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Testimony on Behalf of the Arizona Westside Irrigation and Electrical Districts

Before the House Resources Committee
Subcommittee on Water and Power

Hearing on

“Securing the Bureau of Reclamation’s Water and Power Infrastructure: A Consumers’ Perspective”

June 22, 2006

Good morning, Mr. Chairman and Members of the Committee. My name is Jay Moyes. I am here representing the Arizona Westside Irrigation and Electrical Districts, on whose behalf I thank you for holding this important hearing on the Bureau of Reclamation’s (Reclamation) Building and Site Security program.

The Westside Districts are an informal coalition of nine agricultural districts located in Arizona’s Maricopa, La Paz and Yuma Counties. They contract for federal hydropower generated primarily at the Hoover and Glen Canyon Dams, and use that power predominantly to pump irrigation water. The Westside Districts are also members of, and/or work in coordination with, other Arizona and regional organizations such as the Colorado River Energy Distributors Association (CREDA), the Irrigation and Electrical Districts of Arizona (IEDA), and the Arizona Agri-Business Council (ABC) to address water and power policy issues.

As you know, Mr. Chairman, immediately after the September 11, 2001 attacks, Reclamation instituted an aggressive program to step-up site security and anti-terrorist measures at federal multi-purpose dams, including Hoover and Glen Canyon. We share Reclamation’s concern for the security of our country’s “National Critical Infrastructure” (NCI) facilities, and we applaud the agency for taking steps to lower the risk of attacks at these dams.

Consistent with federal policy adopted following the attack on Pearl Harbor, the Commissioner of Reclamation recognized that enhanced security measures to protect Reclamation’s key water and power projects were vital to the national interest. Accordingly, in April 2002, he administratively determined that the costs of these new security measures were appropriately a federal obligation.

However, the Administration’s FY 2005 budget directed Reclamation to shift course and, instead, charge the project beneficiaries for the costs of additional guards and patrols. In FY 2005, the cost of those services was \$20,923,000 million, of which power customers were to pay approximately 94 percent. Federal power customers objected, citing legislative precedent establishing that such expenditures were in the broader national interest and should remain a federal responsibility. They also challenged the inequitable allocation of the increased costs to power users.

It is a fundamental fact that Reclamation’s security measures are intended to protect *all* features of the projects, not just power generation. Actually, if a terrorist attack were to successfully breach Hoover Dam, for example, the power users would, in relative terms, likely be the *least* catastrophically impacted among all beneficiaries of the dam. Yet power customers are being burdened with nearly all of the reimbursable costs of the new security measures.

Reclamation’s disproportionate allocation of the reimbursable security costs to power customers was not based on any objective risk analysis. Instead, Reclamation simply decided that the costs of beefed up guards and patrols should be allocated according to the formula it uses to allocate normal Operation and Maintenance (O&M) costs at each project. That formula, which prescribes that power users pay the lion’s share of the reimbursable O&M, was established many years ago and certainly did not take into account the need to protect these facilities from terrorist attack.

Reclamation defaulted to the standard O&M allocation formula for the simple reason of administrative convenience. Although benefits from Reclamation dams are widely distributed among flood control, recreation, water supply, and fish & wildlife purposes – in addition to power generation -- there is generally no existing statutory authorization or contractual mechanism that readily facilitates Reclamation’s equitable assessment of security costs to the other project beneficiaries. Nevertheless, merely because there is a contractual rate-setting mechanism for easy pass-through of increased security costs to only power customers does not make such a disproportionate pass-through either legally or equitably appropriate.

In addition to the inequitable cost allocations, we are also concerned about the program's lack of transparency and the absence of spending controls.

In response to expressed concerns about lack of transparency, Reclamation has informed customers that it would consider providing security clearances for a limited number of project customer representatives to access sensitive program data, subject to non-disclosure restrictions. We appreciate this well-intentioned offer; but it does not suffice, because it would preclude the use of such data in the rate-making proceedings, where the costs are imposed on power customers, and it would not otherwise provide customers any substantive role in determining the magnitude of security costs they are to bear.

With regard to lack of spending controls, the customers have several additional concerns. First, there is no Congressional authorization for the program, and no limit on Reclamation's future spending. As of April 30, Reclamation has spent more than \$158 million on its post-9/11 Building and Site Security program. For FY 2007, Reclamation has requested \$39,600,000 -- \$18.9 million of which Reclamation intends to impose upon customers.

Second, and potentially most troubling to us, is the lack of any boundaries on what Reclamation can unilaterally designate as "reimbursable" costs to be repaid by power customers. Despite numerous expressions of Congressional and customer concern, Reclamation submitted a February 2006 report to Congress highlighting its plan to *expand* the scope of reimbursable costs beyond simply guards and patrols to also include future OM&R on program "upgrades to dam fortifications." There has been no discussion of this expansion with customers and no further definition of what might ultimately be included in "OM&R" on dam fortifications. Does it include replacement of security cameras that fail? Or a second layer of dam hardening? Or integration of future equipment technology advances? In fact, power customers are hard-pressed to think of any expense that might not arguably be categorized as OM&R of dam fortifications. Such a "blank check" approach to open-ended reimbursable costs constitutes a material shift in policy from that articulated in the report Reclamation provided to Congress in May 2005, and from a briefing Reclamation provided to some customers in December 2005.

The Westside Districts believe that Congress should exercise vigorous oversight of this important program, and that funding stakeholders should have a meaningful opportunity to participate in program planning and implementation. To this end, we recommend that Congress legislatively authorize Reclamation's Building and Site Security program to ensure effective Congressional oversight and to provide cost certainty to funding stakeholders through an equitable allocation of costs.

Such legislation should:

- Direct Reclamation to report annually to Congress on security actions undertaken in the prior fiscal year and proposed for the upcoming year, and the sources of reimbursable and non-reimbursable funding for each action;
- Provide that stakeholders will reimburse costs of guards and patrols at 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 are to be spent only on guards and patrols at NCI facilities, and are to be allocated in the same manner as they were in 2006;
- Provide that, should the threat level change, Reclamation will immediately notify Congress and, with the funding customers, seek approval to adjust the reimbursable costs for guards and patrols until the threat level changes;
- Require Reclamation to allow stakeholder review and input on all elements of the entire security cost program on at least a five-year planning horizon.

Mr. Chairman, the Westside Districts appreciate your attention to this critical security program. We recognize that our Nation has entered a new era in which increased security measures and costs will be the norm. We support prudently increased security at these NCI facilities, and are willing to bear our equitable share of the national responsibility for the necessary costs. As Reclamation's program moves forward, we believe additional Congressional oversight and stakeholder involvement are needed and appropriate.

Thank you for the opportunity to submit this testimony. I will be happy to answer any questions regarding my testimony or Westside Districts' positions regarding Reclamation's Building and Site Security program at the Committee's convenience.