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BUREAU OF RECLAMATION TRANSPARENCY ACT

JUNE 8, 2017.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 216]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources to which was referred an bill (S. 216) to require the Secretary of the Interior to submit to Congress a report on the efforts of the Bureau of Reclamation to manage its infrastructure assets, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 216 is to require the Secretary of the Interior to submit to Congress a report on the efforts of the Bureau of Reclamation (Reclamation) to manage its infrastructure assets.

BACKGROUND AND NEED

Founded in 1902, Reclamation is the largest wholesaler of water in the United States and supports the design, construction, and management of water infrastructure in 17 Western states, including dams, canals, irrigation, hydropower, recreation, and water supply infrastructure. Reclamation's inventory includes 476 dams and dikes, creating 337 reservoirs with a total storage capacity of 245 million acre-per-feet of water. Much of Reclamation's infrastructure was constructed more than 50 years ago, and the Department of the Interior faces many challenges in maintaining this aging infrastructure.

Reclamation prepares an annual "Asset Management Plan," which describes current business practices and performance

metrics, but does not provide information at the project level. S. 216 seeks to expand on the information provided by the Asset Management Plan by requiring a detailed assessment of major repair and rehabilitation needs at the project level for all Reclamation sites. In order to better understand the state of Reclamation's infrastructure, the bill requires a report to Congress and standardized and streamlined asset data.

LEGISLATIVE HISTORY

S. 216 was introduced by Senators Barrasso and Schatz on January 24, 2017.

H.R. 660, companion legislation, was introduced in the House of Representatives by Representative Gosar on January 24, 2017.

In the 114th Congress, S. 593 was introduced by Senators Barrasso and Schatz on February 26, 2015. The Subcommittee on Water and Power held a legislative hearing on S. 593 on June 18, 2015. The Committee on Energy and Natural Resources favorably reported S. 593, as amended, on September 9, 2015 (S. Rept. 114 128).

S. 1800, a nearly identical bill, was introduced by Senators Barrasso and Schatz in the 113th Congress. The Subcommittee on Water and Power held a hearing on S. 1800 on February 27, 2014 (S. Hrg. 113 284). The Committee on Energy and Natural Resources ordered S. 1800 to be favorably reported, with an amendment in the nature of a substitute, on June 18, 2014 (S. Rept. 113 226). The Senate passed S. 1800, as amended, on December 16, 2014.

The Committee on Energy and Natural Resources met in open business session on March 30, 2017, and ordered S. 216 favorably reported.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on March 30, 2017, by a voice vote of a quorum present, recommends that the Senate pass S. 216.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 describes the findings.

Section 3 provides definitions for the Act.

Section 4(a) directs the Secretary of the Interior to submit an Asset Management Report to Congress within two years of the Act's enactment, and specifies that the report shall describe Reclamation's efforts to maintain in a reliable manner all of its reserved works, such as buildings, structures, facilities, or equipment, for which maintenance and operations are performed.

Subsection (b)(1) requires the report include a detailed assessment of the major repair and rehabilitation needs for all reserved works and, to the extent practicable, an itemized list of major repair and rehabilitation needs of individual projects at Reclamation facilities. Paragraph (2) requires, to the extent practicable, that the itemized list include a cost estimate to complete each project, and a categorical rating assignment in order to inform the annual agency budgeting process. Paragraph (3) provides further requirements

for assigning ratings. Paragraph (4) requires that the report be made publicly available. Paragraph (5) allows the Secretary to exclude sensitive or classified information from the public version of the report, but requires that a separate version of the report containing the sensitive or classified information be made available to the Congressional committees of jurisdiction.

Subsection (c) directs that the Asset Management Report be updated biennially.

Subsection (d) requires the Secretary to consult with the Army Corps of Engineers and water and power contractors in preparing the Asset Management Report.

Section 5 directs the Secretary to coordinate with those non-federal entities responsible for the operation and maintenance of Reclamation facilities, known as transferred works, in developing reporting requirements for needed major repair and rehabilitation work for those projects similar to the reporting requirements established in section 4.

Section 6 amends section 1631(d)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 to reduce by \$2 million the maximum amount of the Federal cost share for a project authorized pursuant to section 1617 of that Act in order to provide an authorization offset for anticipated costs associated with implementation of the legislation.

COST AND BUDGETARY CONSIDERATIONS

S. 216—Bureau of Reclamation Transparency Act

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

S. 216 would require the Bureau of Reclamation (BOR) to assess the maintenance needs of its facilities, develop a ranking system to prioritize the rehabilitation needs of facilities that it operates, and work with nonfederal partners that have taken over the operation of certain other facilities to develop similar systems for those facilities that need rehabilitation. Under current law, BOR gathers data on its facilities, analyzes the data, and makes the results of its analysis available to the Congress and the public through its budget documents and various other reports throughout the year.

Under the bill, BOR would need to consolidate those results into one report every two years including the ranking information and the estimated costs of necessary rehabilitation projects. Based on an analysis of information from BOR, CBO estimates that implementing those provisions would cost \$2 million; such spending would be subject to the availability of appropriated funds.

S. 216 also would reduce the authorization level for the Central Valley Water Recycling Project in Salt Lake County, Utah, by \$2 million. Under current law, that project is authorized to receive up to \$20 million in federal funding for construction costs. Under the bill, the ceiling would be reduced to \$18 million and federal costs would be lower by \$2 million when the project is constructed. Based on information from BOR, CBO does not expect construction of the project to begin within the next five years.

Enacting S. 216 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting the bill would not increase net direct spending or on-

budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 216 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Any costs incurred by public entities to comply with the bill's reporting requirements would result from participating in a voluntary federal program.

The CBO staff contacts for this estimate are Aurora Swanson (for federal costs) and Jon Sperl (for intergovernmental mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out the bill.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little, if any, additional paperwork would result from the enactment of this bill, with the exception of reporting requirements associated with the operation and maintenance of transferred works.

CONGRESSIONALLY DIRECTED SPENDING

The bill, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

Because S. 216 is similar to legislation considered by the Committee in the 114th Congress, the Committee did not request Executive Agency views. The testimony provided by Reclamation at the Water and Power Subcommittee hearing on June 18, 2015, follows:

STATEMENT OF DIONNE THOMPSON, DEPUTY COMMISSIONER
FOR EXTERNAL AND INTERGOVERNMENTAL AFFAIRS, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

Chairman Lee and members of the Subcommittee, I am Dionne Thompson, Deputy Commissioner for External and Intergovernmental Affairs at the Bureau of Reclamation (Reclamation). I am pleased to provide the views of the Department of the Interior (Department) on S. 593, the Bureau of Reclamation Transparency Act. The Department supports S. 593.

S. 593 is a reintroduced version of bipartisan legislation previously introduced by Senators Barrasso and Schatz during the 113th Congress. The prior bill was numbered S. 1800, was also titled the Bureau of Reclamation Transparency Act, and Reclamation testified on the bill in February of 2014. Reclamation appreciates the constructive

work conducted with the sponsor's offices and this Subcommittee to develop a number of specific changes to the bill consistent with our 2014 testimony. These changes were all incorporated into the current version of S. 593. Reclamation recognizes the value in obtaining additional information on the status of our infrastructure. The bill is consistent with a draft Infrastructure Investment Strategy and process Reclamation has initiated proactively, which I will briefly summarize here.

For the past year, Reclamation has been developing a draft Infrastructure Investment Strategy (Strategy) for assessing and reporting on infrastructure investment needs for Reclamation's approximately 4,000 unique assets. The Strategy builds upon Reclamation's ongoing asset management planning and budget processes, including the existing major rehabilitation and replacements (MR&R) database. Much of the initial focus of this Strategy has been on "reserved works"; facilities constructed, owned, and operated by Reclamation, as opposed to "transferred works", which are those facilities that were built and are owned by Reclamation, but which are operated and maintained by water and power customers pursuant to contracts. Consistent with the directives in S. 593, Reclamation's Strategy process will focus on: improving data collection, analysis, and reporting on the condition of Reclamation-owned infrastructure; categorizing potential investments according to relative importance and urgency; and collaboration with water and power customers in planning for these investments.

Based on arrangements originating with Section 6 of the Reclamation Act of 1902, over two-thirds of Reclamation's facilities are transferred works, managed by non-federal project beneficiaries. These operating entities provide valuable input to the formulation of Reclamation's annual asset management activities. At present, Reclamation's annual budget requests include estimates of the appropriated funds needed for maintenance conducted by Reclamation at its facilities. The estimates in the budget request do not include the amounts funded by non-federal beneficiaries for their maintenance of Reclamation facilities. Reclamation's budget documents, delivered to Congress annually and posted online, are developed over a multi-step 18-month process that begins at the field office level where managers consider the condition of the facilities under their jurisdiction, safety considerations associated with facilities' condition, and—very importantly—the ability of operating partners to fund the work identified pursuant to the terms of their contract and requirements of Reclamation Law. Investments in MR&R are analyzed and prioritized at the field, regional, and bureau levels based on criteria such as: Engineering Need; Risks and Consequences of Failure; Efficiency Opportunities; Financial Feasibility; and availability of Non-Federal Cost Share.

During this process, Reclamation categorizes the information that will go into its budget requests using its Pro-

grammatic Budget Structure (PBS). The PBS uses two of its five primary categories to show the budget request for Operations and Maintenance (O&M) activities: 1. Facility Operations, and 2. Facility Maintenance and Rehabilitation. It should be noted that in addition to the appropriated funds in these two categories, a substantial portion of O&M activities is paid for directly by water and power users with their own funds or project revenues.

The Facility Operations category includes items and activities that are necessary to operate Reclamation facilities to produce authorized project benefits for water supplies, power, flood control, fish and wildlife, and recreation. This category includes not only facility operations by Reclamation at reserved works, but also Reclamation's oversight of the operations of facilities performed by water user entities at transferred works. Facility Operations includes all routine or preventive maintenance activities. Routine maintenance is defined as recurring daily, weekly, monthly, or annually, and most tasks performed by Reclamation maintenance staff are included in this category. Also included in this category are routine safety and occupational health items, including those for workplace safety inspection and hazard abatement. The amount budgeted under this category for each facility is the funding necessary to perform routine O&M activities. On an annual basis, each region, along with centralized program management staff, determines the appropriate budget level to support staffing and other resources necessary at each facility for continued operations to deliver authorized project benefits.

The second category, Facility Maintenance and Rehabilitation, addresses the needs over and above the resources in Facility Operations, and corresponds roughly to the concept of MR&R. The Facility Maintenance and Rehabilitation category includes major and non-routine replacements and extraordinary maintenance of existing infrastructure. This category also includes activities to review and conduct condition assessments (facility O&M and dam safety inspections), as well as funding necessary for the correction of dam safety deficiencies (dam safety modifications), the implementation of security upgrades, and building seismic safety retrofits. Consequently, most of the budgeted items under this category are related to site-specific facility needs.

After Reclamation's field offices identify MR&R activities in their jurisdiction that require appropriated funds, they are evaluated at the regional level where these are compared to the needs and priorities of other activities and facilities in that region. There are five regions within Reclamation. The regions' PBS allotments for Facility Maintenance and Rehabilitation each year are then evaluated at the next level of internal review, with Reclamation's Budget Review Committee (BRC) process. A given year's BRC is working in advance of a budget request two years into the future, and is comprised of senior management from across the agency, providing the maximum breadth of rel-

evant experience and program knowledge. Each region presents its priorities to the BRC, which evaluates the MR&R needs and priorities against those of other regions in order to ensure that Facility Maintenance and Rehabilitation activities reflect Reclamation's greatest overall need and agency priorities. No urgent maintenance issues necessary to the safe operation of a facility are deferred in the budgeting or facility review processes. The end result is a budget request that has been prioritized and vetted across the organization, concurrent with input from the Department and Reclamation leadership.

For the purpose of reporting asset condition to the Federal Real Property Profile to meet requirements of the Executive order 13327, "Federal Real Property Management," and to better understand upcoming needs, Reclamation develops and annually updates estimates of MR&R needs. This effort, which informs the annual budget process, represents an outlook of Reclamation's best estimate of reported deferred maintenance, and identified extraordinary maintenance, dam safety modifications, repairs, rehabilitation, and replacement activities at a point in time looking forward five years, regardless of funding source, for all assets. The estimated total in 2012 amounted to \$2.5 billion over five years (fiscal years 2013–2017).¹ It is important to note that a substantial portion of projected needs to address the rehabilitation of aging infrastructure (roughly \$1.2 billion of the \$2.5 billion estimate) will be financed directly by our water and power customers. Cost estimates associated with these identified needs range from "preliminary" to "feasibility" level, and should not be collectively assumed to be at one particular uniform level of detail. Variability in the MR&R estimates from year to year may be the result of additional information received from the estimating source (i.e., Reclamation field offices and non-federal operating entities), changes in field conditions, further evaluations conducted, and work priorities, thus impacting the inclusion or deletion of specific identified needs within a particular year, or from year to year.

As stated in prior testimony before this Subcommittee, one of the main challenges Reclamation faces in securing funding for the identified near-term needs as well as longer-term MR&R needs is the varying economic strength of our operating partners. Given the requirement under Reclamation Law for the repayment of maintenance costs either in the year incurred or over time, Reclamation must work in collaboration with our water and power partners that must repay these investments. For some of these partners, the cost-share requirements associated with MR&R work are simply beyond their financial capabilities. Like any organization tasked with constructing, operating, and maintaining a wide portfolio of assets, Reclamation has to prioritize its actions to maximize the benefits de-

¹ www.usbr.gov/assetmanagement/Asset%20Inventory/FY%202012%20Reclamation%20Asset%20Management%20Plan.pdf

rived from its investment of both federal and non-federal funds. Given the substantial economic and financial interest of Reclamation's non-federal partners, the development of cost estimates for maintenance requirements on reserved and transferred works is both collaborative and dynamic. We acknowledge there are tradeoffs associated with decisions to fund one identified need versus another, but Reclamation's annual budget request reflects our best effort to balance those constantly evolving needs associated with all elements of our mission.

The requirements of S. 593 would complement the processes described above, and the bill makes allowance for the valuable input from operating partners that is central to Reclamation's asset management program.

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

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that although S. 216 as ordered reported does not amend existing law, section 6 of the bill, if enacted, will have the effect of lowering the ceiling on the Federal share for the Central Valley (Utah) Water Recycling Project authorized by section 1617 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h-12c) from \$20,000,000 to \$18,000,000.

