



House Subcommittee on Water and Power
Committee on Natural Resources

Testimony Of

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Regarding

H.R. 2733, the Trinity River Restoration Fund Act of 2007

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Ms. Chairwoman and members of the committee, thank you for this opportunity to testify today regarding the Trinity River Restoration Fund Act of 2007. My name is Ara Azhderian and I am the Water Policy Administrator for the San Luis & Delta-Mendota Water Authority. I am also a member of the Central Valley Project Water Association's Financial Affairs Committee, wherein I focus on financial issues pertaining to CALFED and the Central Valley Project Improvement Act. As such, I will testify today on behalf of both organizations to express our joint opposition to H.R. 2733 as currently drafted.

The Central Valley Project Water Association represents the interests of the 300 agricultural and municipal and industrial water districts, agencies, and communities that are located in the Central Valley of California and that hold contracts for water with the United States Bureau of Reclamation's Central Valley Project (CVP). Annually, these contractors use CVP water to irrigate 3 million acres of land, one-third of the agricultural land in California, to serve 1 million households, and meet the water needs of countless water fowl. The CVP Water Association works to preserve and protect our members' CVP contractual water supplies and ensure that those water supplies are dependable, of good quality, and affordable.

The San Luis & Delta-Mendota Water Authority consists of 32 member agencies providing water service for agricultural, urban, and wildlife management purposes in the western San Joaquin Valley (from the City of Tracy in the north to Kettleman City in the south), San Benito and Santa Clara counties. The Authority's member agencies deliver water to more than 1.3 million acres of the nation's most productive farm lands,

1.7 million Californian residents from small rural towns to the “Silicon Valley”, and countless waterfowl dependent upon some of the State’s most important wildlife management areas.

The common element of all these represented interests is their reliance upon the Central Valley Project for some portion of their water supply. As such, they bear the brunt of the significant and disproportionate impacts evident in H.R. 2733.

Overarching Policy Concerns Associated with H.R. 2733

As currently drafted, the Trinity River Restoration Fund Act of 2007 raises several policy issues that require much further consideration as they have broad implications. Generally, the legislation imperils numerous, existing environmental restoration efforts, from the Suisan Marsh to the tributaries of the Sacramento River, as well as important potential future actions such as the Bay Delta Conservation Plan, by dedicating enormous, annually fixed levels of funding to an effort that has historically been adequately funded. Further, the manner in which funds are guaranteed in perpetuity and deposited into the proposed Trinity restoration fund will disrupt Reclamation’s planning and budgeting processes, thereby affecting their ability to effectively and efficiently meet the multitude of other obligations they bear, including operations and maintenance. H.R. 2733 also inadequately protects Reclamation’s rate payers from increased costs and rate volatility. These overarching policy issues are accompanied by many specific and technical concerns, which we respectfully request to submit at this hearing as supplemental material to my testimony.

Flawed Assumptions Underlay H.R. 2733

Two assumptions underpinning current support for H.R. 2733 are that 1) Central Valley Project (CVP) capital repayments deposited into the United States Treasury are sitting idle and will continue to simply accumulate and that 2) CVP capital repayments will be sufficient to annually cover the costs of the Trinity River Restoration Program (TRRP), which, if enacted as currently drafted, will exceed \$377 million by 2030. It is therefore argued that sufficient capital repayment will equate to no impacts and, perhaps, benefits.

To clarify the first misconception, CVP capital repayments go to the Reclamation Fund in the U.S. Treasury to repay the capital costs of constructing the Central Valley Project. These funds are not merely locked away; rather, they become a funding source from which Congress appropriates to implement and support a myriad of Reclamation restoration, operation, and maintenance activities throughout the West. While utilization of capital revenue to support various Reclamation efforts provides a much needed additional source of funding, we must remain aware that all funding sources are limited and that the flexibility to respond to changing priorities must be reasonably preserved.

As for the second assumption, H.R. 2733 correctly recognizes that revenues from capital repayment will not be able to fully fund the annual demands of the TRRP; thus, the primary emphasis of my testimony and supplementary material focuses on the impacts

that will result if the Trinity River Restoration Fund Act of 2007 is enacted in its current form.

Specific Policy Concerns Associated with H.R. 2733

Guaranteed Level of Funding:

H.R. 2733 establishes an annual guaranteed funding level rather than a stable funding mechanism. The Trinity River Restoration Program is already partially funded through, in addition to other federal and state sources, appropriation of Water and Related Resources and CVPIA Restoration Funds; however, these amounts can and do vary annually at the ultimate discretion of Congress. In guaranteeing an annually fixed level of funding, H.R. 2733 minimizes Congressional discretion and ignores the variability of annual revenue due to changing costs and hydrology. The provision of a guaranteed fixed funding level begs the question, “why should the TRRP be allowed such a preferential funding standard over other CVPIA activities such as the Anadromous Fish Restoration Program, the Anadromous Fish Screen Program, or acquisition of Level 4 Refuge water supply, all of which arguably suffer from annual funding shortfalls?” If the TRRP is provided a guaranteed funding level, then it is reasonable to expect future advocates of such an approach for other Reclamation activities. Clearly there is not enough funding available to support such an outcome, as demonstrated by historical Reclamation budgets and Congressional appropriations that have balanced competing needs against available funds. Rather than instituting a guaranteed level of funding, H.R. 2733 should instead identify a stable funding mechanism.

Perpetuity:

H.R. 2733 provides its guaranteed funding strictly from CVP revenue sources, in perpetuity, and neither states nor implies any terminus to the restoration effort. Though the legislation attempts to rely primarily on CVP capital repayment, this source of revenue will diminish over time. This fact, coupled with the legislation’s mandated cost escalators, ensures that as the funding demands of the TRRP grow its impact upon the Restoration Fund will concomitantly increase, thereby impacting every other CVPIA program dependent upon the Restoration Fund. Aside from these practical though significant impacts, the provision of perpetual funding also raises concerns over the restoration effort’s efficacy and accountability. H.R. 2733 must provide a timeframe for which to accomplish the restoration goals of the TRRP and clear systems of accountability to reassess the program’s performance and competing needs within the given timeframe.

Planning and Prioritization:

In the event CVP capital funds are not sufficient, H.R. 2733 establishes the CVPIA Restoration Fund as the backstop to insure the annually guaranteed funding levels are met, which will disrupt Reclamation’s ability to plan for and prioritize current, as well as future yet unidentified, restoration, operation, and maintenance efforts.

As the legislation correctly recognizes, CVP capital revenues will be insufficient to meet the fixed TRRP funding targets; therefore, when the Secretary transfers money from the annually appropriated Restoration Funds to meet the mandated annual funding level for the TRRP, one of two consequences will ensue: 1) some other CVPIA Restoration Fund dependent program(s) will now suffer a funding shortfall because its anticipated budget from the appropriated Restoration Fund amount has to be redirected; therefore, some planned restoration activity will be disrupted, diminished, postponed or simply not take place or 2) the Secretary will siphon appropriated Water and Related Resources funding from planned and budgeted operations and maintenance activities to shore up the funding shortfall on the non-Trinity CVPIA restoration effort so as to avoid the impact. Either way, H.R. 2733 ensures that non-TRRP Reclamation activities will experience funding shortfalls and performance impacts.

Further, H.R. 2733 essentially establishes the TRRP as the first priority not only among all other CVPIA restoration efforts but over all other Reclamation efforts, if Water and Related Resources funds are redirected as previously described. The result not only creates disruptive impacts upon planning and performance but also minimizes Reclamation's ability to respond to changing priorities as future, yet unknown, circumstances unfold. The priority established in H.R. 2733 means that irrespective of the TRRP's successes or failures, Reclamation will be prohibited from redirecting any portion of that funding, for any period of time, to meet the needs of what may be clear and commonly viewed priorities that emerge in a future context.

The Trinity River Restoration Fund Act of 2007 should not interfere with Reclamation's ability to perform and fulfill its many functions and increasing obligations. Further, it must provide needed flexibility in order to allow for changing priorities in a changing world.

Proportionality:

H.R. 2733's reliance upon revenues generated by the CVP in its entirety, exclusive of Friant Division contractors, raises concerns about proportionality and equity. As exemplified in the San Joaquin River restoration proposal, CVP revenues from the Friant Division are being used to support the restoration of the river impacted by the Friant Division. This proposal produces clear linkage between where the CVP revenue is generated and spent, which creates an important proportionality that naturally balances the allocation of always limited funds among numerous priorities.

H.R. 2733 provides no such proportionality and, as such, also creates a serious equity issue. As an example, what if Delta Division contractors want to choose to use their Delta Division capital repayment revenues to help implement Bay-Delta ecosystem improvements? What if Sacramento River Division contractors want to choose to use their Sacramento River Division capital repayment revenues to address conveyance and passage problems associated with the Red Bluff Diversion Dam on the Sacramento River? What if San Felipe Unit contractors want to choose to use their San Felipe Unit

capital repayment revenues to facilitate the San Luis Reservoir Low-Point Improvement Project? These hypotheticals clearly highlight the numerous and important needs in front of us. The funding choices afforded Reclamation and CVP contractors to implement solutions for the many operations, maintenance, and restoration problems that do and will exist will be diminished by implementation of H.R. 2733. The Trinity River Restoration Fund Act of 2007 must provide for proportionality through an appropriate funding mechanism so as to avoid disparately impacting implementation of other important efforts.

Conclusion

In closing Ms. Chairwoman, we recognize the value of creating a stable funding mechanism for the Trinity River Restoration Program and stand available and desirous of working with you, members of your committee, and other interested parties to amend the Trinity River Restoration Fund Act of 2007 so that it may avoid unwanted impacts and achieve its broad objective. In order to inform this discussion, we have prepared the supplemental material provided here today to identify specific and technical issues associated with the current version of H.R. 2733. We will look forward to the opportunity to meet; however, until then we must regrettably remain opposed to the Trinity River Restoration Fund Act of 2007 due to the significant and disproportionate impacts it will impose upon our represented interests.

I very much appreciate your interest and attention today and wish to express on behalf of my represented interests a most sincere thank you for this opportunity to express our views and concerns.