

Committee on Resources

Witness Testimony

Testimony of
Larry Libeu Assistant General Manager
Eastern Municipal Water District
and
Committee Chair
of the
National Water Resources Association
Water Resources Management Committee
before the
Committee on Resources
Subcommittee on Water and Power Resources
on H.R. 3041, Legislation to Supplement the Small Reclamation Loan Program
April 18, 1996

Mr. Chairman and Members of the Subcommittee:

I am Larry Libeu, Assistant General Manager for the Eastern Municipal Water District (EMWD) in San Jacinto, California. I am also Chair of the National Water Resources Association Committee on Water Resources Management. EMWD was formed in 1950 under California statutes as a municipal water district and joined as a Member Agency of the Metropolitan Water District of Southern California a year later to augment its local supplies with recently available imported water. The EMWD service area is 542 square miles and has a population that totals approximately 480,000. The District is a past and present participant in the Bureau of Reclamation's Small Reclamation Loan Program (SRPA).

The National Water Resources Association (NWRA) is a nonprofit federation of state associations and individuals dedicated to the conservation, enhancement, and efficient management of our Nation's most precious natural resource, WATER. The NWRA is the oldest and most active national association concerned with water resource policy and development. Its strength is a reflection of the tremendous "grassroots" participation it has generated on virtually every national issue affecting western water conservation, management, and development.

The following testimony is presented to assist the Subcommittee in its efforts and decisions on how to proceed with the Bureau of Reclamation's Small Reclamation Loan Program in light of the introduction of H.R. 3041 by Representative Ken Calvert. From the outset, let me state that EMWD and NWRA support H.R.3041 as introduced.

BACKGROUND HISTORY OF SRPA

The Small Reclamation Projects Act of 1956, as amended, established a program under which certain types of organizations, including the Native American community, located in the 17 contiguous Western States and Hawaii, can obtain loans for development of small reclamation projects and grants for those portions of the projects that are nonreimbursable as a matter of national policy. Historically these were multipurpose projects that included commercial irrigation as one of the purposes, along with municipal and industrial water supply, commercial power, flood control, fish and wildlife enhancement or outdoor recreation. Loan funds could also be used for water quality control features where conservation and subsequent reuse is a primary project objective.

Congress last reviewed and reauthorized this program in 1986 (P.L. 99-546) in part because the original \$600 million cost-ceiling for the program had been exhausted. Important changes were made at that time, including financial and environmental changes, that culminated in the legislation being supported by the Reagan Administration, the water community and the national environmental community. We view the changes as proposed in H.R.3041 as further improvements in those respective areas.

Currently there are eight (8) projects under construction or close to completion in Arizona, California, Colorado, Oregon, and soon in Utah. I have a description of each of those projects that I would like to have included in the record. Under the existing law, aside from the program benefits listed above, there are secondary benefits such as the ability to construct major facilities in five years or less to help address long term problems in short time frames.

The program also provides small rural and Native American agencies the ability to obtain funding for project development which would not be available from the private sector. The program also provides the opportunity to undertake technology transfer, such as the development of multipurpose constructed wetlands for water treatment, wildlife enhancement and groundwater replenishment. We believe this program has provided the appropriate partnerships that need to exist between the Federal and State government and local agencies if we are going to continue to address Western water problems in an appropriate manner.

Mr. Chairman, let me briefly give you an example of the type of project that has been undertaken under the SRPA program since the last reauthorization bill in 1986. The Eastern Municipal Water District has a \$46 million Small Reclamation Loan Program project in the final year of construction. When completed in 1997, the project will provide reclaimed water for increased groundwater recharge and environmental enhancement of nearly 300 acres as well as provide reclaimed water to over 21,500 acres of irrigated land and recreation, thus preserving treated potable water that would have been used without the system we're constructing.

That recycled reclaimed water will also provide other important joint and conjunctive use benefits such as establishment of recreational parks and greenbelts, enhancement of wetlands, wildlife habitat, and the recharge of surplus reclaimed water into underground aquifers to improve water quality and for future drought(banking) management. This secondary water supply will, through exchange and replacement agreements, free-up limited primary water supplies in order to meet the fast-growing domestic and municipal and industrial demands in Southern California.

EMWD and NWRA believe the changes to the program that are reflected in H.R. 3041 continue the progressive approach to meeting the contemporary water needs of the West through these supplementary changes to the SRPA Program.

WHY THESE CHANGES ARE NECESSARY AND BENEFICIAL

An unusual occurrence took place on the way to having a useful tool, that would help solve Western water problems. Congress reauthorized the program in 1986, but it wasn't until 5 years later that a project emerged from the bureaucracy to use the new \$600 million authority for the program. As we previously indicated, there are eight projects under construction with two more awaiting paper processing. It has been an uphill fight to get these projects going, having little or nothing to do with the quality of the projects but rather larger issues on fiscal implications and future plans for the overall Reclamation program. We believe the projects speak for themselves in terms of quality.

No sooner were we able to get the program going, when the former Commissioner for the Bureau of Reclamation, Dan Beard, announced to more than two dozen districts that had filed their Notices of Intent that no more loans were going to be processed because they would not fit his guidelines which were yet to be developed. I am providing the list of those projects for the record. He indicated that a review of the program was needed and it needed to reflect the new mission for the Bureau of Reclamation that Commissioner Beard was putting in place.

EMWD, along with several of the other project sponsors, through the NWRA Water Resources Management Committee, engaged in a partnership process with the Bureau of Reclamation to improve the program. Many of those ideas from that effort on our part are reflected in the legislation, H.R. 3041, that is before you today. As we were nearing the end of that process, the Bureau of Reclamation excused itself from that partnership effort. A month later the Secretary of the Interior announced the termination of the Small Reclamation Loan Program as part of his effort to downsize the Department of the Interior. I have a copy of that announcement which I would like to submit for the record.

So we are here a year later to say that you are right Mr. Chairman and the Secretary is wrong, if you are willing to support the efforts of Representative Calvert and help move this legislation through the 104th Congress. Because the

West must continue to address water supply and quality challenges. The Small Reclamation Loan Program is one of the best tools in the water resources tool chest to meet those challenges.

SPECIFIC COMMENTS ON TITLE 1 OF H.R. 3041, THE SMALL RECLAMATION WATER RESOURCES PROJECT ACT OF 1996.

Mr. Chairman, we have reviewed H.R. 3041 as introduced by Representative Calvert and have attached a copy of a comparison of the existing program to the proposed legislation. I would like to make the following specific comments:

- * Title I of H.R. 3041 recognizes and reflects the need to leverage the limited amount of Federal money that is available for water resources in this country. By only increasing the ceiling for half of what is provided for under existing law, and by limiting the amount of Federal exposure to no more than \$30 million under title one of the bill more work can be undertaken and more oversight can take place. We know from past experience that \$30 million can support 15-20 projects on an annual basis.

- * Though the Department of the Interior may no longer wish to be in the loan business, H.R. 3041 makes a very business like change in the repayment period. Existing law allows for repayment of a loan in forty years. H.R. 3041 would reduce that down to 25 years and more likely we would see repayment contracts negotiated at 15 years and possibly less.

- * Another example of the business-like approach taken in the legislation is the requirement of a minimum of twenty-five percent cost sharing and a maximum of 40 percent. We believe such an approach provides the necessary means test on whether a project proposal is worthy of the investment of scarce Federal dollars.

- * H.R. 3041 also reflects the current philosophy in Congress that every program should be examined and evaluated on its merits. This legislation would only provide funding for ten years. We support that approach. This would provide the opportunity for the program to come back to Congress, make the case that it should continue and see how well it has worked and whether additional changes are needed.

- * The 104th Congress has been looking at the whole issue of regulatory review and how well the Federal bureaucracy works. This legislation would get rid of needless layers of bureaucracy, stipulate the time frame for Administrative decision making so a project applicant is not hung out to dry for years, as their problems got worse while anxiously waiting for the Federal government to act on their idea or project.

SPECIFIC COMMENTS ON TITLE II OF H.R. 3041, THE SMALL RECLAMATION WATER RESOURCES PARTNERSHIP PROGRAM.

We believe Title II of the legislation will provide the necessary innovative funding source that water districts often find themselves in need of for relatively small short term projects.

This title would establish a partnership program for water conservation, fish and wildlife enhancement, public safety, public outdoor recreation, environmental education, integrated resource planning, watershed management, research, and non structural flood control activities.

Having such a small amount of money available for such unique, yet necessary public purposes, and the decisions being made down at the Regional Director level in partnership with the water user on what is needed, we believe, reflects the type of role that the Federal government should be playing in the West.

We also believe that such a program, through the relatively small revolving loan program that would be established, is the type of experimental policy innovation that should be taking place. We believe that rather than have the bureaucrats in Washington, D.C. wasting valuable time on such minor, yet user important matters, reflects the political realities of the 1990's.

SPECIFIC COMMENTS ON H.R. 2781

Mr. Chairman, though not requested, we would also like to take this opportunity to offer comments on H.R. 2781 because of the potential problems that might be created if it were to become law. As currently drafted, EMWD and NWRA would have to oppose H.R. 2781. We appreciate and agree with the concept, the use of loan guarantees as a way of stretching the limited Federal resources. That is in part what we believe to be more appropriately carried out by H.R. 3041 - the stretching of limited Federal financial resources.

We do not have a problem with the concept of loan guarantees. But we can only support them if they are made to Governmental Entities. We believe that nongovernmental entities who are interested in water development are there first to make money, and second to address the need. As a result, they should be able to arrange for nongovernmental financing if the project is that viable. This could lead to a situation where you would be encouraging private control of a publicly regulated resource and possibly lead to speculative ventures. Let me give you a hypothetical example.

Some one decides to build a \$250 million water supply project. So they build a reservoir, maybe an off-stream lake to store the water. The project is built and the project developer, a nongovernmental entity, takes a walk without repaying the loan. The Federal government has to step in a pay it off. Meanwhile, that same developer has set up a second company to develop a housing project around the area - lake view lots, etc. Having taken a walk on the loan, he now is able to have the benefit of that asset - the lake - to sell the houses. Farfetched? We only have to go back and look at the Savings and Loan fiasco's of the 1980's to see what happens in such markets.

A more troubling aspect of a loan guarantee to a nongovernmental entity is that there is nothing in the legislation to indicate whether this entity is a U.S. entity. This could open the door to the U.S. Government guaranteeing a loan to a foreign corporation who is interested in coming into the United States to capture a market. To add insult to injury, the U.S. consumer could end up paying for that right. If this legislation is going to go forward, we would recommend a stipulation that loan guarantees only go to completely U.S. owned nongovernmental entities.

We would be interested in how the figure of \$440,000,000 was arrived at as the available authority under the Small Loan Program. Part of our support for H.R. 3041 is premised upon there not be enough loan authority in the program to build the projects on the Notice of Intent list. We are also concerned that without a definitive understanding of how this number was arrived at, that the existing projects that are under construction could possibly be impacted as a result of loan guarantees being extended.

As we read the legislation, there is nothing to prevent the entire loan guarantee from going to just one large project. That could limit the availability of future guarantee's for endless years. At a minimum, if the Committee would like to proceed on this legislation, we would support limiting the guarantee to the nonreimbursable portion of such a project or to a set amount, such as \$10 million. We look at these programs as a means of addressing as many projects or problems as possible.

We also do not see any limitation to just the seventeen Western states. We would argue to those that would have this program be nationwide that we do not understand the rationale of having the Secretary of the Interior use the Small Reclamation Loan Program as the Guarantor for water projects outside the 17 Western states.

It would seem more appropriate, if in fact a loan guarantee approach has merit, that the Secretary of the Army, through the U.S. Army Corps of Engineers, be the guarantor, since he has programs and jurisdiction in each of the 50 states. We believe there is enough work to be done in the seventeen Western states, and that we shouldn't be diluting the program so that it is not able to meet the very real needs in the arid West.

Another concern we have with H.R. 2781 is how such a loan guarantee program would possibly be used to meet the needs of Native Americans. I would like to quote the FY 97 Budget Justification document for the Bureau of Reclamation. "Many areas of the West -- particularly Indian communities -- have water supplies that are inadequate for daily use, substandard, and/or unsafe". The current loan program has been a useful tool for helping address these Native American needs. We are not sure it is a good idea for nonfederal interests to undertake an effort to meet the trust responsibilities of the Federal Government through a loan guarantee program approach.

We would also like to note that there are no definitions for such terms as "water supply, water conservation, water quality, and water transmission projects". These activities could range anywhere from cloud seeding to large dams that

might put the Secretary of the Interior in the embarrassing position of providing support for a project that would or has been opposed by the Fish and Wildlife Service or the EPA.

One final note on H.R. 2781. We have provided for a means test approach under H.R. 3041. We would suggest that on the surface there appears to be no means test for this loan guarantee program. In the era of scarce Federal dollars, it would seem incongruous to have a program in place without such a device.

CONCLUSION

Some might ask the question, "Can't we do both - a loan guarantee and a regular SRPA program? ". At best Mr. Chairman, NWRA would suggest to you, that you request that Committee Chairman Don Young, as a Member of the Western Water Policy Review Advisory Commission, have the Commission staff review the idea of a loan guarantee and the broader implications on Western water issues and bring their review back to Congress as part of the Commissions final report.

We believe having the SRPA program continue and legislation pass this Congress as envisioned by H.R. 3041, is the most important and appropriate course to take at this time. As you will see from the list of notices of intent, there is interest out there, problems that need to be addressed and a belief that the SRPA program is the best vehicle to address the critical water resource needs in the West.

This program works. It is well known and has been widely used in the 17 Western states. It also acknowledges today's fiscal realities. It provides agencies large and small with a Federal program that addresses their infrastructure needs in a timely, cost-effective manner. H.R. 3041, if passed by this Congress, will carry us into the 21st Century with the confidence that we, as public agencies, have been provided with the essential tools to manage our water resources.

On behalf of the membership of the National Water Resources Association, and the Board of Eastern Municipal Water District, I thank the Chairman and the Subcommittee for the opportunity to address these important issues.

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