

Will Lutgen , Executive Director

Northwest Public Power Association ( NWPPA)

House Resources Subcommittee on Water and Power

Bureau of Reclamation Site Security Program

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Good morning Mr. Chairman and Members of the Committee. My name is Will Lutgen, Jr. and I am the Executive Director of the Northwest Public Power Association ( NWPPA). I appreciate this opportunity to testify on behalf of NWPPA on the Bureau of Reclamation's (Reclamation) security measures at National Critical Infrastructure facilities.

NWPPA is a non-profit association of approximately 150 public/people's utility districts, electric cooperatives, municipalities and crown corporations in the Western states -- including Alaska, Arizona, California, Idaho, Montana, Nevada, South Dakota, Oregon, Utah, Washington and Wyoming -- and in Alberta and British Columbia, Canada. NWPPA also serves the sales and networking needs of over 200 Associate Members across the U.S. and Canada who are allied with the electric utility industry.

Our utility members serve some five million consumers in the Western U.S. and employ some 20,000 individuals. The association was formed in 1940, when public power municipal utilities, public power utility districts and rural electric cooperatives decided they needed one regional organization to represent their interests. Since those early days, NWPPA has been an advocate for public power in the Pacific Northwest region and has provided services tailored specifically to member needs. NWPPA exists to enhance the success of its members through education, training, public information, governmental relations and value added services.

In the Northwest, we are *still* recovering from the energy crisis of 2000-2001 and we have been working hard to control Bonneville Power Administration's (BPA's) costs. Bonneville's rates are affected by many factors, including drought, fish and wildlife obligations and contracts with the direct service industries. As stewards of the public trust, we are trying hard to make sure these security costs, which also affect our rates, receive the needed scrutiny and are fair to our ratepayers.

I would like to make four key points today:

- Given the national security interests at stake, funding of post-9/11 Reclamation security measures should remain a non-reimbursable federal obligation and be subject to congressional oversight.
- NWPPA is concerned that there are no cost controls, authorization ceiling, sunset date, or Congressionally-approved parameters to limit or control the amount of money Reclamation can spend for increased security. To date, Congress has appropriated more than \$158 million for Reclamation's increased security activities, and Reclamation is asking for nearly \$40 million more in the President's FY 2007 budget. Congress should authorize appropriate spending parameters for this program.
- Project beneficiaries have no meaningful input into discussions about Reclamation's security cost program. Even Congressional staff have been denied critical information regarding these costs for national security concerns.
- Reclamation facilities provide people with flood control, water supply, recreation and other benefits. If a portion of the security costs are made reimbursable, they should be allocated among all beneficiaries and capped to ensure accountability.

Let me briefly describe the history of this program and how NWPPA has come to arrive at the conclusion that Congressional intervention is necessary to end this ongoing battle between the Bureau and its power customers.

As you may recall, immediately after September 11, 2001, the Bureau of Reclamation (Reclamation) aggressively increased security and anti-terrorism measures at federal multi-purpose dams. Consistent with federal policies adopted during World War II, the Commissioner of Reclamation in April 2002 determined that these increased security measures were a matter of national security and, therefore, the costs should be paid by the federal government.

In the Administration's FY 2005 budget request, Reclamation changed position and sought to recover a significant part of increased security costs from project beneficiaries. Specifically, Reclamation sought to make costs of increased guards and patrols reimbursable by customers. In response, Congress in FY 2005, directed Reclamation: 1) to submit a report

detailing its new proposal, on a region-by-region and project-by-project basis; and 2) not to implement its new reimbursability policy until directed by Congress to do so. Therefore, all of the FY 2005 costs for increased security remained a federal expense.

A Reclamation report in May 2005 indicated that for the Columbia River Basin, power customers would pay \$2.34 million of the \$2.42 million in costs for guards and patrols -- approximately 92% of reimbursable security costs, despite the fact that this multi-purpose facility serves many functions and provides benefits to many user groups. Reclamation's rationale for this allocation is that this is how the agency allocates all operation & maintenance (O&M) costs for its Columbia River projects, and it regards costs for increased guards and patrols as an O&M expense.

In FY 2006, Congress allowed \$10 million of the \$19.6 million in costs of guards and patrols at all Reclamation dams to be recovered from project beneficiaries. However, Congress recognized that "all project beneficiaries that benefit from an enhanced security posture at the Bureau's facilities should pay a share of the security costs" and directed Reclamation to submit "a delineation of planned reimbursable security costs by project, pro-rated by all project purposes."

In the Administration's FY 2007 budget, Reclamation requested a total of \$18.9 million in reimbursable security costs from customers to cover costs of guards and patrols. Reclamation plans to recover \$11.6 million from power customers and approximately \$7.3 million from other project beneficiaries, such as irrigation, municipal and industrial water users etc. Again, power is being asked to pay a disproportionate share. No project by project breakdown of the FY 2007 reimbursable costs is available at this time. However, in a February 2006 report to Congress, Reclamation restated its policy that costs of guards and patrols should be reimbursed by customers and added language that would also make all the costs of maintaining (O&M) the newly fortified facilities reimbursable. Thus, Reclamation's definition of reimbursable O&M is expanding.

Currently, the Bureau is spending about \$50 million per year on enhanced security costs West-wide and is trying to recover about half of that from water and power customers, mostly from power. For example, in FY 2006 the Bureau sought to recover almost \$5 million from BPA customers for enhanced security at Grand Coulee. It is seeking a similar amount in FY 2007 and there is no authorization cap on the program.

We, as preference customers, have been fighting unsuccessfully with the Bureau to have these security costs be fully non-reimbursable, that is remain a federal obligation. Despite some initial positive signals, a number of organizations representing Bureau water and power customers, including NWPPA, no longer believe that it is possible to reach a workable solution in dealing with the agency alone. For that reason we are watching with interest as alternatives, such as those being described here today, are proposed by others in the industry.

Further, concerns have been repeatedly expressed to Reclamation about the security cost program's lack of information and transparency, lack of objective criteria, lack of spending controls and inequitable allocation of costs, and lack of Congressional authorization. We understand that the nature of security costs does not allow for a full review and comment by customers; however, allowing a limited review by signing non-disclosure agreements or obtaining security clearances is no substitute for the certainty that can be provided through a cost cap.

Specifically, NWPPA now believes that Congress should expressly authorize Reclamation's site security program to ensure accountability to Congress and to provide cost certainty to funding stakeholders through an equitable, durable allocation of costs.

Such legislation should:

- Direct Reclamation to report annually to the House and Senate Committees on Homeland Security, Resources and Energy and Natural Resources, and Appropriations on security actions and activities undertaken in the prior fiscal year and proposed for the upcoming fiscal year and the sources and expected sources of reimbursable and non-reimbursable funding for each action;
- Provide that funding stakeholders will reimburse costs of guards and patrols at National Critical Infrastructure (NCI) facilities up to a level that does not exceed the FY 2006 Congressionally-approved level of \$10 million, indexed for inflation;
- Specify that such reimbursable funds be spent only on guards and patrols at NCI facilities and allocated among NCI facilities in the same manner as they were allocated by Reclamation in FY 2006;
- Provide that, in the event of a change in the level of a national security threat, Reclamation will immediately notify Congress and, with funding customers, seek approval of Congress to adjust the reimbursable costs for guards and patrols until such time as the threat level changes; and

- Require the Bureau to allow stakeholder review and input on work program elements of the entire security cost program on at least a five-year planning horizon, detailed by pre and post- 9/11 and by category (e.g. fortification, guards and patrols, etc.).

In conclusion, NWPPA members believe in being responsible stewards of the facilities and for paying their fair share of the costs. We are not seeking to circumvent our responsibilities. However, we firmly believe that the burden our power customers are being asked to shoulder for these counter-terrorism measures are above and beyond normal O&M functions.

Moreover, protection of these multi-purpose facilities, which provide important flood control, water storage for irrigation, municipal and industrial users, recreation and environmental mitigation benefits and power generation is in the national interest and, therefore, should remain a federal obligation. The post-911 security costs appear to be intended to mainly protect the multi-purpose facilities, and failure of these facilities would have the greatest impact to the public at large.