

Statement of Scott Cameron
Acting Assistant Secretary – Water and Science U.S. Department of the Interior
before the
Committee on Energy and Natural Resources
Subcommittee on Water and Power
on
S. 677, the Water Supply Permitting and Coordination Act
June 14, 2017

Chairman Flake and members of the Subcommittee, I am Scott Cameron, Acting Assistant Secretary for Water and Science at the Department of the Interior. I am pleased to provide the views of the Department of the Interior (Department) on S. 677, the Water Supply Permitting and Coordination Act.

Before I discuss our views on S. 677, I wanted to emphasize the importance of infrastructure investments in strengthening our economy and ensuring our Nation's competitiveness. The construction of infrastructure has the potential to create jobs and reduce the cost of goods and services for American families and consumers. The Department supports efforts to streamline and expedite, in a manner consistent with law, environmental reviews, and approvals for all infrastructure projects, including new surface water storage projects. Surface water storage projects are an important component of our Nation's infrastructure that create multiple benefits, including reliable water supplies, flood control, hydropower, and water quality improvements.

The Department supports the goals of S. 677, but we would like to point out that for major infrastructure projects, projects likely to exceed \$200 million in total investment, many of the concerns that the bill is intended to address are being addressed through implementation of Title 41 of the FAST Act. Title XLI creates a more efficient permitting process and offers enhanced agency coordination and transparency and predictability through tracking of project milestones on a public website. If S.677 should move forward, we recommend some amendments which we believe will aid in the coordinated implementation of the bill.

S. 677 directs the Secretary of the Interior to coordinate federal and state permitting processes related to the construction of new surface storage projects on lands managed by Interior and the U.S. Department of Agriculture (USDA). Section 3(a) of the bill would establish the Bureau of Reclamation (Reclamation) as the "lead agency for purposes of coordinating all reviews, analyses, opinions, statements, permits, licenses, or other approvals or decisions required under Federal law to construct qualifying projects." Section 4 establishes deadlines and timelines for notifying and consulting with cooperating agencies, completing environmental reviews, and determining project schedules. The bill allows for contributed funds from non-federal entities, an important tool in order to allow communities to leverage federal funds to build drought resiliency.

S. 677 improves on previous legislation by appropriately limiting the scope of "qualifying projects" to new surface storage projects located in the 17 Western states where Reclamation has typically had jurisdiction under Reclamation law. We appreciate the Committee and sponsors of S. 677 working with Reclamation to revise the bill to appropriately narrow the scope of Reclamation's authority.

While S. 677 would authorize Reclamation to coordinate the review of new surface storage projects, the bill does not grant Reclamation any authority to ensure cooperating agencies meet their proposed timeframes in Section 5 or the project schedules under Section 4. We also note that there may be fewer efficiencies where Reclamation is the coordinating entity for projects on lands managed by other bureaus or USDA, where Reclamation has no action or decision authority. We look forward to working with the Committee to clarify language to ensure S. 677 achieves the sponsor's goal of streamlining the approval of surface water storage projects.

Also, Section 4(b)(4) requires Reclamation to coordinate a "unified environmental review document." We would interpret this provision as applicable to the National Environmental Policy Act process, as opposed to other permitting obligations under the Endangered Species Act, Clean Water Act or other statutes. The bill also does not include additional federal funding for these activities, which could result, at least in the case of other bureaus and USDA lands, in Reclamation diverting resources from its other programs for this activity. We would like to work with the Committee to ensure this bill reduces the time necessary to establish the merits of projects and does not establish unrealistic time frames for approval, inadvertently resulting in a decrease in favorable recommendations.

The President's 2018 budget request includes an infrastructure initiative aiming to explore long-term reforms on how infrastructure projects are regulated, funded, delivered, and maintained. In particular, the initiative acknowledges the current environmental review and permitting process lacks cohesiveness, often making infrastructure projects more costly, unpredictable, and time-consuming, all while adding little environmental protection. The Administration is looking into pilot programs to enhance the environmental review and permitting process, designate a single federal entity to coordinate between other federal agencies, and allow state and local entities to be responsible for permitting where appropriate. This initiative dovetails into the goals set forth in S. 677.

The President's infrastructure initiative applies to the permitting of new surface water storage projects. Reclamation recognizes that streamlining permitting and associated environmental reviews is necessary. However, we would be remiss not to note the importance of other factors essential to the success of new surface storage projects. Other factors include a strong base of project repayment, market conditions and economics, the presence of local consensus on the project from the community around the proposed site, and an adequate potential water market associated with the given facilities. In other cases, environmental, safety, or geologic challenges can come to light during a project's development, and create challenges for construction, completion, or operation. We continue to look at ways to streamline and expedite the approval of infrastructure projects, and in doing so, aim to quickly identify new and viable surface storage projects.

Additionally, we would like to work with the Committee on Sections 2(4), 3(b)(2) and 4(b)(4)(A) and (B), the definition of "cooperating agency," establishment of cooperating agencies, and timelines for cooperating agency approvals to ensure this definition, involvement, and timelines are consistent with established regulations (40 C.F.R. §1500-1508) and judicial interpretations. For example, it is inconsistent with the definition under the National

Environmental Policy Act (NEPA) and its implementing regulations which identify federal, Tribal, State, and local governmental entities as potential cooperating agencies and further allows those governmental entities with subject matter expertise to be designated cooperating agencies. Further, under current NEPA regulations, an agency with jurisdiction or special expertise can decline to be a cooperating agency, yet still issue a permit or other approval. Finally, we understand the intent of Section 6(c) is to prohibit the Secretary of the Interior from accepting or expending funds contributed by a non-federal entity to conduct additional reviews of permits reviewed by the pertinent Reclamation Regional Director. We look forward to working with you to ensure that intent is clear in S. 677.

In conclusion, we welcome the opportunity S. 677 provides the Department to work with this Committee to streamline and expedite the approval of new infrastructure projects. While the underlying economic issues that prevent some projects from being built remain, we look forward to working with you on meeting Reclamation's challenge of rehabilitating existing infrastructure where such decisions are warranted water and power infrastructure. Reclamation will continue to consider surface storage as one of many options to meet water demands in the West.

This concludes my written statement. I would be pleased to answer questions at the appropriate time.

Statement of Scott Cameron
Acting Assistant Secretary – Water and Science
U.S. Department of the Interior
Before the
Committee on Energy and Natural Resources
Water and Power Subcommittee

On
S. 440, a bill to establish a procedure for the conveyance of certain Federal property
around the Dickinson Reservoir in the State of North Dakota.
June 14, 2017

Chairman Flake, Ranking Member King, and members of the Subcommittee, I am Scott Cameron, Acting Assistant Secretary for Water and Science at the Department of the Interior. Thank you for the opportunity to provide the views of the Department of the Interior (Department) on S. 440, a bill to establish a procedure for the conveyance of certain Federal property around the Dickinson Reservoir in the State of North Dakota. The intent of the legislation is to provide a path for current permitted cabin owners and the Dickinson Parks and Recreation Department to take ownership of certain Federal lands, allowing flexible management of the lands to meet local needs and alleviate the administrative oversight and management of the land.

Before I discuss our views on S. 440, I wanted to note the Secretary's staunch commitment against the wide-scale sale or transfer of federal lands. He firmly holds that our treasured public lands are to be maintained and preserved according to the inscription on the Yellowstone National Park Arch that reads 'for the benefit and enjoyment of the people.' The Secretary is willing to work with Congress to ensure proposals of this nature preserve access and recreation for future generations to come. Therefore, we recommend the following changes to provide additional clarity and protections.

The Flood Control Act of 1944 authorized construction of Dickinson Dam and Reservoir (Project) as part of the Dickinson Unit, Heart Division, Pick-Sloan Missouri Basin Program. Federal lands were acquired for Project purposes which include municipal water supply, irrigation with flood control, and recreation benefits. The Project provided municipal water to the City of Dickinson until 1991 when the City switched its water supply to the Southwest Pipeline Project. There are currently two water service contracts associated with the Project, one with Dickinson Parks and Recreation and one with an irrigation district downstream of the Reservoir.

The current management agreement between Reclamation and Dickinson Parks and Recreation for operation and maintenance of the majority of lands around the Reservoir includes the area for 41 permitted exclusive use cabins occupied year round (approximately 25 acres) as well as additional lands dedicated to recreation, and wildlife management (approximately 2,434 acres). In addition to lands managed by Dickinson Parks and Recreation, Reclamation leases a 10 acre parcel to the North Dakota Game and Fish Department (NDG&F) for the Southwest District Headquarters. In 2013, Reclamation's Dakotas Area Office (DKAO) requested a fair market

appraisal of the rates for the exclusive use cabins be conducted pursuant to the Code of Federal Regulations related to Use of Bureau of Reclamation Land, Facilities, and Waterbodies (43 CFR 429). As required by Department policy, the appraisals were conducted by the Department of the Interior's Office of Valuation Services for all reservoirs with exclusive use under the administration of DKAO, resulting in the need to raise rates at all areas to recover fair market value. The results of the appraisal were presented to the respective managing partners in 2016.

Section 1(b) of S. 440 would provide for conveyance of land permitted to cabin owners and land managed by Dickinson Parks and Recreation. However, some Project land is not included in the Management Agreement with Dickinson Parks and Recreation (i.e., 10 acres currently under lease to NDG&F) and is not included in the legislation. This would result in fractionated ownership with continued Reclamation oversight responsibilities and costs. The Department will work with the sponsor of the bill and the Committee to revise the language to include those lands acquired for the Project with the exception of the footprint of the Dam, auxiliary spillway, and any realty interest necessary to operate and maintain the Dam.

Section 1(b) of S. 440 would also allow permittees two years following the date of enactment of this legislation to purchase a property. The Department has concerns with the timeline in the legislation as drafted given that surveys of land could take up to two years to complete. A third party appraisal, which can take a year or longer to complete, can only begin once the survey is complete. Once the appraised value is determined, additional time may be required for the permittee to seek financing or resolve any appraisal disputes if necessary. The Department recommends that permittees be allowed up to five years or "as reasonably practicable after enactment of the Act" to allow sufficient time for the pre-sale activities and to arrange financing.

Section 1(b)(2)(A) of S. 440 provides for the fair market value of a property to be determined by a local, third party appraiser, valuing the property as unimproved residential property, excluding all improvements. A third party appraisal would involve a contract between the permittee and the appraiser with the permittee responsible for direct payment to the appraiser. If Reclamation were to pay for the appraisal upfront, the contract would shift to an agreement between the United States and the appraiser, meaning it would no longer comply with the language in S. 440 as currently drafted. The Department recommends clarification of this language to ensure that permittees understand the cost requirement. The Department recommends that Section 1(b)(2)(A) be revised so that the fair market value of a property shall be determined by an appraiser using the Office of Valuation Services' third party appraisal process, valuing the property as unimproved residential property, excluding all improvements. The Department also recommends that the bill be amended to include a requirement for review of the third party appraisal by the Office of Valuation Services as specified in section 2201.4 of title 43, Code of Federal Regulations (or successor regulations) to ensure that the third party appraisal credibly represents the fair market value of the property being conveyed. The Department further recommends that all costs paid for by the permittee shall have no effect on the appraised value and the cost for the third party appraisal shall be the responsibility of the permittee.

Section 1(b)(4) provides for the transfer of Federal land currently managed by Dickinson Parks and Recreation, without cost, subject to the requirements in Section 1(c) with no protections

required to ensure lands acquired for public purpose will remain available for public use in the future. The Department recommends that the deed transferring land to Dickinson Parks and Recreation shall provide that all property transferred to Dickinson Parks and Recreation be used and maintained for public access and recreation purposes. Currently, opportunities to recreate within this area include walking trails, boating ramps, golfing, and modern and primitive camping. According to Dickinson Parks and Recreation, camping spots on the property average 2,158 rentals between mid-May and mid-September alone. Given the Secretary's firm commitment to protecting public lands, it is of critical importance that Dickinson continues to manage the parcels with recreational interests in mind. That is why the Department recommends that if the property ceases to be used or maintained for that purpose, the jurisdiction of the land would then revert back to the United States.

As drafted, S. 440 does not specifically address the land within Dickinson Parks and Recreation's Management Agreement located under the Reservoir. The Department would be happy to work with the sponsor and the Committee on language to minimize future confusion and/or oversight by the U.S. on land under the reservoir.

Section 1(c) of S. 440 provides that each conveyance pursuant to subsection (b) is made subject to two protections. The Department believes additional protections are necessary to safeguard the interests of the United States and the public to operate the dam as authorized. The Department recommends the following protections be added: the prohibition of any conveyance of subsurface or mineral rights, (2) the inclusion of language to maintain a flowage easement for flood control purposes, and the allowance for the Secretary to make necessary terms, reservations, restrictions, and conditions to safeguard the interests of the United States. The Department is willing to provide work with the Committee to amend the bill to ensure these protections are put in place.

Section 1(d) of S. 440 provides that the liability and taking provisions only apply to the permittees, not any other transfer of federal land or to any future owners. In addition to technical recommendations, the Department recommends amending the definition of Permittee in Section 1(a)(3) to include future assignees of the current owners of the cabin sites.

Section 1(e)(2) of S. 440 requires that not later than 180 days after enactment, the Secretary to provide legal descriptions to Dickinson Parks and Recreation of the land to be conveyed. This will require Reclamation to contract with a registered Land Surveyor to survey the lands and develop the legal descriptions, access, utility, and flowage easements and individual lot surveys. The Department does not believe it will be reasonable to complete this work within 180 days and suggests increasing the time to no later than 2 years or "as reasonably practicable after enactment of the Act".

Section 1(e)(3)(A) of S. 440 provides the elevation above which any new improvements can be constructed is currently listed as 2,430 feet. This elevation is incorrect and ought to be changed to 2,430.6 feet to correctly locate the design maximum water surface elevation.

Section 1(f) of S. 440 provides that any revenues from a sale of Federal land pursuant to this section shall be made available to the Secretary, without further appropriation, for the costs to the Secretary of carrying out this section. Because revenues are not generated until the properties are transferred to the permittee, the United States would need to use appropriated funds to complete the surveys and appraisals and other pre-sale activities. In previous legislation to transfer cabin properties, as well as Reclamation's process for Use Authorization requests, it is the responsibility of the permittees/requestor to pay for the required pre-sale work, including all administrative costs to convey Federal property to private individuals/beneficiaries rather than placing this burden on the United States. As written it appears the United States is responsible for the administrative costs and therefore in "net" it receives less than market value for the land.

The Department would be happy to work with the sponsor and the Committee to revise the language based on our recommendations. This concludes my written statement. I am pleased to answer questions at the appropriate time.

Statement of Scott Cameron
Acting Assistant Secretary – Water and Science
U.S. Department of the Interior
Before the
Committee on Energy and Natural Resources
Water and Power Subcommittee
On
S. 685, a bill to authorize the Dry-Redwater Regional Water Authority System and the
Musselshell-Judith Rural Water System in the States of Montana and North Dakota, and
for other purposes.
June 14, 2017

Chairman Flake, Ranking Member King, and members of the Subcommittee, I am Scott Cameron, Acting Assistant Secretary for Water and Science at the Department of the Interior. Thank you for the opportunity to provide the views of the Department of the Interior (Department) on S. 685, the Clean Water for Rural Communities Act, which would authorize construction of the Dry-Redwater Regional Water Authority System and the Musselshell-Judith Rural Water System in the States of Montana and North Dakota.

In the 114th Congress, Reclamation provided testimony on S. 2902 and S. 1552, which contained language identical to S. 685. My testimony today will update Reclamation's previous statements on these projects to include recent events; however, the Department's position overall on funding has not changed from these earlier testimonies.

Like the sponsors of this legislation, the Department supports the goals of encouraging a vibrant rural economy and ensuring safe, reliable sources of drinking water in Montana and North Dakota. Rural water projects help build strong, secure communities and are important to supporting the livelihood of local economies. Public Law 109-451, which expired September 30, 2016, authorized Reclamation to establish a Rural Water Supply Program to help rural communities and Tribes in the western United States analyze and develop options for meeting water supply needs through the completion of appraisal investigations and feasibility studies.

While the Department acknowledges the important functions rural water projects offer to communities across the West, we have concerns with S. 685 as currently written. We request the opportunity to work with the Committee to adequately address our concerns, as identified below.

The legislation authorizes construction of two separate projects and my statement will speak to each of those projects separately.

Dry-Redwater

Section 4(a)(1) of S. 685 applies to the planning, design, and construction of the regional Dry-Redwater Rural Water Authority System in eastern Montana and a small service area in northwest North Dakota, and would authorize the Federal Government to provide up to 75 percent of the System's overall construction cost. Reclamation estimates that this authorization would amount to Federal appropriations of at least \$200 million dollars. The Department last testified before this Subcommittee on legislation related to the Dry-Redwater Project in May of 2016, and

prior to that, in June 2015, May 2011, and July of 2009. Since 2016, two things have occurred; the Dry-Redwater Regional Water Authority (Authority) changed their project plans from that provided in the initial study by adding the cities of Sidney and Glendive, Montana, to the Authority's service area which changed the population served from 15,000 to over 26,500; and secondly, Reclamation's authority to continue work on rural water appraisal and feasibility studies under P.L. 109-451 expired. Reclamation did not receive a feasibility study that was evaluated and determined to be economically feasible for the new project envisioned by the Authority.

The Department is concerned about language in the legislation authorizing a project for construction without a complete Feasibility Study. Specifically, the potential strain on Reclamation's budget that could come about from this authorization, the cost share requirement proposed in the bill, and the proposed use of power from the Pick-Sloan Missouri Basin Program (P-SMBP) for non-irrigation purposes are a problematic issues.

In 2012, the Authority submitted a Feasibility Study to Reclamation for review. Upon initial review of the Feasibility Study, Reclamation was unable to identify a technically viable water supply alternative that presented a National Economic Development (NED) plan with net positive benefits to the nation. Reclamation informed the Authority that the Feasibility Study could not be supported as being financially or economically feasible under the requirements of Reclamation's Rural Water Supply Program. Consequently, there are significant review findings and recommendations that must be addressed to bring the Feasibility Study up to Reclamation's standards. Since project costs have not been fully developed by the Sponsor and reviewed by Reclamation, there is also the potential for this project to be financially unsustainable for the project sponsors.

Because of the importance of this issue, a Reclamation Design, Cost Estimating, and Construction (DEC) review further evaluated the Feasibility Study in 2012 in order to provide an independent analysis. The estimated cost to address the DEC Report Findings and Recommendations in 2012 was in excess of \$5.5 million. Neither Reclamation nor the Authority had sufficient funding to revise the Feasibility Study to address the DEC Report Findings. The authority for Reclamation to further review the feasibility study expired in 2016. In order to maintain their original service area and related project benefits, the Authority ruled out a scaled down approach.

As a result of this decision, Reclamation entered into a Memorandum of Understanding (MOU) with the Authority on April 27, 2015, with the objective of completing a summary report that documented the current status of the draft Feasibility Study and identified the additional level of effort needed to revise the Feasibility Study technically in order to meet the requirements of Reclamation's Rural Water Supply Program. However, before a final summary report could be completed, Reclamation's authority under the program expired and Reclamation was required to generate a Feasibility Study Concluding Report (Concluding Report) since the Feasibility Study was not completed. The Concluding Report was completed in September 2016 and provided an overview of the Feasibility Study up to the point of concluding it, and identified the reasons for ending the Feasibility Study. The Concluding Report provided findings that primarily due to the economics of the proposed alternative and the incomplete level of the Feasibility Study, Reclamation is not in a position to support the project as financially viable or able to verify that

the total project cost estimate is economically sound.

The Department is also concerned about the non-Federal cost share for the System. As stated above, S. 685 contemplates that the United States would fund 75 percent of the cost of constructing the System for the benefit of Montana citizens of Dawson, Garfield, McCone, Prairie, Richland Counties, and North Dakota citizens of McKenzie County. While this has been the cost share level proposed in other rural water projects enacted into law, it represents the maximum Federal cost share previously allowed under Title I of the Rural Water Supply Act of 2006 (PL 109-451, now expired), which included a requirement for a Feasibility Report that comprised an analysis of the sponsor's capability-to-pay and identified an appropriate contribution by the local sponsors.

Section 5 of S. 685 authorizes the delivery of 1.5 megawatts of P-SMBP pumping power to be used and delivered between May 1 and October 31 for the benefit of this System at the firm power rate. Section 5(b)(2)(A) of the bill requires that the System be operated on a "not-for-profit basis" in order to be eligible to receive power under those terms. Reclamation is not certain of the impact the bill's requirements could have on Western Area Power Administration's existing contractual power obligations. In addition to those concerns mentioned above, we have yet to verify whether or not water rights issues associated with the System have been adequately addressed.

Reclamation's authority to continue work on rural water appraisal and feasibility studies has expired. At this time, there is no general programmatic authority for continued work by Reclamation on rural water appraisal and feasibility studies. Reclamation's review of Dry--Redwater Authority's proposed system was conducted under the authority of the Rural Water Supply Act of 2006 (Title I of Public Law 109-451) and this authority expired on September 30, 2016. Reclamation generated a Concluding Report which provided an overview of the Feasibility Study up to the point of concluding it and identified the reasons for ending the study.

If legislative authority is granted, we suggest System sponsors work with Reclamation to evaluate the System for scale and economic viability in an effort to refine the National Economic Development accounting such that the ratio of total benefits exceeds costs. The System should meet appropriate guidelines and be updated to include new infrastructure required to accommodate the large increase in population served. S.685 allows the Authority to acquire property and existing systems. Details of these systems should be fully identified and incorporated into the new evaluation and the evaluation should incorporate recommendations from the DEC review or, if necessary, require a new DEC review be conducted. It should address all federal environmental compliance activities. There are substantial costs believed to be in the millions of dollars associated with these efforts that are outside of any costs projections previously considered. We also recommend that they work with the Western Area Power Administration and their contractors on the issues related to the System's pumping power needs.

Musselshell-Judith

Section 4(a)(2) of S. 685 would authorize the planning, design, and construction of the Musselshell-Judith Rural Water System in central Montana and would authorize appropriations

of 75 percent of total project costs. Since the total estimated construction cost of the project is \$87,102,000, Reclamation estimates that the total Federal contribution of 75 percent would equate to \$65,327,000 (2014 dollars). While a 75 percent cost share level has been proposed in other rural water projects enacted into law, this represents the maximum Federal cost share previously allowed under the Rural Water Supply Act of 2006.

In 2015, the Central Montana Rural Water Authority's (Authority) Musselshell-Judith Rural Water System Feasibility Study (Feasibility Study) was submitted to Reclamation for technical review under Public Law 109-451. The Department found the proposed project to be feasible and to meet the broad criteria of the program, however, the Department is concerned about our ability to fund even currently authorized rural water projects, and does not want to unreasonably raise expectations that new authorized projects would receive the desired federal funding.

Common - Both Water Systems

Section 7(b) of S.685 addresses the cost indexing for the authorization of appropriations. As previously testified, Reclamation is not aware of a specific rationale for the differing indexing dates prescribed in the legislation. For the Dry-Redwater System, appropriations are to be indexed to January 1, 2008. For the Musselshell-Judith, the appropriations are to be indexed to November 1, 2014.

Authorized rural water projects compete with a number of priorities within Reclamation's Budget, including aging infrastructure, Indian water rights settlements, environmental compliance, restoration actions, developing sustainable water supply strategies, and other priorities intended to address future water and energy related challenges.

The Department has concerns about adding to the backlog of Reclamation's authorized rural water projects seeking Federal construction funding. Discretionary rural water funding has enabled Reclamation to make progress in promoting certainty, sustainability, and resiliency in support of basic drinking water needs of rural western communities. However, Reclamation's ability to make Federal investments that match on-the-ground capabilities has its limitations. Of Reclamation's six currently authorized rural water projects under construction or funded at some level today, all of the projects pre-date Title I of the Rural Water Supply Act of 2006 (now expired). Authorizing additional rural water projects may delay rural water projects that are already under construction.

Conclusion

The Department recognizes that the people who would be served by S. 685 have legitimate needs for better quality drinking water. We are concerned, given the past history and future prospects of funding for the rural water program, not to raise unreasonable expectations for future federal funding should this bill become law.

That concludes my written statement. I am pleased to answer questions at the appropriate time.

Statement of Scott Cameron
Acting Assistant Secretary – Water and Science
U.S. Department of the Interior
before the
Committee on Energy and Natural Resources
Subcommittee on Water and Power
On
S. 1012, the New Mexico Drought Preparedness Act
June 14, 2017

Chairman Flake, Ranking Member King and members of the Subcommittee, I am Scott Cameron, Acting Assistant Secretary for Water and Science at the Department of the Interior. I am pleased to provide the views of the Department of the Interior (Department) on S. 1012, the New Mexico Drought Preparedness Act. This bill aims to enhance coordination for water acquisitions, authorize projects to assist with water conservation, authorize the study of the lower reaches of the Middle Rio Grande, support efforts to provide an annual spring peak flow for the Middle Rio Grande, and provide for a study of Rio Grande reservoirs. The Department supports many elements of the New Mexico Drought Preparedness Act of 2017, but has concerns with some of the new authorizations and with the language of Section 6 of the bill as detailed later in my statement.

Although this bill mentions the Upper, Middle, and Lower Rio Grande basins, as well as the Lower Pecos, Gila, Canadian, San Francisco and San Juan River basins, the primary focus is on work in the Middle Rio Grande in New Mexico. The 2016 biological opinion for water operations, river infrastructure restoration, maintenance, and conservation activities in the Middle Rio Grande defines the Middle Rio Grande as the entire width of the 100-year floodplain of the Rio Grande basin and its tributaries from the Colorado/New Mexico state line to Elephant Butte Dam. The Bureau of Reclamation's (Reclamation) Middle Rio Grande Project (Project) extends from the Velarde area of northern New Mexico south to the backwaters of Elephant Butte Reservoir. The irrigation features of the Project divert water from the river to irrigate between 50,000 and 70,000 acres of irrigable land, including an approximate 20,000 acres of Pueblo Indian land.

Reclamation has been leasing water on the Pecos River and from San Juan-Chama Project contractors for over a decade to supplement river flows for endangered species, consistent with the language of Section 3 of S. 1012. Taxpayers have spent tens of millions of dollars acquiring San Juan-Chama Project water and relinquished Rio Grande Compact credit water in recent years to augment flows in the Middle Rio Grande. However, other than the relinquished Rio Grande Compact credit water, Reclamation has yet to lease and make use of more-than-nominal volumes of native Rio Grande water in New Mexico due to the administrative, legal, and institutional complexities involved. In the explanatory statement printed December 11, 2014, for the Congressional Record, in reference to P.L. 113-235, the Consolidated and Further Continuing Appropriations Act, 2015, Congress encouraged Reclamation to pursue efforts to facilitate agricultural water leasing along the Middle Rio Grande and San Juan-Chama Projects. In response, Reclamation has started a pilot leasing program of pre-1907 water rights and is planning a grant opportunity to solicit the services of outside experts to build and begin testing

the framework for a leasing program in collaboration with the Middle Rio Grande Conservancy District (District). This bill would provide Reclamation and the District with increased flexibility to implement and effectively manage such a program.

For years, Reclamation has provided funding and technical assistance for irrigation districts and water utilities in New Mexico and west Texas to develop sustainable water supplies under various water conservation programs. Examples of such assistance include improving efficiency and conservation under the WaterSMART Program through Water and Energy Efficiency Grants to entities such as the Elephant Butte Irrigation District and funding for the Albuquerque Bernalillo County Water Utility Authority's water recycling and reuse (Title XVI) project, and through the Native American Affairs Program. Reclamation is also working with partners to carry out various landscape-scale efforts through the Basin Study Program. Reclamation, the District, and fifteen other non-Federal partners, including Tribal partners, have been working on a plan of study for a Rio Grande – New Mexico Basin Study. In addition, the six Middle Rio Grande Pueblos participate in the Rio Grande Pueblos Irrigation Infrastructure Improvement Project. Reclamation also provided funding under the Cooperative Watershed Management Program to expand the Rio Chama Watershed Group in 2014 to include the lower Rio Chama Basin, and provided funding to the Upper Rio Grande Watershed District in 2016 to establish a watershed group to bring together ranchers, environmental interests, and land management agencies in the Espanola Basin. Reclamation has provided Drought Response Program funding in 2016 to the Middle Rio Grande Conservancy District for both drought contingency planning and implementation of a drought resiliency project to install a pumping facility to increase the predictability of water supplies for District water users. Any water conservation actions by the District and Pueblos that would result in more efficient use of the available water supply is welcome by Reclamation. However, as indicated previously, existing programs are available to provide the opportunity to cost-share conservation actions that will benefit the Rio Grande system.

Section 5(a) of S. 1012 contains provisions granting five years of a temporary deviation in the operation of Cochiti Reservoir by the U.S. Army Corps of Engineers. Such deviations, if found to be hydrologically beneficial, allow for creation of a spike flow in the Middle Rio Grande through the impoundment and regulation of spring flows. However, in the past 67 years of record, conditions for deviation would only have occurred in five of those years. The Department supports a feasibility study in partnership with the Army Corps of Engineers and Cochiti Pueblo to assess maximized operational flexibilities if the concerns of Cochiti and Santa Ana Pueblos are addressed. The ability to stage water in the spring to augment the native flows in the Middle Rio Grande is an important cue to the endangered Rio Grande silvery minnow to reproduce.

Section 5(b) of S. 1012 authorizes a comprehensive study and a series of projects in the Isleta and San Acacia reaches of the Middle Rio Grande aimed at giving Reclamation and other partnering agencies a better understanding of this area, which is designated as critical habitat for the Rio Grande silvery minnow. The Middle Rio Grande below Cochiti Dam is divided into four reaches defined by locations of mainstem irrigation diversion dams. The Cochiti Reach extends from Cochiti Dam to Angostura Diversion Dam. The reach from Angostura Diversion Dam to Isleta Diversion Dam is called the Albuquerque Reach. The Isleta Reach is bound upstream by

Isleta Diversion Dam and downstream by San Acacia Diversion Dam. Finally, the reach below San Acacia Diversion Dam to the headwaters of Elephant Butte Reservoir is the San Acacia Reach. The study would also assist with development of a plan for moving forward with coordinated water conservation measures.

Reclamation and Department policy require scientific information considered in our decision making to be robust and of the best available quality. Stakeholders must be able to trust the information. Section 6 of S. 1012 authorizes a National Academy of Sciences (NAS) Study of the water and reservoir management and operation from Heron and El Vado down to Abiquiu, Cochiti, and Jemez Canyon dams and reservoirs. A full evaluation of the legal authorities of each of these reservoirs weighed against the basin's hydrology would likely provide water managers all along the Rio Grande in New Mexico with useful information that could prove important as we struggle to meet growing needs with a decreasing water supply. A study of this magnitude, however, is not anticipated in Reclamation's budget, and would have to compete for funding against numerous existing priorities. Therefore, while we see the NAS study as the most comprehensive review of Reclamation operations, we recommend evaluation of ways that this project can build on the work of other studies, such as the proposed Rio Grande- New Mexico Basin Study, if it is selected for funding, and the Rio Chama Pilot Study, which is a review of river and reservoir operations on the Rio Chama. The Department would seek to secure cost-share partners for the review, consistent with the requirements for Basin Studies. This approach would achieve the study objectives outlined in S. 1012, allow for independent scientific input, and limit duplication of efforts and resources.

New Mexico has endured almost a decade of drought. An above average snowpack this spring will allow Reclamation and its stakeholders to start rebuilding storage in nearly empty reservoirs. Reclamation is currently in the process of leasing all of the water that is available at a reasonable price (i.e. excluding what would be covered under the pilot leasing program described above).

The Department generally supports language in Sections 8 and 9 of S. 1012 relating to the authorizations for the WaterSMART Program and under the Reclamation States Emergency Drought Relief Act. We note, however, that if the sponsor's aim is to reauthorize the Reclamation States Emergency Drought Relief Act, Title I of that Act (Section 104(c)) should also be reauthorized to mirror Title III. There are some technical changes we would suggest to ensure that the language can be implemented through Reclamation's existing programs (e.g., the Department supports retaining a required non-Federal cost share contribution which allows Reclamation to leverage Federal and non-Federal funding to construct projects with far more significant benefits than would otherwise be possible, in the WaterSMART Drought Response Program and other WaterSMART programs). We are willing to work with the sponsors and the Committee to refine those sections, and to ensure that the additional financial assistance authorities included in Section 7 do not duplicate other existing authorities. In addition, the legislation should ensure that any drought relief wells funded should be in response to a critical need and prioritization process, and do not add to existing problems associated with groundwater depletion.

Section 10 of S. 1012 provides additional time for completion of the study originally authorized under Section 9106 of the Omnibus Public Land Management Act of 2009 (P.L. 111-11). The

purpose of the study is to assess the feasibility of projects to repair, rehabilitate, reconstruct, or replace Pueblo irrigation facilities recommended to be implemented from fiscal years 2010 through 2019. The study was to be submitted to Congress in March 2011; however, Reclamation was delayed in starting the study. Reclamation is currently scheduled to complete the study in 2017.

All 18 New Mexico Rio Grande Pueblos have agreed to participate in the project. Reclamation supports the language in S. 1012 to extend the study period until December 31, 2018, and extend the ten-year construction period through 2024. Funding for construction will be dependent on availability. Because not all projects can be built, Reclamation will prioritize the projects based on the cost-effectiveness of the proposed investments.

This concludes my statement. I am pleased to answer questions at the appropriate time.