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Written Testimony

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Committee on Resources

Subcommittee on Water and Power

Securing the Bureau of Reclamation's Water and Power Infrastructure

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Chairman Radanovich and Members of the Subcommittee:

My name is Russ Harrington, and I am the finance director for the Central Valley Project Water Association. The Central Valley Project (CVP) Water Association represents the interest of approximately 300 agricultural and municipal and industrial districts that have water service contracts with the CVP in California.

The CVP is the nation's largest Bureau of Reclamation project. Our membership covers a geographic region of 450 miles from Redding in the north to Bakersfield in the south, and includes several municipalities to the east and south of the San Francisco Bay. Each year, these districts utilize CVP water supplies to meet the needs of 3 million acres of farm land (comprising 1/3 of the total agricultural land in California) and 1 million households. The CVP Water Association works to preserve and protect CVP water supplies and ensure that these water supplies are dependable and affordable.

On behalf of the CVP Water Association, I would like to thank the committee for the opportunity to present our viewpoint. Because my knowledge and background regarding this issue are concentrated in the financial aspects of the CVP and Reclamation, I will confine my comments to the financial implications of the Site Security costs. Ultimately, it is our hope that an equitable solution to the site security issue can be reached that will not excessively burden any stakeholder group.

Observations and Concerns

The purpose of the proposed incremental Site Security cost measures is the protection of the general public, which includes numerous other entities beyond the Water and Power Contractors (Contractors) of the Bureau of Reclamation. No additional capacity for water supply, power generation, flood control, or any other authorized Reclamation project purpose is created by any of these measures. Protecting against foreign (or domestic) attack is one of the primary obligations of the Federal Government, and national defense is the specific responsibility of the Federal Government. As such, we believe that the Federal Government should accept its constitutionally-mandated obligation and bear the primary cost burden for its responsibility.

The various authorizing legislations for different components of the CVP and other Reclamation facilities clearly distinguishes between expenditures that are for the purposes of Water Supply or Power Generation and expenditures that are for general public benefits such as Flood Control and Navigation. It is long recognized within Reclamation Law that expenditures for which the general public is the beneficiary should be assessed to the general public and not to Contractors. As an expenditure on behalf of the general public, it is reasonable that Site Security costs should be accredited similar non-reimbursability status. Moreover, Contractors already pay a share of national defense costs through their personal and business income taxes. Billing these Contractors a specific share of these costs again through the water and power rates forces them to pay twice for these costs.

The CVP Contractors are concerned about the recent trend in proposed changes to the reimbursability criteria for the security cost budget. As the Subcommittee is aware, the current year marks the first instance in which a portion of the

security costs are specifically allocated for repayment by Contractors. From 2002 through 2004, all of the incremental security costs were non-reimbursable. In 2005, the Administration requested that the guards and patrols portion of the Site Security costs be made fully reimbursable. However, Congress declined this request pending the completion of a report pertaining to these costs by the Bureau of Reclamation. For 2006, Congress agreed to the Administration's request to make a portion of these costs reimbursable. However, Congress limited the reimbursability of these guards and patrol costs by providing a \$10 million ceiling on the costs that would be subject to reimbursability.

While \$10 million has been allocated among the Reclamation projects in the current year, the Administration has again requested that the full costs of the guards and patrols component of these costs be subject to Contractor reimbursability in 2007. Reclamation's Security Cost report issued in May 2006 projected the guards and patrols portion of the Site Security costs at \$20.9 million in 2006. Unless the guards and patrols costs budget will decline from 2006 to 2007, allocating all guards and patrol costs to Contractors would create a year-over-year cost increase to Contractors of slightly more than 100%.

Contractors have additional concerns regarding the Facility Fortification, or "capital hardening" costs, which were outlined in this report. Reclamation indicated that there are no current plans to charge Contractors for the original Facility Fortification costs. However, Reclamation has also taken the position that the operations, maintenance, and replacement costs for these Facility Fortifications will be reimbursable. On a de facto basis, the impact of this decision would be to convert the capital hardening costs from non-reimbursable to reimbursable status as the original equipment and facilities are used and eventually replaced.

Reclamation has also raised the possibility that additional Site Security costs may be needed in the future, and that these incremental costs may be added to the Contractors' repayment responsibility. Contractors have been informed that Reclamation may increase the level of security requirements and expenditures due to unforeseen circumstances. Specific details were not provided, but no limits on the potential increases were defined. The possibility of limitless security cost increases is a significant concern to Contractors. While Contractors may be required to pay an increasing share of these costs, it is worth noting again that Contractors are given very little information regarding the activities that these expenditures are funding. Contractors readily acknowledge that there are legitimate national security concerns that prevent release of classified security information to the general public. At the same time, we believe that it is reasonable for Contractors to be given an indication of the security measures that they are financing.

Recommendations for Consideration

For the reasons that have been noted in this document, the CVP Water Association maintains that a decision to declare the majority of the security costs reimbursable would not be equitable. We recommend that the following alternatives be considered:

1. It is appropriate for the Federal Government to finance in full its obligation for National Defense. It is not any more appropriate to charge Contractors for this Federal Government responsibility than it is to charge the cities of New York or Washington DC for the security enhancements accorded these areas. Throughout the history of Reclamation, the authorizing legislations have repeatedly and clearly established the precedent that costs benefiting the general public should be non-reimbursable. We do not see any justification for deviating from that precedent here, and believe that full non-reimbursability is warranted.
1. The reimbursability criteria offered through a Position Statement from the Colorado River Energy Distributors Association (CREDA) regarding Security Costs represents another viable alternative. This alternative would permanently establish the \$10 million reimbursability level that was determined by Congress to be appropriate during the 2006 Fiscal Year. The CVP Water Association supports the principles regarding the Site Security costs that have been assembled by CREDA.
1. As another alternative for determining reimbursability, Contractors suggest that the reimbursability allocations that have been legislated for the Bureau of Reclamation's Safety of Dams program can also be used as the basis for allocating these Site Security Costs. There are several significant parallels in both scope and purpose between the Site Security and Safety of Dams programs. As is the case with the security costs, the Safety of Dams program exists for the sole purpose of public safety. The Safety of Dams program is prohibited from creating new benefits such as water supply, power generation, or flood control, which is also the case with the incremental security measures. The Safety of Dams program authorizes activities to prevent seismic, hydrologic, and structural damage to Reclamation dams. The security costs have also been incurred for the purpose of preventing structural damage to Reclamation Dams as well as selected other facilities. Within the Safety of Dams program, the cost share that is subject to reimbursability by Contractors is 15%. This 15% reimbursability level represents a Congressionally established, pre-existing standard for other public safety costs such as Site Security. We believe that the reimbursability guidelines of the Safety of Dams program offer a reasonable precedent for determining the reimbursable level for Site Security costs.

Contractors should also be given the opportunity to obtain more detailed information on the activities that are being funded with these Site Security expenditures. We understand that these activities cannot be divulged to the general public. At the same time, we believe that Contractors have a right to a reasonable description and justification of the activities that they are asked to help fund. We don't want to propose specific suggestions for providing Contractors with information prior to a review of the need to maintain the confidentiality of specific security measures. We would appreciate the support of this committee in asking Reclamation and other appropriate Federal Agencies to determine appropriate methods for providing more comprehensive activity/cost information regarding these Site Security costs to Contractors.

Conclusion

In closing, I would like to reassert that it is inequitable to assess Contractors for a disproportionate share of a national security activity, which is undertaken for the benefit of general public safety. We do not believe that it is appropriate to bill Contractors a predominant share of the cost for an activity that does not increase the amount or quality of water or power deliveries, and which Contractors already pay through their business and personal federal income taxes. This is particularly true in circumstances where Contractors are not given a detailed accounting of the activities and facilities that are supported with this funding. If Contractors are to be allocated a portion of these Site Security costs, then Contractors should be given better information regarding the activities toward which they are contributing their payments.

In the event that Congress is unwilling to make these costs fully non-reimbursable, the CVP Water Association proposes that the reimbursability for the Site Security costs be determined along either the guidelines established by CREDA or the same guidelines as that utilized in the Safety of Dams program. The CREDA proposal is based on an extension of the reimbursability standard that Congress determined to be appropriate for the current year. As an alternative to the CREDA proposal, pre-established and equitable cost share standards for public safety costs -- such as the Site Security costs -- already exist within the Safety of Dams program.

Again, thank you for providing the CVP Water Association with the opportunity to testify today. I would be more than happy to answer any questions that you may have.