

# H.R. 1946 and H.R. 4129

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## LEGISLATIVE HEARING

BEFORE THE  
SUBCOMMITTEE ON WATER AND POWER  
OF THE  
COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED SEVENTH CONGRESS  
SECOND SESSION

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April 24, 2002

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**H.R. 4129, To amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment; and H.R. 1946, To require the Secretary of the Interior to construct the Rocky Boy's/North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace the Rocky Boy's Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system, and for other purposes.**

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**Wednesday, April 24, 2002  
U.S. House of Representatives  
Subcommittee on Water and Power  
Committee on Resources  
Washington, DC**

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The Subcommittee met, pursuant to call, at 2:02 p.m., in room 1334, Longworth House Office Building, Hon. Ken Calvert [Chairman of the Subcommittee] presiding.

**STATEMENT OF THE HONORABLE KEN CALVERT, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF  
CALIFORNIA**

Mr. CALVERT. The Subcommittee on Water and Power will come to order. The Committee is meeting today to hear testimony on two bills, H.R. 4129, to amend the Central Utah Project Completion Act, and H.R. 1946, to require the Secretary of Interior to construct the Rocky Boy's/North Central Montana Rural Water System and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system, and for other purposes.

Under Rule 4(b) of the Committee Rules, any oral opening statements at hearings are limited to the Chairman and Ranking Minority Member. If other members have statements, they can be included in the record under unanimous consent.

Nearly 50 years ago the Colorado River Storage Project Act of 1956 initiated the comprehensive development of the Colorado River water in Colorado, Wyoming, New Mexico, and Utah. It provided authority to construct storage facilities and conveyance systems to allow these States to utilize their apportionments of the mighty Colorado River. Projects have been completed in California, Nevada, and Arizona, and many are still being completed in the upper basin States.

It has been almost 10 years since the Central Utah Project Completion Act of 1992 was enacted. There have been many changes in western water policy that require considerable flexibility. This act will provide changes to the project which will allow prepayment and shifting of existing budget authority, providing the means for the State of Utah to meet the growing water demands on the Rocky Mountains' western slope. This legislation is an important building block to preserve the quality of life in Utah while also accommodating the continued growth.

Mr. CALVERT. Second, we will hear from witnesses who will discuss H.R. 1946, to require the Secretary of the Interior to construct the Rocky Boy's/North Central Montana Regional Water System. No one questions the need for a family to have safe drinking water in their homes. There are several locations in the heart of this great Nation that do not have that luxury. This act seeks to find solutions on how to provide clean, safe drinking water to many homes in Central Montana.

Mr. CALVERT. Before we hear our witnesses, I would now like to recognize Mr. Cannon, who is not here yet, so we will recognize him a little bit later.

And so in the meantime we will go to the next bill which we will work on presently. Mr. Rehberg, the sponsor of H.R. 1946, you are recognized to further discuss the bill.

[The prepared statement of Mr. Calvert follows:]

**Statement of The Honorable Ken Calvert, Chairman,  
Subcommittee on Water and Power**

Today we will hold a legislative hearing on two bills, H.R. 4129, amending the Central Utah Project Completion Act, and H.R. 1946, the Rocky Boy's/North Central Montana Regional Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the non-core system, and for other purposes.

First, H.R. 4129, to amend the Central Utah Project Completion Act.

Nearly 50 years ago, the Colorado River Storage Project Act of 1956 initiated the comprehensive development of Colorado River water in Colorado, Wyoming, New Mexico and Utah. It provided the authority to construct storage facilities and conveyance systems to allow these states to utilize their apportionments of the mighty Colorado River. Projects have been completed in California, Nevada and Arizona; and many are still being completed in the upper basin states.

It has been almost 10 years since the Central Utah Project Completion Act of 1992 was enacted. There have been many changes in western water policy that require considerable flexibility. This act will provide changes to the project which will allow prepayment, and shifting of existing budget authority, providing the means for the State of Utah to meet the growing water demands on the Rocky Mountains' western slope. This legislation is an important building block to preserve the quality of life in Utah, while also accommodating the continued growth.

Secondly, we will hear from witnesses who will discuss H.R. 1946, to require the Secretary of the Interior to construct the Rocky Boy's/North Central Montana Regional Water System.

No one questions the need for a family to have safe drinking water in their homes. There are several locations in the heart of this great nation that do not have that luxury. This act seeks to find solutions on how to provide clean, safe drinking water to many homes in central Montana.

Before we hear from our witnesses, I now recognize the gentleman from Utah, Mr. Cannon, the sponsor of H.R. 4129, and Mr. Rehberg the sponsor of H.R. 1946 to further discuss these bills.

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**STATEMENT OF THE HONORABLE DENNIS R. REHBERG, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF  
MONTANA**

Mr. REHBERG. Thank you, Mr. Chairman. Mr. Chairman and other members of the Subcommittee, I am pleased to be here today to support and urge the passage of H.R. 1946, the Rocky Boy's/North Central Montana Regional Water System Act of 2001.

I have introduced this bill to authorize the construction of a rural municipal and industrial water system for residents on and near the Rocky Boy's Reservation in North Central Montana. The reservation and the neighboring communities have an acute need for a safe and reliable water source. Much of the area suffers from both poor quality water and limited water availability.

The current water system on the reservation is designed to deliver water at rates well below the average usage rates in the surrounding area, the State of Montana, and the United States in general. The quality of the groundwater on the reservation and throughout north central Montana is generally unacceptable for domestic use, and according to the Indian Health Service, has contributed to health problems on the reservation.

Many small communities, both on and off the reservation, are faced with increasingly strict Federal regulations requiring new and updated water treatment systems. Communities which have relied on groundwater, which is now classified as groundwater under direct influence of surface water, are faced with the need to begin treating their water source, and the communities just don't have the resources to meet the current and future requirements of the Federal Safe Drinking Water Act.

The Rocky Boy's/North Central Montana Regional Water System addresses this problem by authorizing the construction of a central water treatment plant to provide the area with a safe and dependable water supply. The area needs safe drinking water to improve

the health of its current residents and to stimulate economic development on the reservation and in the neighboring communities.

I look forward to the testimony of my constituents who have traveled all the way from Montana, and if I might divert for just a minute, you know, I see it as a real cruel hoax that our government many years ago set aside land under the reservation system but then gave them land where the water does not qualify or does not meet the strict standards that the Federal Government has established. It is good that the Federal Government established the standards, but at the same time it is an unfunded mandate if we don't provide the opportunity for those that live on the reservation to create the economic development necessary to provide the revenue to build the system.

There will be those that perhaps will be opposed to this because of the dollar figure, but I would submit to you that if any of these people in the audience turned on their tap and did not have water, they would find that unacceptable. If anybody in the audience or anybody that is going to oppose this legislation had to drink water that was not safe, they would be upset, as we are.

I personally, on my own ranch, this is the third year I have had to haul water for domestic use, to drink, to do our clothes, to shower. Last year I had to go in for emergency water assistance to get the water to my cattle.

There are areas in this country that are so sparsely populated, but we can't change that fact. We can't move Montana, or we can't move north central Montana to southern California or New York or Los Angeles where they have domestic supplies of municipal water that are safe and meet the standards. We can't do that, we the least we can do as a Federal Government, if we are going to establish the standards, if we want to support clean drinking water in this country, then we have to have an opportunity, to create an opportunity for people to afford it, and this bill does that.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Rehberg follows:]

**Statement of The Honorable Dennis R. Rehberg, a Representative in  
Congress from the State of Montana**

Mr. Chairman and members of the subcommittee, I am pleased to be here today to support and urge the passage of H.R. 1946, the Rocky Boy's/North Central Montana Regional Water System Act of 2001. I have introduced this bill to authorize the construction of a rural, municipal and industrial water system for residents on and near the Rocky Boy's Reservation in north central Montana.

The Rocky Boy's Reservation and the neighboring communities have an acute need for a safe and reliable water source. Much of the area suffers from both poor quality water and limited water availability.

The current water system on the Reservation is designed to deliver water at rates well below the average usage rates in the surrounding area, the state of Montana, and the United States in general. The quality of the groundwater on the Reservation and throughout north central Montana is generally unacceptable for domestic use, and according to the Indian Health Service has contributed to health problems on the Reservation.

Many small communities, both on and off the Reservation, are faced with increasingly strict Federal regulations requiring new or updated water treatment systems. Communities which have relied on groundwater, which is now classified as groundwater under the direct influence of surface water, are faced with the need to begin treating their water source—and the communities just don't have the resources to meet the current and future requirements of the Federal Safe Drinking Water Act.

The Rocky Boy's/North Central Montana Regional Water System addresses this problem by authorizing the construction of a central water treatment plant to pro-



vide the area with a safe and dependable water supply. The area needs safe drinking water to improve the health of its current residents and to stimulate economic development on the Reservation and in the neighboring communities.

I look forward to the testimony of my constituents, who have traveled from Montana, to testify concerning the great need for this regional water system.

Mr. CALVERT. I thank the gentleman.

On our first panel we have Bennett Raley, the Assistant Secretary of Water and Science, Department of Interior, and John W. Keys, III, the Commissioner of Bureau of Reclamation, U.S. Department of the Interior.

And before we start our testimony, it is the habit of this Chairman to try to go through the testimony prior to a hearing. It is impossible, Mr. Raley, to do that if we don't have the testimony to read. We apparently have just received your testimony 2 hours ago, and this is the second time in which I have asked you to please get this testimony in 2 days prior to the hearing date so I and the minority would have the opportunity to read that testimony.

It doesn't matter which administration might be in power, or which party. That is irrelevant. We need to have that testimony to review. So I would hope in the future that we can have that testimony in a timely manner.

Mr. Keys, you got yours in yesterday. That is a little better, but 2 days is the time in which it gives us sufficient time to review that, where we can put together the right questions and be able to treat this hearing with all the seriousness it deserves.

Mr. RALEY. Mr. Chairman, your comments are more gracious and more gentle that we deserve.

Mr. CALVERT. I appreciate you taking that seriously, and hopefully we won't have to have this discussion again. Thank you.

With that, I will introduce Mr. Raley. Of course you know the rules, the 5-minute rule, and you may begin any time you would like.

**STATEMENT OF BENNETT RALEY, ASSISTANT SECRETARY,  
WATER AND SCIENCE, DEPARTMENT OF THE INTERIOR**

Mr. RALEY. Thank you, Mr. Chairman, members of the Committee. My name is Bennett Raley. I am the Assistant Secretary for Water and Science of the Department of the Interior, and I appreciate the opportunity to appear here today to provide the views of the Department on H.R. 4129, regarding amendments to the Central Utah Project Completion Act.

I would like to first note that I have felt a deep sense of connection to the Central Utah Project for a number of years. I toured the project in the 1980's with a gentleman by the name of Mr. Sayer, who was later to become the Assistant Secretary and had a role in this project in the Department of the Interior. At the time, I had no idea that I would some day have responsibility for the Central Utah Project. I also was on the floor of the Senate with my Senator when the 1992 act passed.

So I feel like I am here as a minor part in a very rich and long and important history. I don't understand all that history, but I understand the importance of this act to the future of Utah and the fulfillment of obligations of the United States to those that it has

dealt with under reclamation laws that have been in place since 1902.

I also understand, as is the case throughout the West, that there are a number of complex issues. There have been events in the past which, in retrospect, I think everyone would like to avoid. And I want to pledge to you, Mr. Chairman, and to the members of the Committee and the delegation in particular from Utah, that we will do our best to meet with all of our citizens to work through issues. And while we can't promise that we will provide the answer they seek, we will meet with them and try to fully understand their issues.

With that, Mr. Chairman, may I ask that my comments, my written testimony, albeit late, be submitted for the record?

Mr. CALVERT. Without objection, any comments and additional information will be entered into the record.

Mr. RALEY. And with that I will just simply move to what I am assuming will be the point of what I promised to the Chair and to the delegation from Utah to be my personal attention to this legislation, and to working out issues that the Administration believes need to be addressed as this legislation moves forward.

I will highlight three that are actually mentioned on the second and third pages of my testimony, namely the modifications to Section 202(c) of the act and the Administration's position regarding the limitation of the amount available under Section 202(c) to a specific amount; deauthorization of the balance of the unexpended budget authority provided for in the other units of the Central Utah Project; and deletion of the authorization for the Hatchtown Dam in Garfield County.

We understand and expect that there is a need for further dialog on this, and I again pledge to the Subcommittee, the Chair and the members of the Committee, that you will have my personal attention so that we can resolve these issues and move forward with serving the people of the West.

[The prepared statement of Mr. Raley follows:]

**Statement of Bennett Raley, Assistant Secretary, Water and Science,  
U.S. Department of the Interior**

My name is Bennett Raley. I serve as the Assistant Secretary—Water and Science in the Department of the Interior. I appreciate the opportunity to appear before you to provide views of the Department on H.R. 4129 which would amend the Central Utah Project Completion Act. The proposed legislation attempts to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of the repayment contract for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment.

The Central Utah Project Completion Act, Titles II-VI of P.L. 102-575, provides for the completion of the construction of the Central Utah Project (CUP) by the Central Utah Water Conservancy District. The Act also authorizes funding for fish, wildlife, and recreation mitigation and conservation; establishes an account in the Treasury for deposit of these funds and other contributions; establishes the Utah Reclamation Mitigation and Conservation Commission to coordinate mitigation and conservation activities; and provides for the Ute Indian Water Rights Settlement.

The Administration has concerns over the legislation, and would like to work with the Chairman and the Committee to modify the language to include several important amendments.

Section 201(b) of Public Law 102-575 (Act) essentially deauthorized several of the project features without clarifying how the amounts previously expended in investigating and planning those projects and features should be dealt with. H.R. 4129

would clarify that these costs are non-reimbursable and non-returnable, which could result in a paygo impact.

In addition, amendments to Section 201(e) of H.R. 4129 provide the Secretary with sufficient flexibility to continue to utilize the expertise and capability within the Bureau of Reclamation to fulfill her responsibilities under the Act. These provisions authorize a pilot management program within the Bureau of Reclamation. The pilot management program will provide a mechanism for the Secretary and the District to create a mutually acceptable management program within the Bureau of Reclamation to assist the Secretary in her responsibilities for the long term management of the Bonneville Unit. It is important that the Secretary be given the flexibility to extend the pilot management program indefinitely. It is also important to clarify that the amendments to this section of the Act, which expand the designation of authorities which are specifically reserved to the Secretary and may not be delegated to the Bureau, to include aspects of the Colorado River Storage Project Act (CRSP), are limited to the Bonneville Unit and do not affect other aspects of the CRSP. Further, the amendments do not affect the Bureau of Reclamation's and Western Area Power Administration's responsibilities regarding all matters relating to all CRSP power functions including power revenues, power rates, and rate-making. Therefore, the Administration supports the amendments to Section 201(e) of the Act.

Over the past several decades the population along the Wasatch front in Utah has grown dramatically which has resulted in an increased demand for municipal and industrial water. The last paragraph of Section 202(a)(1)(B) of the Act only provides for features to deliver irrigation water. H.R. 4129 includes an amendment to this section of the Act to provide the flexibility to construct features that also deliver municipal and industrial water. The Administration supports this amendment; however, the amendment as worded specifies only to insert the words "and municipal." We suggest it may be better to specify, "and municipal and industrial."

The amendments to Section 202(c) of the Act, as proposed in H.R. 4129, section 1(d), do not designate a specific amount that would be available for these expanded activities, but rather authorizes the entire amount of available ceiling under the other units of the Central Utah Project to be made available. H.R. 4129 should be modified to: (1) limit the amount available under Section 202(c) to a specific amount; (2) deauthorize the balance of the unexpended budget authority provided for in the other units of the Central Utah Project; and (3) delete the authorization for Hatchtown Dam in Garfield County. The Administration does not support the amendments to Section 202(c) of the Act unless these changes can be incorporated into the amendments. We would appreciate the opportunity to work with the sponsors of the legislation, the Utah delegation, and the Congressional committees to modify the amendments to Section 202(c) such that they would be acceptable to all parties.

The Administration supports the amendments to Section 210 of the Act as proposed in H.R. 4129.

Again Mr. Chairman, with the changes recommended above, the Administration would support H.R. 4129. I would be happy to answer any questions you may have.

Mr. CALVERT. Mr. Keys, you are recognized.

**STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR**

Mr. KEYS. Mr. Chairman, I am John Keys, Commissioner of the Bureau of Reclamation. It is a pleasure to be here today and provide the Administration's views on H.R. 1946, legislation that would require the Secretary of the Interior to construct the Rocky Boy's/North Central Montana Regional Water Supply System in the State of Montana. I would ask that my entire written statement be made part of the record.

Mr. CALVERT. Without objection, so ordered.

Mr. KEYS. Mr. Chairman, in considering H.R. 1946, we need to look back at Public Law 106-163, the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserve Water Rights Settlement and Water Supply Enhancement Act of 1999, called the Settlement Act. The Settlement Act was supposed to provide a fair, equitable,

and final settlement of all water right claims in Montana by the Chippewa Cree Tribe. Interior strongly supports that act and its implementation.

Reclamation is funding \$29 million and the Bureau of Indian Affairs is funding \$21 million, for a total of \$50 million, as part of that settlement. These dollars are for multiple economic and water development activities on the reservation, including \$15 million for municipal, rural, and industrial water needs of the tribe.

The Administration supports the goal of assuring a safe and reliable water supply for the reservation and other communities in north central Montana. We recognize this area is historically water short, with water quality and water infrastructure concerns. We understand that some of these communities are facing safe drinking water standard violations. However, we cannot support H.R. 1946 as introduced. We have several concerns with that proposed legislation.

First, Section 2(a)(2) states that the United States has a trust responsibility to ensure that adequate and safe drinking water supplies are available to meet the needs of the reservation. Such provision would cause large problems with respect to Federal liability. It would make the United States responsible for providing domestic water systems on the reservation, something that has not been envisioned prior to now.

Second, the proposed bill would provide an inequitable cost share requirement for parties to the construction. It would call for perpetual Federal financial and management obligations for both construction and operation and maintenance of this system. And it would be in conflict with the 1944 Flood Control Act in allowing the use of project use power from the Pick Sloan Missouri Basin program for nonirrigation purposes.

Third, H.R. 1946 contains provisions that would replicate activities already required and underway under the Settlement Act.

Section 203 of the Settlement Act authorized a regional feasibility study for north central Montana. That study is underway to evaluate water and related resources in north central Montana. It is a comprehensive study that is looking at water supply needs by the agricultural, municipal, rural, and industrial water users in the area. The appraisal level scoping document is scheduled for completion in May of this year, with the final planning report and NEPA document to be ready the winter of 2004.

Section 202 of the Settlement Act authorized a municipal, rural, and industrial feasibility study to evaluate alternatives for water supply for the Rocky Boy's Reservation. The tribe released a draft report of that study in July of 2001, and we are currently working with the tribe to complete the study.

Fourth, several other provisions of H.R. 1946 are inconsistent with the Settlement Act. These involve the water source for the tribal and nontribal communities; financial arrangements for the nontribal organizations; and other provisions of Reclamation law.

And, finally, we are concerned about the strain on Reclamation's budget. H.R. 1946 would authorize \$180 million to be spent on the project. Many times over the last 15 years, Reclamation has been put in the awkward position of opposing projects that try to solve

an untenable situation, that millions of Americans still live without safe drinking water.

Congress has authorized us to develop nearly a dozen single-purpose MR&I water supply projects for rural communities throughout the West. These projects would cost more than \$2 billion to build, and most were developed from feasibility studies with little or no input from Reclamation. In other words, we just pass the money along to those organizations. While each is different in its terms, many share common problem areas: inequitable Federal cost share provisions, and responsibility for operation and maintenance.

We need to work together—the Administration, Congress, the States and the stakeholders, to identify these elements of minimum requirements which can shape future rural water projects into a more viable form. This is a priority for this administration, and I look forward to working with the Committee and Subcommittee to formulate such a programmatic approach.

Mr. Chairman, in conclusion, the Administration believes that H.R. 1946 is premature. I would like to reiterate Interior's support for implementing the Rocky Boy's Water Rights Settlement Act, and our support for finding a way to meet domestic water needs in north central Montana.

That concludes my statement, and I would certainly stand for any questions that you might have.

[The prepared statement of Mr. Keys follows:]

**Statement of John W. Keys III, Commissioner, Bureau of Reclamation,  
U.S. Department of the Interior**

My name is John Keys. I am Commissioner of the U.S. Bureau of Reclamation. I appreciate the opportunity to provide the Administration's views on H.R. 1946, legislation to require the Secretary of the Interior to construct the Rocky Boy's/ North Central Montana Regional Water System, in the State of Montana.

The Administration supports the goal of assuring a safe and reliable water supply for both the reservation and the non-reservation communities in north-central Montana. We recognize that north-central Montana is an historically water-short basin, with water quality and water infrastructure concerns. We understand some of these communities may be facing Safe Drinking Water standard violations. However, the Administration cannot support H.R. 1946, as introduced, because it imposes new responsibilities to provide domestic water both to the Rocky Boy's Reservation, inconsistent with the recent settlement, and to non-Indian communities under provisions that are inconsistent with Administration policy.

In considering H.R. 1946, it is necessary to revisit briefly Public Law 106-163, the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act (Settlement Act). The purposes of the Settlement Act are to achieve a "fair, equitable and final settlement of all claims to water rights in the State of Montana for the Chippewa Cree Tribe." The Department has been strong in its support of the Settlement Act and its implementation; Reclamation is authorized to fund \$29 million and the Bureau of Indian Affairs is authorized to fund \$21 million for a total settlement of \$50 million. These monies are for multiple economic and water development activities on the reservation, and include \$15 million for municipal, rural and industrial water needs of the Tribe.

We have numerous concerns with H.R. 1946: first, the "Finding" of section 2(a)(2)— which states that the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the needs of the Reservation. As written, H.R. 1946 indicates that Congress intends to make the United States responsible for providing domestic water systems on the Reservation, including potential liability for money damages if such duty is not met. This commitment could have serious adverse legal consequences with respect to Federal liability.

The Administration also has concerns about (1) the strain on Reclamation's current budget; (2) the inequitable cost share requirement; (3) the potentially perpetual Federal financial and management obligation for both construction and for oper-

ating and maintaining the system; and (4) the proposed use of project use power from the Pick Sloan Missouri Basin Program (PSMBP) for non-irrigation purposes. I will submit separately a more detailed analysis of these and related technical issues.

Several provisions in H.R. 1946 are inconsistent with the Settlement Act and Reclamation policy. For example, the Settlement Act recognized a Tribal right to a 10,000 acre-feet per year permanent allocation from Reclamation's Tiber Reservoir (Lake Elwell), without cost to the Tribe. Thus, under the Settlement Act, costs incurred by the Federal Government for the design and construction of the reservoir are not passed on to the Tribe, nor is an annual operations and maintenance charge assessed, which is otherwise standard procedure under Reclamation Law (via water service and repayment contracts). H.R. 1946 is not clear what the water source would be for the pipeline. Any authorization should provide that the tribal supply will be the 10,000 acre-feet Tiber allocation already held by the Tribe. If future supplies for the non-tribal communities are to come from Tiber water, the beneficiaries should pay their proportionate capital costs for the reservoir and the pipeline, as well as operation and maintenance costs. Across the 17 western states, current municipal & industrial (M&I) beneficiaries at Reclamation reservoirs pay these costs, and with interest.

Two other examples of how H.R. 1946 is inconsistent with the Settlement Act pertain to the extent of Federal financial responsibility. Section 201(d) of the Settlement Act states explicitly that "The United States shall have no responsibility or obligation to provide any facility for the transport of water allocated by this section to the Rocky Boy's Reservation or to any other location. Except for the contribution set forth in section 105(a)(3), the cost of developing and delivering the water allocated by this title or any other supplemental water to the Rocky Boy's Reservation shall not be borne by the United States" (emphasis added). In contrast, H.R. 1946 places the total cost of the tribal portion of the system on the United States, including the upsizing necessary to serve the North Central Montana Water Authority.

With regard to the Rocky Boy's Reservation needs, the Settlement Act authorizes \$15 million for the planning, design, construction, operation, maintenance, and replacement of a future water supply system for the Reservation. Sec. 105(a)(3) of the Act states that these funds are "for the total Federal contribution" (emphasis added) to such a system. In contrast, H.R. 1946 would authorize the Secretary of the Interior to assist the Chippewa Cree Tribe on the Rocky Boy's Indian Reservation to plan, design, construct, operate, maintain, and replace the Rocky Boy's Rural Water System. In addition, it would authorize Federal assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the non-core rural water system off the reservation. The bill would authorize appropriations of at least \$120 million for the core system on the Rocky Boy's Indian Reservation (not including the Federal obligation for operations, maintenance and replacement (OM&R)). Further, H.R. 1946 would authorize at least \$60 million for the non-core system that provides water deliveries to areas that are not on the reservation. Finally, H.R. 1946 contains provisions that replicate activities already required—and underway—under the Settlement Act. Section 203 of the Settlement Act authorizes a regional feasibility study for North Central Montana. Since the rural water project proposed by H.R. 1946 is a smaller portion of the region encompassed by the study, we believe that consideration of H.R. 1946 is premature until the regional feasibility study is final. Further, other Indian water rights settlements in the basin are being negotiated. Until those settlements are concluded, it is not clear what the relative demands and needs of the basin will be. The regional feasibility study to be conducted under section 203 of the Settlement Act will produce a comprehensive analysis of the region's water needs, and will provide Congress with an informed context as it considers legislation on further rural water development in north-central Montana.

Also, Section 202 of the Settlement Act authorized a municipal, rural, and industrial study requiring that multiple alternatives be brought forward at the feasibility level, so all parties to the settlement could make informed decisions. To implement section 202 of the Act, the Tribe released a draft feasibility study in July 2001, and Reclamation is working with the Tribe to complete the study. Reclamation emphasizes that the intent of Section 202—a thorough evaluation of the feasibility of multiple alternatives—must first be met, so decision makers can make informed decisions.

Previous efforts to address the water needs of rural communities have taken a piecemeal approach, without a programmatic basis. This has resulted in a number of common problems. The authorized Federal cost-shares have been inequitable, and the authorized Federal obligations for facility operations and maintenance are unsustainable. Additionally, expectations on the part of communities with author-

ized projects become frustrated because of delays due to inadequate available resources. I suggest a more comprehensive approach. We need to work together—the Administration, the Congress, the States, and the stakeholders—to provide safe drinking water for rural America. We need to identify the appropriate Federal and non-Federal roles in providing this water, to evaluate the appropriate role to be played by the numerous Federal and non-Federal agencies involved with developing municipal, residential, and industrial water in rural and small-town America. This is a priority for me and this Administration. I look forward to working with the Committee and Subcommittee to formulate a programmatic approach to rural water issues.

In conclusion, Mr. Chairman, the Administration believes that H.R. 1946 is premature. However, I would like to reiterate the Department's support for implementing the Rocky Boy's Water Rights Settlement Act as well as our support for finding a way to meet the domestic water supply needs of north-central Montana. As such, we would like to work with Mr. Rehberg and the rest of the Montana delegation, the Committee, the Tribe, and the project sponsors to work through these difficult issues in a manner that addresses the needs of Montana and the interests and concerns of the Department.

This concludes my statement, I would be pleased to answer any questions.

Mr. CALVERT. I thank the gentleman.

Before we start our questions, Mr. Cannon wanted to have an opening comment regarding his legislation. Mr. Cannon, you are recognized.

Mr. CANNON. Mr. Chairman, if I could just submit my opening statement for the record, I would appreciate that, and I do have a couple of questions.

[The prepared statement of Mr. Cannon follows:]

**Statement of The Honorable Chris Cannon, a Representative in Congress  
from the State of Utah**

Thank you, Mr. Chairman, for holding this hearing. I am grateful for the opportunity to discuss the future of water in my home state. I also want to thank the witnesses that are here today for their willingness to testify on this important issue. It is my hope that today's hearing will serve as a forum to discuss how water will be managed in central Utah.

In Utah, as in most western states, water is a valuable and rare resource. It is a constant challenge for the state to determine how and where our limited supply of water should be used. Indeed, some of the most difficult and important decisions we make today are how water should be allocated. H.R. 4129 will help move us in the right direction by providing CUP with the necessary flexibility to meet the existing and future water needs of the state.

This bill modifies reimbursement costs for investigation of certain power features in the Bonneville unit. It also modifies the repayment schedule for CUP projects. This bill will give CUP the opportunity to fund projects that have been promised but not yet constructed.

It is important to note that this bill does not add any additional authorization to the Central Utah Project. Rather, it enables the CUP to take money granted under previous Central Utah Project Completion Act (CUPCA) authorizations and to redirect it to other needed water projects.

I want all my constituents to know that I am more than willing to work with them to craft satisfactory language on these technical and difficult water bills.

I thank you Mr. Chairman and I look forward to hearing from the witnesses. I yield back the balance of my time.

Mr. CALVERT. Certainly we are going to have questions, so we will go ahead and recognize Mr. Rehberg first, and then we will be recognizing Mr. Cannon.

Mr. REHBERG. Thank you, Mr. Chairman.

A question for you, Mr. Keys, and that is, in your testimony you talk about a multi-agency approach, and that we should work together and we will formulate an approach. That is all good and

fine, but the EPA has established that a least two of communities, Hill County and the reservation themselves, are out of compliance and they are in like deep doo-doo at the end of this year.

What are we going to do? Is your multi-agency approach going to be such that the Bush administration is going to be willing to back the EPA off of their standards for the period of time while we all get together and come up with this multi-agency approach?

Mr. KEYS. Mr. Chairman, Mr. Rehberg, I don't know anything we can do by the end of this year to help them be in compliance. The studies that we are calling for here take several years to get done, and a deadline of the end of this year is not realistic for any of us right now.

Mr. REHBERG. Well, if it is not realistic, then I would assume that the Bush Administration would be willing to go on record today saying that they would support legislation to back the EPA off of their noncompliance requirements?

Mr. KEYS. Mr. Chairman, Mr. Rehberg, that is much beyond the Commissioner of Reclamation to make that decision.

Mr. REHBERG. Well, see, that is the problem, Mr. Keys. You know, we have people up there that do not have clean drinking water according to the standards. They don't even have the supply.

So if the Administration is going to come in and oppose legislation that is trying to solve the problem, where do we go? What do we tell these people? Or can we just start shutting other people's water off to show them what it is like to live without water.

And I don't know if you have seen this water, but they have competitions as to who has got the worst up there. That is not a very good competition for the U.S. Government to want to endorse.

Mr. KEYS. Mr. Chairman, Mr. Rehberg, as I said in my testimony, we have about \$2 billion worth of rural water supply projects already authorized, that are probably in front of these even if it is authorized. And certainly my annual budget does not allow immediate response to those. Now, we put them in line and we deal with them as we can.

Mr. REHBERG. Mr. Chairman, I just go back to my earlier statement, then. If we are going to have a multi-agency approach and we are going to work together and we are going to formulate things together, it seems like one Federal agency ought to talk to the other one and tell EPA that we cannot meet the standards. And if we can't meet the standards, what are we going to do?

Thank you.

Mr. CALVERT. I thank the gentleman

Mr. Cannon?

Mr. CANNON. Thank you, Mr. Chairman.

It feels like home here. I look over the audience. We have got City Council, we have got people from the Central Utah Project, we have got people from the Strawberry Water Users Association, we have got mayors from the towns in the area. First of all, we would like to welcome you all out here, and thank you for coming.

I just wanted to say at this point, Mr. Raley, we appreciate your commitment for your personal attention on this matter. This is an important matter that we need to push very quickly, and as problems come up, we appreciate your willingness to work with us on that.



And having said that, Mr. Chairman, I yield back.

Mr. CALVERT. I thank the gentleman.

We have one vote, so I would suggest we recess, vote, and we will come back and invite our other panels. Our first panel, thank you for your testimony and for answering our questions. You are excused, and we will look forward to the other panels when we return. Thank you.

[Recess.]

Mr. CALVERT. The hearing will come to order.

First I want to apologize. That is the way business is in this town. I believe that was the last vote of the day, so we shouldn't have any other interruptions.

I would like to introduce our second panel: Don Christiansen, the General Manager of the Central Utah Water Conservancy District; Randy A. Brailsford, Mayor of Salem City, State of Utah; Margaret Peterson, Council Member, West Valley City Council; Leslie James, Executive Director, Colorado River Energy Distributors Association; Bob McMullin, President of the Strawberry Water Users Association; and William Boyd Howarth, Chairman of the Juab County Commission.

So, welcome, and again I am going to apologize because I am going to leave, but I am going to hand the gavel over to Mr. Rehberg who is going to do a very good job at handling this. I have to go back to a meeting in my office. So I apologize and look forward to reading your testimony later.

Mr. Rehberg?

Mr. REHBERG. [Presiding.] All right. Mr. Christiansen?

**STATEMENT OF DON A. CHRISTIANSEN, GENERAL MANAGER,  
CENTRAL UTAH WATER CONSERVANCY DISTRICT**

Mr. CHRISTIANSEN. Thank you, Mr. Chairman. I appreciate the opportunity to be here today. I am Don Christiansen. I am the General Manager of the Central Utah Water Conservancy District, and it is a good opportunity for me to be here to testify today on a bill to amend the Central Utah Completion Act that originally passed Congress as part of the Reclamation Projects Authorization and Adjustment Act in 1992. During the 10 years since CUPCA became law, the Central Water Conservancy District has exercised the unique opportunity to step into the shoes of the Bureau of Reclamation and complete the planning, design and construction of the Central Utah Project.

This one-of-a-kind experiment has forced the State of Utah and the water users within the 10 counties served by the district to examine very closely what kind of a project that they needed. After all, under the reforms of the CUPCA, Utah taxpayers are paying 35 percent of the construction costs up front to complete the project. We have learned much. We have tried to be creative and innovative in how we planned the features to complete the transbasin diversion of Utah's share of the Colorado River water to the populous Wasatch Front. While we have made progress, we are not yet complete. Simply put, the bill before you provides some fine tuning to the original CUPCA authorization to reflect the contemporaneous changes to CUP reflecting the current needs of Utah water users.

Chairman Hansen once commented to me that the Central Utah Project is the closest thing to eternal life here on earth. Well, we hope, Mr. Chairman, that the amendments that we are proposing will enable us to complete a project which not only creates more supply but, very importantly, which places great emphasis on water conservation, water reuse, conjunctive use of surface supplies with groundwater resources, and improved quality through desalination and reverse osmosis technologies.

H.R. 4129 amends CUPCA to provide flexibility, allowing for the transfer of unused spending authority between CUPCA programs. The CUPCA originally authorized the expenditure of over \$900 million to complete the Central Utah Project. This authorization was broken down into numerous feature- or program-specific authorizations. These feature- or program-specific authorization levels were based upon original estimates from the Bureau of Reclamation, some of which were made in the first draft 1964 Definite Plan Report.

And I am sure it will come as no surprise that the project we are building has changed substantially from the one planned by Reclamation in 1964. In fact, CUPCA itself deauthorized a list of certain project features. However, the act did nothing to dispose of Reclamation's investigation costs for those deauthorized projects. H.R. 4129 will clean up the books, so to speak, by making them nonreimbursable.

Since 1992, the district has reformulated the CUP in a number of significant ways. Several project features, including the irrigation and drainage system, have been eliminated, and other programs have been redesigned to be more cost-effective. In addition, CUPCA's water conservation program has met with tremendous acceptance and is expected to fully utilize its program-specific authorization very soon.

The district's program to purchase water rights to meet minimum stream flows is also in need of additional funding. Further, certain water delivery features such as the Diamond Fork System have been redesigned to eliminate a controversial Monks Hollow Dam. But because of underground tunnel construction problems, this redesign has increased the overall cost of the Diamond Fork System beyond the authorization limit contained in the CUPCA.

H.R. 4129 amends the authority given to the Secretary of Interior in Section 202(c) of the CUPCA to redirect unexpended budget authority to water conservation projects, water rights acquisition, and other specifically authorized project features in Title II of the CUPCA. But I want to emphasize now that H.R. 4129 does not increase the total authorization for the Central Utah Project.

H.R. 4129 eliminates type-of-use limitations in the CUPCA which restrict the district's planning of project features. And I want to emphasize that the district still intends to work with water users from all 10 counties to develop projects which will deliver to them the benefits of an enhanced water supply.

As I indicated previously, CUPCA also transferred construction responsibility for CUP from the Bureau of Reclamation to the Central Utah Water Conservancy District, which is the State sponsoring agency for the project. Oversight of the district's planning

and construction activities is provided by the Department of Interior.

The legislation would clarify the responsibilities of the Secretary of Interior with respect to the Central Utah Project. This language would ensure that the highly effective administrative arrangement now in place would be allowed to continue. In addition, because from time to time the district has over the past 10 years asked for assistance from the Bureau of Reclamation, the legislation would authorize a pilot program to be developed between Reclamation and the district to enable an increased opportunity for Reclamation to assist the district and the Assistant Secretary in carrying out completion of the project.

Finally, H.R. 4129 would provide for prepayment of repayment contracts with municipal and industrial water delivery facilities, and eliminate a 2002 deadline for such prepayment. This small change would allow the districts to pay off their contracts more quickly.

That completes my statement, and I would be more than happy to address any questions that the Committee may have.

[The prepared statement of Mr. Christiansen follows:]

**Statement of Don A. Christiansen, General Manager, Central Utah Water Conservancy District, on H.R. 4129**

Mr. Chairman, thank you for the opportunity to testify today on a bill to amend the Central Utah Project Completion Act, (CUPCA) which originally passed Congress as part of the Reclamation Projects Authorization And Adjustment Act of 1992, (P.L. 102-575). During the ten years since CUPCA became law, the Central Utah Water Conservancy District has exercised the unique opportunity to step into the shoes of the Bureau of Reclamation and complete the planning, design and construction of the Central Utah Project (CUP).

This one-of-a-kind experiment has forced the State of Utah and the water users within the ten counties served by the District to examine very closely exactly what type of project we needed. After all, under the reforms of CUPCA, the Utah taxpayers are paying 35% of the construction costs to complete the project. We have learned much. We have tried to be creative and innovative in how we planned the features to complete the transbasin diversion of Utah's share of Colorado River water to the populous Wasatch front. While we have made progress, we are not yet complete. Simply put, the bill you have before you provides some fine tuning to the original CUPCA authorization to reflect the contemporaneous changes to CUP reflecting the current needs of Utah's water users.

Chairman Hansen once told me that the Central Utah Project is the closest thing to eternal life on earth. Well, we hope Mr. Chairman, the amendments we are proposing will enable us to complete a project which not only creates more supply, but one which also places greater emphasis on water conservation, wastewater reuse, conjunctive use of surface water supplies with groundwater resources and improved water quality through desalination and reverse osmosis technologies.

H.R. 4129 amends CUPCA to provide flexibility allowing for the transfer of unused spending authority between CUPCA programs. CUPCA originally authorized the expenditure of over \$900 million to complete the Central Utah Project (CUP). This authorization was broken down into numerous feature or program specific authorizations. These features or program specific authorization levels were based upon original estimates from the Bureau of Reclamation, some of which were first made in the draft 1964 Definite Plan Report. I am sure it will come as no surprise that the project we are building has changed substantially from the one planned by Reclamation in 1964. In fact, CUPCA itself de-authorized a list of certain project features; however, the Act did nothing to dispose of Reclamation's investigation costs for those de-authorized projects. H.R. will clean up the books, so-to-speak, by making them non-reimbursable.

Since 1992, the District has reformulated the CUP in a number of significant ways. Several project features including the irrigation and drainage system have been eliminated and other programs have been redesigned to be more cost effective. In addition, CUPCA's water conservation program has met with great acceptance

and is expected to fully utilize its program specific authorization. The District's program to purchase water rights to meet minimum stream flow needs is also in need of additional funding. Further, certain water delivery features such as the Diamond Fork System have been redesigned to eliminate the controversial Monks Hollow dam. Because of underground tunnel construction problems, this redesign has increased the overall cost of the Diamond Fork System beyond the authorization limit contained in CUPCA.

H.R. 4129 amends the authority given to the Secretary of the Interior in Section 202 (c) of CUPCA to redirect unexpended budget authority for water conservation projects, water rights acquisition, and other specifically authorized project features in title II of CUPCA. I want to emphasize that H.R. 4129 does not increase the total authorization for the Central Utah Project.

H.R. 4129 also eliminates geographic and type-of-use limitations in CUPCA which restrict the District's planning of project features to the delivery of water to only Utah and Juab Counties. I want to emphasize that notwithstanding this change in the law, the District still intends to work with the water users from those two counties to develop a project which will deliver to them the benefits of an enhanced water supply.

As I indicated previously, CUPCA also transferred construction responsibility for CUP from the Bureau of Reclamation to the Central Utah Water Conservancy District, the state sponsoring agency for the project. Oversight of the District's planning and construction activities is provided by the Department of the Interior.

The legislation would clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project. This language would ensure that the highly effective administrative arrangement now in place would be allowed to continue. In addition, because from time to time the District has, over the past ten years, asked for assistance from the Bureau of Reclamation, the legislation would authorize a pilot program to be developed between Reclamation and the District to enable increased opportunity for Reclamation to assist the District and the Assistant Secretary in carrying out completion of the project.

Finally, H.R. 4129 would provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and eliminate a 2002 deadline for such prepayment. This small change would allow the water districts to pay off their contracts more quickly. Thank you.

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Mr. REHBERG. Thank you very much. As a result of my butchering your name, I let you go over the limit. I apologize for that. He had even spelled out the pronunciation and I still got it wrong.

[Laughter.]

Mr. REHBERG. If the witnesses will notice, there is a timepiece on your table. If you could kind of follow that, that would be helpful. We have a gentleman on the next panel who has a plane to catch, and I will be sensitive to his time as well.

So next would be Mr. Brailsford, Mayor of Salem City, State of Utah.

**STATEMENT OF THE HONORABLE RANDY A. BRAILSFORD,  
MAYOR, SALEM CITY, UTAH**

Mr. BRAILSFORD. Thank you. You got that right.

Mr. REHBERG. Thank you.

Mr. BRAILSFORD. So I can't go over?

Mr. REHBERG. You cannot go over.

Mr. BRAILSFORD. My name is Randy Brailsford. I am the Mayor of Salem City, and also the Chairman of the South County Mayors Group which represents 10 communities in south Utah County. South Utah County is about 60 miles south of Salt Lake City. And we are here today to talk on this bill and to ask for maybe just a little bit more.

We respect our constituents at the grass level. Therefore, our solemn obligation is to see to the future needs of our children and our grandchildren. Quoting from Parley R. Neeley from June 1948, "It

will not be possible, when traveling from Salt Lake City to Nephi, to tell where one city ends and another begins." These are dreams of our old men and the visions of our young men who may actually behold them.

Our community covers about 200 square miles. We are one of the fastest growing communities in Utah. Six percent is the lowest figure, and some cities within our 10 mayors group have grown at 12, 12.5 percent over the last 6 years.

Our 10 communities have been trying to plan for the future of our residents well into the future. We have organized an interlocal association called the South Valley Municipal Water Agency, or SUVMTWA, to organize and plan for the future water needs of our communities.

This group has been very much involved with the Department of the Interior and the Central Utah Conservancy District, trying to contract for our future water needs. We have negotiated a contract for 1,500 acre feet of Central Utah Project water, and we were very close to signing a contract for an additional 9,610 acre feet of water. The contract got backtracked, though, and has not been completed to this date.

We recently received a letter from Governor Leavitt asking all citizens in the State to start conserving water. We have actually got one of our cities that has a well that has gone dry. I have had a moratorium in my city, in Spanish Fork, since last year for no more new subdivisions due to water shortage as it is in the summer months.

It is critical to our residents that water be available to south Utah Valley. Attached is a map of the earlier SFN project showing the pipeline that was expected and planned for. Future water for both indoor and outdoor use is dependent on this project and the water it would provide.

The city is very concerned with how much underground water can be used in our area. There are a lot of wetlands in our area and there are ponds, and we are very concerned that by using so much of the ground surface water, that wetlands will be going dry, the habitat will be dying, as well as ponds will be reduced in level. So there is much concern of using that versus this other.

Having the pipelines from Strawberry Reservoir to our area will give us the pressure we need for water in our pressurized irrigation systems. We have saved considerable power consumption in not having to pump the system. We firmly believe that CUP will be vital to the well-being of our environment.

We can't see, where we planned on for over 50 years now to generate pipelines and introduce water into the Utah Valley, put generators on to generate power, and now they are saying, well, maybe we ought to start using power to pump. It don't make sense. But we are trying to utilize both, as the plan was years ago.

We are much in favor of the Bonneville Unit of the Central Utah Project. In fact, we have been looking forward to the project and the water it would provide our area for almost 50 years. Much of our area has already been agriculture and has been in need of additional agricultural water. We were anticipating that as the agricultural use changed to municipal use, so the water could be used

for both. Our long term plans have been based on the ability to have access to the CUP water.

We are in favor of the amendment, H.R. 4129, introduced on March 20, 2002, with one exception. We would request Section 202(a)(1)(B) of the Central Utah Project Completion Act (106 Stat. 4611) be revised to read "deliver irrigation water to lands in the Utah Lake drainage basin and municipal water within the Utah Lake drainage basin, exclusive of the features identified in Section 201(b)."

We need to have the facilities to deliver the water once we have a contract in place for the water. Pipelines need to be completed down to the mouth of the Spanish Fork Canyon and then to the south and north with lines serving the 10 cities. Lines were originally planned to be installed throughout south Utah County to east Juab County.

These pipelines are part of what we have been planning on for a long period of time. Many of the cities have already got pressurized irrigation pipes sitting in our cities empty, because for 50 years that we have been paying taxes on this and the 50 years that we have been promised to get this pipeline down the canyon, we have worked with the plans of Interior to get this project completed so we can fill those pipelines, and now they are saying there may not be a pipeline there. This is a big concern.

Our south Utah cities, like I say, have been paying taxes for 50 years on this. And, gentlemen, in 50 years south Utah County has not got one damn dime of anything, and now they are trying to take the only thing we have hoped to get for 50 years, that pipeline down that canyon. That is the only source where we can get water to provide industry for the children, to provide agriculture, to keep the orchards, the fields, active, for homes, for growth, to keep our kids in the area, our grandchildren in the area to work and build a home.

And we have planned this also for 50 years, all the communities, to build, to work that way, and now, because there are some problems with another agency, they are wanting to pull this. So we are here to say to you, we will support this bill with those changes, but please, if we could get some kind of a tax so not all the money leaves there, to help us in those 10 cities with that pipeline.

Thank you.

[The prepared statement of Mr. Brailsford follows:]

**Statement of Randy Brailsford, Mayor, Salem, Utah**

My name is Randy Brailsford. I am the Mayor of the city of Salem, Utah. I am also chairman of the South County Mayors Group in Utah County. We represent all ten communities in the south half of Utah County, located approximately 50 miles south of Salt Lake City. We represent our constituents at the grass roots level. It is, therefore, our solemn obligation to see to the future needs of our children and grandchildren. Quoting from Parley R. Neeley from June 1948 "It will not be possible, when traveling from Salt Lake City to Nephi, to tell where one city ends and another begins." These are dreams of our old men and the visions our young men may actually behold." Our communities cover an area of about 200 square miles. We are in one of the fastest growing areas in the state. We have experienced approximately 6% growth per year during the last 6 years. We anticipate a population of over 600,000 by 2070. The Bonneville Unit of the Central Utah Project is our last chance for additional water to meet these projected needs.

Our ten communities have been trying to plan for the future of our residents well into the future. We have organized an interlocal association called the South Utah

Valley Municipal Water Association (SUVMW) to organize and plan for the future water needs of our communities. This group has been very involved with the Department of Interior and the Central Utah Water Conservancy District in trying to contract for our future water needs. We have negotiated a contract for 1590 acre feet of Central Utah Project (CUP) water and we were very close to signing a contract for an additional 9610 acre feet of CUP water. That contract got side-tracked and has not been completed to date. We recently received a letter from our Governor dealing with the water shortage and how critical conservation will be. This project is the only future source of water we have for our area. It is critical to our residents that this water be available to south Utah Valley. Attached is a map of the earlier SFN project showing the piping that we have expected and planned around. Future water for both indoor and outdoor use is dependant on this project and the water it would provide.

SUVMW is very concerned with how much underground water can be used in our area and at what point will that development start to interfere with the environmental issues such as wet lands and in stream flows needed for wildlife and fish. We recently had one of our communities well go dry. Other cities have had to drop well pumps much deeper to find the water. Other cities have building moratoriums in place because of water restrictions.

Having the pipe lines from Strawberry Reservoir to our area will give us the pressure we need for water in our pressure irrigation systems and save considerable power consumption in not having to pump water into these systems. We very firmly believe the CUP water will be vital to the well being of our area environment.

We are very much in favor of the Bonneville Unit of the Central Utah Project. In fact we have been looking forward to the project and the water it would provide for our area for almost fifty years. Much of our area has been agriculture and has been in need of additional agricultural water. We were anticipating that as the agriculture use changed to municipal use, so would the use of the water change. All of our long term plans have been based on the ability to have access to the CUP water.

We are in favor of the amendments proposed in H. R. 4129 introduced on March 20, 2002 with one exception. We would request Section 202(a)(1)(B) of the Central Utah Project Completion Act (106 Stat. 4611) be revised to read "deliver irrigation water to lands in the Utah Lake drainage basin and municipal water within the Utah Lake drainage basin, exclusive of the features identified in section 201 (b)". We need to have facilities to deliver the water once we have the contracts in place for the water. Pipe lines need to be completed down to the mouth of Spanish Fork Canyon and then to the south and north with lines serving the ten cities. Lines were originally planned to be installed through south Utah County to east Juab County. These pipe lines are part what we have been planning on for a long period of time and several of the communities have already install pressurized irrigation pipe lines within their area anticipating delivery from the CUP pipe lines. Several million dollars have already been spent on these systems.

We appreciate the committee members time and efforts on this very vital project to our constituents. We ask for your consideration in helping to get this project finally completed.

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Mr. REHBERG. Thank you.  
Ms. Peterson?

**STATEMENT OF MARGARET PETERSON, COUNCIL MEMBER,  
WEST VALLEY CITY COUNCIL**

Ms. PETERSON. Thank you, Mr. Chairman. I appreciate the opportunity to testify today in support of Representative Cannon's bill, which has been cosponsored by the entire Utah congressional delegation. I am a senior member of the West Valley City Council. West Valley is the second largest city in Utah. I also serve as Vice Chair of the Board of Trustees of the Jordan Valley Water Conservancy District, which provides water to West Valley City and other entities in Salt Lake County.

The Jordan Valley Water Conservancy District's service area contains over half of the fastest growing cities in Utah. Jordan Valley serves the fast growing cities of West Jordan, South Jordan, Riverton, Bluffdale, Draper, Herriman, and others. Most of the growth

is coming from natural increase. These people are largely the children and grandchildren of the residents of the more established cities in Salt Lake Valley. Our service area is expected to double in population and in water deliveries over the next 20 years.

Jordan Valley District has several requests on file with the Central Utah District, requesting assistance in meeting its future water needs. We are hoping that the scoping activities of the Central Utah Water District's Utah Lake Studies Project will show that some central Utah water may be made available for Jordan Valley District, which can be delivered to West Valley City and other cities in Salt Lake County. We believe that the provisions of H.R. 4129 provide much-needed flexibility in the Central Utah Project Completion Act to enable the Central Utah District to meet its responsibilities for completing features which will help meet the water supply needs of the future of Salt Lake County.

Specifically, we endorse the provisions of the bill which redirect existing authorizations to meet contemporary and immediate water needs. The Jordan Valley District is interested in additional water conservation projects, conjunctive use of groundwater and surface water, wastewater recycling, and possibly the use of reverse osmosis membrane technologies to treat highly saline water sources such as Utah Lake.

With extremely dry soil conditions and low reservoir levels this fall, the prospects of a normal water supply for next year are very low. Most of the winter's snow may never make it to the streams this spring. For these reasons, the Governor has called for measures to reduce water consumption immediately. The need for conservation of water is very real. We may be facing mandatory water restrictions in the coming year.

With regard to the long term, the time has now come to embrace conservation with open arms. We cannot continue to sustain growth and economic development without more efficient water use. As the second driest State in the Nation, Utah must become a model of water conservation, an example to the entire Nation of what can be done. Governor Leavitt has called for a 25 percent reduction in per capita water use throughout the State. If we had an hour, I would love to tell you about the exciting projects that we are working on.

We appreciate the willingness of the Central Utah Water Conservancy District and the delegation to help us meet this goal by providing additional funding which recognizes that there may be new and better ways to meet our water supply needs. Even with major advances in water conservation, we will need to continue developing water and building facilities. Because the service area of the Jordan Valley District is projected to double in water demand over the next 20 years, we will also need new infrastructure.

As a natural consequence of growth, water will become more expensive. The cheap water has already been developed. New projects will involve reclamation of contaminated groundwater, conversion of low quality agricultural water, and importation of water from outside the county.

Also, new Federal and State water quality standards and regulations intended to ensure the quality of water delivered through public water systems are adding to the ever-increasing cost of



water. Environmental mitigations associated with new water projects and efforts to sustain endangered species are adding new dimensions to the cost of water. Also, as systems age, infrastructure must be renewed and replaced to keep distribution systems viable. It is estimated that the cost of water will increase over 50 percent in the next 10 years.

I have attached to my testimony the Jordan Valley requests for CUP water in comparison to the requests from other areas of the district. As you can see, Salt Lake County's need for water occurs much earlier than anywhere else in Utah.

For all these reasons, we strongly support H.R. 4129 as an important and vital step to move us forward in our goal to meet the water needs of the future. Thank you

[The prepared statement of Ms. Peterson follows:]

**Statement of Margaret Peterson, Councilwoman, West Valley City, Utah**

Mr. Chairman, thank you for the opportunity to testify today in support of Representative Cannon's bill which has been cosponsored by the entire Utah Congressional delegation. My name is Margaret Peterson. I am a member of the West Valley City Council. West Valley is the second largest city in Utah. I also serve as Vice Chair of the Board of Trustees of the Jordan Valley Water Conservancy District, which provides water to West Valley City and other water entities in Salt Lake County. The Jordan Valley Water Conservancy District's service area contains over half of the fastest growing cities in Utah. Jordan Valley serves the fast-growing cities of West Jordan, South Jordan, Riverton, Bluffdale, Draper and Herriman, among others. Most of the growth is coming from natural increase. These people are largely the children and grandchildren of the residents of more established cities in the Salt Lake Valley. Our service area is expected to double in population and water deliveries over the next 20 years.

Jordan Valley Water Conservancy District has several requests on file with the Central Utah Water Conservancy District requesting assistance in meeting its future water needs. We are hoping that the scoping activities of Central Utah Water Conservancy District's Utah Lake Studies Project will show that some Central Utah water may be made available for Jordan Valley Water Conservancy District which could be delivered to West Valley City and other cities in Salt Lake County. We believe that the provisions of H.R. 4129 provide much needed flexibility to the Central Utah Project Completion Act (CUPCA) to enable the Central Utah District to meet its responsibilities to complete features which can help meet the water supply needs of the future of Salt Lake County.

Specifically, we endorse the provisions of the bill which redirect existing authorizations to meet contemporary and immediate water needs. The Jordan Valley District is interested in additional water conservation projects, conjunctive use of groundwater and surface water, wastewater recycling and possibly the use of reverse osmosis membrane technologies to treat highly saline water sources such as Utah Lake.

With extremely dry soil conditions and low reservoir levels this fall, the prospects of a normal water supply for next year are very low. Most of this winter's snow may never make it to the streams this spring. For these reasons, the Governor has called for measures to reduce water consumption immediately. The need for conservation of water is very real. We may be facing mandatory water restrictions in the coming year.

With regard to the long term, the time has now come to embrace conservation with open arms. We cannot continue to sustain growth and economic development without more efficient water use. As the second driest state in the nation, Utah must become a model of water conservation, an example to the entire nation of what can be done. Governor Leavitt has called for a 25 percent reduction in per-capita water use throughout the state.

We appreciate the willingness of the Central Utah Water Conservancy District and the delegation to help us meet this goal by providing additional funding which recognizes that there may be new and better ways to meet our water supply needs.

Even with major advances in water conservation, we will need to continue developing water and building facilities. Because the service area of the Jordan Valley Water Conservancy District is projected to double in water demand over the next 20 years we will need new infrastructure. As a natural consequence of growth,

water will become more expensive. The cheap water has already been developed. New projects will involve reclamation of contaminated groundwater, conversion of low-quality agricultural water, and importation of water from outside the county. Also, new Federal and state water quality standards and regulations intended to insure the quality of water delivered through public water systems are adding to the ever-increasing costs of water. Environmental mitigations associated with new water projects and efforts to sustain endangered species are adding new dimensions to the cost of water. Also, as systems age, infrastructure must be renewed and replaced to keep distribution systems viable. It is estimated that the cost of water will increase over 50 percent over the next 10 years. I have attached to my testimony the Jordan Valley requests for CUP water in comparison to the requests from other areas of the District. As you can see, Salt Lake County's need for water occurs much earlier than anywhere else in Utah. For all these reasons we strongly support H.R. 4129 as an important and vital step to move us forward in our goal to meet the water needs of the future. Thank you.

Taken from Central Utah Water Conservancy District's Utah Lake System Scoping Information Report, January 31, 2002

Planning Area	Annual M&I Requests (October 2000)	Annual Projected M&I Needs for Bonneville Units Water in 10-Year Time Periods				
		2010	2020	2030	2040	2050
East Juab County	2,600	0	0	0	0	0
South Utah County	65,000	0	0	0	0	0
North Utah County	9,200	0	0	2,111	3,228	4,189
Salt Lake County	40,200	20,098	38,703	54,102	82,411	99,645
Wasatch County	4,000	0	0	0	0	0
<b>Total</b>	<b>121,000</b>	<b>20,098</b>	<b>38,703</b>	<b>56,213</b>	<b>85,639</b>	<b>103,834</b>

Mr. REHBERG. Thank you, Ms. Peterson.  
Ms. James?

**STATEMENT OF LESLIE JAMES, EXECUTIVE DIRECTOR,  
COLORADO RIVER ENERGY DISTRIBUTORS ASSOCIATION**

Ms. JAMES. Thank you, Mr. Chairman, members of the Subcommittee. I am Leslie James, Executive Director of the Colorado River Energy Distributors Association, or CREDA. I appreciate the opportunity to appear before you today in support of H.R. 4129, and ask that my entire written statement be made part of the record.

Mr. REHBERG. Without objection.

Ms. JAMES. CREDA is a nonprofit organization representing 155 consumer-owned electric systems that all purchase Federal hydro-power and resources of the Colorado River Storage Project. We represent our members in dealing with the Bureau of Reclamation, as the generating agency of the CRSP, and the Western Area Power Administration, as the marketing agency of the CRSP. CREDA members are all nonprofit organizations serving nearly 3 million electric consumers in the six western States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming.

Our interest in this legislation stems from the fact that, as Mr. Cannon mentioned, the Central Utah project is a participating

project of the CRSP. Repayment of the Federal investment of the CRSP has been the responsibility of the CRSP power contractors for 30 years. The rates charged to our members repay all of the Federal investment in generation and transmission facilities, with interest; all related operation and maintenance expenses; environmental costs.

In addition, the CRSP customers are paying over 95 percent of the cost of the irrigation features of the CRSP. In fact, in the current CRSP rate, approximately 35 percent of the total annual revenue requirement is due to irrigation assistance. These contracts are not fixed costs. They allow for rate adjustments in order to ensure repayment of the Federal investment in the CRSP.

In fact, we are currently in the midst of a rate adjustment process which could result in an increase of 30 percent to the CRSP rate. As the Subcommittee is aware, the western electricity market has been extremely volatile over the recent past couple of years. As a result, CREDA and our members are scrutinizing every expenditure to keep costs as low as possible for their consumers. CREDA, representing our members, works with the Bureau and with Western through a 1992 contractual arrangement in an attempt to mitigate rate increases.

Our support of H.R. 4129 focuses on two provisions of the bill. The first regards treatment of costs that have been expended by the Bureau for studies of features of the CUP that will not be constructed by the Federal Government. CREDA believes costs such as these should be nonreimbursable and nonreturnable, meaning that they would not be paid by CRSP power customers. Section 1(a) of H.R. 4129 provides that assurance.

Second, CREDA understands the Central Utah Water Conservancy District's desire to continue its relationship with the Secretary. Likewise, CREDA has existing working and contractual arrangements with the Bureau, and we believe that it is important to ensure that those relationships are maintained. The language of Section 1(b)(6) of H.R. 4129 provides that assurance.

In summary, CREDA's specific interests in H.R. 4129 relate to the CRSP from a financial and ongoing implementation standpoint. We encourage timely passage of this bill. We thank the Subcommittee for the opportunity of appearing today in support of this important legislation.

[The prepared statement of Ms. James follows:]

**Statement of Leslie James, Executive Director, Colorado River Energy Distributors Association (CREDA)**

Mr. Chairman, members of the Subcommittee, I am Leslie James, Executive Director of the Colorado River Energy Distributors Association (CREDA). I appreciate the opportunity to appear before you today in support of H.R. 4129.

Our interest in this legislation stems from the fact that the Central Utah Project is a participating project—an irrigation project—of the Colorado River Storage Project (CRSP). The CRSP was authorized in the Colorado River Storage Project Act of 1956 (P.L. 485, 84th Cong., 70 Stat. 50), as a multi-purpose Federal project that provides flood control; water storage for irrigation, municipal and industrial purposes; recreation and environmental mitigation and protection, in addition to the generation of electricity. I would first like to provide a description of CREDA and its members.

CREDA is a non-profit organization representing 155 consumer-owned electric systems (CRSP power contractors) that purchase Federal hydropower and resources of the CRSP. CREDA was established in 1978, and serves as the "voice" of its mem-

bers in dealing with CRSP resource availability and affordability issues. CREDA represents its members in dealing with the Bureau of Reclamation (Bureau), as the generating agency of the CRSP, and Western Area Power Administration (WAPA), as the marketing agency of the CRSP. CREDA members are all non-profit organizations, serving nearly 3 million electric consumers in the six western states of Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming. CREDA members purchase over 85% of the CRSP power resource. Attached is a listing of current CREDA members.

Repayment of the Federal investment of the CRSP has been the responsibility of CRSP power contractors for 30 years. This repayment is ensured by long-term contracts providing for the purchase of CRSP resources. The rates charged to these power contractors repay all of the Federal investment in generation and transmission facilities (with interest), all power-related operation and maintenance costs, and environmental costs. In addition, the CRSP contractors are paying over 95% of the cost of the irrigation features of the CRSP (those costs that are beyond the ability of the irrigators to pay). In fact, in the current CRSP rate, 35% of the total annual revenue requirement is due to irrigation assistance. These contracts are not fixed cost; they allow for rate adjustments in order to ensure repayment of the Federal investment in the CRSP.

When the Federal reclamation projects were begun, they were designed, constructed, operated, and maintained by the Bureau of Reclamation. The Bureau also owned the transmission system and marketed the power from the projects. When WAPA was formed under the Department of Energy Organization Act in 1977, the design, construction, operation, and maintenance functions remained with the Bureau and the transmission system and marketing responsibilities were moved to WAPA.

Construction and capital projects are funded through the Federal Treasury at the interest rate determined by Congress or at the time construction starts. These projects go through a budgeting process associated with the Federal budget, and money is appropriated for these projects with Congressional approval. As revenues are collected for the sale of Federal power, there is a priority assigned to payment of obligations. The priority of repayment of the projects is that O&M expenses for WAPA and the Bureau are paid first and then repayment of the highest interest capital investment is made to the Federal Treasury. The components associated with the power features are paid first, including the appropriate interest, and then the power revenues are used to pay the irrigation projects at no interest.

Each year WAPA compiles a "power repayment study" which estimates expenses of both the Bureau and WAPA, and is the basis for the CRSP rate. After WAPA has completed the power repayment study and if a rate adjustment is necessary, a public process is begun. We are currently in the midst of this process, which could result in a 30% rate increase. As the Subcommittee is aware, the western electricity market has been extremely volatile over the recent past couple of years. As a result, CREDA members are scrutinizing every expenditure to keep costs as low as possible for their consumers. CREDA, representing its members, works with the Bureau and WAPA through a 1992 contractual arrangement regarding work program and rate treatment issues, in an effort to mitigate rate increases.

CREDA's support of H.R. 4129 focuses on two provisions of the bill. The first regards treatment of costs that have been expended by the Bureau for studies of features of the CUP that will not be constructed by the Federal Government. As an example, during the 1980's, despite opposition from the CRSP power contractors, the Bureau explored adding a large generation component to the Diamond Fork feature of the CUP. Subsequently, the Bureau determined the Federal Government would not construct the feature. CREDA believes costs such as these should be non-reimbursable and non-returnable, meaning they would not be paid by the CRSP power contractors. Section 1(a) of H.R. 4129 provides that assurance.

Secondly, CREDA understands the Central Utah Water Conservancy District's desire to continue its relationship with the Secretary. Likewise, CREDA has existing working and contractual relationships with the Bureau, specifically regarding construction, operation and maintenance and rate treatment for the CRSP facilities. CREDA felt it necessary to ensure that relationship is maintained. The language of Section 1(b)(3) of H.R. 4129 provides that assurance.

In summary, CREDA's specific interests in H.R. 4129 relate to the CRSP from a financial and ongoing implementation standpoint. We encourage timely passage of H.R. 4129. We thank the Subcommittee for the opportunity of appearing today in support of this important legislation.

**ATTACHMENT**

**COLORADO RIVER ENERGY DISTRIBUTORS ASSOCIATION (CREDA)**

**MEMBERSHIP**

**ARIZONA**

Arizona Municipal Power Users Association  
Arizona Power Authority  
Arizona Power Pooling Association  
Irrigation and Electrical Districts Association  
Navajo Tribal Utility Authority  
(also New Mexico and Utah)  
Salt River Project

**COLORADO**

City of Colorado Springs  
Intermountain Rural Electric Association  
Platte River Power Authority  
Tri-State Generation & Transmission Cooperative  
(also Nebraska, Wyoming and New Mexico)  
Yampa Valley Electric Association, Inc.

**NEVADA**

Colorado River Commission of Nevada  
Silver State Power Association

**NEW MEXICO**

Los Alamos County  
Farmington Electric Utility System  
Tri-State Generation & Transmission Cooperative  
City of Truth or Consequences

**UTAH**

City of Provo  
Strawberry Electric Service District  
Utah Associated Municipal Power Systems  
Utah Municipal Power Agency

**WYOMING**

Tri-State Generation & Transmission Cooperative  
Wyoming Municipal Power Agency

**AFFILIATE MEMBERS**

Navopache Electric Cooperative (Arizona)  
Inter-Tribal Council of Arizona  
Gila River Indian Community Utility Authority (Arizona)

Mr. REHBERG. Thank you.  
Mr. McMullin?

**STATEMENT OF ROBERT W. McMULLIN, PRESIDENT,  
STRAWBERRY WATER USERS ASSOCIATION**

Mr. McMULLIN. Mr. Chairman, and members of the Subcommittee, my name is Robert McMullin. I serve as the President of the Strawberry Water Users Association. I appreciate the opportunity to address you regarding a topic which is very important to the Strawberry Water Users and its shareholders.

I am a third generation farmer, full time farmer. My home, my friends, my family, my orchards, and my heart are in south Utah County.

Strawberry is a nonprofit corporation, organized in 1922, primarily for the purpose of contracting with the United States Bureau of Reclamation to repay the United States the remaining unpaid construction costs of the Strawberry Valley Project and to provide a water supply to approximately 2,800 Strawberry shareholders, including the south Utah County, Utah cities of Springville, Mapleton, Genola, Spanish Fork, Salem, and Payson. Strawberry repaid to the United States all of the costs of construction of the Strawberry Project in 1974.

The Strawberry Project is a Federal reclamation project constructed between 1906 and 1915. The Strawberry provides approximately 70,000 acre feet of water to approximately 41,000 acres of land in south Utah County, Utah. Most lands served by the Strawberry have insufficient water.

Soon after the Central Utah Water Conservancy District (District) was formed in 1964 as the local entity that would repay the local share of the Central Utah Project, south Utah County residents began paying property taxes to support the Central Utah Project. Strawberry shareholders, many of them struggling family farmers, have been paying those taxes ever since. They have yet to see significant CUP benefits.

Prior to the enactment of the 1992 Central Utah Project Completion Act, it was anticipated that Strawberry, the district, and the United States would be required to enter into an agreement for the operation and maintenance of CUP facilities for the benefit of both Strawberry and CUP. Such an agreement was signed by the United States, the District, and Strawberry in 1991, 1 year before the agreement was mandated by Congress. In that contract, Strawberry is first in right for 61,000 acre feet of water from the reservoir.

From the beginning of the CUP, it was anticipated that south Utah County and east Juab County irrigators would be provided CUP water and water infrastructure. Section 202 of the CUPCA Act, the section that the District seeks to amend, authorized \$150 million for the construction of the irrigation and drainage system, or in the alternative \$125 million for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin.

Central now has said that it will take most of the CUP water promised to south Utah and east Juab Counties to Salt Lake County, outside the Utah Lake drainage basin. Frankly, Strawberry could and would swallow a bitter pill and quietly accept the loss of the promised irrigation water, if the majority of the authorized \$125 million were used to provide water conservation and effi-

ciency infrastructure to help south Utah County and east Juab County make their very short water supply go further. In the process, water quality, safety, and environmental concerns could be addressed as well.

CUWCD is instead before Congress seeking authorization to use all of the \$125 million originally intended “for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin” to deliver municipal water to Salt Lake County, outside the Utah Lake drainage basin. There are essentially two changes to Section 202(a)(1)(b) of the CUPCA Act which accomplish this.

First, the words “to lands in the Utah Lake drainage basin” would be removed from Section 202 to make it clear that the authorized funds could be used to deliver water outside the Utah Lake drainage basin. Second, the proposed amendment would add the word “municipal” in front of the word “irrigation” to make it clear that the authorized funds would be spent on municipal irrigation, not agriculture irrigation. These changes would completely exclude irrigators, and would in addition give Central the discretion to exclude the Utah Lake drainage basin, that is, south Utah and east Juab Counties, completely.

There are four principal reasons that you should reject Central’s efforts to deny south Utah and east Juab Counties Central water and CUP water infrastructure.

First, solemn promises should be kept. We respectfully submit that men and women of character require no further discussion of this point.

Second, section 206 of the CUPCA Act contains a clear principle of equity that was intended to protect against unfair distributions of CUP benefits. Unfortunately, Congress was so certain that south Utah County would be provided CUP benefits, that south Utah County falls through a crack in Section 206. While the technical language of Section 206 does not apply to South Utah County, the principles of equity embodied there should be applied in South Utah County.

Third, a key part of the CUP is the Strawberry/Jordanelle exchange. Imported water must be released from the enlarged Strawberry Reservoir to Utah Lake to satisfy priority water right holders who would otherwise be entitled to waters of the Provo River. This makes it possible for Central to lawfully store waters of the Provo River in Jordanelle Reservoir. Most of the Central water used in the Utah Lake drainage basin will not be consumed, but rather will flow to Utah Lake, where it can be counted as satisfying a portion of the required Strawberry/Jordanelle exchange. This conserves an equal amount of water in the enlarged Strawberry Reservoir.

Last, much of Salt Lake County is dense urban or suburban sprawl. What is not already developed on that model appears to be largely planned on that model. More water means more of the same and greater endless densities. South Utah and east Juab Counties have only begun to plan and grow. With CUP water, both municipal and agricultural, south Utah and east Juab Counties have the opportunity to create small cities near preserved agricultural lands.

We want a place for our children to grow and prosper here, not in a larger, more dense Salt Lake Valley metropolis. We want to support and save some of the Utah County agricultural heritage as well. With improved infrastructure, the Strawberry can serve the interest of all south Utah and east Juab County residents, farmer and city dweller alike. We ask for that opportunity.

Above all else, we respectfully ask that you keep the promises made to those who have supported the Bonneville Unit of the CUP, and waited for its benefits for so many decades. We thank you very much for your time and careful consideration.

[The prepared statement of Mr. McMullin follows:]

**Statement of Robert W. McMullin, President, Strawberry Water Users Association, Payson, Utah**

Mr. Chairman and members of the subcommittee, my name is Robert McMullin, I serve as the President of the Strawberry Water Users Association (SWUA). I appreciate the opportunity to address you regarding a topic which is very important to SWUA and its shareholders.

Attached is a copy of my resume. My home, my friends and family, my orchards and my heart are in south Utah County, Utah.

SWUA is a nonprofit corporation organized in 1922 primarily for the purpose of contracting with the United States Bureau of Reclamation (Reclamation) to repay to the United States the remaining unpaid construction costs of the Strawberry Valley Project (SVP), and to provide a water supply to approximately 2,800 SWUA shareholders, including the south Utah County, Utah cities of Springville, Mapleton, Genola, Spanish Fork, Salem, and Payson. SWUA repaid to the United States all of the costs of construction of the SVP in 1974.

The SVP is a Federal reclamation project constructed between 1906 and 1915. The SVP provides approximately 70,000 acre-feet (AF) of water to approximately 41,000 acres of land in south Utah County, Utah. Most lands served by the SVP have insufficient water.

Because south Utah County has always been a dry spot in a desert state, SWUA and its shareholders have been among the very first, and the very strongest, supporters of the Central Utah Project (CUP). The following quotes come from pages 16 to 19 of the history of the CUP found in the Final Environmental Impact Statement for the Bonneville Unit of the CUP (BUEIS):

Investigation work on the Central Utah Project began soon after the turn of the century under the Reclamation Act of 1902. The Strawberry Valley Project, with Strawberry Reservoir as its key feature, was a forerunner of a larger central Utah development soon to be envisioned. Strawberry Reservoir was completed in 1913, and as early as 1919 local municipal and agricultural water users and other leaders who recognized future water requirements in central Utah began considering the possibility of expanding the existing Strawberry Valley Project.

Investigations on obtaining additional water for the Strawberry Valley Project were begun in the spring of 1945. During the course of these studies, the plan was expanded to cover essentially the same area that was considered in the Colorado River-Great Basin Project, and the name Central Utah Project was given to the Proposal.

The Central Utah Water Conservancy District (CUWCD) was formed in 1964 as the local entity that would repay the local share of the CUP. Since the mid 1960s, south Utah County residents began paying property taxes to CUWCD to support the CUP. SWUA shareholders, many of them struggling family farmers, have been paying those taxes ever since. They have yet to see significant CUP benefits.

From the conception of the CUP it was intended that CUP facilities would replace certain SVP facilities. The SVP's Strawberry Dam was replaced by the CUP's Soldier Creek Dam. The SVP's Strawberry Reservoir was replaced by the CUP's Enlarged Strawberry Reservoir. The SVP's collection system was replaced by the CUP's Strawberry Collection System. The SVP's Strawberry Tunnel was replaced in part by the CUP's Syar Tunnel.

From the very beginning it was clear that without the cooperation and support of SWUA and its shareholders there could be no CUP. Again, I quote from page 549 of the BUEIS:



If the necessary operating agreements for storage, exchange, and use of some existing facilities to convey the water to points of use could not be obtained, development of the Bonneville Unit would be terminated at the enlarged Strawberry Reservoir, with no water being exported to the Wasatch Front.

SWUA gave its support to the CUP, and allowed SVP facilities to be replaced by CUP facilities.

Prior to the enactment of the 1992 Central Utah Project Completion Act (CUPCA) it was anticipated that SWUA, CUWCD and the United States would be required to enter into an agreement for the operation and maintenance of CUP facilities for the benefit of both the SVP and the CUP. Such an agreement was signed by the United States, CUWCD and SWUA in 1991, one year before the agreement was mandated by Congress. I refer you to section 209 of CUPCA.

From the beginning of the CUP it was anticipated that south Utah County and east Juab County irrigators would be provided CUP water and water infrastructure. Section 202 of CUPCA, the section CUWCD seeks to amend, authorized \$150 Million for the construction of the "Irrigation and Drainage System," or in the alternative \$125 Million "for the construction of alternate features to deliver irrigation water to lands in the Utah Lake Drainage basin."

During the construction of Jordanelle Reservoir as part of the "M&I System," a feature of the Bonneville Unit of the CUP, south Utah and east Juab County residents were asked to agree to wait to receive CUP Bonneville Unit benefits dead last. A solemn promise was made by all levels of Federal, state and local officials and leaders that the patience, cooperation, support and sacrifice of the south Utah County and east Juab County people would never be betrayed. They would never be left out of the CUP.

CUWCD has now said that it will take most of the CUP water promised to south Utah and east Juab Counties to Salt Lake County, outside the Utah Lake Drainage Basin. Frankly, SWUA could and would swallow a bitter pill and quietly accept the loss of the promised irrigation water if the majority of the authorized \$125 Million were used to provide water conservation and efficiency infrastructure to help south Utah and east Juab Counties make their very short water supply go farther. In the process, water quality, safety and environmental concerns could be addressed as well.

CUWCD is instead before Congress seeking authorization to use all of the \$125 Million originally intended "for the construction of alternate features to deliver irrigation water to lands in the Utah Lake Drainage basin" to deliver municipal water to Salt Lake County, outside the Utah Lake Drainage Basin. Subsection (c) of H.R. 4129 contains two changes to section 202(a)(1)(B) of CUPCA which accomplish this. First, the words "to lands in the Utah Lake Drainage basin" would be removed from section 202(a)(1)(B) to make it clear that the authorized funds could be used to deliver water outside the Utah Lake Drainage basin. Second, the proposed amendment would add the word "municipal" in front of the word "irrigation" to make it clear that the authorized funds would be spent on "municipal irrigation," not agricultural irrigation. These changes would completely exclude irrigators, and would in addition give CUWCD the discretion to exclude the Utah Lake Drainage basin, that is, south Utah and east Juab Counties, completely.

There are four principal reasons why you should reject CUWCD's efforts to deny south Utah and east Juab Counties CUP water and CUP water infrastructure:

First, Solemn promises should be kept. We respectfully submit that men and women of character require no further discussion of this point.

Second, section 206 of CUPCA contains a clear principal of equity that was intended to protect against unfair distributions of CUP benefits. Unfortunately, Congress was so certain that south Utah County would be provided CUP benefits that south Utah County falls through a crack in section 206. While the technical language of section 206 does not apply to south Utah County, the principals of equity embodied there should be applied to south Utah County.

Third, a key part of the CUP is the Strawberry/Jordanelle Exchange. Imported water must be released from the Enlarged Strawberry Reservoir to Utah Lake to satisfy priority water right holders who would otherwise be entitled to the waters of the Provo River. This makes it possible for CUWCD to lawfully store waters of the Provo River in Jordanelle Reservoir. Most of the CUP water used in the Utah Lake Drainage Basin will not be consumed, but rather will flow to Utah Lake, where it can be counted as satisfying a portion of the required Strawberry/Jordanelle exchange. This conserves an equal amount of water in the Enlarged Strawberry Reservoir which would otherwise have to be released to Utah Lake for the exchange. Literally, the CUP water used in the Utah Lake Drainage Basin can be used at least twice. By contrast, if that same water is instead used in Salt Lake

County, outside the Utah Lake Drainage Basin, no portion of it returns to Utah Lake. It can be used only once. Use of the unallocated CUP water in the Utah Lake Drainage Basin is literally more than twice as efficient and productive, and results in a considerably greater CUP yield. We know of no better water reuse and conservation program.

Lastly, much of Salt Lake County is dense, urban or suburban sprawl. What is not already developed on that model appears to be largely planned on that model. More water means more of the same and greater endless densities. South Utah and east Juab Counties have only begun to plan and grow. With CUP water, both municipal and agricultural, south Utah and east Juab Counties have the opportunity to create small cities near preserved agricultural lands. We want a place for our children to grow and prosper here, not in a larger, more dense, Salt Lake Valley metropolis. We want to support and save some of south Utah County's agricultural heritage as well. With improved infrastructure, the CUP can serve the interests of all south Utah and east Juab County residents, farmer and city dweller alike. We ask for that opportunity.

Above all else, we respectfully ask that you keep the promises made to those who have supported the Bonneville Unit of the CUP, and waited for its benefits, for so many decades.

We thank you very much for your time and careful consideration.

Mr. REHBERG. Thank you.  
And Mr. Howarth.

**STATEMENT OF WILLIAM BOYD HOWARTH, CHAIRMAN,  
JUAB COUNTY COMMISSION**

Mr. HOWARTH. Mr. Chairman and Committee members, on behalf of Juab County I would like to express our thanks to Representative Cannon for his introduction of H.R. 4129, and our appreciation to Representative Jim Hansen for his unyielding support of Juab County and its residents during his many years as our Congressman. Particularly on this issue, the Central Utah Water Project, his support has been unwavering and constant. We will miss his presence here, since Juab County, at least politically speaking, is a 98-pound weakling, and we have benefitted from the fact that all these years the strong kid on the playground has protected us and taken care of us well.

From a Juab County perspective, H.R. 4129 makes sense for the vast majority of the taxpayers who make up the Central Utah Water Conservancy District. However, it has the potential to severely damage—that is probably an understatement—it has the potential to devastate Juab County's ability to receive water from the Central Utah Water Project.

That notwithstanding, I speak today in favor of H.R. 4129. The basis for that support demands, however, an explanation which I am happy to give.

Juab County became a founding member county of the Central Utah Water Conservancy District when the district was created by judicial decree in March 1964. Juab County joined the district because of a representation that it would receive much-needed water from the district and from the Federal Government, who contracted with each other a year later in 1965 to bring water to Juab County and the other member counties.

In 1965 the district proposed a ballot proposition to Juab County residents. It proposed a levy to tax property in Juab County so that the water could be delivered to the county. The ballot proposition received tremendous support because our people believed that we

would receive the water in exchange for the tax. The vote was 964 in favor of that tax to just 17 in opposition.

The residents of our county voted so overwhelmingly in favor of the tax because they realized then, as they do now, that new water, real wet water flowing from a pipe, not just a water right on paper, is what is needed to help Juab County blossom into one of Utah's great agricultural counties. Juab County possesses wonderful rich land for growing crops. Unfortunately, much of it must be dry farmed because there is not enough water.

CUP water flowing through a pipe to Juab County would revive the county economically as well as agriculturally. It would realize what politicians in Utah have been trying to accomplish for more than 40 years, Federally funded water in a pipeline that contributes to the greater good.

Since the tax commenced in 1965, our people have continuously paid the tax for water that has always been promised, yet never delivered. For 38 years Juab County has paid and waited patiently on promise that the water would come. We have always believed that it would come, until recently. With the political powers of larger communities clamoring for CUP water, the residents of Juab County now realize that without the benevolence of the politically strong, that the county will not simply be a 98-pound weakling but a 98-pound weakling whose lunch money has been taken to pay for the lunch of another.

H.R. 4129 allows water to leave Spanish Fork Canyon and turn north for use in municipal systems in the Salt Lake Valley. That reality makes it very difficult for the district to send another pipeline south to those in Juab County who have paid these 38 years to have it and its water.

However, we trust and believe the officials of Central Utah Water Conservancy District when they say that they will find a way for water to arrive in our county. Our support of this bill demonstrates that trust and reliance which we have in the officials of the district. We take them at their word, that they will find a way to deliver wet water, not just paper water, in fulfillment of the district's obligation to Juab County.

If it were not for the assurance of the district, this 98-pound political weakling would muster the courage to fight this bill. Instead, we ask the Committee to support H.R. 4129. Our support of this bill, coupled with support from the southern Utah County municipalities and Strawberry Water Users Association, demonstrates that Utahans from diverse locations and interests can and will work together to find solutions for all instead of only the politically strong.

Thank you very kindly for this opportunity to testify to the Committee on this day.

[The prepared statement of Mr. Howarth follows:]

**Statement of William Boyd Howarth, Chairman, Juab County Commission,  
Juab County, Utah**

On behalf of Juab County I would like to express our appreciation to Representative Jim Hansen for his unyielding support of Juab County and its residents during his many years as our congressman. Particularly on this issue-the Central Utah Water Project-his support has been unwavering and constant. We will miss his presence here since Juab County-at least politically speaking-is a 98 pound weakling

and we have benefitted from the fact that for all these years the strong kid on the play ground as protected us and taken care of us.

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The residents of our county voted so overwhelmingly in favor of the tax because they realized then as they do now that new water-real water flowing from a pipe and not just a water right on paper-is what is needed to help Juab County blossom into one of Utah's great agricultural counties. Juab County possesses wonderfully rich land for growing crops. Unfortunately, much of it must be dry farmed because there is not enough water. C.U.P. water flowing through a pipe to Juab County would revive the county economically as well as agriculturally. It would realize what politicians in Utah have been trying to accomplish for the more than forty years: Federally funded water in a pipeline that contributes to the greater good.

Since the 1965 tax commenced, our people have continuously paid a tax for water that has always been promised, yet never delivered. For 38 years Juab County has payed and waited patiently on the promise that water would come. We have always believed it would come-until recently. With the political powers of larger communities clamoring for C.U.P. water, the residents of Juab County now realize that without the benevolence of the politically strong, that the county will not simply be a 98 pound weakling, but a 98 pound weakling whose lunch money has been taken to pay for the lunch of another.

H.R. 4129 will allow water to leave Spanish Fork Canyon and turn north for use in municipal systems in the Salt Lake Valley, That reality makes it very difficult for the District to send another pipeline south to those in Juab County who have paid for 38 years to have it and its water, However, we continue to trust and believe the officials of the Central Utah Water Conservancy District when they say that they will find a way for water to arrive in our county. Our support of this bill demonstrates that trust and reliance which we have in the officials of the District. We take them at their word that they will find a way to deliver "wet water" and not just "paper water" in fulfillment of the District's obligation to Juab County. If it were not for the assurances of the District, this 98 pound political weakling would muster the courage to fight this bill,

Instead, we ask the committee to support H.R. 4129. Our support of this bill, coupled with the support from the Southern Utah County municipalities and the Strawberry Water Users Association demonstrates that Utahns from diverse locations and interests can and will work together to find solutions for all instead of only the politically strong.

Thank you,

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Mr. REHBERG. Thank you, Mr. Howarth, and panel members. Are there questions? Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman. I would like to first thank our panel members for coming out, Mr. Christiansen, Mayor Brailsford, Ms. Peterson, Ms. James, Mr. McMullin, and Commissioner Howarth. We appreciate your comments on this.

We also have with us today the County Attorney from Juab County, David Leavitt, and we have at least four members of the board of the Strawberry Water Users here today. Marcus Faust is also here with us, and I have probably missed somebody. Ron John-

ston is also here. So we have a number of people from Utah here today. We are pleased that you could all make this.

I apologize for being in and out. I have some other business that is going on. We are reorganizing the Immigration and Naturalization Service tomorrow, and we are working hard on getting that right before we get the rule out later on this afternoon, and so I apologize for coming in a little late, Mr. Chairman.

I really just have one question, and that is for you, Mr. Christiansen. I know some of the witnesses today have concerns about Section C, which deletes language related to the Utah Lake drainage basin. Are you willing to work with these individuals to find a way to leave the basin language in the statute?

Mr. CHRISTIANSEN. Yes, Mr. Cannon, we are.

Mr. CANNON. You may want to move the microphone over toward you.

Mr. CHRISTIANSEN. Did you get that on tape? All of these folks trust me. We are more than willing to change that wording in the legislation. However, it is important that we do include in that paragraph the words "municipal" and "industrial." If I am to build any facilities that will deliver water to my good friend sitting next to me here, the municipal/industrial words do need to appear in there, but the Utah Lake lands, we are happy to work out the language that would leave that in the bill, Mr. Cannon.

Mr. CANNON. And do you think that that, have you had enough discussion that you think that you can meet the needs of the people who are concerned about that language?

Mr. CHRISTIANSEN. Yes.

Mr. CANNON. Great. Thank you, and I have no other questions about this, Mr. Chairman.

Mr. REHBERG. Thank you, Mr. Cannon. If you had completed your immigration work sooner, you would have had that other congressional seat. You wouldn't be suing right now.

[Laughter.]

Mr. CANNON. We are hoping that it is independent, but if you are of another mind, we hope that you will keep your opinion to yourself.

[Laughter.]

Mr. CANNON. We view this as another seat for the great State of Montana, since we think a lot alike.

Mr. REHBERG. Yes, and we are well aware of where you are taking that seat from. We sued 10 years ago and were not successful, so we are kind of counting on you not being successful this time.

Mr. CANNON. Courts change over time.

Mr. REHBERG. Yes, they do. But we have given it up. We know we are going to lose.

We thank you for traveling so far, and apologize for the inconvenience that we created with the votes we had today. You have convinced me, and I am one of those, you probably heard my opening statement on the next bill, promises made that are not kept is something that I ran against. And I just find it bothersome that the Federal Government sometimes does not remember the promised they made, but those of us who get to be here for extended periods of time, we will remember and you can count on our support.

Mr. BRAILSFORD. We get tired of the carrot.

Mr. CANNON. We do want some wet water involved in this process, and I might just point out that I am pleased, at least under the current scenario, to be representing at least part of Juab County, and look forward to—I have never thought of you guys as a 98-pound weakling. I thought of you as a bunch of tough guys. But I am pleased to be working with you.

I am going to have to go to a press conference here in a few minutes with Chairman Sensenbrenner and General Ashcroft about INS, but I have a few minutes. I am going to slip out in the hall, and if we need to talk about some of these things, I would be happy to meet with you for a few minutes there. Thank you.

Mr. REHBERG. Congressman “Cannonball” Cannon to the rescue. Thank you very much.

Mr. CANNON. Thank you.

Mr. REHBERG. Next panel, please. OK, if we could get the other panel to please sit down, we will get started. Mr. Sunchild, we will allow you the opportunity, as you are scheduled to go first, and please feel free to get up and leave as you have to. You are still OK. I know that route real well. It takes about 20 minutes, so you are probably still OK.

But why don't we begin this hearing on H.R. 1946, and we will begin with Mr. Sunchild.

**STATEMENT OF BRUCE SUNCHILD, SR., VICE CHAIRMAN,  
CHIPPEWA CREE TRIBE**

Mr. SUNCHILD. Thank you very much, Mr. Chairman. Mr. Chairman, and members of the Subcommittee, my name is Bruce Sunchild, Sr. I am the Vice Chairman of the Chippewa Cree Tribe of Rocky Boy's Reservation, and co-chair of Rocky Boy's/North Central Montana Regional Water System.

I have a prepared statement that I have submitted for the record. I will now summarize my remarks and relay a few key points.

I would like to thank Chairman Calvert and the members of the Subcommittee on Water and Power for convening this hearing, and I would like to also thank our Montana representative, Denny Rehberg, for his strong and continuing support of this project. The Chippewa Cree Tribe and North Central Regional Water Authority are jointly seeking Federal legislation authorizing Rocky Boy's/North Central Montana Regional Water System.

The water system will provide a safe, reliable municipal, rural, and industrial water supply for the Rocky Boy's Reservation and our neighboring off-reservation communities. This project is essential to our tribe's goal of establishing a self-sustainable homeland.

The Rocky Boy's Reservation is located in an area where water is in scarce supply, which greatly limits our economic development and opportunities. Studies have demonstrated that the reservation cannot sustain its current rate of growth, much less provide for economic growth, without additional supplies of water for drinking, agricultural, municipal, and industrial purposes.

The unemployment rate on Rocky Boy's Reservation is extraordinarily high. Approximately 39 percent of Rocky Boy's population

lives below the poverty level. Without an adequate water supply, the picture will never improve.

The water rights of the Chippewa Cree Tribe are described in Public Law 106-163. The Chippewa Cree Tribe and Rocky Boy's Reservation Indian Reserve Water Rights Settlement—that is a tongue-twister—Water Supply Enhancement Act of 1999 ratified the water compact entered into by the tribe and the State of Montana in 1997.

The Federal Settlement Act identified a need to import water to the reservation area for long-term MR&I needs, and the settlement authorized a study to identify a preferred plan to meet those needs. And, Mr. Chairman, I would like to make a comment at that point where Mr. Keys had made comments about studying this. This particular project has been ongoing, and our water rights settlement package, BOR received a substantial amount of money to complete this water study.

Mr. Chairman, the study has long been going on. It is time for us to go to work and get some wet water to Rocky Boy's Reservation. The past panel here talked about wet water, and that is the same problem that we have. We need the wet water. It is difficult for us to drink water that is sitting 50 miles away from our reservation.

And I was bothered by the testimony of Mr. Keys when he talks about my water rights settlement and what position that they are taking at this point. The bill clearly states that nothing prohibited us from coming back to seek water, to transport those waters from 50 miles away, from Tiber Dam.

Monday, I left Monday from Rocky Boy's at 4 o'clock in the morning to come to D.C. to prepare for these testimonies. Monday night at 9 o'clock there was fire at my Rocky Boy's Reservation that contained 200 acres of fire, in April. Mind you, gentlemen. this is April, and that fire season is going to get worse.

And in putting out that fire, the lower part of my system, which is Box Elder, Montana, was temporarily out of water until the next morning, to replenish that aquifer to supply that water. Gentlemen, that is a need that we have for water that is so drastic. At this point right now we thought was the opportune time to do that with our settlement dollars, through our neighboring, off-the-reservation communities, was an opportune time to connect those, to put our projects together and come to Congress for this authorization.

Any questions that you may have, I would like to answer as much as I can here, but emotionally right now, if I go on any further I think I would—you know, I feel slighted. I feel slighted by the testimony given by Mr. Keys. I guess I should be used to it by now, but I am sorry, sir, I cannot get used to that. And my testimony is written and there for the record, and I thank you very much.

[The prepared statement of Mr. Sunchild follows:]

**Statement of Bruce Sunchild, Sr., Vice-Chairman, Chippewa Cree Tribe of the Rocky Boy's Reservation**

Mr. Chairman and members of the Subcommittee, my name is Bruce Sunchild, Sr. I am the Vice-Chairman of the Chippewa Cree Tribe of the Rocky Boy's Reservation and Co-Chairman of the Rocky Boy North Central Montana Regional

Water System Coordinating Committee. I would like to thank the Honorable Chairman Ken Calvert and the members of the Subcommittee on Water and Power. I would also like to thank our Montana Representative Denny Rehberg for his strong and continuing support for this project.

The Chippewa Cree Tribe and the North Central Regional Water Authority are jointly seeking Federal legislation authorizing the Rocky Boy's/North Central Montana Regional Water System. The water system will provide a safe and reliable municipal, rural, and industrial water supply for the Rocky Boy's Reservation and our neighboring off-reservation communities.

This project is essential to our Tribes' goal of establishing a self-sustaining homeland. The Rocky Boy's Reservation, located in north central Montana, consists of more than 120,000 acres, which are home to approximately 3,500 Tribal members who reside on the reservation. We have a rapid population growth rate that exceeds 3% annually.

Unemployment on the Rocky Boy's Reservation is extraordinarily high and approximately 39% of Rocky Boy's population lives below the poverty level.

The Chippewa Cree Tribe has made important strides in economic development over the past ten years in the areas of production of cattle, grain, timber and tourism. Although the reservation's economy has improved in the last decade, the reservation still lacks an adequate water source and infrastructure for any sustained municipal and industrial growth. Recently, drought relief monies were obtained to build new wells for the current municipal system. However, lack of recharge to the shallow bedrock aquifers on the Reservation severely limits water yield. Proposed expansions of our tribal college and other enterprises cannot proceed until new firm water supplies are located.

The Rocky Boy's Reservation is located in an area of scarce water supply, which greatly limits economic development opportunities. Studies have demonstrated that the reservation cannot sustain its current rate of growth, much less provide for economic growth, without additional supplies of water for drinking, agricultural and municipal and industrial purposes.

#### *Tribal Water Right*

The water right of the Chippewa Cree Tribe, as described in Public Law 106-163, the "Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999," ratified the Water Compact entered into by the Tribe and the State of Montana. As part of the water settlement, the Tribe received an allocation of 10,000 acre-feet per year of stored water from the Bureau of Reclamation in Lake Elwell, also referred to as Tiber Reservoir. In addition, the settlement provided for an appropriation of \$15 million as recognition of the need for a new Tribal municipal water system and to begin development of a future water supply system for the Reservation.

#### *Need for the Water System*

Groundwater is the primary source of domestic water within the Rocky Boy's Reservation. In addition to our limited water supply, we lack an adequate water delivery infrastructure system. Of the various sources of groundwater on the Reservation, only the shallow alluvial and bedrock aquifers have potential for development. The other groundwater sources either exceed the criteria set by the Safe Drinking Water Act, have high concentrations of chloride, sodium, and sulfate, or are too expensive to develop. These secondary contaminants make the water undesirable for domestic use.

Although the quality of the water in the shallow alluvial aquifer is generally acceptable, the quantity is inadequate. Wells in this aquifer generally have low yields, producing 10 gallon per minute or less of water. Historically, these private wells are used for a period of time and then abandoned due to decreasing yields. As yields decrease, the water quality often also decreases. Furthermore, these wells are frequently connected to the major water courses where the potential for pollution is significant.

There is simply not enough good quality groundwater to meet the Tribe's current needs, much less our future needs. Surface water sources are also limited in quantity and cannot provide a reliable source of water. As a result, many Tribal members have to haul water for their domestic use.

Employment on the Reservation is a chronic and long-standing problem. The Tribe is faced with a young, rapidly growing population and a corresponding need for economic development, in an area of chronic water shortages. A dependable source of high quality water is needed to enable Tribal members and other Reservation residents to achieve an adequate standard of living.



A safe and reliable water supply is a cornerstone of economic development. The assurance of an adequate supply of high quality municipal, rural and industrial water will enable the Tribe to pursue current and future economic development. It will also allow current and future Reservation residents to enjoy a higher quality of life through improved health conditions, more employment opportunities, and an overall increased level of economic development.

#### *Other Alternatives*

There are very few alternatives for providing water to the Rocky Boy's Reservation. Studies have shown there are simply no reliable surface and groundwater on-reservation sources to serve the needs of the Reservation. These studies, conducted by the Tribe, the Bureau of Indian Affairs, and the Indian Health Service, have all concluded that there is a need for a Reservation-wide domestic water supply system.

#### *The Project*

The proposed project is an innovative and collaborative solution to the need of both the Tribe and the north central part of Montana for an MR&I system. Discussion of the proposed project began during the compact negotiations between the Tribe and the State of Montana. It was recognized as a unique opportunity for the Tribe and its off-reservation neighbors to cooperate to the benefit of both communities. In many areas of this country, competing uses of water would create litigation between on and off-reservation waters users. To be cooperating in the manner we have is unusual and something that we are all proud of.

Lake Elwell is a Bureau of Reclamation facility located 50 miles west of the Rocky Boy's Reservation. The availability of thousands of acre feet of unallocated water in Tiber Reservoir provides the opportunity to meet the water needs of the Tribe and neighboring north central regional communities. P.L. 106-163 allocated 10,000 acre-feet per year of water from the lake to the Tribe.

Water will be diverted from the lake into a common water quality treatment plant. The water will be treated to meet all of the criteria of the Safe Drinking Water Act. This centralized treatment plant will eliminate the need for each community to build its own treatment plant. It will also simplify the process of upgrading the plant to meet changing requirements of the Safe Drinking Water Act. Because all of the water will be treated to standards, Reservation resident will uniformly have access to safe drinking water, at acceptable levels.

A core pipeline will convey water from the treatment plant to the Rocky Boy's Reservation. Smaller distribution lines will then convey the water to the various communities and users on the Reservation. The Tribe proposes to use our \$15M in settlement monies to upgrade our existing water delivery system to receive the imported water.

The estimated total cost of the project is \$200 million. The tribal related portion of the project is estimated at \$120 million. All costs of the reservation system, including operation and maintenance, will be a Federal responsibility.

This project will dramatically enhance the health, quality of life and economic benefits of our Reservation and region. This project will allow the Chippewa Cree Tribal members to realize their goal of self-determination and will provide, for the first time ever, a safe and reliable source of drinking water on the Reservation. It will also provide the cornerstone for the Tribe's current and future economic development plans. I urge your support for this project.

Mr. Chairman, in the landmark 1908 decision where the Winters Doctrine was established, the Supreme Court ruled that when the United States established Federal Indian reservations, there had to be sufficient water reserved for the tribes to establish those reservations as permanent tribal homelands. Over the course of the last quarter century, the Federal Government has also strongly urged tribes to settle their water rights claims so as to quantify the extent of the tribal right and create certainty for off-reservation residents who will almost certainly have a junior water right to the tribe. Well, we did that. We settled our water rights and the United States ratified that settlement in P.L. 106-163, but the settlement of a water right only benefits a tribe if there is a method of putting that water to some beneficial use. The greening of the west bypassed Indian country, Mr. Chairman. Additionally, for the last century, as state and local governments established water systems, they too forgot about Indian country—at best. At worst they endeavored to divert our water before it reached the reservations. Now the Congress has an opportunity to do the right thing and to assist both the Chippewa Cree Tribe and the dozens of non-Indian communities in North Central Montana who cannot presently comply with established drinking water standards. H.R. 1946 creates an opportunity to culminate the negotiation of our water rights into a proverbial win-win situation. We appreciate that our friend Denny Rehberg has introduced this bill and

we hope that you will now mark it up and move it on to the floor of the House. Thank you again for the opportunity to testify in support of this important and necessary project. I would be pleased to answer any questions.

Mr. REHBERG. Thank you, Mr. Sunchild, and I understand your frustration. The United States has reserved and made available for the Chippewa Cree Tribe 10,000 acre feet of water in the Tiber Reservoir. Mr. Sunchild, does it make any sense to you for the Federal Government to have that water held for your tribe without you having the capacity to access it and use it?

Mr. SUNCHILD. None whatsoever. That is a paper right that is sitting 50 miles away, and what we need is wet water.

Mr. REHBERG. Are there viable alternatives or is this the only alternative?

Mr. SUNCHILD. No. The study that Mr. Keys has talked about was a study of Milk River and the Missouri River. Milk River at this point is overallocated, and the Missouri has arsenic levels to a point where the State of Montana does not allow us to degradate another stream. So that, and then the Chippewa Cree Tribe has a resolution stating that we will not bring arsenic-laced water into our reservation.

Mr. REHBERG. Thank you, Mr. Sunchild. Please feel free to leave when you need to.

Mr. SUNCHILD. Gentlemen, again I would like to thank you for this opportunity, and we need your support. Thank you very much.

Mr. REHBERG. Thank you.

The next gentleman, I kiddingly say to the entire State of Montana that I came back as a freshman for orientation the week after the election, and the very first person I met with was Mr. Keil on this project, and I wasn't even to be sworn in for another month and a half. That is how much this project means to Mr. Keil. Welcome.

**STATEMENT OF DANIEL KEIL, CHAIRMAN, NORTH CENTRAL MONTANA ROCKY BOYS REGIONAL WATER AUTHORITY**

Mr. KEIL. Thank you, Mr. Chairman. I want to thank you for the opportunity to come back here. For the record, my name is Dan Keil, that is K-E-I-L. I serve in the capacity as Chairman of the North Central Montana Regional Water Authority. Previous to that or in another life, I am a farmer in dry old Montana, where we are experiencing in our area the sixth year in a row of drought, and it is getting to some of the community water systems that are participating in this project.

If I may draw your attention to the map that is attached to my testimony, the size of this project, you can see that it is approximately 10,700 square miles. On that map you will find that there are different coded tracings. Those describe the existing water systems that are part of the participation. There are several water districts. Mine is the Tiber Water District which serves portions of five counties in north central Montana.

I have been on that Tiber Water Board since it was started in the early 1970's, and it was started as a result of the first SALT agreement that President Nixon went to Russia and signed. When he did that, it stopped the construction on a military facility just

up the road from my house, and part of that was a large water line that went across country, that was put in for the service of a military base and for the water for cooling for that facility.

As a result of that, when they closed it down, the community got together and formed a water district in those five counties, and I was elected president and served on that board. I still serve on that board, but I was president for a number of years.

You know, when the water came to us, before that we all had to haul water, and some of the people in this district hauled water 25 miles one way, you get real conservative. You know, one of the big difficulties that we had in that water system or the farmers had, was when the water, when we got it there, we finally had water that we could do just about anything we wanted to with. We could turn the tap on let her run a little bit longer than necessary.

You know, Denny, you were talking about the problems with having the people running water in your house. Well, the other one was, was flushing the toilet. You know, when you don't flush it by necessity, it becomes pretty rank. But it is nice to have flowing water, and we are very proud of it, and the people out in the communities that are part of these systems are very proud of it.

When the opportunity came to try and solve additional problems that the Federal Government has put on us with the regulations that these small systems have to comply with, this is what drives their participation in this regional water system. Because it is real easy, when the Federals and the EPA decide to justify the cost-effectiveness of some of these programs, and they go in, and say it takes a million people and they divide up the cost by a million, then it is affordable. When they divide the cost up by the size of some of these systems that are part of this thing where there is 23 families, then it becomes real expensive to comply with.

In 1992 there was an ad hoc committee that was formed. I served as chairman of that. And in 1999, we formed the Authority, and we have been struggling trying to get this passed. We were going to be here last fall, but of course the 9/11 thing kind of put a hold on that. We need to get on with the project because a couple of the systems have some time lines on compliance issues they have been out there struggling with, and we need to get on with the system.

So I want to take this opportunity to thank you again. I have a gentleman here who is representing the Hill County Water District which has one of those compliance problems, and if you have any questions, we would be pleased to try and answer them.

[The prepared statement of Mr. Keil follows:]

**Statement of Dan Keil, Chairman, North Central Montana  
Regional Water Authority**

Mr. Chairman and members of the subcommittee, my name is Dan Keil. I am Chairman of the North Central Montana Regional Water Authority. Thank you for the opportunity to testify before the subcommittee in support of authorizing the Rocky Boy's/North Central Montana Regional Water System. I would also like to thank Representative Rehberg for his strong and continuing support for this project.

The Rocky Boy's/North Central Montana Regional Water System will provide a safe and dependable municipal, rural and industrial water supply for the Rocky Boy's Reservation and the public water supply systems that comprise the North Central Montana Regional Water Authority. Speaking on behalf of the off-Reservation portion of the project, I can assure you that the communities in north central Montana strongly support both the on-Reservation and off-Reservation components of the project.

*Need for the Water System*

The Rocky Boy's Reservation and north central Montana are plagued by problems with water quality and supply. The off-Reservation public water supply systems are unable to meet the requirements of the Safe Drinking Water Act. According to the Montana Department of Environmental Quality (DEQ), three of the public water supply systems which would be served by the proposed regional system are out of compliance with the Federal Act. Of these three, DEQ has issued an administrative order to one system requiring an alternative source of water and expects to bring enforcement actions against the other two systems in the near future.

The Montana DEQ prioritized the existing water systems according to their expected difficulty in meeting future regulatory requirements based upon current EPA proposals and the 1996 amendments to the Safe Drinking Water Act. As can be seen from the attached table, almost all of the existing systems are either out of compliance or will have difficulty meeting future regulatory requirements unless they upgrade their systems.

Many of the systems treat their water with chlorine which in turn may cause problems with elevated levels of disinfection by-products. Other systems have problems with bacterial contamination and elevated levels of total dissolved solids, iron, manganese, lead, copper, sulfate and sodium. Boil orders either have been or are presently in effect for a number of the systems.

Many area residents are not served by any public water system. Due to the limited availability and poor quality of groundwater, these residents must haul their own water. The available water supply fails to meet water quality standards and poses real health risks to the area's population.

Water quality problems are exacerbated by water supply issues. Because of the general lack of good quality groundwater, most of the area's larger public water systems use surface water supplies, including the Milk River. As recognized in the North Central Montana Regional Water System Planning/Environmental Report dated May 2000, the availability of direct flow supplies from the Milk River is limited by the loss of active storage due to the rapid rate of sedimentation, unused Canadian treaty rights and unquantified Indian reserved water rights. Public water systems relying on the Milk River have had to implement strict water rationing requirements.

The water availability problems have been aggravated by drought. In 2000 and 2001, the U.S. Department of Agriculture classified all 56 Montana counties under drought disaster status. A number of the counties which will be served by the proposed regional water system have received a drought disaster classification for the last five years. As of March 14, 2002, the National Oceanic and Atmospheric Administration predicted the drought in Montana is likely to persist. In recognition of the continuing drought, the U.S. Department of Agriculture has already granted Montana drought disaster status for 2002.

The poverty rate for all eight counties which will be served by the regional water system exceeds the national average. According to the U.S. Census Bureau, 19.8 percent of the people in Hill County and 17.4 percent in Toole County live in poverty. These are two of the counties which will be served by the regional water system. The Montana Department of Labor & Industry reports the unemployment rate on the Rocky Boy's Reservation at 27 percent. According to the Department, unemployment on the Rocky Boy's Reservation is more than twice that on other Montana reservations and is the highest in the state. These statistics only reflect those persons actively looking for work and do not reflect the true situation on the Reservation where many have become discouraged and given up hope of finding a job. In 1999, this committee's report on the Rocky Boy's Reservation's Indian reserved water rights settlement estimated unemployment on the Reservation at nearly 70 percent. A reliable source of safe drinking water is necessary to improve the low standard of living on the Reservation and in the surrounding area.

A dependable supply of water is also essential to ongoing efforts to attract new businesses to the area in order to provide for future economic growth. In addition to long term benefits, the regional water project will provide an immediate economic boost for north central Montana and the Rocky Boy's Reservation. Assuming labor costs for the project at 25 percent of the total construction budget, the project will generate approximately \$38.75 million in wages via 1,242 construction man hours. These construction dollars will provide a much needed stimulus to the regional economy.

The North Central Montana Regional Water Authority, along with the Rocky Boy's Reservation, the State of Montana, and the Bureau of Reclamation, has studied possible alternatives to supply water to the region. The option of updating existing public water supply systems to comply with the Safe Drinking Water Act was rejected due to the high cost. Another option, using Missouri River water, was re-

jected because it would introduce arsenic from the Missouri into the Milk River basin, thereby degrading the water quality of the receiving streams. Obtaining additional water from the Milk River was also studied but rejected due to the limited physical and legal availability of water. The use of additional groundwater sources was also investigated. This option was not feasible because there is very little groundwater physically available, and the groundwater that is available is of poor quality or is under the influence of surface water which according to the Safe Drinking Water Act requires treatment. Of all the alternatives reviewed, the proposed regional water project is the only one which provides a dependable water supply while offering the lowest capital project and life-cycle costs.

#### *The Project*

Water for the Rocky Boy's/North Central Montana Regional Water System will be diverted from Lake Elwell, a Bureau of Reclamation reservoir on the Marias River, which is located approximately 40 miles west of the Rocky Boy's Reservation. As part of the Rocky Boy's reserved water rights settlement, the Chippewa Cree Tribe was allocated 10,000 acre-feet per year from storage in Lake Elwell. The off-Reservation portion of the regional water system will contract with the Bureau of Reclamation for purchase of stored water from Lake Elwell. There is sufficient storage available in the reservoir to provide a reliable supply for the project while satisfying recreational and fishery needs.

A water treatment plant, using conventional filtration, will be located near the intake on Lake Elwell. The water will be treated to meet both the primary and secondary requirements of the Safe Drinking Water Act standards. A core pipeline will convey water from the treatment plant to the Rocky Boy's Reservation. A series of transmission pipelines will also provide water to smaller distribution lines belonging to the area's off-Reservation public water supply systems. The regional water system will take advantage of the infrastructure of these existing systems. When completed, the regional water system will provide a safe and dependable water supply for a projected 30,000 people in 2045. Water will be provided to all or parts of eight counties including 10,700 square miles in north central Montana.

Without the proposed centralized water treatment plant, most of the participating systems would be required to build new or to significantly upgrade existing conventional water treatment plants. Due to the low population densities and limited income potential in north central Montana, individual communities, both on and off the Reservation, cannot afford their own treatment plants. The existing public water supply systems are also concerned about additional upgrades which may be necessary in the future to satisfy changing Federal and state regulation. A central treatment plant will allow these existing systems to economically meet both the current and any future requirements of the Act.

The estimated total project cost is \$200 million, the Rocky Boy's Reservation portion of which is \$120 million. The bill proposes the Federal share of the off-Reservation construction to be 75 percent. The North Central Montana Regional Water Authority has worked with the State of Montana to secure funding for the non-federal share of the capital costs. A portion of the approximate \$20 million non-federal share of the project has already been set aside. The Authority will also be responsible for the cost of operating, maintaining and repairing the off-Reservation portion of the project.

The north central Montana communities and the Tribe have been working together on the project development since 1992, having formed an Ad Hoc Committee in 1993. Off-Reservation and Tribal communities worked with the 1999 Montana Legislature to enact legislation allowing establishment of regional water authorities and creating a state regional water system fund. This type of cooperation is needed to benefit all Montanans. Recognizing the area's need, the State of Montana, local entities and the Tribe agreed to seek Federal authorization for the project. This joint commitment is evidenced in the reserved water rights compact negotiated between the Chippewa Cree Tribe, the State of Montana, and the Federal Government.

Sixteen rural water districts, two water users associations, and several Hutterite colonies originally expressed an interest in the project and paid preliminary fees to demonstrate their earnestness. I have attached to my testimony a list of the participating off-Reservation entities. In addition, more than 145 households not presently served by a water system have expressed interest in receiving water. All of the public water systems on the attached list are members of the North Central Montana Regional Water Authority.

The people of north central Montana and the Rocky Boy's Reservation presently do not have a reliable source of water. The proposed regional water system will provide water to an area historically afflicted by water supply and quality problems.

We ask this subcommittee's support in passing this important legislation to protect the social and economic future of our region.

Thank you again for the opportunity to testify in support of the Rocky Boy's/North Central Montana Regional Water System. I would be pleased to answer any questions.

[Attachments to Mr. Keil's statement follow:]

<b>MDEQ CURRENT AND FUTURE COMPLIANCE CONCERNS</b>		
Category 1	Category 2	Category 3
1. Hill County WD (SWTR)	1. Hill County WD (DBP, ESWTR)	1. Big Sandy
2. Box Elder School (LCR)	2. Loma WD (DBP, ESWTR)	2. Galata
3. S. Chester WUA (GWUI)	3. Tiber WD (DBP, ESWTR)	
4. Riverview Colony (GWUI)	4. North Havre WD (DBP, ESWTR)	
5. Sunburst (TCR)	5. Devon WUA (DBP, ESWTR)	
	6. Sage Creek WD (GWUI)	
	7. Shelby (GWUI)	
	8. Chester (DBP, ESWTR)	
	9. Sweetgrass (DBP, ESWTR)	
	10. Dutton (GWUI)	
	11. Conrad (DBP, ESWTR)	
	12. Oilmont (GWUI, GDR)	

- Category 1: Currently out of compliance
- Category 2: Expected to have difficulty meeting future regulatory requirements based upon current EPA regulatory proposals and/or requirements of the 1996 amendments to the SDWA. Primarily small systems that either utilize surface water, or groundwater systems that may be classified as groundwater under the influence of surface water.
- Category 3: Currently in compliance, and expected to be in compliance with future regulator requirements.

- Acronyms:
- DBP: disinfection by products
  - ESWTR: enhanced surface water treatment rule
  - GDR: groundwater disinfection rule
  - GWUI: groundwater under the influence of surface water
  - LCR: lead and copper rule
  - SWTR: surface water treatment rule
  - TCR: total coliform rule

**PARTICIPATING SYSTEMS**

*Town of Big Sandy*

*Town of Chester*

*City of Conrad*

*Town of Dutton*

*Galata County Water District*

*Hill County Water District*

*Loma County Sewer and Water District*

*North Havre County Water District*

*Oilmont County Water District*

*Sage Creek County Water District*

*City of Shelby*

*Town of Sunburst*

*Town of Sweetgrass*

*Tiber County Water District*

*South Chester Water Users Association*

*Devon Water Users Association*

*Riverview Colony*

*Eagle Creek Colony*

*Sage Creek Colony*





Mr. REHBERG. Thank you, Mr. Keil. Normally we wait until after everyone on the panel has spoken to ask questions, but since I am the Chairman, I can do anything I want. So I would like to ask you the question, approximately how much would it cost per household to comply, if you were required to?

Mr. KEIL. Well, you know, for the Hill County system?

Mr. REHBERG. Any system. You could use the worst case scenario or—

Mr. KEIL. It depends upon the type of water that they have available, as to what the technology that they would have to use would be. My water system has technology right now that they are in compliance, but some of the new proposed regulations coming down the line, we haven't had an opportunity to analyze those costs of what it is going to be to comply with those issues, such as the disinfection byproducts. There are several of those type of things that are coming down the line right now.

The water systems, like with Hill County, it is hundreds of dollars per month, you know, with a small system. Right now our water rates for some of these systems are in excess of \$135 a month, without any additional cost.

Mr. REHBERG. Do you have professional water hauling businesses in your area? In Billings I get charged—I am literally 10 minutes from downtown Billings, so I am as close as you can get but I still have to haul water to my home—it costs me about \$30 for 2,000 gallons. Do you have a business that you can call to deliver that 25 miles, or—

Mr. KEIL. You know, in rural country all the farmers have got trucks that we are hauling the water, and they would slip a tank on the back and would haul their own. And of course, like a good farmer, our time, we are not worth anything. So I don't know of anybody in my immediate area that makes a living out of hauling water, you know.

Mr. REHBERG. I used to haul my own until I needed to get another job. It took me 8 hours a day, 8,000 gallons a day.

Mr. KEIL. Well, yes. You know, that is—before the introduction of these rural systems, that controlled our life, hauling water. And it is always a lot of fun to haul water when your cistern runs empty and it is 20 below zero.

Mr. REHBERG. That is right. OK, thank you, Mr. Keil.

And finally, Mr. Tubbs, you just can't seem to get away from me, can you? We have worked together for a long time. It is nice to see you in your new capacity. Welcome to Washington, and if you please.

**STATEMENT OF JOHN E. TUBBS, CHIEF, RESOURCE DEVELOPMENT BUREAU, MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION**

Mr. TUBBS. Mr. Chairman, it is nice to see you in your new capacity. It is great to be here. It is truly an honor to testify before the House and this Committee from the State of Montana. I want to thank you for that opportunity, and strongly support the Rocky Boy's/North Central Montana Regional Water Supply System.

I want also to relay Governor Martz's strong support for this regional water system. She is fully aware of the importance of a safe

drinking water supply to this region of Montana. It is a cornerstone of life and economic life, and I know that Governor Martz's strong support will not end, and she is going to pursue this project.

The Chippewa Cree tribal government of the Rocky Boy's Reservation has been trying to address a serious need for safe drinking water for over a decade now. This driving need for a reliable and high quality source of water supply presented an opportunity to work with a regional water system, where both the tribal government and the nontribal communities in the area for one of the first times are working cooperatively to solve a common need. Everybody needs a safe source of drinking water.

And it should not be missed by this Committee and Congress, this relationship building between tribal and nontribal governments in the State. Oftentimes they don't work together and work at cross purposes. This is not one of those times, and we really need to honor that relationship that they are building on this drinking water system.

Montana is also suffering, as Dan mentioned in his area, 6 years of drought State-wide. It is 4 years of long-term drought. Initially our surface water supplies were the first hit, but now groundwater supplies are suffering because of the lack of recharge over years. That is not going to recover for a long time. The moisture loss to the soil and the groundwater continues now with, as Vice Chairman Sunchild mentioned, a fire in April on the Rocky Boy's is not a good sign for the future of this summer.

We considered a number of alternatives. Hill County Water District, made reference to, uses water out of the Milk River. Today if you went out to one of the major reservoirs you could walk across it, because it is empty. It is literally empty—Havre had to restrict their water use 2 weeks ago because of the lack of any stored water in the Milk River drainage. That is just not an option for this region, to go back to the Milk River.

The Missouri River, as mentioned, does have arsenic in it that is naturally occurring from Yellowstone Park. It comes out of the Firehole River and goes down the river system all the way to New Orleans. The State does not want to see arsenic introduced into the Milk River system, which does not have arsenic. And so from a water quality standpoint, as you know, Representative Rehberg, in Montana degradation of high quality water just isn't allowed. I mean, you just can't move that over into another drainage, so that isn't an option.

The only other option that is really available is to go on the way we are going with the regional water system. Which is to have 20 independent, very small water systems, that right now have no adequate water, and systems on the reservation. And the problem from the State's perspective is that we have to regulate all 20 of those systems, and none of them are having an easy time staying in compliance.

And as Dan mentioned, with the few number of customers each one of them has, they don't have the capacity to deal with changes that are promulgated through rulemaking under the Safe Drinking Water Act. The change comes, and where do they get the money? I mean, how do they react to it? How do they meet that need?

Well, with a central treatment plant we are going to be able to regulate one point within the region that is going to be built to standard to begin with, and anticipate future standards. It will have a greater number of users on it, so any change can be borne by a larger population.

And we really, strongly feel that this is the way we can develop the capacity in Montana to both provide safe drinking water and also have an adequate source, because Tiber Reservoir is one of the few places in the whole region where we can get drought relief for these communities. It is a very good, firm source of water supply out there. There is plenty of water in Tiber Reservoir to contract. It isn't going to run out.

So we strongly support this regional system. We encourage the Congress to pass H.R. 1946 now, to get it authorized. Authorization is going to let us engage the Bureau of Reclamation and get this project done. We have got to pass this bill.

[The prepared statement of Mr. Tubbs follows:]

**Statement of John Tubbs, Chief, Resource Development Bureau,  
Montana Department of Natural Resources and Conservation**

Mr. Chairman and members of the committee, for the record my name is John Tubbs. I am Chief of the Resource Development Bureau of the Montana Department of Natural Resources and Conservation. As a representative of the State of Montana, I want to thank you for the opportunity to provide testimony in support of House of Representatives Bill 1946 authorizing the 'Rocky Boy's/North Central Montana Regional Water System Act of 2001'.

Governor Martz has asked me to relay her strong support of the proposed regional water project in North Central Montana. Governor Martz is very interested in seeing this project authorized because of the tremendous need for safe drinking water in this area of Montana and the benefits the regional water system can provide to the water users, the state and the nation. As my testimony will demonstrate, the support of the State of Montana for this project is strong and comes with a significant financial commitment for funding.

The Chippewa Cree Tribal Government of the Rocky Boy's Reservation has been trying to address a serious need for safe drinking water. This driving need for a reliable, high quality water supply presented the opportunity for a regional water system to serve tribal members and non-tribal communities. Working with local and state representatives, tribal leaders have taken this opportunity to work with their neighbors to achieve a common goal, adequate and safe drinking water for our communities. It is so important to note this positive action of both the tribal and non-tribal communities working together. When the tribal leaders reached out to their neighbors and extended this opportunity and vision, they bridged a gap in relationships that had existed for decades. The proposed Rocky Boy's / North Central Montana Regional Water System is a shared vision based on a common need.

In the early 1990's, representatives from the tribal and non-tribal governments met to begin the planning for this project. The opportunities that a regional water supply presented were unquestionable, but the very size and cost of the proposal led to many questions about economic feasibility. An interagency team was assembled to coordinate a state review of the proposed regional water system. The team is composed of representatives for the Departments of Natural Resources and Conservation, Environmental Quality, and Commerce. This state coordinating committee is still actively evaluating the proposal. Two state grants have been awarded to provide funding for preliminary engineering for the system so everyone can base their support for this project on factual information. This process continues.

What has been shown is that water quality is poor in some areas of the region, and inadequate water quantity is often an issue. Communities and water districts in the region have tried to attack this problem through several methods. Some are not treating water from a number of surface sources beyond chlorination. As a result, at least three systems are currently out of compliance with Federal safe drinking water standards. Up to 13 of the remaining systems are expected to have difficulty meeting future regulatory requirements based upon current U.S. EPA regulatory proposals or other requirements of the 1996 amendments to the Safe Drinking Water Act (SDWA). Compliance with the requirements of the Safe Drinking

Water Act is difficult in large part because there are 20 individual public water supplies serving the rural communities of the area. The small number of users served by each of the individual systems must bear the full cost of running a drinking water system. By joining together on a regional basis, future costs will be associated with one intake and treatment facility, and they will spread against a larger user base. From the state's perspective, a regional system will be able to demonstrate that they have the capacity to operate, manage, and finance future operations.

Insufficient water quantity is an everyday issue to many of the residents of the area. Montana is in the fourth year of a severe drought. To bring this into perspective, precipitation has been so far below normal that it is estimated we have lost an entire year's worth of normal precipitation over the four-year period. Initially, surface water sources were the hardest hit by the drought. However, due to the length of the drought, groundwater supplies are now threatened. The proposed source of supply from Tiber Reservoir would provide both a high quality source of drinking water for the region and a firm supply of water that "drought proofs" the communities in this region. There is no other source that has sufficient quantity and quality to meet the combined needs of all the communities in this region.

A key question is what would a regional system cost in comparison to the alternatives that these community water supplies may have. The total estimated cost of the regional system is approximately \$200 million. The state, as a condition of support, asked for an alternative analysis of the costs to communities and individuals of providing safe drinking water without a regional system. Based on engineering estimates, the cost of maintaining and operating 20 individual water systems within the region is about 10 percent lower than the \$200 million cost of constructing the regional system. However, the benefits of a regional system greatly exceed the 10 percent increase in total cost for the regional project. First, the quality of water provided from the regional system will be a great improvement to many of the individual systems. If you have bad groundwater to start with, treatment doesn't improve its quality. It only makes it safe to drink. Second, maintaining the individual systems does not address the benefits of providing a firm water supply that protects the communities against future drought.

From a regulatory aspect a regional water system has significant benefits. At the present time, there are 20 different regulated systems within the region that wish to be a part of the authority. Meeting regulatory requirements of the Safe Drinking Water Act must be demonstrated by each system. When a rule changes, all those systems must react to the change. Also, because many of the systems are for small municipalities or county water districts, some with fewer than 200 connections, there is a reduced capacity on the part of most of these smaller systems to maintain and operate a water system, not to mention the problems that the long-established communities are having. That means that the Montana Department of Environmental Quality is perennially facing problems with compliance. A regional water system would provide one point of regulation for the all of the member systems. If a rule were changed, it would only affect one treatment plant. Due to economies of scale, a regional system can be operated with a higher level of oversight and management than individual municipal water supply systems. Therefore, an increased degree of compliance can be expected.

The state also supports this regional water system because of its potential to yield strong economic benefits. Unemployment on the reservation is high. Construction will employ many people that have few other job opportunities. The construction period is estimated to be in excess of a decade. Once constructed, there will be numerous long-term jobs created as the tribe and the non-tribal water users operate and maintain the facilities. These types of jobs are highly sought after in this area of Montana. Finally, the regional pipeline will provide one of the key resources that enterprising businesses look for when they locate in an area—a safe water supply. Ranch/farm operations will benefit from the stock water available through the system. This will immediately improve their bottom line, as increased weight gain can be achieved with higher quality water. This project will not resolve all of the economic problems that North Central Montana faces; however, it will serve as a cornerstone to future success upon which the people in the area can build.

The state supports the Rocky Boy's / North Central Montana Regional Water System because it provides the Rocky Boy's Reservation with a safe and reliable drinking water system. The Rocky Boy's Reservation is the home of the Chippewa and Cree Tribes in Montana. Since the establishment of the Rocky Boy Reservation in 1916, tribal members have been limited to developing poor quality groundwater sources and limited surface water sources for their drinking water systems. The existing systems on the reservation are inadequate today and will not be able to provide safe drinking water for the future. The state of Montana supports every effort to provide the tribal members living on the Rocky Boy Reservation a reliable, high

quality drinking water system. We are all Montanans and all of us must have the opportunity to prosper whether we live on an Indian Reservation or not. It is an absolute; the tribal members of the Rocky Boy's Reservation must have a safe and reliable drinking water system. The regional system will provide the required water supply for the reservation.

Finally, I would like to tell the Committee about the legislation that Montana has passed to support this regional water system proposal. Clearly, considering the price tag of this project, a partnership among local, state and Federal Governments needs to be forged. Montana has made a commitment to this partnership. The Montana State Legislature established a funding mechanism in 1999 specifically to provide state cost share dollars for regional water systems. This fund has now grown to over \$8 million and will continue to receive \$4 million a year until 2016. Earning from this fund will be used to match Federal expenditures along with local cost share. The Treasure State Regional Water Fund Legislation enjoyed strong support from the State of Montana. In the Senate, SB 220 received 50 of 50 votes. In the House, SB 220 received 97 of 100 votes for passage.

I respectfully request that the committee, after due consideration, pass HR. 1946 authorizing the Rocky Boy's / North Central Water System. This is so important to the people in North Central Montana that I ask on behalf of the State of Montana that you give this bill your approval, so that the planning and engineering can proceed on this system.

Thank you for your time today. It was an honor to speak before the committee.

Mr. REHBERG. Thank you, Mr. Tubbs. Has the Administration, the Martz Administration, looked into the opportunities of appealing to the EPA if we are not successful in getting this project funded, to lessen the standards or give us additional time to try and figure out another solution, as Mr. Keys indicated in his testimony, that he would desire to create a multi-agency coordinating effort? Is there any possibility, or is that beyond the Governor's authority and abilities?

Mr. TUBBS. Mr. Chairman, I don't know that the Governor has the ability to change the Safe Drinking Water Act rules. But through the DEQ, our Department of Environmental Quality, which is the primacy agency for EPA in the State of Montana, they have indicated that, one, they want to see this bill moved forward or, two, the Hill County Water System needs to build a water treatment plant.

They are willing to work with us if Congress authorizes this legislation, because they know full well this is a better solution than Hill County going on their own with the resources they have independently. And so, I mean, the bottom line is, DEQ has said, "We'll give you until the end of the year to get this authorized. Otherwise, we have to move forward."

And it is not just an issue of the Safe Drinking Water Act. Hill County does not have a surface water treatment plant. They divert the water into two large reservoirs and then chlorinate it for distribution. So it is more than just the regulatory requirement. We are delivering water to a series of communities on the high line that is at risk, and the State and EPA can't stand by for too much longer without essentially assuming that risk for our agencies. We need Hill County to deliver safe drinking water.

And frankly, I am more than willing to work with Commissioner Keys on a joint funding, but I would like to kind of shift that to the appropriations side of the issue as opposed to the authorization side of the issue.

Mr. REHBERG. Has the State of Montana made a financial commitment on their share of the cost?

Mr. TUBBS. Mr. Chairman, the State of Montana has funded for now, nearly a decade, the planning of this project. We have established a coal service tax trust fund, where a quarter of our coal taxes in Montana that are deposited into the permanent trust are dedicated to this. We have built it up now to greater than \$8 million. It is going to ultimately provide a tremendous amount of revenue through the earnings on that trust, and it was established specifically for this project and one other in northeastern Montana. And, by the way, we only lost 2 votes out of 150 votes in the State legislature, so—

Mr. REHBERG. This is a fund that was established from the coal tax revenue, from the principal, not the interest?

Mr. TUBBS. From the principal. There is a kind of internal fund that is being built up, whose revenues, earnings, are dedicated for a regional water system non-Federal match. The State is strongly behind this project.

Mr. REHBERG. Strictly for this project, or any water project?

Mr. TUBBS. Two projects were authorized, this one and the Dry Prairie Water Project.

Mr. REHBERG. All right. Officially, I am supposed to say the members of the Subcommittee may have some additional questions for the witnesses, and we will ask you to respond to these in writing. The hearing record will be held open for these responses until March 21st of 2002. It says March. Until May 21 of 2002.

If there is no further business, the Chairman again thanks the members of the Subcommittee and our witnesses. Without objection, the Subcommittee stands adjourned.

[Whereupon, at 4:30 p.m., the Subcommittee was adjourned.]

