July 25, 2023

Chairman Bruce Westerman
Ranking Member Raúl Grijalva
Committee on Natural Resources
United States House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Subject: Opposition to Western Water Accelerated Revenue Repayment Act

Dear Chairman Westerman and Ranking Member Grijalva:

I am writing on behalf of Taxpayers for Common Sense to express our strong opposition to H.R. 3675, the Western Water Accelerated Revenue Repayment Act, which would make Section 4011 of the Water Infrastructure Improvements for the Nation (WIIN) Act permanent. Section 4011 directs the Bureau of Reclamation to convert water service contracts to repayment contracts upon a contractor's request. This provision allows contractors to repay their construction costs in a lump sum or through accelerated payments, which would then exempt them from certain provisions of federal reclamation law. These exemptions include:

- Acreage limitation provisions: Contractors are no longer subject to limitations on the amount of land they can irrigate with water provided from federal reclamation projects. The acreage limitation provisions were initially designed to prevent speculation and monopolies in Reclamation project units.

- Full-cost pricing provisions: Contractors are exempt from the requirement to pay the full cost of water delivered to their lands. Full-cost pricing is an annual rate established by the Bureau of Reclamation that includes the repayment of construction costs, operation and maintenance costs, and other related expenses.

Acreage limitations and full-cost pricing provisions of federal reclamation law are meant to prevent speculation and monopolies in Reclamation project units and to ensure that the benefits of federally subsidized water projects are distributed equitably among small farmers. The acreage limitation provisions restrict the amount of land that can be irrigated with water provided by federal reclamation projects, thereby preventing large landowners from dominating the use of water resources. The full-cost pricing provisions require irrigators to pay the full cost of water delivered to their lands, which is an annual rate intended to repay over time the portion of the federal government's expenditures for the construction, operation, and maintenance of the projects. This pricing mechanism is meant to ensure beneficiaries of the projects bear the costs associated with the water they use, promoting more efficient and equitable water use.

While early repayment could bring in early revenue for the U.S. Treasury, it also raises concerns about reduced long-term revenue, which may affect the overall financial sustainability of the initiative. The financial return to the federal government from early repayment depends on whether any discounts are authorized, such as calculating the present value of the outstanding repayment obligation to determine the amount to be repaid early.

In 2015, the Congressional Budget Office (CBO) conducted estimates regarding the impact of prepayment authority on government receipts for H.R. 2898, the Western Water and American Food Security Act of 2015, which ultimately became Section 4011 of the WIIN Act. CBO projected that during the FY2016-FY2025 period, prepayment authority would increase incoming receipts by approximately $721 million. However, in the long term, net receipts to the Treasury would decrease due to contractors paying their obligations upfront, with this amount being discounted by half the rate for 20-year Treasury securities on the contract's effective date. CBO estimated a net loss of $540 million in offsetting receipts over 35 years.[1] Additionally, the Joint Committee on Taxation projected that the bill would reduce federal government tax revenues by $89 million over the next 10 years, as contractors would finance some of their lump-sum repayments through tax-exempt bonds.[2]

Similarly, the CBO conducted an analysis in 2012 of proposed legislation known as H.R. 1837 "Sacramento-San Joaquin Valley Water Reliability Act" to extend early repayment authority to all irrigation districts in the Central Valley Project. If enacted, the proposed legislation would have allowed early repayments based on the present value, calculated using the 20-year Treasury rate, of the irrigation districts' outstanding repayment obligations. The CBO estimated that if this legislation were put into effect, and most irrigation districts exercised their early repayment authority, it could result in a net loss of $176 million to the government over the long term.

The implementation of a permanent accelerated payments program may also have unintended consequences for water usage at a time when the water supply in the American West has reached critical levels. Exemption from ownership limitations and full-cost pricing provisions of federal reclamation law would likely lead to overuse of increasingly scarce water resources. Furthermore, while early repayment allows districts to avoid renegotiating water service contracts when they expire, the fixed amount of water received under a repayment contract limits the agency's flexibility in responding to water shortages, droughts, and climate change-related issues. Early repayment also eliminates annual reporting requirements for landholders, depriving the Bureau of important usage information necessary to conduct sustainable water resource management.

As an organization committed to fiscal responsibility and efficient use of taxpayer dollars, we are deeply concerned about the potential consequences of making Section 4011 permanent. The current economic and environmental landscape demands careful scrutiny of reclamation projects, and this proposed measure, if passed, could result in substantial financial burdens for taxpayers while also undermining rules designed to ensure responsible water usage.

TCS opposes the extension and expansion of Section 4011 for the following reasons:

1. **Financial Implications**: Making this repayment acceleration permanent would lead to a significant increase in financial obligations on the part of taxpayers. The current scheme has already demonstrated the potential for excessive cost burdens on local communities, and

[1] Accelerated Repayment of Bureau of Reclamation Construction Costs (everycrsreport.com)
[2] Ibid.

permanency would exacerbate this issue, with the costs ultimately being passed down to taxpayers.

2. **Distorted Incentives**: Permanently accelerating repayment could incentivize the Bureau of Reclamation to prioritize projects with higher construction costs, rather than focusing on more sustainable and cost-effective alternatives.

3. **Lack of Oversight**: The provision to accelerate the repayment of construction costs was originally intended to be a temporary measure to address immediate infrastructure needs. Making it permanent without adequate checks and balances would diminish transparency and oversight, leaving taxpayers susceptible to potential misuse of funds or inefficient project management.

4. **Environmental Concerns**: Accelerated repayment could encourage the construction of unnecessary water infrastructure projects at a time when dwindling water resources call for a more conservative treatment of reclamation projects overall.

Instead of supporting this provision, we urge you to consider alternative approaches that promote responsible water infrastructure investments while safeguarding taxpayer interests and the environment. We encourage a comprehensive review of existing water projects, prioritizing those with the most significant public benefits and cost-effectiveness.

Additionally, exploring public-private partnerships, implementing improved water management strategies, and investing in sustainable water technologies could offer more innovative and fiscally prudent solutions to meet the nation's water infrastructure needs.

Thank you for considering our concerns. We are open to further discussion and collaboration on finding the best path forward for responsible water infrastructure investments.

Sincerely,

Stephen Ellis
President