports the intent of S. 2044 to address Reclamation's aging infrastructure. We applaud this bipartisan effort to assist the Bureau in making major updates and replacements. We have stated on the record that it is our priority to make investments in modernizing our

infrastructure, and this bill would advance our mutual goal. We would appreciate the opportunity to continue working with the Committee on improvements to the bill that we believe would clarify and improve implementation.

Aging Infrastructure Account

Section 2 of S.2044 amends Section 9603 of Public Law 111-11 (43 U.S.C. 510b) to create a new extraordinary maintenance (XM) account (account) to fund eligible XM projects at transferred works. The account would be funded with appropriations under Section 9605 of P.L. 111-11 and through project beneficiaries' repayment of Federal expenditures from it. It would fund non-emergency XM only, leaving emergency XM projects to be funded as they are currently funded under P.L. 111-11, through continuing Section 9605 appropriations outside the account. The bill sets forth various conditions and processes for using the account, including an annual application process and annual reports to specified Congressional Committees on the eligible projects, some key details of their evaluations, and the Secretary's recommendations regarding repayment periods. Based on our analysis of Section of S. 2044, expenditures out the newly created account would still be subject to appropriations, and project beneficiaries' repayments of XM would incur interest, consistent with existing Reclamation law and policy.

Appropriations for the Reclamation Safety of Dams Act

This section would provide an increase to the appropriations ceiling for the Reclamation Safety of Dams Program. Raising the dam safety authorization ceiling would assure that Reclamation can continue to meet crucial dam safety needs across the West. Dam safety projects are vital to sustaining the benefits Reclamation projects provide and enable Reclamation to incorporate new information as relevant knowledge and technology change.

Flood Control Rule Curves Pilot

Section 4 of the Water Supply Infrastructure Rehabilitation and Utilization Act would authorize Interior to establish a pilot project within the Bureau of Reclamation to review flood control rule curves. In general, Reclamation could implement the pilot project as proposed in the legislation. However, clarifying the role of the Secretary of the Army and the Army Corps of Engineers (USACE) in approving changes to flood control rule curves may help ensure effective implementation.

The considerations described in section 4 for assessing potential changes to flood rule curves are consistent with approaches currently being implemented by Reclamation. For example, Reclamation recently completed five reservoir operations pilot studies using improved forecasting and hydrologic information to assess opportunities to better meet water demands. Reclamation also is implementing the October 2018 "Presidential Memorandum on Promoting the Reliable Supply and Delivery of Water in the West", specifically Section 3: Improve Forecasts of Water Availability, and is engaged with Federal and non-Federal partners on several forecasting applications in California.

S. 1570, the Aquifer Recharge Flexibility Act

S. 1570, the Aquifer Recharge Flexibility Act, seeks to improve aquifer levels across western states by expanding the ability for aquifer recharge through federal lands and facilities.

In Idaho, Reclamation has been working with the state and water users on efforts to stabilize the Eastern Snake Plains Aquifer (ESPA) and reduce conflict over groundwater withdrawals. This comes on top of the ESPA Comprehensive Aquifer Management Plan, adopted by the Idaho legislature in 2009, which sets forth strategies to stabilize the aquifer, including a managed recharge. Reclamation has been assisting with these efforts while still meeting obligations to the Minidoka Project contractors and listed fish species.

In Idaho, and many other locations, aquifer recharge could require the use of Federal property, sometimes after a lengthy wait for congressional authorization. Reclamation provided technical assistance on this legislation, and we believe its new authorities will help reduce delays in using appropriate federal lands to recharge local aquifers. We would like to work with the committee and bill sponsors to clear up ambiguities and avoid unintended consequences.

Conclusion

Thank you for the opportunity to provide the Department's views on these pieces of legislation. We look forward to continuing our work with the sponsors and the Committee on these bills.