

# Committee on Resources

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## Statement of

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## Before the

**House Committee on Resources**

**Subcommittee on Water and Power**

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## **Federal Role in Reclamation Water Reuse and Recycling:**

### **Developments in Implementation of Title XVI**

Thank you Mr. Chairman for the opportunity to appear before the Subcommittee today. My name is Betsy Cody. I am a specialist in natural resources policy with the Congressional Research Service, Library of Congress, where I have worked on western water policy and natural resources issues since 1989. I have been asked to provide Members of the Subcommittee with an overview of the federal government's involvement in wastewater reclamation, recycling, and reuse. With permission of the Subcommittee, I would like to submit for the record a CRS report that outlines current federally supported water supply and water treatment programs.<sup>(1)</sup> This report provides an overview of current projects and programs, as well as a description of the historical role of the federal government in providing assistance for municipal water supply development and treatment. Although the federal government has a significant role in developing water quality regulations and standards for municipal and industrial (M&I) water use, historically it has provided a relatively small percentage of direct funding for construction of M&I water supply and treatment facilities. In recent years, Congress has been asked more and more to fund development of M&I water supplies, including providing federal support for water reuse and recycling projects.

Although my testimony will focus on the Bureau of Reclamation's Reclamation Reuse and Recycling Program (Title XVI of P.L. 102-575, or Title XVI), it is important to note that, to date, the states have been the most active players in pursuing water reuse technologies. In particular, Florida and California have well established water reuse programs. It appears that there are more than 460 water recycling projects in Florida and more than 230 in California; however, it is not clear how many projects are on-line nationwide. Efforts to track these activities more precisely are currently underway. Standards for recycled water quality are set at the state level; however, U.S. Environmental Protection Agency (EPA) guidelines provide recommendations for reuse practices and technical information to assist states in formulating state-level regulations.<sup>(2)</sup>

### **Title XVI: Reclamation Water Reuse and Recycling**

The Bureau of Reclamation's Title XVI program is the only *active* federal program providing localities with financial and technical assistance for the development and construction of water reclamation and reuse facilities.<sup>(3)</sup> Although both the U.S. Army Corps of Engineers and the EPA have limited authorities to provide assistance to local entities for recycling projects (*e.g.*, specific provisions in 1992 and 1999 Water Resources Development Acts,<sup>(4)</sup> and a pilot program by EPA

under the Alternative Water Sources Act),<sup>(5)</sup> neither has an established, regularly funded program for such activities.

The genesis for the Bureau's wastewater reclamation, recycling, and reuse program was the long-term drought of the late 1980s and early 1990s. The drought hit California and the Southwest particularly hard. As such, this Committee spent much time debating federal water supply policies, including how to address conflicts between the need and desire for continued operation of the federal Central Valley Project and the application of state and federal environmental laws that could potentially limit water deliveries to protect certain species or comply with water quality standards. The result of several years' effort in addressing this conflict was the Reclamation Projects Authorization and Adjustment Act of 1992 (P.L. 102-575). While much attention has been given to Title 34 of that Act (the Central Valley Project Improvement Act), Title XVI (the Reclamation Wastewater and Groundwater Studies and Facilities Act) authorized construction of five reclamation water reuse and recycling projects in Arizona and California. Additionally, the Act authorized a comprehensive reuse study for Southern California, including Colorado River hydrologic regions as defined by the California Department of Water Resources. The latter language appears to provide specific statutory authority for activities that were underway in 1991 in response to Secretary of the Interior Manuel Lujan's announcement of a "Comprehensive Water Reuse Initiative" for Southern California.<sup>(6)</sup> It was envisioned that a comprehensive water reuse program would help to decrease the area's dependence on imported water supplies from the Colorado River.

Title XVI has been amended six times since 1992,<sup>(7)</sup> resulting in the addition of 22 specific projects for a total of 27 authorized projects. The federal share of project costs is limited to 25% of total project costs; however, amendments in 1996 added 18 new projects (of the current 27) and new program guidance, which retained the 25% federal/non-federal cost share, but also limited the federal share of project costs to no more than \$20 million. To date, the Bureau has undertaken planning, design, and engineering activities on 18 projects. The Bureau has completed its funding obligations for two projects: 1) the Los Angeles (CA) area water reclamation and reuse project, and 2) the Tooele (UT) wastewater treatment and reuse project. Bureau involvement with a third project, the Mission Basin/Oceanside (CA) groundwater desalting demonstration project is nearly complete. Obligations and expenditures for the Bureau's Title XVI program to date have totaled approximately \$255 million and are expected to reach \$285 million by the end of FY2003. The total non-federal investment in Title XVI projects is estimated to be between \$800 million \$1 billion. The projects on line so far are producing an estimated 98,000 acre-feet of water annually (roughly 25% of all recycled water in California in the year 2000), according to the Office of Management and Budget. The projected water yield for the projects authorized ranges from 500,000 - 640,000 acre-feet annually. While the Bureau has guidelines for the development of water reclamation and reuse projects,<sup>(8)</sup> no official rules or regulations for the program have been promulgated.

Questions relating to the Bureau's Title XVI program appear to have increased in recent years possibly because of the nature of project authorization and the lack of a clear program funding process that is typical of other federal wastewater and drinking water programs. Unlike other federal water assistance programs, such as state revolving loan funds for wastewater and drinking water, each recycling project is specifically authorized by Congress and funded via the annual Energy and Water Development appropriations bill. As such, there appear to be no specified or promulgated development criteria and no competitive grant processes for Title XVI projects; however, it has been noted that the Bureau's guidelines for developing water reclamation and reuse projects provide "solid criteria ... to evaluate potential projects prior to funding, and also to monitor and evaluate projects under construction."<sup>(9)</sup>

These programmatic issues were highlighted during development of the FY2004 budget. The Office of Management and Budget (OMB) reviewed the program using the Program Assessment Rating Tool (PART) -- an analytic tool used to assess program strengths and weaknesses. While the Title XVI program fared reasonably well on most evaluation criteria, it was found to be weak in providing a clear linkage between federal funding and progress toward specific outcomes, and in planning for the long-term. The supporting FY2004 PART review documents prepared by OMB describe the program as an "earmark-driven grant program for local projects" for which there is no competitive grant process. While supporting documents state that the program helps the Bureau "meet its mission to manage and develop water and related resources in an economically and environmentally sound manner" (and specifically notes the role of the program in assisting Southern California to reduce its reliance on Colorado River water), the OMB's summary overview of the PART review opines that the water reclamation and reuse activity is "not one of Reclamation's core functions." The Title XVI PART review concludes by stating that the program should be scaled back because it serves a largely local function and local responsibility. Consequently, the Administration's budget request for FY2004 is \$12.6 million -- 65% less than was enacted for the program for FY2002 and 59% less than was enacted for FY2003.

The OMB's FY2004 PART review raises several specific policy issues not unique to the Title XVI program. First, it

highlights the tension between Congressional and Administration priorities. Second, it raises questions regarding the appropriate federal role in water supply development for M&I uses; for example, is Congress redefining the federal government's role in M&I water supply and treatment as it authorizes new site-specific projects? To what degree should the federal government provide incentives for water supply development via new technologies, and what geographic, regional, or social factors should be considered? Lastly, is there needed coordination or realignment of certain federal water activities to ensure efficient use of scarce federal resources.

This concludes my testimony. I will be happy to answer questions from the Chairman and other Members of the Subcommittee. Thank you.

1. U.S. Library of Congress, Congressional Research Service, *Federally Supported Water Supply and Wastewater Treatment Programs*, CRS Report RL30478, updated March 24, 2003.

2. U.S. Environmental Protection Agency, Guidelines for Water Reuse, EPA/625/R-92/004 available at: [<http://www.epa.gov/ordntrnt/ORD/NRMRL/Pubs/625R92004/625R92004prel.pdf>].

3. U.S. Executive Office of the President, Office of Management and Budget, *Performance and Management Assessments. Budget of the U.S. Government, Fiscal Year 2004* (Washington, DC: U.S. Govt. Print. Off., Feb. 2003), p. 173. See also, PART worksheets for the Department of the Interior's Title XVI water reclamation and reuse program at: [<http://www.whitehouse.gov/omb/budget/fy2004/pma.html>] p. 2.

4. §217 of P.L. 102-580, and §502 of P.L. 106-53, respectively. Some of these activities received funding for FY2003 in Title I of the Energy and Water Development Appropriation Act for FY2003 (P.L. 108-7; Division D). The Corps also has authority for design and construction of Everglades wastewater reuse technology (P.L. 106-541). In all, it appears \$110.5 million in assistance has been authorized for Corps water reuse activities, with approximately \$22.6 million appropriated to date.

5. Title VI of P.L. 106-457.

6. Department of the Interior News Release, Office of the Secretary, dated August 5, 1991.

According to materials provided to CRS on October 25, 1991, the Bureau undertook a number of activities that fall, including developing a detailed action plan for promoting the initiative. By October 23, 1991, the Bureau had held its first pre-planning committee meeting for the Southern California Water Reclamation and Reuse Study.

7. P.L. 104-266 (1996 amendments) authorized specific construction projects in California, Utah, New Mexico, Nevada, and Texas; P.L. 105-321 (1998) authorized a project in Oregon; P.L. 106-554 (1998) authorized an additional project in Nevada; P.L. 106-566 extended the Secretary's research and planning authority to include projects in the State of Hawaii; P.L. 107-344 (2002) authorized a project in Washington state; and P.L. 108-7 (2003) authorized an additional project in Nevada.

8. U.S. Department of the Interior, Bureau of Reclamation, *Guidelines for Preparing, Reviewing, and Processing Water Reclamation and Reuse Project Proposals Under Title XVI of Public Law 102-575, as Amended*, (Washington DC: Bureau of Reclamation, 1998).

9. U.S. Executive Office of the President, Office of Management and Budget, *OMB Program Assessment Rating Tool (PART), Competitive Grant Programs*. PART worksheet for the Department of the Interior's Title XVI water reuse and recycling program at

[<http://www.whitehouse.gov/omb/budget/fy2004/pma.html>], p. 6.

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