

**Statement of Michael L. Connor, Commissioner
Bureau of Reclamation
U.S. Department of the Interior
Before the
Committee on Natural Resources
Subcommittee on Water & Power
U.S. House of Representatives
on
HR 4225
February 4, 2010**

Madam Chairwoman and members of the subcommittee, I am Mike Connor, Commissioner of the Bureau of Reclamation. I am pleased to provide the views of the Department of the Interior (Department) on HR 4225.

The Department recognizes that the current drought in California is severe, and is manifesting itself with dire consequences for working families, farming communities, the environment, the coastal fishing industry, municipal water supplies, and others. At least four other Western states are also dealing with varying levels of drought as we move into 2010. The purpose of this legislation is to help jumpstart projects that are aimed at mitigating the impacts of drought in California and throughout the 17 Western states. We support efforts to address the serious drought conditions but have several concerns regarding this legislation. We would like to work with the subcommittee and the sponsors of this legislation to develop provisions to address these concerns.

First, Section 1(a) of HR 4225 establishes authority for the redirection of funds already appropriated under the American Recovery and Reinvestment Act (ARRA). As of the end of calendar 2009, approximately \$524 million of the \$950 million appropriated to the Bureau of Reclamation (Reclamation) had been obligated to Reclamation ARRA projects. The ARRA was enacted with the intent to manage and expend funds as quickly as possible so as to preserve and create jobs and promote economic recovery. The Department followed this directive and has been pursuing “shovel-ready”¹ ARRA projects since 2009. In California alone, Reclamation supported the distribution of over \$400 million in funds into the economy, with obligation of the majority of those funds expected by April 1 of 2010. A structured approach is being used to disseminate these funds, and we do not expect any additional ARRA funds to be made available in the time frame of this legislation.

The Administration has concerns with efforts to redirect ARRA funds to projects other than those identified through the prioritization and screening process already employed by the implementing agencies, and explicitly delegated to them in the ARRA. For this reason, we recommend that references to the ARRA of 2009 be deleted from the bill.

¹ Reclamation has defined “shovel ready” as those projects which have completed, or are very near to completing environmental compliance under the National Environmental Policy Act, design, rights-of-way access and other processes under applicable state and Federal laws.

Second, the Administration believes it is important to retain the integration and commitment of non-federal investment in water related projects. The authority provided in this bill could be used to eliminate otherwise applicable cost-sharing requirements, thus placing additional funding responsibilities for water resource projects on the Federal government. The vast majority of Reclamation projects have been authorized by Congress with some form of non-Federal cost share or reimbursement provisions, and with consideration for such policy goals as fiscal restraint, appropriate cost-benefit analysis, and economic self-sufficiency inherent in the individual project authorizations. Over the years when this bill is in effect, the Federal government could lose revenue, depending on the directives in subsequent appropriations laws. Accordingly, even if the financial relief suggested in the bill is afforded, it would still be appropriate from a policy perspective to require repayment of the non-federal share in a 2-5 year period.

Third, the language of HR 4225 as introduced may result in conflicts with the language of Central Valley Project Improvement Act (CVPIA) Section 3406(b)(21) which limits the Secretary's share of costs associated with fish screen projects to no more than 50 percent of the total cost of any activity. It does not appear that the proposed legislation is amending or waiving this limitation. Furthermore, it is unclear how we would treat these funds in determining total cost-share responsibilities under CVPIA between the Federal government and the State of California.

Finally, the language of HR 4225, particularly section 1(c)(2), appears to be narrowly tailored to the needs of a few specific activities in the Central Valley Project (CVP), using CVP-specific procedures and authorities, yet the bill is written to be applicable not only CVP-wide, but Reclamation-wide. This would cause significant ambiguities in the interpretation and implementation of the legislation, both for Reclamation and our contractors and customers.

The language of HR 4225 requires that a criteria be developed for drought assistance adjustments (federal funds used to meet non-federal cost-share requirements) to be repaid using "existing practices for adjustments in water service and repayment rates." These existing practices for rate adjustments are a unique aspect of the CVP financial arrangement. We are concerned that this language would likely result in unintended consequences relating to the recovery of federal funds used for the non-federal cost share for entities other than CVP water contractors, including the State of California and non-federal partners in other Reclamation regions.

While some of these concerns may be addressed through the Departmental criteria drafting process, we would prefer to work with the Subcommittee and the bill's sponsor to amend and clarify the legislative language before it moves forward to the full House of Representatives. While we applaud the goal of mitigating the impacts of drought, we need to devise tools to accomplish these goals that provide clarity for Reclamation and Reclamation's partners with respect to cost-share requirements. Legislation allowing changes in non-federal cost-sharing requirements may also result in fewer overall projects being funded as Reclamation's ability to leverage non-federal funds is reduced.

Madam Chairwoman, this concludes my written statement. I am happy to answer any questions the subcommittee may have.