

Committee on Resources

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**Statement of John W. Keys, III, Commissioner
Bureau of Reclamation
U.S. Department of the Interior**

on H.R. 4893 To Authorize Additional Appropriations for
the Reclamation Safety of Dams Act of 1978

before the
Committee on Resources, Subcommittee on Water and Power
U.S. House of Representatives
September 9, 2004

Mr. Chairman, I am John W. Keys, III, Commissioner of the Bureau of Reclamation. Thank you for the opportunity to provide the Department's views on H.R. 4893, a bill to increase the authorized cost ceiling for the Reclamation Safety of Dams Act (administered by the Bureau of Reclamation's Dam Safety Program) by \$540 million, and adjust the reporting threshold for inflation. The Administration strongly supports this bill and commends Chairman Calvert and Mrs. Napolitano for their leadership on it.

BACKGROUND

Reclamation's top priorities are to deliver water to and generate power for its customers without disruption, while protecting public safety. Public Laws 95-578 and 98-404, along with Federal Guidelines for Dam Safety and the Department manual, guide Reclamation's dam safety efforts.

There are 369 high hazard dams and dikes located at 250 water projects in Reclamation's inventory. 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 100 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 event Reclamation instituted a dam safety program. Congress enacted the Reclamation Safety of Dams Act in 1978 (Public Law 95-578) to preserve the structural safety of Reclamation dams and facilities. In 1984, Congress adopted amendments (P.L. 98-404) instituting a 15 percent non-Federal cost share requirement for modifications made as a result of new hydrologic or seismic information or changes in the state-of-the-art technology. Public Law 95-578 authorized \$100 million and Public Law 98-404 increased the authorized cost ceiling an additional \$650 million, indexed for inflation.

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. In Fiscal Years 2001 and 2002, Congress adopted amendments to increase the authorized cost ceiling by \$95 million (P.L. 106 377) and by \$32 million (P.L. 107 117) respectively.

Since the passage of the Reclamation Safety of Dams Act of 1978, the Bureau of Reclamation has developed a model dam safety program to implement the Federal Guidelines for Dam Safety and to modify dams in accordance with the Act. In 1996, an independent review team comprised of representatives from the Association of Dam Safety Officials assessed the Department of the Interior's Dam Safety Program. It was the first outside review of Reclamation's program in two decades. In 1997, the team released a comprehensive and independent report finding that the Bureau of Reclamation has "an effective Dam Safety Program" overseen by "highly competent" staff using "state-of-the-art technical standards and expertise."

Reclamation's ability to respond to dam safety issues and to take preventative, corrective actions to reduce the public risks under the authority of the Reclamation Safety of Dams Act was a critical component of this favorable peer review.

The team made a number of recommendations in Reclamation's program, and we have taken steps to implement them. Among them, we now have an officer who audits and oversees the dam safety program, but is independent of program staff. Outside experts annually review Reclamation's dam safety activities to ensure that the program has adequate policies and procedures in place to address public safety issues. Recognizing the importance of our relationships with the end users of the water and power from Reclamation projects, we have formalized requirements for communicating the need for modifications in a timely fashion. The policy and directives also require the development of a plan in cooperation with our water and power contractors to assure continued communication and involvement during the development of alternatives, selection of a preferred alternative, and implementation of the actions required to reduce risk.

With approximately \$133.2 million remaining in budget authority for the dam safety program as of September 1, 2004, we anticipate that commitments on new and ongoing dam safety projects will reach the currently authorized ceiling during fiscal year 2005.

However, the nature of the program does not afford the luxury of being able to schedule outlays as precisely as we can in other programs. Sometimes the need for corrective action presents itself with little notice. When sudden unexpected performance of a dam requires a modification to reduce risk, Reclamation must act quickly to protect the project and the downstream public.

One example of such successful immediate action is the emergency work we performed in 2003 at Bull Lake Dam in Wyoming. We discovered voids beneath the spillway that required immediate attention in order to allow for continued operation of the dam and reservoir. Working closely with local project beneficiaries we were able to quickly identify and implement an interim solution to reduce risk to the public without curtailing service to water users. In this particular case the consensus solution involved Reclamation contracting with the water district itself to perform temporary repairs for the spillway while Reclamation could investigate a long-term solution. Without the Safety of Dams program authority, I do not think we could have completed the investigation and repairs prior to the Spring run-off. The quick response meant the reservoir was ready to store critically needed run-off water for beneficial use later in 2003.

EFFECT OF H.R. 4893

H.R. 4893 would make three key changes in the existing program. First, it would increase by \$540 million (indexed for inflation) the authorized cost ceiling for the Reclamation Safety of Dams Act. Reclamation anticipates that this funding level will provide Reclamation with authority to carry out safety of dams activities through approximately Fiscal Years 2012 – 2014, based on current projected funding needs for safety of dams modifications. If annual obligations are required at a faster rate to meet identified needs, the ceiling would be expended sooner.

Second, the bill would increase from \$750,000 to \$1.25 million the contract cost threshold amount for the Bureau of Reclamation to send a safety of dams modification report to Congress for review. This change would adjust the threshold for inflation since 1984, and thus allow Reclamation to independently initiate the modifications of the size and scope contemplated in the 1984 amendments.

And third, the bill would codify opportunities for project beneficiaries to be consulted on dam safety improvements, particularly ones that could affect their reimbursement costs. Building upon the current Reclamation policy and directives for consultation with project beneficiaries described above, Reclamation would be required by statute to:

- consider cost containment measures recommended by a project beneficiary;
- provide project beneficiaries with detailed reports on costs of the project and regular reports on the status of modifications;
- describe for project beneficiaries the need for any modifications; and
- summarize the projects' administrative and legal requirements.

Reclamation would be further required to respond in writing to any recommendations by project beneficiaries, and to include these responses in reports to Congress required by the underlying Safety of Dams law.

The Secretary of the Interior could waive these requirements only if they could have an adverse impact on dam safety or security.

CONCLUSION

Since 1978, when Congress first created the Safety of Dams program, we have carried out 64 risk reduction corrective actions and four more are currently underway. Reclamation has implemented these corrective actions to protect public safety at the lowest feasible cost.

H.R. 4893 would provide the additional budget authority for this effort to continue into the future. While the Administration supports increasing the appropriations ceiling, we will continue to evaluate this program for potential changes to improve planning and operations, better serve the taxpayer by clearly delineating between dam safety modifications and other infrastructure improvements, and protect the safety of the people and businesses that rely on the soundness and integrity of Reclamation facilities.

Meanwhile, we believe the provisions providing for project beneficiary consultation provide an appropriate opportunity for project beneficiaries to voice any concerns or suggestions they may have with regard to proposed modifications without compromising the Department's ability to ensure dam safety and security.

In conclusion, Mr. Chairman, the Administration strongly supports H.R. 4893, and I would be pleased to answer any questions from the Subcommittee.