



WESTERN STATES WATER COUNCIL

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July 11, 2008

Position No. 299

The Honorable Jeff Bingaman, Chairman
Energy and Natural Resources Committee
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

via fax: (202) 224-6163

Dear Chairman:

On behalf of the Western States Water Council, representing eighteen states, I am writing in support of S. 2842, the Aging Water Infrastructure and Maintenance Act, introduced by Senator Reid, you and Senators Salazar and Tester. The legislation would fill an important gap in the protection of infrastructure owned by the United States, but often operated by local entities and not covered under the Reclamation Safety of Dams Act of 1978.

Westwide there are many transferred works with the facilities operated and maintained by non-federal entities, while title to the project is retained by the federal government. With the continuing growth and development of western communities, lives and property are at increasingly greater risk of loss from the failure of these facilities, which include canals, levees, tunnels, dikes, pumping plants, dams or reservoirs that are part of a federal reclamation project and related water distribution works.

As you know, on January 5th, the community of Fernley, Nevada awoke to a freezing flood due to the failure of the Truckee Canal. The flooding damaged 590 homes and many businesses with standing water up to eight feet in some places. This was the 9th failure in the history of the canal, and the most devastating as most of the homes damaged or destroyed were built on what was once undeveloped land. This tragedy could have been avoided.

The U.S. Bureau of Reclamation owns some 673 facilities and many are over 50 years old and some are nearly 100 years old. Reclamation has recently surveyed roughly 8,000 miles of canals it owns. Reclamation has also undertaken a comprehensive facilities review as part of its Managing for Excellence program. S. 2842 will ensure inspections are regularly completed and expedite and assist with project assessments and repairs.

S. 2842 provides for the inspection of all Reclamation project related facilities, both reserved and transferred works, within two years and periodically thereafter. Data collected will be used to prepare detailed regular maintenance schedules and guidance, as well as a national priorities list of facilities requiring urgent action. The latter is to be included annually in the Department of Interior's budget justification. Notably, the bill specifically directs Interior to notify and allow the appropriate State agency to participate in inspections, and provide the State agency with an inspection report.

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Moreover, the bill directs Interior to promulgate final regulations to establish standards for the condition and maintenance of project facilities to ensure that they function properly and are operated in a safe manner. The Secretary is also to establish guidelines to implement the Act and ensure compliance with the regulations, which are to reflect an agency-wide policy taking into account non-Federal capabilities and any economic benefit. States should be consulted in drafting these regulations.

The Secretary is also to carry out or provide financial support to a non-Federal entity to carry out any necessary modification to project facilities to reasonably preserve their structural safety. While inspection costs are non-reimbursable, federal cost sharing of project repairs (up to 65%) depends on non-Federal entities' compliance with the promulgated operation and maintenance regulations. The Secretary may carry out any repairs determined to be "necessary to minimize the risk of imminent harm to public health or safety, or property" after consulting with a non-Federal entity responsible for operation and maintenance of transferred works that is non-compliant and may seek reimbursement.

The bill provides \$5 million for fiscal year 2009, and \$1.5 million per year thereafter through fiscal year 2013.

The safety and prosperity of many of our western communities depend on our aging, rapidly deteriorating and increasingly vulnerable water supply infrastructure. As Senator Reid recently observed, "We all know that prevention is better than cure."

Again, we appreciate your attention to this important matter and look forward to working with you towards enactment and implementation of this bill.

Sincerely,



Garland Erbe, Chairman
Western States Water Council