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Committee on Resources  
Subcommittee on Water and Power

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Good Morning, Chairman Radanovich and Members of the Subcommittee:

My name is Lynn Hurley. I am a Senior Project Manager for the Santa Clara Valley Water District (District) and a vice-chair of the Central Valley Project Water Association Financial Affairs Committee.

Santa Clara Valley Water District is responsible for water supply, flood protection, and watershed management in Santa Clara County, California. The District encompasses the county's 1,300 square miles, serving 15 cities, 1.7 million residents, and the vital high-tech industrial area known as "Silicon Valley." The District depends on the Central Valley Project (CVP) for approximately 25% of its water supply.

The Central Valley Project (CVP) Water Association represents the interests of approximately 300 water districts, which have contracts for agricultural, municipal and industrial water service from the Central Valley Project. The CVP is the nation's largest Bureau of Reclamation project. It 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 districts utilize CVP water supplies to meet the needs of three million acres of farm land (comprising 1/3 of the total agricultural land in California) and one million households. The CVP Water Association works to preserve and protect CVP water supplies and ensure that these water supplies are dependable and affordable.

I am very pleased to testify today in support of H.R. \_\_\_ (Radanovich) legislation amending the *Reclamation Safety of Dams Act of 1978*. This amendment would allocate costs of post September 11, 2001 incremental Site Security costs using the same guidelines as utilized in the Safety of Dams program.

On behalf of the CVP Water Association, I would like to thank the subcommittee for the opportunity to present our viewpoint. I am confident that our position is an accurate reflection of the majority of the CVP community. We have been encouraged by the proceedings during the June 22 nd Site Security Testimony before the House Resources Subcommittee and subsequent activities. We are optimistic that these activities will conclude in an equitable implementation of the Site Security program that provides for the continuing full utilization of these facilities with manageable costs.

#### Rationale

A safe, secure water supply is an essential public need. Post-September 11 th Site Security protects public water supplies, and the increased costs provide a public benefit.

We believe that an allocation of Site Security costs based on the Safety of Dams legislation is appropriate because it recognizes that the primary responsibility for public security is the Federal Government. At the same time, this allocation acknowledges that Contractors are one of several parties that are direct beneficiaries of these facilities and as such should be responsible for these costs through Reclamation's existing ratesetting policy.

Some of the primary reasons supporting our proposed allocation are reiterated as follows:

- Protecting against foreign (or domestic) attack is one of the primary obligations of the Federal Government, and national defense is the constitutionally-required responsibility of the Federal Government.
- The various authorizing legislations for different components of the CVP and other Reclamation facilities clearly distinguish 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 -- such as Flood Control, Navigation, Recreation, and Safety of Dams -- should be assessed primarily to the general public as opposed to

- assigning a disproportionate share to Contractors. Site Security for Reclamation facilities is the same type of expenditure.
- Both the Safety of Dams and Site Security programs are for the explicit purpose of preventing structural damage to Reclamation facilities.
- No additional capacity for Water Supply, Power Generation, Flood Control, or any other authorized Reclamation project purpose is created by any of these measures.

## Observations and Concerns

Included in the June 22 nd Site Security testimony before this subcommittee was the suggestion that the Site Security costs could equitably be allocated based on guidelines established within the Safety of Dams program. At the conclusion of this hearing, the subcommittee requested that organizations represented by the testimony participants provide draft language for a legislated solution. Direction was provided that this solution should be straight-forward and defensible. In response to this request, the representative organizations drafted legislation which incorporates the Site Security costs as a component of the Safety of Dams program. The CVP Water Association has participated in the drafting of this legislation, and we support its implementation.

During the June 22 nd testimony, the Bureau of Reclamation's Deputy Commissioner was asked to provide any reasons of which he was aware that the Site Security costs could not be allocated using the criteria utilized for the Safety of Dams program. The only response to this question provided during the testimony was that the Safety of Dams program was a program for capital costs. We share the subcommittee's opinion that this issue can be resolved, and believed that the legislation drafted subsequent to this testimony successfully addresses this issue. During the months following the hearing, Reclamation has not brought to our attention any other potential concerns regarding the allocation of these costs along the Safety of Dams program guidelines. In the absence of any such concerns, we believe that Reclamation should support this proposed allocation.

One of the issues that would be resolved with the draft legislation pertains to the repayment of Safety of Dams costs for CVP Contractors, which would include the Site Security costs if this draft legislation were enacted. Within the CVP, water rates and repayment are based upon ratesetting policies that were subject to a thorough review process before ratification by the Secretary of the Interior. However, Reclamation has now raised the possibility that it might circumvent these ratified policies in the recovery of the Safety of Dams costs. The enacted legislation specifically directs Reclamation to honor the ratified ratesetting policies in the collection of these costs.

One of the primary benefits of incorporating the Site Security costs into the Safety of Dams program is that recently enacted Safety of Dams legislation provides for increased oversight of the Safety of Dams program. During the June 22 nd hearing, the subcommittee expressed explicit concern with the lack of Congressional oversight regarding this program. Testimony from the Contractors' representatives echoed these concerns.

Current legislation instructs Reclamation to provide written explanation of the need for any modifications, summarized administrative and legal requirements that justify the modification, and the opportunity for the stakeholders to participate in the planning process. The prepared draft legislation provides for additional oversight of Site Security activities by several Congressional subcommittees.

## Recommendations for Consideration

The CVP Water Association believes that the proposed legislative amendment to the Safety of Dams program to include Site Security costs represents an equitable resolution to the issue of allocating these costs. In addition, we believe that this legislation will resolve outstanding concerns that this subcommittee has held regarding lack of Congressional oversight. Because of this, we are willing to assist in the enactment of this language in whatever manner we are able.

If for unseen reasons the drafted legislation is not enacted during the current year, we still support the stated position of the subcommittee that legislation is necessary to prescribe the dollar amounts that Reclamation is allowed to collect from Contractors. If necessary, we would like to see the \$10 million limit on reimbursability from 2006 extended into the 2007 fiscal year as a temporary measure. This would give Congress and Contractors more time in which to pursue the long-term solution of incorporating the Site Security costs into the Safety of Dams program.

## Conclusion

Safety of Dams and Site Security both provide the necessary public benefit of a safe and secure water supply. This draft legislation makes the cost allocation and Contractor repayment process of the two programs consistent. Over the last twenty years, the trend has been that Water and Power Contractors are paying ever increasing costs for ever dwindling

resource supplies. It is encouraging to our constituents to see Congress intervene in a situation where Contractors are forced to bear a disproportionate share of the Site Security costs. We are optimistic that the drafted legislation will be enacted during the current Congressional session. If this does not occur, we would appreciate your enactment in extending last year's \$10 million maximum on reimbursability for one more year. Either way, we would like to thank the subcommittee for its continued interest in this issue.

Again, thank you for providing the CVP Water Association with the opportunity to testify today. I would gladly respond to any questions or comments that you might have.