

**PENDING LEGISLATION AND DISCUSSION DRAFT  
OF THE RECLAMATION WIFA**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON WATER AND POWER  
OF THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE  
ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

ON

**S. 3001**  
**H.R. 132**  
**H.R. 1967**

AND

S. \_\_\_\_\_, DISCUSSION DRAFT OF THE RECLAMATION WATER  
INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 2018

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JUNE 13, 2018  
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## **PENDING LEGISLATION AND DISCUSSION DRAFT OF THE RECLAMATION WIFIA**

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**WEDNESDAY, JUNE 13, 2018**

U.S. SENATE,  
SUBCOMMITTEE ON WATER AND POWER,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:00 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Jeff Flake, presiding.

### **OPENING STATEMENT OF HON. JEFF FLAKE, U.S. SENATOR FROM ARIZONA**

Senator FLAKE [presiding]. This hearing of the Subcommittee on Water and Power will come to order.

The purpose of today's hearing is to receive testimony on three Bureau of Reclamation bills as well as a discussion draft of legislation relating to the Water Infrastructure Finance and Innovation Act (WIFIA) program.

Two of the bills before us today, S. 3001 and H.R. 132, would convey ownership of facilities from the Federal Government to water districts that have paid for them in full and are currently managing them. These are win-win bills that allow for local control of water resources and reduce costs to the Federal Government. The third bill that we are considering is H.R. 1967 which will ensure pumped storage projects on Reclamation facilities are not subject to two separate permitting processes. Finally, we will examine the discussion draft which would open up the WIFIA program to water supply projects selected by the Bureau. Last year the Subcommittee hosted a roundtable to discuss challenges with financing water supply infrastructure, and this is one of the ideas that came up as a way to support state and local government-led water projects.

I look forward to hearing from the Administration on the discussion draft and working with my colleagues to ensure that taxpayers are protected as this concept moves forward.

With that, I will turn to the Ranking Member, Senator Cortez Masto.

### **STATEMENT OF HON. CATHERINE CORTEZ MASTO, U.S. SENATOR FROM NEVADA**

Senator CORTEZ MASTO. Thank you, Senator, and good morning.

Our hearing today, as you heard, is two-fold. First, a legislative hearing to discuss Title II transfer proposals for S. 3001 and H.R.

132, and H.R. 1967, legislation that would create a Pumped Storage program for Reclamation. We will also consider a discussion draft on a Water Infrastructure Finance Innovation Act model for water projects. The issue of title transfer is one that the Committee is actively discussing and the parameters that define which projects make for ideal candidates for title transfer are important.

The legislation before us has checked these boxes. S. 3001 and H.R. 132 seek to transfer those facilities that are already operated and maintained by the water districts that seek the title. The water districts have completely repaid their projects. They have worked collaboratively with stakeholders in the region, and there is no opposition to the transfer of these facilities.

I would like to submit for the record a letter of support from the East Bay Regional Park District for Senate bill 3001.

[The information referred to follows:]



2950 PERALTA OAKS COURT P.O. BOX 5381 OAKLAND CALIFORNIA 94605-0381 T: 1-888-EBPARKS F: 510-569-4319 TRS RELAY: 711 WWW.EBPARKS.ORG

June 5, 2018

The Honorable Dianne Feinstein  
United States Senate  
Washington, DC 20510

The Honorable Mark Desaulnier  
United States House of Representatives  
Washington, DC 20515

**RE: Support for Contra Costa Transfer Act**

Dear Senator Feinstein and Representative DeSaulnier:

On behalf of the East Bay Regional Park District I would like to express our support for the Contra Costa Canal Transfer Act (CCCTA).

In collaboration with the Contra Costa Water District, the Park District has worked on the development of the CCCTA and appreciates your work on this legislation.

The Park District is in the East San Francisco Bay Area and provides recreational opportunities throughout Contra Costa and Alameda counties through the provision of a system of regional parks and regional trail networks. The Park District developed and manages recreational facilities and programs at the Contra Loma Dam and Reservoir, Contra Loma Regional Park (since 1971), and along the Contra Costa Canal.

The U.S. Bureau of Reclamation and the Park District have a Memorandum of Agreement (MOA) to operate, maintain, and develop recreation uses and facilities at Contra Loma Reservoir and Contra Costa Canal System. Contra Loma Regional Park is located in Antioch, California and covers 780-acres of open space and trails and an 80-acre reservoir for fishing and swimming.

The Contra Costa Canal Transfer Act has the Park District's support and we worked to ensure the existing recreation agreement continues and is recognized in the legislation. Thank you again for crafting this important bill and for your continued support for the East Bay Regional Parks.

Sincerely,

Robert Doyle  
General Manager  
East Bay Regional Park District

Board of Directors

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Senator CORTEZ MASTO. The discussion draft complements the legislation we are considering. The discussion draft proposes a financing mechanism for Reclamation-like water projects, similar to the EPA's WIFIA program. It is a potential tool that water managers can use to finance upgrades and maintenance to water projects for which they own title.

Assistant Secretary Petty, I look forward to hearing your views on how you think water managers will utilize a WIFIA-like program for Reclamation.

H.R. 1967 would give Reclamation exclusive jurisdiction over allowing pump storage development at projects that propose to use more than one Reclamation reservoir. This bill affects one active project, located in the State of Washington, that is currently going through both FERC licensing and Reclamation leasing.

Well-sited pump storage is a promising opportunity for long duration storage on the grid.

The recent hydropower vision report in which the Department of Energy participated concluded that over 16 gigawatts of new pumped storage capacity is feasible nationwide by 2030. This kind of storage will be essential to accelerate our path to a clean energy economy that integrates more variable wind and solar. That said, while reducing duplicative permitting can be a matter of good government, I want to draw attention to the need to protect tribal interests affected by this bill. Tribes affected by the flooding of their homelands and fisheries at Grand Coulee now filled by Lake Roosevelt have a number of important protections in place under FERC licensing. I understand that the bill's proponents and tribes in Washington are engaging on potential amendments to address this concern.

I want to enter into the record a letter from Chairman Marchand of the Colville Tribes to this effect.

[The information referred to follows:]





The Confederated Tribes of the Colville Reservation  
P.O. Box 150, Nespelem, WA 99155  
(509) 634-2200  
FAX: (509) 634-4116



June 13, 2018

The Honorable Jeff Flake  
Chairman  
Subcommittee on Water and Power  
304 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Catherine Cortez Masto  
Ranking Member  
Subcommittee on Water and Power  
304 Dirksen Senate Building  
Washington, DC 20510

**RE: H.R. 1967, the *Bureau of Reclamation Pumped Storage Hydropower Development Act***

Dear Chairman Flake and Ranking Member Cortez Masto:

On behalf of the Confederated Tribes of the Colville Reservation ("Colville Tribes" or the "CCT"), I wish to briefly communicate the CCT's views on H.R. 1967, the Bureau of Reclamation Pumped Storage Hydropower Development Act. H.R. 1967 would transfer permitting responsibility from the Federal Energy Regulatory Commission (FERC) to the Bureau of Reclamation (BOR) for pumped storage projects utilizing BOR facilities. Currently, the only applicable project in active development is a massive \$800 million, 500 MW pumped storage project proposed by Columbia Basin Hydropower.

The Columbia Basin Hydropower project would utilize Banks Lake and Lake Roosevelt, which are reservoirs of the Grand Coulee Dam, the largest hydroelectric plant in the United States. Half of the Grand Coulee Dam sits within the boundaries of the Colville Reservation. The construction of the dam and the creation of Lake Roosevelt in the 1930s and early 1940s permanently flooded areas of the Colville Reservation. It also flooded and rendered inaccessible Kettle Falls, the Colville Tribes' largest salmon fishery. The Grand Coulee Dam permanently changed our way of life and its impacts on the Colville Tribes and our people continue to present day.

The CCT has several concerns regarding the possible impacts of the proposed project on the interests of the Colville Tribes and our members. These include (1) diminishment of the annual payments the Colville Tribes receives from the Bonneville Power Administration under the Colville Tribes' 1994 Grand Coulee Dam Settlement Act (Pub. L. 103-436); (2) impacts on water quality and resident salmonids currently in Lake Roosevelt and anadromous fish that are planned for reintroduction in areas above Grand Coulee Dam; and (3) tourism and economic impacts on the CCT and surrounding communities. In the 1940 Act that authorized the creation of the Grand Coulee Dam and condemned tribal land for its construction, Congress also directed that one-quarter of the entire reservoir be set aside for the paramount use of the members of the

Page 2 of 2

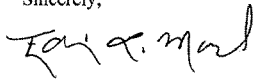
Colville Tribes and the Spokane Tribe for fishing, boating, and hunting. The CCT has tangible and significant interests at stake should this project move forward with construction.

For the past two years, the CCT has invested substantial resources in providing comments on and study requests for the project in the FERC process. The CCT is gravely concerned about the unknown impacts of the project at this stage of its development. Fairness dictates that the CCT has available to it the mechanisms in the current FERC review process to ascertain and, if necessary, mitigate any negative impacts should H.R. 1967 move forward.

The CCT has worked with Columbia Basin Hydropower and is currently working with this Committee staff to ensure that H.R. 1967 contains provisions to address our concerns. We respectfully request that the Committee ensure that the Colville Tribes' concerns are adequately addressed before considering H.R. 1967 for mark-up.

Thank you for your consideration of these important issues. Please contact me with any questions.

Sincerely,



Dr. Michael Marchand, Chairman



Senator CORTEZ MASTO. And I want to note that Senator Cantwell has made clear she wants this issue addressed before marking up this bill.

Thank you, Assistant Secretary Petty, for joining us today. I look forward to your testimony and our discussion.

Senator FLAKE. Thank you, Senator Cortez Masto.

As our only witness, he is looking a little lonely there.

[Laughter.]

Tim, Dr. Petty, knows this process well having been on all sides of this issue. He is Assistant Secretary for Water and Science at the U.S. Department of the Interior.

Thank you for joining us today, and you are now recognized for your testimony.

**STATEMENT OF HON. TIMOTHY R. PETTY, ASSISTANT SECRETARY FOR WATER AND SCIENCE, U.S. DEPARTMENT OF THE INTERIOR**

Dr. PETTY. Well, thank you both, Chairman Flake, Ranking Member Cortez Masto.

Again, my name is Tim Petty. I'm the Assistant Secretary for Water and Science at the Department of the Interior. Thank you for the opportunity to provide the views of the Department on the multiple bills and the draft legislation proposal pending before the Subcommittee today.

The Department supports each of the three bills and we cannot formally endorse a proposed still-in-draft form; however, I believe the discussion draft effort to expand WIFIA to include projects of interest to the Bureau of Reclamation could go a long way to provide much needed capital to water projects throughout the arid West.

Starting off with Senate bill 3001, as introduced by Senator Feinstein, the Contra Costa Canal Transfer Act directs the Secretary to transfer and convey to the Contra Costa County Water District, all rights, titles and interests to the United States in and to the Contra Costa Canal. It includes the entirety of the Contra Costa Canal unit at the Central Valley Project, and of course, all the interest in lands associated within that unit.

While the Senator's staff and the water district and the Department of the Interior are still finishing up final refinements, we are pleased to fully support this legislation.

The second bill, as introduced by Congressman Cole, H.R. 132, the Arbuckle Project Maintenance Complex and District Office Conveyance Act, also transfers a Reclamation Project. In this case, it is to the Arbuckle Master Conservancy District in Murray County, Oklahoma, and the Department also supports this legislation. The Department has an active title transfer program and supports transferring certain Reclamation project facilities to non-federal entities, particularly in cases where transfer could create opportunity, not just for those who receive the title, but for the other stakeholders and the public as well. This is also consistent with the broader aims that the Administration's title transfer legislation proposal transmitted to Congress in February of this year which is still under consideration.

We also support H.R. 1967, the Bureau of Reclamation's Pump Storage Hydropower Development Act, and have worked with Congressman Noem and many other members on both aisles in the House to craft this bill. The goal of this legislation is to streamline the development and permitting of non-federal, pump storage hydroelectric projects on Reclamation reservoirs. We see this bill as providing opportunity for future pump storage advancement and to streamline the permitting process which may encourage the development of more of these type of projects. As stated at previous hearings on hydropower-related issues before the Subcommittee, Reclamation will continue to review and assess potential new hydropower projects that provide a high economic return for the nation that are both clean and energy efficient and can be accomplished in accordance with protection of both fish, tribal, the environment and Reclamation concerns.

Finally, Mr. Chairman, let me turn my attention to the discussion draft designed to expand WIFIA to include water projects selected and recommended by the Reclamation Commissioner. Specifically, the proposed legislation builds on EPA's previously authorized WIFIA programs to allow EPA to approve secured loans for projects that are determined by the Secretary and the Commissioner to meet the eligible criteria for non-federal water infrastructure projects and would generate additional water supplies. The benefit of this approach includes avoiding redundancy among the agencies and increasing efficiencies by allowing agencies to continue to operate within their respective areas of expertise.

Continuation of EPA's role in evaluating and approving secure loan builds on the expertise of that specific agency that has already been implemented within WIFIA rather than requiring multiple agencies to support that function individually. Likewise, providing authority to the Commissioner of Reclamation determined which non-federal water infrastructure project would be considered by EPA utilizing Reclamation's significant expertise in identifying these type of projects. My written testimony provides some constructive ideas to improve this discussion draft. I appreciate the work that the Committee is doing to develop this legislation that will assist in providing financial assistance to non-federal water projects and possibly some transfer work operations.

This concludes my remarks. Mr. Chairman, Ranking Member, I would be happy to take any questions that you may have. Thank you.

[The prepared statements of Dr. Petty follow:]

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

**S. 3001, the Contra Costa Canal Title Transfer Act**

**Wednesday, June 13, 2018**

Chairman Flake, Ranking Member Cortez Masto and members of the Subcommittee, I am Dr. Tim Petty, the Assistant Secretary for Water and Science at the Department of the Interior (Department). Thank you for the opportunity to provide the views of the Department on S. 3001, the Contra Costa Canal Title Transfer Act.

S. 3001 directs the Department to offer to transfer and convey to the Contra Costa County Water District (District) all right, title, and interest of the United States in and to the Contra Costa Canal (Canal) within 180 days of enactment of this Act. The Canal, as defined in S. 3001, includes the entirety of the Contra Costa Canal Unit of the Central Valley Project (CVP), including pipelines, conduits, pumping plants, aqueducts, laterals, water storage and regulatory facilities, electric substations, related works, and improvements and all interests in land associated within the unit, not including the Rock Slough fish screen facility. The lands under consideration to be transferred are currently under the jurisdiction of the Bureau of Reclamation, the Western Area Power Administration, and the Department of Defense. The District has been effectively operating and maintain these facilities. The title transfer of the Canal will maintain this arrangement into the future.

The Department recognizes that the District is a longtime CVP contractor, and that even with enactment of S. 3001, the District would continue to pay their share of CVP operations and maintenance and repayment through their water service rates.

If the conveyance has not been completed within 12 months, Interior is required to submit Congress an explanation and the date by which the conveyance will be completed.

The Department has an active title transfer program and supports transferring certain Reclamation project facilities to non-Federal entities, particularly in cases where transfers could create opportunities, not just for those who receive title, but for other stakeholders and the public as well. Specifically, a streamlined title transfer process for uncomplicated transfers creates incentives for non-Federal entities to closely engage with Reclamation to complete the process and allow for appropriate transfers to take place without legislation. This approach is reflected in the Administration's Title Transfer legislative proposal, transmitted to Congress in February of this year.

Mr. Chairman, it is important to note that in most cases, Reclamation and the entity interested in taking title must complete environmental compliance activities and negotiate the terms and conditions of the transfer before pursuing legislation. Reclamation has been working with the District closely on this effort and will continue to do so. However, this legislation, as currently drafted would authorize the transfer before those steps are completed.

Instead, we recommend that the conveyance be completed pursuant to a title transfer agreement developed between the Department and the District, in consultation with other stakeholders, including the East Bay Regional Park District, the City of Antioch and the City of Walnut Creek. This will enable Reclamation, the District and the other stakeholders to work through the upfront activities necessary to complete a title transfer. We have had situations in previous transfers where additional legislation was required because the terms and conditions were dictated exclusively in the legislation and there was no flexibility to address unanticipated problems on this matter.

Further, it is important that the legislation protect the financial interests of the taxpayers. While the District has completed its repayment obligation for its share of construction costs of the Canal, we need to account for revenues from other contracts, leases and agreements that currently come to the United States, but would transfer to the District under this Act. We recommend that the legislation acknowledge this requirement.

We would be pleased to work with the Committee, the sponsors and the District on legislative language to reflect these necessary modifications. In the meantime, we recommend that Reclamation and the District complete a valuation analysis to ensure that the financial interests of the United States are protected and that the results be reflected in the title transfer agreement that is referenced in the legislation.

Mr. Chairman, Reclamation has been working closely with the District on this issue and we look forward to continuing that progress. We believe that if structured properly, the transfer of these facilities will improve the efficiency and effectiveness of the Canal's operations by getting control of the lands and facilities into the hands of those who best understand the needs of the community.

With these modifications, the Department is pleased to support this legislation. This completes my statement, I am happy to answer questions at the appropriate time.

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

**H.R. 132 – Arbuckle Project Maintenance Complex and District Office Conveyance**

**Wednesday, June 13, 2018**

Chairman Flake, Ranking Member Cortez Masto and members of the Subcommittee, I am Dr. Tim Petty, Assistant Secretary for Water and Science at the U.S. Department of the Interior (Department). Thank you for the opportunity to provide the views of the Department on H.R. 132, the Arbuckle Project Maintenance Complex and District Office Conveyance Act of 2017. For the reasons I will discuss below, the Department supports this bill.

H.R. 132 directs the Department of the Interior to convey to the Arbuckle Master Conservancy District in Murray County, Oklahoma, all right, title, and interest of the United States in and to the Maintenance Complex and District Office of the Arbuckle Project. The bill shields the federal government from being held liable by any court for damages arising out of any act, omission, or occurrence related to the complex and office, except for damages caused by acts of negligence by the government or government employees or agents prior to its conveyance.

After such conveyance: (1) the complex and office shall not be a part of a federal reclamation project; and (2) such district shall not be eligible to receive any benefits with respect to any facility comprising such complex and office, except benefits that would be available to a similarly situated person with respect to such a facility that is not part of a federal reclamation project.

If the conveyance has not been completed within 12 months, Interior shall submit to Congress an explanation and the date by which the conveyance will be completed.

The Department has an active title transfer program and supports transferring certain Reclamation project facilities to non-Federal entities, particularly in cases where transfers could create opportunities, not just for those who receive title, but for other stakeholders and the public as well. This is also consistent with the broader aims of the Administration's Title Transfer legislative proposal, transmitted to Congress in February of this year.

The Arbuckle Project was authorized by the Act of August 24, 1962, Public Law 87-594, for municipal water supply, flood control, recreation, and fish and wildlife purposes. The Project was completed in 1966 and consists of Arbuckle Dam, Lake of the Arbuckles, and the Wynnewood Pumping Plant and Aqueduct.

Section 2(c) of the original authorizing language allowed for conveyance of title to pipelines and related facilities used solely for delivering project water to water users upon completion of their repayment. The District fulfilled its repayment obligation to the United States in September 2012, and Reclamation transferred title to the water conveyance facilities which consisted of the Wynnewood Pumping Plant and Aqueduct in December 2012.

As Reclamation was preparing to transfer title of the water conveyance facilities, the District requested that the Arbuckle Maintenance Complex and District Office be included in the title transfer. Reclamation determined that because these facilities were not used “solely for delivering project water to the water users” there was not sufficient authority to accommodate this request. H.R. 132 would authorize the Secretary of the Interior to convey to the District all right, title, and interest of the United States in and to the Maintenance Complex and District Office.

The Department is pleased to support this legislation.



**Statement of Timothy R. Petty, Ph.D.  
Assistant Secretary for Water and Science  
U.S. Department of the Interior  
Before the  
Subcommittee on Water and Power  
Committee on Energy and Natural Resources  
U.S. Senate  
H.R. 1967 – Pumped Storage Hydropower Development**

**Wednesday, June 13, 2018**

Chairman Flake, Ranking Member Cortez Masto and members of the Subcommittee, I am Dr. Tim Petty, Assistant Secretary for Water and Science at the U.S. Department of the Interior (Department). Thank you for the opportunity to provide the views of the Department on H.R. 1967, the Bureau of Reclamation Pumped Storage Hydropower Development Act. For the reasons I will discuss below, the Department supports this bill.

H.R. 1967 aims to streamline the development and permitting of non-federal pumped-storage hydroelectric projects on Reclamation reservoirs. As noted in previous hearings, the Department has an aggressive sustainable hydropower agenda, which we continue to implement under existing authorities.

Pumped-storage can be a premiere, utility-scale energy storage solution, able to provide both firm power and ancillary services – to support the transmission of capacity and energy in a safe, reliable manner. With that said, pumped-storage deployment requires both significant, up-front capital investment and specific topographical features. Therefore, we see this bill as providing opportunities to streamline the permitting process which may encourage the development of these projects.

Reclamation is the second largest producer of hydroelectric power in the United States, operating 53 hydroelectric power facilities, comprising 14,730 megawatts of capacity. Each year, Reclamation generates approximately 40 million megawatt-hours of electricity (the equivalent demand of approximately 3.5 million U.S. homes) and producing over one billion dollars in Federal revenue.

In 2010, the Department of the Interior, Department of Energy, and Department of the Army (through the US Army Corps of Engineers) entered a Memorandum of Understanding (MoU) for Hydropower. The MoU advances reliable, low-cost, and environmentally sustainable hydropower through a collaborative, interagency framework, prioritizing like-goals and aligning ongoing and future renewable energy development efforts. Interior's MoU participation is administered through Reclamation, given our mission and authorities in hydropower generation.

In 2011 and 2012, Reclamation coordinated with MoU partners to publish two resource assessment reports identifying technical hydropower potential at non-powered Reclamation dams and conduits. At this time, seven assessment sites, comprising over 21 megawatts have been

developed by non-federal entities - with an additional nineteen assessment sites, comprising approximately 74 megawatts in some stage of development.

Reclamation has also coordinated with MoU partners to assess pumped-storage potential at existing Reclamation reservoirs and associated projects. Specifically, the assessment reports (one completed in 2013 and the other in 2014) evaluated the technical, environmental, and economic merits of over 200 unique pumped-storage configurations at 60 Reclamation reservoirs that passed topography and storage screening criteria. Reclamation is using these assessment results to inform further study should sufficient customer interest exists.

Reclamation would be happy to discuss with the Committee these, and other MoU products. All MoU documents are available on the Reclamation hydropower program webpage: <https://www.usbr.gov/power/>.

In terms of non-federal development – both Reclamation and the Federal Energy Regulatory Commission (FERC) are authorized to permit the use of Reclamation dams and reservoirs to non-federal entities for the purposes of hydropower development – Reclamation via a Lease of Power Privilege (LOPP) contract or FERC via a License.<sup>1</sup> Per the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2013 (Public Law 113-24), permitting authority on Reclamation conduits is reserved, exclusively to Reclamation via a LOPP.

Reclamation is committed to facilitating the development of non-federal hydropower on our existing assets – through either Reclamation’s or FERC’s permitting processes. Acting on this commitment, Reclamation has worked diligently with our customer and stakeholder groups to define our LOPP permitting process, detailed in Reclamation Manual Directive and Standard (D&S) *Lease of Power Privilege (LOPP) Processes, Responsibilities, Timelines, and Charges* (FAC 04-08). Reclamation has conducted ongoing outreach to communicate and update LOPP permitting process requirements and revised LOPP materials to ensure consistent LOPP program administration. Current LOPP process requirements implement Public Law 113-24 authorities related to non-federal development on Reclamation conduits.

It is important to note that any non-federal hydroelectric project developed on a Reclamation asset must not impair the efficiency of any Reclamation generated power or water deliveries, jeopardize public safety, or negatively affect any other Reclamation project purpose. For these reasons, project oversight is necessary - either through the LOPP contract or FERC License conditioning requirements. In addition, Reclamation would review any pumped storage application under this authority to ensure the proposed LOPP does not conflict with the statutory obligations of the Power Marketing Administrations (PMAs). Consistent with Reclamation’s existing directives and standards, Reclamation would contact the respective PMA when a non-federal developer approaches Reclamation to develop a non-federal hydroelectric project, and

<sup>1</sup> See: Section 5 of the Townsites 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); and the Federal Power Act, 16 U.S.C. § 791 *et seq.*

will work with the respective PMA on any necessary right of first refusal or other agreement that preserves the PMA's statutory responsibilities.

In total, 13 LOPP facilities currently operate on Reclamation assets, comprising 46 megawatts. Nine of the 13 facilities were brought online since 2009, with three of the 13 online facilities initiated following the passage of Public Law 113-24. Likewise, 52 FERC facilities currently operate on Reclamation assets, comprising 466 megawatts of capacity. Approximately 50 non-federal projects – through either the LOPP or FERC processes - are currently in some stage of active development on Reclamation assets.

Based on feedback we have received from our customers and operating partners, industry, and other stakeholders, Reclamation, with this Committee's support, has been successful in administering our leasing authorities.

Under current law, both Reclamation and FERC are authorized to permit the use of Reclamation assets to non-federal entities for the purposes of hydropower development. Reclamation and FERC have entered two MoUs (one in 1981 and one in 1992) to define jurisdictional boundaries and responsibilities. Per those MoUs, each Reclamation asset is subject to one - and only one - permitting process, meaning that non-federal entities seeking to utilize a Reclamation asset for the purposes of hydropower development would be required to obtain either a Reclamation LOPP or FERC License – but not both.

The problem the bill addresses relates to non-federal pumped storage projects utilizing multiple Reclamation reservoirs which may, under the current regulatory framework, require both a LOPP and FERC License in the circumstance that one reservoir is within Reclamation's jurisdiction and the other reservoir is within FERC's jurisdiction. Whereas both agencies are acting within their respective authorities, the result is a fragmented, cumbersome permitting process. The legislation as drafted would minimize the regulatory burden in these circumstances by requiring only a single LOPP approval.

The general premise of the MoU agreements is that, unless otherwise specified in law, Reclamation assets reserved exclusively for Federal power development under Federal Reclamation law require a LOPP, and all other Reclamation assets require a FERC License. An exception is for Reclamation conduits, which were reserved for LOPP development by Public Law 113-24.

Section 2 of the bill would specifically authorize Reclamation to enter into LOPP contracts that permit the development of non-federal pumped-storage hydropower utilizing multiple Reclamation reservoirs. Reclamation interprets this LOPP authorization to encompass all project works associated with the non-federal pumped-storage project sited on multiple Reclamation reservoirs. This language would streamline permitting requirements and development of affected projects.

We interpret Section 2 as containing the same protections for authorized, existing uses of Reclamation assets as exist in any LOPP context. The LOPP authorization, for example, does not affect existing contracts “for the use of power and miscellaneous revenues of a project for the benefit of users of water from such project,” and LOPP contracts cannot, in the judgement of the Secretary, “impair the efficiency of the project for irrigation purposes.” In practice, these protections have meant that LOPP contracts generally do not modify the existing project operations that project users have come to rely on. To protect existing project users, Reclamation’s policy to implement LOPP contracts requires extensive consultation among existing project users and the non-federal LOPP applicant.

Reclamation is aware of one, active non-federal pumped-storage project that would benefit from the proposed legislation – sited on Banks Lake and Lake Roosevelt reservoirs, which are part of Reclamation’s Columbia Basin Project in Washington State. Given the current regulatory framework, non-federal project works sited on Banks Lake would proceed through a FERC License – and those works sited on Lake Roosevelt would proceed through a Reclamation LOPP. This legislation would streamline the permitting from two distinct processes to one.

The bill’s language would not affect non-federal pumped-storage projects utilizing one Reclamation reservoir and a second *non-Reclamation* reservoir (private or otherwise) outside Reclamation jurisdiction. Such projects would be required to obtain appropriate authorization to develop the Reclamation reservoir (either LOPP or FERC License, dependent upon the authorized reservoir purpose(s)), in addition to appropriate authorization from the non-Reclamation regulator (likely FERC) to develop the non-Reclamation reservoir. Reclamation would be happy to work with the Committee – and FERC - to discuss opportunities to streamline permitting and project development in this instance.

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

The Department is pleased to support this legislation.

**Statement of Timothy R. Petty, Ph.D.**  
**Assistant Secretary for Water and Science**  
**U.S. Department of the Interior**  
**Before the**  
**Energy and Natural Resources Committee**  
**Subcommittee on Water and Power**  
**U.S. Senate**  
**on**  
**S. \_\_\_\_\_**  
**Amendments to the Water Resources Reform and Development Act of 2014, Subtitle C –**  
**Innovative Financing Pilot Projects**  
**June 13, 2018**

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

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

**Innovative Financing Pilot Projects**

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

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

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

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

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

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

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

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

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

**Conclusion**

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

This concludes my written statement.

Senator FLAKE. Thank you, Dr. Petty.  
Before turning to questions, I ask that the statement of Senator  
Feinstein on S. 3001 be made part of the record, without objection.  
[The information referred to follows:]



**Statement of Senator Dianne Feinstein  
Hearing on the Contra Costa Canal Transfer Act  
June 13, 2018**

Chairman Flake, Ranking Member Cortez Masto, and members of the Committee, thank you for holding this hearing today on the Contra Costa Canal Transfer Act.

I will be brief in explaining the reasons I support the bill, which I introduced with Senator Harris. The bill would transfer title to the Contra Costa Canal from the United States to Contra Costa Water District ("District"). The District has fully paid off the capital debt for constructing the canal, so it is financially reasonable to transfer the 48-mile long canal to it. There is no known opposition to the bill, and several good reasons to support it.

Rationale for supporting the bill

The District would like to convert the existing open earthen canal to a closed pipe at an estimated cost to the district ratepayers of \$650 million. The District understandably

wants to take title to the facilities to have collateral for issuing bonds to cover the expense of the conversion.

There are a number of good reasons to convert the existing canal to a pipe:

- 1) First, 81 people have drowned in earthen canal despite protective fencing in the 70 years since the Canal began operation.

This is about a death per year on average, which would be completely prevented if the canal were converted into a pipe.

- 2) A second reason is water conservation. Drought is always an issue in California, and water is becoming more and more expensive. About 6% of the canal's water is lost through evaporation and seepage. A pipeline would eliminate these losses.

- 3) A third reason is avoiding flood risk from the earthen canal. When the canal was built 70 years ago, much of the surrounding land was farming country, but more recently homes have been built around it. These homes are at risk from the types of floods that earthen canals periodically experience.
- 4) Finally, the 70-year old canal is nearing the end of its lifespan and needs a major facility upgrade or replacement. Replacement with a pipeline is the best option, for all the reasons set forth above.

#### No known opposition

Besides the advantages of the bill, there is no known opposition to it. The District has reached an MOU with East Bay Regional Parks District to continue the existing recreational uses of the adjoining parks it manages. In addition, the District has received letters of concurrence from the City Managers of Walnut Creek and Antioch regarding the smaller parks managed by the cities along the route of the existing canal. Like East Bay Regional

Parks, these cities agree the bill would preserve the existing recreational uses of the adjoining lands.

The bill would not just transfer title to Contra Costa Canal, but would also authorize the transfer of the Rock Slough intake and fish screen, one of Contra Costa's diversion points from the Delta. This transfer will not affect the applicability of the various biological opinions that apply to the facility. As I understand it, because the bill will not affect the environmental management of the canal, and because the District has paid off its capital debt, the environmental groups NRDC and the Defenders of Wildlife will not oppose the bill.

In summary, this bill has no known opposition and good reasons to support, and I ask that the Committee favorably mark up the bill at its earliest convenience. Mr. Chairman and Madam Ranking Member, thank you for the opportunity to give this testimony.

Senator FLAKE. Dr. Petty, in your testimony on the Contra Costa Canal Transfer project, you mention revenues from contracts that currently come to the Treasury would be transferred by this bill. Can you provide additional detail about the contracts and the lost revenue that you are referencing?

Dr. PETTY. Yes, for sure, Senator.

I've already had some conversations with your staff, specifically. We are happy to give you the details.

Just for reference, there's like two or three specifically that have, through the years, like a parking lot to a Starbucks which is partly on Reclamation land at this point when we did our FONSI. There is another small business that also has some access on the property as well as a back road development to a housing project that's there.

So, we're looking at like \$6,700 a year revenue that we gain from those different kind of aspects, not adding up to more than \$100,000, less than \$100,000 easily, a year. So I am happy to give you all those details as we go forward in those areas.

Senator FLAKE. Thank you.

Now, you also testified earlier this year on a bill that would allow the Bureau to carry out title transfers on facilities like the two before us today, ones that are really low-hanging fruit, without requiring an act of Congress.

Based on your understanding of Senator Risch's title transfer legislation, I know that you understand it well, would both of these transfers qualify for the administrative process in that proposal?

Dr. PETTY. Yes, just to get into some of the highlights. There are just so many opportunities that many of these, the perfect example of Contra Costa and even Arbuckle that started in 1962. They finished complete payment in full by 2012. The majority of those have already been transferred over. There's just those nuance components that we will work through the details. We want to do our due diligence within the Administration to make sure we do a complete FONSI.

We do any type of EIS process so that it's clear of when we do that full transfer that both Congress has the full understanding of what that is entailed so we can have those full good conversations and make that complete transfer made available.

Senator FLAKE. Thank you.

The Reclamation WIFIA discussion draft would authorize the Bureau to select projects that are eligible for loans that the EPA would administer. I assume the idea here is to prevent duplication of costs and personnel by standing up a new program when EPA already executes these type of loans. Conceptually, this may sound like a good idea, but it could be complicated to implement.

Has the Bureau spoken to the EPA about the role each agency might break down if something like this was enacted? How would this implementation work?

Dr. PETTY. Yes, Senator.

Some actual really good examples, but in the big picture our Denver Office of Reclamation has already been interacting with EPA on a number of these discussions. We like the idea that of the loan capability because WIFIA has been within EPA for a long time.

They've got the resources and capabilities, but there's projects within Reclamation that we feel that we could either collaborate well with EPA and have those discussions, even as an example of that is maybe having a staff of Reclamation being on, maybe, like the Board of Review at EPA when they review who qualifies for any WIFIA programs and if there's any type of connection with other organizations with whether it's U.S. Army Corps of Engineer, Reclamation and EPA actually working together brings capabilities and highlights that actually make sense.

Senator FLAKE. Would any additional employees be necessary at Reclamation if EPA implements these programs?

Dr. PETTY. That's going to be a good question. As we look into how the draft really develops, we'll be able to answer any of those questions as what kind of resources for Reclamation. We already have an existing WaterSMART program that actually gives out grants that we have a really formal process that we go through that may have those same kind of capabilities.

So, the duplication, I can't imagine being extensive of requirements for new staff because we already have expertise in how we actually implement the WaterSMART which has been very successful in the Western states already. It's those kind of combinations that we would look into as the Administration considers the legislation that you're working to put together.

Senator FLAKE. Alright. Thank you.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Dr. Petty.

Let's stay on the WIFIA discussion draft proposal. I understand the projects eligible for the WIFIA funding must be non-federal. How do you see the program intended to fund non-federal water projects complementing the mission of Reclamation projects which are federally owned?

Dr. PETTY. I asked that exact same question to my staff as well, and I think it's a very good question.

As an example of what their thoughts were, even interacting with EPA on some of these components, is in the area of what is what we're also talking about are the title transfers, right?

Senator CORTEZ MASTO. Right.

Dr. PETTY. There's a lot of small projects that actually need resources that Reclamation just does not have the resources to help that could actually add water supply. Part of that combination of why we believe that title transfer is important is that it gives those smaller projects the ability to take title and then do their own system of investing into these areas.

With the concept of why water supply is expansion incapable, something like WIFIA might have the possibility within those frameworks of saying, okay, it's no longer non-federal, right? It becomes a non-federal project and then having the capabilities of helping them to shore up some capabilities of adding to their water supply is just a concept or an idea that would be useful in that kind of combination.

Senator CORTEZ MASTO. Okay, thank you.

I know a general concern of loan programs is ensuring that the taxpayer funding is protected. How would Reclamation ensure that,

should they have the authority, that you recommend projects that are of the best interest and investment to the taxpayer?

Dr. PETTY. Yeah, another great question.

So, very much of a process that we go through is through the findings process, referred to like a FONSI as well as all of our EIS requirements to look at the environmental assessments that we do before any aspect of title transfer takes place. It's a very open process, it allows all the stakeholders and community to be involved of what is trying to be accomplished and obviously the Congress is very much engaged.

This one, each bill coming up and testifying on the title transfer can be expedited to some extent if a title transfer package is implemented so that you would have continual access to see how we are processing this, but we don't have to come up and do onesies and twosies every time a title transfer has come due as infrastructure is even getting to that older infrastructure age, so many of these projects are from the '50s, '60s and '70s. Just to start looking at each one and bringing it up here for each one would become all-consuming.

Senator CORTEZ MASTO. Okay. And do you believe that Reclamation has the capacity to implement a WIFIA-like program?

Dr. PETTY. I think there's very much room for discussion and this is what I really want to be able to do with both of you as the Chair and Ranking Member of the Subcommittee on working through that as we tighten up and look at the title transfer capability, but the WIFIA program specifically, we, as the Administration, don't want to create more systems bureaucracy if not necessary. But at the same time if we can actually help do what our ultimate goal is, to actually provide water supply to a very arid communities out West, then, I think, we need to make those efforts to see how we can help.

Senator CORTEZ MASTO. Great, thank you.

Let me talk a little bit about the pump storage and tribal communities.

Dr. PETTY. Yup.

Senator CORTEZ MASTO. How would Reclamation ensure that tribal interests and homelands are protected in developing a Reclamation pump storage permitting program?

Dr. PETTY. Yes, a very, very great question and I think even the process that we're working with, even the capabilities up in Washington State in engaging with the tribes, allowing them to be very much part of that specific process of what that entails.

I know that there's a number of interests as well from the tribes of actually trying to provide more water resources to some of those arid areas and pump storage, whether it's Banks Lake up in Washington State that we're referring to, making sure that they're very much part of the program because they have a high interest of what that entails for that water resource, especially in hatcheries and other capabilities that they're very interested in.

Senator CORTEZ MASTO. Thank you.

Dr. Petty, thank you for being here this morning. I look forward to working with you, and I appreciate the comments.

Dr. PETTY. Yeah, likewise. Thank you, Senator.

Senator FLAKE. Thanks.

Continuing on pump storage, it is daunting enough to have one federal permitting process. To have to go through two is, obviously, a major disincentive. About how many potential instances of this double regulation exist across Bureau projects? Is it common? How common is it to have upper and lower reservoirs with different authorizations required?

Dr. PETTY. You know, Senator, I think part of the concept of pump storage has been around a long time but there's not really been, what I would call, a huge effort to really say what would happen if there's consideration.

And so, as more Western states and communities start to think about utilizing pump storage and actually new technology that is actually being developed with those kind of capabilities, I think there's a lot of interests that are taking place, for sure, in each of the states. They've come to Reclamation to talk about those concepts.

Banks Lake is a good example of those kind of areas. I know working with Senator Risch in Idaho there were some other projects that pump storage would have some incredible capability that would allow, not only pump storage, but would give capabilities that we're talking about as well in areas of aquifer recharge, of capabilities of very high seasonal periods where we have flood impacts that are huge that if there's ways to actually mitigate and manage during those really peak periods that would benefit all the communities in those areas from everything from flood impact to actually water management and fishery capacity.

It has a lot of capabilities into the future. We just need to be working together on how we're going to implement and look through those, but I know Reclamation has those capabilities, the technologies and the engineering to really be able to openly communicate some of those good options.

Senator FLAKE. We often hear from entities pursuing title transfer of Reclamation facilities that they manage. One of the main reasons for doing so is access to capital.

How do you think that transferring title to eligible facilities and some kind of financing mechanism will help address some of the aging infrastructure challenges that are being faced with the Bureau projects?

Dr. PETTY. Right off the bat what comes to mind is what you, even in your opening statement, talked about, not only the low-hanging fruit but there are just so many projects that we just don't have the resources to actually help them because we're dealing with bigger projects that seem to consume a lot of the allocated resources that we have.

And so, the idea of working in the title transfer, it allows these projects that are really desperate to actually upgrade their infrastructure, that allows them to say, we have that ability to start managing it ourselves and then gain that resources that our list is so long that it's like we're not going to get to you for a long time, if ever. That allows them to move forward on helping themselves in these infrastructure projects.

Senator FLAKE. Thank you.

Senator Cortez Masto.



Senator CORTEZ MASTO. Just one follow-up, and I am curious. How do you delineate projects or facilities that should not be candidates for title transfer?

Dr. PETTY. I think the best part of that process is the stakeholders. Those stakeholders need to be coming together, talking through exactly what it is that they need to move, whether it's beneficial to that community and to either that water district or that canal company that's advantageous, not only to the canal company, but to the community at large and where that community can go. And so, that open process, I think, needs to be that key part of making sure, up front, that it is a collective that is agreeing to yeah, if we could actually receive title, that it will allow that community to grow and flourish in all of those areas.

Senator CORTEZ MASTO. Okay, thank you.

Dr. PETTY. You are welcome.

Senator FLAKE. Dr. Petty, thank you for making this an efficient hearing.

[Laughter.]

We appreciate the Administration's views on this.

We have received letters on several of these proposals, including from the Colville Tribes, Contra Costa Water District, Family Farm Alliance, and Sites Reservoir Project Joint Powers Authority (JPA). With unanimous consent, these will be made part of the hearing record.

[The information referred to follows:]



June 11, 2018

The Honorable Jeff Flake  
Chairman, Subcommittee on Water and Power  
U.S. Senate Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Catherine Cortez Masto  
Ranking Member, Subcommittee on Water and Power  
U.S. Senate Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

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*RE: June 13, 2018 Hearing—Contra Costa Canal Transfer Act (S. 3001)*

Dear Chairman Flake and Ranking Member Cortez Masto,

Thank you for holding a hearing on the Contra Costa Canal Transfer Act (S. 3001) as introduced by Senator Dianne Feinstein and Senator Kamala Harris. On behalf of Contra Costa Water District (CCWD), I am writing to express our Board's unanimous support for this important legislation for the record. **S. 3001** transfers title of ownership of the Contra Costa Canal system from the U.S. Department of Interior Bureau of Reclamation (Reclamation) to CCWD. The transfer of title would enable CCWD to invest local dollars and modernize the canal by enclosing it. Enclosing the canal will improve water supply reliability, provide significant public safety benefits, and mitigate against flood risks while maintaining existing recreation opportunities for the region.

The Contra Costa Canal system is a unique unit of the Central Valley Project (CVP). Construction of the earthen canal and related facilities began in 1937 and water was first delivered from the Canal in 1940. The Contra Costa Canal system was constructed and is owned by Reclamation. CCWD operates and maintains the canal system under agreement with Reclamation. CCWD is an urban water agency located in the eastern part of the San Francisco Bay Area region in Northern California. The district is also the oldest and largest M&I contractor within the CVP providing high quality water to approximately 500,000 residents and many large industrial customers.

**S. 3001** provides for the transfer of the Contra Costa Canal system, which is a single purpose, sole payer facility, making it an ideal unit for title transfer. The district has worked closely with Reclamation to ensure that transfer remains non-controversial and seamless. In fact, CCWD successfully completed Reclamation's administrative process for transferring title of the Contra Costa Canal system in the mid-1990s and met all of the criteria set forth by Reclamation in its Framework for the Transfer of Title.

June 13, 2018 Hearing – Contra Costa Transfer Act (S.3001)

It is important to our Board of Directors that the district acquire ownership of the facility before investing millions of ratepayer dollars in infrastructure renewal to enclose the canal system. CCWD has 100% paid off its federal obligation for construction and is now in a position where it makes sense to move forward with the modernization. CCWD has a long, proven history of successful operation and maintenance of the canal system. CCWD has cultivated positive working relationships with federal, state, and local regulatory agencies, and has strong financial ratings. Title transfer will result in lower costs and reduced administrative burden, provide greater flexibility in management of the asset, and eliminate flood and other safety concerns.

**S. 3001** will facilitate improved water supply reliability and enhance public safety. As the district continues to maintain the canal, it has found that enclosure will reduce water seepage and preserve the canal's useful life for the next century. In June 2014 CCWD completed an initial feasibility study entitled "Canal Rehabilitation Feasibility Studies" concluding that canal enclosure best meets CCWD's objectives. CCWD has already demonstrated the feasibility of this approach by enclosing approximately 2.5 miles of the canal to date. The open, earthen nature of the canal also poses a public safety hazard. Unfortunately, our community has experienced 81 drownings (averaging 1 drowning per year) despite signs and fencing that line the canal. As local communities have grown around the canal, the risk of flood damage to surrounding property has also increased. Title transfer to CCWD will also relieve the United States of any risk of canal failure.

Through the development of this legislation, Reclamation requested that CCWD take over title and operation of the Rock Slough Fish Screen facility, which prevents the entrapment of fish at the main water intake of the Contra Costa Canal. Currently, the fish screen is in need of significant repair. **S. 3001** will provide for the safe and reliable operation of the Rock Slough Fish Screen facility by conveying the title and operation to CCWD based upon mutual agreement with Reclamation.

Elimination of Reclamation's coordination and oversight function would not result in any adverse impacts. **S. 3001** will help to lower costs and reduce administrative burden for both CCWD and Reclamation. Currently, work on the canal system requires varying levels of coordination and documentation with Reclamation for planning, design, project implementation, maintenance, and operation. CCWD ownership of the canal system would eliminate much of this duplicative consultation as the district does much of the same work Reclamation conducts in its oversight and review responsibilities. There are numerous third parties working within the canal system rights-of-way that include Contra Costa County, cities, local and regional agencies, recreation partners, and utilities. We will all benefit from removing this additional layer of federal review and bureaucratic approval that increases costs and causes schedule delays.

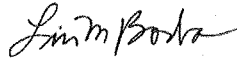
Existing recreation contracts and opportunities are explicitly protected in **S. 3001** and CCWD has committed to maintain those opportunities once title is transferred. On December 20, 2017, the CCWD Board of Directors approved a memorandum of understanding with the East Bay Regional Park District to ensure recreation will continue in perpetuity once title is transferred. CCWD staff has also reached out to local stakeholders that include the cities of Antioch and Walnut Creek, to ensure that their interests in recreation are not affected by such a transfer.

June 13, 2018 Hearing – Contra Costa Transfer Act (S.3001)

Finally, the legislation does not affect the district's responsibilities within existing CVP contracts or exclude the district from complying with federal and state environmental laws. Before deferring our previous title transfer efforts, CCWD and Reclamation had worked for over two years on a transfer agreement. This included nine public negotiation sessions, a complete environmental review, and resolution of various special issue considerations. More recently, CCWD has conducted outreach to Reclamation, local stakeholders, and environmental organizations about pursuing title transfer. The response has been positive and the district is not aware of any opposition to S. 3001.

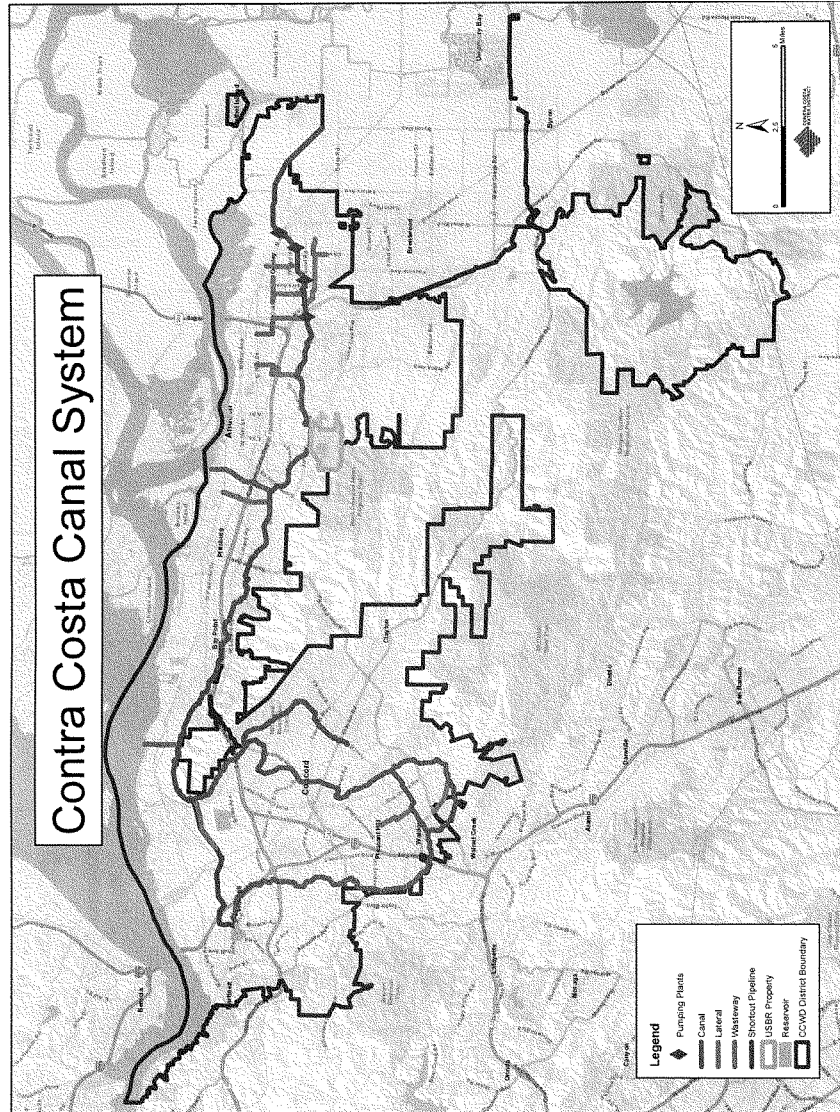
Along with this letter, I am attaching a map of the Contra Costa Canal system and the Canal Rehabilitation Feasibility Studies report. CCWD sincerely appreciates the leadership from Senator Feinstein, Senator Harris, and Congressman DeSaulnier on this issue. Thank you for your consideration of this important legislation.

Sincerely,



Lisa M. Borba  
President

Attachments



**CONTRA COSTA WATER DISTRICT**  
**Canal Rehabilitation Feasibility Studies**  
**FINAL REPORT — JUNE 2014**

The complete report can be found on the Committee's website at:  
[https://www.energy.senate.gov/public/index.cfm/2018/6/  
subcommittee-on-water-and-power-legislative-hearing-06-13-18](https://www.energy.senate.gov/public/index.cfm/2018/6/subcommittee-on-water-and-power-legislative-hearing-06-13-18).



June 11, 2018

The Honorable Lisa Murkowski, Chair  
 The Honorable Maria Cantwell, Ranking Member  
 U.S. Senate Committee on Energy and Natural Resources  
 304 Dirksen Senate Office Building  
 Washington, DC 20510

**RE: Reclamation WIFIA Legislation**

Dear Chairwoman Murkowski and Ranking Member Cantwell:

On behalf of the Family Farm Alliance, I am writing to express our strong support for proposed legislation authorizing the Bureau of Reclamation Water Infrastructure Finance and Innovation Act (Reclamation WIFIA). The Alliance supports enactment of a Reclamation WIFIA program on any water infrastructure bill that is signed into law.

The Alliance is a grassroots organization of family farmers, ranchers, irrigation districts, and allied industries in 16 Western states. The Alliance is focused on one mission: To ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers.

The Alliance is also committed to the fundamental proposition that Western irrigated agriculture must be preserved and protected for a host of economic, sociological, environmental, and national security reasons – many of which are often overlooked in the context of other national policy decisions. Our organization has previously been on record as supporting innovative financing to construct or rehabilitate new and existing water supply and delivery infrastructure in the West, which we believe the Reclamation WIFIA proposal would provide.

Water infrastructure is a long-term investment, and longer repayment and lower interest terms will be crucial to attracting investment in these water supply facilities. This legislation will benefit water users in the West by providing non-Federal project water users with access to low-cost, long-term financing. Financing under your proposal will support a wide variety of water supply-related projects, including new water storage reservoirs (both on- and off-stream as well as groundwater storage), regulating reservoirs, canal lining and piping open channels, computerized water management and delivery systems, real-time monitoring of ecosystem functions and river flows to manage limited water supplies to benefit both terrestrial and fish species, as well as people, and watershed-based integrated regional water management

project planning and implementation. It would utilize existing Federal financing program expertise currently available in the WIFIA program at the Environmental Protection Agency (EPA).

If a Reclamation WIFIA program were in place today, the program would provide water project sponsors with access to federally-backed loans that could cover up to 49 percent of total project costs, with a repayment period of up to 35 years and at an interest rate of approximately 3.02 percent. In many instances, the annual debt service savings would approach 20 to 25 percent or more.


This legislation also creates an opportunity for non-Federal sponsors of projects that are integrated with, or directly connected to, Federal Reclamation projects to potentially gain access to financing through the use of long-term lease or easement agreements and other means. Notably, this draft legislation includes provisions that would provide technical assistance and a priority for projects that address the water supply needs of smaller communities.

There is tremendous support within our membership for authorization of new water infrastructure financing tools through Reclamation, including irrigation and water districts in California (Imperial Valley, Central Valley and Sacramento Valley), Nevada, Oregon and Washington. For example, the Truckee-Carson Irrigation District in Nevada envisions a project that would line the Truckee Canal at a cost of between \$40-\$50 million. Repair to penstocks and tower gates at Lahontan Dam (constructed in 1915) could cost \$10 million. A diversion dam near Fallon is now being assessed for replacement, which could cost between \$50-\$100 million. Lining of regulating reservoirs, creation of re-regulating reservoirs, and other lining and piping of the T-Line Canal in Churchill County could total \$15 million. The Reclamation WIFIA program is well-suited to help this rural district tackle its significant aging infrastructure challenges.

Another example of where a Reclamation WIFIA program would be beneficial is in the Yakima River Basin in Washington State, where irrigation districts are currently preparing to construct and operate, in conjunction with the Federal irrigation project, a non-Federal emergency drought relief pumping plant at Kachess Reservoir. The \$200 million project would utilize this affordable financing tool to successfully finance and construct this much needed infrastructure project.

The Alliance believes a Reclamation WIFIA program, coupled with legislation streamlining permitting processes for water infrastructure and title transfer of Federal projects to non-Federal project managing entities will help accelerate work on critically needed water infrastructure projects throughout the West and provide valuable new tools to address aging water management infrastructure. We thank you for your leadership and your continued work on these important issues. Please do not hesitate to contact me at [dankeppen@charter.net](mailto:dankeppen@charter.net) if you have further questions.

Sincerely,



Dan Keppen  
Executive Director





Statement of Jim Watson, P.E.  
General Manager  
Sites Project Authority

Before the Senate Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
*Legislative Hearing*

Washington, D.C.  
June 13, 2018

Chairman Flake, Ranking Member Cortez Masto and Members of the Subcommittee, I am Jim Watson, the General Manager of the Sites Project Joint Powers Authority. Thank you for the opportunity to provide the Sites Project Authority's (Authority) perspective on the discussion draft of the Reclamation Water Infrastructure Finance and Innovation Act of 2018.

The 10 largest federal and state owned reservoirs in the State of California, linchpins of the water system that delivers water daily to 39 million people and supports the nation's largest farm economy, were all built between 1927 and 1979. The last large onstream reservoir was New Melones, which was completed in 1979. Since that time, California has grown by more than 16.1 million people, a 70 percent increase, and the equivalent of adding more than the current populations of the states of Washington, Oregon, Nevada and Montana to the State of California. Like many other Western States living on the water storage investments of our forefathers, California desperately needs additional water infrastructure projects. Recent water shortages are harming our state, and we need additional water infrastructure to build more resilient and sustainable urban and rural economies and ensure the health and sustainability of our environment.

California needs long-term, smart surface water storage solutions that will help capture and store excess runoff and provide multiple benefits; especially under drought conditions. Like other offstream reservoirs, Sites is not prone to spilling, so it will be able to capture surplus supplies for more-reliable use in dry and critical years. By operating in a cooperative manner, Sites will allow Federal and State reservoirs to hold more water into the summer and fall months. Sites will provide water for fish, fowl, farms, factories, and families. And, Sites will increase local flood management opportunities and can integrate with groundwater recharge and groundwater banks.

*Sites will store more water and help stretch existing water supplies in all hydrologic conditions*

In 2017, the wettest winter in Northern California on record, Sites would have completely filled in less than one year, storing 1.8 million acre-feet of water or over 580 billion gallons. In 2016, when we had average rainfall in Northern California and an average snowpack in the Sierra Nevada, an additional 1 million acre-feet of water would have been stored in Sites. And, in 2015, one of the driest years on record in California, the Sites project would have captured and stored an additional 660,000 acre-feet of water from just two storm events – water that simply flowed to the ocean in a dire drought year. But more importantly, water made available from Sites would have provided



P.O. Box 517  
Maxwell, CA 95955  
530.438.2309

additional operational flexibility to the existing state and federal reservoirs in Northern California and allowed them to help meet the needs of farmers, cities and the environment.

*Sites is being developed as a partnership consistent with today's realities*

Sites is being developed as a non-federal project that will be cooperatively integrated into the operations of both the federal Central Valley Project and the California State Water Project. By providing additional and more-reliable storage in Sites, both Projects can factor this water into their annual operating plans. Sites is being developed as a partnership. We have a very strong and close relationships with the Bureau of Reclamation, the State of California, and diverse stakeholders throughout our region. We are blazing new trails, developing a storage project in a way that Reclamation has never done before. And we are going down this path together, in partnership with Reclamation and our partner at the state level, the Department of Water Resources.

**A New Approach to Federal Support for Water Infrastructure**

At its core, we believe the Sites Reservoir Project represents a new approach to much-needed large-scale water infrastructure improvements. The federal government does not have the resources that it once had to build projects like Sites, with an estimated price-tag of more than \$5.2 billion. Going forward, Reclamation must have new authorities in order to efficiently partner with non-federal water users to build projects like Sites that will operate in a sustainable manner for both people and the environment.

**Federally-Backed Financing**

Access to Federally-backed financing for water infrastructure projects as provided for in the discussion draft of the Reclamation Water Infrastructure Finance and Innovation Act of 2018 (Reclamation WIFIA) would dramatically accelerate the development critically needed water storage and water management infrastructure projects and generate significant cost savings.

The savings from the Reclamation WIFIA proposal could be substantial to the public agency sponsors of projects like Sites, generating annual debt service savings of 20 to 25 percent. If the program existed today, the interest rate would be 3.12 percent, with a repayment period of up to 35 years. And, these benefits would be provided at little to no cost in the Treasury. Eighty million dollars of the budget authority provided for in the draft legislation would be used to support approximately \$8 billion in low-cost, long-term financing, with only minimal outlays. This is a cost-effective approach to providing federal assistance to help accelerate investment in water infrastructure.

Modeled after the successful and popular Transportation Infrastructure Finance and Innovation Act (TIFIA) program, which provides assistance to large-scale transportation projects, and building upon Water Infrastructure Finance and Innovation Act (WIFIA), enacted in 2014, the Reclamation WIFIA discussion draft, if enacted, would have two important additional benefits: Reclamation WIFIA would eliminate any requirement to borrow a debt service reserve fund (a savings of more than \$6 million on every \$100 million financed) and the initiation of repayment can be deferred for up to five years following

substantial completion of the project, which allows a project to be fully operational, generating revenue, before requiring the initiation of repayment.

I have two recommendations for improvements to the discussion draft. First, I recommend that the prohibition on the use of municipal financing to match up with the Reclamation WIFIA assistance be dropped. Specifically, Section 8 of the draft legislation should be removed from the legislation whenever it is appropriate to do so in the legislative process. The provision will increase the cost of financing because borrowers will not be able to use less expensive, municipal bonds to cover the 51 percent of project costs not covered by the Reclamation WIFIA financing. Second, I recommend that you include provisions in the legislation to allow non-federal sponsors to refinance existing water infrastructure debt, if doing so will enable greater water infrastructure improvements. Old, expensive debt frequently inhibits non-federal entities from making additional water infrastructure improvements.

To help address the long-term water supply needs of our region, the State of California and the West, we need Congress to authorize new, taxpayer friendly federal assistance tools as provided for in the Reclamation WIFIA discussion draft to help local agencies like ours to better manage and develop new, more drought resilient water supplies.

Thank you for the opportunity to submit this testimony for the record and for your leadership on this important issue.

Senator FLAKE. Any additional questions may be submitted for the record before the close of business tomorrow.

The record will be open for two weeks. We would appreciate you responding promptly to any questions that come your way.

With the thanks of the Subcommittee, this hearing is now adjourned.

[Whereupon, at 10:25 a.m. the hearing was adjourned.]

## **APPENDIX MATERIAL SUBMITTED**

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115TH CONGRESS  
2D SESSION

# S. 3001

To authorize the Secretary of the Interior to convey certain land and facilities  
of the Central Valley Project.

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## IN THE SENATE OF THE UNITED STATES

JUNE 6, 2018

Mrs. FEINSTEIN (for herself and Ms. HARRIS) introduced the following bill;  
which was read twice and referred to the Committee on Energy and Nat-  
ural Resources

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## A BILL

To authorize the Secretary of the Interior to convey certain  
land and facilities of the Central Valley Project.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Contra Costa Canal  
5 Transfer Act”.

### 6 SEC. 2. DEFINITIONS.

7 In this Act:

8 (1) ACQUIRED LAND.—The term “acquired  
9 land” means land in Federal ownership and land  
10 over which the Federal Government holds an interest

1 for the purpose of the construction and operation of  
2 the Contra Costa Canal, including land under the ju-  
3 risdiction of—

4 (A) the Bureau of Reclamation;

5 (B) the Western Area Power Administra-  
6 tion; and

7 (C) the Department of Defense in the case  
8 of the Clayton Canal diversion traversing the  
9 Concord Naval Weapons Station.

10 (2) CONTRA COSTA CANAL.—

11 (A) IN GENERAL.—The term “Contra  
12 Costa Canal” means the Contra Costa Canal  
13 Unit of the Central Valley Project, which exclu-  
14 sively serves the Contra Costa Water District in  
15 an urban area of Contra Costa County, Cali-  
16 fornia.

17 (B) INCLUSIONS.—The term “Contra  
18 Costa Canal” includes pipelines, conduits,  
19 pumping plants, aqueducts, laterals, water stor-  
20 age and regulatory facilities, electric sub-  
21 stations, related works and improvements, and  
22 all interests in land associated with the Contra  
23 Costa Canal Unit of the Central Valley Project  
24 in existence on the date of enactment of this  
25 Act.

1 (C) EXCLUSION.—The term “Contra Costa  
2 Canal” does not include the Rock Slough fish  
3 screen facility.

4 (3) CONTRACTS.—The term “contracts” means  
5 the existing water service contract between the Dis-  
6 trict and the United States, Contract No. 175r-  
7 3401A-LTR1 (2005), Contract No. 14-06-200-  
8 6072A (1972, as amended), and any other contract  
9 or land permit involving the United States, the Dis-  
10 trict, and Contra Costa Canal.

11 (4) DISTRICT.—The term “District” means the  
12 Contra Costa Water District, a political subdivision  
13 of the State of California.

14 (5) ROCK SLOUGH FISH SCREEN FACILITY.—

15 (A) IN GENERAL.—The term “Rock  
16 Slough fish screen facility” means the fish  
17 screen facility at the Rock Slough intake to the  
18 Contra Costa Canal.

19 (B) INCLUSIONS.—The term “Rock Slough  
20 fish screen facility” includes the screen struc-  
21 ture, rake cleaning system, and accessory struc-  
22 tures integral to the screen function of the  
23 Rock Slough fish screen facility, as required  
24 under the Central Valley Project Improvement  
25 Act (Public Law 102-575; 106 Stat. 4706).



1           (6) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

3   **SEC. 3. CONVEYANCE OF LAND AND FACILITIES.**

4           (a) IN GENERAL.—Not later than 180 days after the  
5   date of enactment of this Act, in consideration for the Dis-  
6   trict assuming from the United States all liability for the  
7   administration, operation, maintenance, and replacement  
8   of the Contra Costa Canal, subject to valid existing rights  
9   and existing recreation agreements between the Bureau of  
10   Reclamation and the East Bay Regional Park District for  
11   Contra Loma Regional Park and other local agencies with-  
12   in the Contra Costa Canal, the Secretary shall offer to  
13   convey and assign to the District—

14           (1) all right, title, and interest of the United  
15   States in and to—

16                   (A) the Contra Costa Canal; and

17                   (B) the acquired land; and

18           (2) all interests reserved and developed as of  
19   the date of enactment of this Act for the Contra  
20   Costa Canal in the acquired land, including existing  
21   recreation agreements between the Bureau of Rec-  
22   lamation and the East Bay Regional Park District  
23   for Contra Loma Regional Park and other local  
24   agencies within the Contra Costa Canal.

25           (b) ROCK SLOUGH FISH SCREEN FACILITY.—

1           (1) IN GENERAL.—On mutual agreement be-  
2       tween the Secretary and the District regarding safe  
3       and reliable operations of the Rock Slough fish  
4       screen facility, the Secretary shall convey and assign  
5       to the District all right, title, and interest of the  
6       United States in and to the Rock Slough fish screen  
7       facility.

8           (2) COOPERATION.—The Secretary is encour-  
9       aged to work cooperatively with the District to ac-  
10      complish the conveyance and assignment under  
11      paragraph (1).

12      (c) PAYMENT OF COSTS.—The District shall pay to  
13      the Secretary any administrative and real estate transfer  
14      costs incurred by the Secretary in carrying out the convey-  
15      ances and assignments under subsections (a) and (b), in-  
16      cluding the cost of any boundary survey, title search, ca-  
17      dastral survey, appraisal, and other real estate transaction  
18      required for the conveyances and assignments.

19      (d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

20           (1) IN GENERAL.—Before carrying out the con-  
21      veyances and assignments under subsections (a) and  
22      (b), the Secretary shall comply with all applicable re-  
23      quirements under—

24           (A) the National Environmental Policy Act  
25      of 1969 (42 U.S.C. 4321 et seq.);

1 (B) the Endangered Species Act of 1973  
 2 (16 U.S.C. 1531 et seq.); and

3 (C) any other law applicable to the Contra  
 4 Costa Canal or the acquired land.

5 (2) EFFECT.—Nothing in this Act modifies or  
 6 alters any obligations under—

7 (A) the National Environmental Policy Act  
 8 of 1969 (42 U.S.C. 4321 et seq.); or

9 (B) the Endangered Species Act of 1973  
 10 (16 U.S.C. 1531 et seq.).

11 **SEC. 4. RELATIONSHIP TO EXISTING CENTRAL VALLEY**  
 12 **PROJECT CONTRACTS.**

13 (a) IN GENERAL.—Nothing in this Act affects—

14 (1) the application of the reclamation laws to  
 15 water delivered to the District pursuant to any con-  
 16 tract with the Secretary; or

17 (2) subject to subsection (b), the contracts.

18 (b) AMENDMENTS TO CONTRACTS.—The Secretary  
 19 and the District may modify the contracts as necessary  
 20 to comply with this Act.

21 (c) LIABILITY.—

22 (1) IN GENERAL.—Except as provided in para-  
 23 graph (2), the United States shall not be liable for  
 24 damages arising out of any act, omission, or occur-

1       rence relating to the Contra Costa Canal or the ac-  
2       quired land.

3           (2) EXCEPTION.—The United States shall con-  
4       tinue to be liable for damages caused by acts of neg-  
5       ligence committed by the United States or by any  
6       employee or agent of the United States before the  
7       date of the conveyance and assignment under section  
8       3(a), consistent with chapter 171 of title 28, United  
9       States Code (commonly known as the “Federal Tort  
10      Claims Act”).

11          (3) LIMITATION.—Nothing in this Act increases  
12      the liability of the United States beyond the liability  
13      provided under chapter 171 of title 28, United  
14      States Code.

15   **SEC. 5. REPORT.**

16      If the conveyance and assignment authorized by sec-  
17      tion 3(a) is not completed by the date that is 1 year after  
18      the date of enactment of this Act, the Secretary shall sub-  
19      mit to Congress a report that—

20          (1) describes the status of the conveyance and  
21      assignment;

22          (2) describes any obstacles to completing the  
23      conveyance and assignment; and

- 1 (3) specifies an anticipated date for completion
- 2 of the conveyance and assignment.

○

115TH CONGRESS  
1ST SESSION

# H. R. 132

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IN THE SENATE OF THE UNITED STATES

MARCH 21, 2017

Received; read twice and referred to the Committee on Energy and Natural  
Resources

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## AN ACT

To authorize the Secretary of the Interior to convey certain  
land and appurtenances of the Arbuckle Project, Okla-  
homa, to the Arbuckle Master Conservancy District, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Arbuckle Project Main-  
3 tenance Complex and District Office Conveyance Act of  
4 2017”.

5 **SEC. 2. CONVEYANCE OF MAINTENANCE COMPLEX AND**  
6 **DISTRICT OFFICE OF THE ARBUCKLE**  
7 **PROJECT, OKLAHOMA.**

8       (a) IN GENERAL.—The Secretary of the Interior  
9 shall, as soon as practicable, convey to the Arbuckle Mas-  
10 ter Conservancy District, located in Murray County, Okla-  
11 homa, all right, title, and interest of the United States  
12 in and to the Maintenance Complex and District Office,  
13 Arbuckle Project, Oklahoma, consistent with the terms  
14 and conditions set forth in the Agreement between the  
15 United States and the Arbuckle Master Conservancy Dis-  
16 trict.

17       (b) DEFINITIONS.—

18           (1) AGREEMENT.—The term “Agreement”  
19 means the Agreement between the United States  
20 and the Arbuckle Master Conservancy District for  
21 Transferring Title to the Federally Owned Mainte-  
22 nance Complex and District Office to the Arbuckle  
23 Master Conservancy District (Agreement No.  
24 14AG640141).

25           (2) DISTRICT OFFICE.—The term “District Of-  
26 fice” means the headquarters building located at

1       2440 East Main, Davis, Oklahoma, and the approxi-  
2       mately 0.83 acres described in the Agreement.

3           (3) MAINTENANCE COMPLEX.—The term  
4       “Maintenance Complex” means the caretakers resi-  
5       dence, shop buildings, and any appurtenances lo-  
6       cated on the lands described in the Agreement, to  
7       include approximately 2.00 acres, more or less.

8       (c) LIABILITY.—Effective upon the date of convey-  
9       ance of the Maintenance Complex and District Office  
10      under this section, the United States shall not be held lia-  
11      ble by any court for damages of any kind arising out of  
12      any act, omission, or occurrence relating to the Mainte-  
13      nance Complex and District Office, except for damages  
14      caused by acts of negligence committed by the United  
15      States or by its employees or agents prior to the date of  
16      conveyance. Nothing in this section increases the liability  
17      of the United States beyond that provided in chapter 171  
18      of title 28, United States Code (popularly known as the  
19      “Federal Tort Claims Act”), on the date of the enactment  
20      of this Act.

21      (d) BENEFITS.—After conveyance of the Mainte-  
22      nance Complex and District Office to the Arbuckle Master  
23      Conservancy District—



1           (1) the Maintenance Complex and District Of-  
2       fice shall not be considered to be a part of a Federal  
3       reclamation project; and

4           (2) such water district shall not be eligible to  
5       receive any benefits with respect to any facility com-  
6       prising that Maintenance Complex and District Of-  
7       fice, except benefits that would be available to a  
8       similarly situated person with respect to such a facil-  
9       ity that is not part of a Federal reclamation project.

10       (e) COMMUNICATION.—If the Secretary of the Inte-  
11      rior has not completed the conveyance required under sub-  
12      section (a) within 12 months after the date of enactment  
13      of this Act, the Secretary shall submit to Congress a letter  
14      with sufficient detail that explains the reasons the convey-  
15      ance has not been completed and stating the date by which  
16      the conveyance will be completed.

          Passed the House of Representatives March 15,  
2017.

Attest:

KAREN L. HAAS,  
*Clerk.*

115TH CONGRESS  
1ST SESSION

# H. R. 1967

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IN THE SENATE OF THE UNITED STATES

JUNE 28, 2017

Received; read twice and referred to the Committee on Energy and Natural  
Resources

---

## AN ACT

To amend the Reclamation Project Act of 1939 to authorize  
pumped storage hydropower development utilizing mul-  
tiple Bureau of Reclamation reservoirs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

2        This Act may be cited as the “Bureau of Reclamation  
3 Pumped Storage Hydropower Development Act”.

Section 9(c)(1) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)(1)) is amended by inserting “and pumped storage hydropower development exclusively utilizing Bureau of Reclamation reservoirs” after “including small conduit hydropower development”.

Attest: KAREN L. HAAS,  
Clerk.

115TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Water Infrastructure Finance and Innovation Act of 2014  
to include Bureau of Reclamation projects, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

---

**A BILL**

To amend the Water Infrastructure Finance and Innovation  
Act of 2014 to include Bureau of Reclamation projects,  
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reclamation Water  
5 Infrastructure Finance and Innovation Act of 2018”.

6 **SEC. 2. DEFINITIONS.**

7 Section 5022 of the Water Infrastructure Finance  
8 and Innovation Act of 2014 (33 U.S.C. 3901) is amend-  
9 ed—

1 (1) by redesignating paragraphs (2) through  
 2 (15) as paragraphs (3), (4), (5), (6), (7), (8), (9),  
 3 (10), (12), (13), (14), (15), (16), and (17), respec-  
 4 tively;

5 (2) by inserting after paragraph (1) the fol-  
 6 lowing:

7 “(2) COMMISSIONER.—The term ‘Commis-  
 8 sioner’ means the Commissioner of Reclamation.”;  
 9 and

10 (3) by inserting after paragraph (10) (as so re-  
 11 designated) the following:

12 “(11) RECLAMATION STATE.—The term ‘Ree-  
 13 lamation State’ means any of the States of—

14 “(A) Arizona;

15 “(B) California;

16 “(C) Colorado;

17 “(D) Idaho;

18 “(E) Kansas;

19 “(F) Montana;

20 “(G) Nebraska;

21 “(H) Nevada;

22 “(I) New Mexico;

23 “(J) North Dakota;

24 “(K) Oklahoma;

25 “(L) Oregon;

1 “(M) South Dakota;  
 2 “(N) Texas;  
 3 “(O) Utah;  
 4 “(P) Washington; and  
 5 “(Q) Wyoming.”.

6 **SEC. 3. AUTHORITY TO PROVIDE ASSISTANCE.**

7 Section 5023 of the Water Infrastructure Finance  
 8 and Innovation Act of 2014 (33 U.S.C. 3902) is amend-  
 9 ed—

10 (1) in subsection (a)—

11 (A) by striking “The Secretary” and in-  
 12 serting the following:

13 “(1) CORPS OF ENGINEERS AND EPA  
 14 PROJECTS.—The Secretary”; and

15 (B) by adding at the end the following:

16 “(2) BUREAU OF RECLAMATION PROJECTS.—

17 “(A) IN GENERAL.—The Commissioner, in  
 18 consultation with the Administrator, shall select  
 19 and recommend to the Administrator for finan-  
 20 cial assistance under this subtitle any project  
 21 that is—

22 “(i) eligible under paragraph (9),  
 23 (10), or (12) of section 5026; and

1           “(ii) located in a Reclamation State,  
2           the State of Alaska, or the State of Ha-  
3           waii.

4           “(B) ADMINISTRATION.—The Adminis-  
5           trator may issue and administer any financial  
6           assistance for projects recommended by the  
7           Commissioner under subparagraph (A).

8           “(C) GUIDANCE.—The Commissioner shall  
9           issue guidance that describes the information  
10          that an applicant for a project described in sub-  
11          paragraph (A) shall include in the application.”;  
12          and

13          (2) in subsection (b)—

14               (A) in paragraph (2), by striking “and  
15               (9)” and inserting “(9), (10), and (11)”; and

16               (B) in paragraph (3), by striking “(10)”  
17               and inserting “(12)”.

18 **SEC. 4. APPLICATIONS.**

19          Section 5024 of the Water Infrastructure Finance  
20          and Innovation Act of 2014 (33 U.S.C. 3903) is amend-  
21          ed—

22               (1) by striking “Secretary or the Adminis-  
23               trator” each place it appears and inserting “Sec-  
24               retary, the Administrator, or the Commissioner”;  
25               and

1 (2) in subsection (b), by striking “paragraph  
2 (9) or (10)” and inserting “paragraph (11) or  
3 (12)”.

4 **SEC. 5. ELIGIBLE ENTITIES.**

5 Section 5025 of the Water Infrastructure Finance  
6 and Innovation Act of 2014 (33 U.S.C. 3904) is amend-  
7 ed—

8 (1) by striking “The following entities” and in-  
9 serting the following:

10 “(a) IN GENERAL.—The following entities”; and

11 (2) by adding at the end the following:

12 “(b) BUREAU OF RECLAMATION PROJECTS.—In the  
13 case of a project eligible for assistance under paragraph  
14 (9) or (10) of section 5026, the following entities are eligi-  
15 ble to receive assistance under this subtitle:

16 “(1) An entity described in subsection (a).

17 “(2) A conservancy district, reclamation dis-  
18 trict, or irrigation district.

19 “(3) A canal company or mutual water com-  
20 pany.

21 “(4) A water users’ association.

22 “(5) An agency created by interstate compact.

23 “(6) Any individual or other entity that has the  
24 capacity to contract with the United States under  
25 Federal reclamation law.”.



1 **SEC. 6. PROJECTS ELIGIBLE FOR ASSISTANCE.**

2 Section 5026 of the Water Infrastructure Finance  
3 and Innovation Act of 2014 (33 U.S.C. 3905) is amend-  
4 ed—

5 (1) in paragraph (8)(A), by inserting “or para-  
6 graph (9) or (10)” after “through (6)”;

7 (2) by redesignating paragraphs (9) and (10)  
8 as paragraphs (11) and (12), respectively;

9 (3) by inserting after paragraph (8) the fol-  
10 lowing:

11 “(9) Any non-Federal water infrastructure  
12 project that the Commissioner determines would  
13 contribute to a safe, adequate water supply for do-  
14 mestic, agricultural, environmental, or municipal and  
15 industrial use and is otherwise eligible for assistance  
16 under this subtitle, including—

17 “(A) a project for the reclamation and  
18 reuse of wastewater, and naturally impaired  
19 ground and surface waters;

20 “(B) a new water infrastructure facility  
21 project, including a water conduit, pipeline,  
22 canal, pumping, power, and associated facilities  
23 or a water efficiency project;

24 “(C) a project for accelerated repair and  
25 replacement of an aging water distribution fa-  
26 cility;

1           “(D) a brackish or sea water desalination  
2           project, including chloride control; and

3           “(E) a project for groundwater replenish-  
4           ment, groundwater storage, or surface storage.

5           “(10) A water infrastructure project for water  
6           supply purposes as described in paragraph (9) that  
7           supports improvements to, or is associated with, Bu-  
8           reau of Reclamation projects, if—

9           “(A) the eligible entity demonstrates to the  
10          satisfaction of the Commissioner that the  
11          project is being initiated and implemented for  
12          non-Federal purposes;

13          “(B) the eligible entity retains, or secures  
14          through a long-term Federal property lease or  
15          easement agreement, which the Commissioner is  
16          authorized to enter into with the eligible entity,  
17          substantial control over the assets, operation,  
18          management, and maintenance of the project;  
19          and

20          “(C) the project meets such other criteria  
21          as the Commissioner may establish for projects  
22          under this paragraph.”; and

23          (4) in paragraph (12) (as so redesignated), by  
24          striking “or (8)” and inserting “(8), (9), or (10)”.

1 **SEC. 7. DETERMINATION OF ELIGIBILITY AND PROJECT SE-**  
 2 **LECTION.**

3 Section 5028 of the Water Infrastructure Finance  
 4 and Innovation Act of 2014 (33 U.S.C. 3907) is amend-  
 5 ed—

6 (1) in subsection (a)—

7 (A) in paragraph (1)(E), by striking  
 8 “under section 5026(9) or an entity for a  
 9 project under section 5026(10)” and inserting  
 10 “under section 5026(11) or an entity for a  
 11 project under section 5026(12)”;

12 (B) in paragraph (2)—

13 (i) in subparagraph (A), by striking  
 14 “subparagraph (B)” and inserting “sub-  
 15 paragraphs (B) and (C)”; and

16 (ii) by adding at the end the fol-  
 17 lowing:

18 “(C) SMALL WATER SUPPLY PROJECTS.—

19 For projects eligible for assistance under sec-  
 20 tion 5026(9) that will provide water supply to  
 21 an area of not more than 25,000 individuals—

22 “(i) the eligible project costs shall be  
 23 reasonably anticipated to be not less than  
 24 \$5,000,000; and

25 “(ii) the Commissioner may assist ap-  
 26 plicants in combining 1 or more projects

1 into a single application in order to meet  
 2 the requirement under clause (i).”; and  
 3 (C) in paragraph (6)(A), by striking “Sec-  
 4 retary or the Administrator” and inserting  
 5 “Secretary, the Administrator, or the Commis-  
 6 sioner”; and  
 7 (2) in subsection (b)(3), by striking “section  
 8 5026(9)” and inserting “section 5026(11)”.

9 **SEC. 8. LIMITATION.**

10 Section 5029 of the Water Infrastructure Finance  
 11 and Innovation Act of 2014 (33 U.S.C. 3908) is amended  
 12 by adding at the end the following:

13 “(f) **LIMITATION.**—No project eligible under para-  
 14 graph (9) or (10) of section 5026 that receives financial  
 15 assistance under this subtitle may be financed directly or  
 16 indirectly, in whole or in part, with proceeds of any obliga-  
 17 tion the interest on which is exempt from the tax imposed  
 18 under chapter 1 of the Internal Revenue Code of 1986.”.

19 **SEC. 9. REGULATIONS.**

20 Section 5032 of the Water Infrastructure Finance  
 21 and Innovation Act of 2014 (33 U.S.C. 3911) is amend-  
 22 ed—

23 (1) by striking “Secretary or the Adminis-  
 24 trator” and inserting “Secretary, the Administrator,  
 25 or the Commissioner”; and

1 (2) by striking “Secretary or Administrator”  
 2 and inserting “Secretary, the Administrator, or the  
 3 Commissioner”.

4 **SEC. 10. FUNDING.**

5 Section 5033 of the Water Infrastructure Finance  
 6 and Innovation Act of 2014 (33 U.S.C. 3912) is amend-  
 7 ed—

8 (1) in subsection (a)—

9 (A) by redesignating paragraphs (1)  
 10 through (5) as subparagraphs (A) through (E),  
 11 respectively, and indenting appropriately;

12 (B) in the matter preceding subparagraph  
 13 (A) (as so redesignated), by striking “There is  
 14 authorized” and inserting the following:

15 “(1) CORPS OF ENGINEERS AND EPA.—There  
 16 are authorized”; and

17 (C) by adding at the end the following:

18 “(2) BUREAU OF RECLAMATION PROJECTS.—  
 19 There are authorized to be appropriated to carry out  
 20 projects described in section 5023(a)(2)(A), to re-  
 21 main available until expended—

22 “(A) \$2,000,000 for fiscal year 2019;

23 “(B) \$22,000,000 for fiscal year 2020;

24 “(C) \$22,000,000 for fiscal year 2021;

25 “(D) \$22,000,000 for fiscal year 2022;

## 11

1 “(E) \$22,000,000 for fiscal year 2023; and

2 “(F) \$23,000,000 for fiscal year 2024.”;

3 and

4 (2) in subsection (b)—

5 (A) by striking “Of the funds” and insert-  
6 ing the following:

7 “(1) IN GENERAL.—Of the funds”; and

8 (B) by adding at the end the following:

9 “(2) BUREAU OF RECLAMATION.—Of the funds  
10 made available under subsection (a)(2)—

11 “(A) the Commissioner may use for the  
12 administration of this subtitle, including for the  
13 provision of technical assistance to aid project  
14 sponsors in obtaining the necessary approvals  
15 for the project—

16 “(i) not more than \$2,000,000 for fis-  
17 cal year 2019; and

18 “(ii) not more than \$2,200,000 for  
19 each of fiscal years 2020 through 2024;  
20 and

21 “(B) the Administrator may use to admin-  
22 ister any loans recommended by the Commis-  
23 sioner under section 5023(a)(2)(A), not more  
24 than \$2,000,000 for each of fiscal years 2020  
25 through 2024.

## 12

1 “(3) SMALL WATER SUPPLY PROJECTS.—

2 “(A) IN GENERAL.—Subject to subpara-  
3 graph (B), of the funds made available under  
4 subsection (a)(2), the Commissioner may use to  
5 provide assistance, including assistance to pay  
6 the costs of acquiring the rating opinion letters  
7 under section 5028(a)(1)(D), to assist project  
8 sponsors in obtaining the necessary approvals  
9 for small water supply projects that are eligible  
10 for assistance under section 5028(a)(2)(C), not  
11 more than \$2,000,000 for each fiscal year.

12 “(B) LIMITATION.—Assistance provided to  
13 a project sponsor under subparagraph (A) may  
14 not exceed an amount equal to 75 percent of  
15 the total administrative costs incurred by the  
16 project sponsor in securing financial assistance  
17 under this subtitle.”.

**U.S. Senate Committee on Energy and Natural Resources**  
**Subcommittee on Water & Power**  
**June 13, 2018 Hearing: *Pending Legislation***  
**Question for the Record Submitted to the Honorable Timothy Petty**

**Question from Senator James E. Risch**

**Question:** I worked with the Bureau of Reclamation to develop the Reclamation Title Transfer Act of 2018 to alleviate the unnecessary time and burden required in Congress considering each additional transfer, two of which the Water and Power Subcommittee is discussing today. Can you speak to the benefit both for local entities and the Department of Interior by accelerating this process?

**Answer:** Under Reclamation law, title to Reclamation projects, lands, and facilities must remain with the United States until a title transfer is authorized by Congress. For many years, Reclamation has been working together, along with other federal and state agencies and interested stakeholders, to negotiate the terms and conditions of specific title transfers. Once reached, these agreements must still be ratified in turn by Congress.

Unfortunately, even for simple transfers, this can be a time consuming and costly process. In many cases, otherwise non-complicated candidates for title transfer have not proceeded because of the cost and time it takes to complete the required process and receive congressional approval. Providing the Secretary of the Interior with this limited administrative authority to transfer title to simple non-complicated projects will reduce transactions costs as well as some of the uncertainties associated with the process – thereby providing an incentive for entities to more seriously consider whether assuming title to facilities is in the best interest of their customers and the communities in which they operate.

For more complex title transfers, such as those involving multi-purpose projects which may have competing demands for lands and facilities, Congress should remain the ultimate decision makers. These are those cases where there is no consensus among the project beneficiaries concerning the transfer, where multiple competent beneficiaries have expressed an interest in acquiring title, or where the institutional and legal concerns cannot be readily resolved and therefore would benefit from the oversight of Congress. We don't believe these would be good candidates for the administrative title transfer process that is proposed in the Reclamation Title Transfer Act of 2018.

Title transfers generally have provided mutual benefits to both Reclamation and the non-federal entities involved. Our support for this concept is grounded in our aim to enable local water managers to make their own decisions to manage infrastructure and improve water management at the local level, while allowing Reclamation to focus management efforts on projects with a greater federal nexus. The enactment of title transfer legislation would be the culmination of Reclamation's longstanding experience with interested stakeholders.





BOARD OF DIRECTORS  
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GENERAL MANAGER  
 Thaddeus L. Bettner, P.E.

**Statement of Thaddeus Bettner, PE  
 General Manager  
 Glenn-Colusa Irrigation District  
 Before the Committee on Energy and Natural Resources  
 Subcommittee on Water and Power  
 United States Senate**

**Legislative Hearing**

**Washington, D.C.  
 June 13, 2018**

Chairman Flake, Ranking Member Cortez Masto and Members of the Subcommittee, I am Thaddeus Bettner, the General Manager of the Glenn-Colusa Irrigation District (GCID), the largest irrigation district in the Sacramento Valley. Thank you for the opportunity to provide GCID's perspective on the discussion draft of the Reclamation Water Infrastructure Finance and Innovation Act of 2018 (Reclamation WIFIA). The proposed language will help accelerate the development of much needed water supply projects, like the Sites Project, and we strongly encourage your Committee to take favorable action on this proposal at the earliest opportunity.

GCID covers approximately 175,000 acres in Glenn and Colusa Counties, and is located about 80 miles north of Sacramento. Our district contains a diverse working landscape including a variety of crops such as rice, tomatoes, almonds, walnuts, orchards, vine seeds, cotton, alfalfa, and irrigated pasture. Just as important, we convey water to three Federal wildlife refuges totaling more than 20,000 acres, private wetland and habitat lands of approximately 1,500 acres, and in the fall and winter deliver water to more than 50,000 acres of seasonally flooded irrigated lands that also serve as surrogate wetlands for the Pacific Flyway. GCID is a Sacramento River Settlement Contractor and diverts water directly from the Sacramento River through the largest flat plate fish screen in the world. GCID's Settlement Contract was first entered into in 1964 and it resolved disputes with the United States related to the seniority of GCID's rights over those of the United States and, in fact, allowed the US Bureau of Reclamation (Reclamation) to obtain water rights from the State Water Resources Control Board (SWRCB) for the Central Valley Project (CVP). GCID's water rights originated with a filing in 1883 for 500,000 miner's inches under 4 inches of pressure, one of the earliest and largest water rights on the Sacramento River.

Other water right holders on the Sacramento River also entered into Settlement contracts with Reclamation. The Sacramento River Settlement Contractors (SRSC), covering approximately 480,000 acres, are various irrigation districts, reclamation districts, mutual water companies, partnerships, corporations, and individuals situated in the Sacramento Valley, and formed under the provisions of California law. Among Reclamation's hundreds of CVP water supply contracts, the SRSC have a unique history and nature. The SRSC divert water from the Sacramento River,

miles upstream from the Bay-Delta and the boundaries of the delta habitat, under water rights that were vested under California law well before the construction of the CVP began. The SRSC own and operate their own diversion facilities, and their water rights are not dependent in any way upon the operations or facilities of the CVP. The SRSC every year manage water for various beneficial purposes in the Sacramento Valley, including farms, birds and the Pacific Flyway, cities and rural communities and fisheries. This requires creative management and tradeoffs by water resources managers.

Notwithstanding the seniority of our water rights on the Sacramento River, the five years of consecutive drought that California experienced through 2016 significantly reduced natural inflow into reservoirs, including Lake Shasta, putting extreme pressure on our water supply and the CVP. The drought also greatly complicated the management of the system to benefit endangered species, like winter-run Chinook salmon. These pressures will continue to mount in future dry years and continue to exist even in normal water years.

#### **Water Storage and Innovation**

To help address the long-term water supply needs of our region and the state as a whole, we need new federal assistance tools, like the financing tools authorized in the Reclamation WIFIA discussion draft, to help local agencies better manage and develop new water supplies critical to a more drought resilient economy.

Sites Reservoir, for example, is foundational to the long-term economic health of our region and the state. Sites will bring 1.8 million AF of new water storage to California. The Sites Project represents the kind of new, smart storage that our State needs, one that will not only create additional supplies behind the dam itself, but will allow significant additional water to be stored in other upstream reservoirs (Trinity, Shasta, Oroville and Folsom) due to coordinated operations with the Central Valley Project and the State Water Project as well as integration efficiencies.

The Reclamation WIFIA proposal would authorize federally-backed, low-cost, long-term financing that would reduce the annual debt service on a project like Sites by 20 percent or more. If the Reclamation WIFIA were in place today, non-federal sponsors of non-federal water supply projects could finance up to 49 percent of total project costs, with an interest rate of 3.12 percent and a repayment period of 35 years. In addition, the program allows borrowers to defer the initiation of repayment for up to 5 years following substantial completion of the project. The low rates, longer repayment period and the ability to defer the initiation of repayment would be of tremendous value to non-federal sponsors of water projects like the Sites project.

Attached, for illustrative purposes only, are a series of tables that show the savings that the Reclamation WIFIA proposal would generate for the Sites Project, if Reclamation WIFIA financing were slightly below current levels, 3.04 percent rather than the current rate of 3.12 percent. Under this projection, assuming access to tax free municipal financing for the 51 percent of total project costs not covered by WIFIA, the annual debt service savings would amount to 25 percent and the cost of water from Sites would drop from \$682 an acre foot to

\$512 per acre foot. Again, the savings from a Reclamation WIFIA program would be substantial.

The Reclamation WIFIA program will not only help accelerate the development of large-scale water infrastructure projects, the program will provide a low-cost source of financing for smaller water supply projects as well. The bill would allow projects of \$5 million or more in total costs to gain access to financing if located in unincorporated areas or cities or towns of 25,000 or less in population. Districts like GCID would take advantage of accessing financing for internal infrastructure improvement projects for groundwater recharge, water supply, and conservation benefits.

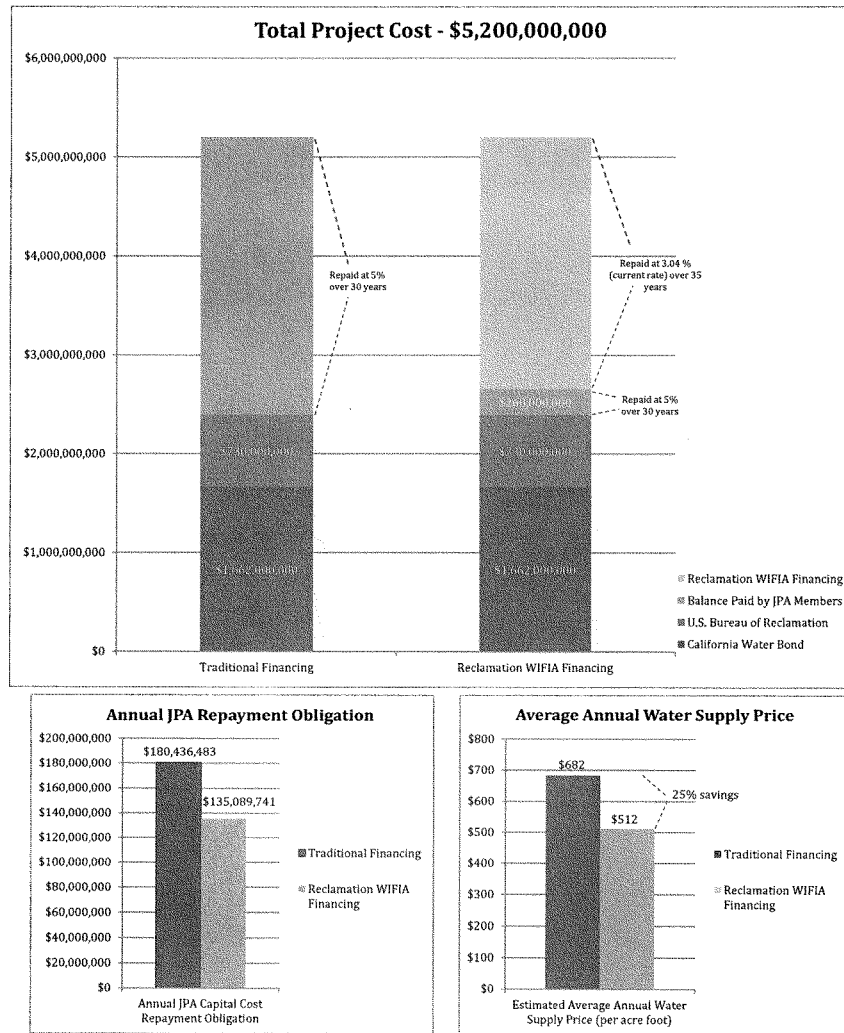
Regarding suggested improvements to the legislation, I recommend that the Committee consider the following two modifications to the proposed draft. First, I encourage the Committee to strike Section 8 from the draft. This language bars the use of municipal financing to match up with the Reclamation WIFIA assistance. That will make the use of Reclamation WIFIA-backed financing far less attractive. Second, I encourage the Committee to add a provision that would authorize the use of Reclamation WIFIA financing to refinance existing water infrastructure debt, if doing so will enable greater water infrastructure improvements. Old, expensive debt frequently inhibits non-federal entities from making additional water infrastructure improvements.

Thank you for the opportunity to submit this statement for the record, and thank you for your leadership in the development of new tools to help address water infrastructure challenges in the west.

## Reclamation WIFIA Financing vs. Municipal Bond Financing

Comparison of Construction Financing Costs for Sites Reservoir

(Alternative D)





## Kittitas Reclamation District

P.O. Box 276  
 Ellensburg, WA 98926  
 Phone: (509) 925-6158 Fax: (509) 925-7425

June 26, 2018

The Honorable Jeff Flake  
 Chairman  
 Senate Energy and Natural Resources  
 Subcommittee on Water and Power  
 304 Dirksen Senate Office Building  
 Washington, D.C. 20510

The Honorable Catherine Cortez Masto  
 Ranking Member  
 Senate Energy and Natural Resources  
 Subcommittee on Water and Power  
 304 Dirksen Senate Office Building  
 Washington, D.C. 20510

### **RE: Statement for the Record, Legislative Hearing, June 13, 2018, Support for the Reclamation WIFIA Discussion Draft**

Dear Chairman Flake and Ranking Member Cortez Masto:

On behalf of the Kittitas Reclamation District (KRD), I am writing to express our support for the discussion draft Reclamation Water Infrastructure Finance and Innovation Act of 2018 (Reclamation WIFIA). The Reclamation WIFIA proposal will help accelerate investments in critically important water infrastructure, like that in the KRD, by helping to lower the costs of financing much needed water infrastructure improvements. We urge the Senate Energy and Natural Resources Subcommittee on Water and Power to take favorable action on the measure when it is formally introduced.

The KRD is located in Central Washington State in the Yakima River Basin. The KRD serves Approximately 60,000 acres through 330 miles of canals and laterals. It is the 6th largest irrigation district in Washington State. The KRD has a proratable water right. In a drought year, when there is less water than it takes to fulfill all of the nonprorated water rights in the Yakima River basin, the KRD will receive less than its full entitlement. The last major shortfalls were in 2001, 2005, and 2015. It was announced last week that the KRD is being prorated this year as well because of the rapid snow melt in May. The KRD supports the Yakima River Basin Integrated Water Resource Management Plan (YBIP). The KRD distribution system is providing new opportunities for surface storage, groundwater recharge, tributary supplementation, and water availability for system use later in the water year. The KRD has a unique position in the upper Yakima River Basin which will allow for the construction of new water storage along with efficiency projects and upgrades to infrastructure in a way that can programmatically enhance the total water supply within the USBR Yakima Project Service Area.

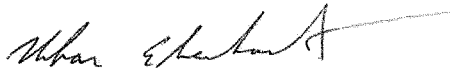
The KRD would greatly benefit from a Reclamation WIFIA program. Under the Reclamation WIFIA program, projects like the KRD could compete for access to low-cost, long-term federally-backed financing that could dramatically reduce the cost of water in comparison to the costs if the project were financed with traditional private and public debt. These savings would be of tremendous benefit to a project that will not only provide greater water supply reliability and

resiliency for the people in our region and the State, but will provide dedicated water supplies to the environment that can benefit the Yakima River Basin as well as the Columbia River system.

We strongly support the provision of the Reclamation WIFIA discussion draft that expands the opportunities for assistance for smaller communities and water supply projects. The technical assistance authorized in the bill to help smaller water agencies gain access to Reclamation WIFIA assistance will be extremely helpful.

We greatly appreciate the Committee's leadership in developing new federal tools to support the advancement of more drought resistant and resilient western water infrastructure. Thank you for your consideration of this important legislation, and again, we urge its introduction and passage.

Sincerely,

A handwritten signature in black ink, appearing to read "Urban Eberhart", with a long horizontal line extending to the right.

Urban Eberhart  
Secretary Manager  
Kittitas reclamation District



*To advance the economic, social and environmental sustainability of Northern California  
by enhancing and preserving the water rights, supplies and water quality.*

**Statement of David Guy, President  
Northern California Water Association  
Before the Senate Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
*Legislative Hearing***

**Washington, D.C.  
June 13, 2018**

Chairman Flake, Ranking Member Cortez Masto and Members of the Subcommittee, thank you for the opportunity to submit this statement for the record regarding our views on the discussion draft of the Reclamation Water Infrastructure Finance and Innovation Act of 2018 (Reclamation WIFIA). My name is David Guy, and I am President of the Northern California Water Association (NCWA). NCWA strongly supports the Reclamation WIFIA discussion draft and urges the introduction and passage of this critically important legislation.

NCWA was formed in 1992 to present a unified voice to ensure that the Sacramento Valley (the northern part of the Great Central Valley) has reliable and affordable water supplies—both now and into the future. Our members—water districts, water companies, small towns, rural communities, and landowners—supply surface and groundwater water resources in the Sacramento Valley for multiple beneficial uses through various infrastructure developed over the past century. We greatly appreciate the Committee’s leadership in developing new federal tools to support the advancement of modern, 21<sup>st</sup> century water infrastructure that is more drought resistant and resilient to serve all these multiple benefits.

Recurring and prolonged droughts, such as we saw in California in 2014-15, mean less water is available for both the economy and the environment in the Sacramento Valley. During these periods of droughts, there have been significant surface water cutbacks throughout the Sacramento Valley, with some areas receiving no surface water as shown on “Planning for a Dry Year.” Reduced water supplies result in fallow and idled fields, with fewer crops directly impacting rural communities and cities and the related economy. Family farmers in the Sacramento Valley grow a wide variety of crops on two million acres, generating \$10 billion in economic activity each year. Reduced water supplies also mean less water for ricelands and wildlife refuges, which affects the food for millions of ducks and geese that migrate through the Sacramento Valley each winter on the Pacific Flyway, as well as important shorebirds that live in the region. Drought also results in less water in the rivers and bypasses, impacting the habitat, food and migration of salmon in the region.

To help avoid and mitigate drought impacts in the future, as well as helping to advance 21<sup>st</sup> century water infrastructure, Northern California urges Congress and the Administration to advance the Reclamation WIFIA proposal in future Western water-related legislation.

***New, Innovative Tools to Support New Investments in Water Infrastructure***

Smart storage projects, like Sites Reservoir in Northern California, with dedicated environmental benefits and yield, would greatly benefit from a Reclamation WIFIA program. Under the Reclamation WIFIA program, projects like Sites would compete for access to low-cost, long-term federally-backed financing that could dramatically reduce the cost of water in comparison to the costs if the project were financed with traditional private and public debt. Projections show the cost of water dropping by as much as 25 percent, from \$682 to \$512 per acre foot, if Sites Reservoir gains access to 49 percent Reclamation WIFIA financing. These savings would be of tremendous benefit to a project that will not only provide greater water supply reliability and resiliency for the State, but will provide dedicated water supplies to the environment.

We strongly support the provisions of the Reclamation WIFIA discussion draft that expands the opportunities for assistance for smaller communities and water supply projects. The authorization of technical assistance, as well as the capacity to financing projects with a price tag as low as \$5 million, would match up well with available assistance provided through other state and federal programs. We also applaud the inclusion of water supply for environmental purposes under Section 6, "Projects Eligible for Assistance." Projects that support a "safe, adequate water supply" for the people as well as the environment (terrestrial species, fish, particularly salmon in the Sacramento Valley, shorebirds and waterfowl) are important to our region and will greatly benefit from the adoption of a Reclamation WIFIA program.

Thank you for your consideration of this testimony on the benefits of a Reclamation WIFIA program to Northern California. Please call me at 916.442.8333 if you have any questions.





June 21, 2018

Sen. Jeff Flake, Chairman  
 Sen. Catherine Cortez Masto, Ranking Member  
 Subcommittee on Water & Power  
 Committee on Energy and Natural Resources  
 United States Senate  
 304 Dirksen Senate Building  
 Washington, DC 20510

Dear Chairman Flake and Ranking Member Cortez Masto:

I am writing on behalf of Poseidon Water LLC to urge the Subcommittee to advance legislation based on the discussion draft of the Reclamation Water Infrastructure Finance and Innovation Act of 2018, presented at the Subcommittee's recent June 13 hearing ("RWIFIA"). Poseidon is a leading private developer of water infrastructure projects in North America, with a longtime focus on western water issues. Our work to address regional needs is exemplified by the Claude "Bud" Lewis Carlsbad Desalination Plant in San Diego County, California, the largest seawater desalination facility in the western hemisphere.

Congress now faces a once-in-a-generation opportunity to advance bipartisan legislation to renew our aging water infrastructure systems – and, specifically, to modernize operations at projects in the portfolio of the Bureau of Reclamation ("BuRec"). The draft RWIFIA proposal relies on the concept of credit support for low-cost loans, adapting a proven and successful model used in several other sectors of government (e.g., USDOT's TIFIA program, USDA's Rural Utilities Service, USDOE's Loan Guarantee Program) and recently enacted in the water sector in 2014 (USEPA's WIFIA program). Government credit support for long-lived infrastructure assets has been shown to be a highly capital-efficient approach to lower the cost of these projects.

The need for new solutions to the water challenges of the western US is acute. While the region's scarce water resources have been almost fully claimed for many years, it now faces a convergence of growing threats to water security: rising population, aging and deteriorating infrastructure, environmental pressures, and pronounced shifts in precipitation patterns linked to climate variability. These recent changes have led the region to experience drought and water stress conditions with increasing frequency and intensity. In order for a program of modernization at BuRec sites to succeed, it is essential to recognize how

**Poseidon Water LLC**

75 State Street, 25<sup>th</sup> Floor Boston, Massachusetts 02109 Phone: (617) 315-4444 [www.poseidonwater.com](http://www.poseidonwater.com)

conditions have changed since these facilities were first constructed. Many factors – e.g., demographic, climate and hydrological conditions, the emphasis on protecting and restoring the environment, the tax and financing environment, and the range of available technology solutions – have changed, in some cases drastically, since the early- to mid-20<sup>th</sup> century when most BuRec projects were built. It will not be sufficient to restore BuRec facilities to “as-new” assuming historic conditions and modes of operation. Rather, it will be necessary to adapt them to perform optimally under 21<sup>st</sup>-century conditions. Creative approaches will require openness to new actors, business models and technology solutions.

Actors: We are encouraged by the draft legislation’s invitation to entry by non-federal partners at projects located at BuRec sites. New entrants are well-positioned to optimize the value of these facilities by bringing fresh approaches based on their knowledge of current technology and market trends. The global water industry has seen a wave of innovation and investment in recent decades, as countries around the world have developed new ways to deal with limits on the availability of this most crucial natural resource. Here in the US, though, the federal water sector has yet to benefit from this renaissance due to structural and legislative barriers to third-party investment in federal facilities. We believe the approach reflected in the RWIFIA draft promises to lower the barrier to participation by world-class companies in the kinds of projects that can leverage the value of these assets.

Business models: There is an urgent need for new water infrastructure financing approaches. Traditional forms of water infrastructure finance, including federal/state grant programs as well as municipal bonding, are simply no longer adequate given the magnitude of needs and strain on public budgets. In recent years, new methods of finance have gained interest, including the model of public-private partnership (“P3”). Having used the P3 model at a number of sites throughout North America, Poseidon believes it warrants wider adoption as a way to bring greater certainty and cost control, reduce risk to water agencies and improve overall project delivery. Given the scale of the need for infrastructure renewal, we urge the Committee to embrace an all-of-the-above approach that expands the range of financing approaches employed at BuRec sites.

Technology solutions: The physical, environmental and hydrological conditions that affect western water needs have changed significantly in recent decades. The types of engineering solutions that are adopted must therefore change as well. We are pleased that the RWIFIA draft specifically calls out and encourages use of a range of innovative, forward-looking approaches including reclamation and reuse of wastewater; groundwater replenishment; and desalination of both seawater and brackish water. We believe that permissive authorizing language,

**Poseidon Water LLC**

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encouraging a variety of new approaches to meet future water needs, is exactly the right approach.

In closing, let me congratulate the Subcommittee on this promising initiative. The RWIFIA draft addresses a critical issue bearing on the health and economic vitality, even viability, of our nation's western region. We believe the approach outlined in this legislation warrants strong bipartisan support. Please do not hesitate to contact me with any questions regarding this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carlos A. Riva', followed by a horizontal line.

Carlos A. Riva  
President and CEO  
Poseidon Water, LLC

**Poseidon Water LLC**

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June 24, 2018

The Honorable Jeff Flake  
Chairman  
Senate Energy and Natural Resources  
Subcommittee on Water and Power  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Catherine Cortez Masto  
Ranking Member  
Senate Energy and Natural Resources  
Subcommittee on Water and Power  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

**RE: Statement for the Record, Legislative Hearing, Support for the Reclamation WIFIA Discussion Draft**

Dear Chairman Flake and Ranking Member Cortez Masto:

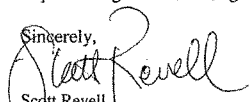
On behalf of the Roza Irrigation District I am writing to express strong our support for the discussion draft Reclamation Water Infrastructure Finance and Innovation Act of 2018 (Reclamation WIFIA). The Reclamation WIFIA proposal will help accelerate investments in critically important water infrastructure, like the Kachess Drought Relief Pumping Plant by helping to lower the costs of financing much needed water infrastructure improvements. We urge the Senate Energy and Natural Resources Subcommittee on Water and Power to take favorable action on the measure when it is formally introduced.

The Roza Irrigation District provides irrigation water to 72,000 irrigated acres in the Yakima River Valley in the eastern part of Washington State. Roza is a key component of Reclamation's Yakima Project and crop values in the Roza district alone approach a billion dollars annually. Major high value crops include tree fruits such as apples, cherries peaches and pears, hops, wine grapes, blueberries and a large dairy industry.

The Roza Irrigation District would greatly benefit from a Reclamation WIFIA program. Under the Reclamation WIFIA program, projects like the Kachess Drought Relief Pumping Plant would compete for access to low-cost, long-term federally-backed financing that could dramatically reduce the cost of water in comparison to the costs if the project were financed with traditional private and public debt. These savings would be of tremendous benefit to a project that will not only provide greater water supply reliability and resiliency for the people in our region and the State, but will provide dedicated water supplies to the environment that can benefit ESA listed fish species in drought years.

We strongly support the provision of the Reclamation WIFIA discussion draft that expands the opportunities for assistance for smaller communities and water supply projects. The technical assistance authorized in the bill to help smaller water agencies gain access to Reclamation WIFIA assistance will be extremely helpful.

We greatly appreciate the Committee's leadership in developing new federal tools to support the advancement of more drought resistant and resilient western water infrastructure. Thank you for your consideration of this important legislation, and, again, we urge its introduction and passage.

Sincerely,  
  
Scott Revell  
District Manager

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