Statement of Commissioner of Reclamation Gilbert G. Stamm Representing the Department of the Interior Before the House of Representatives Subcommittee on Water and Power Resources, Committee on Interior and Insular Affairs, on H.R. 6874, to Amend the Small Reclamation Projects Act of 1956, as amended.

Mr. Chairman and members of the subcommittee, we are appearing today on behalf of the Department of the Interior in support of H.R. 6874. The Department of the Interior, in its letter to the chairman of the committee, recommends enactment of the legislation if amended as requested.

The Small Reclamation Projects Act (70 Stat. 1044) was enacted August 6, 1956, and last amended on November 24, 1971 (85 Stat. 488). The act as amended enables Federal loans and/or grants to non-Federal organizations in the 17 contiguous Western States and Hawaii for water resources development or rehabilitation projects. The projects can include single-purpose irrigation or drainage functions or multiple-purpose functions, as appropriate. The Small Reclamation Projects Act is uniquely suited to meeting the needs of small districts.

During the last several years, there has been an upsurge of interest in the program. To meet increasing water demands, there is an urgent need to conserve water supplies and improve project operating efficiencies, both to increase project revenues and to decrease operating costs. To compound these problems, water organizations have been faced with a rapid escalation of construction costs. H.R. 6874 would materially assist the local organizations in their development plans by accommodating inflationary factors.
Section (a) of the bill amends section 2(d) of the act to delete the $15 million total project cost ceiling.

Section (b) of the bill adds a new subsection (f) to section 2 of the act permitting the maximum allowable estimated total project cost to be adjusted each calendar year depending upon the change in the Bureau of Reclamation's composite construction cost index for January of that year. The base cost ceiling for indexing would be $15 million and the base date would be January 1971. Computations indicate that the maximum allowable estimated total project cost would be $22,300,000 for calendar year 1975.

Section (c) of H.R. 6874 would add a new subsection (d) to section 4 of the act to enable the Secretary of the Interior, at the time of submitting the application to the Congress or at any time prior to completion of construction of the project, to adjust the amount of the requested loan and/or grant to an amount within the maximum allowed by the proposed new section (f) of the bill. Such adjustment would be used to compensate for changes in construction costs or for such changes in or additions to the proposed project as the Secretary may find proper and necessary to carry out the original purposes of the project. Section (c) of H.R. 6874 also includes a proviso for a 60-day legislative review period, if and when such changes would cause an increase in the total cost.
The administration suggests that section (c) of the bill be revised to read as follows:

"At any time subsequent to the execution of the repayment contract and before the completion of construction of the project, the Secretary is authorized to increase the amount of the requested loan and/or grant to an amount within the maximum allowable loan and/or grant under Section 5(a) to compensate for increases in construction cost due to cost escalation upon a finding that the project proposal remains financially feasible."

The language the administration suggests deletes the provision that would have permitted increasing the loan amount to compensate for changes in or additions to the proposed plan to carry out the original purposes of the project. It is feared that the language proposed in the bill might be interpreted to permit changes in the engineering plan that would go beyond the original approved project plan and objectives.

It is recommended that the proviso of section (c) of the bill covering the 60-day legislative review period be deleted. It is believed that the additional review period would be administratively restrictive. The allowable increases in the loan and/or grant under the proposed amendment would be limited to cost escalation. Further congressional review would reduce the flexibility in programming desirable to maintain an orderly construction program.
We feel that congressional review of the initial project proposal provides adequate congressional control and input to a project, and that adequate controls could be maintained with respect to increases by administrative review, which would also provide a simpler and more expeditious procedure for evaluating and implementing increases. For mid-project increase proposals, time may be of the essence, whereas this is not as likely to be true of new proposals.

The Department's report discusses this point in the light of the "Separation of Powers" doctrine.

Section (d) of the bill further amends section 4 of the act by changing subsection (d) of the act to subsection (e) and amends the subsection by deleting the word "appropriation" and substituting the words "obligation of funds." The administration also opposes this provision as being subject to the same constitutional objections indicated above.

Section (e) of the bill further amends section 4 of the act to change subsection (e) to subsection (f).

Section (f) of the bill ties closely to section (a) and (b) and would amend section 5(a) of the act by deleting the $10 million maximum loan and/or grant and substituting language enabling the maximum loan and/or grant to be computed as two-thirds of the maximum allowable estimated total project cost. The maximum allowable loan for calendar year 1975 has been computed to be $14,900,000 under the terms of the proposed bill.
There has been an increase of about 48 percent in construction costs since the act was last amended in 1971. The largest single-year cost increase was 21 percent in 1974. Loan applicants have had to revise cost estimates and financial analyses of completed project reports to keep up with rising construction costs. Approved projects with construction underway during that period have received bids for construction well in excess of previously estimated costs. Organizations have been faced with a decision to cut back on the scope of projects envisioned, which may not be feasible, or apply for supplemental loans to complete the proposed project works. The proposed legislative changes for maximum allowable estimated total project costs and maximum loan and/or grant amounts would maintain, on an annual basis, essentially the same size project envisioned under the 1966 amendment of the act which changed the original ratio of maximum loans to total project cost.

Section (g) of the bill amends section 10 of the act by increasing the authorized appropriation ceiling to $400 million from $300 million. That amendment would provide assurance to potential applicants that there is an intended continuity to the loan program that warrants proceeding with the costly investigations and reports required in support of an application.

To date, a total of more than $160 million has been expended or is committed to projects that have been completed or are under construction. More than $60 million additionally will be required for project applications that have been approved or are in final stages of review.
We have received notices of intent to apply for loans that would require more than $185 million. The aggregate appropriation required for all of the above is about $400 million.

Your favorable consideration of H.R. 6874 with the amendments discussed herein, is recommended.
IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1975

Mr. JOHNSON of California (for himself and Mr. Lujan) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Small Reclamation Projects Act of 1956, as amended.

Be it enacted by the Senate and House of Representa-  
atives of the United States of America in Congress assembled,

That, the Small Reclamation Projects Act of 1956 (70 Stat.  
1044) as amended, is further amended as follows:

(a) Subsection 2 (d) of the Act, as amended, is further  
amended to read as follows:

"(d) The term ‘project’ shall mean (1) any complete  
irrigation project, or (ii) any multiple-purpose water re-  
source project that is authorized or is eligible for authoriza-  
tion under the Federal reclamation laws, or (iii) any distinct
unit of a project described in clauses (i) and (ii) or (iv)
any project for the drainage of irrigated lands, without
regard to whether such lands are irrigated with water supplies
developed pursuant to the Federal reclamation laws, or (v)
any project for the rehabilitation and betterment of a project
or distinct unit described in clauses (i), (ii), (iii), and
(iv): Provided, That the estimated total project cost de-
dcribed in clause (i), (ii), (iii), (iv), or (v) does not
exceed the maximum allowable estimated total project cost
as determined by subsection (f) hereof. Nothing contained
in this Act shall preclude the making of more than one
loan or grant, or combined loan and grant, to an organization
so long as no two such loans or grants, or combinations
thereof, are for the same project, as herein defined.”.

(b) Section 2, as amended, is further amended by adding
a new subsection (f) as follows:
“(f) The maximum allowable estimated total project
cost of a proposal submitted during any given calendar year
shall be determined by the Secretary using the Bureau of
Reclamation composite construction cost index for January
of that year with $15,000,000 as the January 1971 base.”.

(c) Section 4, as amended, is further amended by add-
ing a new subsection (d) as follows:
“(d) At the time of his submitting the project proposal
to the Congress, or at any subsequent time prior to com-
pletion of construction of the project, the Secretary may increase the amount of the requested loan and/or grant to an amount within the maximum allowed by subsection (a) of section 5 of the Act as herein amended, to compensate for increases in construction costs due to price escalation and/or for such changes in or additions to the proposed plan as he may find proper and necessary to carry out the original purposes of the project: Provided, That no such increase shall become effective prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's findings and approval for such increase are submitted to the Congress and then only if, within said sixty days, neither the House nor the Senate Interior and Insular Affairs Committee disapproves the project proposal by committee resolution.

(d) Section 4, as amended, is further amended by changing subsection (d) to subsection (e) and amending it to read as follows:

"(e) No obligation of funds shall be made for financial participation in any such project prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three cal-
(e) Section 4, as amended, is further amended by changing subsection (e) to subsection (f).

(f) Subsection 5(a), as amended, is further amended by deleting "$10,000,000 or" and inserting in lieu thereof the following: "two-thirds of the maximum allowable estimated total project cost as determined by subsection (f) of section 2, or".

(g) Section 10, as amended, is further amended by deleting "$300,000,000" and inserting in lieu thereof the amount of "$400,000,000".
A BILL

To amend the Small Reclamation Projects Act of 1956, as amended.

By Mr. JOHNSON of California and Mr. LUJAN

MAY 12, 1975
Referred to the Committee on Interior and Insular Affairs
Dear Mr. Chairman:

This is in response to your request for the views of this Department concerning H.R. 6874, "To amend the Small Reclamation Projects Act of 1956, as amended."

We have reviewed the proposed bill and recommend in favor of its enactment, if amended as explained below.

The purpose of the proposed amendments is to update the Act to account for the effects of inflation, by raising certain ceilings now provided in the Act and by allowing the Secretary additional flexibility in the administration of projects under the Act.

Section (a) of H.R. 6874 amends Section 2(d) of the Act to delete the $15 million total project cost ceiling. (The proposed amendment does not otherwise affect eligibility requirements found in Section 2[d]). A new, flexible cost ceiling is provided by Section (b) of the proposed bill.

Section (b) of the bill adds a new subsection (f) to Section 2 of the Act permitting the maximum allowable total project cost to vary in each calendar year depending upon the change in the Bureau of Reclamation's composite construction cost index for January of that year. The base cost for indexing would be $15 million and the base date would be January 1971.

Section (c) of H.R. 6874 would add a new subsection (d) to Section 4 of the Act to enable the Secretary of the Interior, at the time of submitting the application to the Congress or before the completion of construction of the project, to increase the amount of the requested loan and/or grant to an amount within the maximum allowed by Section (f) of the bill (Section 5(a) of the Act as proposed to be amended). Such increase would be used to allow for increases in construction cost or for such changes in or additions to the proposed project as the Secretary may find proper and necessary to carry out the original purposes of the project. Section (c) of the bill also includes an additional 60-day legislative review period for loan and grant increases.

Save Energy and You Serve America!
The Administration has recommended that the new subsection (d) of Section 4 of the Act, as provided in Section (c) of the bill be deleted in its entirety. The reasons provided are as follows. There are no established guidelines for indexing costs increases, and the practice provided in subsection (d) should not be legislated on a piecemeal basis. There is no similar provision in any other Government loan program. Contractors may still resort to their common practice of providing for extra contingency funds in their original loan request. The increased facility for obtaining additional funds may reduce incentives to hold costs to a minimum. And finally, it may be possible, if absolutely necessary, to apply for a supplemental loan.
Section (d) of the bill further amends Section 4 of the Act by changing subsection (d) of the Act to subsection (e) and amends the subsection by deleting the word "appropriation" and substituting the words "obligation of funds." We also oppose this provision as being subject to the same constitutional objections indicated above. While the structures in existing law making appropriations subject to Committee veto can be justified as establishing internal Congressional procedures, the obligation of funds afterward is clearly an executive action, which under the doctrine of separation of powers is not subject to control of a Committee of Congress.

Section (c) of the bill further amends Section 4 of the Act to change subsection (e) to subsection (f).

Section (f) of the bill is closely tied to Sections (a) and (b) and would delete the $10 million maximum loan and/or grant limit and substitute language enabling the maximum loan and/or grant to be computed as two-thirds of the maximum allowable estimated total project cost. We compute the maximum allowable estimated total project cost to be $22,258,000 for January 1975. We propose to round that amount to the nearest $100,000 or $22,300,000. With that base, the maximum loan would be computed to be $14,874,000 or rounded, to $14,900,000.

There has been an increase of about 48 percent in the costs of construction since the Act was last amended in 1971. The largest single-year cost increase was 26 percent in 1974. Loan applicants have had to revise cost estimates and financial analyses of completed project reports to keep up with rising construction costs. Those approved projects with construction underway during that period have received construction bid estimates well in excess of previously estimated costs. They have been faced with a decision to cut back on the scope of planned projects, which may not be financially feasible, or apply for supplemental loans to complete the proposed project works. Those legislative changes for maximum allowable total project cost and maximum loan and/or grant amounts would maintain, on an annual basis, essentially the same size project envisioned under the 1966 amendment of the Act, which changed the original ratio of a loan to total project cost.

Section (g) of the bill amends Section 10 of the Act by increasing the authorized appropriation ceiling to $400 million from $300 million. That amendment is appropriate to provide assurance to
potential applicants that there is an intended continuity to
the loan program that warrants proceeding with the costly
investigations and reports required in support of an application.

To date, more than $160 million has been expended or is committed
to projects that have been completed or are under construction.
More than $60 million additional will be required for project
applications that have been approved or are in final stages of
review. We have received notices of intent to apply for loans
that would require more than $185 million. The aggregate appro­
priation required for all of the above is about $400 million.

Other than the increase in the total program appropriation ceiling,
the immediate or near future probable cost which would result from
enactment of H.R. 6874 cannot be estimated with any reliable accuracy.

The Office of Management and Budget has advised that there is no
objection to the presentation of this report from the standpoint
of the Administration's program.

Sincerely yours,

Rayton C. Hughes

Assistant Secretary of the Interior

Honorable James A. Haley
Chairman, Committee on
  Interior and Insular Affairs
U.S. House of Representatives
Washington, D.C. 20515
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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

FROM: Congressional & Legislative Office
TO: Commissioner

Attached is witness statement for your information and files.

EL Andrews
6/12/75
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The Administration suggests the deletion of Section (c) of the bill. Section (d) of the bill further amends section 4 of the act by changing subsection (d) of the act to subsection (e) and amends the subsection by deleting the word "appropriation" and substituting the words "obligation of funds." The administration also opposes this provision on the basis of the "Separation of Powers" doctrine.

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