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Testimony Before the Subcommittee on Water and Power
Committee on Natural Resources
United States House of Representatives

Legislative Hearing
On H.R. 4419
"Bureau of Reclamation and Bureau of Indian Affairs Water Project Streamlining Act"

November 30, 2017

Chairman Lamborn, Ranking Member Huffman and Members of the Subcommittee:

Thank you for the opportunity to appear before you to discuss H.R. 4419, the "*Bureau of Reclamation and Bureau of Indian Affairs Water Project Streamlining Act"*. This legislation provides a critical first step towards addressing current regulatory and bureaucratic challenges that many times will delay or even halt the development of new water supply enhancement projects in the Western United States. My name is Patrick O'Toole, and I serve as the President of the Family Farm Alliance. The Alliance advocates for family farmers, ranchers, irrigation districts, and allied industries in seventeen Western states. The Alliance is focused on one mission – To ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers.

The Family Farm Alliance supports *"The Bureau of Reclamation and Bureau of Indian Affairs Water Project Streamlining Act"* and encourages the Subcommittee to move the legislation forward to enactment.

Personal Background and Experience with Water Development

I have served on the Family Farm Alliance's Board of Directors since 1998 and was named as the organization's president in 2005. I am also a former member of Wyoming's House of Representatives. I presently serve on the Advisory Committee for AGree, a national agricultural policy group, and work closely with the Intermountain Waterfowl Joint Venture and Partners for Conservation.

My family has a strong background in irrigated agriculture and our 125-year old ranch – located near Savery, Wyoming – produces cattle, sheep and hay. My family and Ladder Ranch were the recipients of the distinguished 2014 Wyoming Leopold Environmental Stewardship Award.

Our ranch straddles the Wyoming-Colorado border and has long afforded me the opportunity to view some unique water issues, first hand. I have testified before this Subcommittee several times, and have previously highlighted the permitting challenges I have encountered in building the Little Snake Supplemental Irrigation Supply Project (High Savery Project) in Wyoming. That project was built in less than two years, but took more than 14 years to permit. However, that reservoir is now delivering water that benefits multiple uses.

Importance of Storage Projects to Western Irrigated Agriculture

The drought of the past few years, and the flooding earlier this year in some areas of the West has illustrated the importance of planning for the construction of new storage projects in water management plans. A reasonable storage development regime would help farmers and agriculture obtain necessary supplies and improve management of the available resource. Agricultural water is seen by some as a "reservoir" to eventually satisfy demands from other competing uses, including municipal growth and the environment. In many places in the West, agricultural water is not being protected for future agricultural uses. It is essential to be producing more food, not less, for a world population projected to be more than 10 billion people by the year 2050. Increased food production will need more certainty in future water supplies,

not less.

Irrigated agriculture not only provides a $172 billion annual boost to our economy, it also provides important habitat for western waterfowl and other wildlife, and its open spaces are treasured by citizens throughout the West. Family Farm Alliance members rely on the traditional water and power infrastructure built over the last century to deliver irrigation water supplies vital to their farming operations. Our membership has been advocating for new investments in water storage for over twenty years, and we have provided specific recommendations to Congress and the White House on how to streamline restrictive federal regulations to help turn these projects into a reality. While water conservation and water transfers are important tools for improving management of increasingly scarce water resources, our members believe these demand-management actions must be balanced with supply enhancement measures that provide the proper mix of long-term solutions for the varying specific circumstances in the West.

Other Important Reasons for Water Supply Enhancement

Regardless of cause, climate variability is one critical factor that underscores the need to develop new water storage projects in the Western U.S. There are several reports that suggest existing reservoirs will not be capable of safely accepting the earlier, more intense snowmelt that has been predicted for many Western watersheds. A report released in 2006 by the State of California predicted that variable hydrologic cycles could result in a drastic drop in the state's drinking and farm water supplies, as well as more frequent winter flooding. The report suggested that the state may experience a smaller snowpack and more wintertime runoff. This means more floodwaters to manage in winter, followed by less springtime snowmelt to provide crucial water supplies for cities, agriculture and the environment. Water resources experts in other parts of the West also realize that new surface water storage projects may be necessary to capture more snowmelt or rainfall under such conditions.

Some Western water managers believe there may likely be a "rush" to re-operate existing multi-purpose water storage projects to restore some of the lost flood protection resulting from the changed hydrology. These projects were designed to provide a certain level of flood protection benefits that will be reduced because of more "rain-induced flood" events. There will be a call to reduce carryover storage and to operate the reservoirs with more flood control space and less storage space. If this is done, it will even further reduce the availability and reliability of agricultural and urban water supplies from existing water supply infrastructure.

Further, many water users are located upstream of existing reservoirs. These users must then rely on direct or natural flows that typically have been primarily fueled by springtime snowmelt. In the Rocky Mountain West, snowmelt traditionally occurs over several months during the onset of the irrigation season (usually April through June), and thus the snowpack is an important component of water storage. Since irrigation water conveyance systems are never 100% efficient, water is diverted, conveyed and spread on the land in excess of the net irrigation demand. This surplus returns to the stream and recharges groundwater aquifers, which augments water supplies for all users located downstream from the original diversion. It also supports valuable habitat used by migrating waterfowl. If more runoff were to occur during winter before the onset of the irrigation season, this would impact water supply availability to these producers

by decreasing the storage capacity usually provided by the tempered melting of the snowpack. It would also impact the utility associated with the return flows from their irrigation practices. As the snowpack is reduced by early melting, this reduced storage capacity must be replaced by new surface water storage just to stay on par with our currently available water supplies.

There is growing recognition among policy makers that water supply enhancement projects must be included in the tool box used to tackle Western water challenges. In addition to the water project bills that are moving in this Congress, states like California and Wyoming are dedicating millions of dollars to the development of new water storage projects. My home state of Wyoming has at least ten small water storage facilities that the state wants to complete as soon as possible. These projects are sponsored by local entities, support local beneficial uses, and provide flexibility for future uses of stored water. The goal of Wyoming's "Ten in Ten" initiative is the completion of a minimum of ten small (2,000 to 20,000 acre-feet) reservoirs in the next 10 years. All projects will move through the processes developed by the Legislature, the Select Water Committee and Wyoming Water Development Commission. This initiative provides executive support and agency planning for all appropriate actions to accelerate the completion of projects.

The call for more water storage only makes sense when one considers the paradigm shift of more conservative water operations coupled with the added water supplies necessary to meet demands for water that, in many basins in the West, have simply outgrown the existing supply. In 2015, the Alliance released a report that provides detailed answers to 20 frequently asked questions about new water storage projects. I would be happy to provide hard copies of this report to the Subcommittee, or, a PDF version can be downloaded at www.familyfarmalliance.org.

Challenges with Developing New Water Projects

As you are all aware, actually developing new storage projects is much easier said than done. For many reasons – political, economic and social – the construction of traditional surface water storage projects is undertaken on a much more limited basis than in decades past. Even if federal authorization and funding is secured for a new storage project, the existing procedures for developing additional water supplies can make project approval incredibly burdensome.

Clearly, the existing procedures for developing additional water supplies need to be refined to make project approval less burdensome. By the time project applicants approach federal agencies for permits to construct multi-million-dollar projects they have already invested extensive financial resources toward analyzing project alternatives to determine which project is best suited to their budgetary constraints. However, current procedure dictates that federal agencies formulate another list of project alternatives which the applicant must assess, comparing potential impacts with the preferred alternative. Some of these alternatives may often conflict with state law or are simply not implementable in the first place; yet valuable resources are required to be expended to further study these additional alternatives in the federal permitting process. In fact, we believe sometimes this process is used as a barrier to the planning, design and construction of new water storage projects. We appreciate that this

Subcommittee had explored opportunities and introduced legislation to improve the accountability of this process and reduce the costs to the project applicant.

Overview of H.R. 4419

Not long ago, some were predicting that no new surface water storage would be built in this country. Those predictions now may not come to pass. Senator John Barrasso and Representative Tom McClintock have proposed bills to facilitate permitting of new water storage projects, and now Representative Newhouse has offered up H.R. 4419, a variation of H.R. 875; legislation which was introduced earlier in this Congress, with Family Farm Alliance support.

The *Bureau of Reclamation and Bureau of Indian Affairs Water Project Streamlining Act* requires the Bureau of Reclamation (Reclamation) and Bureau of Indian Affairs (BIA) to accelerate studies and provide more accountability in the agency's process to study the feasibility of new and or expanded surface water storage. The legislation would provide the same streamlined water project development process for Reclamation surface water storage projects that the *Water Resources Reform and Development Act of 2014* gave to the U.S. Army Corps of Engineers. That latter law was passed in both the House and Senate on a bipartisan basis and was signed into law by President Obama. The goal of H.R. 4419 is to reform the current cumbersome, lengthy process so that there is a mechanism to build new surface water storage projects in the West. Major provisions of the bill:

Section 3 requires future feasibility studies for Reclamation or BIA projects to be completed with three years after the date of initiation and have a maximum federal cost of $3 million. The Section provides for a maximum seven-year extension of that time and cost if the Interior Secretary provides a detailed justification to the non-federal project sponsor and the Congress.

Section 4 requires the Interior Secretary to expedite the completion of any ongoing feasibility studies initiated before the date of enactment. If the Secretary determines that the project is justified in a completed report, he/she shall proceed to proceed to pre-construction planning, engineering and design of the project.

Section 5 directs the Interior Secretary to develop and implement a coordinated environmental review process with Reclamation and the non-federal project sponsor as lead agencies for expedited environmental review of a project. The Section further directs the lead agencies to establish a schedule for completion of a study and lays out financial penalties to the Interior Secretary if timelines are not met.

Section 6 directs the Interior Secretary to develop and submit a report to the relevant committees in Congress that identifies project reports, proposed projects and proposed modifications to studies and federal and non-federal cost estimates for all three.

Section 7 identifies various sections of the WIIN Act (P.L. 114-322) that are excluded from the process established in this bill.

Section 8 contains a list of projects that the Secretary has identified are authorized to be carried out in accordance with this section. This is similar to the feasibility studies listed in Section 7002 of P.L. 113-121, which authorized construction of projects by Congress. Two of these projects – the Yakima River Basin Enhancement Project (WASHINGTON) and the Shasta Lake Water Resources Investigation (CALIFORNIA) have long been championed by our organization.

Section 9 establishes a process to offset the federal costs of projects listed in Section 8.

The Act would insert stronger accountability into Reclamation's surface storage study process, enhance transparency associated with interim and final storage project studies and engage local stakeholders. All of these actions would improve the status quo, in our view.

Suggestions to Improve the Legislation

We do have some very minor, specific suggestions that we believe would improve the current bill, as discussed in the following sections.

1. Additional Transparency

We have consistently advocated for provisions in bills of this sort that require the Secretary of the Interior to submit to the appropriate congressional committees an estimate, to the extent practicable, of the federal, non-federal and total costs of proposed projects and a recommendation of the level of funding required in each fiscal year to complete the project on the most expedited basis. Anything that would encourage Reclamation to address the cost issues would be very helpful in moving these projects forward and determining Reclamation's capacity to execute on favorable reports. It appears that Section 9 of the bill provides a mechanism to ensure accountability and transparency. However, we have questions about this section, and we'll continue to talk to Reclamation and committee staff about our concerns, and urge that those parties continue to work with each other on moving forward.

2. Ability to "opt-out"

This bill should also provide an "opt-out" provision that would allow local project sponsors to proceed on a project implementation path that has historically provided successful outcomes with another federal agency in the lead role. Meeting the challenge of expanding and modernizing the West's aging water infrastructure will require highly qualified professionals serving in both the public and private sectors. Very rarely are there "one size fits all" templates that apply to management of Western water resources challenges.

In many cases, local water agencies have long-time relationships with local and regional Reclamation engineers and managers that have led to successfully completed projects. Reclamation staff members from regional and area offices can play a key role in helping to find the right path to make multi-agency processes and projects work. There are other models in the West where successful projects have been completed with Reclamation functioning as the lead agency. In other cases, local entities have developed close working relationships with other

federal water agencies such as the Army Corps of Engineers. In these cases, local entities should be able to continue to work with the federal agency they successfully worked with in the past for projects of this nature.

To cover this range of possibilities, including an "opt-out" amendment in the proposed bill provides flexibility for local project sponsors to either l) engage with Reclamation in the facilitated permitting process articulated in this bill; or 2) opt-out, and proceed on a project implementation path that has historically provided successful outcomes with another federal agency such as the Army Corp in the lead role.

Conclusion

The Family Farm Alliance supports H.R. 4419 and looks forward to continuing to work with this committee, the Congress and other interested parties to build a consensus for improving the federal regulatory and permitting process for new water projects. A major reason the Alliance continues to push for improved and expanded water storage and conveyance infrastructure is not to support continued expansion of agricultural water demand (which is not currently happening in most places), but to help mitigate for the water that has been reallocated away from agriculture towards growing urban, power, environmental and recreational demands in recent decades. If we don't find a way to restore water supply reliability for Western irrigated agriculture through a combination of new infrastructure, other supply enhancement efforts and demand management – our country's ability to feed and clothe itself and the world will be jeopardized.

This bill takes an important step towards addressing potential barriers to allowing the federal government to again be a partner with local and state entities in addressing these important water supply issues.

Thank you again for this opportunity to testify before the Subcommittee, and I stand ready to answer any questions you may have.