

AUTHORIZING THE REPLACEMENT OF THE EXISTING AMERICAN FALLS DAM

JUNE 15, 1973.—Ordered to be printed

Mr. CHURCH, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 1529]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 1529) to authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Upper Snake River project, Idaho, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

(1) Change the reference to the "Upper Snake River project" to read "Minidoka project" wherever it appears.

(2) On page 1, line 6, delete the word "district" and insert instead the words "present spaceholders".

(3) On page 2, line 10, delete "project," and insert the following:

project: *Provided*, That the design, construction and operation of the replacement dam shall not result in a maximum water surface elevation at the dam higher than El. 4354.5 feet, and: *Provided, further*, That the Secretary shall continue the program of prevention of and compensation for erosion related to the reservoir.

(4) On page 2, revise lines 23 through 25 to read as follows:

* * * and the Secretary shall be a party to said contracts and the delivery of water to the spaceholders shall be contingent upon the execution of such contracts and the fulfillment of the obligations thereunder: *Provided*, That * * *

(5) On page 3, line 21, after the word "shall" insert the following phrase: "be approved by the Secretary so long as it does".

(6) On page 3, lines 23-25, amend Sec. 5 to read as follows:

Sec. 5. Construction of the replacement dam shall not be initiated until the Secretary has approved the designs and specifications of the construction of the dam and of the proposed operation of the dam and reservoir. Preliminary design plans shall be submitted to the Secretary by the constructing agency. The Secretary shall approve said plans, or must promptly set forth specific objections to the preliminary design plans. If the parties cannot agree, said specific objections shall be submitted to binding arbitration by an engineering consulting board. The Secretary shall select one member of the board, the constructing agency shall select one member of the board, and the two members so selected shall select a third member. The consulting board's decisions on the specific engineering questions shall be binding on the Secretary and the constructing agency. The constructing agency shall then prepare final designs and specifications. Costs incurred heretofore and hereafter by the Secretary in reviewing such designs, specifications, plans and construction shall be nonreimbursable and such amounts as are required are authorized to be appropriated for this purpose. The Secretary is authorized to accept fund advances from the beneficiaries if necessary to avoid delays occasioned by appropriations and to make compensation by payment or credits.

(7) On page 4, lines 2 and 3, delete the word "conservation" and insert instead the word "enhancement"; and on page 4, line 6, add the following language:

In addition, specific facilities for public recreation may also be provided in accordance with the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 460, *et seq.*).

(8) On page 4, lines 7 through 11, amend Sec. 7 to read as follows:

Sec. 7. There is hereby authorized to be appropriated for construction of specific facilities for public recreation and fish and wildlife enhancement the sum of \$400,000 (July 1972 prices) plus or minus such amounts, if any, as may be required by reason of the changes in the cost of construction work of the type involved therein as shown by engineering cost indices. There are also authorized to be appropriated such funds as may be necessary to meet the prorated construction cost apportionable to the irrigation storage rights of the Michaud Division of the Fort Hall Indian Reservation for space in the reservoir behind the American Falls Replacement Dam and such cost shall be subject to the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 368a). There are also authorized to be appropriated such funds as are required for the operation and maintenance of the dam and related facilities.

(9) On page 3, line 12, delete "defer" and insert "deferay".

(10) On page 2, line 11, delete "Sec. 2" and insert "Sec. 2(a)", and on page 2, after line 16, insert the following language:

(b) The constructing agency shall: (i) include as a part of the project, a river crossing meeting the then current Department of Transportation standards for Federal-Aid secondary highway two-lane traffic, which crossing shall be located on top of the replacement dam or immediately downstream from the dam, and which crossing shall be financed by State, Federal and private funds, or any combination thereof as the parties deem appropriate; and (ii) coordinate the design of project crossing to allow the inclusion of an additional two lanes, which additional two lanes shall be the responsibility of the Idaho Department of Highways and which may be funded with State or Federal funds.

(c) The plans and specifications for the construction of the dam shall require that an adequate two-lane, two-way crossing shall be maintained at or near the site of the dam during construction.

(11) Amend the title of the bill to delete the phrase "Typer Snake River project" and insert instead the phrase "Minidoka project".

PURPOSE OF THE MEASURE

The purpose of this measure, which was introduced by the Senators from Idaho, is to authorize the Secretary of the Interior to enter into appropriate agreements to permit the water-users to arrange for the financing and construction of a replacement for the existing American Falls Dam, which has become unsafe as a result of deteriorating concrete. The replacement dam would be acquired by the Secretary and operated as a feature of the existing Minidoka Reclamation project.

BACKGROUND

The existing American Falls Dam is located on the Snake River in Southern Idaho. The dam was constructed by the Bureau of Reclamation in 1927 as a feature of the Minidoka project. Physical data on the existing project are as follows:

Existing dam

Type—composite, concrete gravity center section with earth-fill embankment wings
Height—94'
Crest length—5,927'

Reservoir

Active capacity (unrestricted)—1,700,000 acre feet
Surface area—56,100 acres
Shoreline—100 miles

Minidoka project

Irrigable area—1,149,000 acres
Number of irrigated farms—19,900

Gross crop value (1971)—\$154 million

Total storage dams—5

Total storage capacity—2,784,600 acre feet.

A chemical reaction between the aggregate and the cement has led to gradual deterioration of the structure. The Bureau has determined that the dam is no longer structurally competent and has imposed restrictions upon the maximum water level in the reservoir.

Storage in the reservoir is presently limited to less than 65 percent of its usable capacity. Greater restrictions will be necessary as the deterioration of the dam advances. The reservoir contributes nearly half the usable storage capacity in the Upper Snake River System, and provides irrigation water supplies to about 900,000 acres of land. Constraints on operation will pose serious threats to the agricultural economy of the area and to the recreation, fish and wildlife, flood control, and hydroelectric power functions served by the reservoir system.

Furthermore, the roadway on the crest of the existing dam is the only crossing within an 80 mile reach of the river. The outdated, 17-foot roadway must carry over 3,000 cars per day including heavily loaded farm produce trucks and agricultural equipment.

The Bureau of Reclamation has conducted a study to investigate the possibilities for replacement and rehabilitation of the American Falls Dam. The Bureau's Special Report dated December 1972 found that the replacement of the dam in the proximity of the present site would be preferable to rehabilitation. The Secretary of the Interior has made no recommendations to the Congress pursuant to the report.

In the interest of expediting completion of a replacement dam and in recognition of Administration reluctance to recommend conventional construction under the reclamation program, the spaceholders (water-users entitled to storage space in the American Falls reservoir) have explored alternative means for financing and carrying out the replacement of the dam.

The Senators from Idaho introduced two alternative measures for the replacement of the dam. One measure, S. 1528, would authorize the Secretary of the Interior to construct, operate and maintain a replacement dam having the same capacity reservoir and operations as the existing American Falls Dam. The financing of the replacement would be in accordance with conventional reclamation policies. The other measure, S. 1529, which is reported on herein would authorize an alternative financing approach proposed by the water-users in the interest of expediting completion of a replacement dam. In this alternative, an appropriate water-users organization would be authorized to construct the dam, using private financing, and transfer ownership to the Secretary for operation and maintenance as a project feature. The water-users agency would be authorized to contract with an electric utility for the use of falling water at the dam for hydroelectric power generation to help defer the costs of constructing the dam. The Idaho Power Company, which is a spaceholder in the reservoir and which owns and operates a powerplant below the existing dam, has expressed its interest in such a contract.

The Subcommittee on Water and Power Resources held a hearing on both measures on May 10, 1973. The Department of the Interior recommended enactment of S. 1529, the measure reported on herein and did not support the enactment of S. 1528, the alternative measure.

The Department recommended a number of amendments to S. 1529, most of which were adopted by the Committee as explained below. The Subcommittee considered the measures in executive session on June 11 and recommended to the Full Committee that S. 1529 be reported favorably to the Senate with amendments.

SECTION-BY-SECTION ANALYSIS

The provisions of S. 1529 as reported to the Senate are as follows: *Section 1* authorizes the Secretary of the Interior to enter into agreements with the American Falls Reservoir District, or other appropriate entity representing the spaceholders (the constructing agency); to provide for the construction of a replacement for the American Falls Dam.

The District would contract with Bechtel Engineers-Constructors to design and construct a replacement dam utilizing portions of the existing structure and maintaining the maximum unrestricted reservoir capacity of the original dam. The cost of the replacement dam and highway crossing, estimated at \$18,491,000 (1973 prices), would be financed by the District through bond issues. The Secretary would take title to the dam upon completion of construction and would operate and maintain it as a Federal dam and a feature of the existing Minidoka Reclamation project.

Section 2 provides for the protection of the existing rights to storage capacity in the American Falls Reservoir and reaffirms existing contract obligations of the spaceholders to the United States. Current erosion control programs on the reservoir banks would be continued by the Secretary. An adequate river crossing will be provided as a part of the project as discussed below.

Section 3 authorizes the constructing agency to enter into repayment contracts with the spaceholders as necessary to recapture the costs of the replacement. The Secretary is to be a party to these contracts and they shall be consistent with existing contracts. The Secretary is granted authority, however, to amend existing contracts, if necessary, to bring the total repayment obligation of a spaceholder within the spaceholder's repayment capacity.

Section 4 authorizes the constructing agency to enter into a contract to lease the falling water from the dam for hydroelectric power production. The Idaho Power Company has expressed a willingness to construct a 100-megawatt powerplant in conjunction with the replacement dam and to pay, through a "falling water" contract, up to \$19,000,000, plus interest charges, to assist in retiring the bond issue.

The Secretary will review the "falling water" contract to insure that it will not impair the efficiency of the project to serve the other purposes of the Minidoka Reclamation project.

Section 5 provides that the Secretary must approve the designs and specifications of the dam. The costs of the review are made nonreimbursable; however, the Secretary is authorized to accept fund advances from the constructing agency if necessary to avoid delays in the review due to lack of appropriated funds for the purpose. The Secretary is authorized to reimburse the constructing agency for such advances by direct payment or credits against debts to the United States. An arbitration procedure is established to resolve points of techni-

cal disagreement which may arise between the Secretary and the architect-engineer as a result of the review of designs and specifications.

Section 6 provides authority for the Secretary to provide specific public recreation and fish and wildlife enhancement facilities in connection with the replacement dam. A plan for such measures, including nesting islands for geese, fishery enhancement measures, reservoir access, and recreation areas was developed in connection with the Bureau of Reclamation's studies of a replacement dam. The costs of these measures will be shared by an appropriate local entity under the provisions of the Federal Water Project Recreation Act (79 Stat. 213).

Additional recreational development at the reservoir also might be accomplished by State and local entities under the provisions of the Land and Water Conservation Act (78 Stat. 897, as amended).

Section 7 authorizes appropriations in the amount of \$400,000 to provide for the costs of public recreation and fish and wildlife facilities. Funds in the amount required are also authorized to be appropriated to finance the portion of the costs of the dam replacement associated with the share of reservoir storage space owned by the Fort Hall Indian Reservation.

COMMITTEE AMENDMENTS

The Committee amended the bill in a number of respects to reflect recommendations made by the Department of the Interior and points raised by local interests during the hearings. The texts of the amendments are set forth by number at the beginning of this report. The following explanations are numbered accordingly:

(1) The Department of the Interior recommended the retention of the name of the existing Minidoka project in place of the designation Upper Snake River project which has been used on recent Department reports.

(2) This amendment was recommended by the Department. It would provide latitude for the spaceholders, including those outside of the American Falls Reservoir District, to be represented by an appropriate entity of their choosing.

(3) The Department recommended language to specifically provide that the replacement dam would provide for a maximum reservoir level no higher than that provided for by the existing dam. There is no intention to increase the size of the reservoir, and the elevation of 4354.5 set forth in the amendment is the maximum water surface elevation which was provided by the existing dam.

The Department also recommended a proviso insuring the continuation of the existing program of prevention of damages from erosion along the shores of the reservoir or of compensation for losses of land because of erosion. That program is presently carried out as a regular operation and maintenance function. The replacement dam will not alter the conditions which create the erosion problem. The second proviso makes clear that the existing erosion programs are intended to continue after the replacement.

(4) This is clarifying language recommended by the Department.

(5) The Department recommended that the Secretary of the Interior

be given the power of approval of the falling-water contract between the spaceholders and the owner of the powerplant contemplated to be constructed in conjunction with the replacement dam. The Committee adopted language indicating that the power of approval is limited to the determination that the contract will not impair the efficiency of the dam to serve the other purposes of the Federal Minidoka project.

(6) Section 5 of the bill provides the Secretary with authority to approve the designs and specifications for the replacement dam. The Committee has amended the section to provide that in the event of disagreement between the Secretary and the constructing agency concerning the design, an arbitration board of consulting engineers will be chosen to provide a binding decision on the question.

The Department of the Interior recommended that the costs incurred by the Department in the review of designs, specifications, and construction of the dam be reimbursable. The Committee, however, observes that the spaceholders are assuming large costs of construction which, in the event of Federal replacement of the dam, would have been nonreimbursable. To avoid a further financial burden on the spaceholders, the Committee has adopted language which would make the review costs nonreimbursable. In the event that appropriations were not available to permit the review to proceed expeditiously, however, the Secretary would be authorized to accept an advance from the spaceholders and to compensate them by payment or credit against charges at a later time.

(7) This amendment is as recommended by the Department to clarify the intent that specific facilities for fish and wildlife conservation contemplated in conjunction with the replacement dam are for the enhancement of the values rather than to mitigate damages. Furthermore, the measure would not prohibit the provision of recreation facilities under the provisions of the Land and Water Conservation Fund Act.

(8) The Department recommended this amendment to Sec. 7 to incorporate a specific amount for the authorization of appropriations for public recreation and fish and wildlife enhancement, and to authorize appropriations of funds to contribute the share of the costs of the replacement dam associated with the Fort Hall Indian reservation's rights to reservoir storage space.

(9) This is a technical amendment to correct an archaic usage.

(10) This amendment adds language agreed upon among the spaceholders and the local interests who are primarily concerned with the provision of an adequate highway crossing to replace the road on the existing dam. From testimony presented at the hearing, the Committee understands the language of the new Subsection 2(b) to require (i) that, as a minimum, a river crossing meeting current two-lane secondary highway standards must be provided along with the replacement of the dam, and the constructing agency is obligated to finance such a crossing to any extent necessary beyond available State and Federal funding; and (ii) the constructing agency is obligated to cooperate with the Idaho Department of Highways in seeking the provision of a four-lane crossing. The constructing agency, however, will have no obligation to finance any part of the additional two lanes, and the construction of the replacement dam will not be contingent upon the provision of the additional two lanes.

(11) See amendment No. (1).

The Department also recommended the deletion of the second proviso in Sec. 3 of the bill which would authorize the Secretary to extend the terms of existing repayment contracts with the spaceholders. The Department commented that such extensions are not necessary. The Committee chose to retain the language and notes that the decision to extend any of the contracts would be made at the discretion of the Secretary based upon a determination of need. The provision, therefore, only provides latitude to adjust the contracts if presently unanticipated financial burdens make such relief necessary.

COMMITTEE COMMENT

The Committee expects that the Secretary of the Interior will make every effort to facilitate the negotiations and agreements necessary to carry out the purposes of this measure. The intent of the procedure adopted is to expedite the completion of a replacement dam to minimize the hardships imposed upon the local people both by curtailments of water supplies and the inadequacy of the existing river crossing.

The choice of this alternative to Federal construction of a replacement dam imposes a considerable additional financial burden upon the spaceholders. Successful achievement of the replacement will require the cooperation of all of the parties, particularly the Interior Department, in carrying out its responsibilities for review and approval of designs, contracts and agreements.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, by unanimous vote of a quorum present at an open executive session on June 11, 1973, recommends that S. 1529, as amended, be enacted.

EXECUTIVE COMMUNICATIONS

The reports of the Office of Management and Budget, the Department of the Interior, and the Federal Power Commission on S. 1529 are set forth in full below.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET, Washington, D.C., May 9, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your requests of April 13, 1973, for the views of the Office of Management and Budget on S. 1528, a bill "To authorize the Secretary of the Interior to construct, operate and maintain a replacement dam for the existing American Falls Dam of the Upper Snake River Basin project, Idaho, and for other purposes;" and S. 1529, a bill "To authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Upper Snake River project, Idaho, and for other purposes."

In its report to your Committee on S. 1528 and S. 1529, the Department of the Interior recommends enactment of S. 1529 in lieu of S. 1528 subject to certain amendments. In its report, the Department supports the concept of replacing the existing American Falls Dam through private financing and states that Federal liability will be limited, as under existing law, to the proportioned share of costs assigned to the Fort Hall Indian Reservation and to specific public recreation and fish and wildlife facilities.

We concur in the position taken by the Department and, accordingly, subject to the suggested amendments, recommend enactment of S. 1529.

Sincerely,

WILLIAM H. ROYMEI,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 9, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department concerning S. 1528 and S. 1529, similar bills to authorize replacement of the American Falls Dam in Idaho.

We recommend that S. 1529 be enacted with the amendments set forth below. Since we support enactment of S. 1529 and have not completed our review of the plan of replacing American Falls Dam specified in S. 1528, we cannot support its enactment at this time.

The bills—S. 1529 would authorize the Secretary of the Interior to negotiate and enter into agreements with the American Falls Reservoir District or an appropriate agency representing the district which would authorize the agency to finance the major costs and provide for construction of a replacement dam for the existing American Falls Dam. Upon completion, the United States would take title to the dam and it would be a feature of the Upper Snake River reclamation project, operated and maintained by the Secretary. The dam would be considered a "government dam" as defined in the Federal Power Act. Holders of storage rights in the existing reservoir would not be affected by replacement of the dam and the existing contract rights of such spaceholders with the Secretary would be reaffirmed except as modified by the bill. The bill would authorize the constructing agency to enter into contracts with current spaceholders providing for repayment of the replacement dam's cost. The Secretary would be a party to such contracts and he would be authorized to amend existing contracts to extend the repayment periods as necessary to bring the combined repayment obligations within the spaceholders' repayment capacity. The constructing agency would be authorized to contract with a non-Federal entity for the use of falling water for power generation. The Secretary would be authorized to provide facilities for public recreation and fish and wildlife conservation in connection with the replacement dam and costs would be repaid in accordance with the Federal Water

Project Recreation Act. Construction of the replacement dam could not begin until the Secretary had approved the designs and specifications.

S. 1528 differs from S. 1529 in that it authorizes the Secretary of the Interior directly to construct, operate and maintain the replacement dam as part of the Upper Snake River project under the Federal Reclamation laws in accordance with the plan set forth in the Bureau of Reclamation's report dated December 1972 entitled "American Falls Dam Replacement". The dam would serve irrigation, flood control, electric power generation, fish and wildlife and recreation purposes, except that power generation facilities other than those necessary to accommodate the future addition of hydroelectric power would not be installed unless subsequently authorized by Congress. The bill authorizes appropriation of \$29 million to construct the dam and provides that costs of improving the relocated highway across the top of the replacement dam to present day standards would be nonreimbursable to the Federal Government under the provisions of section 208 of the Flood Control Act of 1962. Public recreation and fish and wildlife conservation costs would be repaid in accordance with the Federal Water Project Recreation Act. Costs associated with the provisional features to accommodate future hydroelectric power would be deferred until power production is authorized. The interest rate applicable to the project for repayment purposes would be based on the long-term U.S. Governmental debt interest rate.

Background.—The Minidoka Project was authorized by the Secretary of the Interior on April 23, 1904, under the Reclamation Act of 1902.

American Falls Dam, a major feature of the Minidoka Project, was built by the Bureau of Reclamation in 1927. The dam is located on the Snake River in southeastern Idaho west of the town of Pocatello. American Falls Reservoir, with a capacity of 1.7 million acre-feet, is the largest storage reservoir in the Upper Snake River basin and contributes almost half the usable storage on the main stem of the Upper Snake River. Nearly 900,000 acres of land receive irrigation water from the reservoir and as of September 30, 1972, only \$578,516.52 of irrigation costs remained unrepaid to the United States of the total Federal irrigation investment amounting to \$7,511,087.11. There is an additional unpaid power obligation of \$404,365. Abnormal cracking throughout the concrete dam was reported as early as 1929 and has become progressively more severe. The condition of the dam has been closely monitored through regular biennial inspections. As the result of a core-drilling program in the early 1960's it was discovered that the concrete in portions of the dam was in a relatively advanced stage of deterioration due to a chemical reaction between alkalis in the cement and the aggregate. This type of reaction was unknown at the time the dam was built and has resulted in a significant loss in its strength and durability. Incident to the deterioration of the dam is the deteriorating condition of the existing two-lane State Highway 59 on the dam. This hazardous condition has resulted in the application of stringent traffic control procedures by the Idaho Department of Highways.

Studies in 1968 by a private board of consultants, consisting of three nationally known civil engineers, confirmed the Bureau of Reclamation's findings concerning the safety of the dam. The board stated that replacement or rehabilitation of the dam is desirable and that the

choice between replacement and rehabilitation should be based on a comparison of detailed designs, cost estimates and useful life of the dam after such work had been completed.

The condition of the dam has necessitated careful regulation of reservoir storage to avoid harmful pressures on the thin upper portion of the structure. For a number of years, winter storage has been restricted to 8 feet below the maximum reservoir water surface elevation in order to prevent ice pressures on top of the dam. Maximum storage is now limited to 11.3 feet below full pool which reduces the reservoir storage capacity to 1,125,000 acre-feet or approximately 66 percent of maximum design capacity.

In December 1972, the Bureau of Reclamation's Regional Director completed a preliminary special report which identifies a plan for replacing the dam and developing related multipurpose features. The report has not been fully reviewed by this Department or other appropriate agencies and does not necessarily reflect the views of the Secretary of the Interior. A copy of the report entitled "American Falls Dam Replacement" is enclosed.

More recently the reservoir spaceholders and the Idaho Power Company have proposed a plan to replace the existing American Falls Dam through non-Federal financing. A formal report has not been prepared on their plan, but we understand its general approach is that the spaceholders would obtain the right to replace the dam and to enter into a 50 year falling water contract for power with a right of renewal. The spaceholders would obtain financing for the new dam by the sale of tax exempt bonds and would assist Idaho Power Company in obtaining a Federal Power Commission license for construction of a powerplant at the dam. The Idaho Power Company would pay to the spaceholders an amount of money equal to the annual requirements for interest and amortization of the spaceholders bonds over a 40 year period, up to the actual cost of the dam but not more than \$19 million plus interest. The spaceholders would pay any additional cost over the \$19 million plus interest and the costs of replacing the existing highway river crossing and facilities for recreation, fish and wildlife and public health and safety.

Discussion.—In order to retain the full benefits of the American Falls Reservoir, it is apparent that the present dam must be replaced. The regional economy is dependent to a significant degree on the dam and reservoir and would benefit from the proposed replacement, both in terms of additional direct utility from the project and elimination of future uncertainty. We note that non-Federal hydroelectric power would be included as part of the project, helping to meet regional energy requirements without adverse thermal power production impacts. Because plans for the replacement dam will be subject to approval by and execution of an agreement with the Secretary, we see no need for licensing the dam under the Federal Power Act. The bill obviates the licensing requirement by making the dam a "government dam" within the meaning of the Federal Power Act. The proposed powerplant would, however, require a license.

S. 1529 adopts a plan which permits the substantial benefits described above to be obtained without cost to the Federal Government except for public recreational, and fish and wildlife conservation costs which would be shared with non-Federal interests in accordance with the Federal Water Project Recreation Act. By amendment suggested below, relatively small Federal appropriations would also be sought

for the proportionate share of costs assigned to the Fort Hall Indian Reservation. The plan thus calls for only minimal Federal expenditures and we believe the Federal cost is well worthwhile in view of the substantial benefits to the local economy.

Amendments.—Sections 1 and 4 of S. 1529 refer to the American Falls Dam and Reservoir being a part of the Upper Snake River Project. The existing American Falls Dam was authorized as a part of the Minidoka Project. The many water service and repayment contracts associated with American Falls Dam are identified as Minidoka Project contracts. The proposal is to replace a Minidoka Project feature without changing its size or water customers. Any new authorizations should continue to identify American Falls Dam as a part of the Minidoka Project and appropriate changes should therefore be made in the bill title and in sections 1 and 3 of the bill (page 2, lines 1, 5 and 9 and page 3, line 22) substituting "Minidoka Project" for "Upper Snake River Project". In addition, we recommend that the word "district" be deleted in line 6, section 1 and the words "present spaceholders" be substituted therefor. This change will provide greater flexibility in making final arrangements for replacement of the dam and will permit representation of spaceholders not now included in the American Falls Reservoir District.

With particular reference to protection of the Indian tribal interests of the Fort Hall Reservation we recommend that the bill be amended to assure that the level of the American Falls Reservoir not be raised and that appropriate action be taken to control any erosion which could adversely affect Indian lands. To accomplish this the following should be added at the end of section 1 of the bill:

"The construction and operation of the replacement dam shall not result in an increase in the elevation of the reservoir water surface above that maintained for the original dam. Such construction and operation shall include provision for the correction and prevention of erosion related to the reservoir or for the full and adequate compensation of adjacent land owners (including owners of land subject to a flowage easement for the reservoir) if such erosion cannot be corrected or prevented."

The last proviso in section 3 authorizes the Secretary to extend the repayment periods for existing repayment contracts so that the combined repayment obligation for the existing dam and the replacement dam are within the spaceholders' repayment capacity. We are not aware of the need for this provision and believe it is inappropriate that the United States bear costs that might result from defeasement of existing obligations. We therefore recommend deletion of this proviso (line 4 through 7 on page 3).

If an existing spaceholder is satisfied with the partial water supply that he now receives with limited operations of American Falls Dam and Reservoir and prefers not to sign a new contract, the bill leaves the position of the United States unclear. It is not desirable to provide that construction will not be started until contracts are obtained from all spaceholders, since this would mean that any spaceholder would have veto power over the entire arrangement. Delivery of water should, however, be made contingent upon execution of such contracts.

Therefore we recommend that section 3 be modified by striking on lines 23 and 24 the words "shall require" and by inserting in place

thereof the word "the" and on page 2, line 24, following the word "spaceholders" by deleting "to" and inserting the word "shall". On line 25, all after the word "upon" should be deleted and in lieu thereof the words "the execution of such contracts and the fulfillment of the obligation thereunder: *Provided*, That" should be inserted.

In order to provide the Secretary with a means of reviewing the falling water contract provided for in section 4 of the bill in advance, we recommend that the proviso set forth in that section be modified to read as follows:

Provided, That said contract for falling water shall be approved by the Secretary and shall not impair the efficiency of the project to serve the other purposes of the Minidoka Project."

We note that S. 1529 does not make specific reference to purposes to be served by the dam. We understand that those purposes are the same as those of the existing dam.

Prior to approval of the plans for the dam and reservoir, the Secretary would review, among other matters, the facilities planned for mitigation of any loss or damage to recreational, fish and wildlife values, the minimum facilities necessary for health and safety of reservoir users and others and the plans for any river highway crossing affecting project facilities. To make clear that the Secretary has authority to approve all such facilities associated with the replacement dam and the plan of construction, and to make clear that the cost of Secretarial review of the designs, specifications, plans and construction would be borne by the project beneficiaries, we recommend that section 5 of the bill be amended to read as follows:

"Sec. 5. Construction of the replacement dam shall not be initiated until the Secretary has approved the designs and specifications of the dam and related facilities, and the plan of construction of the dam and of the proposed operation of the dam and reservoir. Costs incurred by the Secretary in reviewing such designs, specifications, plans and construction shall be included as project costs allocated to beneficiaries of the replacement dam and shall be reimbursable to the Secretary."

Sections 6 and 7 of the bill should be modified to make clear that the specific public recreation and fish and wildlife facilities referred to are for enhancement, rather than mitigation purposes, and to specify the costs involved. In addition, certain provisions need to be included in S. 1529 to take into account the fact that the Fort Hall Indian Agency is one of the spaceholders in American Falls Reservoir under an agreement with the Bureau of Reclamation for about 2.8 percent of the reservoir storage. To facilitate the future participation of the Fort Hall Indian Reservation in the replacement storage, appropriations should be authorized to pay the prorated construction costs apportionable to irrigation storage rights (costs of the replacement dam not otherwise paid for by the United States or the Idaho Power Company) of the Indian Reservation. In accordance with usual reclamation practice, reimbursement of such costs to the United States should be deferred in accordance with the Leavitt Act.

To accomplish these matters, in section 6 (lines 2 and 3, page 4) the word "enhancement", should be substituted for "conservation", and the following sentence added at the end:

Specific facilities for public recreation may also be provided in accordance with the Land and Water Conservation Fund Act of 1965, (78 Stat. 897, as amended (16 U.S.C. 460 et seq.).

Section 7 should be revised to read:

SEC. 7. There is hereby authorized to be appropriated for construction of specific facilities for public recreation and fish and wildlife enhancement the sum of \$400,000 (July 1972 prices) plus or minus such amounts, if any, as may be required by reason of the changes in the cost of construction work of the type involved therein as shown by engineering cost indices. There are also authorized to be appropriated such funds as may be necessary to meet the prorated construction cost apportionable to the irrigation storage rights of the Michand Division of the Fort Hall Indian Reservation for space in the reservoir behind the American Falls Replacement Dam and such cost shall be subject to the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 368a).

Environmental.—Enclosed is a draft environmental impact statement concerning the American Falls Dam replacement as contemplated by S. 1529, prepared pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969. The final environmental impact statement will be prepared and fully considered in determining whether to enter the agreements authorized by the bill and to approve plans for the replacement of the American Falls Dam.

The Office of Management and Budget has no obligation to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JACK O. HORTON,
Assistant Secretary of the Interior.

Enclosures.

FEDERAL POWER COMMISSION,
Washington, D.C., May 24, 1973.

S. 1529—93d Congress, Replacement of American Falls Dam, Idaho.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request of April 13, 1973, we enclose fifty copies of the report of the Federal Power Commission on S. 1529.

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

Sincerely,

JOHN N. NASSIKAS,
Chairman.

Enclosure: 50 copies of FPC report on S. 1529.

FEDERAL POWER COMMISSION REPORT ON S. 1529—93d CONGRESS

S. 1529 would authorize the Secretary of the Interior (Secretary) to enter into agreements with non-Federal agencies for the replacement

of the existing American Fall Dam, Upper Snake River, Idaho. The United States would take title to the dam upon completion and the Secretary would operate and maintain it as a feature of the Upper Snake River reclamation project. The dam would be considered a "Government dam" as defined in section 3(10) of the Federal Power Act (41 Stat. 1064; 49 Stat. 838; 16 U.S.C. 736(10)) and accordingly the dam itself would not require a license from the Federal Power Commission. We note, however, that hydroelectric power facilities to be built downstream from the dam by Idaho Power Company would be licensed by the Commission.

The proposal under S. 1529 would result in replacement of Idaho Power Company's 27,000-kw plant with a new 100,000-kw plant. The redevelopment effected by construction of a new reclamation dam and a new powerhouse would assure the needed water supply for irrigation, would provide additional electric capacity and energy for the Company, and would provide better utilization of power potential of that reach of the Snake River.

The replacement of the existing reclamation dam would not alter the present proportionate storage rights of present spaceholders in the American Falls Reservoir and would constitute a reaffirmation of existing contract rights between the Secretary and the spaceholders except as the bill otherwise provides. The constructing agency would be authorized to enter into contracts with current spaceholders providing repayment of the cost of the replacement dam. The Secretary would be a party to such contracts and would be authorized to amend existing contracts to extend repayment period so that the combined repayment obligations would be within the spaceholders' repayment capacity. The bill authorizes the Secretary to sell surplus water from the Government dam to a non-Federal entity. Construction of the dam would not begin until the Secretary approves the designs and specifications. S. 1529 would also authorize the Secretary to provide specific facilities for public recreation and fish and wildlife conservation in connection with the replacement dam; costs would be repaid in accordance with the Federal Water Project Recreation Act (79 Stat. 213).

American Falls Dam was constructed by the Bureau of Reclamation during the period 1925-1927 to provide storage capacity for a 1,700,000 acre-foot of water with a full reservoir. This development together with six other smaller reservoirs are parts of an irrigation project which provides a full or supplemental water supply to more than one million acres of land situated discontinuously along a 300-mile length of the Snake River extending from the Wyoming State line to the town of Gooding in south-central Idaho.

Shortly after the American Falls project was completed it was noted that there was a deterioration of the concrete in the dam due to a chemical reaction between the cement and the aggregate. This deterioration has now progressed to a point where the Bureau of Reclamation, in the interest of safety, has lowered the maximum permissible reservoir level with a resultant decrease of 600,000 acre-feet in the usable storage capacity. With this reduction in the amount of stored water, the hazard of crop failures to irrigators is materially increased. Therefore, time is considered by the irrigators to be the essence of the solution of the present water shortage.

Commission staff members were informed in a meeting on March 8, 1973, with representatives of Idaho water users and the Idaho Power Company of their belief that the time required to remedy the current water shortage would be greatly reduced if the replacement of American Falls Dam could be made a non-Federal agency responsibility. The representatives' proposal was that reconstruction of the dam and the construction of a power plant of about 100,000 kw capacity would be a joint venture of the American Falls Reservoir District and the Idaho Power Company.

Idaho Power Company is interested in this matter because it owns a 27,000-kw power plant which draws water from American Falls Reservoir. As a spaceholder in the reservoir, the Company has primary storage in the amount of 45,000 acre-feet. Idaho Power Company has currently pending before the FPC an application for license for its American Falls development and two other hydroelectric developments—Shoshone Falls (12,380 kw) and Upper Salmon (34,500 kw)—to which a project number 2258 has been assigned. Action on this application has been deferred, at the Department of the Interior's request, pending a solution to the problem of the deteriorating American Falls Dam.

In about a 250-mile reach of the Upper Snake River downstream from American Falls, Idaho Power Company operates hydroelectric projects for which it has five major licenses outstanding: Twin Falls (Proj. No. 18), Lower Salmon (Proj. No. 2061), Bliss (Proj. No. 1975), C. J. Strike (Proj. No. 2055), and Swan Falls (Proj. No. 503) which collectively have power installations totaling approximately 240,000 kw.

The Bureau of Reclamation Minidoka powerplant (13,400 kw) and dam, which creates the 95,000 acre-foot Lake Walcott reservoir, are located about 40 river miles downstream from American Falls.

Although headwater benefit studies are planned for the future, the Commission has no specific information at this time as to the effect which the American Falls Reservoir operation has on the Idaho Power Company's downstream projects. However, we note that section 2 of S. 1529 provides that replacement of the existing dam shall in no way alter or change the present proportionate storage rights of spaceholders in the American Falls Reservoir.

With respect to Idaho Power Company's interest in this matter, it is noteworthy that the Company does desire to avert crop losses and maintain a viable economy in the area dependent upon American Falls storage by reason of the fact that it is the principal power supplier in this area.

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

FEDERAL POWER COMMISSION,
JOHN N. NASSIKAS,

Chairman.