

**Statement of Robert Quint, Senior Advisor  
Bureau of Reclamation  
U.S. Department of the Interior  
before the  
Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
S. 2010 and H.R. 1963  
The Bureau of Reclamation Conduit Hydropower Development Equity and Jobs Act  
February 27, 2014**

Chairman Schatz, members of the Subcommittee, I am Bob Quint, Senior Advisor at the Bureau of Reclamation (Reclamation). I am pleased to provide the views of the Department of the Interior (Department) on S. 2010, the Bureau of Reclamation Conduit Hydropower Development Equity and Jobs Act. The Department, with some technical amendments summarized in this statement, supports S. 2010, which amends the Water Conservation and Utilization Act (16 U.S.C. §§ 590y et seq.) to authorize the development of non-federal hydropower and issuance of leases of power privilege at projects constructed pursuant to the authority of the Water Conservation and Utilization Act (WCUA). In general, the Department supports the increase in the generation of clean, renewable hydroelectric power in existing canals and conduits. As noted in previous hearings, the Department has an aggressive sustainable hydropower agenda, which we continue to implement under existing authorities. My testimony today will summarize the Department's efforts to encourage the development of sustainable hydropower, provide an overview of the history of WCUA, and detail the areas in the bill where we believe improvements could be made.

**Department's Hydropower Efforts**

Before I share the Department's views on S. 2010, I want to highlight some of the activities underway at the Department to develop additional renewable hydropower capacity. In March 2011, the Department of the Interior and Department of Energy announced nearly \$17 million in funding over three years for research and development projects to advance hydropower technology. The funding included ten projects for a total of \$7.3 million to research, develop, and test low-head, small hydropower technologies that can be deployed at existing non-powered dams or constructed waterways. The funding will further the Administration's goal of meeting 80 percent of our electricity needs from clean energy sources by 2035.

In March 2010 the Department entered into a Hydropower Memorandum of Understanding (MOU)<sup>1</sup> with the Department of Energy, and the Army Corps of Engineers to study and promote

---

<sup>1</sup> <http://www.usbr.gov/power/SignedHydropowerMOU.pdf>, 2010

opportunities to develop additional hydropower. In March 2011, the Department released the results of an internal study, the Hydropower Resource Assessment at Existing Reclamation Facilities, that estimated the Department could generate up to one million megawatt hours of electricity annually and create jobs by addressing hydropower capacity at 70 of its existing facilities. While this first phase, completed in 2011, focused primarily on Reclamation dams, the second phase focused on constructed Reclamation waterways such as canals and conduits. In March 2012, Reclamation completed the second phase of its investigation of hydropower development, Site Inventory and Hydropower Energy Assessment of Reclamation Owned Conduits, as referenced in the 2010 MOU. The two studies revealed that an additional 1.5 million megawatt-hours of renewable energy could be generated through hydropower at existing Reclamation sites.

Reclamation worked diligently with our stakeholders and the hydropower industry to improve our lease of power privilege (LOPP) processes, and this collaboration culminated in the release of an updated and improved LOPP directive and standard in September 2012. These new procedures better define roles, timelines and responsibilities that will allow us to better support and encourage sustainable hydropower development at Reclamation facilities. This directive and standard was revised earlier this month to incorporate new process requirements established by Public Law 113-24, Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act. New process requirements updated in the document include: LOPPs being offered first to irrigation districts or water user associations operating or receiving water from Reclamation transferred or reserved works and establishing timeframes for irrigation districts or water user associations to accept or reject the LOPP offer. The temporary revised procedures are out for public comment until March 28, 2014.

### **Overview of History of WCUA**

The WCUA was enacted on August 11, 1939 (amended October 14, 1940) to provide assistance to people hard hit by drought in the Dust Bowl and other similar arid and semiarid areas of the United States through the construction and development of irrigation projects. WCUA leveraged the considerable labor available by the Work Project Administration and other federal agencies during the New Deal, which absent congressional authorization, were precluded from using appropriations for many of the requisite needs of irrigation projects. For example, the Work Project Administration and other federal agencies did not have the authority to purchase water rights, rights-of-way, heavy machinery, and the services required to design and construct engineering features, prepare legal documents, and administer projects. WCUA resolved this issue by authorizing the Bureau of Reclamation to use appropriations to purchase rights-of-way, equipment and supplies, and for the payment of competent supervisory, technical, legal and administrative assistance, while the Work Project Administration and other federal agencies funded the costs of mechanics and laborers. Under WCUA, the Bureau of Reclamation retained the responsibility for the construction and administration of these projects. The Bureau of

Reclamation has been authorized to construct 11 projects and three separate units under the WCUA<sup>2</sup>.

Reclamation is authorized to issue LOPP contracts on projects that were authorized under Reclamation law pursuant to Section 5 of the Town Sites and Power Development Act of 1906, 43 U.S.C. § 522, and Section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. § 485h(c). However, WCUA projects were not authorized pursuant to Reclamation law and the provisions of WCUA are only subject to Reclamation law where explicitly identified in the WCUA. The LOPP authority granted in Section 5 of the Town Sites and Power Development Act of 1906, 43 U.S.C. § 522, and Section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. § 485h(c) does not apply to WCUA projects since it is not identified in the WCUA, and therefore WCUA projects are not authorized to develop non-federal hydropower absent congressional action. The Mancos Project in southwestern Colorado is such a case where Congress authorized the non-federal development of hydropower on a WCUA project through project specific legislation (P.L. 103-434).

### **S. 2010**

Reclamation testified on H.R. 1963, a companion measure to the legislation before the subcommittee today, last May before the House Water and Power Subcommittee. The legislation was amended by the House of Representatives, and that bill is identical to the legislation before the Subcommittee today, S. 2010. The Department would be pleased to work with the Subcommittee to further refine the legislation.

Section 2(c) of S. 2010 would specifically authorize Reclamation to develop or enter into LOPP contracts for the development of new hydropower on projects and facilities authorized by WCUA, consistent with the Reclamation Project Act of 1939. In accordance with federal Reclamation law, typically LOPP charges paid by Lessees are deposited in the Reclamation Fund as a credit to the affected project. However, WCUA projects were not funded by the Reclamation Fund, but rather the General Fund of the Treasury. To this point, the WCUA states that all

---

<sup>2</sup> WCUA Projects: Mancos Project, Colorado; Buford-Trenton Project (North Dakota); Buffalo Rapids Project, Montana; Scofield Project, Utah; Intake Project, Montana; Mirage Flats Project, Nebraska; Missoula Valley Project, Montana; Mann Creek Project, Idaho (not eventually constructed under WCUA); Newton Project, Utah; Rapid Valley Project, South Dakota; Balmorhea Project, Texas. The Eden Project, Wyoming, was originally considered under the WCUA but was constructed under separate authority. In addition, three units were authorized pursuant to WCUA authority. Each unit is part of a Reclamation project that was not altogether authorized by the WCUA. The three units include: Dodson Pumping Unit, Milk River Project, Montana; Post Falls Unit, Rathdrum Prairie Project, Idaho; and the Woodside Unit, Bitterroot Valley Project, Montana (no construction has been undertaken).

receipts from WCUA project operations – including power - are to be covered into the Treasury, rather than the Reclamation Fund, to the credit of miscellaneous receipts. Therefore, if the intention of S. 2010 is for WCUA LOPP charges to credit the affected WCUA project, additional clarification is necessary in Section 2(g) of S. 2010 detailing where the charges will be covered and how they will be applied to the affected project. The Department looks forward to the opportunity to work with the sponsors to address this issue.

Sections 2(h), 2(i), 2(j), 2(k), and 2(m) are duplicative of Section 9(c) of the Reclamation Project Act of 1939, as amended by PL 113-24, Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act. If the 1939 Act is amended again, there will be two distinct LOPP processes, one for traditional Reclamation projects and one for WCUA projects, as prescribed in S. 2010. For that reason, the Department recommends deleting these duplicative areas of the bill. Reclamation would be happy to work with the Subcommittee to address these concerns.

Finally, Reclamation is concerned that the bill as written may be interpreted in such a way that the LOPP authorization granted is restricted to small conduit hydropower development and would not apply to all WCUA conduit development or dam development. For context, all WCUA conduit sites that show hydropower potential are under 5 MW and would qualify as "small conduit hydropower;" however, the majority of WCUA hydropower potential exists at WCUA dams. Therefore, if the intent of the bill is to "unlock" the WCUA for non-federal development through LOPP, the authorization needs to extend to *all* WCUA conduits and dams. As the bill is written, it is unclear if the authorization extends to all WCUA conduits and dams. Reclamation would be happy to work with the Subcommittee to address this concern.

In conclusion, as stated at previous hydropower hearings before this subcommittee, Reclamation will continue to review and assess potential new hydropower projects that provide a high economic return for the nation, are energy efficient, and can be accomplished in accordance with protections for fish and wildlife, the environment, or recreation. As the nation's second largest hydropower producer, Reclamation strongly believes in the past, present and bright future of this important electricity resource.

Thank you for the opportunity to discuss S. 2010. This concludes my written statement, and I am pleased to answer questions at the appropriate time.