

BUREAU OF RECLAMATION SITE SECURITY COSTS ACT
OF 2007

DECEMBER 4, 2007.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 1662]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1662) to amend the Reclamation Safety of Dams Act of 1978 to authorize improvements for the security of dams and other facilities, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Bureau of Reclamation Site Security Costs Act of 2007”.

SEC. 2. TREATMENT OF CAPITAL COSTS.

Costs incurred by the Secretary of the Interior for the physical fortification of Bureau of Reclamation facilities to satisfy increased post-September 11, 2001, security needs, including the construction, modification, upgrade, or replacement of such facility fortifications, shall be nonreimbursable.

SEC. 3. TREATMENT OF SECURITY-RELATED OPERATION AND MAINTENANCE COSTS.

(a) **REIMBURSABLE COSTS.**—The Secretary of the Interior shall include no more than \$18,900,000 per fiscal year, indexed each fiscal year after fiscal year 2008 according to the preceding year’s Consumer Price Index, of those costs incurred for increased levels of guards and patrols, training, patrols by local and tribal law enforcement entities, operation, maintenance, and replacement of guard and response force equipment, and operation and maintenance of facility fortifications at Bureau of Reclamation facilities after the events of September 11, 2001, as reimbursable operation and maintenance costs under Reclamation law.

(b) **COSTS COLLECTED THROUGH WATER RATES.**—In the case of the Central Valley Project of California, site security costs allocated to irrigation and municipal and industrial water service in accordance with this Act shall be collected by the Secretary

exclusively through inclusion of these costs in the operation and maintenance water rates.

SEC. 4. TRANSPARENCY AND REPORT TO CONGRESS.

(a) **POLICIES AND PROCEDURES.**—The Secretary is authorized to develop policies and procedures with project beneficiaries, consistent with the requirements of subsections (b) and (c), to provide for the payment of the reimbursable costs described in section 3.

(b) **NOTICE.**—On identifying a Bureau of Reclamation facility for a site security measure, the Secretary shall provide to the project beneficiaries written notice—

(1) describing the need for the site security measure and the process for identifying and implementing the site security measure; and

(2) summarizing the administrative and legal requirements relating to the site security measure.

(c) **CONSULTATION.**—The Secretary shall—

(1) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the site security measure; and

(2) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in paragraph (1).

(d) **RESPONSE; NOTICE.**—Before incurring costs pursuant to activities described in section 3, the Secretary shall consider cost containment measures recommended by a project beneficiary that has elected to consult with the Bureau of Reclamation on such activities. The Secretary shall provide to the project beneficiary—

(1) a timely written response describing proposed actions, if any, to address the recommendation; and

(2) notice regarding the costs and status of such activities on a periodic basis.

(e) **REPORT.**—The Secretary shall report annually to the Natural Resources Committee of the House of Representatives and the Energy and Natural Resources Committee of the Senate on site security actions and activities undertaken pursuant to this Act for each fiscal year. The report shall include a summary of Federal and non-Federal expenditures for the fiscal year and information relating to a 5-year planning horizon for the program, detailed to show pre-September 11, 2001, and post-September 11, 2001, costs for the site security activities.

SEC. 5. PRE-SEPTEMBER 11, 2001 SECURITY COST LEVELS.

Reclamation project security costs at the levels of activity that existed prior to September 11, 2001, shall remain reimbursable.

Amend the title so as to read:

A bill to authorize the Secretary of the Interior to seek limited reimbursement for site security activities, and for other purposes.

PURPOSE OF THE BILL

The primary purpose of H.R. 1662, as amended by the Committee on Natural Resources, is to provide Bureau of Reclamation project beneficiaries a statutory certainty regarding their obligations to pay for certain site security activities at Bureau of Reclamation facilities.

BACKGROUND AND NEED FOR LEGISLATION

Since September 11, 2001, the Bureau of Reclamation has maintained heightened security at its facilities to protect the public, its employees and facilities. Additional patrols and guards have been stationed where appropriate, and many facilities have or will receive “facility fortification.” The Bureau of Reclamation’s total projected program cost for site security activities in Fiscal Year 2008 is \$47,100,000.

Testimony submitted to the Subcommittee on Water and Power at an oversight hearing in the 109th Congress (June 22, 2006) demonstrated widespread dissatisfaction with the Bureau of Reclamation’s methodology and procedures for seeking reimbursement from project water and power beneficiaries for site security activities.

Project beneficiaries suggested that placing the Site Security Program within the Bureau of Reclamation's existing Safety of Dams Program would provide a more equitable framework for allocating the capital and operations and maintenance costs of site security work. As introduced in the 109th Congress (H.R. 6029) by Rep. George Radanovich (R-CA), and in the 110th Congress by Rep. Grace Napolitano (D-CA), H.R. 1662 would have amended the Reclamation Safety of Dams Act of 1978 to authorize the Secretary of the Interior to make modifications to preserve the site security of Bureau of Reclamation dams and related facilities, and to provide for the reimbursement of costs incurred for post-September 11, 2001 site security activities.

COMMITTEE ACTION

Congresswoman Grace Napolitano (D-CA) introduced H.R. 1662 on March 23, 2007. H.R. 1662 was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. As noted above, the Subcommittee on Water and Power held an oversight hearing on site security issues on June 22, 2006. No legislative hearing was held on H.R. 1662.

As introduced, H.R. 1662 would have amended the Reclamation Safety of Dams Act of 1978 to: (1) authorize the Secretary of the Interior to make modifications to preserve the site security of Bureau of Reclamation dams and related facilities; and (2) provide for the reimbursement of all costs incurred for post-September 11, 2001 building and site security activities.

On April 19, 2007, the Subcommittee on Water and Power met to consider H.R. 1662. The bill was forwarded to the Full Committee on Natural Resources without amendment.

On November 7, 2007, the Full Natural Resources Committee met to consider H.R. 1662. Rep. Grace Napolitano (D-CA) offered an amendment in the nature of a substitute. The substitute does not include site security activities under the Bureau of Reclamation's Safety of Dams program. Instead, the amendment establishes an upper limit of \$18,900,000 annually (indexed for inflation) on the reimbursable operation and maintenance costs of site security activities, and provides that the capital construction costs of such activities shall be nonreimbursable. As amended, H.R. 1662 requires the Secretary of the Interior to report annually to Congress on site security actions and activities. The Napolitano substitute amendment to H.R. 1662 was adopted by unanimous consent, and the bill as amended was ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 amends the short title of the bill as the "Bureau of Reclamation Site Security Costs Act of 2007".

Section 2. Treatment of capital costs

Section 2 provides that the capital construction costs incurred by the Bureau of Reclamation after September 11, 2001 for the physical fortification of Bureau of Reclamation facilities shall be non-reimbursable.

Section 3. Treatment of security-related operations and maintenance costs

Section 3 sets a limit of \$18,900,000 annually (indexed for inflation) on the reimbursable operation and maintenance costs related to site security at Bureau of Reclamation facilities. This section also requires that site security costs allocated to irrigation, municipal, and industrial water service in the Central Valley Project, California, be collected by the Secretary exclusively through inclusion of such costs in operation and maintenance water rates.

Section 4. Treatment of security-related operations and maintenance costs

Section 4 requires the Secretary to provide written notice of any proposed site security measure to project beneficiaries. The Secretary will also provide project beneficiaries with an opportunity to consult with the Bureau of Reclamation in the planning, design, and construction of site security measures and timeframes. Under this section, the Secretary must consider any cost containment recommendations offered by a project beneficiary, and provide a timely written response to such recommendations. This section also requires the Secretary to report annually to specified committees of the Congress on site security actions and activities.

Section 5. Pre-September 11, 2001 security costs

Section 5 requires that Bureau of Reclamation project security costs at the levels of activity that existed prior to September 11, 2001, shall remain reimbursable.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective

of this bill is to authorize the Secretary of the Interior to seek limited reimbursement for site security activities, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1662—Bureau of Reclamation Site Security Costs Act of 2007

Since the terrorist attacks of September 11, 2001, the Bureau of Reclamation has enhanced security measures at its dams and associated facilities. The costs of these security measures fall into two general categories: capital costs such as making physical improvements to infrastructure, and operation and maintenance (O&M) costs such as increasing the number of guards and patrols at the dams and facilities. Under current law, entities that purchase water and hydroelectric power associated with the operation of the dams and facilities must reimburse the bureau for a portion of O&M costs.

H.R. 1662 would limit the total amount of security-related O&M costs that such entities would pay to the bureau to \$18.9 million a year, adjusted annually for inflation. The bureau expects to charge the entities no more than that amount, adjusted for inflation, over the next 10 years under current law. Thus, CBO estimates that enacting the legislation would have no significant impact on the budget.

H.R. 1662 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Tyler Kruzich. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 1662 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.