

**MISCELLANEOUS WATER AND HYDROELECTRIC
PROJECT BILLS**

HEARING

BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

S. 943	S. 1355
S. 1027	S. 1577
S. 1058	H.R. 1284
S. 1071	H.R. 2040
S. 1307	S. Res. 183
S. 1308	

OCTOBER 15, 2003



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MISCELLANEOUS WATER AND HYDROELECTRIC PROJECT BILLS

WEDNESDAY, OCTOBER 15, 2003

U.S. SENATE,
SUBCOMMITTEE ON WATER AND POWER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:35 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Lisa Murkowski presiding.

OPENING STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. I'm calling to order the Subcommittee on Water and Power. Welcome to all who are with us this afternoon. Special welcome to you, Senator Allard. I understand we're also going to be expecting Congresswoman Musgrave in about 20 minutes or so.

We have nine bills and one resolution before the subcommittee today. We have S. 943, a bill to authorize the Secretary of the Interior to enter into one or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project. We have S. 1027 and H.R. 2040, which are bills to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in Wyoming and Nebraska. We have S. 1058, a bill to provide a cost-sharing requirement for the construction of the Arkansas Valley Conduit in Colorado. We have S. 1071, a bill to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in New Mexico; S. 1307, a bill to authorize the Secretary of the Interior, through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects.

We have S. 1308, a bill to authorize the Secretary of the Interior to pursue and complete actions related to the implementation of a U.S. District Court Consent Decree; S. 1355, a bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon; and S. 1577, a bill to extend the deadline for commencement of construction of a hydroelectric project in Wyoming; H.R. 1284, a bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the

Federal share of the cost of the San Gabriel Basin demonstration project; and S. Res. 183, a resolution commemorating 50 years of adjudication under the McCarran Amendment of rights to the use of water.

Just reading the titles probably will take as long as some of the testimony we may hear this afternoon. I know many of the bill proponents have submitted written testimony, and I will look forward to reading that, as well as hearing from the administration and other witnesses.

[The prepared statements of Senators Domenici and Campbell follow:]

PREPARED STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR
FROM NEW MEXICO

Madam Chairman, thank you for holding this subcommittee hearing today and for including S. 1071, authorization for a feasibility study on a water conservation project within the Arch Hurley Conservancy District in New Mexico including cost sharing options and debt relief. I also want to commend Senator Bingaman for introducing this legislation.

Arch Hurley is a small conservancy district on the eastern side of New Mexico. The District historically receives little or no water supply and has consistently had trouble meeting its repayment obligation to the Bureau of Reclamation. Additionally, as a result of receiving so little water, the system has lacked adequate maintenance and substantial parts of the system have fallen into disrepair.

As you know, Madam Chairman, New Mexico, along with other western states, is facing a severe drought. While authorizing this study to determine the feasibility of a water conservation project does not seem like a huge undertaking, it will make a big difference to the members of this district who are already feeling the effects of this worsening drought. Conserving water, no matter how vast or small, is a worthy goal.

Last year, I began helping the Arch Hurley Conservancy district get a start on some of their conservation objectives by providing funds through the energy and water appropriations bill. I believe this bill is the next step in helping them move forward.

I'm not certain where the results of this study will lead. I don't know if some of the ideas being proposed, specifically taking water saved from the Arch Hurley Conservancy District and conveying it to the Pecos River Basin, will work. However, I know that the Pecos River Basin is very water short and yet, has so many competing demands—including agriculture, endangered species and compact delivery obligations. The drought has created some extreme circumstances and in these desperate times, we ought to give every option a good hard look.

Madam Chairman, thank you again for holding this hearing. I look forward to hearing the testimony.

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL,
U.S. SENATOR FROM COLORADO

Mr. Chairman, I would like to briefly talk about my Resolution commemorating 50 years of adjudicating water rights under the McCarran Amendment and commending Western states' management of water.

In the West, water is as precious and scarce a resource today as ever. As the primary limiting resource for communities, industry, and agriculture in our region, water must be managed in a way that takes into account their diverse interests.

Correspondingly, water law out West is as distinct from the East as are the histories of these two great regions of our nation. In the West, water is a rare commodity, and is therefore regarded under the law as a property right sold apart from the land.

Traditionally, each state managed water based on its particular resources, geography, population, and municipal and industrial needs. Western states all recognized and favored water adjudication systems according to the doctrines of prior appropriation and beneficial use.

However, during the New Deal's expansive programs, the federal government sought to limit established states' jurisdiction over water and rode roughshod over State interests, often completely ignoring private property rights and resisting coop-

erative agreements to manage water. The States fought federal arm-twisting, but couldn't do much against the U.S. as sovereign. The federal bullying got so bad that in 1951, a Reader's Digest article criticized the U.S.'s strongarm tactics in the famous Santa Margarita water conflict stating, "the lack of moral sensitivity in our Government has put into jeopardy thousands of our small landowners; their property, homes, savings and their future."

Thankfully, Senator Patrick McCarran of Nevada and other like-minded Senators, successfully defended States' interests and got a very simple provision passed into law. In short, the law that we are celebrating today waives the United States' sovereign immunity that it can be joined in general state adjudications of rights to use water.

Although a simple concept, the McCarran Amendment effectively leveled the playing field, requiring Uncle Sam to work within the State system he implicitly helped to establish.

The breadth of the McCarran Amendment has been defined by several U.S. Supreme Court cases. The Court concluded that though the amendment itself might be short in length, its effect was far-reaching. The High Court stated that McCarran was "an all-inclusive statute concerning the adjudication of 'the rights to the use of water of a river system'" which "has no exceptions" and "includes appropriat[ive] rights, riparian rights, and reserved rights."

It is undeniable that the history of the West is linked to the federal government. Since the federal government maintains vast landholdings, the future of the West will continue to be linked to Uncle Sam. Similarly, the management of property and natural resources, of which water is both, has been and shall remain a state function.

The purpose of the McCarran Amendment was to prevent federal bullying of private and state interests in managing water, and to recognize water as a state resource. McCarran encourages the federal government to work together with the States.

My resolution comes at a time when much of the West continues to experience record drought conditions. Recognizing this, the federal government must remember the history of the McCarran amendment and look to the states in adjudicating water.

Thank you.

Senator MURKOWSKI. Since there are no Senators present to make any opening statements, I would invite you, Senator Allard, if you would like to make your remarks at this time.

STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR FROM COLORADO

Senator ALLARD. Thank you very much, Madam Chairman, for convening this hearing on the Arkansas Valley Conduit. I also want to thank the many people from Colorado who are here this morning and who have helped make this moment possible. It is an important day for an important bill. It's not always easy for them to get away from their daily duties, as you're well aware of, when we're from the western part of the United States and you're in the extreme far western part.

If you will excuse a little demonstration here as we pan the committee, I thought it was only appropriate that we start with this visual aid, Madam Chair, because when we're talking about the Arkansas Fryingpan project, which is a project that came into being some 50 years ago, this was one of the fundraising mechanisms. They had to create the project. And in Colorado, we have—I will just use kind of a pointer here—we have the western part of the State, and the eastern plains that start over here. And the Fryingpan project actually started right in there, and brings water clear down here, and then over into Kansas. So these are pretty large projects. And Colorado has been known worldwide for the

way it manages its water, and we do live in a semi-arid area, and water is a very valuable resource to us.

I will now go ahead and talk a little bit about the bill after just giving you this brief outline, and I will refer to the chart a little bit later on in my testimony. But, first of all, I would like to thank the Governor of Colorado, Bill Owens, for his support of the conduit, and I would like to introduce our witnesses. In addition to Congresswoman Musgrave, when she shows up, Jim Broderick, general manager of the Southeastern Water District, is here. You should be hearing from him, and he will provide the primary testimony on behalf of the conduit. And then he is accompanied by Kevin Kearney, Ohio County Commissioner, and Chuck Hannigan, trustee for the town of Swink. So they're all here, and we appreciate your being here.

I want to welcome the Commissioner, also, and thank him for taking the time to meet with me several weeks ago. And your commitment to working with me on the bill is much appreciated, and I'm confident we can work through any outstanding issues in order to reach an agreeable solution.

Madam Chairman, a historian and poet, once penned that the history of Colorado would be written in water. In southeastern Colorado, home of the Arkansas River, our history tells a story of an economically depressed area struggling to find clean, inexpensive water that meets ever-increasing Federal water standards.

It is for this reason that Senator Campbell and I have introduced S. 1058, and that Congresswoman Musgrave and Congressman McInnis introduced an identical version in the House of Representatives. S. 1058 will ensure the construction of the Arkansas Valley Conduit, which is a pipeline that will provide the small, financially-strapped towns and water agencies along the lower Arkansas River with safe, clean, affordable water by creating a 75 Federal, 25 local, cost-share formula for them to help offset the construction costs of the conduit. This legislation will protect the future of southeastern Colorado's drinking-water supplies and prevent further economic hardship.

It is extremely important to note that the Arkansas Valley Conduit was originally authorized by Congress over 40 years ago, in 1962, as a part of the Fryingpan-Arkansas Project. The original Fry-Ark Project—we've shortened it down—authorizing legislation, which is Public Law 87-50 and House Document number 187, Project Plan Report, grants the Secretary of the Interior the authority to construct the Arkansas Valley Conduit.

Because of the authorizing statute's lack of a cost-share provision and Southeastern Colorado's depressed economic status, this conduit was never built. Until recently, there was no need for it. The region was fortunate enough to enjoy an economical and safe alternative to pipeline transportation of the project water, the Arkansas River. Unfortunately, this is no longer the case. As far back as 1950, the Bureau of Reclamation determined that the quality of local drinking-water supplies were unacceptable, and this can be found in House Document number 187 in the 83rd Congress in response to a number of water providers falling out of compliance with existing EPA water quality standards.

The local communities formed a committee to evaluate alternative approaches to solving this problem. The committee ultimately hired an independent engineering firm to evaluate two competing options, constructing a series of treatment facilities and constructing the Arkansas Valley Conduit. The engineers concluded that local communities are unable to fund either solution.

Under existing circumstances, the long-term cost of water treatment, including potential new Federal standards and the cost of disposal of treatment facility waste, removed treatment as a viable long-term solution. The fixed long-term cost of the pipeline contributed to the engineers recommending this conduit as the most viable solution. The communities cannot afford to construct the pipeline alone, nor can they afford to build individual treatment plants, and yet they have these onerous regulations from the Environmental Protection Agency there to not only maintain good quality water, but safe water.

The report found that the full financial capabilities of the counties, cities, and water agencies in the project area could finance approximately 25 percent of the projected cost. You will see that reflected in the bill that we have before you. In other words, the communities may be too poor not to spend the 176 million on the conduit, in partnership with the Federal Government. When you weigh the promise of the conduit versus the fate of building new individual water treatment facilities, it is clear that the conduit is the best choice of action.

The Arkansas Valley Conduit will deliver fresh, clean water to dozens of valley communities and tens of thousands of people along the river. To be exact, the conduit will supply 16 cities and 25 water agencies in Bent, Crowley, Kiowa, Prowers, Pueblo, and Otero Counties with water when completed. The largest city served by the conduit is La Junta, Colorado, which has a population of around 12,000.

At this time, if the members of the committee will direct their attention to the map, they will see exactly where the conduit's beneficiaries are situated. You will see it outlined here on the map. That area is about the size of the State of New Hampshire if you want to draw some sort of comparison. And after we've transferred the water over here from Pitkin County down to Pueblo, then we have the Pueblo Reservoir, and they actually have constructed in that area, right there, a conduit out. There's no conduit, because they couldn't afford it. And the communities that are poor and struggling along the Arkansas River is right down here. This is all an agricultural area.

And like I said, the largest community we have in there is 12,000. And it is just impossible, without having the cost-share, that they're ever going to meet the EPA requirement. So this is very viable to an area of Colorado that is suffering from the very severe drought that we had last year, and one that over the years whose economy has changed to the point where it's just not possible for the communities to go back to the residents and realistically expect them to pay a full cost of the project. And so we have put in the bill the 75/25 percent match, the consultants feeling that the 25 percent match, although a challenge, is something that is doable for the area.

As I mentioned, the local sponsors of the project have completed an independently funded feasibility study of the conduit and have developed a coalition of support from water users in southeastern Colorado. I'm also pleased that the State of Colorado has contributed a great deal of funding for the study through the Colorado Water Conservation Board. These local stakeholders continue to explore options for financing their share of the costs and are working hard to complete the final details surrounding the organization that will oversee the conduit project.

At this time, I would ask that a letter of support from the Southeastern Colorado Water Conservancy District, the entity responsible for the Fry-Ark Project, be entered into the record.*

Senator MURKOWSKI. Without objection.

Senator ALLARD. I also would like to point out a letter written last year by the Bureau of Reclamation that applauded the effort made to introduce the legislation and stated, and I quote, "Reclamation has a long demonstrated capability of designing and constructing projects like the conduit," and that the Bureau looked forward to working with the local stakeholders on the project. With the help of my colleagues, the promise made by Congress 40 years ago to the people of Southeastern Colorado will finally become a reality.

Before I conclude my remarks, I ask that my extended remarks be printed in the record, and the extended remarks contain additional points regarding additional concerns and justifications.

Senator MURKOWSKI. Thank you. Those remarks will be included in the record.

[The prepared statement of Senator Allard follows:]

PREPARED STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR FROM COLORADO

Madam Chairman, a historian and poet once penned that the history of Colorado would be written in water. Today, in the midst of the third year of unprecedented drought, this prediction has proven an accurate account of life in the headwater state. The drought is also a strong reminder that water is indeed our most precious natural resource. In Southwestern Colorado, home of the Arkansas River, it is difficult to find clean, inexpensive water that meets the ever increasing scrutiny of federal water standards.

It is for this reason that Senator Campbell and I introduced S. 1058, and that Congresswoman Musgrave introduced an identical version in the House of Representatives. S. 1058 will ensure the construction of the Arkansas Valley Conduit, which is a pipeline that will provide the small, financially strapped towns and water agencies along the lower Arkansas River with safe, clean, affordable water. By creating a 75 federal/25 local cost share formula to help offset the construction costs of the Conduit, this legislation will protect the future of Southeastern Colorado's drinking water supplies, and prevent further economic hardship.

It is extremely important to note that the Arkansas Valley Conduit was originally authorized by Congress over forty years ago, in 1962, as a part of the Frypan-Arkansas Project. The original Fry-Ark Project authorizing legislation (Public Law 87-50 and House Document No. 187—Project Plan Report) grants the Secretary of the Interior the authority to construct the Arkansas Valley Conduit. Our legislation simply adds a cost-share to the already-existing provision. Due to the authorizing statute's lack of a cost share provision and Southeastern Colorado's depressed economic status, the Conduit was never built. Until recently, there was no need for it—the region was fortunate to enjoy an economical and safe alternative to pipeline-transportation of Project Water: the Arkansas River. Unfortunately, this is no longer the case. While the federal government has continued to strengthen its unfunded water quality standards, these communities have fallen further and further behind in attaining them. As far back as 1950, the Bureau of Reclamation determined that

*The referenced material has been retained in subcommittee files.

the quality of local drinking water supplies were “unacceptable” (House Document Numbered 187, Eighty-third Congress).

In response to a number of water providers falling out of compliance with existing EPA water quality standards, the local communities formed a committee to evaluate alternative approaches to solving this problem. The committee ultimately hired an independent engineering firm to evaluate two competing options: constructing a series of treatment facilities and constructing the Arkansas Valley Conduit. Under the treatment facility scenario, individual municipalities would face construction costs of \$20 million to \$40 million each. This so-called “no action” alternative could cost communities as much as \$187 million in total. Estimates on the cost of the Conduit hover around \$176 million for the federal government share (this figure may be inflated because it is based on a \$235 million net-present value over 50 years, and includes operation and maintenance costs that we have assured the Bureau are not to be included in their match requirement).

The engineers concluded that local communities are unable to fund either solution under existing circumstances. The long-term costs of water treatment, including potential new federal standards and the cost of disposal of treatment facility waste, remove treatment as a viable long-term solution. The fixed long-term costs of the Conduit contributed to the engineers recommending this solution. The report found that the “full financial capabilities of the counties, cities, and water agencies in the project area could finance approximately 25 percent of the project cost” for the Conduit. In other words, the communities may be too poor not to spend the \$235 million in partnership with the federal government. When you weigh the promise of the conduit versus the fate of building new individual water treatment facilities, it is clear that the conduit is the best choice of action. S. 1058 is essential if we are to bring local water providers into compliance with federal water quality standards and it will finally provide a long term solution to the region’s water quality concerns.

The Arkansas Valley Conduit will deliver fresh, clean water to dozens of valley communities and thousands of people along the river. To be exact, the Conduit will supply 16 cities and 25 water agencies in Bent, Crowley, Kiowa, Prowers, Pueblo and Otero counties, with water when completed. The largest city served by the Conduit is La Junta, Colorado (population nearly 12,000). At this time, if the members would direct their attention to the maps, they will see exactly where the Conduit’s beneficiaries are situated. One of the most stunning facts that I would like to point out—the Conduit will serve an area slightly larger than the state of New Hampshire.

As I mentioned, the local sponsors of the project have completed an independently funded feasibility study of the Conduit, and have developed a coalition of support from water users in Southeastern Colorado. I am also pleased that the State of Colorado has contributed a great deal of funding for the study through the Colorado Water Conservation Board. These local stakeholders continue to explore options for financing their share of the costs, and are working hard to complete the final details surrounding the organization that will oversee the Conduit project.

At this time, I would ask that a letter of support from the Southeastern Colorado Water Conservancy District, the entity responsible for the Fryingpan-Arkansas Project, be entered into the record, along with the list of potential beneficiaries of the Conduit. I would also like to point out a letter written last year by the Bureau of Reclamation that applauded the effort made to introduce the legislation, and stated that “Reclamation has a long demonstrated capability of designing and constructing projects like the Conduit,” and that the Bureau looked forward to working with the local stakeholders on the project. In addition, I ask that an editorial from the Denver Post be entered into the record as well.

Now I would like to turn my attention to the Bureau of Reclamation and some of the questions they have raised pertaining to the legislation. I first want to make it clear that the purpose of the legislation is to provide a 75 federal/25 local cost share formula for the costs of construction. The local beneficiaries are to be 100 percent responsible for operation and maintenance. If the Bureau of Reclamation believes that the language of S. 1058 does not reflect this commitment, I am prepared to make such changes as are necessary to ensure local payment of O&M. I also want to make it clear that the current language of S. 1058 will be modified so that it clearly states the local share will be 25 percent, no more, no less, and that the federal share shall be 75 percent of construction costs, no more, no less.

I also understand that the Bureau of Reclamation may be concerned about the cost of the project. As a member of the United States Senate, you have my full commitment that, if the cost-share language is approved, I will work tirelessly on behalf of this project to make sure that it does not impact other important Reclamation projects. This project was authorized 40 years ago. If the money is not spent now,

it will be spent later as communities seek federal grants to fund their projects individually instead of using a system-wide conduit approach.

I have also received a revised copy of the legislation from Senate Legislative Counsel. The new draft includes provisions for an overall cost-ceiling on the construction costs of the conduit. Should the Bureau of Reclamation prefer a bill with a cost-share, I have no doubt that an agreeable cost-ceiling mechanism can be incorporated into the bill.

I would also like to note that it has been 23 years since the last feasibility study was performed. However, the local sponsors have completed a feasibility study that examined alternatives to construction of the Conduit. Its conclusion is that the alternative (i.e., to build a system of regional water treatment facilities) is too expensive for the communities involved. In addition, the Bureau of Reclamation, when presented with the question of whether a Reconnaissance Study was necessary, informed the beneficiaries that a Re-Evaluation Statement of the conduit was the proper course of action. It is my understanding that Reclamation intends to use the beneficiaries' feasibility study.

The Bureau of Reclamation is also concerned that the cost-share legislation will create a new precedent and that it opposes changes to the Bureau's standard 100 percent repayment policy. I realize that my legislation is a change to standard policy—indeed that is the very purpose of the legislation. However, there are at least 9 other authorized projects that legislatively change the standard repayment policy. Therefore, the Arkansas Valley Conduit cost-share would not set a precedent—the precedent has already been made.

I also note the speculation regarding the introduction of a comprehensive rural water bill. While I may be supportive of such legislation, it should not undermine the effort of the Arkansas Valley Conduit, a project authorized by Congress over 40 years ago. The economic reality that spurred introduction of the Conduit legislation in the first place will not change upon the introduction of a new policy. Nor can the communities wait.

With the help of my colleagues, the promise made by Congress forty years ago to the people of Southeastern Colorado, will finally become a reality.

Madam Chairman, thank you for your leadership and for holding this hearing today.

Senator ALLARD. Thank you, Madam Chairman. And thank you, Commissioner Keys, for working with my office on the legislation and for the dedicated work of your staff. And, as always, thank you, Madam Chairman, for your leadership and for holding this hearing today.

And now, Madam Chairman, it gives me a great deal of pleasure to introduce to you our new Congressperson from Colorado for the 4th District—which is the District that I represented before I was elected to the U.S. Senate, Congresswoman Marilyn Musgrave.

Senator MURKOWSKI. Thank you. Welcome to the subcommittee.

**STATEMENT OF HON. MARILYN MUSGRAVE,
U.S. REPRESENTATIVE FROM COLORADO**

Ms. MUSGRAVE. Thank you, Madam Chairman, members of the subcommittee. Thank you for holding this important hearing and for allowing me to come before you today and talk about one my highest legislative priorities, building the Arkansas Valley Conduit.

First, let me begin by commending Senator Allard for introducing S. 1058 and for continually fighting to secure quality drinking water for the people of southeastern Colorado. My colleague, Mr. McInnis, and I have introduced a companion measure in the House, H.R. 2102, which has been cosponsored by Representative Chris Cannon, chairman of the House Western Caucus. H.R. 2102 would provide the much-needed 75-percent-Federal/25-percent-local cost-share requirement to ensure that residents of the economically depressed Arkansas Valley will not face even more years of poor water quality. As you may know, the Arkansas Valley Conduit was

first authorized in 1962 as part of the Fryingpan-Arkansas Project. However, lawmakers recognized the poor water quality found in the Arkansas Valley as early as 1950, when the Secretary of the Interior in the Bureau of Reclamation called for improved municipal water in every town in the valley, except for Colorado Springs. Today, residents of southeastern Colorado are still waiting for the clean, safe, and affordable drinking water they were promised over 40 years ago. It is crucial that we pass this legislation, because the conduit is even needed more today than it was in 1962.

In its February 2002 report, the Colorado Department of Public Health and Environment stated that, quote, "Lower Arkansas River in Colorado is the most saline stream of its size in the United States. The average salinity levels increased from 300 parts per million, TDS, east of Pueblo, to over 4,000 parts per million near the Kansas State line," end of quote. Treating the water for saline and other water-quality constituents such as iron and manganese is a major expense, which places a tremendous financial burden on these small communities.

Instead of forcing these local communities to continually reinvest in treatment facilities that will no doubt have to be updated to fit ever-changing environmental regulations, we should carry out the plans Congress envisioned 40 years ago and build a conduit. These communities cannot afford to pay the entire expense of constructing the conduit or the cost of continually updating expensive treatment facilities. But, even more important is that these communities cannot afford to continue drinking the water flowing through the lower Arkansas Valley.

As time has passed, the cost of construction has gone up, while the water quality has gone down. This year, we have an opportunity to end this cycle by building the conduit through the financially feasible cost-share requirement. Without this cost-share, the families of Southeastern Colorado will never be able to afford the clean water they need or be able to meet the long-term Federal mandates and costly environmental standards we impose on them.

However, water quality is not the only issue at stake here. Water availability is equally important to the agricultural economy of the Arkansas Valley, which has been plagued for 5 years of disastrous drought. Building the conduit would not only protect the water quality, but it also would prevent excess moisture from seeping into the ground or being absorbed by tamarisks, a water-wasting plant meant to prevent erosion. Building the Arkansas Valley Conduit is the best alternative for the water quality problems in southeastern Colorado. The cost to the Federal Government is worth the benefits of providing these small economically depressed communities with clean, safe, affordable drinking water.

Thank you so much, Madam Chairman, for allowing me to testify. And thank you, Senator Allard. Building the Arkansas Valley Conduit is the right thing to do, and I respectfully ask you and your committee to move this legislation forward.

Senator MURKOWSKI. Thank you very much. Senator Allard, if you would like to join us up here.

Senator ALLARD. Thank you, Madam Chairman, I would be pleased to join you for awhile.

Senator MURKOWSKI. Before we move to Commissioner Keys, I would ask any of the committee members if they would like to make opening statements.

Senator Smith.

**STATEMENT OF HON. GORDON SMITH, U.S. SENATOR
FROM OREGON**

Senator SMITH. Thank you, Madam Chairwoman. I have a rather lengthy opening statement, so I would just ask that it be included in the record.

Senator MURKOWSKI. Without objection.

Senator SMITH. I would summarize by simply noting the three Oregon bills you have included in today's hearing. S. 1355, which I have cosponsored with Senator Wyden. It involves a rehabilitation of the Wallowa Lake and Dam, and it's important that this happen. It has widespread local support, I tell you up front. It is not a Federal dam, but it achieves enormous Federal purposes, from the tribal trust and in recovering endangered species.

And I would ask that statements from Jeff Obeson of the Grand Ronde Watershed Council, and from Anthony Dean Johnson, chairman of the Nez Perce Tribal Executive Committee, be included in the record.

Also, Madam Chairman, a second bill, which is S. 1308, again which Senator Wyden and I have introduced—or Senator Wyden introduced and I have cosponsored. It allows the Federal Government to undertake Federal implementation of a district court consent decree involving the Savage Rapids Dam. Again, this would, in summation, allow a dam to be removed, pumps to be provided. So we would leave the agricultural community whole, but allow tremendous additional salmon spawning grounds to be added to the Grand Ronde River of Oregon.

Finally, the last bill that involves my State is S. 1307, which allows the Bureau of Reclamation to assist in the implementation of fish passage and fish screening facilities at a non-Federal water project in the Columbia River Basin. This is very critical to hydro-power operations, along with meeting endangered species obligations, and will go a long way to help closing the chasm between farmers, people who use electricity, and creating a more fish-friendly environment in that part of my State.

Thank you, Madam Chair.

[The prepared statement of Senator Smith Follows:]

PREPARED STATEMENT OF HON. GORDON SMITH, U.S. SENATOR FROM OREGON

Madam Chairwoman, I appreciate your convening this legislative hearing today to take testimony on several water bills pending before the subcommittee. I know that these bills are important to many of our colleagues and to a number of communities throughout the western United States. Three of these bills would affect water users in Oregon, and I want to thank you for considering those bills today. I look forward to hearing from the witnesses.

The first bill I have introduced, S. 1355, which is cosponsored by my colleague from Oregon, would authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to participate in both the rehabilitation of Wallowa Lake Dam and in the Wallowa Valley Water Management Plan. Identical legislation passed the Senate last Congress, but was not enacted into law.

The actions authorized by S. 1355 enjoy widespread local support—including water users, the Nez Perce Tribe, and the local watershed council—and will improve water management and salmon habitat in the watershed. The local entities have de-

veloped these two projects in consultation with numerous state and federal agencies. The projects provide a positive approach to resolving the water challenges facing the basin. I am proud of all of the work done to date by the project proponents to ensure broad-based support for their efforts.

I would like to ask unanimous consent to include statements from Jeff Oveson of the Grand Ronde Model Watershed Council and from Anthony D. Johnson, Chairman of the Nez Perce Tribal Executive Committee, in the record. I would also like to submit for the hearing record an updated version of the Wallowa Lake Dam Rehabilitation Program,* dated December 27, 2002, which details the extensive assessments and design that have already gone into this dam rehabilitation effort.

While Wallowa Lake Dam is not a federal facility, I view the projects authorized in this bill as critical to meeting the federal government's tribal trust obligations in the basin, as well as helping to recover federally listed endangered species. It even achieves the objectives—on a site-specific basis—of the authority for off-site mitigation being sought by Reclamation under the terms of the December 2000 biological opinion for Columbia River hydropower operations.

The second Oregon-specific bill to be heard today is S. 1308, which Senator Wyden introduced and I have cosponsored. This bill authorizes the Secretary of the Interior, acting through the Bureau of Reclamation, to undertake activities for federal implementation (including construction) in accordance with U.S. District Court Consent Decree “United States, et al., v. Grants Pass Irrigation District, Civil No. 98-3034-HO,” entered into on August 27, 2001.

The consent decree ended years of litigation about the impact of Savage Rapids Dam on salmon runs in the Rogue River. Under the terms of the decree, the District is to install pumps to deliver its irrigation water supplies. Following the installation and testing of those pumps, the dam will be removed.

This consent decree stipulates that the Grants Pass Irrigation District may no longer operate the Savage Rapids Dam after November 1, 2005, although the court may grant a one-year extension. However, in order to ensure that the District's patrons continue to receive irrigation water, it is crucial that the new pumps be designed, built and tested before the district is required to stop using the dam.

The Bureau of Reclamation has been working with the District for several decades, having completed a study on fish passage improvements in 1995. Reclamation is operating under existing authority to design the pumps, but additional authority is needed to build and install them.

Early on, I made a commitment to help the Grants Pass Irrigation District resolve the controversies surrounding the dam in a manner acceptable to the District and its patrons, and in a way that left the District economically viable. This bill achieves both those goals.

I recognize that dam removal proposals can be controversial. This facility, however, is not a large multi-purpose dam. It does not generate electricity, does not provide flood control, and does not affect commercial navigation. It is owned by the Grants Pass Irrigation District, whose patrons and board have voted to accept the terms of the consent decree.

The District has agreed to give up its use of the dam and to allow for its removal in order to benefit fisheries, not because the dam is no longer usable for irrigation purposes.

Because of this benefit, neither the consent decree nor the legislation includes any requirement for the District to repay the federal government for the costs associated with the installation of the pumps or the removal of the dam. If Reclamation is going to seek repayment, we will clarify our intent that no repayment by the District is required by amending the legislation to stipulate that the funds made available are non-reimbursable and non-returnable.

I look forward to working with the Grants Pass Irrigation District and the other stakeholders to complete this effort. This is an opportunity to restore salmon runs while maintaining an agricultural way of life for the patrons of the District.

Finally, Madam Chairwoman, the Subcommittee will take testimony on S. 1307, legislation which I sponsored to enable the Bureau of Reclamation to assist in the implementation of fish passage and fish screening facilities at non-federal water projects in much of the Columbia River basin. This bill is similar to legislation submitted to the Congress by the Administration during the 107th Congress.

The bill is necessary to ensure that the Bureau of Reclamation can fulfill its obligations under the December 2000 biological opinion for Columbia River hydropower operations. It is my understanding that this authority is still needed, even though the biological opinion itself is being modified as a result of a federal court ruling.

* Retained in subcommittee files.

Before introducing this bill, I circulated the Administration's draft legislation to numerous stakeholders throughout the basin. To the extent possible, I have incorporated changes to address issues and concerns raised at that time.

In closing, Madam Chairwoman, I appreciate your leadership on these water issues of importance to so many Oregonians. I look forward to working with you to move these bills through the process in an expeditious manner.

Senator MURKOWSKI. Thank you. And your extended comments will be included in the record.

Senator Bingaman.

**STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR
FROM NEW MEXICO**

Senator BINGAMAN. Thank you very much, Senator Murkowski, for conducting the hearing today; both to you and to Senator Dorgan, thanks for doing this.

Let me mention just one of the bills that does relate to my State and which I sponsored, and am very appreciative at being included as one of the bills to be considered. This is S. 1071. It concerns possible water conservation project involving the Arch Hurley Water Conservation District in eastern New Mexico. It authorizes the Secretary of the Interior to conduct a feasibility study on the proposed water conservation project in consultation with the Arch Hurley Conservation District and with the New Mexico State Engineer.

The project concept that was involved here was developed by the conservation district. It could play a very significant role in addressing the chronic water supply issues that are faced by some communities there in the eastern part of our State. Clearly, we do need to do more investigation as to the feasibility of the project.

I would note that enactment of the bill and completion of the feasibility study will be timely if we can pass this in the near future. The State of New Mexico is currently developing a State water plan. S. 1071 is consistent with that State water plan, and would contribute to it. I've had a chance to review the testimony by Commissioner Keys, and my understanding is that the Department of the Interior and the Bureau of Reclamation will support S. 1071, with some modifications. I very much appreciate Commissioner Keys' willingness to do that, and I certainly have no problem with the modifications that he's going to be suggesting here.

So, again, thank you. And thank you for including us in today's hearing.

Senator MURKOWSKI. Thank you.

Senator Dorgan.

**STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR
FROM NORTH DAKOTA**

Senator DORGAN. Madam Chairman, thank you very much. Thank you for holding the hearing. I was a bit late, but the agenda for this hearing is an agenda with some legislation that is very important, and I am supportive and will be happy to work with you to advance these pieces of legislation we're having hearings on today.

Senator MURKOWSKI. Thank you.

With that, I would like to recognize Commissioner John Keys, Bureau of Reclamation, to present the administration's testimony on the bills we have before us. Thank you.

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

Mr. KEYS. Madam Chairman, it is my pleasure to be here, certainly. Let me ask you, before we start, how you would like to do this. Would you like me to do the testimony on all eight of the bills and then answer questions, or would you like to go one at a time. And if you want to go one at a time, what order would you like to go in?

Senator MURKOWSKI. Well, you can go in whatever order you have there. Who knows, it might even be consistent with the order I have up here. But since you're giving the testimony, you can certainly go in order. It would probably be helpful if, after you have given your summary on the legislation, if you wanted to just pause and ask if there's any questions at that moment, then we can move forward.

Mr. KEYS. That sounds good. Certainly I would ask that all of the written statements be included as a part of the record.

Senator MURKOWSKI. They shall be.

Mr. KEYS. Madam Chairman, S. 943 would authorize the Secretary of the Interior to enter into one or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project. Madam Chairman, the Department could support S. 943 if our recommended modifications are made. S. 943 would authorize the Secretary to enter long-term contracts with the State of Wyoming to store water in Seminoe Reservoir for industrial and residential purposes. Our reason for our changes is the current language is vague regarding whose water is to be stored in Seminoe and the disposition of revenues received for that storage. We have included the recommended changes and a copy of the entire bill with those additions and deletions noted in a written statement. With these changes, the Department of the Interior would support S. 943, and we would certainly be willing to sit down with the subcommittee and Mr. Enzi and other sponsors of the bill to discuss the details of those changes and to see if they're acceptable. That's our testimony on S. 943.

[The prepared statement of Mr. Keys follows:]

PREPARED STATEMENT OF JOHN W. KEYS, III, COMMISSIONER,
BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON S. 943

My name is John Keys, and I am the Commissioner of the Bureau of Reclamation. I appreciate the opportunity to provide the Administration's views on S. 943, legislation to authorize the Secretary of the Interior to enter into one or more contracts with the City of Cheyenne, Wyoming, for the storage of water in the Kendrick Project in the State of Wyoming.

Madam Chairman, the Department could support S. 943 subject to modifications recommended in this statement.

The Bureau of Reclamation has several dams and reservoirs located on the North Platte River in Wyoming. The North Platte River System is operated to optimize irrigation and power benefits. To accomplish these activities, vacant space becomes available in Seminoe Reservoir as water is released to other downstream Reclamation reservoirs.

By enacting S. 943, the Secretary of the Interior would be authorized to enter into long-term contracts with the City of Cheyenne to store water in Seminoe Reservoir for municipal and industrial use.

The Department does not support S. 943 as drafted because it is vague regarding whose water is to be stored in Seminoe Reservoir and the disposition of revenues

received. To provide clarity, the Department recommends the amendment attached to my statement be adopted by the Committee.

Thank you for the opportunity to appear before you today. To assist the Subcommittee in understanding the modifications offered here today, I am including a copy of the entire bill with the additions and deletions. Again, Madam Chairman, with the above modifications, the Department could support this legislation.

ATTACHMENT: PROPOSED REVISIONS

1. Modify the Introduction to read: "To authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the City's water in the Kendrick Project, Wyoming."

2. Modify Section 1(a)(2) to read:

(2) KENDRICK PROJECT—The term "Kendrick Project" shall mean the Bureau of Reclamation project on the North Platte River, authorized by a finding of feasibility approved by the President on August 30, 1935, constructed for irrigation and electric power generation whose major features include Seminole Dam, Reservoir, and Powerplant; and Alcova Dam, and Powerplant.

3. Modify Section 1(b) and (c) to read:

(b) CONTRACTS—The Secretary is authorized to enter into one or more contracts with the City for annual storage of the City's water for municipal and industrial use in Seminole Dam and Reservoir of the Kendrick Project.

(c) CONDITIONS—

(1) TERM; RENEWAL—Any contract under subsection (b) shall—

(A) have a term of not to exceed 40 years; and

(B) may be renewed upon terms mutually agreeable to the Secretary and the City, for successive periods not to exceed 40 years each.

(2) REVENUES—Without regard to the Act of May 9, 1938, (52 Stat. 322; U.S.C. § 392a), the revenues received under any contract executed pursuant to this section shall be credited as follows: All operation and maintenance charges shall be credited against applicable operation and maintenance costs of the Kendrick Project; all remaining revenues shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

(3) IMPACTS TO EXISTING CONTRACTORS—Contracts under subsection (c) shall not negatively impact the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.

Senator MURKOWSKI. I have no questions of Commissioner Keys. Do any of the committee members?

[No response.]

Senator MURKOWSKI. With that, thank you.

Mr. KEYS. S. 1058 would provide a cost-sharing requirement for the construction of the Arkansas Valley Conduit in the State of Colorado. Madam Chairman, S. 1058, as introduced, states that the non-Federal share of the total cost of construction of the Arkansas Valley Conduit shall be no more than 25 percent. This language would allow the Federal share to be up to 100 percent.

The legislation further authorizes to be appropriated such funds as necessary to pay the Federal share of the construction cost and directs that the Federal share be non-reimbursable. These provisions are contrary to the Fryinpan-Arkansas Project Act, and current Reclamation law and policy. Existing Reclamation law includes the Fryinpan-Arkansas Project Act of 1962, which has already authorized the Arkansas Valley Conduit and requires municipal and industrial project beneficiaries to repay 100 percent of appropriated project costs. Madam Chairman, with these differences the administration cannot support S. 1058, as introduced.

I would digress for just a second here and say that we have sat down with Mr. Allard and talked about these cost-share provisions,

and certainly offer our services to him to try to come up with a way, another way, to try to, you might say, finance or work with them on developing a project that would produce the benefits there.

Another area of concern is the cost-share and appropriation language in the bill. It's implied that the sponsor's contributions would be provided at dates and times that would support the project's funding requirements. However, it appears that the intent of the bill is that the sponsors enter into a contract with Reclamation for repayment of 25 percent of the total project cost, and this payment be treated like other Reclamation repayment processes. If such is the case, the project would be funded 100 percent from appropriations, with the sponsor's 25 percent share to be repaid over many years following completion of construction.

Let me emphasize that this bill is precedent-setting for Reclamation. Current municipal and industrial water beneficiaries across the 17 Western States pay 100 percent of the cost for that allocated portion to municipal and industrial purposes, and they pay interest on that money. Across the Western United States, there are currently about 287 districts that have M&I contracts, and there is in excess of 300 of them. All of them pay 100 percent, with interest.

Now, I do understand that Senator Allard is working to change some of this language that clarifies the 25 percent and when it would be paid. Madam Chairman, I would note that the Senate Energy and Water Appropriations Subcommittee recognized the danger of such a precedent by including the following language in the fiscal year 2004 committee report language. The committee has included an additional \$200,000 to continue the reevaluation report. The committee supports these efforts, but believes that the project needs appropriate review by the authorizing committee. In particular, the committee notes that "The project should follow the standard Reclamation policy of an M&I project of the beneficiaries paying 100 percent of the allocated costs." Additionally, S. 1058 does not address the repayment for operation maintenance and replacement of the conduit. It is Reclamation's position that such costs should be paid by the project beneficiaries.

One last point. Should any legislation proceed, it should be clarified to assure that the cost ceiling for the Fryingpan-Arkansas Project is increased to accommodate the Arkansas Valley Conduit construction cost.

In conclusion, Madam Chairman, the administration cannot support S. 1058 with the Federal cost-share that is contrary to existing Reclamation law. I would like to emphasize that the existing Fryingpan-Arkansas Project authorization appropriately addresses the responsibility of the beneficiaries to pay for the project benefits they would receive, as in the case of all Reclamation projects across the Western United States. The administration does recognize the water quality and water supply issues facing the Arkansas River Valley, and we look forward to working with the project sponsors, with your subcommittee, with Mr. Allard, with members of the committee to address the concerns that we have raised about S. 1058 and to explore other legislative alternatives.

That's my testimony on S. 1058.

[The prepared statement of Mr. Keys follows:]

PREPARED STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON S. 1058

My name is John Keys and I am Commissioner of the Bureau of Reclamation. I appreciate the opportunity to provide the Administration's views on S. 1058, legislation to provide a cost sharing requirement for the construction of the Arkansas Valley Conduit (Conduit) in the State of Colorado.

S. 1058, as introduced, states that the non-Federal share of the total costs of construction shall not be more than 25 percent. This language would allow the Federal share to be up to 100 percent. The legislation further authorizes to be appropriated such sums as necessary to pay the Federal share of the Conduit construction costs, and directs the Federal share to be non-reimbursable. This is contrary to the Fryngpan-Arkansas Project Act and current Reclamation law and policy. Therefore, the Administration cannot support S. 1058, as introduced, because it is contrary to existing Reclamation law which calls for inclusion of the Fryngpan-Arkansas Project Act of August 16, 1962 (which already authorizes the Conduit) requiring municipal and industrial project beneficiaries to repay 100 percent of appropriate project costs.

The Administration is aware of the interest Arkansas River Valley residents have in seeking alternative means of obtaining safe and clean water supplies. We understand that the beneficiaries are looking for Federal financing for the Conduit, given that some of the communities in the Arkansas River Valley may be facing considerable expense to comply with federally-mandated water quality standards. The need for a pipeline was recognized back in 1962 when Congress authorized the Conduit.

The Conduit is an authorized, but never built, feature of the Fryngpan-Arkansas Project (Project). The 1962 Fryngpan-Arkansas Project (Fry-Ark) Act, which authorized the Project, required that municipal water supply works either be constructed by communities themselves, or, if that is infeasible, by the Secretary, with repayment of actual costs and interest within 50 years.

During development of the Project, Reclamation found the Conduit to be economically feasible, but the beneficiaries lacked the bonding capability to construct the works themselves. The beneficiaries of the Conduit found that it also was financially infeasible to repay Reclamation within 50 years if Reclamation were to construct the Conduit. It was agreed at that time to reconsider construction of the Conduit in the future if proposals with viable support were forthcoming.

Increased water treatment costs, due to the poor quality of locally available groundwater, and requirements of the Safe Drinking Water Act have renewed local interest in the Conduit. The Conduit would transport water from Pueblo Dam, a feature of the Fry-Ark Project, to communities along the Arkansas River, extending about 110 miles to near Lamar, Colorado. The Lower Arkansas River Basin is comprised of rural communities, with the largest town, Lamar, having an estimated population of 8,600.

The legislation permits inclusion of Fiscal Year 2002 and subsequent year's costs related to constructing the Conduit. However, the definition of "construction" is not clear and would need to include all project activities including planning activities, if 2002 and 2003 costs are to qualify.

Additionally, the cost share and appropriations language in the bill imply that the sponsor's contributions will be provided at rates and times that support the project's funding requirements, much like activities funded under a cooperative agreement. However, apparently the intent of the legislation is that the sponsors enter into a contract with Reclamation for repayment of 25 percent of total project costs and that this repayment be treated like other Reclamation repayment processes. If this is the case then the project would be funded 100 percent from appropriations and the sponsor's 25 percent share repaid over many years following completion of construction. We emphasize again, that this bill is precedent setting for Reclamation in that current beneficiaries across the 17 Western States projects pay 100 percent. We note that the Senate Energy and Water Appropriation Subcommittee recognized this by inclusion of the following in the Fiscal Year 2004 Committee report language (S. RPT. 108-105): "The Committee has included an additional \$200,000 to continue the reevaluation report. The committee supports these efforts but believes that the project needs appropriate review by the authorizing committee, in particular, the Committee notes that the project, if authorized, should follow the standard Reclamation policy of an M&I project of the beneficiaries paying 100 percent of the allocated costs."

In addition, this legislation does not address the payment for operation, maintenance and replacement of the Conduit. It is Reclamation's position that such costs should be paid by the Conduit beneficiaries. Also, should any legislation proceed, it

should be clarified to assure that the cost ceiling for the Fryingpan-Arkansas Project is increased to accommodate Conduit construction costs.

In conclusion, Mr. Chairman, the Administration can not support S. 1058 with a Federal cost share that is contrary to existing Reclamation law. I would like to emphasize that the existing Fry-Ark Project authorization appropriately addresses the responsibility of the beneficiaries to pay for the direct benefits they would receive, as is the case at all Reclamation projects across the west.

The Administration recognizes the water quality issues facing the Arkansas River Valley and is open to working with the project sponsors, Senator Allard, and members of the Committee to address the concerns we have raised with S. 1058 or to explore other legislative alternatives.

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

Senator MURKOWSKI. A very quick question for you. You mentioned the operation and maintenance and replacement costs. Does the Bureau have any estimate on what these costs would be annually if this project were to go forward?

Senator ALLARD. Madam Chairman, may I interject at this point with a question? In meeting with Mr. Keys, we have indicated that it's not the desire of the communities or the area to saddle the Federal Government with operation and maintenance costs. And so your question almost becomes moot because we're willing to take that out of the bill and not make that a part of the requirement on the Federal Government. And I think that they understand their obligations and have no intention of saddling the Federal Government with that obligation.

Mr. KEYS. Madam Chairman, I would add we don't know yet what the OM&R costs are, because we would do the reevaluation and certainly the feasibility work and decide what that is.

Senator MURKOWSKI. Question, Senator Allard?

Senator ALLARD. Thank you, Madam Chairman.

I appreciate the testimony of Mr. Keys. Now, the written statement that has been submitted to the committee had rather strong language in opposition to the legislation. Since then, Mr. Keys and I have sat down and visited a little bit, and I just want to have him confirm that you will be willing to work with us. There are some differences there that you've expressed. One of them is the operation and maintenance costs. We've talked about that. We're willing to take that out of the bill. And you said that potentially the Federal Government could be saddled with 100 percent of the cost. That's certainly possible, I guess, with the language that you point out. That wasn't the intent of this sponsor, because the communities had indicated to me that they feel they have the capability, based on an independent survey by an engineering firm that looked at the cost and everything, that they feel that they could pay for 25 percent, and they're more than willing to saddle themselves with that obligation. And if we need language within the bill that is necessary to make that clear, again, we would be willing to work with Mr. Keys and the Department. And all I would hope from Mr. Keys and my question at this point is, will you continue to work with us in trying to get some of these objections resolved within the bill?

Mr. KEYS. Madam Chairman, Mr. Allard, certainly we would be more than willing to work with you through that authorization, through the original Fryingpan-Arkansas Project Act, or any other legislative solution that may be available to us at the time.

Senator ALLARD. Madam Chairman, one other. My staff asked me a question to put to you, and I'm not sure I understand the basis for this question, but it may need clarification, and if you need clarification, I would be glad to provide it. The committee report is not entirely accurate, they say, and the committee is reviewing it, and it has been authorized. Do you agree?

Mr. KEYS. Do I agree the project has already been authorized? If that is the question—

Senator ALLARD. We're talking about the energy and water development report language that says that it's not authorized. But, in reality, the project has been authorized. What we're discussing here is the match. Do you agree?

Mr. KEYS. Madam Chairman, Mr. Allard, I do agree that their language says "if authorized." I would say that they are talking about this legislation and not the project itself. I would never be a person to point out that one of our committees was wrong, but the language is not quite right.

Senator ALLARD. Thank you. And that is one thing I wanted to clarify, Madam Chairman, for the record.

Thank you very much.

Senator MURKOWSKI. Senator Dorgan, did you have questions?

Senator DORGAN. Madam Chairman, thank you very much.

First of all, thanks for your testimony on the legislation we're having a hearing on today. I want to take the opportunity, however, to ask you, Mr. Keys, about another issue.

You know that we've had substantial concerns about the water studies that are necessary as a part of the Dakota Water Resources Act. The Bureau is undertaking those studies that deal with the water needs and how those needs might be solved or resolved with respect to the Red River Valley. I had a hearing in Fargo, North Dakota, and your office was represented at that hearing. And at that hearing, we learned that the Bureau will miss the deadline in the underlying law by about 4 years. You indicated that the study should be completed in the year 2005, and that misses the deadline by about 4 years. I've written you letters expressing as much angst as a Lutheran Norwegian could express to a Federal agency, and you've responded to them, but let me ask you where you are in this process.

I have, from those letters, your response about what the targets are and what the way points might be. One of them is finalize water needs in the Red River Valley, North Dakota, September 2003. Can you tell me if that's been done?

Mr. KEYS. Madam Chairman, Mr. Dorgan, I was in North Dakota in August, sat down with my folks, and got a briefing on the study. At that time, the studies were on schedule. I have not seen the interim report on those water requirements yet, but I understand they're on schedule. I know that our overall schedule is still the dates that we are going to meet.

Senator DORGAN. Could you provide for me the September 2003 target date information, which would be finalized water needs in Red River Valley? If that is done on time, then I will be more satisfied, but I would like to see what has been done in order to satisfy that particular target date which you've provided with me.

Mr. KEYS. Madam Chairman, Mr. Dorgan, I'd be happy to do that.

Senator DORGAN. And that's—the next major target date would be October 2004, which is complete hydrology modeling. But I'm especially interested in the September 2003 target date, because that's the first one following a number of public input opportunities. It's the first one where something is supposed to have been done, and I would like to see what was done or even if it's done.

Commissioner Keys, we had the Secretary testify here. We're going to have a hearing on rural water issues in the future, and I will not go into this in great depth, but I have real difficulties with what's happened with respect to the budget dealing with rural water issues. You are well familiar with the rural water projects that were zeroed out of the President's budget. North Dakota had a project called the NAWS Project. The project is underway. Groundbreaking has been held. And the project is being built. It's desperately needed by the communities for fresh water, good quality water, and we were told that all these projects were zeroed out. And then I discovered later that was not the case.

In fact, money was restored, and I was told it was restored because the President gave a speech in South Dakota, and I said, "Show me the speech," and it turns out they restored money for two water projects. He gave a speech in South Dakota saying he supported one. These are identical projects to the North Dakota Project.

As you know, they are part of the same generic area of rural water projects that we have been told by the Secretary had been zeroed out because OMB has been evaluating them with a PART, P-A-R-T, program. And so I believe that we were told by OMB the things that were not true, and I let the Secretary know it wasn't true.

It turns out the testimony was not accurate, and I want to work with you when we have the next hearing. I'll go into this in greater depth, because I understand even if one makes a mistake, if you make a mistake consistently, that's fine, but if there are politics here with respect to water funding because a deal was made someplace, and we're told that all projects are treated the same, and then we discover, quite by accident, that was not the case, that is difficult. And your job is not to be the politician here.

You're running the Bureau, and I appreciate the work you do, and you're not going to be—answer this today, but I did want to tell you, I'm meeting with OMB about this. I will meet with the Secretary, as well. But when we have the rural water hearing, I will want to plumb the depths of this just a bit with you, because, as you know, rural water projects are very, very important.

The NAWS Project, which, in fact, you're well familiar with the NAWS Project and have been helpful on that project, and you understand its importance, so you understand my anxiety when we see a zeroing out of the funding for it and are told something that I believe now is not necessarily the case.

Commissioner, thank you. You will provide for me, then, the finalized water needs, and then I will look forward to our next gathering, when we talk about rural water in some greater depth. And, again, let me also say thanks for your testimony on the array of

bills today. And thanks for your past help, as well, on the NAWS Project and related issues that you've been involved with. Thank you very much.

Senator MURKOWSKI. Thank you.

Senator Wyden, we have made opening statements from the committee members. If you would care to make one at this point in time, or reserve it for when you ask Commissioner Keys questions, what he is doing at this point in time is going down through the bills giving his brief summary. And then if we have questions on these specific bills, we are taking that time to ask them.

**STATEMENT OF HON. RON WYDEN, U.S. SENATOR
FROM OREGON**

Senator WYDEN. Madam Chair, if I could just very briefly touch on a couple of points, and I really appreciate your thoughtfulness. You have to almost have a juggling act these days as we move to the end of the session to get done, and I appreciate your thoughtfulness.

I just want to highlight for the Commissioner some of my concerns, as my friend has mentioned, particularly with respect to the Savage Rapids Dam issue. Madam Chair, I would ask first that testimony from some Oregon stakeholders—there are an array of environmental groups, industry groups, and, if I could just ask that they be submitted for the record. They're all in support of the Smith-Wyden legislation.

Senator MURKOWSKI. You can submit those for the record.

Senator WYDEN. Madam Chair, it's our understanding the administration is going to testify that the costs associated with this project should be reimbursed to the Federal Government from the Grants Pass Irrigation District. The point of this landmark compromise is to benefit fisheries—not the irrigation district—which has agreed to give up its use of the dam and to allow for its removal: not because the dam is no longer usable for irrigation purposes, but just to benefit the fish. It's because of this that the consent decree in the legislation doesn't include any requirement with the district to repay the Federal Government for the cost associated with the pumping a dam removal plan, nor have we ever intended for such costs to be repaid.

And, Commissioner, again, my apologies for the bad manners, but the committee is aware of the fiscal situation. You've indicated that the Bureau's priority is to complete existing obligations prior to initiating new projects. But we feel, our State and our two Senators, that the Bureau is certainly well along the way in terms of working on the process. It has been studied since 1971. The R&D was completed in 1995, and so it is an ongoing project. And given the urgency of getting the pumps installed and operational by November 2005, and assuming we give you the new authority so you can comply with the consent decree, I'm very hopeful that you will be able to give the committee, and particularly Oregon's two Senators, greater assurances that you would budget appropriately for the project in 2005.

If it were not for the frenzied nature of my afternoon, I would stay and get into this in greater detail, Madam Chair, but you are

nice to let me make this short statement, particularly with the concern I have today.

Commissioner, you may want to take some additional time to get back to us for the record on that, but it's certainly the concern of myself and Senator Smith. We very much want assurances with respect to budgeting so that it would be appropriate for the project, and particularly with that 2005 date in mind.

Madam Chair, thank you again for your thoughtfulness.

Senator MURKOWSKI. Thank you. And I should note for the record that we have received submitted written statements and supporting materials from Senator Nelson and Congresswoman Napolitano on S. 1027 and H.R. 1284, respectively.

So, with that, Commissioner Keys, if you want to proceed to the next on your list?

Mr. KEYS. Madam Chairman, S. 1027 would amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska. Madam Chairman, the Department supports the language of S. 1027, as written. S. 1027 would allow Reclamation to extend each of the water service and repayment contracts for the Glendo unit of the Missouri River Basin Project for a period of two years, until December 31, 2005, or the term of the cooperative agreement entered into by the States of Wyoming, Colorado, and Nebraska and the Secretary of the Interior.

That agreement covers an ongoing research study and Endangered Species Act consultations for the entire Platte River Basin that are not scheduled for completion until late 2004. S. 1027 will allow Reclamation to proceed with completing the renewal of the Glendo contracts following the record of decision that would result from that Platte River process. In summary, the Department supports the legislation for extension of the Glendo contracts provided by S. 1027.

[The prepared statement of Mr. Keyes follows:]

PREPARED STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON S. 1027

Madam Chairman, and members of the Subcommittee, my name is John Keys and I am the Commissioner of the Bureau of Reclamation. Thank you for the opportunity to appear today to provide the Administration's views on S. 1027.

S. 1027 would amend the Irrigation Project Contract Extension Act of 1998 to require the Secretary of the Interior to extend each of the water service or repayment contracts for the Glendo Unit of the Missouri River Basin Project for a period of 2 years until December 31, 2005, or for the term of the cooperative agreement entered into by the states of Wyoming, Nebraska, Colorado and the Secretary of the Interior.

Madam Chairman, the Department supports the S. 1027 language as written.

On July 1, 1997, the States of Wyoming, Nebraska, and Colorado entered into a cooperative agreement for Platte River research and other efforts relating to endangered species habitats along the Central Platte River in Nebraska with the United States Department of the Interior. The purpose of the cooperative agreement is to jointly undertake a basin-wide effort to improve the habitat of four threatened and endangered species that use the Platte River. Successful completion of the cooperative study will lead to development of a basin-wide program that will serve as the reasonable and prudent alternative to offset the effects of existing and new water related activities in the Platte River Basin.

Glendo Dam and Reservoir is one of several Bureau of Reclamation dams and reservoirs on the North Platte River that operate as an integrated system. The Bureau of Reclamation has been proceeding with a process to consult under the Endangered Species Act on the entire reservoir system operations.

To successfully renew long-term contracts for Glendo Reservoir water will require the completion of Endangered Species Act consultation on the Bureau of Reclamation's North Platte River system operations. Such consultation will not be completed until after the study and final programmatic environmental impact statement have been completed. The final programmatic environmental impact statement is scheduled to be completed by November 2004, with the record of decision to follow in December 2004. S. 1027 will allow Reclamation to proceed with completing the renewal of the Glendo contracts following the record of decision.

Madam Chairman, in summary, the Department supports the legislation for extension of the Glendo contracts provided by S. 1027. I would be happy to answer any questions.

Senator MURKOWSKI. Thank you. The Chair has no questions.

Mr. KEYS. Madam Chairman, S. 1071 would authorize a feasibility study on water conservation within the Arch Hurley Conservancy District in Texas—or in New Mexico. The feasibility study would also identify options for using saved water and cost-sharing options, including debt relief for the district. We could support S. 1071 with modifications to section 2(a), the authorization of appropriations. The district is currently suffering from severe drought. I personally visited the district about 3 weeks ago, and in walking the district with those people, they've not had water since the middle of June 2002. In other words, no water for a year and a half. The low water supplies had significant impacts on the irrigation system. Primarily, maintenance has been deferred and portions of the system are in disrepair.

If the feasibility study identifies debt relief as a benefit for the district, the funds once used for debt payments will be available for maintenance of the irrigation system. Furthermore, the feasibility study will consider making some of the saved water available to the district resulting in an increased water supply.

We believe that a feasibility study is appropriate to consider whether conveying saved water to the Pecos River, if possible. Importation of the saved water into the Pecos River Basin will reduce impacts from the Endangered Species Act to Pecos Valley farmers. The Department is primarily concerned with the amount of \$500,000 authorized in section 2(a) to complete the study. Our total cost estimate for the feasibility study is \$2½ million. Reclamation recommends up to two and a half million dollars be authorized for the feasibility study for Arch Hurley Conservancy District.

[The prepared statement of Mr. Keys follows:]

PREPARED STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON S. 1071

Madam Chairman, my name is John Keys III and I am the Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to be here today to present the views of the Department of the Interior (Department) regarding S. 1071, which would authorize a feasibility study on water conservation within the Arch Hurley Conservancy District (District). The feasibility study will also identify options for using saved water and cost sharing options, including debt relief for the District. We could support S. 1071 with modifications to Section 2(a), authorization of appropriations.

The District is currently suffering from a severe drought. In 2002 the District members received 3 inches of water per acre, only 17% of their maximum allotment. The water was delivered in a period of six-weeks. In 2003, no water was delivered to any of the District members. The District has a history of low water supply and has experienced trouble meeting repayment obligations. Deferrals of the annual repayment were made in 1975, 1976, 2002, and 2003.

The low water supply has had significant impacts on the irrigation system. Primarily, maintenance has been deferred and portions of the system are in disrepair.

If the feasibility study identifies debt relief as a benefit for the District, the funds once used for debt payments will be available for maintenance of the irrigation system. Furthermore, the feasibility study will consider making some of the saved water available to the District, resulting in an increased water supply.

We believe that a feasibility study is appropriate to consider whether conveying saved water to the Pecos River is practicable. Conveying the water to the Pecos River has many benefits. Like many other western rivers, the Pecos River is over allocated, contains a threatened species, and is in danger of violating an interstate compact. This year the state of New Mexico delivery shortfall to Texas may reach 6,000 acre-feet. Under no circumstances is the state of New Mexico allowed to provide less than required by the compact. Additionally, the Pecos River has target flows to prevent jeopardy of the threatened Pecos Bluntnose Shiner. Conserved water from the District will provide flexibility when meeting the identified target flows. Importation of the saved water into the Pecos River Basin will reduce impacts from the Endangered Species Act to Pecos Valley farmers.

With respect to S. 1071, the Department is primarily concerned with the amount of \$500,000 authorized in Section 2(a) to complete the study. Our total cost estimate for the feasibility study is \$2,500,000. Reclamation recommends up to \$2,500,000 be authorized.

Madam Chairman that concludes my remarks and I would be happy to respond to any questions the Committee may have.

Senator MURKOWSKI. Are there any questions?

[No response.]

Mr. KEYS. Madam Chairman, S. 1307 would authorize the Secretary of the Interior to assist in the implementation of fish passage and screening facilities at non-Federal water projects. The Department supports passage of S. 1307 with some suggested modifications. The Congress has provided significant support to efforts currently underway in the Pacific Northwest to address the needs of many salmon and steelhead species listed on the threatened and endangered species list. By providing the authority and the funding to necessary Federal agencies to address the needs of the various life stages of these species, we think we can help solve the problem there. Among these efforts is a biological opinion issued by the National Marine Fisheries Service in December 2000 concerning the operation of the Federal Columbia River Power System.

The three action agencies—the Bureau of Reclamation, the Corps of Engineers, and the Bonneville Power Administration—have consulted with National Marine Fisheries Service on the operation of the power system. As required by section 7 of the Endangered Species Act in 2000, National Marine Fisheries found the operation and configuration of the hydropower system could not be modified enough to prevent jeopardy to eight of the 12 listed anadromous species affected by the system.

Consequently, to avoid jeopardy, National Marine Fisheries identified a reasonable and prudent alternative, which included numerous actions that could improve the survival of the species. Among the actions recommended to Reclamation is a habitat initiative to improve tributary spawning and rearing conditions by working with private parties to screen diversions and to provide fish passage at non-Federal water-diversion structures. Screening and passage projects provide near-term benefits by reducing fish mortality and providing access to better tributary migration, spawning, and rearing habitat. There is an immediate benefit to the species from these projects.

What we have seen is that every time there is a diversion in a stream, the percentage of water taken out by that diversion is the same percentage of fish lost to that diversion, and certainly the

benefits to working with non-Federal projects is what we are focusing on here.

Reclamation currently has the authority to provide engineering, design, and environmental compliance assistance to owners of non-Federal water diversion facilities. But we lack the authority to fund the construction of these fish screens and ladders at such facilities. In its findings and commitments on the 2000 power system biological opinion, Reclamation agreed to seek such authority from Congress. The need for this authority has been highlighted in the ongoing litigation concerning the Federal Columbia Power System biological opinion.

In May of this year, the Federal District Court of Oregon ruled that the 2000 biological opinion is flawed because some anticipated future actions by Federal agencies are not reasonably certain to occur. Reclamation's lack of authority to fund the construction and needed screen and migration barrier projects on non-Federal facilities is one of the problems. This deficiency would be eliminated by the passage of S. 1307. S. 1307 also provides Reclamation with the authority to address similar projects, should they be necessary, to comply with the Endangered Species Act related to our other non-power-system projects. In the States of Washington and Oregon, at the request of the State of Idaho, Reclamation projects in the Snake River Basin would not be included under this authority.

A further provision of S. 1307 specifies that the authority would only be utilized when Reclamation determined it would enable Reclamation to meet its obligations under section 7 of the Endangered Species Act. The administration supports these provisions. S. 1307 confirms that the ownership of the project features and land operation and maintenance responsibilities for those features and their affiliated water rights, as defined by State water laws, shall remain with the private owner. Also, section 5 specifies that these screen and fish passage projects are not Reclamation projects subject to Federal Reclamation law. We support these limitations, as well.

Owners of the non-Federal water diversions to which screening and passage would be added receive certain benefits associated with bringing these facilities into compliance with the Endangered Species Act. The administration believes that some level of cost-share should be expected from those individuals in return for the benefits that they're likely to receive.

We would suggest that the subcommittee consider a cost-share requirement of 35 percent, including the value of in-kind services.

S. 1307, if enacted, would allow Reclamation much-needed authority and flexibility in avoiding jeopardy to endangered and threatened salmon species in compliance with the Endangered Species Act. Subject to making provision for an appropriate cost-share, we urge the Committee to act expeditiously on this bill.

[The prepared statement of Mr. Keys follows:]

PREPARED STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON S. 1307

Madam Chair and Members of the Subcommittee, I am John Keys, Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to be here today to present the Department of the Interior's (Department) views on S. 1307, which would authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at

non-federal water projects. As discussed more fully below, the Administration could support passage of this bill with the suggested modifications.

Let me begin by saying that the Subcommittee is aware of the tremendous effort currently underway in the Pacific Northwest to address the needs of the many salmon and steelhead species listed as threatened and endangered under the Endangered Species Act (ESA). Congress has provided significant support to these efforts by providing authority and funding to numerous federal agencies to address the needs of the various life stages of these species.

Among these efforts is a Biological Opinion issued by the National Marine Fisheries Service (now NOAA Fisheries) in December 2000 concerning the operation of the Federal Columbia River Power System (FCRPS) of the Columbia River. The FCRPS includes 14 major dams on the Columbia and Snake Rivers operated as an integrated system by the U.S. Army Corps of Engineers and Reclamation for flood control and hydropower generation. The Bonneville Power Administration transports and markets the power generated by the system. As required by section 7 of the ESA, these three action agencies have consulted with NOAA Fisheries on the operation of the FCRPS.

In 2000, NOAA Fisheries found that the operation and configuration of the hydro-power system could not be modified enough to prevent jeopardy to 8 of the 12 listed anadromous species affected by the system. Consequently, to avoid jeopardy, NOAA Fisheries identified a reasonable and prudent alternative which included numerous actions that could improve the survival of those species in what are known as the other "H's" harvest, hatcheries and habitat. Among the actions recommended to Reclamation is a habitat initiative to improve tributary spawning and rearing conditions by working with private parties to screen diversions and to provide fish passage at non-federal water diversion structures. Screen and passage projects provide near-term benefits. There is an immediate benefit to the species by reducing fish mortality and providing access to better tributary migration, spawning, and rearing habitat. Improved adult access to tributary habitat produces more juveniles, and juveniles enjoy generally higher survival rates in the first spawning season in which these projects are in place.

Reclamation currently has the authority to provide engineering design and environmental compliance assistance to the owners of non-federal water diversion facilities, but lacks the authority to fund the construction of fish screens and passage at such facilities. In its Findings and Commitments on the 2000 FCRPS Biological Opinion, Reclamation agreed to seek such authority from the Congress. The Administration requested this authority last year in a proposal that was provided to Congress. Although S. 1307 would not provide habitat restoration authority as requested in the Administration's proposal, it does provide much of the same authority as that proposed bill.

The need for this authority has been highlighted in the ongoing litigation concerning the FCRPS Biological Opinion. In May of this year, the U.S. District Court for the District of Oregon ruled that the 2000 Biological Opinion is flawed because some anticipated future actions by federal agencies are not reasonably certain to occur. Reclamation's lack of authority to fund the construction of needed screen and migration barrier projects on non-federal facilities falls within this category. This deficiency would be eliminated by the passage of S. 1307.

S. 1307 would also provide Reclamation with the authority to fund such screening and passage projects should they be necessary in order for the non-FCRPS Reclamation projects within the Columbia River Basin in the States of Washington and Oregon to comply with section 7(a)(2) of the ESA. At the request of Reclamation water users in Idaho, Reclamation projects in the Snake River Basin would not be included under this authority. A further provision of S. 1307 specifies that the authority would only be utilized when Reclamation determines that it would enable the agency to meet its obligations under section 7 of the ESA. The Administration supports these provisions.

The legislation would also confirm that the ownership of non-federal projects and land, operation and maintenance responsibilities for those projects, and their affiliated water rights as defined by state water law, shall remain with the private owner. Moreover, section 5 of the bill specifies that these screen and fish passage projects are not Reclamation projects subject to federal reclamation law. We support these limitations as well.

We note that owners of the non-federal projects receiving assistance under this legislation will benefit from bringing their facilities into compliance with the ESA. It is appropriate to require some degree of cost sharing from those individuals who may substantially benefit from these actions. We strongly encourage the Subcommittee to consider a cost-share requirement of 35 percent, including the value of in-kind services.

In conclusion, if enacted, S. 1307 would provide Reclamation with much needed authority and flexibility in helping us comply with the ESA by avoiding jeopardy to endangered and threatened salmon species. We urge the Subcommittee to act expeditiously on this bill and to include an appropriate cost share provision. We stand ready to work with the Subcommittee in that regard.

Madam Chair, this concludes my testimony. I welcome any questions that you or Members of the Subcommittee may have.

Senator MURKOWSKI. Thank you.

Mr. KEYS. Madam Chairman, S. 1308 would authorize the Secretaries of the Interior and Commerce, in cooperation with the affected State and local entities, to implement the terms of the August 27, 2001, U.S. District Court Consent Decree addressing permanent resolution of fish passage problems at Savage Rapids Dam near Grant's Pass on Oregon's Rogue River. We commend the efforts the parties have made to resolve the problems in a cooperative spirit to help protect Rogue River Basin salmon and steelhead. Savage Rapids Dam is owned and operated by the Grant's Pass Irrigation District. It is not a Federal facility. Lawsuits filed by the State of Oregon and the United States on behalf of the National Marine Fisheries Service resulted in the previously mentioned consent decree.

The bottom line of the decree is that Grant's Pass irrigation district must cease irrigation diversions with Savage Rapids Dam, using the dam no later than November 1, 2006. The consent decree is general and open-ended with respect to how the financing would work and whether there is any repayment obligation for the work performed by Grant's Pass Irrigation District. Reclamation's 1995 planning report and environmental statement on improving fish passage at the dam focuses on construction of pumping facilities, followed by dam removal, combined with natural erosion of the sediment trapped behind the dam as the preferred alternative.

The baseline Federal costs for the plan have been estimated, in 2003, to be approximately \$15 million to build the new pumping station and \$6 million to remove the existing dam. Additional National Environmental Policy Act funding would be required in this effort, and those costs are included in these estimates.

It is important to note that this project was not included in the administration's fiscal year 2004 budget request. The Department of the Interior reserves the right to comment on the appropriateness of any appropriations, based on the current facts and the latest analysis. Reclamation is facing obligations for many previously authorized Federal projects. While we recognize that completion of this project would permanently eliminate the impacts that operation of the dam currently have on coho salmon, which are listed under the Endangered Species Act, as well as other anadromous fish, we believe completing our existing obligations should have a higher priority over work on non-Federal facilities.

[The prepared statement of Mr. Keys follows:]

PREPARED STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON S. 1308

I am John Keys, and I am the Commissioner of the Bureau of Reclamation. Thank you for the opportunity to testify on S. 1308.

This legislation authorizes the Secretaries of the Interior and Commerce, in cooperation with affected State and local entities, to implement the terms of the August 27, 2001 U.S. District Court Consent Decree addressing permanent resolution

of fish passage problems at Savage Rapids Dam (Dam) near Grants Pass on Oregon's Rogue River. We commend the efforts the parties have made to resolve the problems in a cooperative spirit to help protect Rogue River basin salmon and steelhead.

Savage Rapids Dam is owned and operated by the Grants Pass Irrigation District (GPID).

In 1971, Congress authorized Reclamation to conduct a feasibility study of the Grants Pass Division of the Rogue River Basin Project. Shortly thereafter, a feasibility study was started to identify solutions to fish passage problems at the Dam and ways to improve GPID's distribution system. This study was eventually stopped because of a lack of local consensus over the alternatives. In 1988, Reclamation initiated the Josephine County Water Management Improvement Study in response to requests by Josephine County and GPID. The main objectives of this study were to (1) help resolve conflicts over water uses in Josephine County, and (2) identify a permanent solution to salmon and steelhead passage problems at Savage Rapids Dam. Because of a number of factors, the study focus narrowed to fish issues at the Dam. Reclamation's planning report/final environmental statement was filed on August 30, 1995 followed by a Record of Decision.

Lawsuits filed by the State of Oregon, and the United States (on behalf of the National Marine Fisheries Service), resulted in the previously mentioned Consent Decree. The bottom line of the Decree is that GPID must cease irrigation diversions using the dam no later than November 1, 2006.

The Consent Decree is general and open ended with respect to how the financing will work and whether there is any repayment obligation for the work performed for GPID. In addition, it presents two possible plans. The first plan focuses on construction of pumping facilities followed by dam removal combined with natural erosion of the sediment trapped behind the dam. This is the preferred alternative from Reclamation's 1995 planning report/final environmental statement on improving fish passage at the Dam. The second plan, which was previously considered by Congress, would add to the first plan by providing a subsidy for pumping power and funding for as yet unidentified riparian, fishery habitat, and recreation habitat, and recreation enhancements.

The baseline Federal costs for this first plan has been estimated in 2003 to be approximately \$15 million for the pumping facilities and over \$6 million for dam removal. Additional NEPA analysis will be required in this effort and those costs are included in these estimates. The Federal costs for the additional elements in the second plan are unclear. The cost for pumping power is currently estimated at \$250,000 per year. The cost of the remaining plan elements are open ended and would depend on what limitations Congress chooses to place on them.

It is important to note that this project was not included in the Administration's Fiscal Year 2004 budget request. Reclamation is currently preparing its submittal to the FY 2006 budget, which is the earliest that the project could be considered in the President's request. The Department of the Interior reserves the right to comment on the appropriateness of appropriations based on the current facts and latest analysis. In summary, Reclamation is facing obligations for many previously authorized federal projects. While we recognize that completion of this project would permanently eliminate the impacts that operation of the Dam currently has on coho salmon (which are listed as threatened under the Endangered Species Act) as well as on other anadromous fish, we believe completing our existing obligations should have a higher priority over work on non-federal facilities.

This concludes my statement. I will be glad to answer any questions.

Senator MURKOWSKI. Commissioner, on S. 1308, we understand that Reclamation completed a final environmental statement in 1995, on improving fish passage at the dam. Does Reclamation support the proposal outlined in that report?

Mr. KEYS. Madam Chairman, the report is a good report. It is one that we had a lot of local input on. We worked very closely with the State in producing that report. And the solution is a good solution. We're saying that it's a good report, it's a good project, but that it should not be a Bureau of Reclamation responsibility to fund it.

Senator MURKOWSKI. So I think you support it, but you just aren't in agreement with the funding?

Mr. KEYS. Madam Chairman, it's a good report. We just don't think the Bureau of Reclamation should pay for it.

Senator MURKOWSKI. All right, that's fair.

Okay, if you want to move to the next one, then.

Mr. KEYS. Madam Chairman, S. 1355 would authorize Reclamation to participate in implementation of the Wallowa Lake Rehabilitation Program and the Wallowa Valley Water Management Plan in Oregon. Reclamation believes the Wallowa Lake Dam Rehabilitation Program and Water Management Plan are potentially worthwhile, with numerous benefits.

While we believe that there may be merit to this proposed project, the Department does not support S. 1355, as currently drafted. Wallowa Lake Dam is privately owned and operated by the Associated Ditch Companies. Dam safety deficiencies have been identified by the Army Corps of Engineers and Army Water—the Oregon Water Resources Department. The Ditch Companies, in conjunction with the Grand Ronde Model Watershed and Reclamation and other local, State, and Federal agencies, have developed the Wallowa Lake Dam Rehabilitation Program to address dam safety deficiencies and develop the Wallowa Valley Management Plan to tie correction of these deficiencies to larger environmental issues in the Wallowa River Basin. The dam rehabilitation program and water management plan is a 6-year proposal with an estimated cost of \$38.8 million.

S. 1355 sets an 80/20 cost-share for these estimates for these efforts under which the Federal Government would pay \$32 million, funded through the Bureau of Reclamation. While the programs developed by the districts and the Model Watershed provide a concept, they do not meet Federal standards established in the principles and guidelines for planning water development programs. Furthermore, the project involves species listed under the Endangered Species Act. Should Reclamation be authorized to fund this project, it would constitute a major Federal action subject to consultation under section 7 of the Endangered Species Act. It would also likely require compliance with NEPA.

The bill, as currently drafted, excludes Reclamation's participation in the planning stages of the project. Consequently, it would be difficult for Reclamation to meet the environmental compliance requirements for the Endangered Species and the National Environmental Policy Act. Until adequate planning can be completed, the administration cannot support funding of this project.

I would emphasize, again, that Wallowa Dam is another non-Federal facility for which large amounts of Federal money is being requested to work on in the same category as Savage Rapids. The proposed bill currently would authorize Reclamation to provide funding for dam rehabilitation activities. However, it does not provide administrative authority to transfer those funds. The legislation would need revision to provide Reclamation authority to issue grants. We would be ready to work with the committee in developing the appropriate language to do these if you decided to go ahead with the bill.

We're also concerned that Reclamation's participation in the program would adversely affect ongoing projects and operations. S. 1355 would authorize the use of \$32 million of Reclamation funds

for a non-Federal purpose. Reclamation funds are limited and are targeted to perform essential functions at our projects, such as security, operations, maintenance, resource management, dam safety, and construction.

In addition, despite the very high Federal cost-share for the project under S. 1355, there is no provision for repayment by project beneficiaries, in accordance with Reclamation law.

Funding for this project was not included in the President's budget, and we cannot support activities which might detract from high-priority work on current Bureau of Reclamation facilities. The Department cannot, therefore, support S. 1355.

[The prepared statement of Mr. Keys follows:]

PREPARED STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON S. 1355

Mr. Chairman and Members of the Subcommittee I am John Keys, Commissioner of the Bureau of Reclamation. I appreciate the opportunity to present the Department's views on S. 1355, a bill that would authorize Reclamation to participate in implementation of the Wallowa Lake Dam Rehabilitation Program and Wallowa Valley Water Management Plan in Oregon. Reclamation believes the Wallowa Lake Dam Rehabilitation Program and Wallowa Valley Water Management Plan are potentially worthwhile, with numerous benefits. While we believe there may be merit to this proposed project, the Department does not support S. 1355, as currently drafted.

Wallowa Lake Dam is a privately-owned dam constructed in 1918 and raised in 1929, and is owned and operated by the Associated Ditch Companies, Inc. (ADC). Dam safety deficiencies have been identified by the United States Army Corps of Engineers and Oregon Water Resources Department. ADC, in conjunction with the Grande Ronde Model Watershed, Reclamation, and other local, state, and Federal agencies, developed the Wallowa Lake Dam Rehabilitation Program to address dam safety deficiencies and developed the Wallowa Valley Water Management Plan to tie correction of those deficiencies to larger environmental issues in the Wallowa River Basin. The Dam Rehabilitation Program and Water Management Plan is a six year proposal with an estimated total cost of \$38,800,000. S. 1355 sets out an 80/20 cost share for these efforts, under which the Federal government would pay \$32 million funded through the Bureau of Reclamation.

While the programs developed by the ACD and the Model Watershed provide a concept, they do not meet Federal standards established in the Principals and Guidelines for planning water development programs. Furthermore, the project may affect species listed under the Endangered Species Act (ESA). Should Reclamation be authorized to fund this project, a funding decision may constitute a major Federal action subject to consultation under Section 7 of the ESA. It would also require environmental analysis in compliance with the National Environmental Policy Act (NEPA). The bill, as currently drafted, does not provide for Reclamation's participation in the planning stages of the dam rehabilitation aspects of the project and separates dam rehabilitation from implementation of the water management plan. Consequently, it would be difficult for Reclamation to meet the environmental compliance requirements for the ESA and NEPA. Until adequate planning can be completed, the Administration can not support funding this project.

The proposed bill would authorize Reclamation to provide funding to the ADC for dam rehabilitation activities, [nit] however, it does not provide administrative authority to transfer those funds. The legislation would need revision to provide Reclamation authority to issue grants. We would be pleased to work with the Committee in developing appropriate language.

Finally, we are concerned that Reclamation's participation in this program would adversely impact ongoing projects and operations. S. 1355 would authorize the use of Reclamation funds for a non-Federal purpose. Reclamation funds are limited and are targeted to perform essential functions at our projects, such as security, operations and maintenance (O&M), resource management, dam safety, and construction. In addition, despite the very high Federal cost share for the project under S. 1355, there is no provision for repayment by project beneficiaries in accordance with Reclamation law. Funding for this project was not included in the President's budget, and we can not support activities which detract from high priority work on cur-

rent Bureau of Reclamation facilities. The Department cannot, therefore, support S. 1355.

Thank you again for the opportunity to provide the Administration's position on S. 1355. I would be happy to answer any questions you might have.

Senator MURKOWSKI. If there were the funds for repayment, would that change the Administration's position, or are there other issues surrounding it that continue to make it complicated?

Mr. KEYS. Madam Chairman, there are a number of other issues there in this bill that would require attention, even if there were cost-share. First, it is not a Federal facility. There are certain, I would say, quality—engineering quality things that are not there that we would require. The current authorization doesn't allow us to get in and do the proper planning. That would include the NEPA work and the ESA, Endangered Species Act, work. There are a number of changes that would need to be made.

Senator MURKOWSKI. Thank you.

Mr. KEYS. Madam Chairman, H.R. 1284 amends the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the cost of San Gabriel Basin Demonstration Project located in California. Based on our investigation of this project, we do not believe a cost-ceiling increase is warranted at this time. As we stated in testimony before the House Resource Committee on this bill, the administration cannot support H. R. 1284, as written. We believe there is sufficient funding available to provide the Federal cost-share for all projects that are contemplated for the San Gabriel Basin cleanup program.

We believe that the dual funding ceiling provided by title XVI authority and the restoration fund, which may also be available for these projects, is sufficient to provide the Federal cost-share for all projects that are contemplated for the San Gabriel Basin cleanup program. This title XVI project has more than \$8 million remaining under its ceiling after full funding of all current project obligations. The restoration fund has \$25 million remaining under its ceiling after fully funding all current project obligations.

We believe that this will adequately cover future projects being contemplated; therefore, the cost ceiling for the San Gabriel Basin Demonstration Project authorized by title XVI does not need currently to be increased beyond its authorized limit. And, thus, the Administration cannot support H.R. 1284.

I would like to note that we have had an excellent working relationship with the San Gabriel Demonstration Project and Congressman Napolitano there, and look forward to working with them to complete this important project.

Madam Chairman, that concludes all of my statements.

[The prepared statement of Mr. Keys follows:]

PREPARED STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON H.R. 1284

Madam Chairman, and members of the Subcommittee, I am John Keys, the Commissioner of the Bureau of Reclamation. I am pleased to be here today to comment on H.R. 1284, which amends the Reclamation Projects Authorization and Adjustment Act of 1992, to increase the Federal share of the costs of the San Gabriel Basin Demonstration Project.

Based on our investigation of this project, we do not believe a cost ceiling increase is warranted at this time and, as we stated in testimony before the House Resources Committee on this bill, the Administration cannot support H.R. 1284 as written. We

believe that there is sufficient funding available to provide the Federal cost share for all projects that are contemplated for the San Gabriel Basin cleanup program.

Title XVI of P.L. 102-575, enacted in 1992, authorizes Reclamation to participate in the San Gabriel Basin Demonstration Project. There are three components of the project: the Rio Hondo Water Recycling Program, the Central Basin Municipal Water District; the San Gabriel Valley Water Reclamation Project with the Upper San Gabriel Valley Municipal Water District; and the San Gabriel Basin Demonstration Project being done by the San Gabriel Basin Water Quality Authority. Reclamation is authorized to provide up to 25 percent of the cost of planning, design, and construction of the project components for a Federal contribution of no more than \$38,090,000.

Congress provided the initial appropriation for the project in Fiscal Year 1994, and through Fiscal Year 2003, a total of \$28,852,000 has been made available for the three components. Of that amount, all but \$6,000 has been obligated to existing agreements. With the exception of Rio Hondo and San Gabriel Valley Reclamation components, all existing agreements have been fully funded. The Rio Hondo and San Gabriel Valley Reclamation components, which are water recycling projects, should be completed within the next two years, and are within \$700,000 of being fully funded for the 25 percent Federal share. This leaves a net available amount of \$8.6 million before the ceiling is reached.

The primary component of the San Gabriel Basin Demonstration is the groundwater cleanup program that will result in the Basin being used as a conjunctive use water resource for the region. Reclamation, working closely with the San Gabriel Basin Water Quality Authority since 1994, has executed 9 funding agreements with the Authority to fund specific portions of the cleanup work. All agreements have been fully funded for the 25 percent Federal share.

Over the last ten years that the project has received funding, the schedules for all three components have slipped significantly. In light of this, the San Gabriel Basin Demonstration Project has consistently carried over significant amounts of unexpended funds every year as a result of the extended schedules. Due to these delays, the construction schedule is not firm. In addition, smaller agreements to cover cleanup projects in the El Monte, South El Monte and Puente Valley Operable Units are being implemented. An agreement has been executed with the Water Quality Authority to fund design activities for these Operable Units. We have executed an agreement for the Monterey Park Treatment Facility, which is in the South El Monte Unit. To date we have obligated \$2.425 million for the project, and spent approximately \$1,114,000 of that amount.

We believe that the total funding ceiling provided by the Title XVI authority and the Restoration Fund, which may also be available for these projects, is sufficient to provide the Federal cost share for all projects that are contemplated for the San Gabriel Basin cleanup program. This Title XVI project has more than \$8 million remaining under its ceiling after fully funding all current project obligations. The Restoration Fund has \$25 million remaining under its ceiling after fully funding all current project obligations. We believe that this will adequately cover future projects being contemplated. Therefore, the cost ceiling for the San Gabriel Basin Demonstration Project authorized by Title XVI does not need currently to be increased beyond its authorized limit and thus the Administration cannot support H.R. 1284

In conclusion, Madam Chairman, I want to add that we have had an excellent working relationship with the San Gabriel Demonstration Project partners and look forward to working with them to complete this important project. This concludes my remarks. I would be happy to answer any questions at this time.

Senator MURKOWSKI. Did we do S. 1577?

Mr. KEYS. I'm sorry?

Senator MURKOWSKI. I was just asking for clarification, if we had gotten anything on S. 1577, but I'm told that FERC had submitted something for the record.

So, great. So, if—well, thank you. I appreciate your summations and your testimony on the record this afternoon.

[The prepared statement of Mr. Woods follows:]

PREPARED STATEMENT OF PAT WOOD, III, CHAIRMAN,
FEDERAL ENERGY REGULATORY COMMISSION

Madam Chairman and Members of the Subcommittee: I appreciate the opportunity to comment on S. 1577, a bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

Section 13 of the Federal Power Act requires that construction of a licensed project be commenced within two years of issuance of the license. Section 13 authorizes the Federal Energy Regulatory Commission to extend this deadline once, for a maximum additional two years. If project construction has not commenced by this deadline, the Commission is required to terminate the license. Section 13 also authorizes the Commission to extend the deadline for completion of construction when not incompatible with the public interest.

THE PROJECT

On December 19, 1997, the Commission issued a license to Swift Creek Power Company to rehabilitate, operate, and maintain the 1.5-megawatt Swift Creek Project No. 1651, in Lincoln County, Wyoming. The project occupies 20 acres of federal land within the Bridger-Teton National Forest. The original deadline in the license for the commencement of construction, December 18, 1999, was, at the licensee's request, extended by the Commission to December 18, 2001, four years after license issuance. The request cited the lack of a power purchase contract. The licensee did not ask the Commission for any further extensions of the deadline. On November 29, 2002, Swift Creek Power Company and the Town of Afton, Wyoming, filed a joint application to transfer the project license from the company to the town. In response to notice of the application, the U.S. Forest Service filed on February 28, 2003, a motion to intervene in the transfer proceeding, and commented that it supported the transfer if it facilitated either placing the project back into operation or removing the project works from and restoring National Forest System lands. Action on the application remains pending.

Rehabilitation of the upper development of Project No. 1651 entails modifying the upper dam to add one-foot stoplogs, replacing a 36-inch-diameter penstock with one 48 inches in diameter, dredging around the intake structures, refurbishing the powerhouse, and installing two generators. Rehabilitation of the project's upper development entails dredging behind the lower dam, installing a 2,000-foot-long hurled penstock, building a powerhouse, installing two generating units, and burying a short new transmission line.

THE LEGISLATION

S. 1577 would authorize the Commission, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, to extend the time period during which the licensee is required to commence the construction of the project for three consecutive two-year periods from the date of the expiration of the extension originally issued by the Commission.

The Commission interprets the deadlines in Section 13 as applying only to the initial construction of a project. Project No. 1651 was in existence when the project was issued a new license in 1997, although refurbishment of the damaged project entails significant new construction. But while Section 13 is not an impediment to the Project No. 1651 licensee, the Commission has rarely given a licensee more than ten years to commence new construction at an existing project.

As a general matter, enactment of bills authorizing or requiring commencement-of-construction extensions for individual projects delays utilization in the public interest of an important energy resource and therefore is not recommended. In cases where project specific extensions are authorized by the Congress, it has been the position of prior Commission chairmen that such extensions should not go beyond ten years from the date the project was licensed. I have no reason to depart from this extension policy.

S. 1577 would permit the licensee for Project No. 1651 to extend the deadline for commencement of construction for three consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission. Accordingly, construction could commence no later than ten years from the date the license was issued. This time frame is therefore consistent with the Commission's policy, and I have no objection to the bill.

Mr. KEYS. Madam Chairman, we'll look forward to working with you on all of these. We have worked with a number—the fact is, most of the sponsors of these bills, and certainly we would continue to work with them, certainly some of them we like better than others, but we will work on all of them with you.

Senator MURKOWSKI. We appreciate that cooperation. Thank you.

All right. Our final panelist is Mr. Jim Broderick, general manager of the Southeastern Colorado Water Conservancy District. And Mr. Broderick will be presenting testimony in support of S. 1058.

Welcome. Good afternoon.

**STATEMENT OF JIM BRODERICK, GENERAL MANAGER,
SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT,
PUEBLO, CO**

Mr. BRODERICK. Good afternoon. Thank you, Madam Chairman.

My name is Jim Broderick, and I'm the general manager of Southeastern Colorado Water Conservancy District. I thank you, Madam Chairman, for this opportunity to present testimony on S. 1058. I also would like to thank Senators Allard and Campbell and Congressman Musgrave for their assistance in sponsoring this legislation. I also would like to ask Madam Chairman to include my written testimony to be included in the record.

Senator MURKOWSKI. It will be included. Thank you.

Mr. BRODERICK. I would like to go over a little bit of the history of this project. The Fryingpan-Arkansas Project was enacted in 1962. The statute requires 100 percent reimbursement of Federal costs and construction of facilities. The Arkansas Valley Conduit was authorized in the original Fryingpan-Ark Project. The standard Bureau policy of 100 percent reimbursement has prevented the conduit construction since 1962. The needs of the area, in 1950, the Bureau reported, identified local water supplies as unacceptable.

In February 2002, the Colorado Department of Public Health and the Environmental Department identified the lower Arkansas River as the most saline stream of its size in the United States. The local water suppliers are struggling to comply with the unfunded Federal water quality mandates. Too many local drinking-water suppliers are currently under enforcement orders from the Colorado Department of Public Health and Environment. The public health and the economy is at risk.

Searchers for solutions that we've looked at as the local water suppliers cannot and will not continue to operate under enforcement orders. They need a new source of water to replace or blend with local supplies. The local communities formed committees in 2000 to search for solutions. The Water Works Committee founded a feasibility study to examine the conduits and its alternatives.

The alternatives that were looked at and brought forward from the feasibility study identified two alternative solutions—treatment facilities or source replacement by conduit. A series of treatment facilities, if we looked at that, the costs are uncertain and variable. The operation and maintenance of those would be approximately 6.62 million per year, which is too expensive for the communities. The treatment wastes approximately 15 to 20 percent of the water on average, and in some cases up to 50 percent. Treatment waste disposal is expensive, and, pending new State regulations, could become even more so. And local suppliers can't afford the treatment.

On the conduit side of the alternative, under the status quo, costs are certain. The initial construction of \$187 million is too expensive. The local suppliers can't afford the conduit under the status quo.

Under S. 1058, if it is amended, the existing authorization to create a 75-Federal/25-local share—cost-sharing requirement would be included. The conduit would transport water to 16 municipalities and 25 water agencies from Pueblo to the Kansas border. The costs are acceptable. Local suppliers can afford this amount, and the benefits of public health and the economy are great.

In conclusion, I would like to thank you, Madam Chair, for allowing me to testify. The existing Bureau policy is the only reason the conduit has never been built. The existing Bureau policy is the reason one-fifth of our water suppliers are out of compliance with the Federal drinking-water standards. Unless existing Bureau policy is amended to recognize our unique circumstances, our economically depressed region will continue to suffer from poor drinking-water supplies. Treatment will be saddled with our economy and depressed communities with operation and maintenance obligations that we simply can't afford.

The conduit is the only possibility—with the enactment of S. 1058—is the only viable option we have to provide safe, clean, and affordable water for our communities.

[The prepared statement of Mr. Broderick follows:]

PREPARED STATEMENT OF JIM BRODERICK, GENERAL MANAGER,
SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT, PUEBLO, CO

INTRODUCTION

My name is Jim Broderick, General Manager of the Southeastern Colorado Water Conservancy District (the District), and I am testifying today in support of S. 1058, a bill to provide a cost-sharing requirement for the construction of the Arkansas Valley Conduit (the Conduit) in the State of Colorado. I would like to thank the Subcommittee for the opportunity to testify today. I also thank Senators Allard and Campbell and Congresswoman Musgrave for their leadership in introducing this legislation and the Subcommittee for holding this hearing today.

Like many other regions in the Western United States, Southeastern Colorado is growing. The Lower Arkansas Valley is economically disadvantaged and faces projected population growth. It also has a historically unsatisfactory quality of drinking water, and faces increasingly costly, unfunded federal water quality mandates. The District's smaller communities, especially those east of Pueblo who rely on groundwater for their main water supply, need to develop a higher quality drinking water supply for their residents. The Conduit, if constructed, would provide safe, clean, affordable drinking water to the communities of Southeastern Colorado's Lower Arkansas Valley.

SECWCD

The District is the local sponsor of the Fryingpan-Arkansas Project (the Fry-Ark Project), a multipurpose project authorized by Congress and enacted into law in 1962 and amended in 1978. The completed aspects of the project constructed by the Bureau of Reclamation (Reclamation) store and deliver water for municipal and agricultural use within the nine-county service area of the District, Arkansas River basin, Colorado. The District, through its Water Activity Enterprise, has agreed to manage and organize the efforts necessary to make the Conduit a reality. The goal of the Fry-Ark Project legislation was to provide a supplemental supply of water and storage for native agricultural and municipal water supplies. Both the 1962 and 1978 Acts contemplated the construction of the Arkansas Valley Conduit.

LOCAL WATER QUALITY

Our communities face significant challenges from our local water supplies. The local water available from the Arkansas River alluvium has historically been high in Total Dissolved Solids (TDS), sulfates, and calcium, and has objectionable concentrations of iron and manganese. The Colorado Department of Public Health and Environment (CDPHE), in their most recent report (February 2002) on the status of water quality in Colorado, stated that that "Lower Arkansas River in Colorado is the most saline stream of its size in the U.S. The average salinity levels increase

from 300 parts-per-million (ppm) TDS east of Pueblo to over 4,000 ppm near the Kansas state line. The shallow alluvial groundwater along the River has similar salinity." Additionally, various water suppliers have recently reported measurable concentrations of radionuclides in their water.

This is not a new problem. As early as 1950, the Secretary of the Interior acknowledged that additional quantity and better quality of domestic and municipal water was critically needed for the Arkansas Valley, and in particular for those towns and cities east of Pueblo. In a 1950 report on the project, the Bureau stated, "All towns in the valley except Colorado Springs need an improved quality of municipal water." In describing the specific aspects of the Fry-Ark Project's municipal water system, the 1950 report anticipated entirely replacing "existing unsatisfactory supplies" for the valley towns East of Pueblo. Specifically, the report recommended the construction of a 130-mile pipeline to supply this replacement water.

As a result of the poor water quality, many of the water providers do not satisfy, or only marginally satisfy, existing drinking water standards. Too many of our local water suppliers operate under enforcement orders from the CDPHE for carcinogens in the water. Generally, all drinking water systems in the Lower Arkansas River Basin, from St. Charles Mesa in eastern Pueblo County to Lamar in Prowers County, are concerned with the poor water quality in this region.

All communities must meet the state and federal primary drinking water standards through treatment or source replacement. Less documented, however, is the potential burden placed upon communities by high raw water concentrations of various unregulated water quality constituents such as iron, manganese and hardness. These constituents can cause accelerated infrastructure decay and loss of tax base and economic impacts associated with factories and businesses locating elsewhere.

THE CONDUIT AND ITS ALTERNATIVES

House Document 187, 83d Congress, 1st Session, and the Fryingpan-Arkansas Final Environmental Statement dated April 16, 1975, both of which have been incorporated by reference into the Fry-Ark Project Act, recognized that the Conduit would be an effective way to address these needs.

As much as 50 years later, representatives of local and county governments, water districts and other interested citizens of the Lower Arkansas River Basin formed a committee in 2000 to consider a feasibility study of the Conduit. The interested parties formed the **WaterWorks!** Committee and, through a grant from the Colorado Water Conservation Board and support of the District, commissioned a two-phase feasibility study of the proposed Conduit. As part of the study, the Committee sought alternatives to constructing the Conduit.

Treatment

The extremely poor groundwater quality, combined with increasingly stringent water quality regulations of the Safe Drinking Water Act, has caused two local water suppliers to invest in expensive water treatment facilities to assure a reliable water supply for their customers.

The feasibility report on the Conduit identified a "No Action" alternative that anticipated costs of satisfying future drinking water regulations while utilizing existing sources of supply. This option included construction of a series of treatment facilities, similar to those currently in use. The costs associated with treatment are significant.

While initial capital costs are lower than construction of the Conduit, annual operations and maintenance (O&M) costs for this option, assuming only that current practices would be allowed to continue into the future, were \$6.62 million per year. This figure is likely to be a low estimate. CDPHE is currently reviewing its policy and regulations concerning reverse osmosis treatment reject with respect to disposal. It is likely that CDPHE will not allow future disposal of waste directly into surface waters, which would significantly increase the cost of treatment. Additionally, if the EPA issues additional unfunded water quality mandates, the cost of treatment will increase with necessary retrofits to facilities and heightened O&M costs.

Status Quo

The status quo includes an authorization for the Bureau to construct the Conduit. In fact, Reclamation has been authorized to construct the Conduit for more than 40 years. We believe this would solve our water quality problems. However, the status quo also requires the local beneficiaries to reimburse the Bureau for 100 percent of its costs. The feasibility report examined local government borrowing capacity and determined that "Even if all of the jurisdictions used all of their debt capacity for

this one project, only a fraction of the total pipeline costs could be funded by local government borrowings.”

A study of the Conduit was prepared for the District, the Four Corners Regional Commission and Reclamation in 1972. The report’s recommendations for construction of a water treatment plant, pumping station and the Conduit to serve 16 communities and 25 water associations east of Pueblo were not implemented at that time due to the authorizing statutes’ requirement for local reimbursement of 100 percent of the construction costs.

Evaluations on the quantity of water needed to satisfy long-range objectives for water users in the Southeastern District area were prepared in 1998. Additionally, an update of the estimated construction costs of the Conduit presented in the 1972 was updated in 1998. Each time that construction of the Conduit has been attempted since its authorization, the Bureau’s standard policy of requiring 100 percent reimbursement of construction costs has prevented the local communities from participating.

S. 1058

The feasibility report estimated the financial capabilities of the participating agencies to be inadequate to fund either the construction of the proposed Arkansas Valley Conduit or the operation of the No Action alternative. It also estimated that the full financial capabilities of counties, cities, and water agencies in the project area could finance approximately 25 percent of the project cost to satisfy safe drinking water regulations.

Recognizing our unique need, Senator Allard introduced legislation, S. 1058, to eliminate the one obstacle that has prevented the Conduit’s construction for the past 40 years: the standard Bureau policy requiring 100 percent reimbursement for the project. In its place, S. 1058 would create a cost-share mechanism similar to those found in other municipal water projects constructed by the Bureau and authorized by this Committee. The local share would be 25 percent of the construction costs of the Conduit. Senator Campbell cosponsored the bill in the Senate, and Congresswoman Musgrave introduced a companion bill in the House with the cosponsorship of Congressman McInnis.

The Conduit project, as recommended by the feasibility report, would include a welded, all-steel pipeline, land acquisition for easements, necessary pipeline appurtenances, and 16 million gallons of reinforced concrete water storage tanks located along a preferred alignment. The estimated project cost for construction along the preferred pipeline alignment, an alignment that does not require pumping, is \$175 million.

The estimated Net Present Value of the proposed Arkansas Valley Conduit project, including construction and O&M costs, is approximately \$235 million. The \$235 million Net Present Value compares favorably with the estimated Net Present Value of the No Action alternative (\$187 million) when O&M costs and the potential for new, unfunded federal water standards are taken into account.

CONCLUSION

The citizens and communities of the Lower Arkansas River Basin have waited 30 to 50 years for this project that will improve their water quality and supply. The need for this project has been well established for more than 50 years. S. 1058 fulfills the promise of the Arkansas Valley Conduit made 40 years ago with the passage of the Fry-Ark Act by providing the one thing that has been missing for all of these years: a realistic acknowledgement of these communities’ ability to pay and a partnership to allow this much-needed project to move forward.

I urge this Subcommittee to act quickly to move this legislation towards enactment. I would be happy to answer any questions the Chair or Committee members may have on this legislation.

Senator MURKOWSKI. Thank you, Mr. Broderick.

The feasibility study you mentioned, did you consider a full range of the potential funding sources for the project, beyond the cost-sharing proposal that we see in the legislation?

Mr. BRODERICK. Madam Chairman, the answer to that is yes. The financial evaluation considered the ability of likely participating local government’s ability to issue and to pay back debt. The State funding sources and a number of established funding sources at the Federal level tapped fees and user charge fees and other customers’ contributions. The conclusion was that the financial and

rate-paying capabilities of the participating agencies are estimated to be inadequate to fund either the construction of the conduit or the operation of the no-action alternative.

And the full financial capabilities of the counties, cities, and water agencies in the project area could finance approximately 25 percent of the cost of the projects for the feasibility—for the facilities to satisfactorily take care of the safe drinking water regulations.

Senator MURKOWSKI. A question that I had asked of Commissioner Keys that was actually answered by Senator Allard with regards to the operating maintenance and replacement, Senator Allard indicated that that would be picked up, if you will, within the communities. I'm assuming you have some kind of a framework or a structure in place for the establishing the rates and the fees for this end of the project?

Mr. BRODERICK. That is correct. We do.

Senator MURKOWSKI. And was there anything in the feasibility report itself that revealed any significant environmental problems or any other issues that would preclude or argue against this legislation moving forward?

Mr. BRODERICK. The final report on the feasibility evaluation of the Arkansas Valley Conduit did not identify any apparent environmental fatal flaws and would prohibit the implementation of the Arkansas Valley Conduit.

Senator MURKOWSKI. And would not?

Mr. BRODERICK. Would not. The conduit has been discussed regularly in public hearings and public meetings for the past four years, and the environmental interest groups and others have raised no objection within that time period.

Senator MURKOWSKI. Thank you. I appreciate your coming and joining us in Washington to provide the testimony this afternoon.

Mr. BRODERICK. Thank you very much. It's my pleasure.

Senator MURKOWSKI. With that, we have nothing else before us this afternoon, so we are concluded for the day.

Thank you.

[Whereupon, at 3:50 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

UNITED STATES SENATE,
Washington, DC, October 15, 2003.

Hon. LISA MURKOWSKI,
Chairman, Subcommittee on Water and Power, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

Hon. BYRON L. DORGAN,
Subcommittee on Water and Power, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN MURKOWSKI AND SENATOR DORGAN: The States of Nebraska, Colorado and Wyoming have been engaged in negotiations with the U.S. Department of the Interior to develop a collaborative basinwide program for the recovery of certain endangered species which utilize the central Platte area of Nebraska. If that program can be successfully implemented, it will serve as compliance under the Endangered Species Act for all water use activities in the basin which existed prior to July 1, 1997.

Among the pre-1997 water uses that would benefit from the establishment of a basinwide program for endangered species are uses by Wyoming and Nebraska irrigation districts that have contracts for a portion of the storage of the Glendo Reservoir in Wyoming. Currently, there are four Nebraska districts that have contracts, collectively, for all of Nebraska's 25,000 acre-feet allocation from that reservoir. Wyoming has five irrigation district contractors that together account for slightly less than 1/3 of Wyoming's 15,000 acre-feet allocation. Originally, all of these contracts were set to expire at the end of 1998. However, by enacting the Irrigation Project Contract Extension Act of 1998, as amended, Congress extended those contracts until December 31, 2003, to coincide with then anticipated conclusion of the negotiation process referred to above.

While I am very pleased to report that the negotiations to establish a basinwide program are alive and well, I must also report that they have not yet reached conclusion. However, much progress has been made and the Department of the Interior will release its Draft Environmental Impact Statement for the proposed program by the end of this year. That puts the process on a track that would lead to a Record of Decision by the Secretary of the Interior by the end of 2004 and decisions by the governors of each of the three states by June 30, 2005.

Obviously, the Glendo contract extensions that Congress granted in 1998 have proven to be insufficient in length. Assuming that the Department's Record of Decision is favorable and that each of the states also support and agree to participate in the Program, the basinwide program will be capable of providing ESA compliance for the Glendo contractors in the latter half of 2005. It is essential that Congress provide those contractors the time necessary for that to occur. S. 1027 will meet that need by extending the contracts by another two years, that is until December 31, 2005. All four of the Nebraska districts that have Glendo contracts support the requested extension. Copies of their letters or resolutions of support are attached to my testimony.*

I ask for this subcommittee's prompt action on S. 1027, and its House companion bill, H.R. 2040. Thank you for your attention to this important matter.

Sincerely,

E. BENJAMIN NELSON,
U.S. Senator.

*The letters and resolution have been retained in subcommittee files.

NORTHWEST POWER AND CONSERVATION COUNCIL,
Portland, OR, August 8, 2003.

Hon. LISA MURKOWSKI,
Chair, Subcommittee on Water and Power, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MADAME CHAIR: The Northwest Power and Conservation Council was established by Congress in 1980 and created as an interstate compact by the states of Idaho, Montana, Oregon and Washington. Its purpose is to develop a 20-year regional electric power plan to assure for the Pacific Northwest an adequate supply of power at the lowest possible cost, and to develop a program to protect, mitigate and enhance fish and wildlife resources affected by the hydroelectric development in the Columbia River Basin.

The Council works closely with federal and state agencies, Indian tribes, private landowners, and others to implement recovery strategies for fish and wildlife recovery in the basin, including efforts to implement NOAA Fisheries and the U.S. Fish and Wildlife Service's Federal Columbia River Power System biological opinions required under the Endangered Species Act. The legal authority for the off-site mitigation activities included in NOAA Fisheries' 2000 FCRPS Biological Opinion is derived from the Northwest Power Act of 1980 (PL 96-501) through the Council's Columbia River Basin Fish and Wildlife Program.

The Council supports Senator Gordon Smith's legislation, S. 1307, which gives the Secretary of the Interior, acting through the Bureau of Reclamation, the authority to implement fish passage and screening facilities at non-Federal water projects in Oregon, Washington, and portions of Idaho. It is critical that this authority be extended to the Bureau at the earliest possible opportunity so it can meet its habitat mitigation obligations as expressed in the 2000 FCRPS Biological Opinion under Reasonable and Prudent Alternative 149. The urgency of this need was further heightened by the United States District Court of Oregon's May 7, 2003, opinion and order that remanded the FCRPS Biological Opinion to NOAA Fisheries to address specific flaws that violate the Endangered Species Act and the Administrative Procedures Act.

In his remand, Judge Redden allowed NOAA Fisheries one year to modify the biological opinion in a manner that complies with his order. He also ordered quarterly progress reports by the federal action agencies. The judge ordered that the first report, due October 1, 2003, include a discussion of options to modify the hydropower system if the off-site mitigation measures cannot be assured.

Accordingly, the Bureau needs to obtain the authority to meet its off-site mitigation habitat obligations as required in RPA 149, as well as be in a position to show progress on three fronts in the October 1 progress report. Those three areas are: 1) the Bureau must show progress in obtaining the legal authority; 2) it must have evidence that the authority can be implemented (i.e., sufficient funding is available); and 3) a Section 7 consultation on the RPA 149 habitat program needs to be completed during the one-year duration of the remand.

Due to these requirements, the Council urges you to schedule action on S. 1307 at the earliest possible date. By providing the Bureau with the authority to construct fish passage facilities and screens at non-Federal projects, the agency will be able to implement its portions of the biological opinion, resulting in increased survival of listed salmon and steelhead in the Columbia River basin.

Thank you for your consideration of this matter.

Sincerely,

JUDI DANIELSON,
Chair.

OREGON WATER RESOURCES CONGRESS,
Salem, OR, October 15, 2003.

Hon. LISA MURKOWSKI,
Chairman, Subcommittee on Water and Power, Senate Committee on Energy and Natural Resources.

Subject: Support for S. 1308

DEAR SENATOR MURKOWSKI: I am writing to express the support of the Oregon Water Resources Congress (OWRC) for S. 1308, to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to participate in the implementation of a U.S. District Court Consent Decree, and for other purposes.

The OWRC represents irrigation districts and other water supply systems serving irrigated agriculture in Oregon. The mission of OWRC is to promote the protection and use of water rights and the wise stewardship of water resources.

As a general policy, the OWRC does not support the removal of dams that serve irrigated agriculture. There are exceptions to this policy based on the benefits resulting from the removal of a particular dam. In this case, the removal of the Savage Rapids Dam, the subject of S. 1308, is an exception to OWRC's policy. Our support for this dam removal reflects the benefits to irrigators and fisheries from installing new irrigation pumps and removing the dam. The new irrigation pumps that will provide water to the Grants Pass Irrigation District (GPID), as a replacement for the dam, are key to our decision to support this plan.

As noted in the text of the bill, the removal of the Savage Rapids Dam is part of a consent decree involving the GPID a member of the OWRC. Based on the fact that GPID is a part to this consent decree and our belief that the removal of the Savage Rapids Dam will benefit irrigators and fisheries, the OWRC supports the authorization for federal participation in the plan outlined in the consent decree.

On behalf of OWRC, thank you for your consideration of this bill that will help the Grants Pass Irrigation District and the other parties involved.

Sincerely,

ANITA WINKLER,
Executive Director.

STATEMENT OF GEOFFREY M. HUNTINGTON, EXECUTIVE DIRECTOR,
OREGON WATERSHED ENHANCEMENT BOARD

Thank you, Chairwoman Murkowski and members of the committee, for the opportunity to present testimony in support of S. 1308, the Savage Rapids Dam Act of 2003. I especially want to thank Senator Smith and Senator Wyden for introducing this legislation and to encourage the committee to favorably report the bill and to see it enacted into law.

S. 1308 authorizes the U.S. Bureau of Reclamation to pursue and carry out actions to implement the U.S. District Court Consent Decree *United States, et al., v. Grants Pass Irrigation District*. The Decree represents an agreement reached among the district, community and advocacy groups, and the state and federal agencies, that brings to a close over 20 years of debate over removal of the dam. The challenge now is to execute this consensus-based vision for the Rogue River that is a nationally recognized treasure.

Few projects come along that provide such far-reaching implications as removal of Savage Rapids Dam. The Oregon Watershed Enhancement Board (OWEB) awarded \$3 million in a challenge grant toward this project in January 2002. The funds are from the State lottery revenues that are constitutionally dedicated to watershed and salmon habitat improvement, and are set aside for so long as the participants continue to implement the agreed upon schedule for removing the dam and replacing it with pumps to supply water to the irrigation district. The state's early commitment demonstrates the project's importance and the need to act quickly. Timely enactment of the S. 1308 and funding for its implementation are critical if the win-win scenario offered by the negotiated Consent Decree is to be realized.

Savage Rapids Dam was built in 1921 to provide a means to divert water for the Grants Pass Irrigation District (District) who is the sole owner of the facility. The structure is a 39-foot high, 500-foot long diversion dam that spans the mainstream of the Rogue River at river mile 107. It does not generate electricity, it provides no flood control, and it does not affect commercial navigation. The water it diverts by impounding the river's flow currently serves 7,700 acres of irrigated land located in and around the town of Rogue River in Jackson County and the City of Grants Pass in Josephine County. These same uses will be satisfied under the Consent Decree using pumps to deliver water instead of the existing dam.

The dam is the most significant barrier to anadromous fish on the nationally recognized wild and scenic Rogue River. There are over 500 miles of salmon and steelhead habitat upstream of the dam, including 50 miles on the main stem that are impacted by the current facility. The dam impedes access to adults and inhibits passage for juveniles. Dam removal would eliminate the most significant barrier to federally listed salmon stocks in the Rogue Basin, and return this nationally recognized river to free flowing condition.

Years of contentious debate have been set aside as the community, public interest groups, and state and federal agencies have arrived at two agreements. First, the District will stop diverting water from Savage Rapids Dam and allow for its removal by November 2005. Second, these numerous entities have signed on to the Consent

Decree in support of accomplishing this project and the outcomes it represents. Even the patrons of the Grants Pass Irrigation District have voted in favor of proceeding forward. It was in this collaborative environment that in 2002, the 17-member OWEB Board voted unanimously in favor of the single largest commitment of State funds for a voluntary habitat restoration project—\$3 million toward removal of Savage Rapids Dam. At that time, the citizen board also committed to support efforts to obtain federal and private funding to accomplish the goal. S. 1308 is the next step toward accomplishing this goal.

Again, approval of S. 1308 is a critical step, in allowing our federal partners to move forward with us to implement a consensus among the different interests on how to proceed in a way that preserves the integrity of the Grants Pass Irrigation District and accomplishes the goal of reestablishing a free flowing main stem Rogue River.

Thank you for this opportunity to testify in support of S. 1308.

STATEMENT OF DAN SHEPARD, SECRETARY/MANAGER,
GRANTS PASS IRRIGATION DISTRICT

Chair Murkowski and members of the Subcommittee: My name is Dan Shepard. For ten years I have been the Secretary/Manager of the Grants Pass Irrigation District, located in the Rogue River Basin of Southwest Oregon. On behalf of my Board of Directors, and on behalf of our 7,900 water patrons and the entire Southwest region of Oregon, I want to thank you for giving me this opportunity to testify in support of S. 1308.

GRANTS PASS IRRIGATION DISTRICT

The Grants Pass Irrigation District was established in January 1917 by a vote of the people of the region, and organized as a municipal corporation under the laws of the State of Oregon. Almost exactly 83 years ago, in October 1920, the first concrete for the Savage Rapids Dam, built as an irrigation diversion dam spanning the main stem of the Rogue River five miles east of the City of Grants Pass, was poured. The dam was dedicated on November 5, 1921, and water began flowing through the pumps, turbines and irrigation ditches shortly thereafter. It was improved and rehabilitated in 1949-1955 by the Bureau of Reclamation. The dam's sole purpose is to divert water from the river for irrigation. It serves no flood control, storage, navigation or hydropower function.

The dam is approximately 456 feet long and 39 feet high, and consists of a 16-bay spillway section and a hydraulic-driven pumping plant. A network of 160 miles of canals, laterals, and pipes distribute water to 7,900 water patrons. Fishways and ladder facilities have been repaired and improved over the years, but despite these efforts fish passage is a serious issue. The Rogue River was one of the first nationally designated Wild and Scenic Rivers, and five runs of salmon and steelhead call this river home. For years, NOAA Fisheries, U.S. Fish and Wildlife Service, and the Oregon Departments of Fish and Wildlife and Water Resources have supported dam removal as the only real solution that works for these endangered runs.

Since the Dam became operational, it has delivered water to its patrons through the Great Depression, World War II, and an era of economic and cultural change. The District's operation, and the water it delivers, are essential to the well-being of our community. What has been true all along is still true today—our patrons need the water that the District provides. Water use within our irrigation district varies greatly over the 7,700 acres. For example, we provide irrigation water to family farms, for pasture lands, hayfields, forage crops, vineyards, along with farm-direct produce to the public. These folks depend on the water we deliver and realize what a wonderful resource they have. It is the very reason why the people began talking back at the turn of the previous century about forming an irrigation district; they needed water during the summer months.

WE STRONGLY SUPPORT S. 1308

This legislation is vital to the future of our irrigation district. It needs to be enacted as soon as possible, hopefully this year. On behalf of all the District's patrons and the economy of our region, I want to thank Senators Wyden and Smith for introducing the legislation. We are just so appreciative of their assistance and to you Madam Chairman for having scheduled this hearing.

Without this legislation, we face a very real threat that in just two short years we will not be allowed to use the dam to provide water. Why is this so?

Starting way back in the 60's, the Oregon Dept. of Fish and Wildlife determined that our dam was the single biggest fish killer in the Rogue River. They studied this for something like twenty years. In the early 80's, the U.S. government reached a similar conclusion. In 1971, Congress authorized the Bureau of Reclamation to initiate a study of fish passage at the dam and improvements to the irrigation system. In 1990, the District commissioned an engineering study to look at the problems of the dam, and in 1994 that study concluded that removal of the dam and installation of pumps was the best option for the District. In 1995, the Bureau of Reclamation filed a Record of Decision on its Planning Report/Final Environmental Statement (PR/FES) on improvements at Savage Rapids Dam. Its conclusion and its recommended Preferred Alternative chose dam removal and installation of pumps as the most cost effective solution with the greatest benefit. In a curious twist of history, the official who signed that Record of Decision was the Bureau's Pacific Northwest Regional Director, Mr. John Keys. Of course, Mr. Keys is now the Commissioner of the Bureau and we have been delighted to have his support for our efforts. In 1997, the Rogue's coho salmon were listed as threatened under the Endangered Species Act (ESA). This forced the District to start working with the National Marine Fisheries Service (NMFS) to receive permission to operate the dam. Finally, in 1998, all heck broke loose with the District fighting lawsuits on several fronts—the State, the Federal government, and a bunch of conservation and fishing groups.

Over three years ago, in an attempt to end years of legal battles over the District's water right and fish passage issues, the District negotiated a plan to install new pumping facilities in the river and to then allow for removal of the dam. The District's patrons voted overwhelmingly (63%) in favor of this plan.

Two years ago, the District made one of the most important decisions in its history. We decided to end years of controversy and rancorous debate over the Savage Rapids Dam's damage to important anadrymous fish runs by signing on to a compromise that is good for the District, for the river, and for endangered salmon. We joined the Federal government, the State of Oregon and the conservation and fishing communities in a legal consent decree filed in U.S. District Court ("U.S. District Court Consent Decree," *United States, et al., v. Grants Pass Irrigation District*, Civil No. 98-3034-HO—August 27, 2001).

This Consent Decree ended the many years of lawsuits on the State and Federal levels. It stipulates that the District will continue to receive its supplemental water right while all parties work to implement a plan to replace the dam with electric irrigation pumps, implement conservation and riparian enhancements, and then remove the dam. It also stipulates that we shall cease operating the dam as a diversion facility by November 1, 2005, and that we must allow the dam to be removed after that date.

Given the ongoing threats of legal battles on the State and Federal level, we decided three years ago, and still believe today, that the only way to ensure that our patrons will continue to receive the water they need is to give up the dam in exchange for an extension of our water right from the State and new electric irrigation pumps and other conservation and restoration measures.

As you can imagine, still today there is some local controversy over the District's decision. But the overwhelming majority of our patrons and the citizens of our region support our effort. You might be interested to know that one of our current Board of Directors is a gentleman named Phil Kudlac. His grandfather was a charter member on the first board of directors of the Grants Pass Irrigation District. That three-man board worked very hard to hire the contractors to build the dam and to build the many miles of main canals. A brass plaque at the dam honors those three men. Even with his personal history and that connection to the dam, Mr. Kudlac recognizes and strongly supports the plan to install pumps and remove the dam. I think that's quite a testament to how far we have come—from years and years of fighting removal of the dam—to a new and innovative strategy to find a win-win on what had seemed like a no-win situation. The plan is relatively straightforward—new, modern, efficient irrigation pumps go in, and the dam comes out. Our patrons get water at a reasonable cost, the District survives, and numerous benefits to the river and to fish are realized.

We have very much appreciated funding provided by Congress to the Bureau in 2002 and 2003 to do as much work as possible under existing authority (P.L. 92-199) to advance the plans for the pumping plant design and installation. Work on the pumping plant design and engineering has been underway for over two years with a combination of federal, state, private, and District funds. In order to accelerate work on getting pumps designed, the irrigation district and the Oregon Department of Fish and Wildlife Fish Screen Task Force, working with the Bureau, provided early funding in excess of \$200,000 to begin the design work. In addition, the State of Oregon has committed \$3,000,000 toward the overall project. That \$3

million is the largest grant award of its kind ever made by Oregon's Watershed Enhancement Board. Private interests have contributed in excess of \$75,000 toward the engineering.

But now we have that November 2005 deadline staring us in the face and as the District's manager I am very nervous. The Bureau has said that they can go no further on this project without additional authority from Congress. The statutory stuff is kind of complicated to us, but we do understand that without the authority there cannot be further funding, and the Bureau must get both authority and funding this year if there is going to be any chance at all to build and install the pumping plant facilities so that they are operational by November 2005.

With all the problems related to water supply, irrigation, and endangered species in Southwest Oregon that this Committee has heard so much about, I particularly want you to know that these issues on the Rogue River have a solution. A solution that is supported by the people who need water for irrigation and the people that want more fish protected. Now we need your help in authorizing the activities and the funding necessary to implement the terms of the Consent Decree. S. 1308 authorizes the federal government to deliver on fundamental pieces of the compromise set out in the consent decree.

I hope you will approve this legislation as soon as possible. It is vitally important to me as the Manager of this irrigation District, it is vitally important to our water patrons, it is vitally important to conservation and fishing interests, and it is necessary to comply with State and Federal policies and laws.

It took us a very long time to get to your Committee on an issue that's been considered and debated since 1960. We are grateful to be here today, and we will be even more grateful if you can work with Senators Smith and Wyden to get S. 1308 enacted into law this year so that we can continue to operate and serve our water patrons.

Thank you or giving me this opportunity to testify today.

STATEMENT OF ROBERT G. HUNTER, STAFF ATTORNEY, WATERWATCH OF OREGON

Chair Murkowski and Members of the Committee: We urge you to support passage of S. 1308. This important legislation gives needed authority to the Bureau of Reclamation to implement a settlement agreement filed as a Consent Decree in the United States District Court of Oregon. The settlement provides for the replacement of the Grants Pass Irrigation District's 80-year-old irrigation diversion structure, Savage Rapids Dam, with new pumping facilities thereby modernizing the irrigation district's diversion system, while at the same time eliminating the most harmful fish passage barrier to salmon and steelhead in the Rogue River Basin in southwestern Oregon. Enactment of S. 1308 will be good for the Grants Pass Irrigation District, good for the Rogue River and its fishery resources, good for the local community, good for coastal communities in Oregon and California, and good for people across the country, who treasure healthy rivers and fisheries.

This legislation is the culmination of years of study and negotiation by and between several state and federal agencies, the Grants Pass Irrigation District, and many local, regional, and national conservation, sport fishing, and commercial fishing organizations. The State of Oregon has carried out its responsibilities under the Consent Decree and in addition has committed \$3,000,000 toward this project. (See a copy of a letter from Governor Ted Kulongoski of Oregon summarizing the state's activities and urging passage of this bill, attached as Attachment A).*

It is essential that the legislation is enacted this year as the Grants Pass Irrigation District will only be allowed to operate with pumps after the 2005 irrigation season, and if pumps are not installed before that time, the irrigation district will not be able to deliver water to its patrons. This bill will ensure the survival and economic viability of an irrigation district serving over 7,000 patrons and provide tremendous benefits to the internationally renowned Rogue River and its salmon and steelhead fisheries.

THE ROGUE RIVER AND ITS FISHERY

Oregon's Rogue River is nationally and internationally known for its scenic beauty, white water recreation, and salmon and steelhead fisheries. The Rogue River was designated as one of the country's first wild and scenic rivers in 1968. It originates near Crater Lake and dances westward for 215 miles, cutting its way through the Cascade, Siskiyou, and Coast ranges before meeting the sea at Gold Beach, Oregon. Because of its abundant fish and wildlife and incredible scenic beauty, the

*The attachments have been retained in subcommittee files.

Rogue River has become a major vacation destination and over the years has drawn such celebrities as Zane Grey, Clark Gable, and Ginger Rogers. The river is the cornerstone of the region's recreation and tourism industries, one of the fastest growing economic sectors in the basin.

The Rogue River is home to one of the most productive salmon and steelhead fisheries on the west coast. It contains five runs of salmon and steelhead: spring and fall chinook salmon, coho salmon, and summer and winter steelhead. The river's spring chinook salmon are considered some of the tastiest anywhere and people come from all over the world to fish the Rogue's summer steelhead because of the tremendous flyfishing opportunity they present. Guides, outfitters, lodges, motels, restaurants, and other service industries rely on the Rogue's fish as a major part of their business. The Rogue's fish are also an important component of the sport and commercial salmon fishery off the coast of southern Oregon and northern California.

THE GRANTS PASS IRRIGATION DISTRICT

The Grants Pass Irrigation District, hereinafter "District", was formed in 1916 to provide irrigation water to lands along the Rogue River in southern Oregon. The District serves over 7,000 patrons. The District gets its water by diverting it from the Rogue River under a water right issued by the State of Oregon. Because its diversion operations harm coho salmon, listed under the Endangered Species Act, the District also needs an incidental take permit to continue its operations. To remain viable the District needs to be able to continue to divert adequate amounts of water from the Rogue River, and to deliver it to its patrons at an affordable price. The passage of this bill will allow the District to continue its operations and remain economically viable.

SAVAGE RAPIDS DAM

Savage Rapids Dam does not serve any storage, flood control, navigation, or hydropower purpose. The District is the owner of the dam and has agreed to allow its removal. The District built Savage Rapids Dam in 1921 solely to divert water from the Rogue River into the irrigation canals of the District. The dam's diversion system is over 80 years old. There have been multiple breakdowns of the system over the last three years that have interrupted service for extended periods and cost the District over \$300,000 in repairs. Savage Rapids Dam can be safely removed and new pumps can be installed to better serve the District's water delivery needs.

SAVAGE RAPIDS DAM'S IMPACTS ON THE ROGUE RIVER FISHERY

The dam is a 39-foot-high, 500-foot-long diversion dam that spans the mainstem of Oregon's Rogue River at river mile 107. It is the first man-made barrier on the Rogue River that salmon and steelhead encounter on their upstream migration from the ocean. There are over 500 miles of salmon and steelhead spawning habitat upstream of Savage Rapids Dam, including 50 miles on the mainstem of the Rogue River. All spring chinook salmon spawn upstream of the dam, and the dam impedes passage of significant portions of the four other runs of salmon and steelhead in the Rogue, including coho salmon listed as threatened under the Endangered Species Act.

The dam's fish ladders and screens do not meet current standards. The north ladder only operates during the irrigation season, has poor attraction flows, and is generally inadequate. The south ladder has poor attraction flows and it is difficult to regulate flows within the ladder. During the spring and fall, when dam operations are starting up and shutting down, upstream fish passage can be totally blocked. Adult fish are delayed, injured, and sometimes killed while trying to navigate the dam in their upstream spawning migration, thereby reducing overall spawning success. Downstream traveling juvenile fish are impinged on and entrained through the screens over the dam's diversion and pump-turbine systems. There is increased predation of juveniles in the seasonal reservoir pool created by the dam, and when juveniles pass through the dam's bypass systems. There is a loss of 3.5 miles of fall chinook salmon spawning habitat that could be reclaimed from the elimination of the seasonal reservoir pool when the dam is removed. (See Attachment B-2 Summary)

The dam has long been considered the biggest fish killer on the Rogue. NOAA Fisheries, U.S. Fish and Wildlife Service, and Oregon Department of Fish and Wildlife all support dam removal as the best, most viable, and only permanent solution to the fish passage problems at Savage Rapids Dam.

BENEFITS OF REMOVING SAVAGE RAPIDS DAM

According to a 1995 Bureau of Reclamation Planning Report and Environmental Statement (PRES), removal of the dam would increase fish escapement at the site by 22%. This translates into approximately 114,000 more salmon and steelhead each year (87,900 that would be available for sport and commercial harvest and 26,700 that would escape to spawn), valued in 1994 at approximately \$5,000,000 annually. (See Attachment B-3, 4—selected pages from the PRES that document these benefits.) Reclamation's PRES also found removing the dam and replacing it with pumps to be more cost effective than trying to fix the ladders and screens.

BENEFITS OF PUMP INSTALLATION

Before removal of the dam, pumping plants with screens meeting all federal and state regulations will be installed near the current location of the dam. The pumps will be capable of diverting the District's full water needs. It is essential that the District be on pumps by the end of the 2005 irrigation season in order to stay in business. Once the District is on pumps it will be able to get an incidental take permit under the Endangered Species Act to continue its operations, and will be in compliance with state conditions on its water rights and with the settlement agreement filed as a Consent Decree in federal court.

In addition, conversion to pumps will:

- a. eliminate shutoffs due to problems with the pump turbine system at the dam;
- b. allow the District to operate at lower river flows;
- c. allow the District to start its irrigation season a month earlier;
- d. allow the District more control over the amount of water going into its canals;
- e. make it easier and safer for the District to start up and shut down its irrigation system;
- f. eliminate OSHA problems with operating the dam; and
- g. give the District more flexibility in the future to respond to changing land use patterns in the area.

IMPORTANT STUDIES SUPPORT THE PUMPING/DAM REMOVAL PLAN

By the mid-1960's, and after 19 years of investigation, the Oregon Department of Fish and Wildlife became convinced that Savage Rapids Dam caused more fish passage damage than any other single factor on the Rogue River. Fish counting data showed that fish runs using the river above Savage Rapids Dam declined, while runs below the dam increased.

In 1981, the United States Fish and Wildlife Service estimated that elimination of all fish passage losses at Savage Rapids Dam would result in a 22 percent increase in fish escapement at the site.

In 1990, the District agreed to look at different alternatives for solving the fish passage problems caused by Savage Rapids Dam. An engineering study commissioned by the District was completed in 1994, which recommended removal of the dam and its replacement with pumps as the best alternative for the District. (Grants Pass Irrigation District Water Management Study, dated March, 1994)

The Bureau of Reclamation did a parallel study on fish passage at the dam. It selected dam removal and replacement with pumps as its preferred alternative, because it found removing the dam and replacing it with pumps was cheaper than trying to fix it and provided greater benefits. (Fish Passage Improvement at Savage Rapids Dam; Planning Report and Final Environmental Statement filed August 30, 1995)

The District recently hired CH2MHill, an engineering firm, to review the economic feasibility of the pumping plan for the District. In addition conservation interests hired PWA, another engineering firm, to review the feasibility of removing the dam. These engineering reviews confirmed the feasibility of the pumping/dam removal plan.

SEDIMENT IS NOT A PROBLEM

In February 2001, the Bureau of Reclamation completed a comprehensive study of the sediment behind the dam and concluded that if the dam were removed the sediment could be safely managed by natural transport. (Savage Rapids Dam Sediment Evaluation Study, Department of the Interior, Bureau of Reclamation, February 2001) The study found that the sediment was not contaminated, that there was much less sediment than was originally believed, and that a large percentage of the sediment was gravel and cobble, which is good for downstream salmon spawn-

ing habitat. This resolved a major concern for many who had previously opposed removing the dam.

PATRON VOTE SUPPORTS THE PUMPING/DAM REMOVAL PLAN

In January 2000, the patrons of the District voted overwhelmingly in support of removing Savage Rapids Dam and replacing it with pumps (63% of the ballots cast voted in favor of the dam removal/pumping plan).

BIPARTISAN SUPPORT FOR THE PUMPING/DAM REMOVAL PLAN

Senator Smith and Senator Wyden from Oregon co-introduced this bill and have been working with all interested parties since 2000 to authorize and fund the installation of pumps and removal of the dam. Local Oregon state legislators in a letter to the two Oregon Senators also expressed bipartisan support for federal legislation to authorize and fund the pumping/dam removal plan. (See Attachment C—Letter from several Oregon lawmakers to Senators Smith and Wyden requesting reintroduction of a bill to install pumps and remove the dam)

SETTLEMENT AGREEMENT/CONSENT DECREE

Based on the District's own study recommending the District convert to pumps and allow dam removal, the State of Oregon required the District to exercise due diligence toward implementing the pumping/dam removal plan as a condition of a temporary water right issued to the District in 1994.

In 1997, the Rogue River's coho salmon were listed as threatened under the Endangered Species Act, and the District began negotiations with the National Marine Fisheries Service for obtaining an incidental take permit for its diversion operations based on converting to pumps and the ultimate removal of Savage Rapids Dam.

In 1998, the District became entangled in litigation with the State of Oregon, the United States, and numerous concerned conservation and fishing industry organizations over water right issues and fish passage problems at the dam.

On August 27, 2001, parties to the litigation recognized all interests would be better served by working together in a cooperative manner, and the parties settled their differences in the form of a consent decree that was filed in the United States District Court of Oregon on August 27, 2001. The settlement was commemorated on October 12, 2001 in a ceremony with the former Oregon Governor John Kitzhaber. (A copy of the Commemorative Declaration signed at the ceremony is attached as Attachment D.)

The settlement agreement secures for the District the water right and federal permits it needs to continue to operate. In exchange the District has agreed to convert to a pumping system, stop water diversions at Savage Rapids Dam, and allow for the dam's removal by November 2005. To insure that the settlement agreement is a success and a win/win solution for all parties, it is necessary to pass this bill to authorize and fund the federal activities anticipated in the Consent Decree.

Important steps have already been taken to implement the Consent Decree. The State of Oregon has completed what was required of it under the Consent Decree, has contributed \$100,000 toward fish screens at the pumps, and in addition has committed \$3,000,000 toward dam removal, the largest single grant made by the Oregon Watershed Enhancement Board. The District and conservation and sportfishing interests have contributed over \$75,000 toward advanced engineering on the pumps and dam removal, while the federal government has already contributed \$500,000 toward planning work on the pumping plants. Federal legislation is now needed to get the authority and funding to complete implementation of the pumping/dam removal plan outlined in the Consent Decree. This legislation guarantees that the parties will be able to implement the Consent Decree and will reward the cooperative efforts of the parties in resolving the long standing issues regarding fish passage at Savage Rapids Dam. (See Attachment E, F and G—editorials from the regional paper supporting the pumping/dam removal plan and Congressional funding)

TIME IS OF THE ESSENCE—PLEASE ENACT S. 1308 THIS YEAR

Passage of this legislation will provide tremendous benefits to one of the nation's great natural treasures, the Rogue River and its salmon and steelhead fisheries. At the same time it will ensure the survival and continued operation of the Grants Pass Irrigation District, will facilitate the implementation of a federal court decree, and will reward cooperative efforts to solve difficult resource issues. In order to meet the strict timelines in the Consent Decree, it is essential to pass S. 1308 this year, or the patrons of the irrigation district will no longer have the ability to meet there

water needs in two years. For these reasons the organizations named below urge you to vote for S. 1308 and to seek its immediate passage.

CITY OF SOUTH EL MONTE,
South El Monte, CA, March 28, 2003.

Hon. GRACE F. NAPOLITANO,
Ranking Member, House Subcommittee on Water and Power, Longworth House Office Building, Washington, DC.

DEAR CONGRESSWOMAN NAPOLITANO: In June 1999, the City of South El Monte together with the cities of El Monte and Industry asked you to introduce legislation for a modest expansion of the U.S. Bureau of Reclamation's San Gabriel Basin Demonstration Project, which was established in 1993. We asked you to raise the budget cap of \$38.05 million imposed on Title XVI in 1996 by \$12.5 million. The purpose of our request was to assure that the Title XVI had sufficient funds for groundwater cleanup and conjunctive use projects throughout the San Gabriel Basin, including projects in the cities of El Monte, South El Monte and Industry.

As the mayor of South El Monte, I write to reaffirm the City of South El Monte's support for this increased budget authorization. We appreciate your efforts to raise the cap through your current bill, H.R. 1284, which is co-sponsored by Chairman Dreier and Ranking Member Solis, and support the bill's enactment for the current fiscal year.

As you know, reliable and clean water supply is crucial for many Hispanic and minority-owned businesses as well as low-income households in the City of South El Monte. My community is physically dominated by small industrial businesses with several abandoned warehouses as the City is composed of 29% residential and 71% commercial property. South El Monte currently represents the lowest income area in the San Gabriel Valley within Los Angeles County as unemployment in my City is approximately 8.5% and 21.2% of the population is currently living at or below the poverty level. Securing reliable and clean water supply for my City is essential for me and my colleagues serving on the City Council as we work to restore and revitalize our economy for our working-class residents.

Since the three cities wrote you in 1999, planning for groundwater cleanup projects throughout the southern part of San Gabriel Basin has moved into the final design stages, and some cleanup facilities have been constructed. While most of the Title XVI funds have gone to the larger cleanup projects in the northern part of the basin, the U.S. Bureau of Reclamation and its local partner, the San Gabriel Basin Water Quality Authority, have responded to the needs of our cities by directing or reserving some Title XVI funds to or for projects in South El Monte, El Monte and Industry.

At this point, Title XVI dollars already spent on or earmarked for specific projects exhaust the \$29.5 million previously appropriated for the program. Several recent applications pending before the Water Quality Authority will take up most of the remaining amount authorized for the program. Therefore, little or nothing will remain for new project that we anticipate will be proposed over the next few years.

Once again, we at the City of South El Monte appreciate your efforts to secure funds for important groundwater cleanup and supply projects throughout the San Gabriel Basin. We are pleased to reaffirm the City's support for H.R. 1284.

Warm Regards,

BLANCA FIGUEROA,
Mayor.

CARDINAL INDUSTRIAL FINISHES,
South El Monte, CA, October 9, 2003.

Hon. LISA MURKOWSKI,
Chairman, Water and Power Subcommittee, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington DC.

Hon. BYRON DORGAN,
Ranking Member, Water and Power Subcommittee, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington DC.

Re: H.R. 1284—to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project (H.R. 1284).

DEAR CHAIRMAN MURKOWSKI AND RANKING MEMBER DORGAN: This letter is on behalf of the thirteen businesses and property owners¹ who have cooperated to fund the cleanup of groundwater in the South El Monte Operable Unit ("SEMOU") of the San Gabriel Valley Superfund Site ("Site"). These Cooperating Parties write this letter in support of H.R. 1284 presently before the Subcommittee on Water and Power of the Committee on House Resources: As discussed in more detail below, the funding provided by H.R. 1284 is essential to bring to fruition the landmark cooperative effort to cleanup the groundwater of the SEMOU.

By way of background, H.R. 1284 will increase the Federal share of funding to the San Gabriel Basin demonstration project ("Project") (42 U.S.C.S. Section 390h-12). The Project is a comprehensive solution that addresses the water supply and groundwater contamination problems of the Site and to thus adequately protect the groundwater resources of the San Gabriel Basin. The Project implements conjunctive use projects that will enhance both the groundwater quality and the local and regional water supply of the San Gabriel Basin. Such treatment projects will remove volatile organic compounds ("VOC") and other emerging contaminants such as perchlorate from the groundwater, and then deliver the water for beneficial use. Federal Project funds contribute twenty-five percent of the total capital cost of a project, but such funds cannot be used for the operation and maintenance of such projects. (42 U.S.C.S. Section 390h-12(b).) Additionally, the Federal funds contribution toward share of the funding of the Project cannot exceed the amount specified as the "total Federal obligation" for the Project made by the Bureau of Reclamation for fiscal year 1997 as set forth in report of the March 27, 1996 hearing before the Subcommittee on Energy and Water Development. (43 U.S.C.S. Section 390h-14(d)(2).) Although the spending restrictions would remain in place, H.R. 1284 allows that the Federal share of the Project may be increased by an additional \$12,500,000.

It is vitally important that H.R. 1284 become law. Perhaps the significance of H.R. 1284 can be emphasized by examination of the importance of the initial outlay of federal funds which H.R. 1284 seeks to increase. Approximately seventy private parties have been identified for the SEMOU; most have been identified since at least the early to mid-1990's. Organizing these parties into a cohesive responsive group has proved to be an impossible task. However, certain of these private parties chose to work with the United States Environmental Protection Agency ("EPA's), the San Gabriel Basin Water Quality Authority ("WQA") and certain water purveyors to reach an agreement to clean the SEMOU groundwater resources. These parties sought to avoid litigation and transactions costs and instead focus on targeting resources upon the remediation of the SEMOU groundwater.

However, given the economic status of these parties, such an agreement was difficult to reach. That is, parties interested in contributing funding for the treatment projects could not gather enough money to fund these important projects. After years of negotiations, the logjam was broken as the private parties sought to access federal funds such as funds from the San Gabriel Basin Restoration Project (i.e., Restoration Fund) and the San Gabriel Basin Demonstration Project (i.e., Title XVI). Even then, only the thirteen Cooperating Parties entered into an agreement with the WQA and water purveyors to provide funding toward projects to implement the cleanup of the groundwater of the SEMOU ("Agreement").

There is no question that the Agreement would not have been reached but for the ability to include federal funds toward implementation of the cleanup. This is perhaps best evidenced by the fact that after years of negotiations, the Agreement was entered into after round the clock talks culminating on July 1, 2002. Not coincidentally, this was also the last day such an agreement could be reached in order to access certain federal funds. In a letter dated July 15, 2002, the EPA wrote the Cooperating Parties and informed them that it considered work described in or performed pursuant to this Agreement that supports the SEMOU Interim Record of Decision of the SEMOU RD/RA Statement of Work the equivalent of remedy implementation. In short, the access of federal funds allowed an agreement to be reached that focused resources on addressing the contamination of the SEMOU rather than litigation and transactional matters.

¹ Andruss Family Trust; and 1987 Survivors Trust under terms of Trust; APW North America Inc., formerly known as Zero Corporation and Electronic Solutions; Artistic Polishing & Plating, Inc., and Art 1991 Revocable Living Marital Deduction Trust and Art 1981 Revocable Living Exemption Trust; Cardinal Industrial Finishes, and Cardco; Durham Transportation, Inc., Durham School Services Inc. and Durham Family Limited Partnership; Eemus Manufacturing Corp.; International Medication Systems, Ltd.; Norf James Jebbia Testamentary Trust; J.A.B. Holdings, Inc., formerly known as J.A. Bozung Company; Roc-Aire Corp.; Janneberg Trusts, formerly known as Servex Corp.; Smittybilt, Inc.; Southern California Edison Co. (collectively, the "Cooperating Parties").

Our Congressional representatives should be heartily commended for their wisdom in providing funds that set the stage for remedy implementation to take place. Without such, it is likely that significant resources would not be devoted toward remedy implementation and instead would be squandered in litigation. Nonetheless, the SEMOU remedy does not remain fully implemented due in part to two factors; both of which could potentially be alleviated by H.R. 1284.

The first reason is the discovery of perchlorate and other "emerging chemicals" in the SEMOU. Although the Cooperating Parties are not responsible for the rocket fuel perchlorate groundwater contamination, the SEMOU remedy to address VOC's cannot be implemented unless the perchlorate is also addressed. H.R. 1284 can provide the funding to assist in addressing the perchlorate contamination and thus allow the full VOC remedy implementation to proceed.

The second reason is that besides the Cooperating Parties' best efforts, there remain numerous recalcitrant parties who have not contributed their resources toward remedy implementation. Several of these recalcitrants are presently embroiled in litigation with the WQA and water purveyors. Further, the Cooperating Parties believe that EPA will shortly be expending significant resources on enforcement against these recalcitrants. Several of these recalcitrants regret failing to exercise the initiative and foresight of the Cooperating Parties in entering into the Agreement that recognized the availability of federal funds. Based upon the Cooperating Parties' experiences, it is likely that H.R. 1284 could provide the incentive that allows these recalcitrants to enter into a similar agreement and thus devote their resources toward the Project implementation.

For these reasons, the Cooperating Parties urge that H.R. 1284 become law, and the funds authorized therein be devoted to addressing the perchlorate and emerging chemicals contamination in the SEMOU. This would allow the full VOC remedy implementation to proceed and would encourage further settlement from recalcitrants. In furtherance of these goals, if you or other Congressmen and/or Congresswomen have any questions regarding the Cooperating Parties' experiences, we would be happy to assist.

Very truly yours,

LAWRENCE C. FELIX,
Vice President.

CITY OF EL MONTE,
CITY COUNCIL'S OFFICE,
El Monte, CA, October 9, 2003.

Hon. LISA MURKOWSKI,
Chairman, Senate Water and Power Subcommittee, Dirksen Senate Office Building, Washington, DC.

Hon. BYRON DORGAN,
Ranking Member, Senate Water and Power Subcommittee, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN MURKOWSKI AND SENATOR DORGAN: As an El Monte City Councilwoman, I write to reaffirm the City of El Monte's support for H.R. 1284, bill to increase the cost ceiling on the San Gabriel Basin Demonstration Project. I appreciate the bill's efforts to raise the cap by \$12.5 million, which is cosponsored by Chairman David Dreier and Ranking Member Solis, and I also support the bill's enactment in the near future.

In June 1999, the City of El Monte together with the cities of South El Monte and Industry asked Congresswoman Grace Napolitano to introduce legislation for a modest expansion of the U.S. Bureau of Reclamation's San Gabriel Basin Demonstration Project, which was established in 1993. We asked the Congresswoman to raise the budget cap of \$38 million imposed on Title XVI in 1996 by \$12.5 million. The purpose of our request was to assure that the Title XVI program had sufficient funds for groundwater cleanup and conjunctive use projects throughout the San Gabriel Basin, including projects in the cities of South El Monte and Industry.

Reliable and clean water supply is crucial for the City of El Monte. El Monte currently has one of the lowest household incomes within Los Angeles County and very high unemployment. Securing reliable and clean water supply for my city is essential for me and my colleagues serving on the City Council as we work to restore and revitalize our economy for our working class residents.

Since the three cities wrote Congresswoman Napolitano in 1999, planning for groundwater cleanup projects throughout the southern part of the San Gabriel Basin has moved into the final design stages, and some cleanup facilities have been

constructed. While most of the Title XVI funds have gone to larger cleanup projects in the northern part of the basin, the U.S. Bureau of Reclamation and its local partner, the San Gabriel Basin Water Quality Authority, have responded to the needs of our cities by directing or reserving some Title XVI funds to or for projects in South El Monte, El Monte and Industry.

At this point, Title XVI dollars already spent on or earmarked for specific projects exhaust the \$29.5 million previously appropriated for the program. Several recent applications pending before the Water Quality Authority will take up most of the remaining amount authorized for the program. Therefore, little or nothing will remain for new projects that we anticipate will be proposed over the next few years.

Once again, we at the City of El Monte appreciate your efforts to secure funds for important groundwater cleanup and supply projects throughout the San Gabriel Basin. We are pleased to reaffirm the city's support for H.R. 1284.

Warm regards,

PATRICIA WALLACH,
Councilwoman.

CITY OF INDUSTRY,
City of Industry, CA, October 14, 2003.

Hon. LISA MURKOWSKI,
Chairwoman, Senate Water and Power Subcommittee, Dirksen Senate Office Building, Washington, DC.

Hon. BYRON DORGAN,
Ranking Member, Senate Water and Power Subcommittee, Dirksen Senate Office Building, Washington, DC.

Re: H.R. 1284—Increased Budget Authorization for the U.S. Bureau of Reclamation's San Gabriel Basin Demonstration Project Program

DEAR CHAIRWOMAN MURKOWSKI AND RANKING MEMBER DORGAN: In June 1999, the City of Industry, together with the cities of El Monte and South El Monte, asked Congresswoman Grace Napolitano to introduce legislation for a modest expansion of the U.S. Bureau of Reclamation's San Gabriel Basin Demonstration Project, which was established in 1993. We asked that the budget cap of \$38 million imposed on Title XVI in 1996 be raised by \$12.5 million. The purpose of our request was to assure that Title XVI had sufficient funds for groundwater cleanup and conjunctive use projects throughout the San Gabriel Basin, including projects in the cities of El Monte, South El Monte and Industry.

I write today to reaffirm the City of Industry's support for this increased budget authorization. We appreciate Congresswoman Napolitano's efforts to raise the cap through her current bill, H.R. 1284, which is co-sponsored by Congressman Dreier and Congresswoman Solis, and support the bill's enactment in the near future.

The City of Industry is home to almost 2,000 businesses, and is a major job center in our region. Reliable supplies of clean water are critical to keep and grow the large employment base in the City of Industry and other San Gabriel Valley communities. Local groundwater sources are an increasingly important part of our region's water supplies, especially with the recent redirection of Colorado River water that formerly came to southern California.

Since we first wrote Congresswoman Napolitano in 1999, planning for groundwater cleanup projects throughout the southern part of the San Gabriel Basin has moved into the final design stages, and some cleanup facilities have been constructed. While most of the Title XVI funds have gone to the largest cleanup projects in the northern part of the basin, the U.S. Bureau of Reclamation and its local partner, the San Gabriel Basin Water Quality Authority, have responded to the needs of our cities by directing or reserving some Title XVI funds to or for projects in El Monte, South El Monte and the City of Industry.

At this point, Title XVI dollars already spent on or earmarked for specific projects exhaust the \$29.5 million previously appropriated for the program. Several recent applications pending before the Water Quality Authority will take up most of the remaining amount authorized for the program. Therefore, little or nothing would remain for new projects that we anticipate will be proposed over the next few years.

Again, I am pleased to reaffirm the City's support for H.R. 1284.

Very truly yours,

PHILIP L. IRIARTE,
City Manager.

STATEMENT OF MICHAEL WHITEHEAD, MEMBER, BOARD OF DIRECTORS,
SAN GABRIEL WATER QUALITY AUTHORITY

My name is Michael Whitehead and I am a member of the Board of Directors of the San Gabriel Basin Water Quality Authority. I appreciate the Committee allowing me the opportunity to submit my written testimony for the record. Let me also express my appreciation to Congresswoman Grace Napolitano for introducing H.R. 1284 and to Senator Feinstein for being a champion of water issues throughout the state.

The Title XVI program has provided the San Gabriel Basin with the ability to provide much needed wellhead treatment, stem the flow of contaminants, stabilize water rates and most importantly deliver safe and reliable drinking water to the residents of the San Gabriel Basin.

By increasing the authorization for the San Gabriel Basin Demonstration Project, H.R. 1284 will allow us to continue the incredible progress that has been made over the last few years in cleaning up and utilizing the groundwater in the San Gabriel Basin. Title XVI has allowed us to maximize local dollars as we attempt to remediate groundwater contamination that threatens the drinking water supply of over 1 million residents of the San Gabriel Basin.

In the time period since the Title XVI program was made available to the San Gabriel Basin Water Quality Authority, 10 projects have been allocated funding. Seven projects have been built and another three will begin construction in the near future.

Without the funding for the treatment facilities local water producers would have been forced to shut down water wells due to migrating contamination. The closures would have forced local water purveyors to become reliant on Colorado River water at a time that the state's allotment is being cut back. This would have severely impaired our ability to provide water for users in the basin and forced us to rely on imported water.

It is vital that we restore the basin's aquifer. Once we are able to remediate the contamination it is our belief that Valley will be able to use the aquifer to meet all of basin's water needs. Removing harmful contaminants from our communities groundwater supply will allow local water producers to better meet the needs of local residents at affordable rates. Lifting the ceiling on Title XVI makes certain that the basin is able to meet the water supply needs of future generations.

We urge the Committee and their fellow members of Congress to lift the ceiling on the Title XVI program to allow us to carry out our mission of facilitating groundwater cleanup and providing a clean, reliable drinking water supply for the 1 million residents of the San Gabriel Basin.

Again, I appreciate the Subcommittee considering my testimony on H.R. 1284.

STATEMENT OF HON. GRACE F. NAPOLITANO, U.S. REPRESENTATIVE
FROM CALIFORNIA

Chairwoman Murkowski and Ranking Member Dorgan, thank you for allowing the Senate Water and Power Subcommittee to conduct a hearing on H.R. 1284, a bill that is vital for my constituents in San Gabriel Valley located in Southeast Los Angeles County. I am pleased to have the support of Chairman David Dreier and Congresswoman Hilda Solis as co-sponsors of this bill that aims to provide an opportunity for the continuation of a highly successful Bureau of Reclamation project.

If enacted, H.R. 1284 will simply allow the cities of Industry, El Monte and South El Monte in and near my Congressional District to have the ability to request funding for assistance from the Bureau of Reclamation's San Gabriel Basin Demonstration Project for cleanup of volatile organic compounds (VOCs) once they are able to secure 75% matching fund.

The San Gabriel Basin is home to one of the country's largest and most complex Superfund sites. The site spans over 170 square miles. The groundwater beneath the Basin supplies drinking water to over 1.5 million people in the San Gabriel Valley. Unfortunately, the groundwater has been contaminated by a number of substances over the past five decades as a result of manufacturing and agricultural activities.

Local and state governments together with the business community have worked long and hard to develop solutions to clean up groundwater contamination from volatile organic compounds (VOCs) and perchlorate in order to ultimately revitalize the economy of the San Gabriel Basin. One important piece of the solution has been a U.S. Bureau of Reclamation's San Gabriel Basin Demonstration Project authorized by Congress in 1992 which provides 25% federal matching funds for projects which

combine groundwater cleanup of (VOCs). Among the many benefits of the San Gabriel Demonstration Projects are:

- Relieving demand for water from the Colorado River and Northern California, home to the fragile Bay-Delta estuary;
- Providing additional groundwater storage for use during drought periods and emergencies such as earthquakes;
- Protecting the drinking water supply of over 1.5 million residents in the San Gabriel Valley by cleaning up contaminated groundwater;
- Helping to relieve the chronic unemployment in the San Gabriel Valley caused by the recession of the early 1990s by removing the stigma of contamination and attendant potential liability exposure from development of redevelopment of commercial property;
- Creating significant incentives for local governments and businesses to contribute to the cleanup costs in a cooperative, not confrontational spirit.

When originally authorized in 1992, the Bureau of Reclamation project was intended to benefit the entire San Gabriel Basin by providing 25% of the costs of projects involving reclamation of potential local water supplies.

Unfortunately, the funding level for this critical Basin program was capped at \$38 million in 1996, funding only a portion of the project that had been designed. Most of the projects originally funded were in the northern part of the Basin that excluded the Puente Valley Operable Unit, the El Monte Operable Unit, and the South El Monte Operable Unit. Since the 1996 funding cap, these operable units in the San Gabriel Basin have developed detailed groundwater cleanup plans under the supervision of the USEPA. These projects are conjunctive use projects and could be funded under the existing Bureau of Reclamation's San Gabriel Basin Demonstration Project only if the 1996 budget cap is raised.

The legislation I am introducing will simply raise the allowable funding level for this previously authorized project by \$12.5 million. This will accommodate the conjunctive use projects that have been designed since 1996 and which are integral components of the Basin's efforts to clean up its groundwater and expand its local water supply capacity. Appropriations will still need to be sought. My legislation will simply provide that opportunity.

During the House Water and Power Subcommittee hearing on April 1, 2003, a compelling need was clearly established for the extension of funding for this successful program on behalf of the Cities of Industry, El Monte and South El Monte, as we can expect more applications from municipalities for funding from the San Gabriel Demonstration Project to exceed the current \$38 million cap in the near future.

I want to express my appreciation to Chairwoman Murkowski, Ranking Member Dorgan, Senator Feinstein and other Members of the Subcommittee for today's hearing on H.R. 1284 and I look forward to working with the Members on the Senate Water and Power Subcommittee towards the passage of this important legislation.

STATEMENT OF JEFF OVESON, EXECUTIVE DIRECTOR,
GRANDE RONDE MODEL WATERSHED PROGRAM

Madam Chairwoman and Members of the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, my name is Jeff Oveson, Executive Director of the Grande Ronde Model Watershed Program (GRMWP or Model Watershed), which is a community-based organization embedded in the county governments of Wallowa and Union Counties, the political boundaries of which basically encompass the Grande Ronde Basin, a tributary of the Snake River, in northeastern Oregon. The Model Watershed Program, since 1992, has been a collaborative organization directed by Board Members from both counties representing County Government, federal and state natural resource agencies, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, Soil & Water Conservation Districts, environmental interests, and private landowners.

The organization, founded with and through the support of the Bureau of Reclamation (Reclamation), Bonneville Power Administration (BPA), and the Governor's Watershed Enhancement Board (GWEB, now GWEB) supports activities principally related to watershed restoration and species recovery on both federal and private lands. It is funded primarily through BPA's Fish and Wildlife Program, the GWEB, and Reclamation. To date, we have facilitated the investment of over \$17,000,000 in restoration projects throughout the basin.

I appreciate the opportunity to submit testimony on behalf of the steering committee of the Wallowa Lake Dam Rehabilitation and Water Management Plan regarding S. 1355, the Wallowa Lake Dam Rehabilitation and Water Management Act

of 2003. This bill could appropriately be titled "Lostine River Salmon Restoration Plan", or "Fish Recovery Plan", or a number of other things that accurately portray the real virtues of the plan. It really is an honor to bring to your attention a locally developed plan that has such demonstrable environmental, economic, and social merits.

I am going to discuss with you two drainages in Wallowa County: the Lostine River, and the Wallowa River, in an attempt to make clear their interconnectivity, and the reliance of each on the other in providing water for Threatened and Endangered fish species, irrigation, urban consumption, recreation, and overall ecosystem balance.

The Lostine River has its headwaters in the Eagle Cap Wilderness Area, flows through a designated Scenic Area, and its lower 10 miles through the Middle Valley of Wallowa County, the lower end of which is its point of confluence with the Wallowa River. The middle portion of the Lostine is home to a number of irrigation diversions that tend to dewater the river in the late summer to the point that passage by adult salmon migrating to their historic spawning grounds is impossible.

Hankin and Reeves Surveys in 1994 (Nez Perce Tribe and Oregon Dept. of Fish & Wildlife), the Lostine River Instream Flow Study in 1998 (R2 Resource Consultants, Nez Perce Tribe, and Oregon Dept. of Fish & Wildlife, Bonneville Power Administration, and Bureau of Reclamation), and the Lostine River Salmonid Passage Enhancement Study of 2001 (Harza, GRMWP, and Natural Resources Conservation Service) were all collaborative efforts to accurately assess conditions in the Lostine, and were all funded and completed by partners in fish restoration. These studies identified instream flow as the primary limiting factor in the spawning, rearing, and migration of Chinook Salmon, summer steelhead, and bull trout, all three of which are listed fish. This condition is especially onerous during the months of August and September. This condition also impacts free migration and rearing of all life stages of all three species.

Over the past decade, irrigators on the Lostine have cooperated with Nez Perce Tribal Fisheries and Oregon Department of Fish & Wildlife in efforts to improve passage and rearing problems by conserving on water diversion, coordinating flushing flows to ease upstream migration, and providing access to tribal and agency, personnel for management activities. Even now, they are collectively and individually working with Natural Resources Conservation Agency and Soil & Water Conservation District personnel designing and implementing water quantity and quality improvement projects that will affect the Lostine. The recently passed Farm Bill will support this effort a great deal.

The fact remains that instream flows are still insufficient on a regular annual basis.

Twenty-odd river miles upstream of the Lostine River-Wallowa River confluence is Wallowa Lake, a natural holding facility for water whose capacity was augmented by the construction of a dam in 1918, later to be increased in size in 1929 when hydropower capabilities were added.

The lake behind the dam serves a wide range of purposes, among them:

- water for irrigation of over 15,000 acres of the county's prime agricultural lands (management of the dam directly affects over 40,000 irrigated acres);
- drinking water for the city of Joseph;
- recreational use by over 800,000 users per year for fishing, boating, water skiing, and sightseeing;
- flood control-active storage that is managed to provide flood protection to the downstream cities of Joseph, Enterprise, and Oregon; and
- stable base flows for the Wallowa and Grande Ronde Rivers, preserving and enhancing riparian habitat, fish stocks, water fowl, and water quality.

In 1996, Oregon Water Resources Department Division of Dam Safety listed the Wallowa Lake Dam as a "high hazard" structure, recognizing that a sudden failure of the dam would likely result in loss of life as well as millions of dollars worth of property, and would have a devastating long-term negative impact on the downstream ecology.

Associated Ditch Company (ADC), builders and owners of the dam, began the planning and design of improvements. This assessment fostered the realization that they were not the only ones reliant on the integrity of the structure, nor were they the only ones who had needs that could be addressed by the rehabilitation of the dam. This recognition of need and opportunity led ADC to invite input from a wide variety of agencies, interests, and the Nez Perce Tribe (41 such entities attended the first organizational meeting), with hopes of designing a project that would address these needs and opportunities and be a lasting positive landmark in Wallowa

County environmentally, economically, and socially. With that in mind, a mission statement was developed:

“To rehabilitate Wallowa Lake Dam and implement a water management program for the Wallowa Valley serving the needs of agriculture, salmon recovery, fish and wildlife enhancement, recreation, flood control, municipal water supply, and hydropower generation.”

To ensure that this mission statement comes to fruition, the irrigators of the ADC have agreed to:

- cooperate with Nez Perce Tribal Fisheries in providing fish passage above the dam to allow for restoration of Sockeye and Coho Salmon;
- store and deliver 4,500 acre-feet of water to the Lostine to supplant irrigation withdrawals (thereby assuring a minimum flow of 30 cubic-feet-per-second in the Lostine); and
- screen diversions to avoid luring and trapping Bull Trout in irrigation canals.

The Endangered Species Act clearly supports this project, but overtly threatens the livelihood of irrigators if action is not taken. The Clean Water Act does the same. The Tribal Trust nexus is clearly triggered by this proposed project, as are the action plans associated with Bonneville Power Administration’s Fish & Wildlife Program Mitigation, the Wallowa County/Nez Perce Tribe Salmon Habitat Recovery Plan, the Oregon Watershed Enhancement Board, the GRMWP Action Plan, and others.

There are some clearly identified issues, and risks associated with those issues:

- consistent late season low flows in the Lostine put at risk:
 - irrigators (third party or regulatory intervention)
 - salmon, steelhead, and bull trout, as well as less prominent species associated with them
 - Tribal Treaty rights
 - local economic structure and land values
 - the social fabric of small communities
- the loss of maximum function of the Wallowa Lake Dam jeopardizes:
 - thousands of acres of irrigated land
 - loss of significant income county-wide from tourism associated with the water resources of Wallowa County
 - the continuing decline in populations of threatened and endangered fish
 - municipal drinking water supplies
 - success of the Nez Perce Tribal/ODFW fish hatchery funded by BPA, scheduled for construction beginning this year

A fully functioning dam at Wallowa Lake will address these issues and more:

- Nez Perce Tribal Fisheries will have the opportunity to restore the historic runs of Sockeye and Coho Salmon to Wallowa Lake;
- over 40,000 acres of irrigated lands will stay in production with little risk of harm to fish or from litigation, avoiding situations such as in the Klamath Falls Basin;
- the cities of Joseph, Enterprise, and Wallowa will be protected from floods;
- the viable population of Chinook Salmon, summer Steelhead, and Bull Trout in the Lostine can be maintained and enhanced; and
- the city of Joseph will have a safe and reliable water supply.

This bill is not about dam safety. It is not about restoring fish populations. It is not about irrigation. It is about needs and opportunities to stabilize the environmental, economic, and social fabric of a natural resource based community that has clearly demonstrated its willingness to preserve all three.

STATEMENT OF ANTHONY D. JOHNSON, CHAIRMAN, NEZ PERCE
TRIBAL EXECUTIVE COMMITTEE, NEZ PERCE TRIBE

On behalf of the Nez Perce Tribe, I would like to take this opportunity to again express the Tribe’s support for the Wallowa Lake Dam Rehabilitation and Water Management Act. The Tribe presented testimony in support of the important dam rehabilitation project contemplated in this Act in June of 2002. As each year passes, the need for the project intensifies.

Since time immemorial, the Nez Perce Tribe lived, fished, hunted and gathered in the beautiful area of northeastern Oregon, now known as Wallowa County. It is from this land that Chief Joseph, Ollicut and their bands were removed in 1877 in

an action that eventually resulted in war between two sovereigns, the United States and the Nez Perce Tribe. Despite the wounds of years past, the Tribe retained, and the United States has upheld and protected, the treaty reserved rights to hunt and fish in the Wallawas. And through these many years, salmon, steelhead and other fish species returning to the Wallawas have continued to be critically important to Nez Perce religion, culture, subsistence and commercial endeavors.

Before 1900, approximately 24,000 to 30,000 sockeye returned to Wallowa Lake each year. In 1890, a small dam was built at the outlet of Wallowa Lake to divert water for irrigation. When the Wallowa Lake Dam was constructed, it did not include fish passage facilities and no such facilities have ever been incorporated into the structure. The dam, in conjunction with over-harvest and other factors, resulted in the extinction of sockeye from Wallowa Lake by 1904.

Recently, the Nez Perce Tribe and other local community supporters of this Act, have pursued restoration of sockeye as part of a comprehensive salmon restoration program in northeastern Oregon. Rehabilitation of the Wallowa Lake Dam will include construction of necessary fish passage facilities allowing sockeye access back to the lake. The Tribe has shown it can bring back an extirpated run of coho salmon and dramatically increase the return of listed fall chinook salmon. The Tribe believes it can do the same for sockeye.

In addition to fish passage and sockeye salmon restoration, rehabilitation of the dam will provide many other benefits including enhanced flood control, improved water conservation and management of irrigation withdrawals, and greater stability of the city of Joseph water supply. This legislation is needed to implement the Wallowa Valley Water Management Plan and is supported by a broad coalition of supporters. Wallowa Lake is used by more than 800,000 recreational users each year and provides irrigation for 15,000 acres, water for the city of Joseph, Oregon, and flood control for Joseph, Wallowa, and Enterprise, Oregon. These many water users have been waiting since 1996, when Oregon Water Resources Department of Dam Safety listed Wallowa Lake Dam as a high hazard structure, for this dam to be rehabilitated.

Very importantly, the water exchange actions proposed in the Act will result in increased flows in the Lostine River and Bear Creek for spring chinook salmon listed under the Endangered Species Act. The Tribe and others have worked diligently to bolster these runs of spring chinook through implementation of the Northeast Oregon Hatchery program. The last few years have demonstrated the great success of the program in returning salmon. We now need the stream flow improvements encompassed by the Act to sustain the runs.

The efforts made in Wallowa County, to bolster the runs and to support this Act, are tangible demonstrations of a community working to develop a healthy ecosystem. The Tribe has carried out virtually all of its fisheries restoration activities on private lands in cooperation with the local landowners. These actions include conducting the inventories necessary to improve fish passage at road culverts, monitoring fish runs using traps and weirs, and acclimating juvenile salmon for supplementing the runs. During the last few years, local irrigators have cooperated with the Tribe and Oregon Department of Fish and Wildlife to curtail their water withdrawals at critical low flow periods. Passage of the Wallowa Lake Dam Act and supporting the collaborative relationship that exists in Wallowa County will serve as a great example of how to avoid volatile situations like that in the Klamath Basin in recent years.

The Tribe strongly supports the Wallowa Lake Dam Rehabilitation and Water Management Act. Passage of the Act will insure that the legal and trust obligations of the United States, to protect and enhance treaty-reserved fishing rights, are honored, and will demonstrate the importance of national commitment to collaborative restoration actions for salmon in the Pacific Northwest.