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Testimony on “Water for Our Future and Job Creation: Examining Regulatory and Bureaucratic Barriers to New Storage Projects”
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Thank you Chairman McClintock, Ranking Member Napolitano, and Members of the Subcommittee; it is a pleasure to appear before you this morning. My name is Thaddeus Bettner, and I am the General Manager of the Glenn-Colusa Irrigation District (GCID), the largest irrigation district in the Sacramento Valley and the third largest irrigation district in the State of California. GCID covers approximately 175,000 acres in Glenn and Colusa Counties, and is located about 80 miles north of Sacramento. Our district contains a diverse working landscape including a variety of crops such as rice tomatoes, almonds, walnuts, orchards, vine seeds, cotton, alfalfa, and irrigated pasture. Just as important, we convey water to three Federal wildlife refuges totaling more than 20,000 acres, and also deliver water to more than 50,000 acres of seasonally flooded wetlands. GCID is a Sacramento River Settlement Contractor and diverts water directly from the Sacramento River through the largest flat plate fish screen in the world. GCID’s Settlement Contract was first entered into in 1964 and it resolved disputes with the United States related to the seniority of GCID’s rights over those of the United States and, in fact, allowed the US Bureau of Reclamation (Reclamation) to obtain water rights from the State Water Resources Control Board for the Central Valley Project. GCID’s water rights originated with a filing in 1883 for 500,000 miner’s inches under 4 inches of pressure, one of the earliest and largest water rights on the Sacramento River. Other Sacramento River Settlement contracts were also entered into among water right holders on the Sacramento River and Reclamation.

Notwithstanding the seniority of our water rights on the Sacramento River, securing new storage is critically important to GCID, Sacramento Valley water users and the state as a whole. In this context, I want to focus on three issues: (1) why we need additional storage in the Sacramento Valley; (2) our experience working to advance Sites Reservoir, an up to 1.8 million acre-foot capacity offstream north-of-the-Delta reservoir; and, (3) going forward, how the federal government can help advance new storage projects.

The Importance of Storage

New storage is vitally important to GCID and all of Northern California because the federal Central Valley Project (CVP), which our water diversions are intertwined with, and the State Water Project have both lost water supply yield and operational flexibility. That yield and flexibility has eroded over time due to increased contractual obligations and increased water demands to meet the needs of endangered species and the state and federal refuge system.

We do not need much in the way of additional water supplies in the Sacramento Valley, but without new storage, the pressure on our existing water supplies will continue to grow. The State’s population continues to increase and the reallocation of water to environmental uses is expanding. This reality continues to play itself out, especially given that no new investments in

the development of additional water supply or storage have occurred. For water users north of the Delta, in the area of origin, the ever-increasing demand for water, coupled with no new storage, represents a threat to the vitality of irrigated agriculture in the Sacramento Valley, our local environment including the protection of the Pacific Flyway, and our groundwater system which sustains our rivers, creeks and streams. A strong agricultural sector and healthy environment depend heavily upon a certainty of water supply. Disrupt that certainty, allow the strain on existing water supplies to persist, and investments in agriculture will not be as readily forthcoming. That lack of investment translates into a dim future for agriculture and continued instability in water supplies, which will threaten the economic health of the state as a whole.

The Sites Experience

The North-of-the-Delta Offstream Storage (NODOS) investigation is a feasibility study being carried out by the California Department of Water Resources (DWR) and Reclamation, in partnership with local interests. The study emanates out of the CALFED Bay-Delta Program's Programmatic Environmental Impact Statement/Report Record of Decision. One of the alternatives under consideration includes three configurations of a dam and reservoir located about 10 miles west of the town of Maxwell, California, and otherwise referred to as Sites Reservoir.

Since Fiscal Year 2002, Reclamation has spent approximately \$12.7 million on the Sites feasibility study alone and DWR has spent many millions more. Unfortunately, despite this effort and the many promised benefits that would result from the Sites project, we still find ourselves in a place where it is difficult to clearly articulate the benefits of the project, the costs, and how the project will be funded. The funding to date has allowed the agencies to complete a number of important reports, such as a project scoping report produced in 2002, an Initial Alternatives Information Report completed in 2006 and a Plan Formulation Report finalized in 2008. The agencies are scheduled to release a draft Environmental Impact Statement/Environmental Impact Report (EIR/EIS) under the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) and a draft Feasibility Report in the summer of this year, if the Administration approves the administrative draft in a timely fashion. However, the scheduled completion date for the final EIR/EIS and Feasibility Report is another year away, with a scheduled Record of Decision being issued by the end of 2013. We are hopeful that these dates can be met, but they will depend on funding to complete the work and the political will to make key decisions, at both the federal and state levels.

While part of the delay is certainly due to the complexities associated with multiple state and federal agencies being involved in the project, other delays are attributable to shifting environmental requirements. For example, delays in completing the Sites project environmental review process are attributable in part to changes in operational conditions described in the Central Valley Project Operations Criteria and Plans (OCAP) Biological Opinions (BOs) in 2004/2005 and then again based upon a Biological Opinion from U.S. Fish and Wildlife Service regarding the Delta Smelt issued in 2008. In both instances, DWR and Reclamation had to go back and remodel the project, based on the revised BOs. As Reclamation's Mid-Pacific Regional Office noted in a letter to "Interested Parties" in May 2009, "Changes are continuing so rapidly that our studies and reports are not keeping pace."

This new information did not, in fact, change the fundamentals of the project. The fundamentals of the project remained sound, but the process stalled, in spite of the best efforts of Reclamation and DWR, further increasing costs and further delaying the availability of the many benefits a Sites Reservoir will provide.

Growing concerns about the delays and costs associated with the Sites project as well as the need for a local voice, led to the formation, in August of 2010, of the Sites Project Joint Powers Authority (Sites JPA). The Sites JPA, which includes Glenn County, Colusa County, Reclamation District 108, Glenn-Colusa Irrigation District, the Tehama-Colusa Canal Authority, Maxwell Irrigation District and Yolo County Flood Control and Water Conservation District, was formed with the stated purpose of establishing a public entity to design, acquire, manage and operate Sites Reservoir and related facilities to improve the operation of the state's water system. The Project would also provide improvements in ecosystem and water quality conditions in the Sacramento River system and in the Bay-Delta, as well as provide flood control and other benefits to a large area of the State of California. The formation of local JPA's was included as a key provision in the 2009 California Water Package Water Bond legislation for the purposes of pursuing storage projects that could be eligible for up to 50% of project funding for public benefits.

As the Sites JPA began working with Reclamation and DWR, the JPA took a common sense approach. The JPA worked with Reclamation and DWR to put together what we refer to as *Foundational Formulation Principles*. In other words, first identifying the needs of the water operations system and then designing the project that would meet those needs. We conceived a project that would be integrated with the system we already have, but one that would also operate effectively regardless of future operational changes, such as conveyance to south-of-Delta exporters. The JPA wanted to maximize the benefits associated with our existing infrastructure, and provide as much benefit as possible to both the existing state and federal water projects at the lowest feasible cost.

We approached the Sites project with the goal of making the best possible use of limited resources, and in the end, we believe we have identified a project that is both affordable and will provide significant benefits. It maximizes ecosystem benefits consistent with the State water bond, which states that at least 50 percent of the public benefit objectives must be ecosystem improvements. Other benefits include water supply reliability, water quality improvements, flexible hydropower generation, recreation and flood damage reduction. In short, we approached the Sites project with the goal of generating water for the environment while improving statewide water reliability and regional sustainability in Northern California, and we believe we have achieved that goal.

One of the greatest environmental benefits of the project is a greatly expanded cold water pool that would be created in upstream reservoirs. Flow modifications to manage river temperatures, habitat conditions and flow stability would be greatly enhanced with a constructed Sites Reservoir.

A 1.8 million acre foot capacity Sites Reservoir, for example, would generate an average annual yield of 400,000 to 640,000-acre feet, in dry and critical years, and in addition would provide nearly 900,000 acre feet of additional storage in Shasta, Oroville, Folsom and Trinity Lakes during the operationally important months of May through September through the system integration and operation.

Our experience with the Sites project has revealed at least three bureaucratic and regulatory challenges. First, the environmental review process that Reclamation is forced to deal with through existing federal law does not support the common sense approach that the JPA has attempted to pursue on the Sites project. Under NEPA, a great deal of time and money is expended on studies and analysis of multiple inferior alternatives to the original purpose and need statement, only to use the EIS process to eliminate these lesser alternatives and arrive back at the project that you originally proposed as the solution with the greatest benefit for the dollars expended.

In the case of the Sites project, Reclamation and DWR initially investigated and considered 52 alternative reservoir sites before identifying Sites Reservoir as the preferred location for an offstream, north-of-Delta storage reservoir. That iterative screening process was completed in 2008, yet some have recently suggested that even that process was carried out too quickly and perhaps the agencies should have taken even more time to examine still other sites before narrowing the list to three separate storage configurations at the Sites location. Ironically, the three configurations being evaluated today in the EIR/EIS are very similar to the project originally envisioned in the 1960's.

Second, although the Sites project would provide significant benefits in any operational environment, the environmental review process does not accommodate the real-world requirement that any new water supply project be flexible in, and responsive to, a constantly evolving regulatory environment. As noted above, any changes to the operating criteria for the federal and state water projects resulted in a requirement to develop new models to reflect those changes, when, in fact, the Sites project benefits remained constant regardless of the new demands for environmental water.

Finally, under NEPA, the costs of alternatives are not considered until after the environmental review documents are completed. In our view that is just not a practical way to develop a project. In the case of water supply, you can end up with a project that no one can afford, sacrificing any opportunity for even incremental storage benefits. The process must consider project costs, both the total costs and how the project is going to be paid for, earlier in the process.

Recommendations for Advancing New Water Storage Projects

Reduce Regulatory and Bureaucratic Barriers

In his 2011 State of the Union Address, and again in August 2011, President Obama called for further steps to enhance the efficient and effective permitting and environmental review of infrastructure development “through such strategies as integrating planning and environmental

reviews; coordinating multi-agency or multi-governmental reviews and approvals to run concurrently; setting clear schedules for completing steps in the environmental review and permitting process; and utilizing information technologies to inform the public about the progress of environmental reviews as well as the progress of Federal permitting and review processes.”

All of these are worthy goals, but in water resources development, at least in California, there is little evidence that these goals are actively being implemented and turned into new practices.

Our experience with the Sites project suggests the following steps to reduce regulator and bureaucratic barriers are worthy of consideration:

1. ***Statutory Directives.***—Adopt statutory directives for all relevant departments and agencies to work with the states and local water supply agencies to make it a priority to improve the efficiency of the regulatory and permitting processes associated with water supply projects. Attitudes are important in the agencies, and even without mandatory deadlines, statutory directives would encourage the agencies to make it a priority to streamline the environmental review process.
2. ***Statutory Deadlines.***—Establish statutory deadlines where appropriate for the completion of the environmental review process. For example, federal agencies should expeditiously review and approve administrative drafts that then can be publicly released as a draft Environmental Impact Statement (EIS). Once a draft EIS is released, the agencies should be required to establish a timeframe within which the EIS and even a Record of Decision will be finalized.
3. ***Greater Coordination.***—Require all federal agencies with a role in preparing and reviewing NEPA documents for water storage or water resources projects to coordinate their reviews concurrent with one another. Earlier and better coordination is essential to resolving conflicting standards and avoiding unnecessary project delays.
4. ***Alternatives Analysis.***—Agencies with a role in the environmental review process for new water supply projects should be required to develop a simpler approach to alternatives analysis. Streamlining this process can save money and time without sacrificing the legitimate need to thoroughly explore project alternatives or project sites that will cause the least negative environmental impact.
5. ***Costs.***—NEPA should permit project costs to be considered in an open fashion, before the environmental review process is complete. Currently, Reclamation relies upon Feasibility Studies to examine the costs and allocation of benefits. We need to make certain that the projects that make it through the environmental review process have beneficiaries, public and private, that can afford to pay for them.
6. ***Federal Role.***—Lead federal agencies should determine their role in a project as soon as practicable. In water storage projects, as with other major infrastructure projects, there is growing interest in public-private partnerships and non-federal water supply

development, in general, that may rely upon a combination of public dollars, private equity, government-backed financing and the like. If Reclamation is a customer for the benefits of a project rather than the developer of the project that should also create an opportunity to further streamline the regulatory and environmental review processes.

7. **Budgeting.**—Regulatory and environmental streamlining means that more funding resources may be needed upfront to enable agencies to accelerate the review process and establish realistic schedules. Our experience with Sites suggests that Reclamation’s relatively modest budget requests over the years for the Sites study process, at a minimum, did not permit the study to proceed on an optimum schedule. This does not mean the agencies need to spend more overall, however. Limited funds should be prioritized to support completing the study and review process in a timely fashion.

Innovative Financing – Water Infrastructure Finance and Innovation Act (WIFIA)

Finally, Congress should explore methods of highly leveraging limited federal funding in order to increase its impact and, in effect, do more with less. Although federal funding for water infrastructure projects is already leveraged in the form of local matching requirements for federal grants, this leverage can be increased by developing innovative, market-based financing tools that provide significant financial savings for localities while shifting the bulk of financial risk from the taxpayer to the private sector.

Specifically, Congress should authorize Reclamation to provide access to long-term, low interest credit assistance modeled after the highly successful Transportation Infrastructure Finance and Innovation Act (TIFIA) program, which has been operated by the Department of Transportation (DOT) since 1998. Under TIFIA, the federal government helps finance large-scale and costly infrastructure projects by leveraging each dollar of federal funding into \$10 of credit assistance and \$30 of infrastructure investments. The \$122 million authorized for TIFIA, the level authorized in the last transportation reauthorization bill, has allowed the program to provide \$1.22 billion in credit assistance and help finance \$3.66 billion in transportation infrastructure improvements annually.

The program provides eligible applicants with access to long-term, up to 40-year, financing at low interest rates. Currently, the TIFIA interest rate is 3.14 percent for a 35-year repayment period (the program provides for a five-year window after substantial completion of a project where no repayment is required). On large projects, like the Sites project, which is currently estimated to cost \$3.2 billion, every saved tenth of an interest point would translate to millions of dollars in local savings.

Under TIFIA, projects are selected by DOT for funding based upon the extent to which they generate economic benefits, leverage private capital, and promote innovative technologies, among other objectives. Projects do not need to be congressionally authorized to be eligible for TIFIA financing, however, under current law, TIFIA financing is limited to no more than 33 percent of total project costs. Efforts are underway to raise this ceiling to 49 percent of total project costs, and that is something that we would support in any similar WIFIA program authorization.

The TIFIA credit program offers three separate forms of financing for eligible transportation projects. The program can offer direct loans that offer flexible repayment terms to cover construction and capital costs of a project. TIFIA can also provide loan guarantees to enable institutional investors, such as pension funds, to make loans to the project sponsor. Finally, TIFIA can offer lines of credit to projects to represent contingent sources of financing, in the form of direct federal loans, to supplement project revenues and make it easier for the project to attract financing from the private sector.

Finally, I would simply note that TIFIA enjoys strong, bipartisan support and it is noteworthy that both the House and Senate versions of the transportation reauthorization bill, including the bill that was released last week by Chairman John Mica, recommends increasing the annual TIFIA authorization level from \$122 million to \$1 billion annually. Both bills similarly recommend raising the ceiling on TIFIA-eligible financing to 49 percent of total project costs. This will allow the program to provide \$10 billion annually in long-term, low cost credit assistance.

Again, a water infrastructure version of TIFIA would greatly benefit a wide variety of large-scale water supply projects, like Sites, and I encourage the Committee to give any such proposal careful consideration.

Thank you for the opportunity to testify. I look forward to answering any questions you may have.