Statement of Camille Calimlim Touton,

Commissioner,

Bureau of Reclamation

U.S. Department of the Interior

Before the U.S. Senate Committee on Energy and Natural Resources,

Subcommittee on Water and Power

on

S. 737, St. Mary's Reinvestment Act; S. 953, Water Conservation and Farming Act; S. 1179, Canal Conveyance Capacity Restoration Act; S. 1554, To make certain irrigation districts eligible for Pick-Sloan Missouri Basin Program pumping power, and for other purposes; S. 2334, Large Scale Water Recycling Project and Drought Resiliency Investment Act; S. 2693, Salton Sea Projects Act; S. 3450, Sun River Hydropower Authorization Act; S. 3539, Watershed Results Act; H.R. 5001 and S. 3693, Upper Colorado and San Juan River Basins Act; S. 3971, To amend the America's Water Infrastructure Act of 2018 to modify a provision relating to cost-sharing requirements applicable to certain Bureau of Reclamation dams and dikes, and for other purposes; S. 4175, To amend the Omnibus Public Land Management Act of 2009 to authorize certain extraordinary operation and maintenance work for urban canals of concern; S. 4176, To amend the Infrastructure Investment and Jobs Act to modify the eligibility requirements for certain small water storage and groundwater storage projects and to authorize the use of funds for certain additional Carey Act projects, and for other purposes; S. 4231, Support to Rehydrate the Environment, Agriculture, and Municipalities (STREAM) Act; S. 4232, To address the recovery of certain costs with respect to certain Reclamation facilities in the Colorado River Basin, and for other purposes; S. 4233, Platte River Basin Critical Maintenance and Repair Act; and S. 4236, To provide for a national water data framework, to provide for the water security of the Rio Grande Basin, to reauthorize irrigation infrastructure grants, and for other purposes

May 25, 2022

Chairman Manchin, Ranking Member Barrasso and members of the Committee, I am Camille Calimlim Touton, Commissioner for the Bureau of Reclamation (Reclamation). I am pleased to provide the views of the Department of the Interior (Department) on these pieces of legislation.

The West is experiencing unprecedented drought, and in most Western watersheds there have been successive and compounding years of dry hydrology. Even in basins where precipitation has been close to normal, many Reclamation facilities are experiencing much lower-than-average runoff and inflows in water year 2022 due to extremely dry soil conditions, lower snow water content, and hotter temperatures. Meanwhile, storage in Reclamation's major reservoirs and across the West is also below average at many facilities. Reclamation is working with States, Tribes, agriculture, power customers, municipalities, conservation organizations, and other stakeholders on addressing drought conditions and impacts. Reclamation is working alongside Department of the Interior (DOI) agencies and other federal agencies to ensure drought actions complement the work of these partners.

The drought highlights the need for immediate actions as well as for thoughtful planning and on-the-ground work to make both our infrastructure and operational decisions more resilient to withstand future water resource scarcity and variability.

Fortunately, with resources made available by Congress through the Bipartisan Infrastructure Law (BIL), Reclamation has been able to prioritize and accelerate projects that will create new water supplies. In addition, Reclamation has integrated BIL funding with its fiscal year (FY) 2023 regular budget funding for high-priority programs such as Dam Safety, to address continued critical infrastructure needs and effectively manage risks to the downstream public. The 2023 budget also requests $99.7 million for extraordinary maintenance activities across Reclamation—part of a strategy to improve asset management and deal with aging infrastructure to ensure continued reliable delivery of water and power, all of which is complemented by the May 9, 2022 allocation of $240.4 million for aging infrastructure from the BIL.

The Department recognizes the bills before the Committee today seek to address impacts from the ongoing drought, building more resilient ecosystems, as well as our aging infrastructure and appreciates the work of all bill sponsors. We look forward to continuing our work with the bill sponsors and the Committee as they move forward.

S. 737, St. Mary's Reinvestment Act

S. 737 would provide direct authorization to the federal government to rehabilitate the St. Mary Diversion Dam and Canal Headworks, which are part of the Milk River Project in Montana, using appropriated funds. The Department recognizes the importance of this federal project in serving the people of Montana and is aware of the affordability concerns of the project beneficiaries. As part of the Bipartisan Infrastructure Law, the Department announced earlier this month that it has allocated $85 million of BIL funds for the St. Mary Canal diversion and headworks replacement project in Reclamation's FY 2023 BIL Spend Plan. The project will include a large fish bypass structure to accommodate upstream and downstream movement of the bull trout, listed as federally threatened, as well as prevent fish entrainment into the canal. The $85 million will be used to award the construction contract and fund staff time in support of this contracting action and project. Staff time will include acquisitions, project management, staff time for submittal review, site prep conducted in-house, and general coordination/collaboration with the Blackfeet Tribe and stakeholders.

S. 737 requires Reclamation to conduct an Ability-to-Pay study on the costs of the St. Mary Canal Rehabilitation Phase 1 Project "[n]ot later than 1 year after the date on which funds are first appropriated for the St. Mary Canal Rehabilitation Phase 1 Project under subsection (f)." Importantly, the bill defines the canal rehabilitation project as inclusive of "any activity associated with the construction of the St. Mary Diversion Dam or St. Mary Canal Headworks within the St. Mary Storage Unit of the Milk River Project." Section 3(e) would then require Reclamation to establish repayment terms for federal funding of the rehabilitation project based on results of the ability to pay study.

At the request of the Joint Board of Control, Reclamation is currently preparing an Ability-to-Pay Study for the Milk River Project. A draft is in process, and once the study is finalized, the results could be used for the purposes identified in the proposed bill. Until the study is finalized,

it is not known whether the results would support a reduction in the percentage of costs for which the JBOC would otherwise be responsible for the St. Mary Canal Rehabilitation Phase 1 Project.

Regardless of the result of the Ability-to-Pay study, Section 3(c) would require the federal government to provide no less than 26.04 percent of the St. Mary Canal Rehabilitation Phase 1 Project total cost, to be non-reimbursable to the United States. Reclamation is not currently authorized to consider ability-to-pay in requiring repayment of less than the beneficiaries' allocated share of rehabilitation and replacement costs, notwithstanding the direction in S. 737. Ability-to-Pay studies typically are completed for new project construction costs allocated to irrigation, absent specific project authority. An Ability-to-Pay study to determine the non-federal cost share as directed in this bill would be completed consistent with Reclamation's current practice where it is currently applicable. Finally, the bill authorizes the appropriation of $52 million to the Secretary for Phase 1 for the period FY 2022 through FY 2032.

In June 2020, the Department testified on H.R. 2492, the St. Mary's Reinvestment Act in the 116th Congress and subsequently provided additional comments on the bill. The Department testified again in the House in June 2021 on the companion bill to S. 737, H.R.1851. S. 737 addresses many of the comments raised in the 116th Congress. The Department appreciates the work to address previous concerns regarding cost share and other issues and looks forward to working through any remaining issues with the sponsor and the Committee on the legislation.

S. 953, Water for Conservation and Farming Act

The Water for Conservation and Farming Act, S. 953, seeks to address drought in the west by improving water access and efficiencies for agriculture and conservation. Title I would amend existing authorities and provide a new source of funds for certain water infrastructure investment programs. Title II includes several provisions for ecosystem protections and restoration, including reauthorization and expansion of the Cooperative Watershed Management Program.

Reclamation is concerned by Title I, Section 103, which could have potentially significant and unintended consequences for Reclamation's WaterSMART programs if enacted. Section 9504 of the SECURE Water Act is Reclamation's primary authority to fund water management improvements through financial assistance. Projects are carried out by not only irrigation and water districts but Tribes, municipalities, municipal water agencies, and States. Reclamation is concerned that S. 953 would unnecessarily restrict use of this authority. Reclamation is seriously concerned by Section 202 of S. 953, which would amend the SECURE Water Act with restrictive new language to prohibit any grant that would "increase the consumptive use of water for agricultural operations above the pre-project levels," even for downstream users who are not the recipient of the grant. Grant recipients are already prohibited from increasing their own consumptive use with water conserved through the program. However, the proposed language could have the effect of forcing recipients to agree that downstream users will commit all saved water solely for instream flows, even though recipients have no control of what happens to water once it goes back into the stream. The Department believes this language in the bill, if enacted as drafted, could be subject to contradictory interpretations and inadvertently prevent

Reclamation from assisting water managers with some water management improvements or discourage potential applicants from even participating in existing programs.

Drought and the impacts of climate change are having a significant effect on the Western United States. These impacts include reductions to the water resource needs of agriculture, cities and the environment. Existing Reclamation programs, such as WaterSMART grant opportunities, help communities throughout the West by increasing water supply sustainability and drought resiliency, and with the influx of new BIL funding beginning this year, these existing programs' effectiveness will get the chance to increase and deliver long-term benefits. This bill would provide new and expanded authorities to further this goal, and so Reclamation supports the intent of the bill, but we would like to work with the bill sponsor and the Committee to address concerns and propose technical corrections.

S. 1179, Canal Conveyance Capacity Restoration Act

For several years, Reclamation and its contractors on the Friant Division of the Central Valley Project (CVP) have been aware that subsidence impacts were such that the Friant-Kern Canal (F-KC) was only able to convey half of its designed and constructed capacity. Reclamation and Friant Water Authority worked to identify and resolve the capacity constraints, and a feasibility report was transmitted to Congress for consideration on July 3, 2020, and a Record of Decision was signed on November 4, 2020. The Department allocated $206 million in Water Infrastructure Improvements for the Nation (WIIN) Act funding in FY 2021 for construction, and the construction contract was awarded in October 2021 for 10 miles of new canal in the worst subsidence area, and construction is now underway.

Reclamation is also currently working with California Department of Water Resources to develop planning documents and various engineering studies for determination of the work required to correct the subsidence related to San Luis Joint Use facility, across the San Joaquin Valley from the F-KC, and south of the Sacramento-San Joaquin Bay Delta. This facility carries the water pumped from the Bay Delta for delivery into the Central Valley and points as far south as urban Southern California.

The Canal Conveyance Capacity Restoration Act, S. 1179, introduced by Senator Feinstein, contains five distinct dollar-value authorizations for projects that would fund restoration of conveyance capacity of the Delta-Mendota Canal and other San Joaquin Valley canals to original capacity. S. 1179 also authorizes funding to restore salmon runs on San Joaquin River, as required by San Joaquin River Restoration Settlement Act.

Additionally, the Canal Conveyance Capacity Restoration Act authorizes $833.4 million for four major projects in California, including more than $653 million to restore the capacity of three San Joaquin Valley canals that have been damaged by subsidence. The $833.4 million authorized for all four projects breaks down to $289.5 million for California Aqueduct repairs, $180 million for the F-KC, $183.9 million for the Delta-Mendota Canal, and $180 million for the San Joaquin River Restoration Settlement to help restore salmon populations in the river.

The Department supports the intent of S. 1179 to help restore salmon populations and repair storage and conveyance capacity. The Department has been working to address reductions in

conveyance capacity due to subsidence and other factors which have impacted facilities of the CVP in California. We look forward to continuing to work to restore salmon populations and to address subsidence in the San Joaquin Valley.

S. 1554, To make certain irrigation districts eligible for Pick-Sloan Missouri Basin Program pumping power, and for other purposes

The Pick-Sloan Missouri Basin Program (P-SMBP) was initially authorized by the Flood Control Act of December 22, 1944 (Public Law (P.L.) 78–534). Since 1944, the P-SMBP has been amended by several bills including the Dakota Water Resources Act (DWRA) of 2000, which authorized the Secretary to develop up to 28,000 acres of irrigation in areas of North Dakota not located within the Hudson Bay and James River drainage basins and to provide project use power to districts federally developed under DWRA.

The power systems of the Colorado-Big Thompson, Kendrick, Shoshone, and North Platte Projects have been integrated within the P-SMBP for the purpose of marketing the power produced from these projects through the Western Area Power Administration and the Rural Electric Cooperatives. From the power generated that is surplus to project needs, power revenues cover the annual operating expenses for each project, a reserve for replacement of facilities, and funds to help repay the power and irrigation construction costs based on local irrigation districts' ability to pay.

Project use power is the electrical capacity, energy, and associated ancillary service components required to provide the minimum electrical service needed to operate and maintain Reclamation Project facilities in conformance with project authorization. Various Congressional authorizations give Reclamation the ability to develop, generate, and use electrical power for the benefit of Reclamation project lands and other purposes. The power can be used for various functions, such as pumping water associated with irrigating Reclamation project lands.

Congressional authorizations for project use power vary across Reclamation projects. Within the P-SMBP, Reclamation does not have authority to provide project use power to non-Reclamation Project districts or to acreage that was developed with non-federal funds without specific authorization.

S. 1554 would make certain privately developed, non-Reclamation Project districts in North Dakota eligible to receive project use power from the P-SMBP, subject to the terms and rates established by Reclamation and as documented in a contract that an irrigation district must enter with Reclamation. The legislation does not provide these districts any additional benefits, such as an ability-to-pay relief, and therefore the eligible districts would pay the existing project use rate, which is currently 13.70 mills per kilowatt hour.

Under S. 1554, power generated within the P-SMBP would be allocated to new non-Reclamation Project uses at a project use power rate. This additional requirement will limit the amount of power surplus available to existing power customers who are responsible for covering a share of the operating expenses and, in some cases, construction expenses for the P-SMBP. This could result in a rate increase to power customers to sufficiently meet statutory requirements for cost-recovery. Should Congress determine to extend the benefit of project-use power to the North

Dakota districts by enacting S. 1554, Reclamation will implement its provisions and seek to integrate with existing P-SMBP power demands.

S. 2334, Large-Scale Water Recycling Project and Drought Resiliency Investment Act

The American West faces serious water challenges. Growth in demand among competing uses for water and aging infrastructure, compounded by sustained and recurring periods of drought, place an enormous strain on existing water and hydropower resources. Adequate, resilient, and safe water supplies are fundamental to the health, economy, and security of the country, and investments in water recycling and reuse are a key step to stretching limited water supplies, making systems more resilient, and insulating communities from the effects of drought in the West.

This perspective informs the Department's views on S. 2334. Reclamation's existing water recycling and reuse program was authorized 30 years ago by Title XVI of P.L. 102-575 to reclaim and reuse municipal, irrigation, domestic, and agricultural wastewater. For almost two decades, congressionally authorized projects were identified for funding through the budgeting process and through earmarks. Reclamation established a competitive process for allocating funding to congressionally authorized Title XVI projects in 2011 and has continued to allocate funding through that process each year.

The 2016 Water Infrastructure Improvements for the Nation (WIIN) Act included amendments to P.L. 102-575, which provided a path for new water reclamation and reuse projects to become eligible to compete for Title XVI funding without a project-specific congressional authorization. The WIIN Act also directed Reclamation to establish a competitive grant program to allocate available funding among newly eligible projects and then to transmit WIIN Act funding recommendations to Congress. Accordingly, over the last few years Reclamation has used separate funding opportunities – one open to congressionally authorized projects and another open to projects eligible under the WIIN Act – to allocate program funding with Congressional agreement. Final appropriations for the Title XVI Program were $63 million in FY 2020 and $63 million in FY 2021. However, over the past few years, Reclamation has seen demand for funding under the Title XVI Program shift to the WIIN Act Title XVI projects, with only $16.6 million in FY 2020 and $9.5 million in FY 2021 requested by sponsors of congressionally authorized projects, much smaller than the WIIN Act amounts.

Since 1992, Reclamation has allocated more than $760 million in Title XVI Program funding. This funding, along with non-federal cost-shares, has resulted in more than $3 billion in total investments in reuse projects, when factoring in non-federal project sponsors' share. Projects funded through the Title XVI Program delivered over 420,000 acre-feet of recycled water in 2020, helping to provide flexibility to water managers and diversifying the water supply.

The Large Scale Water Recycling Project and Drought Resiliency Investment Act, S. 2334, directs the Secretary of the Interior to establish a new competitive grant program for the planning, design, and construction of large-scale recycling projects. We understand that S. 2334 was introduced before the November 2021 enactment of the Bipartisan Infrastructure Law. Reclamation is currently working on developing criteria and standing up the Large Scale Water Recycling Program, as authorized by the Bipartisan Infrastructure Law and expects to put out a

funding opportunity for projects sometime late in 2022 into early 2023. The Department has allocated $50 million of the $450 million total for the program for FY 2023 under the Bipartisan Infrastructure Law in anticipation of this funding opportunity.

Through Section 3, Drought Resiliency, S. 2334 expands the Cooperative Watershed Management Program to allow for emergency drought planning; authorizes financial assistance of $50 million through 2026 under Title I of the Reclamation States Emergency Drought Relief Act of 1991 for the benefit of fish and wildlife; and amends Section 104 of the Drought Relief Act and authorizes it through 2031.

The Department supports the goals of water recycling and drought resiliency. We look forward to working with the bill sponsors and the Committee on improvements to the bill, particularly in Section 3 to clarify and improve implementation.

S. 2693, Salton Sea Projects Improvements Act

The Salton Sea Projects Improvement Act, S. 2693, amends the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize additional projects to improve wildlife habitat, recreation, and air and water quality at the Salton Sea. S. 2693 specifically authorizes dust suppression projects, a crucial component to improving local air quality conditions and allows the federal government to be proactive in reducing emissions.

The Department, through Reclamation, using multiple authorities, has provided more than $16 million since 2016 for dust suppression, wetland restoration, water quality improvements, environmental compliance and land use authorizations at the Salton Sea. On August 31, 2016, the Department signed a Memorandum of Understanding (MOU) with the California Natural Resources Agency (CNRA) for purposes of coordinating efforts at the Salton Sea. The MOU recognizes the State of California (State) will have the lead role in the cooperative effort to restore the Salton Sea, and commits the Department to pursue $30 million in funding to help support State-initiated efforts.

Federal partners, including Reclamation, Bureau of Land Management, U.S. Fish and Wildlife Service, United States Geological Survey, U.S. Army Corps of Engineers, and U.S. Department of Agricultural Natural Resources Conservation Service meet regularly to coordinate activities and secure funding that supports State-led activities.

Section 2 of the Salton Sea Projects Improvement Act amends Section 1101 of the Reclamation Projects Authorization and Adjustment Act of 1992 (P.L. 102-575) to specifically allow the Secretary of the Interior to enter into grants, agreements, and contracts in partnership with State, Tribal, and local governments; water districts; joint powers authorities; nonprofit organizations; and institutions of higher education to carry out projects at the Sea. The ability to work with multiple types of partners, including universities and non-governmental organizations will provide for opportunities to take advantage of non-governmental funding. For example, Reclamation is working with the National Audubon Society in FY 2020 to enhance habitat and mitigate dust on approximately 900 acres near the community of Bombay Beach.

Reclamation provided $1,000,000 to plan, design and permit the project, which was an important but unfunded step in getting to a project design that would allow Audubon to receive

approximately $6 million in matching funds. Reclamation funding bridged this gap, providing Audubon the opportunity to access additional, non-federal funds. Reclamation has also collaborated with California Natural Resources Agency, Imperial County, Imperial County Air Pollution Control District, and provided $1.2 million to the Salton Sea Authority to advance the Desert Shores Channel Restoration Project. The project would create habitat and suppress dust by refilling currently dewatered channels with water at a salinity level that provides habitat for fish and supports piscivorous birds. The proposed legislation would streamline these processes and increase opportunities in the future.

Finally, S. 2693 amends P.L. 102-575 to include activities such as construction, operation, and maintenance costs which will increase Reclamation's flexibility and opportunity to work with partners at the Sea to implement projects that create habitat and improve water and air quality. The proposed language increases the authorized appropriations ceiling from $13 million to $250 million, which will allow Reclamation to continue to implement projects that improve conditions at the Salton Sea, particularly as Reclamation is near the $13 million ceiling under the existing authority. An increase in the ceiling to $250 million, when followed by Congressional appropriations, would provide flexibility for the federal government to match existing appropriated State funding ($402.6 million) to implement, monitor, operate, and maintain the California Natural Resources Agency Salton Sea Management Program Phase 1: 10-Year Plan.

The Department appreciates the work of the sponsors on the Salton Sea Projects Improvement Act and supports S. 2693. The Department looks forward to working with the bill sponsor and the Committee as the bill moves forward.

S. 3450, Sun River Hydropower Authorization Act

Reclamation is the second largest producer of hydropower in the country. Reclamation owns and operates 53 hydroelectric plants, comprising over 14.7 million kilowatts of installed capacity. Each year on average, Reclamation plants generate 40 billion kilowatt hours of electricity (the equivalent demand of 3.7 million homes), yield nearly one billion dollars in power revenues, and displace approximately 17 million tons of carbon dioxide. Reclamation's hydropower program supports Administration and Department clean energy and climate change initiatives by increasing hydropower capabilities and value, and facilitating incremental, carbon-neutral energy generation.

The Sun River Hydropower Authorization Act encourages and authorizes the Secretary, through Reclamation, to construct, operate, and maintain hydroelectric power generation facilities in the Sun River project in Montana. S. 3450 creates additional opportunities to work with our federal and non-federal partners and provide them with an additional revenue source to address aging infrastructure and potentially achieve greater financial independence, for a self-sustaining system. Hydropower development on the Sun River Project would create additional clean renewable energy in the region, consistent with Reclamation's mission to manage, develop, and protect water and related resources in an environmentally and economically sound manner, in the interest of the American public.

As I testified in January, 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. Reclamation supports the goal of providing clean energy to Americans.

S. 3539, Watershed Results Act

Reclamation's WaterSMART Program is part of the Department's strategy to tackle the short- and long-term challenge of climate change by improving water use and supply efficiency, sustainability, and reliability. Under WaterSMART, the Cooperative Watershed Management Program provides funding to watershed groups to encourage diverse stakeholders to form local solutions to address their water management needs.

If enacted, S. 3539 would establish a new Reclamation watershed pilot program to meet specific watershed goals, such as realizing increases in water quantity or improvements to the quality of aquatic habitats. The program would support 2 – 5 pilot projects through $15,000,000 in mandatory annual appropriations over 6 years. The pilot projects would follow a 5-year plan that must incorporate watershed analytics and follow a multi-agency funding strategy that utilizes a pay-for-performance contract to incentivize results.

Reclamation supports the intent of the bill, and we would like to work with the bill sponsor and the Committee on technical assistance to identify any opportunities to support collaborative and science-based efforts and to otherwise meet the goals of the bill through revisions to existing authorities and programs.

H.R. 5001 and S. 3693, Upper Colorado and San Juan River Basins Recovery Act

S. 3693 extends authority for the Upper Colorado River and San Juan River Basin endangered fish recovery implementation programs from 2023 to 2024. The Administration supports the reauthorization of these important, and demonstrably successful, fish recovery programs.

The Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program (the Programs) were established in 1988 and 1992, respectively. The goals of the Programs are to recover four endangered fish species in a manner consistent with state and Tribal laws, interstate compacts, the Endangered Species Act (ESA), other federal laws, and Indian trust responsibilities while water development proceeds.

Participants in these two Programs include the States of Colorado, New Mexico, Utah, and Wyoming; federal agencies, including Reclamation, Fish and Wildlife Service, Western Area Power Administration, National Park Service, Bureau of Land Management, and Bureau of Indian Affairs; American Indian Tribes including the Navajo Nation, Jicarilla Apache Nation, Southern Ute Tribe, and Ute Mountain Ute Tribe; water users; power users; and environmental organizations.

Actions taken by the Programs to recover the Colorado pikeminnow, humpback chub, razorback sucker, and bonytail meet ESA requirements for operation of federal multi-purpose projects, water projects benefiting the Tribes, and non-federal water projects. Activities and accomplishments of these Programs provide ESA compliance for more than 2,500 federal and

non-federal water projects depleting approximately 3.7 million acre-feet per year in the Upper Colorado River and San Juan River Basins.

These two important recovery programs are intended to recover four species of endangered fish while allowing the states and Tribes to develop their full water entitlement and maintain compliance with interstate compacts and associated laws. Work focuses on four major areas:

1. Habitat management including providing and protecting instream flows;

2. Habitat development and maintenance, including fish ladders, fish screens, levee removal, and flooded bottomland restoration;

3. Augmentation and conservation of genetic integrity, development and operation of propagation facilities, and fish stocking; and

4. Management of non-native fish;

As evidence of the success of these Programs, the Fish and Wildlife Service recently reclassified the humpback chub from endangered to threatened on October 15, 2021 and proposed a similar reclassification for razorback sucker in July of 2021.

The Upper Colorado and San Juan River Basins Recovery Act would authorize continued implementation of endangered fish recovery programs for the Upper Colorado and San Juan River Basins through 2024 to protect and recover endangered fishes while water development proceeds in compliance with all applicable federal and state laws. The Upper Colorado and San Juan River Basins Recovery Act would also extend the deadline for the Report to Congress. The new legislation extends this reporting deadline to September 30, 2022. The report will detail, among other things, activities to be carried out after FY 2023 and the cost of such activities.

We look forward to working with the Committee to further these important recovery programs.

S. 3971, To amend the America's Water Infrastructure Act of 2018 to modify a provision relating to cost-sharing requirements applicable to certain Bureau of Reclamation dams and dikes, and for other purposes

S. 3971 amends Section 4309 of P.L. 115-270, America's Water Infrastructure Act of 2018, to increase Reclamation's cost share for the ongoing Safety of Dams (SOD) related modification costs from 85% to 100%. While neither S. 3971 nor the P.L. 115-270 language it amends name any particular facility, Reclamation has determined that both are applicable to the W.C. Austin Project (Project) located on the North Fork of the Red River in southwest Oklahoma.

The Project consists of Altus Dam, five earth-fill dikes, and approximately 270 miles of canals and laterals. Project benefits include irrigation of approximately 48,000 acres of privately owned land; augmentation of the municipal and industrial (M&I) water supply for the City of Altus; flood control benefits on the North Fork of the Red River; and recreation and fish and wildlife conservation benefits.

The Project is a "Transferred Works" operated and maintained by the Lugert-Altus Irrigation District (District) in accordance with the provisions of Contract No. Ilr-1375, as amended. Reclamation implemented SOD modifications at the Project from 2015-2018 to reduce the

potential for overtopping one or more dikes, and to improve seepage conditions at Lugert and East Main Dikes. After completing the initial SOD modifications, new seepage areas developed at the downstream toe of Lugert and East Main Dikes, and in agricultural fields further downstream of both dikes. The risks associated with these new seepage areas exceeded Reclamation's Public Protection Guidelines and construction of cement-bentonite cutoff walls at both dikes was required.

Construction of the cutoff walls is underway and will be substantially complete by the end of FY 2022. A temporary reservoir operating restriction has been implemented reducing the conservation storage pool elevation by 5-feet from elevation 1559' to elevation 1554'. This reduces conservation storage by 28,000 acre-feet (about a 20% reduction) until construction of the cutoff walls is complete. The total cost for the dam safety modifications at the Project including Reclamation's non-contract costs is currently estimated to be approximately $44 million. In accordance with the Reclamation Safety of Dams Act of 1978 (as amended) and Reclamation Policy, 15% of the total SOD related modification costs are reimbursable by the Project beneficiaries. In this case the 15% would be allocated as 14.9% ($6.6 million) to the Lugert-Altus Irrigation District for irrigation and 0.1% ($44,000) to the City of Altus for M&I water supply.

The SOD modification costs have been up-front funded and the 15% non-federal cost share was to be repaid to the United States over time (up to 50 years) following completion of the SOD modifications.

S. 3971 would increase Reclamation's share of the OM&R costs for gates and ancillary equipment from 22% ($3.3 million) to 100% ($15 million). Reclamation has budgeted for the 22% ($3.3 million) cost share but has not identified a funding source for the remaining 78% ($11.7 million) should S. 3971 become law. This work may be eligible for Bipartisan Infrastructure Law funding; however, additional research will be required before a determination can be made. Should Congress determine to change the federal cost share through enactment of S. 3971, Reclamation will implement its provisions.

S. 4175, To amend the Omnibus Public Land Management Act of 2009 to authorize certain extraordinary operation and maintenance work for urban canals of concern

Reclamation's canals were originally constructed through relatively unpopulated areas in the Western United States. Today, some of Reclamation's canals are subject to the spread of urban development and could pose a potential risk to populated areas in the event of a failure. Reclamation currently classifies and monitors approximately 880 miles of canals in its Urban Canal Hazard Program.

If enacted, S. 4175 would recategorize any extraordinary maintenance work on an urban canal of concern as emergency extraordinary maintenance work, thereby allowing the Secretary to provide non-reimbursable funds to cover 35% of project costs. This would reduce operating partners maintenance costs for these urban canals, passing on costs to Reclamation for XM work that would have otherwise been funded by Reclamation transferred work partners.

It may be challenging to implement section 1(e), which would allow any reimbursable funds provided under this bill to be a non-federal source of funds for the purposes of any cost-sharing

requirement for a federal grant. Reclamation also believes that this language would be unlikely to lead to a result useful to water managers. Funding made available under Section 9603 of P.L. 111-11 is intended to carry out extraordinary operations and maintenance work to ensure the structural safety of facilities. Reclamation's grant programs typically have their own specific statutory requirements that may be inconsistent with the requirements and goals of funding made available under Section 9603.

As an agency, Reclamation works collaboratively with our partners to ensure the safe and exceptional stewardship of our aging and urban infrastructure. We understand the intent of the bill, and we would like to work with the bill sponsor and the Committee to address concerns and technical corrections.

S. 4176, To amend the Infrastructure Investment and Jobs Act to modify the eligibility requirements for certain small water storage and groundwater storage projects and to authorize the use of funds for certain additional Carey Act projects, and for other purposes

The Carey Act authorized land grants to states, on which states could have irrigation dams and other water management facilities constructed. The BIL's original section 40904(b) authorizes up to $100 million in funding for Carey Act dams meeting stated criteria, upon a Governor's request. The language of S. 4176 authorizes funding for additional Carey Act dams from this $100 million, provided the funds have not been exhausted by this initial request. Financial assistance agreements would be developed to provide the funding.

Reclamation takes no issue with the amendment to section 40904(b), as provided, since it alerts those who might request funding that requests under the original authority take priority and funding may therefore be unavailable.

The amendments also include a provision lowering the threshold on the new Small Water Storage Program enacted last November in BIL from a 2,000 acre-foot minimum, to a two (2) acre-foot minimum. Reclamation's Small Storage Program is a newly established grant program authorized by sections 40901(1) and 40903 of BIL to promote federal assistance to enhance small scale water storage opportunities for future generations.

The reduction in project minimums, from 2,000 acre-feet down to 2 acre-feet would significantly alter the types of applications submitted for this specifically tailored program. It would also be challenging to apply the feasibility standards set forth for that program, for which Reclamation issued guidance in January, to such small projects. In August 2022, Reclamation plans to publish the first funding opportunity for the Small Storage Program with the planned distribution of $20,000,000 in FY 2023.

Reclamation has existing programs under its WaterSMART grant opportunities that address these much smaller types of storage activities and would continue to encourage entities with needs for projects of that scale to apply to those programs, most of which have a lower non-federal cost share than the Small Storage Program. The Department looks forward to working with the sponsor and committee to address specific needs associated with the proposed amendments.

S. 4231, Support to Rehydrate the Environment, Agriculture, and Municipalities (STREAM) Act

The Support to Rehydrate the Environment, Agriculture, and Municipalities (STREAM) Act is an ambitious bill that establishes new and expanded Reclamation authorities that range from water storage to aging infrastructure investment, to ecosystem health to address drought in the West. It touches on many of the authorities in recently enacted laws such as the BIL (P.L. 117-58, enacted in 2021), the 2021 Consolidated Appropriations Act (P.L. 116-260, enacted in 2020), the Dingell Act (P.L. 116-9, enacted in 2019), and the WIIN Act (P.L. 114-322, enacted in 2016).

If enacted, Title I of the STREAM Act would amend and provide additional authorization for appropriations for the water recycling grant program, it would establish a new water storage grant program, it would expand and authorize funds for new desalination projects, it would establish a new infrastructure loan program, it would establish a drinking water grant program, it would expand the applicability of the extraordinary maintenance extended repayment program, and it would create a new authority to use revenues from water transfers and payments to address drought and dam safety activities. Title II of the bill would reauthorize and expand eligibility under the Transboundary Aquifer Assessment Program, and Title III is dedicated to ecosystem restoration and introduces a new performance-based funding program for ecosystem restoration, mitigation, or enhancement activities.

The STREAM Act seeks to accelerate the approval process for water recycling and desalination projects, and smaller non-federal storage projects with less than $250 million in federal funding, by allowing the Department to approve the projects. Currently, Reclamation is required to seek congressional approval to authorize all water recycling, desalination, and storage projects, except for projects that receive construction funding under the Bipartisan Infrastructure Law.

Reclamation appreciates the work of the sponsor to address the worsening drought in the West. Western water issues are complex and multifaceted, and diversity of creative programs will be necessary to meet current water needs within a changing climate.

The STREAM Act creates some new implementation obligations, since several of the authorities it amends are for programs still being stood up and implemented for the first time. Examples include the storage program and the extraordinary maintenance programs funded in BIL. Section 106 of the STREAM Act would also authorize a new Reclamation Infrastructure Finance and Innovation Pilot Program and require that its implementation be integrated with existing Water Resources Development Act of 2014 program commonly referred to as “WIFIA”.

For these and other reasons, the Department would like to continue working with the sponsor and the Committee on technical assistance to ensure that authorities within this bill are implementable, effective, can be integrated with existing laws recently passed, and would achieve intended goals.

S. 4232, To address the recovery of certain costs with respect to certain Reclamation facilities in the Colorado River Basin, and for other purposes

S. 4232, introduced by Sen. Kelly, amends cost allocation and recovery processes for Reclamation hydropower production sited within the Colorado River Basin, as administered by Reclamation and the Western Area Power Administration.

The Colorado River Basin is in the 22nd consecutive year of drought and the driest period in over 1200 years. Declining hydrology caused by low inflows, warmer temperatures, decreased soil moisture, and precipitation are reducing flows in the Colorado River system, directly affecting the ability for Reclamation to produce hydropower.

As the second largest producer of hydropower in the country, Reclamation owns and operates 53 hydroelectric plants, comprising over 14.7 million kilowatts of installed capacity. Each year on average, Reclamation plants generate 40 billion kilowatt hours of electricity (the equivalent demand of 3.7 million homes), yield nearly one billion dollars in power revenues, and displace approximately 17 million tons of carbon dioxide. Reclamation's hydropower program supports Administration and Department clean energy and climate change initiatives by increasing hydropower capabilities and value, and facilitating incremental, carbon-neutral energy generation.

Glen Canyon Dam is Reclamation's largest hydropower generating station in the Upper Basin that provides electrical grid stability and support for other renewable energy generation. During the ten (10) years prior to the beginning of the current drought in 2000, an average of 4,600 gigawatt-hours (GWh) annually were generated at Glen Canyon. This declined by 17% to an average of 3,800 GWh from 2000-2020 and declined further to 3,350 GWh in 2021. This decline has impacted power rates with a recent 11% increase to rates for power marketed from Glen Canyon. The impact for customers is compounded by the need to replace energy requirements previously met by hydropower from Glen Canyon with more expensive alternatives.

Just this Spring, the Department took the unprecedented step of reducing the 2022 annual release volume from Lake Powell from 7.48 to 7.0 million acre-feet to protect hydropower generation and infrastructure at Colorado River hydropower facilities. Despite this action among others to protect Lake Powell's elevation, it faces the risk of dropping below the minimum power pool elevation of 3,490 feet in the next several years.

We recognize that the loss of hydropower generation at Glen Canyon would result in impacts to revenue to fund various costs including operation and maintenance, the repayment of the federal investment, salinity, aid to irrigation and environmental compliance and customers would be forced to replace power needs with more expensive alternatives.

Reclamation is currently working with the Western Area Power Administration on near-term solutions for loss of power generation.

The Department supports the goal of this bill. However, as drafted, several provisions of the bill could introduce unintended complexities into the hydropower program. Considerations for delineation between Reclamation and WAPA responsibilities and costs should be provided for in the bill. The Department looks forward to working with the sponsors of the bills as well as the

Subcommittee and WAPA on any necessary modifications that can address the goal of the bill and minimize effects on other aspects of hydropower programs.

S. 4233, Platte River Basin Critical Maintenance and Repair Act

The Platte River Basin Critical Maintenance and Repair Act would amend the Infrastructure Investment and Jobs Act (43 U.S.C. 3204) to provide $100,000,000 in additional authorization of appropriations for any Reclamation Project facilities located within the Platte River Basin that had a structural failure resulting in a declaration of emergency in the three years leading up to the enactment of 43 U.S.C. 3204.

Under the proposed language, work performed by Reclamation transferred work partners to address the collapse of tunnel 2 on the Fort Laramie Canal in both Wyoming and Nebraska would likely be eligible for funding. This tunnel collapsed in July 2019, backing up water in the tunnel and canal which then resulted in overtopping of the canal upstream of the tunnel.

Reclamation supports the goal of addressing emergencies and structural failures at project facilities. If enacted, and if funds are appropriated to fund this authority, Reclamation would work swiftly to allocate any funds appropriated under this authority.

S. 4236, To provide for a national water data framework, to provide for the water security of the Rio Grande Basin, to reauthorize irrigation infrastructure grants, and for other purposes

Title I of S. 4236 establishes a federal working group to develop and implement an integrated water resources management plan for the Rio Grande Basin.

Reclamation has seen success with a similar program in the Yakima River Basin in Washington. The Yakima Integrated Plan identifies a comprehensive and balanced approach to water resources and ecosystem restoration improvements in the Yakima River Basin. Reclamation along with stakeholders in the Yakima River Basin, analyzed the Integrated Plan as part of the Yakima River Basin Study conducted in 2011.

Reclamation is preparing to initiate a Rio Grande Basin Study under the WaterSMART program. The Basin Study will evaluate water supply and demand in the Rio Grande Basin from the Colorado New Mexico border downstream to Elephant Butte Dam. The study will also identify strategies to address imbalances. This study will be important for the Rio Grande basin because the water supply within the Basin Study Area is limited, highly variable, and fully allocated. Commitments in the form of treaties, compacts, water rights, permits, and legal statutes are numerous, complex, and constrain water management flexibility.

Reclamation supports the intent of Title I but has concerns with the duration of this proposed legislation. Reclamation feels that completing the Basin Study which will be a 3-year process will be an important step prior to developing and implementing an integrated plan. Implementation of an Integrated Plan would also be contingent on resolution of ongoing litigation in the *Texas vs. New Mexico* Supreme Court case.

Under Section 9106 of P.L. 111-11, the Omnibus Public Land Management Act of 2009, Congress authorized $4 million to conduct a study of the irrigation infrastructure within the 18 Rio Grande pueblos, and $6 million in each of ten subsequent years to address identified infrastructure improvements. Detailed physical surveys of the existing irrigation infrastructure at each pueblo were completed in the past ten years as program funding became available. The study has preliminarily identified that there are numerous irrigation improvements needed on pueblo lands.

Title III, Sections 301-306 of the draft legislation, seeks to formalize and fund an approach to accelerate the modernization of federal and non-federal water data infrastructure for the broad integration across data streams to encourage synthesis of multiple observations to detect and predict trends, patterns, and changes in water availability. The U.S. Geological Survey's (USGS) mission is guided by many drivers for more discoverable, accessible, and interoperable water data such as 1) providing the framework for data and information sharing, particularly new geospatially enabled data; 2) providing the science for decision making associated with climate resilience, in particular drought and wildfire; 3) advancing water and natural resource conservation, considering climate change impact on the water system, landscape, aquatic habitats and protected species; and 4) promoting advanced water modeling, mapping and analysis, to improve understanding of current and futures states of water availability and water risks. As drafted, the bill is broadly aligned with the current and future goals of the USGS Water Mission Area (WMA). However, the 2018 National Academies of Science (NAS) report - Future Water Priorities for the Nation: Directions for the U.S. Geological Survey Water Mission Area, challenged the USGS WMA to collaborate with federal and non-federal partners to strategically enhance collection of water-quantity, -quality, and -use data leveraging innovative technologies to provide readily accessible "fit-for-purpose" information. Guided by specific 2018 NAS Report recommendations, the Groundwater and Streamflow Information Program (GWSIP) of the USGS WMA has made it a priority to coordinate with other agencies and relevant organizations to co-develop accessible, open and codified data formats, protocols, interoperability and software tools. The USGS has concerns with these provisions being aligned with the FACA process and being held to the associated requirements. The USGS would like to work with the Committee to address them.

Reclamation supports an extension of the Rio Grande Pueblo authorization and looks forward to working with the sponsor and the Committee on this goal.