

**Statement of David Raff, Chief Engineer,
Department of the Interior,
before the
Natural Resources Committee
Subcommittee on Water, Oceans and Wildlife
U.S. House of Representatives**

**on
H.R. 1851, St. Mary's Reinvestment Act; H.R. 4099, Large-Scale Water Recycling Project
Investment Act; and H.R. 3877, Salton Sea Projects Improvements Act
June 29, 2021**

Chairman Huffman, Ranking Member Bentz, and members of the Subcommittee, I am David Raff, PhD, Chief Engineer for the Bureau of Reclamation (Reclamation) within the Department of the Interior (Department). Thank you for the opportunity to provide Interior's views on H.R. 1851, H.R. 3877, and H.R. 4099.

H.R. 1851, St. Mary's Reinvestment Act

H.R. 1851 would provide direct authorization to the federal government to rehabilitate the St. Mary Diversion Dam and Canal Headworks, which are part of the Milk River Project in Montana, using appropriated funds. The Department recognizes the importance of this Federal project in serving the people of Montana and is aware of the affordability concerns of the project beneficiaries.

H.R. 1851 requires Reclamation to conduct an ability to pay study on the costs of the St. Mary Canal Rehabilitation Phase 1 Project "[n]ot later than 1 year after the date on which funds are first appropriated for the St. Mary Canal Rehabilitation Phase 1 Project under subsection (f)." Importantly, the bill defines the canal rehabilitation project as inclusive of "any activity associated with the construction of the St. Mary Diversion Dam or St. Mary Canal Headworks within the St. Mary Storage Unit of the Milk River Project." Section 3(e) would then require Reclamation to establish repayment terms for federal funding of the rehabilitation project based on results of the ability to pay study.

Regardless of the result of the ability to pay study, Section 3(c) would require the federal government to provide no less than 26.04 percent of the St. Mary Canal Rehabilitation Phase 1 Project total cost, to be non-reimbursable to the United States. Reclamation is not currently authorized to consider ability to pay in requiring repayment of less than the beneficiaries' allocated share of rehabilitation and replacement costs, with the exception of the federal government covering the expense as outlined in H.R. 1851. Ability to pay studies typically are completed for new project construction costs allocated to irrigation, absent specific project authority. The ability to pay study to determine the non-federal cost share as directed in this bill would be completed consistent with Reclamation's current practice where it is currently applicable. Finally, the bill authorizes the appropriation of \$52 million to the Secretary for Phase 1 for the period fiscal year 2022 through fiscal year 2032.

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

H.R. 4099, Large-Scale Water Recycling Project Investment Act

The American West faces serious water challenges. Growth in demand among competing uses for water and aging infrastructure, compounded by sustained and recurring periods of drought, place an enormous strain on existing water and hydropower resources. Adequate, resilient, and safe water supplies are fundamental to the health, economy, and security of the country, and investments in water recycling and reuse are a key step to stretching limited water supplies, making systems more resilient, and insulating communities from the effects of drought in the West. This perspective informs the Department's views on H.R. 4099.

The Title XVI Program was authorized by Title XVI of P.L. 102-575 to reclaim and reuse municipal, irrigation, domestic, and agricultural wastewater. For almost two decades, congressionally authorized projects were identified for funding through the budgeting process and through earmarks. Reclamation established a competitive process for allocating funding to congressionally authorized projects in 2011 and has continued to allocate funding through that process each year.

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

Since 1992, Reclamation has allocated more than \$760 million in Title XVI Program funding. This funding, along with non-federal cost-shares, has resulted in more than \$3 billion in total investments in reuse projects. Projects funded through the Title XVI Program deliver a significant amount of recycled water each year. In 2020, projects funded through the Title XVI Program delivered over 420,000 acre-feet of recycled water, helping to provide flexibility to water managers and diversifying the water supply.

Section 3(a) of the Large-Scale Water Recycling Project Investment Act, H.R. 4099, directs the Secretary of the Interior to establish a new competitive grant program for the planning, design, and construction of large-scale recycling projects.

Section 3(b) of the bill specifies project eligibility. For projects to be eligible, they must reclaim and reuse municipal, industrial, domestic, and agriculture wastewater or impaired ground or surface waters; be categorized as a large-scale water recycling project; be located in the western Reclamation states; be constructed, operated and maintained by an eligible entity as defined by Section 2. Section 3(b) also seeks to define large-scale water recycling projects as those projects that have a total estimated cost of \$500 million or more.

Section 3(c) outlines the project evaluation step of determining feasibility to gain participation from the Department. A project is eligible, per Section 3(c), if it is technically and financially feasible; provides a Federal benefit; and is consistent with applicable state and Federal laws. In order to gain participation from the Department, the project must also demonstrate sufficient non-federal funding available to complete the project and the entity must be financially solvent.

Section 3(d) of the bill describes funding priorities including projects that provide multiple benefits; projects that are likely to reduce impacts to environmental resources, advance water management plans across multi-state areas; that are regional in nature, and have the support and collaboration of multiple stakeholders. Finally, Section 3(e) provides the maximum federal cost share for large-scale recycling projects to be set at 25 percent, with no total dollar cap for federal funding except for projects with additional measurable benefits, which could receive as much as 75 percent of the total projects cost in federal funding.

The Department looks forward to working with the sponsor on a few issues, including a total dollar cap, and the long-term impacts on Reclamation's future budget given the proposed federal cost share of up to 75 percent for projects. Additionally, the bill represents a significant departure from the current scale of the federal government's involvement in recycling and reuse projects, which relies on a majority of project funding from non-federal partners. As written, the bill would establish a new program, rather than amending the existing Title XVI Program statute.

The Department supports the intent of the Large-Scale Water Recycling Project Investment Act to increase opportunities for recycling projects, particularly projects with multiple partners designed to provide water supply benefits to areas that are experiencing severe drought. We look forward to working with the Committee on improvements to the bill to clarify and improve implementation.

H.R. 3877, Salton Sea Projects Improvement Act

The Salton Sea Projects Improvement Act amends the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize additional projects to improve wildlife habitat, recreation, and air and water quality at the Salton Sea. H.R. 3877 specifically authorizes dust suppression projects, a crucial component to improving local air quality conditions and allows the federal government to be proactive in reducing emissions.

The Department, through the Bureau of Reclamation, has provided more than \$14 million since 2016 for dust suppression, wetland restoration, water quality improvements, environmental compliance, and land use authorizations at the Salton Sea. In August 2016, the Department signed a Memorandum of Understanding (MOU) with the California Natural Resources Agency (CNRA) for purposes of coordinating efforts at the Salton Sea. The MOU recognizes the State of California (State) has the lead responsibility in efforts to restore the Salton Sea and commits the Department to pursue \$30 million in funding to help support State-initiated efforts.

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

Section 2 of the Salton Sea Projects Improvement Act amends Section 1101 of the Reclamation Projects Authorization and Adjustment Act of 1992 (P.L. 102-575) to specifically allow the Secretary of the Interior to enter into grants, agreements, and contracts in partnership with State, Tribal, and local governments; water districts; joint powers authorities; nonprofit organizations; and institutions of higher education to carry out projects at the Salton Sea. The ability to work with multiple types of partners, including universities and non-governmental organizations, will provide for opportunities to take advantage of non-governmental funding. For example, Reclamation began working with the National Audubon Society (Audubon) in fiscal year 2020 to enhance habitat and mitigate dust on approximately 1,000 acres near the community of Bombay Beach. Reclamation provided \$700,000 to plan, design and permit the project, which was an important but unfunded step in getting to a project design that would allow Audubon to receive approximately \$6 million in matching funds. Reclamation funding bridged this gap, providing Audubon the opportunity to access additional, non-federal funds. The legislation would streamline this process and increase opportunities in the future.

Finally, H.R. 3877 amends P.L. 102-575 to include activities such as construction, operation, and maintenance costs which will increase Reclamation's flexibility and opportunity to work with partners at the Salton Sea to implement projects that create habitat and improve water and air quality. The proposed language increases the authorized appropriations ceiling from \$10 million to \$250 million, which will allow Reclamation to continue to implement projects that improve conditions at the Salton Sea, particularly as Reclamation is at the \$10 million ceiling under the existing authority.

The Department appreciates the sponsor's work on the Salton Sea Projects Improvement Act and supports H.R. 3877 and will continue to support the State as the lead in efforts to restore the Salton Sea. The Department looks forward to working with the bill sponsor and the Committee as the bill moves forward.