

Statement of Timothy R. Petty, Ph.D.
Assistant Secretary for Water and Science
U.S. Department of the Interior
Before the
Energy and Natural Resources Committee
Subcommittee on Water and Power
U.S. Senate
on
S. _____

**Amendments to the Water Resources Reform and Development Act of 2014, Subtitle C –
Innovative Financing Pilot Projects**

June 13, 2018

Chairman Flake, Ranking Member Cortez Masto and members of the Committee, I am Tim Petty, Assistant Secretary for Water and Science at the Department of the Interior (Department). Thank you for the opportunity to provide the views of the Department on the discussion draft S. _____, proposing amendments to the Innovative Financing Pilot Projects subtitle of the Water Resources Reform and Development Act of 2014 (WRRDA).

The proposed amendments would expand the scope of Subtitle C of WRRDA to allow alternative financing to be provided for non-federal water infrastructure projects in Reclamation States that are selected and recommended by the Commissioner of the Bureau of Reclamation (Reclamation), and authorizes funding for administration and technical assistance by Reclamation for implementation of Subtitle C, together with the Environmental Protection Agency (EPA) and the Army Corps of Engineers. We appreciate the Committee’s interest in expanding EPA’s WIFIA authorization to include water supply, which would allow EPA to serve the full water cycle and provide one streamlined and integrated lending process to project sponsors. The Department, and other relevant agencies, are still analyzing S. _____, and the Department offers the following perspective on its major provisions.

Innovative Financing Pilot Projects

Section 3 of the discussion draft would authorize the EPA Administrator to provide financial assistance, based on recommendations from the Commissioner of Reclamation, through secured loans or loan guarantees for non-federal water infrastructure projects. This would be accomplished pursuant to guidance issued by the Commissioner of Reclamation for applicants interested in developing non-federal water infrastructure. The language limits the Commissioner of Reclamation to select and recommend projects that are located within Reclamation States and meet the project criteria set forth in Section 6 of the discussion draft.

While it provides these roles for the Commissioner of Reclamation, the discussion draft retains EPA’s authority to determine eligibility and make selections for secured and guaranteed loans consistent with the discussion draft’s amendments to the scope of projects eligible for credit assistance. Specifically, EPA retains authority to determine whether an applicant meets the “creditworthiness” determination set forth in Section 5028(a) of WRRDA, and the authority to

establish criteria to make these determinations, according to Section 5028(b) of WRRDA. Authority to make these determinations is not extended through the amendments to the Commissioner of Reclamation, keeping significant administrative control with the EPA.

It may be useful for the Committee to align the definition of eligible states found in Section 2 of the discussion draft (definition of “Reclamation state) with the existing eligibility of in Section 3 of the discussion draft (subheading “Bureau of Reclamation projects”), which creates some uncertainty as to the eligibility of Alaska and Hawaii. In addition, in the current version, the role of the Commissioner as outlined in Sections 5023 through Section 5028 would be, in part, to select and recommend projects, provide guidance, and function in a supporting role. At this time, Reclamation continues to evaluate how the interactions between Reclamation and EPA would function if the discussion draft were enacted. The determination of these roles would be critical to the implementation of the legislation; as well as ensuring appropriate involvement of the Commissioner of Reclamation in determining the scope of the application, evaluating applications and potential project and oversight of execute loans.

Of particular importance, Section 6(3) of the discussion draft broadens the types of projects eligible for secured loans to include “non-federal water infrastructure projects.” Specifically, this provision expands eligible projects to include those non-federal water infrastructure projects that the Commissioner “determines would contribute to a safe, adequate water supply for domestic, agricultural, environmental, or municipal and industrial use and is otherwise eligible for assistance under this subtitle”. This section goes on to list eligible projects, including water reuse projects; water facilities such as pipes and canals and associated facilities; projects for accelerated repair and replacement of aging water distribution facilities; brackish or sea water desalination projects; and projects for groundwater replenishment or storage, or surface storage. These provisions may provide useful tools to providing assistance at a lower cost than private capital markets or the municipal bond market can currently provide.

In summary, the proposed legislation builds on EPA’s previously authorized WIFIA program to allow EPA to approve secured loans for projects that are determined by the Commissioner to meet the eligibility criteria for non-federal water infrastructure projects that would generate additional water supplies. The benefits of this approach include avoiding redundancy among agencies and increasing efficiency by allowing agencies to continue operating within their respective areas of expertise. Continuation of EPA’s role in evaluating and approving secured loans builds on the experience of that agency in implementing WIFIA, rather than requiring multiple agencies to support that function individually. Likewise, providing authority to the Commissioner of Reclamation to determine which non-federal water infrastructure projects should be considered by EPA utilizes Reclamation’s significant expertise in identifying those types of projects.

Reclamation has several different programs that regularly identify non-federal water infrastructure projects that meet the eligibility requirements of the discussion draft. Some of these include the Title XVI Water Reclamation and Reuse Program, the Desalination Projects Program, activities authorized pursuant to the Water Infrastructure Improvements for the Nation Act, and the WaterSMART Grants Program, among others. Reclamation has heard from some

project sponsors that they sometimes struggle to meet the non-federal cost share requirements, particularly small communities and tribes. While these types of entities would be able to take advantage of the opportunity to apply for a secured loan under this authority, we acknowledge the ongoing importance of an appropriate federal-local cost share, in order to ensure sufficient local buy-in, while maintaining budgetary restraint should these amendments be enacted.

As noted in the outset of our testimony, Reclamation continues to analyze the discussion draft and we continue to review two particular provisions. First, Reclamation continues to review how the discussion draft's requirement that all project applicants obtain a rating opinion letter would impact the eligibility of small water supply projects. Second, we would like to work with the Committee to ensure that federal activities or projects which rely on or benefit from federal support, such as through contracts or operation of existing infrastructure, are not eligible for credit assistance.

Conclusion

I appreciate the work of the Committee to develop this legislation that will assist in providing financing assistance to non-Federal water projects and possibly some transferred works operators. We are interested in exploring how these transferred works operators of wholly-owned Federal projects would access this new program.

This concludes my written statement.