

**Statement of Michael L. Connor,
Commissioner,
Bureau of Reclamation
U.S. Department of the Interior
before the
Water and Power Subcommittee of the
House Committee on Natural Resources
On H.R. 1065
White Mountain Apache Tribe Water Rights Quantification Act of 2009

July 21, 2009**

Madam Chairwoman and Members of the Subcommittee, I am Michael L. Connor, Commissioner of the Bureau of Reclamation. I am pleased to provide the Administration's views on HR 1065, the White Mountain Apache Tribe Water Rights Quantification Act of 2009. HR 1065 would authorize a comprehensive settlement of the Federal Indian reserved water rights claims of the White Mountain Apache Indian Tribe in Arizona.

This Administration supports the resolution of Indian water rights claims through negotiated settlement. However, our general policy of support for negotiations is premised on the federal contribution to the settlement being appropriate. Before the Administration can support a settlement, there must be a thorough analysis of the costs it would entail and the benefits to be received in order to assess the appropriateness of the proposed federal contribution. As I will discuss later, while the Administration appreciates that much good work has gone into this proposed settlement, we are unable to support it at this time.

Negotiated Indian Water Rights Settlements

Settlements improve water management by providing certainty not just as to the quantification of a tribe's water rights but also as to the rights of all water users. That certainty provides opportunities for economic development for Indian and non-Indians alike. Whereas unquantified Indian water rights are often a source of tension and conflict between tribes and their neighbors, the best settlements replace this tension with mutual interdependence and trust. In addition, Indian water rights settlements are consistent with the Federal trust responsibility to Native Americans and with a policy of promoting Indian self-determination and economic self-sufficiency. For these reasons and more, for over 20 years, federally recognized Indian tribes, states, local parties, and the Federal government have acknowledged that, when possible, negotiated Indian water rights settlements are preferable to protracted litigation over Indian water rights claims.

White Mountain Apache Tribe Water Rights Quantification Act of 2009

The heart of this bill is provisions ratifying and approving the White Mountain Apache Quantification Agreement dated January 13, 2009, a settlement reached between the tribe

and other non-federal parties regarding the quantification of the Tribe's water rights. H.R. 1065 requires the Bureau of Reclamation to plan, design, construct, operate, maintain, replace, and rehabilitate a rural water system to serve the White Mountain Apache tribe. It also establishes a trust fund for the operation and maintenance of the system to be constructed. Finally, the bill includes authorizations for the Secretary to carry out a number of other activities that appear to be intended to promote economic development on the White Mountain Apache reservation.

These economic development activities include (1) providing financial and technical assistance to completing the Hawley Lake, Horseshoe Lake, Reservation Lake, Sunrise Lake, and Big and Little Bear Lake reconstruction projects and facilities improvements; (2) conducting a feasibility study of options for improving the manufacture and use of timber products derived from commercial products derived from commercial forests on the White Mountain Reservation and forest management practices; (3) rehabilitating and improving the Alchesay-Williams Creek National Fish Hatchery Complex; (4) constructing a White Mountain Apache Tribe Fishery Center; (5) rehabilitating Canyon Day and other historic irrigation systems on the reservation; (6) planning, design, and construction of snow-making infrastructure, repairs, and expansion at Sunrise Ski Park; and (7) planning, designing, and constructing any recommended on-reservation recreation impoundments following a feasibility study of such impoundments.

HR 1065 is the culmination of cooperative negotiations among the Tribe and many non-Indian water users throughout northern and central Arizona. The negotiations were focused on the need for a long term solution to the problems of an inadequate Reservation domestic water supply and quantifying the Tribe's water rights. The Tribe and other non-Federal parties reached agreement in 2008. The parties are to be commended for that effort.

There is much in the proposed settlement that is positive. The rural water system authorized through this bill would replace and expand the current water delivery system on the Reservation, which relies on a diminishing groundwater source and is quickly becoming insufficient to meet the needs of the Reservation population. We do not question the Reservation's need for reliable and safe drinking water. Although a system such as the one proposed may turn out to be the best way to address the Reservation's need, the Administration has many concerns about the specific language of this legislation as introduced, which are summarized below. We also have concerns about the large federal contribution expected in the proposed settlement. We would like to work with the sponsor of legislation and the settlement parties to address our concerns.

Water Rights Allocation

Under Section 5 of HR 1065, the Tribe would have the right to divert up to 99,000 acre-feet of water from a combination of groundwater, surface water, and Central Arizona Project water. We understand that the Tribe believes that this is a favorable quantification of its federal reserved water rights. The Department of the Interior's

preliminary analysis indicates that the allocation is appropriate and we hope to have a final Administration analysis in the near future.

Concerns about the Cost Estimate for Construction of the Rural Water System

The centerpiece of the settlement is the construction and operation of the White Mountain Apache Rural Water System (WMAT Rural Water System) described in Section 7. This system would consist of the Miner Flat Dam, a 155 foot high dam along the North Fork of the White River that would have an anticipated total storage capacity of 8,400 acre-feet with a surface area of approximately 160 acres; water treatment facilities and a pipeline conveyance system extending approximately 50 miles throughout the Reservation. The surface water delivered from this system is anticipated to meet population requirements through 2040 or beyond.

The Bureau of Reclamation recently completed a review of the Design, Engineering, and Construction (DEC) estimates for the WMAT Rural Water System. Based on that review, Reclamation determined the Tribe's cost estimate of roughly \$126.2 million, which is in the proposed legislation, is not sufficiently detailed or comprehensive to provide the necessary assurance that the project can be constructed for that amount of money. Moreover, the legislation does not provide any cap on the amount of Federal funds that can be expended for project construction. The Administration is concerned about authorizing a project in cases such as this where we are very uncertain as to end costs. Our experience has been that projects authorized in this manner can become far more expensive than originally contemplated.

Further work is needed to bring the cost estimate up to the feasibility level generally required by Reclamation authorities before a project is recommended for authorization. This work will require Reclamation funding. At this time, Reclamation is developing a cooperative agreement to allow the Tribe to complete the planning, engineering, and design of a rural water system, pursuant to P.L. 110-390, under the Indian Self-Determination and Education Assistance Act, P.L. 93-638. The real cost of the WMAT Rural Water System will certainly be refined as this effort moves forward.

In addition to concerns about the cost estimate, the Administration is also concerned about the mechanism under which project construction funds would be handled, which could add to the costs of project construction. As introduced, H.R. 1065 has differing provisions regarding how the Secretary is supposed to handle the money appropriated for construction. Section 14 of HR 1065 requires the establishment of a trust fund, the "Rural Water System Construction Fund" into which construction monies would be deposited. This trust fund would be managed in accordance with the American Indian Trust Fund Management Reform Act of 1994. The Tribe would be able to withdraw these funds and spend them after submitting a plan to the Secretary. This is an unusual and cumbersome way to deal with construction funds. Reclamation, the bureau responsible for constructing the WMAT Rural Water System and the bureau to which the funds would typically be appropriated, would have to deposit construction funds into a trust account managed by a different bureau.

Under section 7(g) of HR 1065, the Tribe has the option of performing the planning, design, construction, operation, maintenance, rehabilitation, and replacement of the WMAT Rural Water System in accordance with the provision of the Indian Self-Determination and Education Assistance Act (P.L. 93-638). Reclamation believes that having the tribe carry out the construction under an ISDEAA framework is one alternative that would accomplish the intended purposes of this act in a more direct and efficient manner than the trust fund model set forward in section 14. However, the Tribe has had financial management and accounting issues with other P.L. 93-638 contracts and grants. The Department encourages the use of the Indian Self-Determination and Education Assistance Act and would support its use for the projects called for in HR 1065 if additional language could be formulated and added to the legislation allowing the Secretary of the Interior to require appropriate accounting and review measures to insure that Federal funds are expended as intended. At the very least, the legislation needs to clarify whether the Secretary is being called upon to establish a trust fund to be controlled by the Tribe or to accomplish the construction through an ISDEAA contract. We look forward to working with the bill sponsors on this clarification. Ultimately, the Administration's goal in this or any other settlement is to define, with as much certainty as possible, the Federal costs necessary and appropriate to achieve implementation of the settlement.

Title to the Rural Water System

HR 1065 requires that the WMAT Rural Water System be held in trust by the United States. This stands in sharp contrast to the manner in which title to domestic water supply systems is handled in other enacted and pending water rights settlements. Generally, title is transferred to tribes or other project users once construction is complete. The Administration believes transferring title to the domestic water supply system is more consistent with concepts of self determination and tribal sovereignty and we would prefer that the WMAT Rural Water System be so transferred.

Concerns about the Waivers and Releases

The waivers and releases authorized in Section 12 of the bill are of serious concern to the Administration. We note that the Department of Justice has concerns that the waivers set forth in the bill do not adequately protect the United States from future liability and do not provide the measure of certainty and finality that the Federal contribution contained in the bill should afford. The U.S. Forest Service also has concerns about the waiver provisions. We believe that the issues raised are not irreconcilable if we are given the opportunity to work with the parties towards resolving them. Recently enacted settlements, such as the Duck Valley Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement, P.L. 111-11, provide an example of waiver and release provisions that were negotiated with the parties in a manner that addressed many of the Justice Department's concerns.

Additional Concerns about the Financial Structure of this Settlement

In addition to authorizing the WMAT Rural Water System, HR 1065 also authorizes appropriations for several other projects as part of the settlement: (a) snow-making facilities (\$25 million); (b) fish hatcheries (\$12.47 million); (c) irrigation rehabilitation (\$4.95 million); (d) a forest products feasibility study and implementation funds (\$25 million); and (e) recreation lakes improvements (\$48.67 million), a total of approximately \$116 million in addition to the amount authorized for the rural water system. However, under H.R. 1065 as introduced, the waivers by the Tribe and the United States of the Tribe's federal reserved water rights become effective once there is funding to construct the rural water system. With the exception of the funding for the rehabilitation of the irrigation systems on the reservation, the other settlement activities authorized in this legislation are completely uncoupled from the waivers. The final effectiveness and enforceability of the settlement is not contingent on these other appropriations, but only upon the appropriations for the design and construction of the WMAT Rural Water System. Other settlements have followed a different model under which a tribe receives an appropriation in a fund to accomplish its own development priorities in using the water it receives under a settlement. We believe that model might be preferable, although the Administration has not determined what would be an appropriate amount of federal funding for such a fund.

We also note that the bill as introduced would require all of the funding for the rural water system to be appropriated by October 31, 2013. Given the realities of federal budgeting, it will be much more realistic to provide a longer period to budget for what are ultimately determined to be the appropriate federal costs of this system. To the extent that one of the factors driving the settlement proponents to ask for this money upfront is a desire for waivers that come into effect earlier, we would suggest that they look at other settlements involving construction where waivers are able to come into effect but are subject to nullification if construction does not get completed within the time frame established in the settlement agreement and authorizing legislation.

Process Concerns and Conclusion

This legislation has to be analyzed and understood within the context of the large numbers of Indian water rights settlements which are expected to be introduced during the course of the 111th Congress. We need to establish negotiating approaches and standards that will result in fair consideration and treatment of all of the settlements that this Congress will be asked to review. While we are aware that the settling parties worked closely with the Federal negotiating team in developing the parameters of this settlement, we have also been informed by the team that issues involving the cost of the settlement were not considered. We believe that these costs need to be discussed and negotiated and that the benefits of the settlement must justify the costs. The Administration needs to complete its analysis of the settlement so that we can inform the parties what level of funding we would be able to support, and we need to explore alternative funding mechanisms that will provide a realistic chance for this settlement to be implemented in a way that fulfills the promise that it represents to the Tribe and to others for a comprehensive settlement.

In conclusion, the Administration appreciates and is encouraged by the willingness of the settlement parties to negotiate their differences in a cooperative spirit. We are committed to working with Congress and all parties to develop settlement legislation that the Administration can support.

Thank you, Madam Chairwoman, for the opportunity to present this testimony. I will be pleased to answer questions you and other Members might have.

**Statement of Michael L. Connor, Commissioner
Bureau of Reclamation
U.S. Department of the Interior
before the
Subcommittee on Water and Power
Committee on Natural Resources
U.S. House of Representatives
July 21, 2009
H.R. 2265**

Madam Chairwoman and Members of the Subcommittee, I am Michael L. Connor, Commissioner of the Bureau of Reclamation. I am pleased to provide the Department of the Interior's views on H.R. 2265, legislation to authorize the Secretary of the Interior to participate in the Magna Water District water reuse and groundwater recharge project. For reasons discussed below, the Department cannot support H.R. 2265.

H.R. 2265 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h *et seq.*), commonly called Title XVI, to authorize the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities needed to establish recycled water distribution and wastewater treatment and reclamation facilities in the Magna Water District in Salt Lake County, Utah.

H.R. 2265 authorizes a \$12 million Federal cost share for the project. Reclamation's Regional and Program offices are reviewing the Magna Water District's draft Feasibility Report this month to determine its compliance with the requirements identified in the Title XVI Water Reclamation and Reuse Program Directives and Standards (D&S) and Section 1604 of Public Law 102-575, as amended. Reclamation anticipates making a final determination as to the project's feasibility in the next few months.

As a threshold matter, I'd like to express the Department's general support for the Title XVI Reclamation and Reuse program. The 2010 budget proposal includes funding for Secretary Salazar's Water Conservation Initiative and Title XVI is an important element of that program. Also, on July 1, the Department announced the award of approximately \$135 million in grants for specific authorized Title XVI projects. We recognize that water reuse is an essential tool in stretching the limited water supplies in the West.

However, given that there are 53 already authorized Title XVI projects and numerous competing mission priorities and demands on Reclamation's budget, the Department cannot support the authorization of new Title XVI projects at this time. As a practical matter, Reclamation is concerned that a proliferation of authorized projects would be detrimental to effective overall program management because there would be a dilution of available funding and a diminished ability of the Bureau to carry out and complete individual projects.

Reclamation will, however, continue to work with project proponents to evaluate the feasibility

of their projects. To that end, Reclamation recently revised and improved its directives and standards that govern the review of Title XVI projects. By doing so, we believe that Reclamation can play a constructive role with local sponsors, as well as Congress, in evaluating the merits of proposed water recycling projects. Information regarding a project's feasibility should be fundamental to Congress' evaluation of new authorizations.

Madam Chairwoman, this concludes my testimony. Thank you for the opportunity to comment on H.R. 2265. I would be happy to answer any questions at this time.

**Statement of Michael L. Connor, Commissioner
Bureau of Reclamation
U.S. Department of the Interior
Before the
House Natural Resources Committee
Subcommittee on Water and Power
On
H.R. 2950
July 21, 2009**

Madam Chairwoman and members of the Subcommittee, I am Mike Connor, Commissioner of the Bureau of Reclamation. Thank you for the opportunity to provide the Department of the Interior's views on H.R. 2950. The legislation allows for prepayment of the current and future repayment contract obligations of the Uintah Water Conservancy District (District) of the costs allocated to their municipal and industrial water (M&I) supply on the Jensen Unit of the Central Utah Project (CUP). H.R. 2950 would amend current law to change the date of repayment to 2019 from 2037. The legislation would also allow repayment to be provided in several installments and requires that the repayment be adjusted to conform to a final cost allocation. The Department supports the goals of H.R. 2950. However, the legislation should be amended to clarify that the early repayment will be of an amount equal to the net present value of the foregone revenue stream. Under any repayment scenario, the Federal Treasury must be made whole.

The District entered into a repayment contract dated June 3, 1976, in which they agreed to repay all reimbursable costs associated with the Jensen Unit of the CUP. However, pursuant to Section 203(g) of the Central Utah Project Completion Act of 1992 (P.L. 102-575) the District's contract was amended in 1992 to reduce the project M&I supply under repayment to 2,000 acre-feet annually and to temporarily fix repayment for this supply based upon an interim allocation developed for an uncompleted project. The 1992 contract required the District to repay about \$5.545 million through the year 2037 at the project interest rate of 3.222% with annual payments of \$226,585. The net present value of the amount remaining from this income stream starting in 2009 is \$3,887,364.¹

However, the costs allocated to the contracted M&I supply, and the M&I supply available through additional contract amendments, may be significantly revised in the future upon project completion and Final Cost Allocation. An additional currently unallocated cost of \$7,419,513 is expected to be allocated to the contracted 2,000 acre-feet.² Assuming that the costs allocated to the contracted 2,000 acre-feet will be increased by \$7,419,513 with the reallocation in 2019, the net present value of the stream of benefits from this reallocation is \$4,654,454. Therefore, under Reclamation's assumptions, the net present value of the total stream of benefits anticipated under this contract is \$4,654,454 plus \$3,887,364, or \$8,541,818. The contracted M&I amount is \$4.1 million and the adjustment amount is \$7.4 million. In total non-discounted dollars, the Conservancy District owes the Federal government \$11.6 million.

¹ All net present value figures cited in this testimony were calculated by discounting the payment stream to the year 2009 using the rate from 30-year Treasury constant maturities for the week ending July 10, 2009. The exact net present value will fluctuate based on the date of the calculation and the Treasury rate.

² This allocation will be subject to revision should there be additions to the project.

Under Reclamation law, water districts are not authorized to prepay their M&I repayment obligation based upon a discounted value of their remaining annual payments.

This legislation would authorize early repayment by the Uintah Conservancy District to the Federal government. Because there is an interest component to the M&I repayment streams to be repaid early, early repayment without an adjustment for interest would result in lower overall repayment to the United States. However the Bureau believes that the language in this bill requiring that the early repayment be “under terms and conditions similar to those used in implementing section 210 of the Central Utah Project Completion Act (Public Law 102-575), as amended” is intended to require that the United States allow the early repayment in such a way as to keep the United States whole. We interpret this to mean that the Bureau of Reclamation would collect the present value of the whole amount that would be due without early repayment. Thus, given Reclamation’s assumptions the present value of the payments collected under this legislation will be at least \$8,541,818, although the legislation allows some flexibility in the timing of the repayment and under some scenarios the total amount due could be higher.

The language in H.R. 2950 should be amended to clarify that this legislation is requiring that the Federal government be paid what it is owed by the Conservancy District. In supporting the concept of early repayment of the amount owed under this contract, the United States is reserving the right to seek full repayment to the U.S. Treasury.

While the Department supports the goals of H.R. 2950, the legislation should be amended to clarify that the U.S. Treasury will be repaid in full; our support depends upon language that will clearly establish that early repayment under this legislation must be of an amount equal to the net present value of the foregone revenue stream.

This concludes my testimony. I will be pleased to answer any questions the Subcommittee may have.

**Statement of Michael L. Connor, Commissioner
Bureau of Reclamation
U.S. Department of the Interior
before the
Subcommittee on Water and Power
Committee on Natural Resources
U.S. House of Representatives
July 21, 2009
H.R. 2442**

Madam Chairwoman and Members of the Subcommittee, I am Michael L. Connor, Commissioner of the Bureau of Reclamation. I am pleased to provide the Department of the Interior's views on H.R. 2442, legislation to expand the Bay Area Regional Water Recycling Program (BARWRP). Although Reclamation commends BARWRP's goals, for reasons discussed below the Department cannot support H.R. 2442.

H.R. 2442 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h *et seq.*), commonly called Title XVI, to authorize the Secretary of the Interior to participate in the design, planning, and construction of six new projects for water recycling and distribution of non-potable water supplies in the greater San Francisco Bay Area. The legislation would also increase the Federal cost share for two previously-authorized Title XVI projects in the same area to \$16.3 million from \$10.5 million. H.R. 2442 would increase the number of BARWRP projects from eight to 14.

As a threshold matter, I'd like to express the Department's general support for the Title XVI Reclamation and Reuse program. The 2010 budget proposal includes funding for Secretary Salazar's Water Conservation Initiative and Title XVI is an important element of that program. Also, on July 1, the Department announced the award of approximately \$135 million in grants for specific authorized Title XVI projects. Reclamation also recently selected 27 Title XVI projects – 26 of which are in California – that will receive American Recovery and Reinvestment Act of 2009 funding. We recognize that water reuse is an essential tool in stretching the limited water supplies in the West.

However, given that there are 53 already authorized Title XVI projects and numerous competing mission priorities and demands on Reclamation's budget, the Department cannot support the authorization of new Title XVI projects at this time. As a practical matter, Reclamation is concerned that a proliferation of authorized projects would be detrimental to effective overall program management because there would be a dilution of available funding and a diminished ability of the Bureau to carry out and complete individual projects.

Reclamation will, however, continue to work with project proponents to evaluate the feasibility of their projects. To that end, Reclamation recently revised and improved its directives and standards that govern the review of Title XVI projects. By doing so, we believe that Reclamation

can play a constructive role with local sponsors, as well as Congress, in evaluating the merits of proposed water recycling projects. Information regarding a project's feasibility should be fundamental to Congress' evaluation of new authorizations.

Many Federal Title XVI projects are located in the greater San Francisco Bay area, a region that encompasses the United States' largest west coast estuary and the source of drinking water for two-thirds of California. Many of the local project sponsors work together through entities such as the Bay Area Recycled Water Coalition. Over the past decade, such agencies have invested nearly \$300 million of local funds in water recycling projects.

Reclamation commends these agencies for working together to coordinate their efforts to address the regional issues of water supply and water quality. Reclamation, in collaboration with each project sponsor, is assisting in the preparation of project-specific feasibility reports and will review all submitted documents for compliance with applicable Federal environmental and cultural regulations.

H.R. 2442 authorizes the appropriation of over \$38 million of new or increased Federal cost shares. The Department supports efforts to increase local water supplies and increase recycled water use in northern California. However, the Department does not support the authorization of new Title XVI projects which have not yet received a determination that they are feasible for construction. Also, as discussed above these projects would compete with other needs within the Reclamation program, including other Title XVI projects currently under construction, for funding priority in Reclamation's Budget.

Madam Chairwoman, this concludes my testimony. Thank you for the opportunity to comment on H.R. 2442. I would be happy to answer any questions at this time.

**Statement of Michael L. Connor, Commissioner
Bureau of Reclamation
U.S. Department of the Interior
before the
Subcommittee on Water and Power
Committee on Natural Resources
U.S. House of Representatives
July 21, 2009
H.R. 2522**

Madam Chairwoman and Members of the Subcommittee, I am Michael L. Connor, Commissioner of the Bureau of Reclamation. I am pleased to provide the Department of the Interior's views on H.R. 2522, a proposal to raise the ceiling on the Federal share of the cost of the Calleguas Municipal Water District (District) Recycling Project. For reasons discussed below, the Department cannot support H.R. 2522.

H.R. 2522 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h *et seq.*) commonly called Title XVI, to increase the ceiling on the federal share of the costs of the Calleguas project to \$60 million. Current Federal law limits the Federal share of individual project costs to 25 percent of the total, or a maximum contribution of \$20 million. Raising the cost share further would further strain Federal budgetary resources.

The District submitted a feasibility study as required by the Title XVI statute, and it was approved in April of 2000. The feasibility study included nine distinct components: five wastewater reclamation and reuse projects, three brackish groundwater recovery projects, and a regional brine disposal project. A cooperative agreement was executed in September 2000, to provide Federal funding for one of the wastewater reclamation and reuse projects known as the Conejo Creek Diversion Project. This project was completed in September, 2003, and is currently producing about 9,000 acre-feet of recycled water annually. The total Federal share for this component was almost \$1.7 million.

In January, 2003, a cooperative agreement was executed to provide federal funding for the Regional Brine Line component. To date, Reclamation has provided about \$10 million to the District as the federal share of costs for this facility, which will provide a means to dispose of brine wastes from facilities such as brackish groundwater recovery projects throughout Ventura County. The FY 2010 Budget requested \$1.4 million for the Calleguas Municipal Water District Recycling project.

The Regional Brine Line is being constructed in three phases, starting with Phase 1 near the coast, and progressing inland. The current estimated cost of Phase 1, which includes an ocean outfall, is about \$76 million. The 25 percent federal share of Phase 1 would be \$19 million, which would obviously be reduced slightly because Reclamation has already provided \$1.7 million for the Conejo Creek Diversion Project. There would be no additional Federal funds available for Phases 2 and 3, which together are estimated to cost about \$145 million; nor for any

of the remaining seven projects that were identified in the feasibility study due to the current ceiling. This legislation would authorize \$40 million in additional federal funds.

As a threshold matter, I'd like to express the Department's general support for the Title XVI Reclamation and Reuse program. The 2010 budget proposal includes funding for Secretary Salazar's Water Conservation Initiative and Title XVI is an important element of that program. Also, on July 1, the Department announced the award of approximately \$135 million in grants for specific authorized Title XVI projects. Reclamation also recently selected 27 Title XVI projects – 26 of which are in California – that will receive American Recovery and Reinvestment Act of 2009 funding. We recognize that water reuse is an essential tool in stretching the limited water supplies in the West.

However, given that there are 53 already authorized Title XVI projects and numerous competing mission priorities and demands on Reclamation's budget, the Department cannot support the authorization of new Title XVI projects at this time. As a practical matter, Reclamation is concerned that a proliferation of authorized projects would be detrimental to effective overall program management because there would be a dilution of available funding and a diminished ability of the Bureau to carry out and complete individual projects.

Reclamation will, however, continue to work with project proponents to evaluate the feasibility of their projects. To that end, Reclamation recently revised and improved its directives and standards that govern the review of Title XVI projects. By doing so, we believe that Reclamation can play a constructive role with local sponsors, as well as Congress, in evaluating the merits of proposed water recycling projects. Information regarding a project's feasibility should be fundamental to Congress' evaluation of new authorizations.

Madam Chairwoman, this concludes my testimony. Thank you for the opportunity to comment on H.R. 2522. I would be pleased to answer any questions at this time.

**Statement of Michael L. Connor, Commissioner
Bureau of Reclamation
U.S. Department of the Interior
before the
Subcommittee on Water and Power
Committee on Natural Resources
U.S. House of Representatives
July 21, 2009
H.R. 1738**

Madam Chairwoman and Members of the Subcommittee, I am Michael L. Connor, Commissioner of the Bureau of Reclamation. I am pleased provide the Department of the Interior's views on H.R. 1738, the Downey Regional Water Reclamation and Groundwater Augmentation Act. For reasons described below, the Department cannot support H.R. 1738.

H.R. 1738 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h *et seq.*), commonly called Title XVI, to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Downey Regional Water Reclamation and Groundwater Augmentation Project in Los Angeles County, California.

Reclamation this summer has begun meetings with the City of Downey to exchange information regarding this project and help them develop a feasibility study in accordance with existing Directives and Standards. A feasibility study has not been submitted by the City of Downey, and compliance with the National Environmental Policy Act for this project has not been initiated. As such, Reclamation cannot provide a determination as to its merits.

As a threshold matter, I'd like to express the Department's general support for the Title XVI Reclamation and Reuse program. The 2010 budget proposal includes funding for Secretary Salazar's Water Conservation Initiative and Title XVI is an important element of that program. Also, on July 1, the Department announced the award of approximately \$135 million in grants for specific authorized Title XVI projects. We recognize that water reuse is an essential tool in stretching the limited water supplies in the West.

However, given that there are 53 already authorized Title XVI projects and numerous competing mission priorities and demands on Reclamation's budget, the Department cannot support the authorization of new Title XVI projects at this time. As a practical matter, Reclamation is concerned that a proliferation of authorized projects would be detrimental to effective overall program management because there would be a dilution of available funding and a diminished ability of the Bureau to carry out and complete individual projects.

Reclamation will, however, continue to work with project proponents to evaluate the feasibility of their projects. To that end, Reclamation recently revised and improved its directives and standards that govern the review of Title XVI projects. By doing so, we believe that Reclamation can play a constructive role with local sponsors, as well as Congress, in evaluating the merits of

proposed water recycling projects. Information regarding a project's feasibility should be fundamental to Congress' evaluation of new authorizations.

H.R. 1738 authorizes the appropriation of up to \$20 million, or a maximum of 25 percent of total project costs. While the Department supports efforts to increase local water supplies and increase recycled water use in Southern California, this project would compete with other critical needs within the Reclamation program, including other Title XVI projects currently under construction, for funding priority in the President's Budget.

Madam Chairwoman, this concludes my testimony. Thank you for the opportunity to comment on H.R. 1738. I would be pleased to answer any questions at this time.

**Statement of Michael L. Connor, Commissioner
Bureau of Reclamation
U.S. Department of the Interior
before the
Subcommittee on Water and Power
Committee on Natural Resources
U.S. House of Representatives
July 21, 2009
H.R. 2741**

Madam Chairwoman and Members of the Subcommittee, I am Michael L. Connor, Commissioner of the Bureau of Reclamation. I am pleased to provide the Department of the Interior's views on H.R. 2741, the City of Hermiston, Oregon, Water Recycling and Reuse Project. For reasons discussed below the Department cannot support H.R. 2741.

H.R. 2741 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h *et seq.*), commonly called Title XVI, to authorize the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities to reclaim and reuse water in the City of Hermiston, Oregon. Current federal law limits the federal share of individual project costs to 25 percent of the total, or a maximum federal contribution of \$20 million.

The City of Hermiston is located in north central Oregon and is one the largest communities within the Bureau of Reclamation's Umatilla Project Area. As part of their Wastewater Treatment Plant Improvements Project, the City of Hermiston is exploring the option of delivering reclaimed water to the West Extension Irrigation District to be used as agricultural water. Based on the city's current population, the reuse project would deliver an additional 1,132 acre-feet of water to the West Extension Irrigation District during the irrigation season. By 2026, it is estimated that the project would yield 1,685 acre-feet of reused water. The total estimated cost for this project is about \$21.5 million.

H.R. 2741 includes authorization for design, planning, and construction of this project, of which the Federal cost share is limited to 25 percent of the total cost. No Title XVI related appraisal or feasibility levels studies have been completed for this project.

The City of Hermiston is part of an agricultural community and recent changes in the state of Oregon's recycled water regulations reduce the barriers to using such water for the irrigation of food crops. There have also been a number of discussions between the City of Hermiston and the West Extension Irrigation District's governing board and the district has taken a favorable view of the project.

As a threshold matter, I'd like to express the Department's general support for the Title XVI Reclamation and Reuse program. The 2010 budget proposal includes funding for Secretary Salazar's Water Conservation Initiative and Title XVI is an important element of that program.

Also, on July 1, the Department announced the award of approximately \$135 million in grants for specific authorized Title XVI projects. We recognize that water reuse is an essential tool in stretching the limited water supplies in the West.

However, given that there are 53 already authorized Title XVI projects and numerous competing mission priorities and demands on Reclamation's budget, the Department cannot support the authorization of new Title XVI projects at this time. As a practical matter, Reclamation is concerned that a proliferation of authorized projects would be detrimental to effective overall program management because there would be a dilution of available funding and a diminished ability of the Bureau to carry out and complete individual projects.

Reclamation will, however, continue to work with project proponents to evaluate the feasibility of their projects. To that end, Reclamation recently revised and improved its directives and standards that govern the review of Title XVI projects. By doing so, we believe that Reclamation can play a constructive role with local sponsors, as well as Congress, in evaluating the merits of proposed water recycling projects. Information regarding a project's feasibility should be fundamental to Congress' evaluation of new authorizations.

Madam Chairwoman, this concludes my statement. Thank you for the opportunity to comment on H.R. 2741. I would be pleased to answer any questions at this time.