



**Aileen Roder
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Taxpayers for Common Sense**

**Testimony before the Water and Power Subcommittee,
Committee on Resources
United States House of Representatives**

**Hearing on H.R. 3747,
“Wallowa Lake Dam Rehabilitation and
Water Management Act of 2004”**

March 24, 2004

**Testimony of Aileen Roder, Program Director at
Taxpayers for Common Sense before the
Water and Power Subcommittee, Committee on Resources,
United States House of Representatives
on H.R. 3747**

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Good morning, Chairman Calvert, Congresswoman Napolitano, and other distinguished members of the Subcommittee. I am Aileen Roder, Program Director at Taxpayers for Common Sense (TCS), a national, non-partisan budget watchdog group. I would like to thank you for inviting me to testify at this hearing regarding H.R. 3747 which would authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes.

Overview

Taxpayers for Common Sense strongly opposes H.R. 3747, as written. This bill, introduced in January by Congressman Greg Walden (R-OR), would authorize the Secretary of Interior to 1. provide funding to the Associated Ditch Companies, Incorporated (ADC), to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program; and, 2. in coordination with tribal, state, and local government entities, participate in planning, design, and construction of facilities needed to implement the Wallowa Valley Water Management Plan. The bill specifically authorizes \$32 million in federal funding, with the federal cost share of the project set at 80 percent.

Wallowa Lake Dam is a privately-owned dam that was originally constructed in 1916 and raised to its current height in 1929.¹ Wallowa Lake Dam is a concrete structure located on the natural outlet of Wallowa Lake. The dam stands 26.8 feet above the natural lake level, adding 42,750 acre feet of water storage to the lake.² The dam is owned and operated by ADC. The Oregon Water Resources Department identified dam safety deficiencies in both the late 1970s and again in 1996.

While the goals of the Wallowa Lake Dam Rehabilitation and Water Management Program may be laudable, we are concerned about using federal taxpayer dollars to meet them. We are experiencing record federal deficits, with the administration predicting a \$521 billion deficits in 2004 alone.³ Separate and independent analyses by the Brookings Institution and the Center for Budget and Policy Priorities estimate deficits of more than \$5 trillion over the next ten years.⁴ We must exercise budgetary belt-tightening. We simply cannot afford to continue spending money for non-federal purposes. In fact, with the limited Bureau of Reclamation budget, tough choices must be made between which federal projects to fund let alone adding private projects into the mix.

¹Steven P. Cramer and Kenneth L. Witty, *The Feasibility for Reintroducing Sockeye and Coho Salmon in the Grande Ronde Basin*, at 20 (July 1998).

²*Id.*

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Budget of the United States Government, Fiscal Year 2005, at 10 (2004).

⁴Committee for Economic Development, Concord Coalition, and Center on Budget and Policy Priorities, *Mid-Term and Long-Term Deficit Projections*, (Sept. 29, 2003), available at <http://www.cbpp.org/9-29-03bud.pdf>; The Brookings Institution, *The Budget Outlook: Updates and Implications*. William Gale & Peter Orszag. (Feb. 16, 2004), available at <http://www.brook.edu/views/articles/gale/20040216.htm>.

Wallowa Lake Dam is a private dam.

Wallowa Lake Dam is owned and operated by a private company. There is no federal interest in the dam. H.R. 3747 would force taxpayers to spend \$32 million dollars from the Bureau of Reclamation budget, for a project that has no federal interest and would confer no federal interest to the Bureau. In fact, the bill specifically states, "The Federal Government shall not hold title to any facility rehabilitated or constructed under this Act." Certainly, we are not advocating for the federal government to have a share of the Wallowa Lake Dam. However, it seems a rather strange concept for a private company to ask the Bureau to fund its dam rehabilitation and then turn around and tell the federal government to stay out of its business. Typically, when you are the majority investor, you get some say in how the company is run. Not so in H.R. 3747.

There are more than 75,000 dams in the United States that meet the size and capacity requirements to be included in the National Inventory of Dams (NID).⁵ About 58 percent, or approximately 43,500, of these dams are privately owned.⁶ Another 17 percent are under local government ownership, the owners of 15 percent are unable to be determined, 5 percent are owned by state government, 3 percent are owned by the federal government, and another 2 percent are owned by public utilities.⁷ Many of the dams on the NID are in need of repairs or rehabilitation. In fact, according to the American Society of Civil Engineers, there are 10,049 dams in the United States that currently have a "high-hazard potential."⁸

H.R. 3747 takes us down the slippery slope of making federal taxpayers responsible for paying for private dam repairs around the nation. At a time of increased Bureau of Reclamation financial responsibility for an aging, federally-owned infrastructure and ever tighter federal budgets, this legislation opens the flood gates to potentially fund repairs of more than 43,500 private dams, making the Bureau responsible for the safety of private dams.

On top of setting a bad precedent of federal financing of private dam repairs, H.R. 3747 allows the beneficiaries of one small, private dam in Oregon to leapfrog over all other Bureau projects in need of repairs funding and all other private dam owners who would clamor for federal funding.

There are a number of federally-owned dams that need repairs.

According to the 2002 statement of Mark Limbaugh, Director, External & Intergovernmental Affairs, Bureau of Reclamation:

Reclamation itself has an inventory of aging dams - and the responsibility to ensure the safety and reliability of Reclamation dams to protect the downstream public. Dam safety is one of Reclamation's highest priorities. I would like to give you a

⁵ *National Inventory of Dams*, available at <http://crunch.tec.army.mil/nid/webpages/nid.cfm> (last visited Mar. 15, 2004). A dam is included in the National Inventory of Dams if: 1) It is a High or Significant hazard potential class dam or, 2) It is a Low Hazard potential class dam that exceeds 25 feet in height AND 15 acre-feet storage or, 3) It is a Low Hazard potential class dam that exceeds 50 acre-feet storage AND 6 feet height.

⁶ AMERICAN RIVERS, FRIENDS OF THE EARTH, AND TROUT UNLIMITED, *Dam Removal Success Stories: Restoring Rivers Through Selective Removal of Dams That Don't Make Sense*, ix (Dec. 1999).

⁷ *Id.*

⁸ AMERICAN SOCIETY OF CIVIL ENGINEERS, *2003 Progress Report*, available at <http://www.asce.org/> (last visited Mar. 15, 2004).

sense of the scope of our dam safety responsibilities: the Bureau has reservoirs impounded by 457 dams and dikes. Of these structures, 362 dams and dikes, located at 252 different project facilities, would likely cause loss of life if they were to fail. Approximately 50 percent of Reclamation's dams were built between 1900 and 1950, and about 90 percent of the dams were built before currently-used state of the art design and construction practices. Aging Reclamation-owned dams, which lack state-of-the-art structural reliability features, require Reclamation to conduct extensive ongoing risk management activities to assure safe dam performance and protect the public from unreasonable risk.⁹

This statement was made regarding S. 1883, the Senate version of H.R. 3747 from the 107th Congress. S. 1883 passed the Senate Energy and Natural Resources Committee, but there was never a vote on the Senate floor.

On October 15, 2003, the Bureau of Reclamation again testified regarding a Senate bill that would spend Bureau dollars to rehabilitate the private Wallowa Lake Dam. Bureau of Reclamation Commissioner John Keys testified before the Senate Energy Natural Resources Subcommittee on Water and Power regarding S. 1355, the virtually identical Senate version of H.R. 3747, stating:

Finally, we are concerned that Reclamation's participation in this program would adversely impact ongoing projects and operations. S. 1355 would authorize the use of Reclamation funds for a non-Federal purpose. Reclamation funds are limited and are targeted to perform essential functions at our projects, such as security, operations and maintenance (O&M), resource management, dam safety, and construction.¹⁰

Commissioner Keys went on to discuss the Bureau's concern that the Senate bill contains no provision that would require repayment by project beneficiaries as mandated by Reclamation law.¹¹ Further the President did not include funding for the project in his budget.

On January 8, 2003, the entire California congressional delegation showed similar concerns regarding fiscal discipline with the Bureau's budget. They sent a letter to Department of Interior Secretary Norton and Attorney General John Ashcroft expressing reservations regarding the misdirection of Bureau of Reclamation funds. This letter requested that settlement funds for *Sumner Peck Ranch Inc. v. Bureau of Reclamation* not come from the Bureau of Reclamation's budget. The California delegation pointed out that Bureau of Reclamation funding should not be used for non-Bureau projects. We agree that robbing the coffers of one agency to pay for projects that should legitimately be run through another agency or should be paid for by private interests sets up a system doomed to failure. Specifically, we oppose efforts to force the Bureau of Reclamation to fund the rehabilitation of a private dam in competition with appropriate funding of Bureau projects. Similar concerns have been raised this year by the California delegation regarding this use of limited Bureau funds in the *Sumner Peck Ranch* settlement.

⁹ Statement of Mark A. Limbaugh, Director, External & Intergovernmental Affairs, Bureau of Reclamation, U.S. Department of Interior on S. 1883 (Wallowa Lake Dam, OR), Committee on Energy and Natural Resources, United States Senate, (Jun. 6, 2002).

¹⁰ Statement of John W. Keys, III, Commissioner, Bureau of Reclamation, U.S. Department of Interior, on S. 1355, the Wallowa Lake Dam Rehabilitation and Water Management Act, before the Senate Energy and Natural Resources Subcommittee on Water and Power. (Oct. 15, 2003).

¹¹ *Id.*

The Bureau of Reclamation is already carrying a debt-load regarding federally funded irrigation projects.

According to the U.S. General Accounting Office, since 1902 irrigators have managed to pay off less than one-third of the \$3.4 billion they owe for Reclamation projects.¹² Billions more in costs have been shifted to taxpayers and other users. Even where irrigation districts have paid out the heavily subsidized payment obligations they were assessed, they still have not paid for all the other costs associated with the project. Irrigators have not even paid the full costs of capital of their portion of the projects, benefiting from huge interest subsidies. Unfortunately, one of the worst examples of this is the Central Valley Project where, after almost 60 years, the Bureau still has not received the \$2.4 billion in capital costs that water users owe the federal treasury.¹³

¹² In 1996, the GAO released a report (*Information on allocation and Repayment of Costs of Constructing Water Projects* GAO/RCED-96-109) that gave these figures for the Reclamation program as a whole from 1902 to 1994:

- \$21.8 billion has been invested in Reclamation
- \$16.9 billion of that total is reimbursable by irrigation, power and municipal and industrial users;
- \$7.1 billion of that total was allocated to irrigation. Of this:
 - 47% (\$3.4 billion) was shifted to electric power users under Irrigation Assistance;
 - 5% was written off by Congress;
 - 47% (\$3.4 billion) was to be paid by irrigators at no interest.

¹³ CONGRESSIONAL BUDGET OFFICE. *Water Use Conflicts in the West: Implications of Reforming the Bureau of Reclamation's Water Supply Policies*. (Washington, DC, Aug. 1997).

Much more investigation is needed before monies are spent on dam rehabilitation.

Far more information is needed before spending any money – public or private – on a specific dam-rebuilding scenario. ADC has not provided an analysis of the potential damage from a flood if the dam failed. In fact, despite requests from the Oregon Department of Water Resources, no inundation map has been done for Wallowa Lake Dam to determine the extent of damage that would occur if a breach happened. Alternative scenarios and a cost/benefit analyses for rebuilding the dam should also be completed prior to spending money on this project.

There are also important questions that need to be asked regarding the ballooning price tag of the project. According to an article in the *Wallowa County Chieftain*, “While it is estimated that the minimum to replace the aging dam would be about \$6 million, an effort to enlist partners expanded the scope of the project to its current \$38 million price tag.”¹⁴ The article goes on to state, “in the last couple of months, citizens have questioned strongly both the size of a project that ballooned from an original estimate of \$1.5 million, and the strings that would come with federal funding.”¹⁵ The current project estimate of \$38 million is more than 25 times the original cost estimate of \$1.5 million. This raises serious concerns about how federal tax dollars will be spent on the project. I have attached this article for the record.

There is vocal local opposition to the project.

While some citizens seem to support the rehabilitation of Wallowa Lake Dam, others in Wallowa County have expressed deep concerns about proceeding with the project.¹⁶ In a March 4, 2004 letter to the editor, Walter J. Smith, Ph.D., of Joseph, Oregon, wrote, “The ADC has a vision. They want us to donate \$32 million for that vision. When the federal deficit is already beyond \$520 BILLION for this fiscal year alone? Once upon a time some of the ADC’s members may have been considered conservative. But this is a very liberal request.”¹⁷ *Wallowa County Chieftain* letters to the editor and the above mentioned article have been attached for the record.

Conclusion

In conclusion, while the underlying goals of H.R. 3747 may have merits, Taxpayers for Common Sense does not believe that federal tax dollars should be used to pay for the project. This is a private project and as such should be funded privately, not with federal dollars. To utilize taxpayer dollar to rehabilitate Wallowa Lake Dam would mean setting a bad precedent throughout the U.S. of using extremely limited Bureau of Reclamation for funding non-federal projects. Simply put, the appetite for these projects would be insatiable. At this time of skyrocketing budget deficits and a predicted deficit of \$521

¹⁴ Elane Dickenson, *Dam renovation important to all Wallowa County*, WALLOWA COUNTY CHIEFTAIN, (Feb. 19, 2004).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Walter J. Smith, *The Dam Hammer* (letter to the editor), WALLOWA COUNTY CHIEFTAIN, (Mar. 4, 2004).

billion in 2004 alone, we cannot afford to be led down this path.

As stated by Bureau of Reclamation Commissioner Keys, the federal water infrastructure is aging and in need of repair. With limited funding, tough choices need to be made as how to best mete out federal funding to repair the infrastructure that the Bureau manages. The Bureau simply cannot afford to also take on the repair of private water infrastructure.

Thank you again for opportunity to testify today. I would be happy to answer any questions you might have.

Supplemental Information Sheet

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