

Testimony of James C. Feider
on Behalf of
The Northern California Power Agency

Oversight Hearing on Securing the Bureau of Reclamation's Water and Power Infrastructure

House Resources Committee
Subcommittee on Water and Power

June 22, 2006

Introduction

Mr. Chairman and members of the Subcommittee, I am James C. Feider. I am testifying today both as the electric utility director of Redding, California, and on behalf of the Northern California Power Agency (NCPA). Collectively, NCPA members purchase approximately 40 percent of the power generated at the federal Central Valley Project (CVP), a series of 11 federal multipurpose projects with a combined generating capacity of about 2,000 MW.

NCPA, a joint powers agency, is engaged in the generation and transmission of electric power and energy on behalf of its members. NCPA members are committed to the well-being of the constituents they serve, and provide low-cost electricity in an environmentally and socially responsible manner. NCPA members serve approximately 400,000 customers with a peak load of 1,182 megawatts.

The cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara and Ukiah; as well as the Bay Area Rapid Transit District, Port of Oakland, the Turlock Irrigation District, and the Truckee Donner Public Utility District are members of NCPA. The Lassen Municipal Utility District, Placer County Water Agency and Plumas-Sierra Rural Electric Cooperative are associate members of the agency.

The CVP is a multipurpose system, providing:

- Water supply for agricultural users, municipalities and industrial users
- flood protection for the Sacramento and San Joaquin Valleys
- water for wildlife refuges to facilitate fish migration and spawning and other environmental purposes
- flat water and white water recreational opportunities
- power generation.

I commend the Subcommittee for holding this important hearing today regarding the Bureau of Reclamation's (Reclamation's) post-September 11 site security program. NCPA shares the desire of this Subcommittee and Reclamation – and all of the citizens of California and our country – to protect critical Federal infrastructure. No one questions the need for strong and effective security measures. Nor does NCPA or its members object to paying an appropriate share of the resulting costs. Rather, our objective is to promote a site security program that is effective, accountable, with properly and fairly allocated costs.

It is my hope that this Subcommittee – and Reclamation – shares these goals, and that together we can design a program that establishes a durable policy approach, wisely spends finite resources, allocates costs appropriately, provides needed oversight and accountability, and engenders confidence from project users, the public, and Congress.

Allocating Reclamation Site Security Costs

Following the terrorists attacks of September 11, 2001, expenditures for security costs for Reclamation facilities increased dramatically. Reclamation initially decided that those additional security costs would be non-reimbursable. Beginning in FY 2006, Reclamation proposed to make the post-September 11 guards and patrol costs reimbursable, while costs associated with facility fortification and anti-terrorism management remained non-reimbursable.

Reclamation has facilities designated as national critical infrastructure because of their importance to the economy, and the need for the Federal Government to ensure general public health and safety. While a strong argument could be made that the additional security is a public benefit, and should thus be entirely paid by the Federal Government, NCPA is willing to pay our share of these costs to secure national critical infrastructure within the CVP. The challenge will be how to ensure these costs are prudent and predictable.

When Reclamation published its May 1, 2005, report on site security costs, it was indicated that *two-thirds of the security costs* for the CVP were proposed to be allocated to CVP power customers. While the subsequent May 15, 2006 Reclamation report changed the allocation to more generally conform to the CVP multipurpose cost allocation, it is clear that a disproportional amount of the costs are being proposed as reimbursable.

There are also serious problems related to the durability of the existing allocation. Simply put, an annual debate and disagreement over the scope and allocation of security costs is not a sound approach to federal policy. It prevents Reclamation, and water and power customers from having the predictability and consistency needed to perform their respective responsibilities.

NCPA Supports Safety of Dams Proposal

We believe that existing law regarding Reclamation's Safety of Dams expenditures provides a solid and rational approach to allocate costs for these additional new security costs. The Reclamation Safety of Dams Act of 1978 authorized Reclamation to construct, restore, operate, and maintain features that preserve the structural safety of Reclamation dams and facilities.

There is a simple and logical correlation between measures taken to prevent a catastrophic failure of the dam – such as the work done a few years ago to stabilize the Mormon Island Auxiliary Dam at Folsom in light of seismic event concerns – and measures taken to prevent a terrorist attack intended to cause catastrophic failure.

Under the Safety of Dams Act, fifteen percent of the costs incurred are allocated to the authorized purposes of the Reclamation Safety of Dams Act. We believe it is appropriate to assign security costs on the same basis. Treatment of site security costs as Safety of Dams expenditures would provide a needed durable solution with reasonable cost accountability.

This approach provides a simple solution. It provides for a fair share of costs to be borne by CVP customers, while protecting them against open-ended costs. It is a durable solution that will spare Congress the need to wrangle each year over the issue of what the annual cost allocation percentages should be. Moreover, this solution would be easily accomplished legislatively; the Safety of Dams Act has been amended four times since its enactment in 1978 – most recently in 2004. While this program structure can be best accomplished through legislation, but we are open to other mechanisms that accomplish the needed objective.

Amending the Safety of Dams Act to include site security costs within the statutory definition of “Safety of Dams” activities is the most direct and workable solution to provide much-needed consistency in this area – while providing a long-term solution to an issue that, despite long-standing debate, is yet to be resolved for Reclamation and its stakeholders. NCPA encourages the committee to review and take action to advance this policy solution.

Key Security Cost Issues and Objectives

If a Safety of Dams proposal is ultimately not adopted, we will need protection against sudden and sharp increases in security costs, and assurance that the following specific issues are addressed through other legislative and/or administrative mechanisms:

- National Critical Infrastructure

At all levels of government, homeland security funds are targeted at projects that are both the most significant and most vulnerable. Reclamation should allocate for reimbursement only those project costs associated with facilities on the National Critical Infrastructure (NCI) list. Use of the NCI is an appropriate metric for delineating which projects warrant added security measures and which costs should be assigned for reimbursement. We are concerned that Reclamation's security program is being expanded beyond those designated NCI facilities. In order to focus security efforts at the most important facilities, Congress should stipulate that only security costs associated with projects on the NCI list can be assigned for repayment by water and power users.

- O&M – Not Capital Costs – Should be Eligible for Reimbursement

NCPA commends Reclamation for its initial decision to seek reimbursement of only those security costs associated with guards and patrols – not the capital costs to harden the facilities (barriers, security cameras, etc.). Reclamation has appropriately concluded that these costs were of national benefit, and should be 100 percent non-reimbursable. However, Reclamation's commitment is eroded in its March, 2006 report, which states that replacements of the physical facilities will be allocated for reimbursement. The distinction between capital costs and annual expenses was clearly made at the initiation of

this program. A change in that fundamental rationale and logic only serves to further demonstrate the lack of consistency and predictability that has plagued this program.

- Cost Accountability and Oversight

We all share a desire to protect these important projects and prevent any future terrorist attack. Yet, clearly, no public program should be beyond accountability and oversight. Let me be clear, we are not looking to know the types of weapons the guards carry, the placement of cameras or other classified details that are appropriately shielded from general public review. As public officials, we have a responsibility to the constituents and customers we serve to ensure that our dollars are being well spent. Toward that end, a number of steps can be taken to provide such accountability while preserving the classified nature of this program:

- Establish a Flexible Cost Cap

In the FY 2006 Energy and Water Appropriations bill, Congress wisely limited the security costs that Reclamation could assign for reimbursement to water and power customers. Establishing such a cap ensures needed cost discipline. Allowing unlimited funds to be assigned for reimbursement could lead to inappropriate cost shifting and misguided spending. A cost cap on reimbursable security expenses also provides power and water customers the ability to do rational budgeting, and provides rate stability for our consumers. We are not suggesting that Reclamation's total site security expenditures be capped – only that portion that can be recovered from power and water customers.

- Coordinate Security Planning with Western

As a sister federal agency, the Western Area Power Administration (Western) – which markets the power generated at the Reclamation dams – should be consulted with in planning and budgeting for guards and patrols. This can be accomplished without compromising security, since employees of both agencies have the requisite security clearances.

- Consultation with Funding Stakeholders

NCPA has had a positive and collaborative relationship with Reclamation in creating and implementing a funding agreement for power-related operation and maintenance activities. This constructive arrangement has provided both power customers and Reclamation with long-term planning and funding certainty, facilitated project prioritization, improved the operations of the facilities, and created a strong working relationship. Again, I do not expect Reclamation to provide funding stakeholders with detailed information that could compromise national security. However, utilization of the general model of stakeholder oversight as is applied with Operations and Maintenance functions should be considered.

In addition, NCPA would be open to execution of bilateral contracts with Reclamation that allows Reclamation to receive advance customer funding for the percentage of site security costs assignable to the power function for repayment. Yet, such a relationship presumes a cooperative partnership in addressing the issue.

- Reports to Congress

This Committee and others in Congress deserve, at a minimum, an annual briefing on Reclamation's site security program. Authorizing the program in the first instance – with the "sideboards" I have outlined in my testimony – provides Congress with both the responsibility and benchmark to perform adequate oversight.

Conclusion

NCPA joins with other federal power customers in asking you to take the steps necessary to ensure that Reclamation's site security program meets its objective to protect federal facilities – an objective we all share – in a responsible manner. In NCPA's view, the best and most durable approach in this area would be for Congress to amend the Reclamation Safety of Dams Act of 1978 to include these costs -- and thus ensure a proper allocation, establish accountability, ensure predictability for stakeholders, and most importantly, provide the Bureau of Reclamation with a consistent level of funding needed to perform this vital security function.

Should such legislative action not occur, it is clear that other specific legislative and/or administrative steps are needed to address the issues raised in my testimony today.

Mr. Chairman, thank you for your review and consideration of this important policy matter – and for the invitation to share

our perspective and recommendations. I look forward to working closely with you as your examination of this important issue proceeds.