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**Testimony Before the United States House of Representatives  
Committee on Natural Resources  
Subcommittee on Water, Wildlife and Fisheries**

**Legislative Hearing**

***H.R. 3675 - To amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority***

**June 14, 2023**

Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee:

My name is Cannon Michael, and I am the Chairman of the San Luis & Delta-Mendota Water Authority. The San Luis & Delta-Mendota Water Authority (Water Authority or SLDMWA) serves 27 member agencies within the western San Joaquin Valley, San Benito and Santa Clara counties, who provide water service to approximately 1,200,000 acres of irrigated agriculture, over 2 million people, and more than 130,000 acres of wetlands providing habitat critical to migratory waterfowl along the Pacific Flyway. I also serve on the Board of Directors of the Family Farm Alliance (Alliance) which has supported giving Reclamation accelerated repayment authority for nearly two decades and also endorse my comments.

Thank you for the opportunity to testify on H.R. 3675, a bill to amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority. The Water Authority and the Alliance fully support enactment of this bill, which will extend important, win-win authorities that allow water users to accelerate repayment of capital construction costs for Reclamation facilities. We appreciate Congresswoman Boebert for introducing this bill and want to thank all of the cosponsors.

**H.R. 3675 and Accelerated Repayment**

Since its inception, the Reclamation program has generally operated under the principle that the federal government expends the upfront capital to construct water projects, with those capital costs repaid by the beneficiaries of the projects under a contract with the Bureau of Reclamation. Under Reclamation law, repayment obligations to the federal government are typically repaid over as long as 40 or 50 years through either a repayment contract or a water service contract. Water users are also responsible for operations and maintenance (O&M) costs of Reclamation facilities.

While both repayment and water service contracts ensure all capital and O&M costs of the associated Reclamation facilities are paid, the structure of repayment and application of regulations after all capital costs have been repaid differ. For repayment contracts, capital is amortized over the contract term (which is often determined by Congress) at a fixed, annual payment and O&M is paid as it is incurred. Water service contracts on the other hand, pay a combined rate for water delivered that includes in capital repayment, O&M, and in some cases, other costs that Congress has allocated to water users.

Once a Reclamation contractor has fulfilled all its capital repayment obligations, those facilities are considered “paid out.” As discussed further below, under current law, paid out repayment contractors are no longer subject to restrictive acreage limits and certain other regulations in Reclamation law. Water service contractors do not get the same relief upon full repayment of capital obligations.

In the past, Congress has specifically allowed early repayment for certain projects or facilities, though until a temporary authorization was enacted in the Water Infrastructure Improvements for the Nation Act (WIIN Act; P.L. 114-322) there was no general allowance or prescribed process in Reclamation law to allow accelerated payout. That authority has now expired.

H.R. 3675 would extend these WIIN Act authorities and allow Reclamation contractors that remain interested in early repayment to pursue such an action with the agency. Specifically, H.R. 3675 would permanently address the numerous important aspects of Reclamation law relevant to accelerated repayment, including:

- Allowing for conversion from a water service contract to a repayment contract for agricultural and municipal contractors.
- Authorizing prepayment of capital costs through a lump sum or with accelerated installments.
- Clarifying that current law related relief from acreage limits, reporting requirements, and other components of the Reclamation Reform Act (RRA) applies to all contractors that pay out capital costs early under this authority, while ensuring continued compliance with Reclamation law and relevant requirements.
- Establishing a discount rate to determine present value for the purposes of repayment.
- Prohibiting power revenues from being used in repayment of capital costs under this authority.
- Ensuring that accelerated repayment will not affect the repayment obligations of other Reclamation contractors.
- Ensuring that any remaining costs, including O&M, that are not part of the accelerated repayment remain the obligation of the contractor.

As outlined further below, accelerated repayment can bring several benefits for Reclamation contractors and the federal government, and we fully support making the pathway to those benefits permanent through enactment of H.R. 3675.

### **Benefit of Accelerated Repayment for Water Users and the Federal Government**

Reclamation contractors pursue accelerated repayment of their capital obligations for various reasons depending on their unique circumstances. One common reason water users pursue accelerated repayment is to remove the acreage limits and reporting requirements established by the RRA which can be cumbersome and restrictive.

The RRA, enacted in 1982, modified Reclamation law by increasing the per owner limits on acreage that can receive Reclamation water, while also requiring that those limits account for all of a contractor's land, including lands that are leased or in another Reclamation project boundary. RRA also established increased water prices (so called full-cost water) for water delivered to lands in excess of established limits and requires extensive reporting and paperwork each year. As referenced above, under current law, contractors that are considered paid out under a repayment contract are no longer subject to these RRA requirements, while water service contractors remain subject to RRA limitations and reporting even after capital repayment is complete. The efficiencies gained by removing RRA restrictions and requirements can be significant and lead many contractors to seek pay out sooner than their contract would otherwise require.

Additionally, paying out federal obligations increases certainty for contractors regarding long-term water supply, allows entities that are interested to pursue title transfer in order to increase financing opportunities and streamline approvals, and achieves other specific goals like avoiding RRA related Securities and Exchange Commission disclosures for publicly traded companies.

From the Federal perspective, authorizing early repayment will accelerate Treasury receipts and raise revenue for the federal government. Importantly, H.R. 3675 would ensure that all contractual repayment obligations are repaid in full at present value, including some that currently do not carry interest, ensuring that no additional costs are shouldered by U.S. taxpayers.

However, the benefits from utilizing Sec. 4011 contract conversion authority benefits more than a specific project or the Treasury. Funds received from prepayment or accelerated repayment are held in a Treasury account to be used for funding additional water storage projects. The western United States has been experiencing significant variations in hydrology, ranging from drought to flooding, and expediting funds back to the federal government that

can be turned around to support additional water storage is of utmost priority. In California, if the past few years have shown us anything, it's that we must continue investing in additional water storage capacity so that we can capture more water in wet periods like the ones we saw this year that can be used in dry periods like we've had over the prior few years. Since the WIIN Act was signed into law, more than 80 entities have pursued prepayment of their federal obligations under the Sec. 4011 authority – which includes nearly all of our 27 members at the Water Authority. These numbers illustrate the need and desire in our region to utilize the Sec. 4011 authority under the WIIN Act, and the legislation would allow other regions and water managers to consider the benefits. H.R. 3675 permanently extends the Sec. 4011 authority which expired in 2021, allowing the opportunity for more entities to pursue contract conversions and prepayment while significantly expediting receipts to the Treasury.

### **Conclusion**

Thank you again for the opportunity to testify. We urge the subcommittee to pass H.R. 3675 which will extend the benefits of early repayment for additional Reclamation contractors and the federal government. We look forward to working with the bill sponsor and the Subcommittee on this proposal and stand ready to answer any questions you might have.