

WATER AND POWER BILLS

HEARING
BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED ELEVENTH CONGRESS
FIRST SESSION
ON
S. 637 **S. 1080**
S.789 **S. 1453**

JULY 23, 2009



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WATER AND POWER BILLS

THURSDAY, JULY 23, 2009

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

The subcommittee met, pursuant to notice, at 2:30 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Maria Cantwell presiding.

OPENING STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Good afternoon. We are going to convene this Subcommittee on Water and Power of the Energy Committee.

I thank the Honorable Michael Connor for being here today to give testimony to this legislation and to the other witnesses who are going to be here.

It is my pleasure to welcome everyone.

The bills we are going to cover today are in the area of water resource management.

S. 637, introduced by Senators Baucus and Tester, authorizing the construction of regional water systems in eastern Montana and a portion of North Dakota.

S. 789, introduced by Senator Feinstein, requires the Bureau of Reclamation to conduct a study of feasibility and sustainability of a reservoir that would be a key component of an Indian water rights settlement in California.

S. 1080, introduced by Senators McCain and Kyl, will clarify the jurisdiction of the Secretary of the Interior with respect to C.C. Cragin Dam and Reservoir in Arizona.

S. 1453, introduced by Senators Bingaman, Tom Udall, Mark Udall, Bennett, and Hatch. I do not know if that has ever happened before in that order.

[Laughter.]

Senator CANTWELL. To maintain base funding for the Bureau of Reclamation of the Upper Colorado River and San Juan fish recovery programs through 2023.

These bills involve important issues that impact most western States such a rural water supply needs, endangered species concerns, and Indian water rights.

The subcommittee will look closely at these bills and work with the sponsoring members to try to make progress toward enactment.

I know my colleague, the ranking member, Senator Brownback, will be here shortly, and when he does, we will turn to him for his opening statement.

I see my colleague, Senator Tester, here, and if he would like to join us and make comments about this legislation that he is here to address, this would be a welcome time for doing that. Then at that point, we will turn to Mr. Connor for his testimony. Welcome, Senator Tester.

[The prepared statements of Senators Feinstein, Baucus, McCain, and Kyl follow:]

PREPARED STATEMENT OF HON. DIANNE FEINSTEIN, U.S. SENATOR FROM CALIFORNIA, ON S. 789

Madam Chairman and members of the Subcommittee, thank you for taking the time today to hold a hearing on the Tule River Tribe Water Development Act, which would authorize a water feasibility study for the Tule River Tribe from California.

California is currently in the third year of a severe drought. Drought is cyclical in our State.

The State needs solutions now to help meet water supply needs for agriculture, fish and wildlife, and human use. Without prudent and expedient consideration of feasibility studies like this one, the situation will only get worse.

For the Tule River Tribe, the concerns of the future have become the reality of today. The Tribe has inadequate water for even the most basic daily activities such as drinking, cooking, cleaning, bathing, and firefighting.

This legislation will help the tribe move one step closer to realizing its legitimate water rights.

Specifically, this bill directs the Secretary of the Interior to complete and report to Congress on options for a domestic, commercial, municipal, industrial, and irrigation water supply for the Tule River Tribe.

In addition, at my request, this legislation prohibits any future project relating to the study from providing water for the Tribe's casino or other gaming-related activities.

Identical bipartisan legislation was introduced by my California colleagues, Devin Nunes and Jim Costa, in the House of Representatives. That legislation passed the House Committee on Natural Resources by unanimous consent, and passed the full House by a vote of 417-3 earlier this month.

The Tribe has been in negotiations on this settlement for over ten years, signing an agreement in 2007 with all parties except the Federal government. While the Federal government was a party to those negotiations, the Bureau did not sign the final agreement. When that settlement was signed, legislation to provide an authorization for a feasibility study was introduced by my colleagues in the House of Representatives.

Subsequently, the Bureau has had ample time to conduct an appraisal of the project and to work with the Tribe to reach a conclusion to settlement negotiations.

The Bureau's testimony acknowledges that:

[T]he Tribe has conducted a substantial amount of technical, planning, and environmental work over the past decade; however, Reclamation has not reviewed these documents nor determined how they may affect the scope, cost, or schedule of a feasibility study.

This is similar to testimony provided by the Bureau almost two years ago during a House Natural Resources Subcommittee hearing in September 2007.

The Department of the Interior and the Tule River Tribe already have spent over one million dollars on technical studies and evaluation toward completion of the proposed feasibility study. This includes extensive research on hydrology, geology, and possible sites for storage. It is clear that the Bureau will not move forward without Congressional direction.

A feasibility study authorization from Congress will encourage the parties complete settlement negotiations quickly, move forward with a plan to bring water to this water-poor region of California, and provide the Tribe with the water to which it is equitably entitled.

This is not a water project that falls under traditional Federal water guidelines; rather, it is a resolution of claims by the Tule River Tribe for breach by the Federal government of its obligations to the Tribe.

As a result of the Federal government's action, the Tribe has been severely constrained by a 1922 agreement and has missed out on its water rights for the past 90 years.

Madam Chairman, it is important to note that the Tule River Tribe went about this process in a responsible manner.

The Tribe did not pursue litigation, but spent ten long years in negotiations with the local community and the Federal government. The Tribe should be applauded for its efforts and willingness to resolve their differences at the negotiating table, not in the courtroom.

A water feasibility study is the next logical step toward a resolution of a long-standing inequity.

With regard to subsection 2(c) restricting the use of water for gaming-related purposes, I believe this clause is a necessary and important part of the legislation. All the provisions in this bill were carefully negotiated to best fit the needs of the community and subsection 2(c), agreed to by the Tribe and its elected representatives, is appropriate for this particular set of circumstances.

Finally, I would note that the legislation before you today enjoys universal support from the Tribe and nearby communities. I appreciate the time you have given today to consider the merits of this bill and encourage the Committee's prompt consideration and passage of the Tule River Tribe Water Development Act.

PREPARED STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM MONTANA,
ON S. 637

Good afternoon! I want to thank you for the opportunity to speak today in support of S. 637, a bill to authorize the Dry—Redwater Regional Water System in Montana. I introduced this legislation with my colleague, Senator Tester, on March 18, 2009. This water project is a critical lynch-pin our long-term efforts to ensure that all Americans, regardless of location, receive the clean, fresh water to which they are entitled. This legislation will bring the reality of clean, safe, reliable water one step closer to thousands of residents in eastern Montana.

S. 637 authorizes the construction of the Dry Redwater Regional Water System in the State of Montana and a portion of McKenzie County, North Dakota. The Dry Redwater Regional Water System will provide a municipal and industrial water supply for rural communities in Montana and North Dakota. The project will ultimately serve 15,000 people in a service area covering approximately 9,400 square miles. In comparison, the city of Los Angeles covers 1,682 square miles and is home to over 11 million people.

Today, these rural communities rely heavily on groundwater, and are facing water quality issue ranging from high levels of fluoride, to high total dissolved solids and high sodium. The bottom line is that the current system is not up to par and fails to meet the basic needs of Montanans.

The project will include 1,220 miles of pipeline, 38 pump stations, and 20 water storage reservoirs. The total cost is expected to be about \$115M over 10 years, with the Federal government paying up to 75% of the total project cost.

The non-Federal interests are ready to go on their share of this project. I am very pleased to have Mr. Tod Kasten, from Circle, Montana here testifying today on behalf of this project. Mr. Kasten is a member of the board of the Dry—Redwater Regional Water Authority System which was established to manage this project and will bear the responsibility for the operation and maintenance of this project over the long-term.

The Dry-Redwater Regional Water System is exactly the type of project that the Bureau of Reclamation was established to create. The Bureau was established in 1902 and constructed water projects throughout the West leading to economic development. It is hard to believe that there are still Americans in this region who lack basic water services—but there are. I greatly appreciate this Committee's time and attention to this matter which is so critical to thousands of Montanans, and I look forward to working with you to move this bill to enactment.

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZON,
ON S. 1080

Madam Chairman, I appreciate you holding today's hearing on S. 1080, legislation introduced by myself and my colleague from Arizona, Senator Kyl. A companion measure has been introduced in the House of Representatives by Congresswoman Ann Kirkpatrick. Simply put, this legislation would clarify that the "C.C. Cragin Dam and Reservoir Project" in northern Arizona is under the jurisdiction of the Bu-

reau of Reclamation (BOR) and not the Forest Service. Resolving this uncertainty is necessary for the development of several critical water supply projects in northern Arizona.

The C.C. Cragin Project, formerly known as the Blue Ridge Dam and Reservoir, is located within the Coconino and Tonto National Forests. The project consists of a relatively modest dam, reservoir and 10-mile pipeline that was constructed during the 1960's by Phelps Dodge to supply water to the Morenci Mine Complex under an agreement with the Salt River Project (SRP). Several years ago, Phelps Dodge relinquished the Cragin Project to SRP, and consequently, it was transferred to the Bureau of Reclamation's Salt River Federal Reclamation Project under the Arizona Water Settlements Act of 2004.

Unfortunately, the Act failed to expressly divest the Forest Service from managing the National Forest lands underlying the Cragin Project. This oversight has resulted in an interagency struggle between the Bureau of Reclamation and the Forest Service concerning approval authority over SRP's maintenance activities. The Bureau of Reclamation correctly interprets the Act to mean they have authority over SRP's repair work, while the Forest Service insists it has ultimate authority for the entire Cragin Project, and has even argued that the Bureau must obtain a special use permit in order to operate the dam.

This bureaucratic disagreement frequently disrupts SRP's ability to maintain the integrity of the aging Cragin pipeline. There have been numerous delays—sometimes lasting months—as the Forest Service forces SRP to duplicate environmental assessments and comply with various regulatory hurdles which Congress clearly intended to be under the sole jurisdiction of the Bureau of Reclamation.

Over the past 4 years, SRP and the Bureau have made every attempt to resolve this jurisdictional dispute with the Forest Service without success. Meanwhile, the ongoing bureaucratic infighting is complicating efforts by several communities in Northern Gila County that plan to utilize the Cragin Project to address a chronic regional water shortage. I've heard from several local elected officials in Gila County who are outraged at how this dispute has delayed and may eventually derail several of their most critical water delivery projects.

This internal bureaucratic squabbling is totally indifferent to the greater needs of Arizona taxpayers. The C.C. Cragin Project is just like any other Salt River Federal Reclamation Project facility located within a National Forest in that the Bureau of Reclamation, not the Forest Service, is responsible for approving all work plans and maintenance activities. That's why this legislation would put to rest any confusion over the Bureau of Reclamation's authority to approve management activities for the Cragin Project. I want to be clear that this bill does not release either the BOR or SRP from complying with applicable federal laws, including NEPA and the Endangered Species Act, nor does it impose additional costs on the federal government.

Again, Madam Chairman, after four years of negotiations, the Forest Service and the Bureau of Reclamation have yet to produce an agreement on this matter. A speedy resolution to this jurisdictional issue is needed in order to provide certainty in SRP's repair work as well as to advance the water development plans of the Town of Payson and other northern Arizona communities. Thank you for holding this hearing and I look forward to working with the Committee and the Administration to advance this bill through the legislative process.

PREPARED STATEMENT OF HON. JON KYL, U.S. SENATOR FROM ARIZONA, ON S. 1080

Chairman Stabenow, Ranking Member Brownback, and members of the Subcommittee, thank you for holding this hearing on S. 1080, which would clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir (the "Project"). Along with Senator McCain, I introduced this legislation in May 2009 to resolve a dispute among the U.S. Bureau of Reclamation, the U.S. Forest Service, and the Salt River Project (SRP) concerning the exercise of jurisdiction by the two federal agencies over the operation of the Project in Northern Arizona. A legislative fix is necessary because the agencies have been unable to resolve this conflict. S. 1080 would (1) withdraw for Reclamation purposes the lands at issue and (2) clarify that the Secretary of Interior has exclusive jurisdiction with respect to the covered lands.

By way of background, under the Arizona Water Settlements Act (AWSA), up to 3,500 acre feet of water per year may be made available from the Project for municipal and domestic uses in northern Gila County. AWSA also authorized the Department of Interior to accept from SRP the transfer of title to the Project. Section 213(i) of AWSA provides: (1) "the United States shall hold title to the (Project) for the ex-

clusive use and benefit of (SRP)” and (2) “(SRP) shall be responsible for the care, operation, and maintenance of the project pursuant to the contract between the (U.S.) and (SRP) dated . . . 1917, as amended.” The intent of AWSA was to give Interior, through Reclamation, the exclusive jurisdiction over the Project.

The Forest Service has argued that AWSA did not expressly divest it of jurisdiction over the and associated with the Project. Consequently, the Forest Service maintains it must “authorize” all of the activities associated with the Project, including but not limited to, its care, operation, and maintenance. Last year, the Forest Service proposed entering into a project supplemental agreement (PSA) to resolve this issue. Regulating the Project through a PSA, however, would undermine the legislative intent of AWSA and result in the piecemeal administration of the Project and duplication of effort by the three entities.

Reclamation already possesses sufficient authority, under both an existing contract with SRP and Section 213(i) of AWSA to regulate both the dam and reservoir and all other improvements associated with the Project. It also possesses sufficient expertise to regulate the operation of the Project. Indeed, Reclamation already exercises such expertise in its regulation of similar facilities that are part of the Salt River Federal Reclamation Project and other reclamation projects in the West.

The practical concern is that these unresolved disputes have resulted in delays in needed repairs to a pipeline and other improvements to the Project, which, according to SRP, are necessary for the Project’s continued operation.

In sum, the legislation would resolve an ongoing dispute among Reclamation, SRP, and the Forest Service and give Reclamation jurisdiction over the Project as AWSA intended. Given the legislation’s bipartisan nature, I hope the Subcommittee will work with me in securing its swift passage in the 111th Congress.

**STATEMENT OF HON. JON TESTER, U.S. SENATOR
FROM MONTANA**

Senator TESTER. Thank you, Chairwoman Cantwell. I appreciate the opportunity to say a few words, and I appreciate the opportunity that you are taking to hear these projects on the panels today.

They are critically important projects. I can talk about the one in particular, the Dry-Redwater Regional Water Authority. This is a project in eastern Montana that is going to require some significant resources, but it is a project that is much needed in eastern Montana.

As has been said and as you guys deal with on a daily basis in this committee, water is so critically important for not only survival but economic growth and the ability to maximize the economic opportunities as they come down the pipe. That is what this project is about. It is about not only economic development and growth into the future, but in the short term, simple economic stability and sustainability because, quite frankly, without water, communities are not going to survive. That is just the way it is.

So I appreciate you having this hearing, and I would hope that you would give this very favorable consideration when it goes to the committee.

With that, I just want to express my appreciation. Thank you, Senator Cantwell.

[The prepared statement of Senator Tester follows:]

PREPARED STATEMENT OF HON. JON TESTER, U.S. SENATOR FROM MONTANA

Thank you Mr. Chairman, Thank you for holding this hearing and including Montanan, Tod Kasten on a panel.

Mr. Chairman, it is an honor to introduce my fellow Montanan Mr. Tod Kasten who has traveled all the way from Circle, Montana to share his work with the Dry-Redwater Regional Water Authority.

This project has been in the works since 2002 and Mr. Kasten’s leadership brings this issue to your chambers today.

I feel local organization and community involvement in projects like this is fundamental to providing a strong rural water structure and I laud Mr. Kasten's work.

As I am sure you know, these projects are critical to securing clean water in our rural communities. Clean water promotes health and economic development and this bill helps to ensure that Montanans from communities across Eastern Montana are given that benefit.

Thank you for taking the time to listen to Mr. Kasten and Thank you again for your consideration of this issue.

Senator CANTWELL. Thank you, Senator Tester. You, I am assuming, have worked with our colleagues from North Dakota on this as well.

Senator TESTER. We try to stay away from those guys in North Dakota, but absolutely.

Senator CANTWELL. All right. Thank you. Thank you for stopping by to lend your support for what is important legislation for the State of Montana and the region.

Before I call up our first panelist, I would like to make sure that we know that the subcommittee has received additional written testimony on the bills before us today, that the testimony, as well as the written submissions from today's witnesses, will be made part of the official record.

So with that, I think, Mr. Connor, we will turn to you.

**STATEMENT OF MICHAEL L. CONNOR, COMMISSIONER,
BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR**

Mr. CONNOR. Thank you, Madam Chairwoman. I am Mike Connor, the Commissioner of the Bureau of Reclamation, and I am pleased to provide the Department of the Interior's views on the four bills pending before the subcommittee today. In the interest of time, I will quickly summarize my written statements, which have been submitted for the record.

The first bill I will speak to is S. 637, the Dry-Redwater bill. S. 637 would authorize construction of the Dry-Redwater Regional Water Authority System in Montana. The Department has significant concerns with S. 637. While we concur in the need for a safe and reliable water supply for the citizens of eastern Montana, the Department is concerned about the strain on Reclamation's budget, the cost share requirement proposed in the bill, the accuracy of the existing cost estimates, and the proponents' capability to pay for all aspects of the project.

Of Reclamation's eight rural water projects, six are in Reclamation's Great Plains region and are currently being constructed in the Dakotas and Montana. All of these projects pre-date Public Law 109-451, the Rural Water Supply Act. This act authorizes the Secretary to create a rural water supply program to address rural water needs in the 17 western States. The fiscal year 2010 rural water project construction request is \$64 million. The remaining construction ceiling for these six projects total over \$1.2 billion. That is our backlog in rural water projects.

Given that backlog, we are concerned about the accuracy of the cost estimates upon which appropriations are authorized in S. 637. Being asked to consider requests for authorization of a project's construction, Reclamation typically has had an opportunity to do an appraisal-level study prior to that authorization. As such, we would like to suggest that the project sponsors work with Reclama-

tion's regional office to complete appraisal-and feasibility-level studies consistent with the Rural Water Supply Act of 2006 prior to an authorization taking place.

We appreciate that the project sponsors have approached Reclamation in this regard and pledge to provide them clear guidance that will help facilitate a meaningful review of the project.

The second bill I will speak to is S. 789, the Tule River bill. S. 789 would direct the Department to complete a feasibility study for construction of a storage reservoir and delivery system for the Tule River Indian Tribe in California. The Department does not support S. 789.

This bill directs that the Department's feasibility study be completed within 2 years after the funds are appropriated. Reclamation has not reviewed and is not in a position to verify the accuracy of the costs estimates upon which the appropriations are authorized in the bill. Before being asked to consider a request for authorization or funding of a feasibility, Reclamation typically has had the opportunity to conduct an appraisal-level study. Without that study, the Department believes it is premature to authorize the feasibility work.

For several years, settlement negotiations have been conducted between the tribe, downstream water users, and the Federal negotiating team regarding the tribe's federally reserved water rights. Not all issues between the tribe and the Federal negotiating team have been resolved. Moreover, despite some level of Federal participation, the Department has not analyzed the settlement needs of the tribe and other parties, including the question of whether the proposed storage reservoir, outlet works, and delivery system are a cost effective approach to accomplishing the parties' goals. Until the Department has completed its analysis of the proposed settlement, it is premature to take a position on the scope, schedule, and cost of the feasibility study that is proposed in the legislation.

Having said this, the Department understands the importance of a reliable water supply. We will continue to work with the tribe, including evaluating the option of allocating some amount of resources toward addressing the issues I have just raised.

The Department supports the resolution of Indian water rights claims through negotiated settlements. Good settlements require good information and a solid technical review of the available water supply options.

The third bill is S. 1080, the C.C. Cragin bill. S. 1080 deals with an issue that has occupied the time of field staff at Reclamation and U.S. Forest Service since enactment of the Arizona Water Settlement Act in 2005. This bill seeks to clarify Federal jurisdiction with respect to the C.C. Cragin project operated by the Salt River Project and located within the Coconino National Forest in Arizona.

The administration appreciates the interest of the Salt River Project in reaching a prompt resolution of the management responsibilities of the Departments of Agriculture and Interior and understands SRP's interest in promoting this legislation. However, the administration believes that a sound approach for future management of the project could be arrived through further negotiations. Both Departments are fully committed to working expeditiously with SRP to ensure needed work for the project, including both

emergency and nonemergency repairs, and replacement of improvements are completed, as well as the management issues that are pending right now.

The final bill is S. 1453, the Upper Colorado River-San Juan fish recovery program. S. 1453 would extend the authorization for the Upper Colorado and San Juan Rivers fish recovery implementation programs to use Colorado River storage project hydropower revenues through the year 2023. The Department supports S. 1453.

These programs share the dual goals of recovering populations of endangered fish while water development continues to meet current and future human needs. The program actions provide Endangered Species Act compliance for more than 1,600 Federal, tribal, and non-Federal water projects using more than 3 million acre-feet of water per year in the Colorado and San Juan River basins. These programs have been nationally recognized for their cooperative approach to recovering native fish species, avoiding litigation, and providing ESA compliance to Federal and non-Federal water users.

Reauthorization for the continued use of CRSP hydropower revenues is essential to the ability of these programs to realize their goals. The stakeholders involved in these programs are to be commended for their cooperation, as well as the successes they have achieved to date.

That concludes my prepared remarks. I will be happy to answer questions at the appropriate time.

[The prepared statements of Mr. Connor follow:]

PREPARED STATEMENTS OF MICHAEL L. CONNOR, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

S. 637

Madam Chairwoman and Members of the Subcommittee, I am Mike Connor, Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to provide the views of the Department of the Interior (Department) on S. 637, legislation authorizing construction of the Dry-Redwater Regional Water Authority System in the State of Montana. The Administration has significant concerns with this bill that we want to work with Congress to address.

S. 637 would authorize the planning, design, and construction of the Dry-Redwater Regional Water Authority System (System) in eastern Montana and would authorize appropriations of at least \$115 million for the System. The bill would require that the Federal government pay for 75 percent of the project's overall cost.

The Department concurs in the need for a safe and reliable water supply for the citizens of eastern Montana, but we have a number of concerns with the legislation. In particular, the Department is concerned about the strain on Reclamation's budget, the cost share requirement proposed in the bill, the accuracy of existing cost estimates, and the proposed use of project use power from the Pick Sloan Missouri Basin Program (PSMBP) for non-irrigation purposes.

Of Reclamation's eight authorized rural water projects, six are in Reclamation's Great Plains (GP) region and are currently being constructed in the Dakotas and Montana. All of these projects pre-date Public Law 109-451, which authorized the Secretary of the Interior to create a rural water supply program to address rural water needs in the 17 western States. Within the GP region, more than 236,750 people are presently being served by the six partially completed projects (approximately 38,750 on Indian reservations and 198,000 off reservations). The fiscal year (FY) 2010 rural water project construction request is \$64 million. This includes \$15.3 million for the operation and maintenance of tribal systems and \$47.7 million for construction. In addition, the Department of the Interior allocated \$200 million to these rural water projects with funding from the American Recovery and Reinvestment Act of 2009. The remaining construction ceiling for these six projects totals over \$1.2 billion.

In view of these existing authorizations, the Department is concerned about the non-Federal cost share for the System. S. 637 contemplates that the United States would fund 75 percent of the cost of constructing the system for the benefit of Montana citizens of Dawson, Garfield, McCone, Prairie, and Richland Counties, and North Dakota citizens of McKenzie County.

While this has been the cost share level proposed in other rural water projects enacted into law, it represents the very maximum Federal cost share allowed under the Rural Water Supply Act of 2006 (Public Law 109-451), which includes a requirement for a Feasibility Report that includes an analysis of the sponsor's capability-to-pay and identifies an appropriate contribution by the local sponsors.

Reclamation has not reviewed and is not in a position to verify the accuracy of the cost estimates upon which appropriations are authorized in S. 637. Before being asked to consider a request for authorization or funding of a feasibility study, Reclamation typically has had an opportunity to conduct at least appraisal-level analysis of a project. This practice is confirmed in Section 106(a) of the recently enacted Rural Water Supply Act of 2006.

Section 5 of S. 637 authorizes the delivery of Pick Sloan Missouri Basin Program "project use" pumping power to be used and delivered for the benefit of this project at the firm power rate. The bill requires that the project be operated on a "not for profit basis" in order to be eligible to receive power under those terms. The bill is silent as to whether this authorization provides for seasonal power vs. year-round power. The legislation should specify in order for Reclamation and the Western Area Power Administration to know how much preference pumping power from PSMBP will be available to the system during the non-irrigation season in order to meet existing contractual obligations.

In addition to those concerns mentioned above, we have yet to verify whether or not water rights issues associated with the project have been adequately addressed. Without an opportunity to thoroughly review the proposed project at an appraisal or feasibility study level, we are not in a position to verify that other technical issues do not also exist. We would like to suggest that the project sponsors work with Reclamation's Great Plains Regional Office and the Montana Area Office to complete appraisal and feasibility-level studies consistent with the Rural Water Supply Act of 2006 prior to an authorization for construction.

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

S. 789

Madam Chairwoman and Members of the Subcommittee, I am Michael Connor, Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to provide the views of the Department of the Interior (Department) on S. 789, the Tule River Tribe Water Development Act. For reasons discussed below, the Department does not support S. 789.

The proposed legislation would direct Interior "to conduct a study on the feasibility and suitability of constructing a storage reservoir, outlet works, and a delivery system for the Tule River Indian Tribe of California to provide a water supply for domestic, municipal, industrial, and agricultural purposes, and for other purposes." The Act would authorize \$3 million for Reclamation to conduct a feasibility study to be completed within 2 years after funds are appropriated.

Reclamation delivered testimony on similar legislation (HR 2535) during the 110th Congress on September 25, 2007. While S. 789 contains some notable changes in Section 2, the Department's concerns with this bill remain.

Reclamation has not reviewed and is not in a position to verify the accuracy of the cost estimates upon which appropriations are authorized in S. 789. Before being asked to consider a request for authorization or funding of a feasibility study, Reclamation typically has had an opportunity to conduct appraisal-level analysis of a project. Without a completed appraisal level study, the Department believes it is premature to authorize this feasibility study. The authorization of \$3 million for this study would further compete with the funding needs of other already authorized projects. Reclamation generally requires completion of an appraisal level study before considering whether the project warrants continuing to a feasibility-level analysis. Reclamation understands that the Tribe has conducted a substantial amount of technical, planning, and environmental work over the past decade; however, Reclamation has not reviewed these documents nor determined how they may affect the scope, cost, or schedule of a feasibility study.

In addition, the proposed legislation does not specify a local non-Federal cost-share partner or a cost share requirement for the feasibility study. Reclamation typically shares feasibility study costs with the non-Federal partners paying 50 percent of study costs. There is ample legislative precedent which supports this ap-

proach. For several years settlement agreement negotiations have been conducted between the Tribe, downstream water users, and the Federal negotiation team regarding the Tribe's federally reserved water rights. However, not all of the issues between the Tribe and the Federal negotiating team have been resolved. Moreover, the Department has not analyzed the settlement needs of the Tribe and other parties including the question of whether the proposed storage reservoir, outlet works, and delivery system are a cost effective approach to accomplishing the goals of the settling parties. Nor have issues of cost and cost sharing with other settlement parties been negotiated. Until the Department has completed its analysis of the proposed settlement, it is premature to take a position on the scope, schedule, and cost of the feasibility study that is proposed in this legislation.

Typically, a feasibility study of this size and shape, including National Environmental Policy Act compliance, requires several years to complete with significant costs. Actual costs for this study would be determined after study authorization and appropriations are provided followed by a Plan of Study and public scoping processes. The time and cost to complete the feasibility study and environmental documentation for the Tule River Tribe Water Development Project could be shortened if the Tribe's technical and environmental analyses and documentation are sufficient and compatible with Federal requirements. The costs of a feasibility study are significant and may exceed the \$3 million authorization in this bill.

This bill also includes a new subsection 2(c) that would restrict the use of water from any project "relating to the feasibility study" authorized in this legislation, prohibiting the use of water supplies provided by this project for the casino of the Tule River Tribe or any other tribal casino or facility designed to support gaming activity. The Department opposes conditioning support for tribal water development upon restrictions on permissible activities. This bill, if enacted, will place a restriction upon any project that may be authorized as part of a comprehensive water rights settlement even if the exact feasibility study authorized by the bill is never carried out. We understand that the Tribe supports this legislation, but we believe that it raises serious precedent and fairness problems.

Although we do not support this bill, the Department understands the importance of a reliable water supply and will continue to work with the Tribe toward this goal in addressing the issues described above.

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

S. 1080

Madam Chairwoman and Members of the Subcommittee, I am Mike Connor, Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to be here today on behalf of the Department of the Interior (Department) to discuss S. 1080, the Land Withdrawal and Reservation for C.C. Cragin Dam and Reservoir. The legislation seeks to clarify Federal jurisdiction with respect to the C.C. Cragin project, which includes a dam, reservoir, and 11.5-mile utility corridor containing a transmission line and high-pressure pipeline. The project is located nearly entirely within the Coconino National Forest in north-central Arizona.

The Administration appreciates the interest of the Salt River Project Agricultural Improvement and Power District (SRP) to reach prompt resolution of the management responsibilities of the Departments of Agriculture and the Interior, and understands SRP's interest in promoting this legislation. However, the Administration would like to pursue an administrative resolution among the parties. The two federal agencies (Reclamation and the Forest Service) have recently reengaged on this issue and would like an opportunity to explore further discussions with SRP to that end. As this effort proceeds, we would commit to keep the Committee updated on the progress of those discussions.

Reclamation and the Forest Service hope to be able to negotiate and enter into an agreement with SRP for operation and maintenance of the Cragin project in a manner that will fulfill the roles, obligations, and responsibilities of all three parties. This approach would accommodate Reclamation and SRP by ceding full control of the lands underlying the dam and reservoir to Reclamation and by expressly acknowledging SRP's right to operate and maintain the dam, reservoir, and utility corridor pursuant to the Arizona Water Settlement Act (AWSA, Public Law 108-451) and the 1917 agreement between the Department of the Interior and SRP. In addition, this approach would accommodate the Forest Service by allowing the agency to manage the lands underlying the utility corridor for recreation, wildfire, law enforcement, and other activities consistent with the Forest Service's authorities and responsibilities, the AWSA, the 1917 agreement, and the existing right-of-way over the corridor held by another party. In particular, this approach would allow for integrated management of tens of thousands of acres of ecosystems across National For-

est System lands underlying and adjacent to the Cragin project, including watershed, wildlife habitat, range, and vegetation management.

The Administration recognizes that S. 1080 is intended to hasten the development of a workable management agreement. The Administration believes, however, that a sound approach for future management of the project could be arrived upon through further negotiations. Both Departments are committed to working expeditiously with SRP to ensure needed work for the project, including both emergency and non-emergency repairs and replacement of improvements.

Reclamation's long-standing experience working with SRP over nearly a century has been very productive. SRP has proven to be a responsible and reliable operator and caretaker of U.S. interests and resources. Reclamation and SRP have nearly a century of responsible stewardship in regard to both the technical operation of project works and protection of the ancillary natural resources. It is our hope that combining that history with the Forest Service's land management authorities and expertise would result in even more effective stewardship.

That concludes my prepared remarks. I would be pleased to answer any questions.

S. 1453

Madam Chairwoman and Members of the Subcommittee, I am Mike Connor, Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to be here today to provide the views of the Department of the Interior (Department) on S. 1453, the "Bureau of Reclamation Fish Recovery Programs Reauthorization Act." The Department supports S. 1453.

The Upper Colorado River Endangered Fish Recovery Program and San Juan River Basin Recovery Implementation Program (Programs) share the dual goals of recovering populations of endangered fish while water development continues to meet current and future human needs. Program actions provide Endangered Species Act compliance for more than 1,600 federal, tribal, and non-federal water projects depleting more than 3 million acre-feet of water per year in the Colorado and San Juan rivers and their tributaries. The Programs, authorized by Public Law 106-392, as amended, were established under cooperative agreements in 1988 (Upper Colorado) and 1992 (San Juan). Program partners include the states of Colorado, New Mexico, Utah, and Wyoming; the Bureau of Reclamation, Western Area Power Administration, U.S. Fish and Wildlife Service, Bureau of Land Management, National Park Service, and Bureau of Indian Affairs; Native American tribes; environmental organizations; water users; and power customers.

Public Law 106-392 authorized the use of \$6 million per year (indexed for inflation) of Colorado River Storage Project (CRSP) hydropower revenues from Glen Canyon Dam and other CRSP facilities to support the base funding needs of the Programs through 2011. Base funding is used for program management, scientific research, fish population monitoring, fish stocking, control of non-native fish, and operation and maintenance of capital projects. The bill, as introduced, would simply extend the authorization to utilize CRSP hydropower revenues at the current level (up to \$6 million per year adjusted for inflation, or approximately \$7 million in 2009 dollars) through 2023 to support the base funding needs of both Programs.

These Programs have been nationally recognized for their cooperative approach to recovering aquatic native fish species, avoiding litigation, and providing Endangered Species Act compliance to federal and non-federal water users. Reauthorization for the continued use of CRSP hydropower revenues is critical to the ability of these Programs to realize their goals. There appears to be strong support for this legislation from the Program's non-federal stakeholders.

That concludes my prepared remarks. I would be pleased to answer any questions.

Senator CANTWELL. Commissioner Connor, thank you for your testimony, and thank you being here.

How long have you been at the Bureau now?

Mr. CONNOR. I am now in week 7 of my tenure.

Senator CANTWELL. Thank you. I knew it was a short time.

We have been joined by the ranking member, Senator Brownback. Would you like to make a statement before we continue with questions and other witnesses?

Senator BROWNBACK. Thank you very much. I will not. I do want to have my full statement put into the record.

I appreciate the hearing. I am sorry for being late. I got captured in my office in a longer meeting. I appreciate your testimony and

look forward to some of the questioning, but I would just put the statement in the record.

[The prepared statement of Senator Brownback follows:]

PREPARED STATEMENT OF HON. SAM BROWNBACK, U.S. SENATOR FROM KANSAS

Senator Cantwell, it's a pleasure to be here today, and I thank you for chairing this important hearing.

I am pleased to join you in welcoming the witnesses and members of the public. We have a number of bills to get through that are important to various members on this committee, and other members as well.

All of the bills in this hearing today hold a certain importance for our states in the West:

- Providing safe municipal and industrial water supplies for rural communities in Montana and North Dakota;
- Carrying out a feasibility study for the construction of a storage reservoir and delivery system for the Tule River Indian Tribe in California;
- Conferring exclusive jurisdiction of land in Northern Arizona to the Department of Interior for better maintenance of vital land and water projects; and
- Funding essential endangered fish recovery programs in the Upper Colorado River and San Juan River basin.

So while the underlying purpose of each bill is different, they all share the critical goal of providing all people within the United States access to a reliable, safe and secure water supply, while at the same time maintaining and preserving the natural habitats of some of our nation's most valuable wildlife. It is essential, though, to balance this need in a manner that addresses the economic climate our nation currently faces.

While none of these pieces of legislation directly affect my home state, the ability to access clean, abundant sources of water is an issue that transcends physical boundaries.

The United States government and its agencies should recognize water resources are the purview of the individual state, and the citizens and groups within that state, for allocation decisions and recommendations on all water resources projects and their management. Each federal agency, including the Bureau of Reclamation, should recognize and work within the state's own water resources planning structure.

In Kansas, and most states in our region, there are multiple federal agencies with a role in water issues. These agencies, unfortunately, are often not well coordinated in their efforts. In fact, in some cases there are statutory or regulatory prohibitions preventing those agencies from being able to cooperate and share resources. This fact is limiting the ability of my state to adequately address issues within its borders. If the states are truly to lead planning and management of water resources, federal agencies must be willing and able to work cooperatively with each other and those states seeking assistance. Otherwise, significant time and funding is expended to overcome artificial and unreasonable barriers to cooperation.^μ

While there have been significant impediments to more robust water development and modernization, there are definite areas of progress that have moved our region of the country towards greater utilization of this most valuable natural resource.

One such example in my home state has been the development of a Reservoir Sustainability Initiative. This initiative, made possible by the collaborative efforts of the Kansas Water Office, several state agencies, local government and citizen stakeholders has implemented plans for needed improvements and an overall framework for protecting Kansas' valuable reservoir system—a system that provides a water supply to 2/3 of the state population.

My understanding of the importance of water conservation and utilization was ingrained into my mind at an early age growing up on my family farm in Parker, Kansas. As you all may know, Kansas is fortunate enough to have access to one of the most abundant and shallowest sources of ground water in the whole Midwest. The Ogallala-High Plains aquifer is the dominant, often sole, source of water in western Kansas, and has been an essential factor in positioning my state as a leader in agriculture production. But like so many sources of water throughout the west, and the world, the Ogallala aquifer is limited in source. Therefore, as we continue to address growing demand for clean sources of potable water, we must also continue to pursue initiatives for water conservation and technologies that will allow us to better use all available sources of water.

Once again, I thank the witnesses for your presence and thank you, Senator Cantwell, for conducting this hearing. I look forward to hearing the testimony today.

Senator CANTWELL. Thank you very much. I appreciate that.

If we could turn to these particulars on the various legislation. On S. 637 what are the alternatives that you would suggest to addressing the water supply needs since you are saying you do not support S. 637?

Mr. CONNOR. I think that is the key aspect of our testimony, quite frankly. Appraisal-level and feasibility-level studies that we participate in would be required to look at a various range of alternatives as part of those programs. That has not been done, so quite frankly, I cannot suggest that there are alternatives at this point in time. This, indeed, may be the most effective and cost efficient way to address the obvious critical water needs that exist in eastern Montana, but until we have gone through that appraisal and feasibility analysis, as called for in the Rural Water Supply Act, we have not evaluated those options at this point in time.

Senator CANTWELL. But with your backlog, when would that happen?

Mr. CONNOR. I mean, there is the study aspect, and if we move forward, if Congress moves forward with an authorization, then there would be the authorization for construction. We, admittedly, are behind in getting the rural water supply program up and running. We produced an interim rule to establish the program in December 2008 and now have to do the directives and standards, which I anticipate will be done in September of this year.

At that point in time, we have some resources, \$1 million in the 2009 budget, \$2.3 million requested in the 2010 budget to start moving the program forward. I anticipate that we will do a grant announcement and start making awards so that we can pursue some of this appraisal and feasibility work.

Senator CANTWELL. So the project needs authorization anyway. Correct?

Mr. CONNOR. The project will ultimately need an authorization. The question, I think, and what was contemplated in the Rural Water Supply Act is that before authorizing these projects, Congress would have an established set of criteria from which to make a decision on whether to move forward with this project or some various form of the project. I guess the position I am here to express today is that seems like a reasonable way to go forward so that we all make a decision about authorization with the best available information base to make that determination.

Senator CANTWELL. My guess is being a westerner and knowing a little bit about the water problems of our region, that my colleagues are now submitting legislation because they cannot get this resolved through the normal process. So I think it raises questions about what we need to do. So the Tule feasibility study—I mean, what are the administration's plans for getting a settlement in that situation?

Mr. CONNOR. With respect to the Tule River situation?

Senator CANTWELL. Yes.

Mr. CONNOR. I think, quite frankly, we are behind the gun on where the parties are in the Tule River situation. So from that standpoint, I think Reclamation is committed to reviewing our

available resources right now. My understanding is the tribe here in this situation has done a substantial amount of engineering-level work.

So we need to come to the table, do our assessment of the completeness of that work and give them some feedback on what we view is the feasibility of the project that they have put forward and allow the negotiations to continue with some input from the Bureau of Reclamation as to the project and hopefully from the Federal negotiating team in general. So I am committed to do that, to going back and trying to find some resources so that we can be a little bit more active participants in the review of this project.

Senator CANTWELL. OK.

On the C.C. Cragin Dam and Reservoir, the administration's testimony represents the coordinated view between the Bureau of Reclamation and the Forest Service. Is the administration committed to working quickly to finalize the interagency agreements necessary to ensure that the dam and pipelines can be maintained?

Mr. CONNOR. Absolutely. I think the bill has, obviously, spurred a lot of discussions between Reclamation and the Forest Service about how to move forward, what is the best way to move forward. Based on that input, while I certainly think it is reasonable to question why there has not been progress made, with a new administration, new people in place, and the goal of facilitating good cooperation between Federal agencies, I think both agencies are fully committed to moving forward and re-initiating discussions with SRP related to the repairs that they need to do now, as well as the overall management needs of the project, both from the Forest Service's perspective, Reclamation's perspective, and obviously, SRP's perspective.

Senator CANTWELL. On the Upper Colorado and the San Juan recovery programs, you indicated support for this. Do you think that this recovery plan is a model that will work in other places?

Mr. CONNOR. I do think it is a model. It has all the appropriate stakeholders at the table. It has been a process that has been in place now for well over a decade, probably 15 years, having demonstrated results on the ground and improving the populations of the endangered species at issue. That has allowed water projects to move forward, and I think all of that, with appropriate resources to move forward. I think the parties have done a good job of being very cost effective in identifying the projects and the resources that they need. So I think overall this has been viewed as a huge success story. 2023 is the projected date for recovery. So that is our goal and that is the basis for extending the authorization.

Senator CANTWELL. Thank you. I see my time has expired.

Senator Brownback, do you have questions for Commissioner Connor?

Senator BROWNBACK. Not many. But thanks for being here.

If I am understanding this correctly—and this is my first time on this committee and on this subcommittee—you are saying that two of these projects you are just not ready to comment on yet. Do you know at what point in time you will be, or are you, code language, saying we really do not want to do these? Where are you on this?

Mr. CONNOR. No code language involved, Senator Brownback. I think honestly we need to weigh in and do an assessment of the existing work that is the basis for the project authorizations, whether it be the Dry-Redwater rural project or the Tule River project that is critical to their settlement.

Senator BROWNBACK. When do you think that will be done?

Mr. CONNOR. With respect to the Tule River settlement, I am going to go back and see if we cannot find some resources right now so that Reclamation can start doing their review of the engineering studies that have been produced by the parties to the settlement out there. The tribe has done a substantial amount of technical work, and we need to weigh in. So hopefully, that can be done within this fiscal year, if we can find some additional resources and start our design, engineering, and construction review, or what we call our DEC reviews.

So I will be happy to report back to the committee if there is a question for the record. That will give me a little bit more time to assess what resources we might be able to produce to get on that one sooner rather than later.

With respect to the Dry-Redwater project, I think the key there is for us to get back with the parties right now and give them a documented feedback on those information items that we think are lacking based on the work that has been done. I know our Great Plains region has done an assessment of some of the information items that are lacking. That process would begin immediately.

Then if we are going to work this project through our Rural Water Supply Act program, hopefully we will be in a position when we have our directive and standards for assessing appraisal-level and feasibility analysis—that will be in place, hopefully, by September of this calendar year. After that, we have got resources in place to start making grant announcements, and they will have to compete with others. There are a number of other folks who are looking to get some resources to do appraisal-and feasibility-level analysis of their rural water supply projects.

Senator BROWNBACK. Thank you.

Senator CANTWELL. Thank you, Commissioner Connor. We appreciate you being here today and we will look forward to hearing more about the work of the Bureau of Reclamation on important water issues. So thank you very much.

Mr. CONNOR. Thank you.

Senator CANTWELL. I am going to call up our second panel: first, Tod Kasten, Board Member of the Dry-Redwater Regional Water Authority from Circle, Montana; Ryan Garfield, Chairman of the Tule River Tribe, Porterville, California; and John Sullivan, Associate General Manager of the Water Group, Phoenix, Arizona.

Gentlemen, thank you all for being here and for giving your testimony this afternoon. We can start with you, Mr.—is it Kasten? Am I saying that right?

Mr. KASTEN. Kasten.

Senator CANTWELL. Kasten. Thank you. We will start with you, Mr. Kasten, whenever you are ready.

I will just advise you to turn on your microphones. There is a button there and pull it close to you so we can hear your comments.

We would like to observe a 5-minute rule, if you can keep your comments to that. You can, obviously, submit longer statements for the record. But welcome and thank you for being here.

**STATEMENT OF TOD KASTEN, TREASURER, DRY-REDWATER
REGIONAL WATER AUTHORITY, CIRCLE, MT**

Mr. KASTEN. Madam Chair and Ranking Member Brownback and members of the subcommittee, my name Tod Kasten. I am Treasurer of the Dry-Redwater Regional Water Authority. Thank you for this opportunity to testify before the subcommittee in support of authorizing the Dry-Redwater project. I would like to thank Senator Max Baucus and Senator Jon Tester for their strong and continuing support of this project.

The Dry-Redwater will provide a safe and dependable municipal and rural water supply for all the people that comprise the system. I can assure you that our agricultural based communities in eastern Montana strongly support this project. Good, reliable water is not only vital to our health, but our very existence.

The Dry-Redwater service area is plagued by problems with water quality and quantity. The primary source of the drinking water in the area is groundwater. This water source has high levels of primary contaminants which are a hazard to your health and very high levels of secondary contaminants which have detrimental effects on those drinking it and can render the water undrinkable.

Two public water supply systems are out of compliance with the Federal Clean Water Act. One system is currently in violation with the State of Montana. The public water supply systems within our boundaries are unable to meet the requirements of the Safe Drinking Water Act without using inefficient and expensive energy-intensive treatment options.

Rural residents have not had the opportunity or the luxury to be connected to safe, high-quality water. They report water problems which are evidenced by this chart. The yellow and red indicate unhealthy levels of contaminants with the red being four times that of the allowed limits.

The project is located in eastern Montana and western North Dakota, and the effort began 7 years ago in 2002 with a committee of volunteers. Over 7 years of hard work and time have been invested by the local people. About half of the households in the area have already paid sign-up fees to show their financial commitment to the project. The State of Montana, the Federal EDA and locally raised funds have totaled over \$500,000 in our efforts to date. These funds have been used to determine the feasibility of the project and complete environmental reviews. No fatal flaws have been found.

The 3,500 acre-feet of water needed for this project will come from the Fort Peck Lake which is managed by the U.S. Army Corps of Engineers. The project as conceptualized will consist of about 1,200 miles of pipeline, 40 pumping stations, and 20 major water storage reservoirs. The estimated project cost is \$115 million. The bill proposes the Federal share to be 75 percent. In addition to the local cost share, the Dry-Redwater will pay all operation, all maintenance, and all replacement costs of the system. By working to-

gether, we can provide affordable and safe water for the people in this project area.

There are many benefits to regional water projects. The communities will not bear the costs of upgrading and maintaining numerous small systems that lie within the area, and by combining together, the users in the region can provide good water to all of the individuals in that whole area affordably and efficiently.

The system will provide jobs too, not only during construction, but also for ongoing operation and maintenance.

The proposed treatment facility will conserve water and electricity. By eliminating three inefficient water treatment plants, 80 percent less electricity will be used and 50 percent less water would be used in these systems.

A dependable high-quality drinking water source provides a basic need for business and community development.

Reduction in chemical usage as a result of increased crop spraying efficiency also takes place.

Rural fire protection is a very important thing for us, and this would help in that aspect.

A reliable water supply also is important during emergencies when the power goes out and wells cannot be pumped.

Finally and perhaps more importantly we believe are the health benefits of safe water that will reduce water-related medical problems and thus decrease medical costs in the area. A rural resident, L. Taylor from McCone County stated, my doctor told me not to drink my well water because it may be the cause of my numerous bladder infections.

In summary, people in eastern Montana presently do not have a reliable source of high-quality water. The proposed regional water system will provide water to an area afflicted by water supply and quality problems. The positive health benefits of safe household drinking water is critical to the well-being of the people of eastern Montana and will provide the required infrastructure for the region and State's economy.

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

Thank you again for this opportunity to testify in support of the Dry-Redwater Regional Water Authority, and I would be pleased to answer any of your questions.

[The prepared statement of Mr. Kasten follows:]

PREPARED STATEMENT OF TOD KASTEN, TREASURER, DRY-REDWATER REGIONAL WATER AUTHORITY, CIRCLE, MT, ON S. 637

Madam Chair and members of the subcommittee, my name is Tod Kasten. I am Treasurer of the Dry-Redwater Regional Water Authority. Thank you for the opportunity to testify before the subcommittee in support of authorizing the Dry-Redwater Regional Water System. I would also like to thank Senator Max Baucus and Senator Jon Tester for their strong and continuing support for this project.

The Dry-Redwater will provide a safe and dependable municipal and rural water supply for the public water supply systems and rural users that comprise the Dry-Redwater Regional Water Authority. Speaking on behalf of the Dry-Redwater, I can assure you that our primarily agricultural based frontier communities in eastern Montana strongly support all components of the project as a good, clean, reliable source of water is vital to our existence.

This great local support is evidenced by over 3,100 good intention fees collected. These pre-paid fees show the financial commitment of the area users for this

project. This financial support represents an equivalent population of nearly 7,000 users which is nearly 50% of the potential users already financially committed to this project.

NEED FOR THE PROJECT

The Dry-Redwater service area is plagued by problems with water quality and adequate supply. The public water supply systems within our boundaries are unable to meet the requirements of the Safe Drinking Water Act without expensive energy intensive treatment options. According to the Montana Department of Environmental Quality (DEQ), one of the public water supply systems who would be served by the proposed regional system is out of compliance with the Federal Clean Water Act due to levels of secondary contaminants—sodium and total dissolved solids.

Many of the existing systems treat their water with chlorine which in turn has caused problems with elevated levels of disinfection by-products. Other systems have problems with bacterial contamination and elevated levels of total dissolved solids, iron, manganese, lead, copper, sulfate and sodium that render the water nearly undrinkable.

The rural residents in the proposed project area currently obtain their water, in the majority of instances, from private wells drilled into shallow aquifers, gravel pockets or deep confined aquifers. Some rural residents are hauling all of their drinking and cooking water used either because their well water is undrinkable or there is not a sufficient quantity to be usable. Many rural residents do report water quality and/or quantity problems, which is evidenced by the chart of private well water quality attached at the end of this testimony. There is a Montana Department of Transportation rest stop at Flowing Wells that is categorized as a public water supply system. This rest area is located at the junction of MT Highways 200 and 24; which is a main route to Fort Peck Lake. This rest area is heavily used by tourists and recreationist visiting Fort Peck Lake. The water source for this public area has signed for non-use as a potable system—do not drink the water due to high levels of nitrates and high levels of coliforms. This system has had to be renovated several times to correct those deficiencies, but due to the depth of the well and proximity to on-site sewage disposal facilities this will be a chronic problem.

The majority of the proposed communities to be served are currently operating their own municipal water systems; all of the communities are using wells as a source of water. Three communities must treat their water because of high levels of fluoride which is a health hazard and a regulated contaminant. A fourth community—Jordan—does not treat its water but it is high in sodium and total dissolved solids which are not currently regulated, but has detrimental effects on those drinking it. A fifth system—Fairview—has high organic levels in its water that has lead to a disinfection by product violation. The Town operates an iron and manganese removal water treatment facility that uses chlorine as the oxidizer; which while effective at removing the iron and manganese, does have the problem of forming disinfection byproducts.

Based upon preliminary review of the water quality in the wells of rural users in the proposed service area it indicated that the majority of them do not have access to the quality of water needed for a healthy existence. One of the wells, in the project area, serves Garfield County School District No. 15 and it shows that the sodium level is 447 parts per million (ppm) which exceeds the recommended level of 250 ppm, the fluoride is 3.35 ppm which exceeds the recommended level of 2 ppm and it has 1049 ppm of total dissolved solids which is over twice the recommended level of 500 ppm. This well and the other private wells are not regulated by National Drinking Water Standards but the detrimental effects of the water on their users are not any less because they are not regulated. The treatment of water in a private well is costly and sometimes complicated depending on what is in the water. A regional rural water system will allow the rural user to have access to a reliable, safe, high quality water supply. The public water systems in the service area are regulated by Drinking Water Standards and must treat the water they provide to their user to these standards. The use of a membrane type water treatment facility (reverse osmosis or nano-filtration) are not typical systems found in smaller towns, but due to the limited alternatives to remove the regulated contaminants (fluoride) Circle, Richey and Lambert were forced to use this energy intensive system that requires a high pressure pump to force the water through a membrane in order to remove the contaminants. The requirements for safe drinking water are getting more stringent every year and these increased regulations equal increased costs to all public water systems. A small system that currently treats their water such as Circle, Richey, Fairview and Lambert will be greatly impacted financially for even minor modifications needed to meet new drinking water treatment standards.

These costs will be in treatment, distribution and operator certification costs. The Town of Jordan currently does not treat its ground water source but does provide disinfection by means of chlorination. The Town of Jordan, like other public drinking water systems, must publish an annual drinking water report and following is an excerpt from the latest report: *"We're pleased to report that our drinking water is safe and meets federal and state requirements. However, as many of you know, although our water is labeled as safe to drink under the Safe Drinking Water Act, some of the unregulated parameters affect the taste and may affect the health of a limited population. The concerns are sodium and the total dissolved solids in the water. The sodium level is high enough that people with high blood pressure may want to consider a separate source of drinking water. The total dissolved solids are high enough to have a laxative effect on people that have not become conditioned to the water. We are aware of these problems with our source of drinking water, but have been unable to find a solution that is financially feasible."* The drinking water standards for sodium and total dissolved solids will be addressed in future regulations and the Town of Jordan will need to address these regulation changes and the costs that will be associated with meeting those new regulations. By belonging to a regional water system these small systems will be part of a larger user base, so future improvements will not have as great of financial impact to the individual user. In the proposed regional water system there is one source of water treatment which will replace 5 existing central water treatment systems. This will greatly reduce the costs, improve efficiency and effectiveness in the delivery of safe water to all area users. The installation of a single conventional water treatment plant will greatly reduce the energy consumption utilized in the treatment process since the 3 energy intensive reverse osmosis system will be retired. Another benefit of the regional water treatment facility is the reduced volume of wastewater generated during the treatment process. A reverse osmosis facility must reject 35% to 50% of the water that comes into it to remove the fluoride and sodium down to acceptable levels. This reject water must be stored and treated in the Town's wastewater system which in Richey, Circle and Lambert causes storage problems. A conventional water treatment plant will waste 5% to 10% of the incoming water to clean the filters of the contaminants removed during the treatment process. Unlike the waste stream from a reverse osmosis treatment facility that has high concentrations of sodium, fluoride and other deleterious chemicals the waste stream from the surface water plant can be placed in a settling pond and after a period of 2 to 3 weeks over 80% of the waste water could be reused for irrigation or stock watering. The landowner that is selling the land for the proposed water treatment facility has expressed a great interest in being able to utilize this water. A regional water system also mitigates the potential negative impacts of migration from one small community. For example, if 15 users leave Richey that is 10% of their user base, but if Richey joins the Dry-Redwater project and Richey loses 15 users; it is less than 1% of the total user base.

TOWN OF CIRCLE

The Town of Circle has a municipal water distribution system which consists of 2 deep ($\pm 1,500$ ft) water wells, an elevated 50,000 gallon water storage tank, a 250,000 gallon on-ground water storage tank and a reverse osmosis water treatment plant with a 50,000 gallon clearwell. The Town has experienced heterotrophic bacterial growth in their wells that has required extensive rehabilitation work and replacement of one well. This bacterial growth is starting to build up on a second well and in several years will become problematic and will require replacement. This well screen problem is chronic and is on going. The current groundwater raw water supply is over the Maximum Contaminant Level (MCL) established in the Safe Drinking Water Act for fluoride and above the secondary limit for sodium. The Town of Circle must remove these contaminants and since conventional treatment processes won't remove fluoride they must utilize an energy intensive reverse osmosis treatment process. If the current treatment process has mechanical problems the Town would be forced to put water into the distribution system that is a documented health hazard. The Town of Circle will benefit in the long term by connecting to the Dry-Redwater. The uncertainty of the life of their wells, the cost to replace a well (over \$150,000) and the cost to treat the water are all items that strengthen their commitment to this project.

TOWN OF JORDAN

The Town of Jordan has a municipal water distribution system which consists of 2 water wells and a 200,000 gallon on-ground water storage reservoir. There is no treatment of the water but it is disinfected by being chlorinated. The quality of the

water exceeds many of the secondary limits, such as sodium and total dissolved solids, of the amendments to the 1996 Safe Drinking Water Act. The potential for increased regulation of the groundwater rule (GWR) and disinfection by products rule would cause an additional cost to each user in Jordan in order to be in compliance with the rule. The Town of Jordan will benefit from the Dry-Redwater project by having a water supply that is treated to the most current water quality standards and delivered at a consistent volume and pressure.

TOWN OF RICHEY

The Town of Richey has a municipal water system that consists of two deep water wells (\pm 1400 ft), an on-ground 100,000 gallon steel water storage reservoir and a reverse osmosis water treatment facility. The raw water source for Richey is identical to Circle in that exceeds the MCL for fluoride and the secondary limits for sodium so that is why the Town of Richey also utilizes the energy intensive reverse osmosis treatment process. If the current treatment process has mechanical problems the Town would be forced to put water into the distribution system that is a documented health hazard. The water treatment facility reduces the levels of each contaminant to below the limits. The Town of Richey will benefit from inclusion in the Dry-Redwater project since its current raw water source is in violation of the drinking water standards if not treated and the current system has a fairly high cost to operate when compared with conventional treatment. The replacement costs of membranes and increased electrical costs in the future will also make connecting to the regional system more economical.

LAMBERT COUNTY WATER AND SEWER DISTRICT

Lambert County Water and Sewer District has a central water distribution system. This unincorporated town has two deep water wells (\pm 1,200 ft), a 50,000 gallon on-ground steel water storage tank and a nano-filtration (membrane) water treatment facility. The water supply exceeds the MCL for fluoride and exceeds the secondary limit for sodium that is why the District utilizes an energy intensive nano-filtration treatment process. If the current treatment process has mechanical problems the Town would be forced to put water into the distribution system that is a documented health hazard. The District will benefit from connection to the Dry-Redwater for the same reasons as Circle and Richey.

FAIRVIEW

The Town of Fairview draws its water from two wells approximately 240 feet deep. The central distribution system has a 100,000 gallon elevated water storage tank and a 300,000 gallon on-ground steel water storage tank. The ground water source is high in tannins, lignens, iron and manganese. The Town utilizes an iron and manganese removal process and gas chlorine for disinfection. The Town has recently received a notice from the Montana Department of Water Quality that they had a test for haloacetic acids (HAAS) and total trihalomethanes (TTHMs) (disinfection by product contamination) that exceeded the limits set by the Safe Drinking Water Act. The Town is now studying and determining what changes in their disinfection process they need to make to meet the Disinfection by Products Rule. The high organic content of their raw water is a significant factor in the creation of the by products. The Town of Fairview will benefit greatly by receiving its water from the Dry-Redwater Regional Water Authority system.

NEW RURAL USERS

New users would include rural residents who have not had the opportunity to be connected to a high quality treated source of water as provided by a regional water system. These residents use individual wells for domestic and agricultural needs, haul water from other sources or purchase bottled water for drinking purposes. The water quality varies greatly throughout the project area but generally has levels exceeding the U.S. EPA Secondary Health Standards with high levels of total dissolved solids, hardness, sulfates, sodium, iron, manganese and areas of high fluoride. The majority of these wells are constructed in glacial till materials typical of the project area, resulting in wells which have varying abilities to provide a sufficient quantity and adequate quality of water supply. The cost to install new water well has been determined, based on information provided by NRCS, to be over \$90 / month when you factor in the replacement cost of the various components of a well system. The box on the next page shows how this cost was determined:

Drill and case well: \$35.00/ft average depth 200-250 ft Cost: \$7,000-\$8,750. If a well lasts 15 years the monthly cost is \$39.00 to 48.00 per month.

Pump and Motor: \$1,000.00 If a pump lasts 5 years the monthly cost is \$16.70.

Control pit/pressure tank: \$2,800 with a 15 years life has a monthly cost of \$15.60.

Annual stock well electrical base rate is \$240.00 per year or \$20.00/month before electrical use.

The cost to run electricity to a new well site is \$17,160.00/mile or \$3.25/ft. This cost was provided by McCone Electric.

For a new well that already has electric service the monthly costs before any water is pumped is \$91.30 to \$100.30.

When you have bad groundwater to start with, treatment doesn't improve its quality, it only reduces some of the chemical components to meet regulation standards, and this does not necessary mean the water is free from taste and odors. Second, maintaining the individual systems does not address the benefits of providing a firm water supply that protects the communities against future drought. The individual user also relies on a well pump and small pressure tank to provide water, and when the power is out they lose the ability to access their domestic water source. The regional system will have storage tanks that will pressure the system and backup power systems.

From a regulatory aspect a regional water system has significant benefits. At the present time, there are six different regulated public water systems within the region that are part of the Authority. Meeting regulatory requirements of the Safe Drinking Water Act must be currently demonstrated by each system. When a rule changes, all those systems must react to the change individually. Many of the systems serve small municipalities or county water districts, some with fewer than 150 connections, there is a reduced capacity on their part to maintain and operate a water system. That means that the Montana Department of Environmental Quality is perennially facing problems with compliance issues in these smaller public water systems. A regional water system would provide one point of regulation for all of the member systems. If a rule were changed, it would only affect one treatment plant and due to economies of scale, a regional system can be upgraded and operated at a higher level of oversight and management at a smaller per user cost than smaller individual municipal water supply systems. An increased degree of compliance can be expected from a regional water system which further assures the water users of a safe and reliable source of water.

THE PROJECT

The effort began in 2002 with a steering committee of volunteers, with the Dry-Redwater Regional Water Authority becoming a legal entity in 2005. The Dry-Redwater has enjoyed strong support from the local people and the State of Montana. Currently about 50% of the households in the area, which is in excess of 3,100 hookups, have already paid a 'good intention' fee to show their financial commitment. Over \$59,000 of locally raised funds have been put toward the project and thousands of hours of volunteer efforts have helped move the proposed regional water system forward. The State of Montana thru the Department of Natural Resources has committed \$350,000 to the studies and organizational efforts of the project to date. The Montana Department of Commerce provided \$40,000 of CDBG funds and the Federal Economic Development Administration provided \$40,000 used to help pay for the completed feasibility study. This current investment of over \$489,000 does not include the thousands of hours of volunteer time and effort.

The project as conceptualized will consist of 1,220 miles of pipeline, 38 pump stations and 20 major water storage reservoirs. It is projected to cost \$115,116,000. By working together, the communities in the area can more efficiently provide affordable safe and reliable water to people in the project area. The water for this project will be obtained from the Dry Arm of Fort Peck Lake near Rock Creek. The water—approximately 3,500 acre feet, of the 18 million acre feet available—will be leased from the Corp of Engineers. The in-take and conventional treatment facility will be located at North Rock Creek on the Dry Arm of Fort Peck Lake. The process to find a location for the intake facility was done as a joint effort with the Corp of Engineers and the Charles M. Russell National Wildlife Refuge.

The feasibility study and addendum, completed in 2007, and as well as significant public participation in over 20 public meetings show that the need for safe and reliable water is a priority for the area's residents. The project is financially feasible given the funding packages used by the rural water systems in Montana and in

comparison to rural water system costs in our three state region of Montana, South Dakota and North Dakota. The completed feasibility study includes preliminary engineering analysis of the system. The Dry-Redwater has also completed some preliminary cultural and environmental reviews. There are no fatal flaws found in these preliminary studies which included contacts with State, Federal and Local officials on NEPA compliance.

PROPOSED RATE STRUCTURE

	Bulk	Rural
Base	\$24.50	\$24.50
Water Treatment/Pump	\$1.80 / 1000	\$1.80 / 1000
Pipeline Maintenance	**	\$1.21 / 1000

PROPOSED FINANCING STRUCTURE

	75%
Grant from Federal Government	\$86,337,000
Grant from TSEP	\$14,389,500
Loan Required	\$14,389,500
Annual Debt Service (40 yrs, 4.5%)	\$776,000
Annual Loan Reserve	\$77,600
Annual Operation & Maintenance WTP / Booster Station	\$710,000
Annual Operation & Maintenance / Pipelines	\$212,000

TYPICAL MONTHLY USER RATE

		Study	
		8,000	5,000
Rural/City User	Base Rate (minimal)	\$24.50	\$24.50
	Water Treatment/Booster	\$14.40	\$9.00
	Pipeline Maintenance or Water Maintenance Fee	\$9.68	\$6.05
	Total Monthly Bill:	\$48.58	\$39.55

The median household income for the service area is \$28,917 and using a 1.6% factor estimating a reasonable cost of water the average monthly rate is calculated at \$38.55. The rates proposed for the Dry-Redwater shows that utilizing the typical rural water funding package the project is affordable to the users. The cost to the rural residents of \$39 to \$48 a month is significantly less than \$90 to \$100 for operating a rural well.

Dry-Redwater has been working closely with the Billings office of the Bureau of Reclamation (Reclamation) to move the project thru its brand new process as stipulated in the Rural Water Supply Act of 2006, and as expressed in the Interim Final Rules. However, given the investment made in time and money and the fact that the system's authorization bill was introduced by Senator Baucus in 2008 and again now as Senate Bill 637, it has been agreed by the Authority Board and other supporters of the regional concept that the project must move forward. In April 2009 Reclamation finally provided the Dry-Redwater a preliminary draft outline of the re-

quirements for the Appraisal Investigation and Report under the Rural Water Supply Act of 2006. The Dry-Redwater Feasibility Study and addendum completed in 2007 will substantially satisfy the requirements of Appraisal and Investigation Report as provided by the Reclamation Billings office. The 2007 Feasibility Report is being reformatted into reclamations required format and will be submitted to them by the end of August. It has always been Dry-Redwater's intent to work with Reclamation to advance our project. Thus the request for Congressional Authorization of the project was considered the correct and timely process, as the system planning has reached a point beyond which it cannot easily move forward, without the ability to work formally with Reclamation, U.S. Fish and Wildlife and other federal agencies.

The Engineers that completed our study made the following finding in our feasibility efforts. "Based upon preliminary review of the water quality in the wells of rural users in the proposed service area it indicated that the majority of them do not have access to a quality of water needed for a healthy existence."

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

By working together all of the communities in the area can better provide affordable good quality water to all of the people. Currently, the primary source of drinking water in our service area is groundwater. It is generally of very poor quality and quantity. The drinking water in most groundwater wells in the area exceeds the secondary standards and in some cases are four times the recommended EPA standards. Water quality problems are exacerbated by water supply issues and because of the general lack of good quality groundwater; most of the area's larger public water systems use expensive energy intensive treatment methods to produce clean water. The positive health benefits of good quality drinking water will without a doubt be a tremendous benefit to the area citizens and to the overall economy of the region.

ECONOMIC BENEFITS

A dependable supply of water is essential to ongoing efforts to attract new businesses and people to this primarily agricultural based frontier area of Montana in order to provide for future economic growth. In addition to long term benefits, the regional water project will provide an immediate economic boost for eastern Montana. Assuming labor costs for the project at 25 percent of the total construction budget, the project will generate approximately \$30 million in wages. These construction dollars will provide a much needed stimulus to the regional economy of McCone, Garfield, Dawson, Richland, Prairie Counties and the statewide economy.

The Dry-Redwater's service area has many natural resources that could be developed to help the United States become more self reliant when it comes to energy. The area has tremendous resources in water, ground to grow crops for bio-fuels, one of the nation's largest on shore oil reserves in the Bakken Formation Oil Field, the largest lignite coal reserve in the United States and a huge potential for wind farm development. There are a number of energy related projects that have been and are proposed within the Dry-Redwater service territory. An example is a nationally important oil transmission pipeline known as the TransCanada Keystone XL project will pass through the area. A good source of safe and reliable water supply is critical infrastructure to support the development of any of these nationally important energy sources.

The regional pipeline will provide one of the key resources that enterprising businesses and people look for when they locate in an area—a safe water supply. Ranch/farm operations will benefit from the stock water available through the system. This will immediately improve their bottom line, as increased weight gain can be achieved with higher quality water. Efforts to diversify the agriculturally based economy with tourism, wildlife enhancement, hunting, fishing, dinosaur discoveries, outdoor recreation has been somewhat successful but a high quality water source will help its development to improve recreation facilities owned by the COE, the State of Montana and the counties of the Dry-Redwater Service area. This project will not resolve all of the economic problems that eastern Montana faces; however, it will serve as a cornerstone to future success upon which the people in the area can build.

Finally and perhaps most importantly, we believe the health benefits of safe water will help save the citizens by reducing water related medical problems and thus decreasing medical costs. A rural resident L. Taylor from McCone County stat-

ed “that her doctor told her not to drink their water as they attributed their well water to her numerous bladder infections”.

ALTERNATE SOURCES

The Dry-Redwater Regional Water Authority has studied possible alternatives to supply water to the region. The option of updating the six existing public water supply systems to comply with the Safe Drinking Water Act was rejected due to the high cost and multiple water sources to test and monitor. The use of additional groundwater sources was also investigated. This option was not feasible because there is very little groundwater physically available in the quantity needed, and the groundwater that is available is of very poor quality and would require an expensive treatment process. Of all the alternatives reviewed, the proposed regional water project found that utilizing the high quality surface water found in the upper Missouri River basin proved to be the best. The water impounded in Fort Peck Lake provides a very dependable water supply while offering the lowest capital project and life-cycle costs to treat and deliver water to the end user. The cooperative efforts of the USACOE staff at Fort Peck and the staff of the CMRNWR provided an excellent location for the intake structure that is in a deep water portion of the lake and will have minimal impacts on the wildlife found in the refuge.

A water treatment plant, using conventional filtration, will be located near the intake in the Dry Arm of Fort Peck Lake near North Rock Creek. The water will be treated to meet both the primary and secondary requirements of the Safe Drinking Water Act standards. A series of transmission pipelines will provide water to smaller distribution lines belonging to the area's public water supply systems and to the rural users. The regional water system will take advantage of the infrastructure of the existing distribution systems. When completed, the regional water system will provide a safe and dependable water supply for over 15,000 people. Water will be provided to all or parts of six counties which includes an 11,100 square mile area.

Without the proposed centralized water treatment plant, most of the participating systems would be required to build new or to significantly upgrade existing high energy use, water treatment plants as the Safe Drinking Water Standards are made more stringent. The low population densities and limited income potential in eastern Montana, individual communities will not be able to afford own and operate their own water treatment plants. A central water treatment plant will allow these existing systems to economically meet both the current and future requirements of the Safe Drinking Water Act and continue to provide their users with safe, reliable and affordable water.

The estimated total project cost is \$115.1 million. The Bill proposes the federal share of the construction to be 75 percent. The Dry-Redwater Regional Water Authority will be responsible for the cost of operating, maintaining and repairing the overall system.

There are distinct benefits of a regional water system:

- Communities will not absorb the costs of upgrading numerous smaller water facilities to keep up with water quality standards.
- A greater number of regional system users helps defray the cost of good water for every individual in the area.
- This system will provide jobs, not only during construction, but also for ongoing operation and maintenance.
- Economic and community development opportunities with the ability to attract businesses and people that need a reliable water source are greatly enhanced.
- Total water and energy consumption by all communities will be substantially less than if each community provides water treatment.
- A dependable, high-quality drinking water sources provides an incentive for business and industry to consider relocation to eastern Montana.
- Reduction in chemical usage and cost as a result of increased crop spraying efficiency.
- Rural area fire protection capacity
- Increased property values
- An alternative water sources for livestock.
- Safe and reliable household drinking water to improve the health and existence of the people.

Many people in eastern Montana presently do not have a reliable source of high quality water. The proposed regional water system will provide water to an area historically afflicted by water supply and quality problems. The positive health benefits of safe household drinking water is critical to the well being of the people of

eastern Montana and will provide the required infrastructure for the regions' and State's economy. We ask this subcommittee's support in passing this important legislation to protect the health, social and economic future of our region.

Thank you again for the opportunity to testify in support of the Dry-Redwater Regional Water Authority. I would be pleased to answer any questions.

[Graphs and additional tables have been retained in subcommittee files.]

Senator CANTWELL. Thank you, Mr. Kasten.

We will turn to Mr. Garfield for his testimony, and when we are finished with all the witnesses, then we will go to our questions.

Mr. Garfield.

STATEMENT OF RYAN GARFIELD, CHAIRMAN, TULE RIVER TRIBE, PORTERVILLE, CA

Mr. GARFIELD. Yes, ma'am. Thank you, Chairwoman Cantwell and fellow members of the subcommittee. My name is Ryan Garfield. I am currently the Chairman of the Tule River Tribe of Tulare County, California. We thank the subcommittee and its staff for the opportunity to provide testimony in support of S. 789, the Tule River Tribe Water Development Act.

Prior to becoming the Chairman of our tribe, I served in the United States military for 11 years. I am a husband and father of 3, with one on the way. In these capacities, I have served my community and my country.

Today I come before the subcommittee to humbly request assistance of the United States Government in resolving an issue that has plagued my community for over 125 years, that issue being the lack of adequate water supply to meet the basic needs.

There are over 900 people living on the reservation. Although the poverty rate of the reservation is higher than counties surrounding us, we are a proud people and we work diligently every day to improve the well-being of the community.

Over 30 years ago, we identified the need to secure a reliable water supply in order to build a strong community where we could grow and prosper. We are proud to inform the subcommittee that in September 2007, we developed a settlement agreement that secures us a reliable water supply.

Today we are here to discuss S. 789, which is the first step in the implementation of the settlement agreement. It authorizes a feasibility and suitability study of constructing a storage reservoir, outlet works, and a water delivery system to our reservation. The storage reservoir is the cornerstone of the settlement agreement as it provides the tribe with the water supply without disrupting non-Indian water users downstream.

In order to understand the importance of this bill, please allow me to share a bit of history of the Tule River people. We are descendants of the past Yokuts Indians, a large group of Native Americans who occupied the San Joaquin Valley in California for thousands of years prior to contact with settlers. Following California becoming a State in 1850, Congress refused to ratify 18 treaties negotiated with California tribes, including our treaty, the Treaty of Paint Creek.

In 1856, a small reservation, the Tule River Farm, was established on prime San Joaquin Valley farmland in Tulare County. The location of this original reservation was purposefully selected by the Government to provide the tribe with good farmland and

water resources necessary to establish a self-sufficient homeland for our people.

Within a few years, however, the reservation was stolen from us under fraudulent circumstances by two Federal agents, and this I still cannot understand today because back in that time, men were supposed to stand behind their word. You know, their word was their bond, and I still cannot understand that today why that happened.

In January 1873 President Grant issued an executive order creating a new reservation for the Tule River Tribe to which we were forcibly removed to the reservation located on the western slope of the Sierra Nevada Mountains east of Porterville, away from our cultivated fields on the reservation to land not suitable for agriculture. The reservation includes most of the South Fork Tule River water basin. For over 125 years we have lived on that reservation.

In 1922, the non-Indian farming community entered into an agreement with the Secretary of the Interior that limited the ability of the tribe to divert water. Although we had some of the most senior rights to the water source, we were not made party to the agreement. Water, to which we had a meritorious claim, was appropriated and we were left without a secure water supply for the reservation.

Over the past 100 years, we have watched our non-Indian neighbors build family fortunes off the land and water that was fraudulently taken from us while we have struggled to provide basic human needs, such as water and homes, schools, jobs, and community infrastructure.

Some days when I was young—I came from a good family and my mother and my father both worked, and some days we would run out of water for days. When school come up Monday, I would have to make the decision, which is the cleanest dirty clothes I had to wear to school that day. It was frequent. I thought about it a lot and I just wondered how some of the elders at that time made it. But I am sure it was rougher for them in the earlier days. So I had to deal with it.

Although we have relied upon this history to inform us, we have not allowed it to imprison us. Instead, we began evaluating our water supply to determine how we could best meet the future needs.

Our current water supply consists of limited groundwater and springs. These sources have barely managed to serve the current needs of the tribal community and reservation. We will need a larger supply to build more housing, fight fires, develop community and economic infrastructure so desperately needed on our reservation.

We have completed several technical studies and spent roughly \$1.1 million Federal and tribal dollars that have concluded the tribe will not and could not meet its current long-term water needs without the construction of at least one reservoir on the reservation.

Given that our reservation sits at the headwaters of the South Fork Tule River, it made perfect sense to build a water storage unit to capture most of the high flows of the river when downstream users were not diverting those flows.

To quantify our rights, we decided the best strategy was to negotiate with our downstream neighbors and the Federal Government. After 10 years of negotiations, we are very proud of the settlement agreement we have reached. I will point out the fact that we avoided the cost delays and disruptions of water litigation, and I am very proud of that fact and I think my water team deserves recognition for that fact.

The cornerstone of this agreement is the construction of a water storage project that will enable us to meet our current and future domestic, commercial, municipal, industrial, and agricultural needs without disrupting the current water uses of the South Fork Tule River.

This bill is the first step in enabling the tribe to bring water to the land in sufficient quantities to make our reservation a viable homeland now and in future years.

I would like to take this time to thank the subcommittee for the opportunity to express the Tule River Tribe's support of S. 789, and I would also like to notify the committee that this bill had passed the House 417 to 3.

In closing, I would like to ask that my testimony and supporting materials* be made part of the record of this hearing.

I or my associates at this time would be happy to respond to any questions that you may have.

[The prepared statement of Mr. Garfield follows:]

PREPARED STATEMENT OF RYAN GARFIELD, CHAIRMAN, TULE RIVER TRIBE,
PORTERVILLE, CA, ON S. 789

INTRODUCTION

Good afternoon Chairwoman Maria Cantwell and fellow members of the Committee. My name is Ryan Garfield, and I serve as the Chairman of the Tule River Tribe. I am a graduate of Citrus High School, Porterville California, Class of 1993. After graduation, I joined the military, where I served for 11 years, 4 months and 2 days and achieved the rank of Sergeant E5. While in the military I was a UH-60 tactical transport helicopter repairer/crew chief/ and gunner. I was stationed overseas in Giebelstadt Germany, were I participated in operation K-FOR (Kosovo stabilization force) in Balkans, along with numerous training missions throughout Europe and Tunisia Africa from 1997-2000. In 2004 I was deployed to Kandahar in the Southern province of Afghanistan, where I flew over 500 combat flight hours and completed countless missions in support of Operation Enduring Freedom. I returned in April of 2005 and was honorably discharged from the service in October of that same year. Currently, I am married with three children and one more to arrive in the coming months. In these capacities, I humbly serve my community and Country as a tribal leader, soldier, father and husband. I come before you today to respectfully request the support of the United States government in securing a permanent water supply for the Tule River Reservation.

I send greetings and best wishes from all the members of the Tribal Council. We are very grateful for the expeditious scheduling of this hearing on S. 789, the Tule River Tribe Water Development Act. We also appreciate the opportunity to appear before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to present testimony supporting S. 789. This bill authorizes funding necessary for the Secretary of Interior to conduct a study on the feasibility and suitability of constructing a storage reservoir, outlet works and a water delivery system on our Reservation in Tulare County, California. S. 789 is consistent with, and an effectuation of the United State's trust responsibility to Indian tribes, to protect and advance their reserved water rights under the Winters doctrine. *Winters v. United States*, 207 U.S. 564 (1908).

For over ten years the Tribe has negotiated with the representatives of the Departments of Interior and Justice, including Interior's Bureau of Reclamation, and

*Supporting materials have been retained in subcommittee files.

local water interests represented by the Tule River Association and the South Tule Independent Ditch Company. In September 2007 the Tribe and the local water users signed a settlement agreement which embodies the shared goals and visions for the future of the community of parties who live together in the South Fork Tule River watershed. The agreement provides a stable water supply for both Indians and non-Indians relying on the South Tule River. This settlement is unique—indeed, it is one of the very few Indian water settlements ever achieved without a Tribe or the United States, on its behalf, filing litigation to enforce its federal water rights. Once the settlement is fully carried out, the Tribe will join other Indian nations in the United States, by turning its “paper” federal reserved rights to water from the South Fork Tule River into actual “wet” water. We anticipate that this settlement agreement will also be considered in the forthcoming months for Congressional approval. The Tule River Water Development Act is the first step in implementing that settlement agreement and it will enable the Tribe and its neighbors to complete the necessary technical background work to bring the final settlement agreement to life. We ask the Subcommittee to favorably and swiftly mark-up and pass S. 789 on to the full Committee.

THE STRUGGLE OF THE TULE RIVER TRIBE TO SECURE A SUSTAINABLE HOMELAND

Prior to discussing the temis of the bill, I would like to briefly educate the Subcommittee about the history of the Tule River Tribe and Reservation, to help illustrate the need for The Tule River Water Development Act in our community. I have also attached a two-page historical timeline which chronicles our efforts to secure a sustainable homeland with the necessary water supplies. (Exhibit A.)

The Tule River Reservation is the homeland of the Tule River Tribe. We are descendants of the Yokuts Indians, a large group of linguistically-related people who occupied the San Joaquin Valley in California for thousands of years prior to contact with Euroamerican settlers. Following the discovery of gold, and California statehood in 1850, there was enormous pressure on Congress to reject the 18 treaties negotiated with the several hundred Indian tribes found there. Congress succumbed to this pressure and in 1852 rejected these 18 treaties, including the Treaty of Paint Creek of June 3, 1851, signed by leaders from our Tribe. In 1853, however, Congress established the Superintendency of Indian Affairs in California, to relocate Indians to reservations. In 1856, the California Superintendency established our reservation pursuant to the 1853 authority, on approximately 2,240 acres of prime San Joaquin Valley farmland in Tulare County. The land was transected on the southwest corner by the mainstem of the Tule River. It included part of what is today the eastern portion of the City of Porterville. The location of this original Reservation was purposefully selected by the federal government to provide our Tribe with the arable land and water resources necessary to establish a self-sufficient homeland for its people. Upon being promised this land as our homeland—ostensibly forever—we built homes and began to actively cultivate crops.

Despite our relative prosperity in those years, two of the federal Indian agents assigned to reservations in the area nonetheless saw fit to capitalize upon the distance and ignorance of the Indian officials in Washington, D.C. Thomas Madden, a federal Indian agent assigned to the neighboring Tejon Indian Reservation, applied for and was issued a land patent under fraudulent circumstances to 1,280 acres of the Tule River Reservation land from the State of California. Four years later under a similar arrangement a land patent for 1,160 acres of Tule River Reservation land was issued to Mr. John Benson, another Indian Agent. These two state land grants encompassed all of our Reservation lands. The federal government was fully aware that these lands were expressly reserved to us, but it made no effort to challenge the Madden and Benson land grants. Because the lands had been set aside for the Tribe, the State of California, had no legal basis upon which to issue the patents. The land transfers were also a violation of the federal Trade and Intercourse Act, which expressly prohibited Indian agents from having “any interest or concern in any trade with the Indians.” Rather than setting aside the issuance of these patents, the federal government actually paid rent to Messrs. Madden and Benson for at least a dozen years to enable my ancestors to continue farming what was in actuality our land.

Gradually, over the years, hostility increased between the Indian farmers and the settlers in the area. In response to the tension, and rather than enforcing our rights to what should have been our Reservation land, in January 1873, President Grant issued an Executive Order creating a new reservation for the Tule River Tribe. It was comprised of mostly mountainous lands located about fifteen miles to the east of our original Reservation. The Tule River Indians and the Indian agent protested the removal; as the new lands would be difficult to cultivate. The Indian agent, J.B

Vosburgh, stated "The new reservation is not suited to the wants of the Indians for whose benefit it has been set apart, if the intention be, as heretofore, to teach them to become self supporting by means of agriculture, the soil of the reservation being insufficient both in quantity and quality for their need." He further requested that the government inquire into the legality of Madden and Benson land patents and, if necessary, requested the federal government to purchase the property from them for the benefit and use of the Indians. However, no such action was taken, and our people were forcibly removed from their homes and cultivated fields.

The removal was very hard on our people. The new Reservation, though it contained 48,000 acres, was determined by the federal agents, based on the knowledge and technology of the time, to have scarcely 100 acres of arable land. Even that land was deemed by the agents to be of poor quality, and thought to be able to support only six families—far below the needs of our people. An Indian agent reported, "Year by year our number has decreased by death and removal, until now there are only 143 Indians, embraced in 30 different families, residing on the reservation." Our situation was so dire that, in response, President Grant, in October 1873—just 9 months after the initial Executive Order—signed another Executive Order almost doubling the Reservation's size to 91,837 acres. Again, very little of these additional lands was deemed by the federal agents to be suitable for agriculture, and the few acres which were proven arable were coveted or settled by settlers, and history repeated itself. In August 1878, President Hays issued an Executive Order reducing the reservation back to the January 1873 size.

For over a century, then, we have lived on the Reservation established in 1873, a mountainous land where, because of the failure of the United States to provide adequate water storage and irrigation facilities, we have been unable to fully reap the benefits of the agricultural homeland promised to us through the original 1856 Reservation. The Tule River people are a proud people, and I tell this story not to complain or to blame anyone for these past injustices. They do, however, argue that now is the time for the United States to help begin the healing process through the enactment of S. 789. S. 789 is the first step in enabling the Tribe to bring water to our lands in sufficient quantities to make our new homeland—a viable homeland now and forever.

THE MODERN-DAY TULE RIVER INDIAN RESERVATION

Today, our current Reservation includes about 58,000 acres. The reservation is located in south-central California, approximately 75 miles south of Fresno and 45 miles north of Bakersfield in Tulare County. The Reservation is situated on the western slope of the Sierra Nevada Mountains, east of Porterville, and lies almost entirely within the South Fork Tule River drainage basin. The topography is generally steep, with elevations ranging from about 900 to 7500 feet above sea level. Most of the inhabited land is along the lower reach of the South Fork Tule River on the western side of the Reservation. The Reservation is drained by the South Fork Tule River. The South Fork Tule River flows into the Tule River at Success Reservoir, at a distance of about ten miles west of the Reservation. There are no significant uses of water upstream of the Reservation. (Exhibit B.)

The estimated average annual flow of the South Fork Tule River at the western boundary of the Reservation is 34,100 acre-feet per year, with a probability of 23,000 acre-feet over 50% of the time, and 11,800 acre-feet available over 80% of the time. Surface water supplies consist of the flow available from the South Fork Tule River and its tributaries on the Reservation, while underground supplies consist of a groundwater aquifer and springs. The groundwater sources barely serve the current needs of the Tribal community on the Reservation. There are growing concerns about the long-term reliability of these sources, both in terms of quantity and quality. The hydrology of the South Fork is similar to most western rivers in that the flows are generally much higher in the spring months than the rest of the year, other than occasional high water events following rainstorms. The hydrology of the South Fork is also marked by periods of drought during which the entire flow of the river is significantly reduced long periods of time, sometimes spanning several years. These two general characteristics are depicted on the two graphs attached to this testimony. (Exhibit C.)

The injustices and inequities of the past are still present and are still affecting our people. We have been plagued with unemployment and mortality rates substantially higher, and a standard of living substantially lower, than is experienced by the surrounding non-Indian communities. While the on-Reservation socio-economic conditions have improved over time, as recently as 1999, the estimated poverty rate on the Reservation was still 50% higher than Tulare County as a whole. To this day, the Reservation residents generally continue to suffer from a relatively low

standard of living in substantial part due to the absence of an adequate and reliable potable water supply and system.

CONTEMPORARY NEGOTIATIONS TO SECURE A RELIABLE SOURCE OF WATER
FOR THE TRIBE

To address the inter-related issues of lack of water and resulting economic, political and social limitations facing the Tribe, we have spent several years assessing its future water needs for domestic, commercial, municipal, industrial and agricultural purposes. We concluded that, in view of existing uses downstream of the Reservation, the Tribe could not meet its water needs, especially over the long-term, without the construction of a reservoir or reservoirs on the Reservation. Given that our Reservation sits at the headwaters of the South Fork Tule River, it made perfect sense to us to build a water storage project to capture the high flows of the river when downstream users were not capturing or using those flows.

We approached the solutions to our problems with the attitude that we wanted to work with our downstream non-Indian neighbors. Too often—in the more typical situation where a general stream adjudication is commenced—the Indian and non-Indian interests are pitted against one another. By reaching out to our neighbors and respecting their needs while seeking solutions to our own, we were able to avoid the costs, delays and disruptions of water rights litigation. We entered into negotiations with interested parties seeking to establish the Tribe's reserved water rights through an agreement settling our federal reserved water rights claims.

For 10 years, the settling parties have diligently negotiated the terms of a settlement agreement which, upon Congressional approval, will finally establish the federally reserved water rights of the Tule River Tribe. In 2007, a settlement agreement was signed. The agreement includes the quantity of the Tribe's reserved water right, the Tribe's rights to use water both on and off the Reservation, and the operating rules of on-Reservation storage reservoirs, including the near-term Phase I Reservoir primarily intended to serve municipal and domestic water needs. We are very proud of the settlement agreement we have reached, which allows the South Fork Tule River water users to continue their historic uses while providing the Tribe with a firm water supply, primarily for its domestic, commercial, agricultural and municipal needs.

The remaining major issue prior to submitting the settlement agreement to Congress is securing the support of the Department of the Interior, and the Administration, to authorize and fund the construction, operation and maintenance facilities anticipated by the settlement agreement and to compensate the Tribe for releasing water related claims against the United States. To date we have not heard if the new administration will support the settlement agreement or S. 789. Two years ago Congress considered H.R. 2535, a bill that authorized the feasibility study and appropriated funding for the study. The previous Administration opposed it claiming it was premature because the settlement agreement had not been signed and was too expensive. We were disappointed that after ten years of federal involvement and commitment to resolving my community's water issues that we were left standing alone in the final hour. But we are hopeful that the new administration will support S. 789 and the forthcoming settlement legislation. We are pleased that Mr. Michael Connor has been appointed as the Commissioner of the Bureau of Reclamation, as he was instrumental in establishing our federal negotiation team assigned to us over ten years ago. We know that individuals like him understand that the federal government created several of our water related problems, as was previously explained, and that the federal government has an obligation, as our trustee, to help us resolve these issues. We look forward to working with Mr. Connor and his colleagues to move the settlement legislation forward in a timely fashion.

All the parties to the settlement agreement are anxiously waiting its implementation. Lack of federal support for the past two years has delayed any progress. The delay is now harming the day to day life of people living on the Tule River Reservation. Unfortunately, the problems created by a lack of a viable water supply have increased since the beginning of the negotiations. Families living on the Reservation do not have consistent running water in their homes and are forced to collect buckets of water from the South Tule River for cooking, drinking and cleaning. Water supplies in local schools have been dramatically reduced causing increased illnesses and creating cleanliness issues. Problems stemming from an unreliable water supply will continue to increase absent the implementation of the settlement agreement. The people of the Reservation can wait no longer to have access to a clean, reliable water supply. They too deserve what every American should have—a sanitary water supply to grow their crops, feed their families and provide a clean safe home.

S. 789 LAYS THE FOUNDATION FOR MOVING FORWARD WITH THE SETTLEMENT OF THE
TULE RIVER INDIAN TRIBE'S WATER RIGHTS

Moving to the terms of the bill under consideration today, S. 789 authorizes the Secretary of Interior to conduct a study on the feasibility and suitability of constructing a storage reservoir, outlet works, and delivery system on the Reservation. S. 789 also authorizes the appropriation of \$3 million to the Bureau of Reclamation to fund the study. The House passed H.R. 1945, S. 789's counterpart in May of 2009. The storage facility feasibility study is the most recent step in a several-decades-long effort by the Tribe to secure both title to and quantification of its federal reserved water rights, and to actually deliver "wet" water to our members for domestic, agricultural, municipal, commercial and industrial purposes. Notably, the eventual construction of a water storage project will enable us to meet our needs without disrupting the current water uses of the South Tule River.

As part of our lengthy and detailed negotiations with our neighbors and with the United States spanning the past decade, we commissioned technical studies of the South Fork Tule River watershed within our Reservation boundaries. This analysis by the firm of Natural Resources Consulting Engineers of Ft. Collins, Colorado and Oakland, California, led us to the present site of a proposed water storage project at the confluence of Cedar Creek and the mainstem of the South Fork Tule River. The site of the proposed project, and the existing and proposed expansion to the Tribe's water service area, are depicted on the map marked as Exhibit D. The Bureau of Reclamation has reviewed this work and found that the dam site was acceptable.

The analysis we have commissioned to date, while rigorous and thorough, is not sufficiently detailed to support and justify a final decision to authorize and appropriate federal funds from which to initiate actual construction activities. Thus, the authority and funding delivered through S. 789 would enable the Tribe, acting in concert with the Department of the Interior and its Bureau of Reclamation, to ensure that this Cedar Creek site is the optimal site at which to build the project.

Although S. 789 is a separate bill from the larger settlement legislation that will be forthcoming, it is the first step toward implementing the final settlement agreement. While the study is under consideration we will be working to pass the authorizing settlement agreement legislation. The parties to the settlement agreement and indeed, the people whose water needs will be met through this agreement have worked to hard and for too long to delay any longer.

As previously mentioned, Congress considered H.R. 2535 in 2007, a bill that authorized a feasibility study and appropriated \$3 million to complete the study. This bill was virtually identical to S.789. We had secured resolutions in support of H.R. 2535 from the National Congress of American Indians and the Southern California Tribal Chairman's Association. Copies of the resolutions of these organizations are also attached to my testimony to be made a part of the record. (Exhibits E and F.) We had also secured letters of support from the City of Porterville, CA; the Tulare County, CA Board of Supervisors, the Tule River Association and the South Tule Irrigation Ditch Company in support of H.R. 2535 and we believe these documents are being made a part of the record of this hearing. We were also able to secure letters of support for S. 789 from the Tule River Association (Exhibit G) and the South Tule Irrigation Ditch Company (Exhibit H) which we understand were submitted directly to the committee and are to be made a part of the record. We submit the letters and resolutions to demonstrate unanimous support for the feasibility study and appropriations to complete the study.

CONCLUSION

It is now time for our federal partners to join us in securing a brighter future for the Tule River Tribe and its people by supporting S. 789. The House overwhelmingly passed H.R. 1945. We respectfully request that the Subcommittee follow suit by swiftly marking up and passing S. 789 to the full Committee. I thank the Subcommittee for the opportunity to express the Tule River Tribe's support of S. 789.

In closing, I would ask that my testimony and supporting materials be made a part of the record of this hearing by unanimous consent.

I, or my associates here at the witness table with me, would be happy to respond to any questions which the members of the Subcommittee might have.

Senator CANTWELL. Thank you, Mr. Garfield, and we will make the accompanying information a part of the record.

We are going to turn to Mr. Sullivan now to give his testimony, and then, as I said earlier, we will go to questions for each of you. Mr. Sullivan, thank you for being here.

**STATEMENT OF JOHN F. SULLIVAN, ASSOCIATE GENERAL
MANAGER, WATER GROUP, SALT RIVER PROJECT, PHOENIX,
AZ**

Mr. SULLIVAN. Thank you, Madam Chairwoman Cantwell and Ranking Member Brownback and members of the subcommittee. Thank you for the opportunity to testify in support of S. 1080. My name is John Sullivan, and I am the Associate General Manager for the Water Group at the Salt River Project, or SRP, as we are known.

Beginning with the construction of Roosevelt Dam in the early 1900s and our continuous management of the Salt River Federal Reclamation project since 1917, SRP has had a good working relationship with the Bureau of Reclamation that has allowed effective water management and environmental stewardship for nearly a century. This relationship continues today as we operate and maintain the seven dams and reservoirs and hundreds of miles of canals and pipelines that now make up the project.

The C.C. Cragin Dam, reservoir, and pipeline are located within the Coconino and Tonto National Forests in northern Arizona. In 2004, as part of the Arizona Water Settlements Act, Congress authorized Reclamation to assume title of the Cragin facilities so that it could be managed as a part of the Salt River Federal Reclamation project and primarily used for municipal drinking water in the town of Payson and in the Phoenix metropolitan area.

However, the Cragin pipeline has numerous serious leaks that need immediate repair to be suitable for the use as a reliable drinking water source. Since 2004, we have been working with the Bureau of Reclamation and the United States Forest Service on these repairs and other operational needs of the project. From the beginning, it was clear the Bureau and Forest Service disagreed about who had responsibility for approving operation, maintenance, and repair of the facilities. This bill clarifies that since C.C. Cragin project is now being operated as a component of the Salt River Federal Reclamation project, the Bureau of Reclamation is responsible for approval of operation and repair activities just as it does with all the other components of the Salt River Project located on lands within the national forests.

This clarification does not relieve either the Bureau or SRP from compliance with all requirements of Federal law and has no cost to the Federal Government.

The jurisdictional dispute with the Forest Service has now extended over 4 years and has resulted in dueling approval requirements causing delays and increased repair costs. In addition, the Town of Payson was recently approved for an allocation of some \$10.6 million from the State of Arizona's stimulus grant money to assist in paying for repairs to their share of the pipeline and other related projects. Any major delays could place a portion of those stimulus funds at risk.

SRP has effectively operated and maintained six Reclamation dams and reservoirs within the Tonto National Forest for decades.

Throughout this time, we have worked collaboratively with the Bureau and Forest Service to ensure proper management of the land and water resources, and the relationship has been extremely successful. We operate under a three-party agreement in the Tonto National Forest.

Despite this record of success, the current circumstances have created an inefficient and costly process that leaves us beholden to two separate Federal agencies. As I have mentioned, S. 1080 will not relieve SRP or the Bureau of Reclamation from any obligation under Federal law. It would simply make our rehabilitation efforts and future operations more certain and efficient by clarifying which agency has jurisdiction for approving work.

In Commissioner Connor's testimony today, he mentioned that the two agencies would be happy to sit down and try and work out some type of an agreement. I would just say we would be happy to do that, but we have already been working on that for 4 years, and I think the committee may want to set some pretty strict timelines for the two agencies to get this done.

Madam Chairwoman, members of the subcommittee, I want to thank you for this opportunity to testify before you today, and I would be happy to answer any questions.

[The prepared statement of Mr. Sullivan follows:]

PREPARED STATEMENT OF JOHN F. SULLIVAN, ASSOCIATE GENERAL MANAGER, WATER GROUP, SALT RIVER PROJECT, PHOENIX, AZ, ON S. 1080

Chairwoman Stabenow, Ranking Member Brownback, and Members of the Subcommittee,

Thank you for the opportunity to testify in support of S. 1080, A Bill to Clarify the Jurisdiction of the Secretary of the Interior with Respect to the C.C. Cragin Dam and Reservoir, and for Other Purposes. My name is John F. Sullivan. I am the Associate General Manager, Water Group, of the Salt River Project ("SRP"), a large multi-purpose federal reclamation project embracing the Phoenix, Arizona metropolitan area. S. 1080 will simply clarify that since the C. C. Cragin Project is now being operated as a component of the Salt River Federal Reclamation Project, the Bureau of Reclamation is responsible for approval of all operation, maintenance and repair activities as is the case with all of the other federal reclamation projects, including all of the other Salt River Project facilities located on lands within the boundaries of the National Forests in Arizona. This clarification does not relieve either the Bureau or SRP from compliance with all requirements of federal law and has no cost to the federal government.

SRP is composed of the Salt River Valley Water Users' Association ("Association") and the Salt River Project Agricultural Improvement and Power District ("District"). Under contract with the federal government, the Association, a private corporation authorized under the laws of the Territory of Arizona, and the District, a political subdivision of the State of Arizona, provide water from the Salt and Verde Rivers to approximately 250,000 acres of land and the raw water that serves over 2 million residents in the greater Phoenix area. Over the past century, most of these lands have been converted from agricultural to urban uses and now comprise the core of metropolitan Phoenix.

The Association was organized in 1903 by landowners in the Salt River Valley to contract with the federal government for the building of Theodore Roosevelt Dam on the Salt River, located some 80 miles northeast of Phoenix, and other components of the Salt River Federal Reclamation Project. SRP was one of the first multi-purpose projects approved under the Reclamation Act of 1902.

Today, SRP operates six dams and reservoirs on the Salt and Verde Rivers in the Gila River Basin, one dam and reservoir on East Clear Creek in the Little Colorado River Basin, and 1,300 miles of canals, laterals, ditches and pipelines, groundwater wells, as well as numerous electrical generating, transmission and distribution facilities. The seven SRP reservoirs impound runoff from multiple watersheds, which is delivered via SRP canals, laterals and pipelines to municipal, industrial and agricultural water users in the Phoenix metropolitan area. SRP also operates approximately 250 deep well pumps to supplement surface water supplies available to the

Phoenix area during times of drought. In addition, SRP provides power to nearly 900,000 consumers in the Phoenix area, as well as other rural areas of the State.

S. 1080 concerns the C.C. Cragin Project, which is located within the Coconino and Tonto National Forests in northern Arizona. The C.C. Cragin Project consists of a number of facilities including a 147-foot high dam, 15,000 acre-foot reservoir, diversion tunnel and pump shaft, pumping plant, priming reservoir, a 10 mile long pipeline, electrical transmission line, and small generating plant which supplies power to the Project's pumping plant. Originally known as Blue Ridge Project, the dam, reservoir, and associated facilities were constructed by Phelps Dodge in the 1960's to supply water to Phelps Dodge's Morenci Mine Complex through a water exchange with SRP. Phelps Dodge was issued a certificate of water right by the State of Arizona for the Blue Ridge Reservoir to effectuate this exchange. In 2005, Phelps Dodge no longer needed the Blue Ridge Project for the exchange and consistent with the existing exchange agreement with SRP, Phelps Dodge transferred ownership of all of the Blue Ridge Project facilities to SRP. On June 8, 2007, the Arizona Department of Water Resources approved the transfer of the water right for the reservoir to SRP for municipal, irrigation and other beneficial uses within the Salt River Federal Reclamation Project.

In 2004, at the urging of SRP and with support from Phelps Dodge and the U.S. Bureau of Reclamation, and as part of the Gila River Indian Community Water Rights settlement, language was included in Section 213(i) of the Arizona Water Settlements Act, Public Law 108-451, 118 Stat. 3478, 3532, authorizing title transfer of the Blue Ridge Project from SRP to the Bureau of Reclamation ("Bureau") to be operated and managed by SRP pursuant to its September 6, 1917 contract with the Bureau of Reclamation as part of, and for the exclusive use and benefit of, the Salt River Project Federal Reclamation Project. Section 213 also changed the name from the Blue Ridge Dam and Reservoir to C.C. Cragin Dam and Reservoir. On September 30, 2005, SRP officially transferred title to the C.C. Cragin Dam and Reservoir together with all of its associated facilities, including approximately 77 acres of fee land previously owned by Phelps Dodge, to the Bureau.

In accordance with the 1917 contract with the Bureau and as directed by Section 213 (i)(5) of the Arizona Water Settlements Act in 2005, SRP began operating and maintaining the C.C. Cragin Project. As part of its maintenance efforts, SRP identified numerous serious leaks present in the existing pipeline needing immediate repair. I have attached several photographs showing some of the leaks in the pipeline. Not only is the pipeline's integrity important to the general operation of C.C. Cragin Project and SRP's water supply for the Phoenix metropolitan area, but it also has special significance to the Town of Payson and neighboring communities in Northern Gila County who will rely on the Project to supply municipal drinking water to their residents. As part of this effort, the Town of Payson was recently approved for an allocation of \$10.6 million from the State of Arizona's American Recovery and Reinvestment Act (ARRA) stimulus grant money to assist in paying for the repairs to the pipeline and other water-related projects.

Once SRP began working with the Bureau of Reclamation and the United States Forest Service on repairs and other operational needs for the C.C. Cragin Project, it became evident that the Bureau and the Forest Service disagreed as to who had responsibility for approving the requested operation, maintenance and repair functions associated with the Reclamation Project. The Forest Service asserted that the Bureau needed to obtain a special use permit from the Forest Service prior to Project operation by SRP and that all maintenance and repairs needed prior approval by the Forest Service. The Bureau and SRP maintain that under the terms of the Arizona Water Settlements Act, the C.C. Cragin Project is just like all of the other Salt River Federal Reclamation Project facilities located on Forest Service land. On those facilities, jurisdiction over approvals of work plans, maintenance, repairs, environmental compliance, and other permitting associated with Project operation and maintenance belongs to the Bureau, while jurisdiction over recreation, fire suppression and some additional management aspects is with the Forest Service. Not only is this approach consistent with the other Salt River Federal Reclamation Project facility agreements among the Bureau, the Forest Service and SRP applicable to the other six SRP dams and reservoirs located on National Forest lands in Arizona, it is also consistent with the existing approach for Reclamation Projects across the western United States pursuant to a 1987 Memorandum of Understanding between the Departments of Agriculture and Interior. I have attached a copy of this Memorandum of Understanding to my testimony.

Although SRP and the Bureau have attempted to resolve the jurisdictional dispute with the Forest Service over the past four years, such efforts have been unsuccessful. Despite the direction of section 213 of the Arizona Water Settlements Act and the 1987 Memorandum of Understanding between the Departments of Agri-

culture and Interior, the Forest Service has insisted on having ultimate approval authority for the operation, maintenance, and repair work necessary for the C.C. Cragin Project, notwithstanding that these facilities are components of the Salt River Federal Reclamation Project. Meanwhile, the resulting dueling approval requirements between the two Departments have delayed and created uncertainty in planning much needed repairs to the Cragin facilities, increased repair costs, and placed a portion of the Town of Payson's \$10.6 million stimulus grant at risk.

The bill before you, S. 1080, would withdraw from entry and disposition approximately 512 acres of National Forest lands which comprise the Cragin Project and clarify that the Secretary of Interior shall have exclusive jurisdiction to manage the Cragin Project on these lands in accordance with the terms of section 213(i) of the Arizona Water Settlements Act. In managing the Cragin Project, the Secretary of Interior and SRP are required to ensure the compliance of their activities with all applicable federal laws, including regulations. The Secretary of Interior is authorized to enter into a contract with the Secretary of Agriculture to undertake the management of recreation, wildland fire activities, public conduct and law enforcement, cultural and other resources, and any other appropriate management activity, provided that the management of these activities does not conflict with, or adversely affect, the operation, maintenance or repair of the Cragin Project as determined by the Secretary of Interior. In addition, the employees of the Department of Interior and SRP are authorized to use all necessary roads under the jurisdiction of the Forest Service to carry out the operation, maintenance and repair of the Cragin Project without the necessity of obtaining any permit or license from the Forest Service. In summary, S. 1080 would clarify the jurisdiction over C.C. Cragin Project which would allow the needed pipeline repairs to proceed under the Bureau of Reclamation's oversight and in compliance with all applicable laws.

Chairwoman Stabenow and Members of the subcommittee, thank you once again for the opportunity to testify before you today. I would be happy to answer any questions.

[Graphs and additional documents have been retained in subcommittee files.]

Senator CANTWELL. Thank you, Mr. Sullivan.

Let me start back with Mr. Kasten on the S. 637. Your testimony indicated that there was an urgent need. You did a good job of describing what was going on in the community. You also indicated that you have been working with the Bureau of Reclamation. I am sure you heard their testimony earlier. So what do you think needs to happen to be successful in working with the Bureau on this project?

Mr. KASTEN. Madam Chair, we have been working informally with the Bureau of Rec from the very beginning of this project, and we want to and will work with the Bureau. We are working really right now to prepare to reorganize the studies that we have done to fit within the informational requirements that have been preliminarily asked of us. But we are stuck in the middle. We have spent much time and 7 years of time and much money.

Our completed feasibility study followed the same processes used by federally funded projects since 1985, like the North Central Rural Water in North Dakota and the recent Fort Peck and Dry Prairie projects in Montana. Our feasibility is a full analysis of all the alternatives and payment abilities, and in our opinion meets the Bureau of Rec's preliminary draft guidelines that we just received here in April 2009.

The Bureau has told us that they are really not ready to implement the Rural Water Act and are frustrated also, and they want us to wait and go through the new process, even though the rules are not final and they are not quite exactly sure when they will be.

The Dry-Redwater we believe should not be penalized for following a proven process in good faith, and given that the Bureau has no process in place to comply with yet in the Rural Water Act,

Senator Baucus introduced our bill in 2008, the same bill that is here today, S. 637, and we really believe that the delay and the uncertainty and the unnecessary costs related to that are not what the people need. Good water is what we need.

Senator CANTWELL. You indicated that there has been a good amount of money—I think you said \$500,000—that has already been basically gathered from local interested parties. What is the local plan to pay for the portion of the project?

Mr. KASTEN. Thank you, Madam Chair.

The funding mechanisms that we are proposing are the same that have followed the other rural water systems in the State of Montana and North Dakota, as far as we understand, 75 percent Federal cost share, 25 percent State.

The State of Montana is very committed to rural water. We have only two projects in the State which were the first two. This would be the third. I know that we are going to work to probably move to try and do this for all of the people of Montana at some point in time.

Right now today, we have over \$180,000 committed from the State to be used for our efforts in the next 2 years, 18 months to be exact. Governor Schweitzer and the State of Montana and the legislature have been very strong in its support. Just this past legislative year, they passed a new program that is starting with \$15 million that will be set aside for regional water development with one requirement, that the project is an authorized project. Those moneys can be used.

Authorization is the next reasonable step in the process that we have—the journey we have taken for safe water.

Senator CANTWELL. Thank you. I will come back to you in a minute.

I want to turn to Chairman Garfield. Thank you for your compelling testimony.

You have said that the planning for this project has been underway for 10 years.

Mr. GARFIELD. Yes, ma'am.

Senator CANTWELL. The settlement has not been agreed to. I mean, it has been agreed to by many people except for the United States. So why is it important to move forward on the feasibility study before you have the negotiations with the United States Government completed?

Mr. GARFIELD. Our feasibility study—our reservation is placed on a fault line, and for the feasibility study, we want to make sure that when we do put a reservoir up, it is in a spot adequate for a reservoir to avoid catastrophic incidents such as earthquakes.

Actually, Mr. Paul Homy, my assistant right here, would probably be best to answer that question for you, ma'am.

Senator CANTWELL. OK. Is there a non-Federal cost share requirement associated with the feasibility study or settlement?

Mr. GARFIELD. Could you repeat that question please?

Senator CANTWELL. Is there a non-Federal cost?

Mr. GARFIELD. Non-Federal cost? No, ma'am.

Senator CANTWELL. So the United States is going to be responsible for 100 percent?

Mr. GARFIELD. Yes, ma'am. As far as I know, the Federal cost is waived for tribes, ma'am, and as far as I know, the United States Government has a fiduciary responsibility to the Tule River Indian Tribe, which is a federally recognized tribe.

Senator CANTWELL. Will there not be some non-Indian water users who will benefit?

Mr. KASTEN. There is some non-Indian water users. As a matter of fact, this came up in numerous meetings. They are still saying today that they really receive no benefit of us getting our water rights quantified. That is coming from the South Tule Independent Ditch Company and the Tule River Association.

Senator CANTWELL. So I think we will probably have to have some follow-up on that. Are those the only beneficiaries that you know of, other non-Indian beneficiaries to the development of this?

Mr. GARFIELD. Yes, ma'am.

Senator CANTWELL. Mr. Sullivan, your testimony indicates that one of the goals of the legislation is to provide a uniform system of management. Obviously, you have had this ongoing dispute that stopped this from moving forward. Would agreements involving the Forest Service still be necessary even if this legislation is enacted. If 1080 is enacted, do you still need that cooperative agreement?

Mr. SULLIVAN. Madam Chairwoman, actually the legislation contemplates an agreement, much like the agreement we already have with the Tonto National Forest. So there would be a memorandum of an agreement that outlines the relationships where there is an interface between the two agencies. But it would provide for decisionmaking by the Bureau of Reclamation related to the operations and maintenance of those facilities that the Bureau owns and controls.

Senator CANTWELL. What would the form of that be moving forward?

Mr. SULLIVAN. We would hope it would be very similar to the agreement we already have with the Forest Service and the Bureau of Reclamation for the 6 dams that we operate on the Salt and Verde River systems. There is already an agreement that was executed back in the 1970s that for some reason the National Forest does not want to use for the C.C. Cragin project, even though it is part of the Salt River Federal Reclamation project.

Senator CANTWELL. What do those agreements entail?

Mr. SULLIVAN. They usually define the area that makes up the Federal Reclamation project. So it describes metes and bounds within which the Bureau of Reclamation would do environmental assessments and would make decisions related to maintenance activities by Salt River Project under its agreement with the Bureau to operate the Federal Reclamation project.

It also deals with land issues that may come up from time to time between the Forest Service and the Bureau of Reclamation. They could be related to recreational use of rights-of-way, forest fire fighting, those types of responsibilities. Those issues are dealt with in this memorandum.

Senator CANTWELL. Thank you.

Mr. Kasten, back to your talking about local plans and participation. Have those been approved by the local government's participation in the cost of the project?

Mr. KASTEN. Yes, they have, Madam Chair. We have had, I believe, about 28 public meetings over this, and a number of those have been with the county commissioners and city officials. Our feasibility analysis has been looked at by all of them.

Senator CANTWELL. So they have either committed to those public funds or taken action to commit to those?

Mr. KASTEN. Yes, but in concept, yet not contractually to the project that is still a vision of ours.

Senator CANTWELL. OK, good.

I want to thank the three witnesses for their testimony today. As I said earlier, I am sure we will have more questions and information from my colleagues. You are also encouraged to submit any additional testimony that you brought today to be part of the official record. So thank you for being here and for your attention on this legislation.

This subcommittee hearing is adjourned.

[Whereupon, at 3:19 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

RESPONSES OF RYAN GARFIELD TO QUESTIONS FROM SENATOR CANTWELL

Question 1. The Administration's testimony states that it does not support S. 789, in part, because there is no non-federal cost-share identified for the proposed feasibility study or the 2007 Settlement Agreement. Please explain why you view the cost-share set forth in S. 789 and the Settlement agreement as appropriate.

Answer. The project addressed by the feasibility study and the Settlement Agreement is not being constructed under traditional federal water guidelines. Rather, this project in large part represents a resolution of claims by the Tule River Tribe against the United States government for breach of its fiduciary duty and trust obligations related to water. Thus the funding responsibilities for this project fall upon the United States, as has been the case in the two dozen other Indian water settlements approved and funded by Congress over the past quarter-century. Mr. Alec Garfield, Director of the Tribe's Water Resources Department, made these same points in his written response to Chairwoman Napolitano of the House Water and Power Subcommittee following the September 25, 2007 hearing on H.R. 2535 (a bill similar to S. 789). A copy of Mr. Garfield's responses is attached.

The benefit received by the local non-Indian parties under the Settlement Agreement is certainty with regard to the water rights on the river, not enhanced water supply. In fact, the proposed water project would allow the Tribe to utilize more of its water right, thereby decreasing the amount of water that has historically been available to other parties. The operation rules of the proposed water project do contain some considerations for downstream parties, but these considerations are only designed to mitigate project impacts and do not provide those parties with additional water supply benefits beyond their current rights.

The Tribe acknowledges that the Settlement Agreement achieves a resolution of water rights in the basin, which benefits everyone. However, asking for a local cost-share in this situation where there are no actual water supply benefits to local parties would be unprecedented as far as we are aware. If this Congress and Administration are willing to ask local communities to bear a portion of the cost, particularly in these severe economic times, that has enormous implications for this and all future water settlements.

Regarding the lack of local cost share in the feasibility study, there is nothing in Reclamation law which requires a cost share from the constituents in a feasibility study. The cost share is a policy which Reclamation has followed for a number of years. However, in every case that we know of, Reclamation has waived the cost share when the constituent is an Indian tribe—which is the circumstance in this case.

Question 2. Has the Tule River Tribe shared the technical studies that have been prepared regarding the proposed water storage project with the Administration? What has the Administration's response been?

Answer. The Tribe has shared all of its technical studies that were developed in support of its settlement with the federal government. These studies, performed at a reconnaissance level, include a water needs assessment, hydrologic analysis of the South Fork Tule River, groundwater investigation, land classification study, damsite assessment, biological evaluation of a proposed reservoir project, reservoir sizing computer model, Phase 1 water project design and cost estimate, and overview of potential damages claims. These studies were prepared over the course of several years from 1998 to 2008. The Tribe, the BIA and BOR have spent over half a million

dollars on these studies. To date, the Tribe has not received any formal response to these studies from the Administration and only minimal feedback.

RESPONSES OF RYAN GARFIELD TO QUESTIONS FROM SENATOR BROWNBACK

Question 1. Please describe the role the United States has played in the current water settlement negotiations.

Answer. The United States was a participant in the Tule River Tribe's water settlement negotiations, first in the form of a Federal Assessment Team and then later as a Federal Negotiation Team, from inception to conclusion. This participation began with the first negotiation meeting in 1999 and continued at numerous meetings over the next nine years. Members of the Federal Team included representatives from the Bureau of Reclamation, Department of Interior Solicitor's Office, Bureau of Indian Affairs, and Department of Justice. During these meetings, the Federal Team advised the Tribe and other settlement parties on the position of the United States with regard to what the settlement must achieve, how the settlement would be evaluated in terms of costs and benefits, what legal waiver of claim requirements were required, how water settlements are typically funded, and other related information. The Tribe and other parties were appreciative and respectful of this information and it helped shape the ultimate Settlement Agreement.

However, in the final hour the federal team refused to sign the settlement agreement, claiming it needed to complete an internal review of the damages report and other information prior to taking a position on the settlement. It also informed the Tribe that it required congressional authorization to become an actual party to the settlement and assist in the effectuation of its terms. The team has been dormant since 2007 and has not completed its internal review over this two year period.

Question 2. Has the Department of the Interior provided any financial or technical assistance to the Tribe to improve water supply reliability?

Answer. The Department of Interior has not provided the Tule River Tribe with any financial or technical assistance to directly improve water supply reliability of the current water infrastructure. However, the Tribe did secure DOI funding during the course of the negotiations to help fund its water attorney and technical consultants, gather streamflow data, and perform technical studies in support of the settlement. Should the Settlement Agreement be implemented and the proposed water project constructed, the Tribe's water supply reliability will be greatly enhanced. The Tribe has received some funding from the Indian Health Service (Department of Health and Human Services) to improve its existing water supply and wastewater infrastructure. However, these improvements are independent from, and not duplicated by, the Settlement Agreement.

Comment to the Senate Committee on Energy and Natural Resources:

In our discussions with the Bureau of Reclamation, the Tule River Tribe has discovered that the Administration apparently misunderstands the purpose for the use of the term "feasibility study" in S. 789, as well as its companion bill H.R. 1974. It is to not the intent of Tribe, the other parties to the settlement agreement, or our legislative sponsors that the term be interpreted within the context of traditional Reclamation law and policy.

This unfortunate misunderstanding has the unintended consequence of requiring the Tribe to be bound by over 100 years of Reclamation law and policy which was not the Tribe's original intent for the bill—and is not the expressed intent of the bill language.

While the Tribe has every intention of conducting a study which will meet the clear meaning of the bill language—to study the feasibility and suitability of constructing a storage reservoir, outlet works, and delivery system of 5,000 of of water per year—the broader policies and practices of a feasibility study provided for under Reclamation law and policy envisioned by Reclamation would have the potential effect of frustrating the terms and conditions of the Tule River Water Settlement, and adding unnecessary cost to the study over the \$3.0 million provided for in the bill.

We believe that the current bill language states the necessary and sufficient extent of the proposed feasibility study. Therefore, we recommend that the Committee report, which will accompany the bill, make clear that the feasibility study prescribed in the bill is not a feasibility study as anticipated under Reclamation law and policy, but rather a study to determine the feasibility of the features for the Tule River Water Settlement, as expressly provided in the bill.

ATTACHMENT.—RESPONSE OF ALEC GARFIELD

TULE RIVER TRIBAL COUNCIL,
TULE RIVER INDIAN RESERVATION,
Porterville, CA, October 8, 2007.

Hon. GRACE NAPOLITANO,
Chairwoman, Committee on Natural Resources, Water and Power Subcommittee,
1522 Longworth HOB, Washington, DC.

Re: H.R. 2535, the Tule River Tribe Water Development Act

CHAIRWOMAN NAPOLITANO: My sincerest thanks again to your leadership in assisting us in moving H.R. 2535 as swiftly as possible through the legislative process. I enjoyed meeting you very much last week and look forward to our continued association on this very critical project for the Tule River Tribe.

The following responses are provided to the follow-up questions sent electronically to me by Emily Knight, your Clerk, after the hearing on Tuesday, September 25, 2007, on H.R. 2535.

Question 1. Mr. Garfield, will the Tribe be able to afford a cost share, to this project?

Answer. It would be precedent-setting for the Tribe to be asked or required to fund a portion of the water storage and related works, given that the settlement agreement to be ratified by the Congress, once a bill is introduced and enacted for that purpose in the coming session of Congress, is in significant part a resolution of the Tribe's claims against the United States for failure since 1873 to protect and advance the Tribe's water rights recognized under the Winters doctrine. The Tribe believes that the funding responsibilities fall upon the United States as trustee, and this obligation is clearly borne out in the two-dozen other Indian water settlements approved and funded by Congress over the past quarter-century.

Question 2. Is this study necessary in completing the settlement?

Answer. The settlement agreement is complete; all that remains is for the parties to execute the final documents. The completion of the feasibility study is absolutely critical to enabling the Interior Department and the Congress to have the necessary details on the cost of the water storage and delivery facilities which are the cornerstone of the settlement agreement between the Tribe and the downstream stakeholders. It is this water infrastructure which drives the entire agreement, and which forms the basis from which the Tribe and its neighbors have been able to fashion a settlement without the necessity of contention, expensive and time-consuming litigation.

Question 3. Is there a signed agreement between the parties, including the Federal Team? Why or Why Not? When will this be completed?

Answer. The final settlement agreement will be executed by all of the parties in the next 30 days, following formal action by their respective governing bodies. The United States has for several years, since the appointment of the Federal Team, been a supporter of a negotiated resolution of the problem [of a lack of a dependable water supply for the Tribe], and in fact has provided funding several times to enable the Tribe to perform critical studies. The United States, however, told the parties that it could not be a party to and sign the agreement without Congressional authorization, which the parties will hopefully secure in the coming session of Congress through legislation ratifying the agreement and authorizing appropriations for the water infrastructure and related purposes. The Tribe has asked the United States to continue to review the terms of the agreement, with the understanding that in time it would become a party thereto, but the Tribe has also made it clear to the United States Department of Interior and Justice representatives on the Federal team that it and the other signatories to the agreement were proceeding without the United States to execute the agreement.

Question 4. The Bureau testified that the two year window for completing this project [is too short, or is insufficient]. How will this delay affect the Tribe?

Answer. The Tribe and its technical consultant believe that two years is sufficient time to complete the feasibility study, provided that the study is fully funded and that the Tribe is able to administer the funding through the P.L. 93-638 process. If the Bureau receives the funding and performs the feasibility study, it may take longer than the specified two year window. Every year that passes without a new water project presents a hardship for the Tribe, in that the current water supply is inadequate to serve existing needs during the summer months. It also drives up the eventual costs of the project, when finally approved, authorized and funded by Congress.

Question 5. Mr. Garfield, what will the study consist of, and how long do you think it will take for the study to be completed?

Answer. Subjects that we anticipate being included in this feasibility study are:

- Damsite selection and preliminary dam design (relies on other studies)
- Investigation of environmental impacts (including mitigation measures, if necessary)
- Archeological study
- Geologic analysis (mapping, seismic evaluation)
- Geotechnical analysis (foundation testing, drilling, field and laboratory tests, dam materials; soils analysis)
- Hydrologic analysis (including flood flow determination)
- Hydraulic design (mainly spillway and outlet works design)
- Water quality analysis for treatment
- Diversion demand analysis
- Distribution system design
- Design alternatives
- Reservoir operation studies
- Site civil (evaluation of roadway, drainage, site security, utilities, and recreation facilities associated with the project)
- Construction cost estimates

The estimated time required to complete the feasibility study is two years following appropriation of funding.

Question 6. Are there any state or federal listed species in the proposed project area?

Answer. In 2004, the Tribe hired an environmental consulting firm to conduct a preliminary biological resource survey and evaluation of the proposed dam project. The findings from this study were:

- The proposed project site is not included as designated critical habitat for any federally listed species.
- One federal-listed plant, three state-listed plants, and three federal-listed animals (valley elderberry longhorn beetle, California red-legged frog, and southwestern willow flycatcher) have the potential to occur in the project-affected area.
- None of these listed species were observed during the biological survey site reconnaissance; protocol-level surveys would likely be required to verify this result in order to comply with federal and state endangered species acts, if applicable.
- State or federal species of special concern, including the southwestern pond turtle and several bird species, were observed at the site during field surveys.

Question 7. How will the Tribe ensure that there will be no adverse affects to the environment, and to current, downstream users?

Answer. Regarding environmental impacts from the proposed project, as part of the feasibility study the Tribe intends to conduct protocol-level environmental surveys of the project area to identify any plant and animal species of concern. If necessary, proper mitigation measures will be undertaken, which may include transplanting special-status plants, seasonal and/or areal work restrictions for certain activities adjacent to sensitive sites, fencing, and habitat enhancement. A preliminary environmental survey has already been conducted.

The proposed reservoir will be operated in such a way that there is always a minimum flow being released downstream. During the dry part of the year, this minimum release is equal to or greater than the reservoir inflow. Changes to reservoir releases will be timed in such a way that they do not disturb downstream habitat critical for fish species.

Regarding impacts to current downstream users, a primary feature of the water rights settlement is that releases from the proposed reservoir will be managed in such a way that minimizes any such impacts. This is achieved through the reservoir operation rules, which essentially call for all low flows to be passed through the reservoir instead of being stored or diverted. In addition, the operation rules call for the sharing of water during low flow years.

In closing, I would be happy to address any other questions which you, other members of the Subcommittee, or your staff might have.

Sincerely,

ALEC GARFIELD,
Director, Water Resources Department.

RESPONSES OF THE DRY-REDWATER REGIONAL WATER AUTHORITY TO QUESTIONS
FROM SENATOR CANTWELL

ESTIMATED ENERGY SAVINGS

Question 1. Do you have an estimate of the amount of energy consumption that could be saved by utilizing the water treatment process that is contemplated by the Dry-Redwater Regional Water System in consolidating at least five existing treatment systems into one system?

Answer. There are 5 municipal type water treatment systems existing within the DRWA service area. All use a pressurized treatment process that require pumps to force the water through a treatment medium. The proposed surface water treatment system for DRWA utilizes a gravity treatment process where a small horsepower pump lifts the raw water up to a treatment vessel that filters the water in an open un-pressurized manner. Energy consumption on a pressure vs. a non-pressure type of system has been determined with the cost to treat and produce 1,000,000 gallons of finished water, as follows:

Under a pressure system, the unit has a 300 gallons per minute (gpm) input stream through a pressurized filtering system that rejects 30 gpm of the raw water, for every 300 gallons put in, 270 gallons come out. To produce 1,000,000 gallons of finished water the system must run 62 hours. The pump to pressurize the system is a 10 horsepower (hp) which at 62 hours of runtime, which equals 463 kw-hrs. The process requires 1,111,600 gallons of raw water to produce the 1,000,000 gallons of finished water.

Under a gravity system the unit has a 700 gpm input stream that all flows through the treatment system using a filtering system that relies upon gravity and settling. To produce 1,000,000 gallons of finished water utilizing a non-pressurized system, the facility must run 24.5 hours. The pump lifting the water into the gravity filters is a 7.5 hp, hence the 24.5 hours of runtime equals 137.1 kw-hr. The table below summarizes the savings per million gallons of treated water.

FINAL OUTPUT OF 1,000,000 GALLONS TREATED WATER

	Existing Pressure Filtering System Ground Water	Proposed Gravity Filtering Surface Water
Raw Water Pumped (Gallons)	1,116,000	1,028,000
Kilowatt Hrs / MG	463	137.1
Kwh Savings / MG	--	(325.9)
Kwh % Savings	--	70.4
Water Conserved (Gallons)	--	83,600

MG = Million Gallons

Estimated annual water use of DRWA is 400 million gallons, thus a potential annual savings of 130,360 Kwh.

Additionally, there exist as many as 40 other Public Water Supply Systems and 5000 individual wells for domestic and livestock uses within the District Boundaries. The consolidation of individual wells along with Subdivision Associations, Multi-Family, Commercial Operations, Trailer Courts, Public Rest Areas along with State and Federal Recreation Areas would all contribute to energy savings within our region.

RECLAMATIONS INTERIM GUIDELINES

Question 2. What efforts has the Dry-Redwater Regional Water Authority taken to meet the requirements of Reclamation's interim guidelines for the rural water program? What has the response been from Reclamation?

Answer. Bureau of Reclamation has provided guidance in regards to key issues and processes that DRWA undertook and moved the project forward. The DRWA followed the general guidance and processes used by other rural water projects in the Montana, North Dakota and South Dakota region since 1985 that ultimately were Reclamation rural water projects. For example scoping meetings, feasibility inves-

tigation, alternative resources and public education/participation have systematically been used to help shape the progress of our efforts.

The Bureau of Reclamation has initiated a draft of their Appraisal Investigation Report guidelines which has just recently been made available to us. Within these guidelines is the Section titled Suggested Format and Contents which outlines 6 Chapters proposed to be part of the document to be submitted for Appraisal. Upon review of the Chapters we have found the vast majority of these suggestions have been followed by DRWA for the same purposes that the Bureau purports to accomplish with the administration of the Rural Water Act of 2006. The DRWA Feasibility Study of June 2006 contains 12 Chapters that cover as many of the pertinent issues with respect to a rural water project as has been foreseen.

Our response will not delve too deeply into the substance of the 2006 Study verses the BOR Guidelines; however a cursory review and comparison of the proposed guideline's Planning Process and DRWA Study Chapters may be helpful as follows:

BOR Draft Guidelines

Planning Process

The six steps are:

- 1) Identify Problems, Opportunities and Constraints
- 2) Inventory and Forecast Resource Conditions
- 3) Formulate Alternative Plans
- 4) Evaluate Alternative Plans
- 5) Compare Alternative Plans
- 6) Select Recommended Plan

The Submittal for Appraisal would consist of:

- Chapter 1, Introduction
- Chapter 2, Problems and Opportunities
- Chapter 3, Inventory and Forecast Resource Conditions
- Chapter 4, Alternatives
- Chapter 5, Consultation and Coordination
- Chapter 6, Conclusions and Recommendations (includes requirements from "traditional planning process")

DRWA Feasibility Study 2006

- Chapter 1, Introduction
- Chapter 2, Project Resources
- Chapter 3, Existing Facilities
- Chapter 4, Need for Project
- Chapter 5, Permit Requirements & Responsibilities
- Chapter 6, Preliminary Design
- Chapter 7, Cultural & Environmental Issues
- Chapter 8, Project Alternative Cost Estimates
- Chapter 9, Plan Selection
- Chapter 10, Public Involvement
- Chapter 11, Project Financial Plan
- Chapter 12, Implementation
- Appendices
- Executive Summary
- Addendums

The cursory comparison of the two documents indicates that, although the process may be changing, the substance required by BOR in evaluating a given project remains intact. The conclusions made from the 2006 Feasibility Study, with respect to the Guidelines, are sound ones that will produce a successful project.

As outlined above, the Bureau of Reclamation has had knowledge of and input in the DRWA project. Though not discouraging, their ability to perform as intended has been exacerbated by the non-existence of a playing field.

In 2004, Lenny Duberstein of the BOR was involved in early discussions of a regional water project and attended subsequent scoping meetings in 2006.

In September of 2007 The Great Plains Office responded to our inquiry of BOR's potential role in our project. The response is in a letter dated September 24, 2007 anticipating the finalizing of administrative rules by the summer of 2008. It must be pointed out that one year has passed since or expected receipt of such rules.

Stephanie Hellekson of the Bureau's Billings Office attended a Board meeting on October 1, 2007. In the spring of 2009 Ms. Hellekson participated in one of our Board meetings via telecommunications. She was very supportive and indicated that there was a "parallel process" that might allow for continued involvement. She also suggested that we expand on our current NEPA Study to include the overall scope of the proposed project. Currently, the Environmental Report Phase for this expanded scope, along with the associated agency comments, is nearly ready to be submitted to the Billings Area Office of the Bureau so the EA process can be initiated. (e-mail correspondence is attached in the Appendix).

Just prior to our original testimony at the Sub-Committee Hearing on June 23, 2009, the DRWA Washington delegation met with officials of the Bureau. As the Commissioner's testimony at that hearing bears out, the Bureau indicated to us that they would not recommend denial of our request for authorization and that administrative rules are forthcoming. They pointed out the difficulties created by the Bureau's lack of administrative rules for the 2006 Act and that a definitive time frame for completion of such Rules was unknown. At that time DRWA again agreed that we would be happy to work with BOR in whatever capacity they could provide.

In conclusion to Senator Cantwell's second question, it can be seen that the DRWA Project has made every effort to conform to the established procedures for such a project with respect to the Bureau of Reclamation and that all are in agreement the Project warrants attention. The ability of the Project to move forward hinges on its becoming a Federally Authorized Project, at which time, we feel, great strides will be made.

RESPONSES OF THE DRY-REDWATER REGIONAL WATER AUTHORITY TO QUESTIONS
FROM SENATOR BROWNBACK

ROLE OF THE BUREAU OF RECLAMATION

Question 1. Please describe the role the Bureau of Reclamation has played in assisting your project to date.

Answer. As can be seen from our response to Senator Cantwell's inquiries, Bureau of Reclamation has a large influence upon our efforts. Similar rural water projects throughout the region that have been administered through the BOR have been our "road map" as we have navigated through, for example, public scoping meetings, feasibility studies, preliminary engineering, costs alternatives, resource assessment and environmental concerns. These issues are traditionally fleshed out by Bureau Staff in order to assure successful projects. The communication with Bureau Staff referred to above signifies their involvement with the Project. We did not wish to 'reinvent the wheel' nor be perceived as an independent water system startup that could work outside of the traditional process. Authorization of the DRWA would define the playing field and allow for a more intensive communication process among all Federal, State and Local agencies.

INVOLVEMENT OF OTHER FEDERAL AGENCIES

Question 2. What other Federal agencies have you worked with to identify both funding opportunities and technical advice to construct your facilities?

Answer. We have been in contact with the US Army Corp of Engineers. Their involvement has been three-fold:

i) A letter from the Corp dated August 30, 2006, the Fort Peck Lake Operations Manager showed their interest in the Project as a potential User. The system would greatly enhance their ability to implement the Charles M. Russell National Wildlife Refuge Enhancement Act of 2000 wherein proceeds from land sales would be made available to the Fish and Wildlife Service Agency for Refuge enhancement.

ii) A letter dated October 25, 2006 reflects their involvement in the deliberation of where to locate the intake structure for the system. Their input, in part, led us to the current proposed intake location.

iii) In the letter dated April 29, 2009 the Corps Chief Operations Officer showed no objection to the Project and explained the process for entering into an agreement with the Corp to administer the storage of our proposed 4000 acre feet of water source as they are federally mandated to administer all waters held within the Fort Peck Reservoir.

The Fish and Wildlife Service has been involved as a review agency and also as a beneficiary of a new source of potable water in the region. Agency representative (Refuge Manager) was present at a scoping meeting with the Corps of Engineers in 2007 as Fish and Wildlife has administrative authority over lands proposed for the intake and portions of the location of pipelines. In a letter from the Manager dated April 23, 2007, their input was supportive and their involvement was used to site the Intake and Treatment Plant. Further interaction with Wildlife is anticipated with respect to environmental requirements (NEPA), Right-of-Way issues and actual construction.

The U.S. Department of Commerce Economic Development Administration (EDA) has provided funds towards planning and administration under a potential large economic development project in our area. Great Northern Properties, the largest coal mineral holder in the U.S., has been working to develop a potential coal gasification facility within the area.

Western Area Power Administration has been involved with the language in our Legislation concerning electrical power usage. Our Bill contemplates usage of power generated under the Pick-Sloan Act. They have shown support for the project and an interest in how we manage the power requirements of our system.

The regional office of the Bureau of Land Management has been made aware of our Project in that we will be crossing Federal Lands to distribute water. They also may directly benefit from access to potable Water.

We hope that the information contained herein clarifies the issues brought forth by Senators Cantwell and Brownback. We are most grateful for their interest and are at their disposal during their deliberations.

RESPONSES OF JOHN F. SULLIVAN TO QUESTIONS FROM SENATOR BROWNBACK

Question 1. If this is to be completed administratively, what is a reasonable timeframe to have it completed?

Answer. SRP has maintained that they are happy to continue working with the Forest Service and the Bureau of Reclamation to resolve their dispute over jurisdiction of the C.C. Cragin. However, we have been working for a resolution for over 4 years to date, and prior to the testimony before your Subcommittee, we hadn't received any follow-up to our offers to continue negotiations since January, 2009. An additional 30 days seems a reasonable amount of additional time to reach an administrative solution. At the same time, I feel that a legislative solution is the best option in this situation.

Question 2. Please describe the impact of having this issue not resolved on the project.

Answer. If the Forest Service and Bureau of Reclamation are unable to reach an agreement, the continuing disagreement over jurisdiction and dueling approval processes will continue to delay work and increase costs to SRP and the federal government. In addition, we understand from the Town of Payson that any extended delays could jeopardize the stimulus funds allocated from the state of Arizona, which will be used for repairs to the C.C. Cragin pipeline and other water related projects.

[Responses to the following questions were not received at the time the hearing went to press:]

QUESTIONS FOR MICHAEL L. CONNOR FROM SENATOR CANTWELL

REGARDING S. 637, DRY-REDWATER REGIONAL WATER AUTHORITY SYSTEM ACT OF 2009

Question 1. The Administration testified that it has significant concerns about S. 637. How does the Administration propose to work with Congress to address the Administration's concerns?

Question 2. Please identify the eight existing rural water projects and provide a brief summary of their status.

Question 3. What is the timeframe for completion of the guidelines for the Rural Water Program? Will those guidelines contain guidance for determining a project sponsor's capability to pay? How would you advise a project proponent to proceed in the absence of completed guidelines?

Question 4. What is the best way of ensuring an accurate cost estimate for a project like the Dry-Redwater Regional Water Authority System? Has Reclamation prepared an information assessment of the feasibility of the project?

Question 5. What are the Administration's concerns regarding the use of project power from the Pick Sloan Missouri Basin Program for non-irrigation purposes? Can the Administration provide suggestions to remedy those concerns?

Question 6. Is Reclamation aware of the April 29, 2009 letter from the Department of the Army Corps of Engineers to the Dry-Redwater Regional Water Authority regarding the project's ability to withdraw up to 4,000 acre-feet of water per year from the Fort Peck Lake? What are the Administration's concerns regarding water rights for the project?

REGARDING S. 789, TULE RIVER TRIBE WATER DEVELOPMENT ACT

Question 1. What does BOR think the next steps should be for proceeding with the Tule River Settlement and the feasibility study of the proposed project? When will BOR be able to complete an appraisal level study of the proposed project? When will BOR be able to determine what amount of appropriations are necessary to complete the feasibility study authorized by S. 789?

Question 2. Why does the Administration believe that a non-federal cost-share partner is necessary for the completion of the feasibility study identified in S. 789? How will the Administration determine the appropriate level of non-federal cost-share for the feasibility study?

Question 3. How does the Administration propose to resolve the outstanding issues between the Tribe and the federal negotiating team regarding the Tule River settlement?

QUESTIONS FOR MICHAEL L. CONNOR FROM SENATOR BROWNBACK

REGARDING S. 637, DRY-REDWATER REGIONAL WATER AUTHORITY SYSTEM ACT OF 2009

Question 1. Please describe the process you are undertaking to develop programmatic criteria for the Rural Water Program. In addition, please describe where you are in your assessment of the status of authorized rural water supply projects and the role that other Federal programs can play in addressing rural water supply issues.

Question 2. Please describe whether the Dry-Redwater Regional Water Authority System would meet your criteria.

Question 3. Please describe the assistance, if any, Reclamation has provided to the water users participating in the regional water authority. In addition, what additional assistance can you provide the sponsors in helping them complete appraisal and feasibility-level studies for their proposed project?

Question 4. Out of Reclamation's eight authorized rural water projects, can you identify the cost share for each project? How many of these projects propose or are utilizing project use power from the Pick Sloan Missouri Basin Program (PSMBP) for non-irrigation purposes?

Question 5. Please describe the process that Reclamation undertakes to determine a sponsor's capability-to-pay.

REGARDING S. 789, TULE RIVER TRIBE WATER DEVELOPMENT ACT

Question 1. Please describe the role the United States has played in settling the water rights claims of the Tule River Tribe.

Question 2. Has Reclamation provided any assistance to the tribe over the last ten years in analyzing their water supply issues? If so, what type of assistance has been provided?

Question 3. Within your statement, you indicate that the type of project considered by the tribe would require several years to complete with significant costs. Please describe this process and the costs associated with completing a feasibility study.

Question 4. You also indicate in your testimony the need for Reclamation to conduct an "appraisal-level" analysis of a project before moving forward with funding of any feasibility study. As you of course know, almost identical legislation was introduced in the 110th Congress, yet it appears Reclamation has made little progress in moving forward with this analysis. When will your proposed "appraisal level" analysis be completed?

Question 5. Please describe how this bill will place a restriction upon any project that may be authorized as part of a comprehensive water rights settlement, even if the exact feasibility study authorized by the bill is never carried out.

REGARDING S. 1080, C.C. CRAGIN DAM

Question 1. What is your anticipated timeframe to resolve this issue administratively?

QUESTIONS FOR MICHAEL L. CONNOR FROM SENATOR MCCAIN

REGARDING S. 1080, C.C. CRAGIN DAM

Question 1. Your testimony indicates that our hearing today will “hasten the development of a workable agreement” between the Bureau and the Forest Service. Negotiations between the two agencies have been occurring sporadically since 2005. When can the people of Northern Gila County expect a final resolution to this matter?

Question 2. It’s been seven months into the new Administration. What’s the status of interagency negotiations for this year?

Question 3. In a letter November 27, 2007, from the BOR Phoenix Area Office to the Coconino National Forest, the Bureau of Reclamation states that pursuant to the Arizona Water Settlements Act: “we continue to hold the view that Forest Service approval for SRP to conduct repairs to the water pipeline was not needed.” Is this still the Bureau’s position?

Question 4. Do you think it is necessary to have two federal agencies reviewing and approving work on this project?

Question 5. Does the Bureau of Reclamation feel that they have the capability to approve and oversee compliance with federal law on the C.C. Cragin project?

APPENDIX II

Additional Material Submitted for the Record

COLORADO RIVER ENERGY DISTRIBUTORS ASSOCIATION (CREDA),
Tempe, AZ, July 17, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
*Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural
Resources Committee, 304 Dirksen Senate Building, Washington, DC.*

Subject: S. 1453—Amendment to P.L. 106-392

DEAR CHAIR STABENOW AND SENATOR BROWNBAC: The Colorado River Energy Distributors Association (CREDA) represents the majority of firm power customers of the Colorado River Storage Project (CRSP). CREDA supports passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan endangered fish recovery programs at current levels through fiscal year 2023. This funding is provided by CRSP power revenues.

Continued annual base funding at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

CREDA appreciates the Subcommittee's support for this amendment to Public Law 106-392.

Sincerely,

LESLIE JAMES,
Executive Director.

STATEMENT OF ADAM J. GARTNER, DAWSON COUNTY COMMISSIONER, GLENDIVE, MT

I would like to express my support for the Dry Redwater project. This project would greatly improve our county's ability to grow economically. Our city limits basically ends at the Yellowstone River. The area on the west side of the river is a rural developed area called West Glendive with a population between two and three thousand. There are two subdivision that rely on wells that need storage tanks to service the residents which has a high maintenance cost for the county. The rest of the residents rely on their own personal wells. In Eastern Montana most well water is potable but not acceptable for gardens and lawns. The residents are personally responsible for the maintenance on their wells. I just had to have a new well drilled due to a collapsed wall. This cost me nine thousand seven hundred dollars. The Redwater project would allow the West Glendive area to grow with the accessibility to the water provided by the project. The water would also be much healthier for consumption by residents.

Please consider supporting this project.

ORCHARD MESA IRRIGATION DISTRICT,
Palisade, CO, July 14, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
*Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural
Resources Committee, 304 Dirksen Senate Building, Washington, DC.*

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBACK, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

MAX SCHMIDT,
District Manager.

SOUTH TULE INDEPENDENT DITCH COMPANY,
Porterville, CA, July 21, 2009.

Hon. DEBBIE STABENOW,
Chairwoman, Subcommittee on Water and Power, Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support of S.789, Tule River Tribe Water Development Act

DEAR SENATOR STABENOW: I am writing on behalf of South Tule Independent Ditch Company in support of Tule River Tribe's efforts to secure funding for a feasibility study to determine the design and location for a water storage facility on the Tule River Indian Reservation. The passage of the Tule River Tribe Water Development Act (S.789) will provide this need.

The Tule River Tribe, Tule River Association and South Tule Independent Ditch Company have successfully finalized and executed an historic water rights settlement agreement, absent litigation, which quantifies the amount of water the Tribe is entitled to receive from the South Fork of the Tule River. The parties have worked diligently and cooperatively to develop a water rights plan that will provide a stable water supply for the Tribe, as well as for its downstream neighbors who own water rights that pre-date the 1873 establishment of the Reservation. Additionally, the Tribe has committed to honor the provisions of a 1922 agreement between South Tule Independent Ditch Company and the Department of the Interior, acting in behalf of the Tribe, regarding the relative water rights of these two entities. The parties are in agreement that the only method to secure a stable water supply is for the Tribe to impound water during the high flow season. Thus, a significant storage facility will be required to facilitate the agreement and supply the rapidly growing demand for water on the Reservation.

We therefore encourage your support for the Tule River Tribe Water Development Act (S.789).

Thank you for your interest and support in this matter.

Sincerely,

PHILIP G. LARSON,
President.

THE GUNNISON TUNNEL PROJECT,
THE UNCOMPAHGRE VALLEY WATER USERS ASSOCIATION,
Montrose, CO, July 20, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC. 20510.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

MARCUS W. CATLIN,
Manager.

GRAND VALLEY WATER USERS' ASSOCIATION,
GRAND VALLEY PROJECT, COLORADO,
Grand Junction, CO, July 16, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC. 20510.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

The Grand Valley Project, Colorado (Project) is owned by the United States of America, Department of Interior, Bureau of Reclamation (Reclamation) and is operated and maintained by the Grand Valley Water Users' Association (Association), a Colorado nonprofit corporation. Reclamation, on behalf of the Recovery Program, implemented capital construction structures on the Project as part of the Upper Colorado River endangered fish recovery program. Therefore, the Association supports the continued funding of annual operations of these recovery program structures.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

RICHARD L. PROCTOR,
Manager.

STATEMENT OF REP. DAVE KASTEN, BROCKWAY, MT

Please pass senate bill 637.

As State Representative of Montana House Dist 30. The largest House District in Montana. I can assure you that the Dry Redwater Regional Water Project (5637) is needed. The project will solve many water quality problems in some of our schools, some that are still one room schools. The project will be a major energy saver replacing several outdated water systems. The local support for the project is overwhelming. The Dry Redwater project area includes A large part of the very productive Bakken oil fields. The Trans Candada oil line from Canada to Houston Texas, 50+ miles goes through the project. The Fork Peck Dam, recreation and Electric Generation area will be greatly enhanced by the project. The entire project area

lays over millions of Tons of recoverable coal. Thank you for positive consideration for senate bill 637.

Thank You.

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Glendale, AZ, August 17, 2006.

Subject: C.C. Cragin Dam and Reservoir

DEAR MS. RASURE: This letter is in reference to our meeting of August 2, 2006, with members of your staff and staff from the Salt River Project (SRP). At that meeting, we discussed the options to document the relationship between the Bureau of Reclamation (Reclamation) and the Forest Service with respect to the presence, operation, and maintenance of the C.C. Cragin Dam and Reservoir. Specifically, we discussed the options of continuing with the development of a Special Use Permit versus development of a Project Supplemental Agreement under the 1987 Master Interagency Agreement between Reclamation and the Forest Service. Reclamation's relationship with the SRP is already established through a contract between the United States and the Salt River Valley Water Users' Association dated September 6, 1917, as amended. The Arizona Water Rights Settlement Act enacted on December 10, 2004, specifically states that this contract will apply to SRP's operation and maintenance of C.C. Cragin Dam and Reservoir.

After careful review of the 1987 Master Interagency Agreement, and the existing Management Memorandum among SRP, Forest Service, and Reclamation dated April 27, 1979, (also known as the Tri-Party Agreement) for Reclamation facilities managed by SRP on the Tonto National Forest, we have concluded that a Project Supplemental Agreement under the 1987 Master Interagency Agreement is the most appropriate way to proceed. If you agree, I suggest we assemble a team to proceed with development of a Project Supplemental Agreement. This could take the form of a separate Agreement for C.C. Cragin or could be an amendment to the existing Tri-Party Agreement. We think the latter may be preferable, since the existing agreement is in need of amendment anyway, and one agreement between the Forest Service and Reclamation for SRP facilities seems to make sense. Please let me know your thoughts about proceeding with a Project Supplemental Agreement. If you are in agreement, we would like to proceed as expeditiously as possible. If you have any questions or would like to discuss this matter, please call me at 623-773-6210, or Mr. Peter Castaneda at 623-773-6240.

Sincerely,

CAROL LYNN ERWIN,
Area Manager.

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Glendale, AZ, November 27, 2007.

Subject: Forest Service Authorization for the Repair of a Portion of the C.C. Cragin Project (Your Letter to Mr. Peter Castaneda Dated November 5, 2007)

DEAR MS. ROTH: Thank you for your letter dated November 5, 2007, indicating that the Forest Service has authorized Reclamation and the Salt River Project (SRP) to conduct pipeline repairs to Reclamation's C.C. Cragin facility. We appreciate the Forest Service's work to review and provide input into the repair project.

As you are aware, we are continuing discussions among Reclamation, SRP, and the Forest Supervisor's Office to arrive at a consensus regarding the appropriate vehicle to document our relationships regarding the operation and maintenance of the C.C. Cragin Project. Your November 5 letter acknowledges that since we have not yet reached agreement in those discussions, you believed it was necessary to provide written authorization for the pipeline repairs. While we truly appreciate the cooperation of you and your staff, we continue to hold the view that Forest Service approval for SRP to conduct the repairs to a section of the water pipeline was not needed.

The Arizona Water Settlements Act of 2004 (Act) provided for the transfer of title of the Blue Ridge Project, subsequently renamed C.C. Cragin Dam and Reservoir (C.C. Cragin Project), to the United States, acting through the Secretary of the Inte-

rior.¹ Upon such transfer, the Act provided that, with minor exceptions, the United States shall hold title to the C.C. Cragin Project “for the exclusive use and benefit of the Salt River Federal Reclamation Project” (P.L. 108-451, Section 213(i)). The Act further provided that SRP is “responsible for the care, operation, and maintenance” of the C.C. Cragin Project pursuant to a contract between the Salt River Valley Water Users’ Association and the United States, dated September 6, 1917. Id. As a consequence, we believe that no authorization by the Forest Service was needed for SRP to conduct this maintenance activity.

Reclamation and SRP look forward to resolving this outstanding issue, and we are committed to continue full and open coordination with the Forest Service concerning the C.C. Cragin Project.

Please do not hesitate to contact me or Mr. Bruce Ellis at 623-773-6250 with any questions.

Sincerely,

PETER O. CASTANEDA,
Chief, Water and Lands Division.

APS FOUR CORNERS POWER PLANT,
Fruitland, NM, July 16, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

SUBJECT: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee’s support for this essential amendment to Public Law 106-392.

Sincerely,

DAVID L SALIBA,
Plant Manager.

CENTRAL UTAH WATER CONSERVANCY DISTRICT,
Orem, UT, July 21, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023.

¹The Act described the Blue Ridge Project as including “Blue Ridge Dam and all pipelines, tunnels, buildings, hydroelectric generating facilities, and other structures of every kind, transmission, telephone and fiber optic lines, pumps, machinery, tools, and appliances” and “all real or personal property, appurtenant to or used, or constructed or otherwise acquired to be used, in connection with Blue Ridge Reservoir.” P.L. 108-451, Section 213(iX1)(A).

These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

DON A. CHRISTIANSEN,
General Manager.

CITY OF AURORA,
WATER DEPARTMENT ADMINISTRATION,
Aurora, CO, July 21, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBACK, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

MARK PIFHER,
Director.

COLORADO RIVER DISTRICT,
Glenwood Springs, CO, July 20, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453

DEAR CHAIR STABENOW AND SENATOR BROWNBACK, The Colorado River Water Conservation District respectfully requests your support for S.1453. S.1453 provides for continued annual appropriations for the Upper Colorado and San Juan endangered fish recovery programs through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the subject basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing Endangered Species Act compliance for literally thousands of water projects and hundreds of thousands of water users while successfully recovering the endangered fish species in the basins.

I respectfully request your and the subcommittee's support for this essential amendment to Public Law 106-392 and these exemplary recovery programs.

Sincerely,

R. ERIC KUHN,
General Manager.

COLORADO SPRINGS UTILITIES,
Colorado Springs, CO, July 23, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support passage of 5.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

BRETT W. GRACELY, P.E., D.WRE,
Water Supply Planning Supervisor.

COLORADO WATER CONGRESS,
Denver, CO, July 14, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

DOUGLAS KEMPER,
Executive Director.

DENVER WATER,
Denver, CO, July 16, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
*Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural
 Resources Committee, 304 Dirksen Senate Building, Washington, DC.*

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of
 Annual Base Funding for the Upper Colorado River and San Juan River Endan-
 gered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, On behalf of Denver Water
 and the 1.2 million customers we serve, I am writing to support passage of S.1453
 that provides for continued annual funding of the Upper Colorado and San Juan
 fish recovery programs at current levels through fiscal year 2023.

These highly successful and widely supported programs are recovering endan-
 gered fish species in the Upper Colorado River and San Juan River basins while
 providing compliance with the Endangered Species Act for more than 1,800 federal,
 tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydro-
 electric power revenues at the currently authorized levels is essential for the pro-
 grams to provide continuing ESA compliance for these water projects and to recover
 the endangered fish species in the basin.

Denver Water would appreciate the Subcommittee's support for this essential
 amendment to Public Law 106-392.

Sincerely,

HJ BARRY,
Manager.

DOLORES WATER CONSERVANCY DISTRICT,
Cortez, CO, July 17, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
*Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural
 Resources Committee, 304 Dirksen Senate Building, Washington, DC.*

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of
 Annual Base Funding for the Upper Colorado River and San Juan River Endan-
 gered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support pas-
 sage of S.1453 that provides for continued annual funding of the Upper Colorado
 and San Juan fish recovery programs at current levels through fiscal year 2023.
 These highly successful and widely supported programs are recovering endangered
 fish species in the Upper Colorado River and San Juan River basins while providing
 compliance with the Endangered Species Act for more than 1,800 federal, tribal and
 non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydro-
 electric power revenues at the currently authorized levels is essential for the pro-
 grams to provide continuing ESA compliance and to recover the endangered fish
 species in the basin.

The recovery program has played a vital role in protecting Dolores Project water
 rights and water allocations. On behalf of the Dolores Water Conservancy District
 and the water users we serve we appreciate the Subcommittee's support for this es-
 sential amendment to Public Law 106-392.

Sincerely,

MICHAEL PRESTON,
General Manager.

COUNTY COMMISSIONERS,
GARFIELD COUNTY,
Jordan, MT, July 30, 2009.

Hon. JEFF BINGAMAN,
*Chairman, U.S. Senate Committee, Energy & Natural Resources, 304 Dirksen Office
Building Washington, DC.*

Re: Dry-Red Water Regional Water Authority Project

To WHOM IT MAY CONCERN: On behalf of Garfield County I am sending this letter in support of the Dry-Red Water Regional Water Authority Project. The proposed project will consist of an estimate 1200 miles of pipeline, 38 pump stations and 20 major storage tanks to move water from its point of intake, Dry Arm on Fort Peck to several counties in Eastern Montana including Garfield County. When completed this water system will provide a safe and dependable water supply for over 15,000 people. Water will be provided to all parts of 6 counties which cover an estimated 11,100 square mile area. To date the project has raised approximately \$500,000.00 for feasibility studies, environmental investigations and administrative efforts. However the project is at a virtual standstill until it is authorized by the Federal Government. The availability and quality of water in Garfield County has always been an issue. We therefore urge you to consider authorization of this project.

Sincerely,

JACK MURNION,
Chairman.

THE JICARILLA APACHE NATION,
Dulce, NM, July 20, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
*Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural
Resources Committee, 304 Dirksen Senate Building, Washington, DC.*

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBACK, On behalf of the Jicarilla Apache Nation, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. The Nation has been a voluntary participant in the highly successful and widely supported program to recover endangered fish species in the San Juan River basin since 1992 and fully supports the same effort underway in the Upper Colorado River. More than 1,800 federal, tribal and non-federal water projects are involved in the recovery efforts, these actions have resulted in compliance with the Endangered Species Act, (ESA).

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

LEVI PESATA,
President.

STATEMENT OF KENNY J. EVANS, PH.D., MAYOR, TOWN OF PAYSON, AZ

First, let me thank you for the opportunity to submit written testimony in support of S. 1080, A Bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir formerly known as Blue Ridge. My name is Kenny J. Evans, PhD. I am just a plain old farm boy who has had the privilege of growing up here in the shadow of the Rocky Mountains. I am currently the Mayor of the beautiful mountain community of Payson, Arizona and serve as Vice-President of the Northern Arizona Municipal Water Users Association and am Past President of the Arizona Farm Bureau. Over the past 40 plus years I have been privileged to bring three generations of Boy Scouts to camp and fish at Blue Ridge Reservoir. I have a great love for Blue Ridge and am intimately aware of its history

and management. I am also keenly aware of the damage that the current bureaucratic turf battle is causing. What S. 1080 does not do is relieve either the Bureau or SRP from compliance with all requirements of federal law. S. 1080 will simply clarify that since the Project is now being operated as a component of the Salt River Federal Reclamation Project (SRP), the Bureau of Reclamation (Bureau) is responsible for approval of all operation, maintenance and repair activities just like more than a dozen other reservoirs and dams and other federal reclamation projects in Arizona, including the other Salt River Project facilities located on lands within the boundaries of the other National Forests.

S. 1080 concerns the C.C. Cragin Project, which is located within the Coconino and Tonto National Forests in northern Arizona approximately 25 miles north of my community. The C.C. Cragin Project consists of a number of facilities including a 147-foot high dam, 15,000 acre-foot reservoir, diversion tunnel and pump shaft, pumping plant, priming reservoir, a 10 mile long pipeline, electrical transmission line, and small generating plant which supplies power to the Project's pumping plant. Originally known as the Blue Ridge Project, the dam, reservoir, and associated facilities were constructed by Phelps Dodge in the 1960's as part of a water exchange with SRP. In 2005, Phelps Dodge no longer needed the Blue Ridge Project for water exchange and pursuant to the terms of their agreement, Phelps Dodge transferred ownership of all of the Blue Ridge Project facilities to SRP. Subsequently, the Arizona Department of Water Resources (ADWR) approved the transfer of the water right for the reservoir to SRP for municipal, irrigation and other beneficial uses within the Salt River Federal Reclamation Project.

Enter the Town of Payson. Payson sits at the base of the Mogollon Rim, a 200 mile long escarpment that bisects Arizona and is home to the largest Ponderosa Forest in the country. All domestic water for the Town and surrounding communities comes from groundwater. Through the years Payson has become the most water conserving community in the State using less than 80 gallons of water per capita per day. However, severe drought and steady growth have stressed future assured water supplies based on groundwater alone.

In 2004, with support from all participants, including the U.S. Bureau of Reclamation, language was included as part of the Gila River Indian Community Water Rights settlement in Section 213(i) of the Arizona Water Settlements Act, Public Law 108-451, 118 Stat. 3478, 3532, authorizing title transfer of the Blue Ridge Project from SRP to the Bureau and renaming it C.C. Cragin. Up to 3,500 acre feet per year were to be made available to Payson and surrounding communities with the facilities operated and managed by SRP pursuant to its September 6, 1917 contract with the Bureau of Reclamation. Subsequently, SRP officially transferred title to the C.C. Cragin Dam and Reservoir together with all of its associated facilities, including 77 acres of fee land to the Bureau and concluded the title transfer and agreement with the Town of Payson to supply up to the 3,500 acre feet it needs annually.

In accordance with the 1917 contract with the Bureau and as directed by Section 213 (i)(5) of the Arizona Water Settlement Act, SRP began operating and maintaining the C.C. Cragin Project. As part of its maintenance efforts, SRP identified numerous serious leaks present in the existing pipeline needing immediate repair (see attached). Not only is the pipeline's integrity important to the general operation of C.C. Cragin Project and SRP's water supply for the Phoenix metropolitan area, but it also has special significance to the Town of Payson and neighboring communities in Northern Gila County who will rely heavily on the Project to supply municipal drinking water in the future. As a part of this effort, the Town of Payson received an allocation of \$10.6 million from the State of Arizona's American Recovery and Reinvestment Act (ARRA) stimulus grant money to assist in paying for the repairs to the pipeline and extending the pipeline and other municipal water-related improvements needed to make the water available to residents.

Once SRP began working with the Bureau on repairs of the C.C. Cragin Project, it became evident that the Bureau (U.S. Department of Interior [Bureau of Reclamation]) and the Forest Service (U.S. Department of Agriculture [USDA-FS]) disagreed as to who had responsibility for approving the requested operation, maintenance and repair functions associated with this Reclamation Project. Please note that this had nothing to do with compliance with State and Federal rules, laws and regulations. It had everything to do with who gave the approval to proceed (Bureau or USDA -FS). The Forest Service asserted that the Bureau needed to obtain a special use permit from them prior to Project operation by SRP and that all maintenance and repairs needed prior approval by them. The Bureau and SRP maintain that under the terms of the Arizona Water Settlements Act, the C.C. Cragin Project is just like all of the other Salt River Federal Reclamation Project facilities located on Forest Service land. On those facilities, jurisdiction over approvals of work plans,

maintenance, repairs, environmental compliance, and other permitting associated with Project operation and maintenance belongs to the Bureau, while jurisdiction over recreation, fire suppression, etc. lies with the Forest Service. This approach is consistent with Reclamation Projects across the western United States pursuant to a 1987 Memorandum of Understanding between the Departments of Agriculture and Interior.

For the past four years SRP and the Bureau have unsuccessfully attempted to resolve this jurisdictional dispute with the Forest Service. The Forest Service has insisted on having ultimate approval authority for the Project even though these facilities are components of the Salt River Federal Reclamation Project. Meanwhile, the resulting bureaucratic wrangling over approval requirements between the two Departments have delayed and created uncertainty in planning much needed repairs to the Cragin facilities, increased repair costs, and placed a portion of the Town of Payson's \$10.6 million stimulus grant at risk. The bill before you, S. 1080, clarifies the jurisdiction over the C.C. Cragin Project. It is consistent: (1) with the 1987 Memorandum of Understanding between the Departments of Agriculture and Interior; (2) with Section 213(i) of the Arizona Water Settlements Act, Public Law 108-451, 118 Stat. 3478, 3532; (3) with the September 6, 1917 contract with the Bureau of Reclamation pursuant to the 1902 Reclamation Act; and, (4) with the process used with the many other Reclamation projects located on Forest Service lands within the State of Arizona and throughout the west.

With the Town of Payson's ARRA grant at risk, I sincerely ask that you approve S 1080 so the much needed pipeline repairs can proceed under the Bureau of Reclamation's oversight and in compliance with all applicable laws.

Chairwoman Stabenow and Members of the subcommittee, thank you for the opportunity to present this written testify to you today.

STATE OF NEW MEXICO,
OFFICE OF THE GOVERNOR,
Santa Fe, NM, July 22, 2009

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBACK: I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

The State of New Mexico and I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

BILL RICHARDSON,
Governor.

THE STATE OF WYOMING,
OFFICE OF THE GOVERNOR,
Cheyenne, WY, July 16, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBACK: I am writing to express my strong support for enactment of S. 1453, a bill to extend the authorization period for annual base funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. Those highly successful and widely supported programs are recovering four species of endangered Fish in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act in a manner consistent with state and tribal laws, interstate compacts, and Indian trust responsibilities for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I will greatly appreciate the Subcommittee's support for this essential amendment to extend the current authority contained in Public Law 106-392. The State of Wyoming is grateful for the past support of this Subcommittee which has allowed these nationally-recognized endangered species programs to accomplish their important objectives.

Best regards,

DAVE FREUDENTHAL,
Governor.

THE SOUTHWESTERN WATER CONSERVATION DISTRICT,
Durango, CO, July 20, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBACK, The Southwestern Water Conservation District (SWCD) was established by the Colorado legislature to conserve and protect the waters of the San Juan and Dolores Rivers and their tributaries. The San Juan River Basin Recovery Implementation Program (SJRBRIP) is an invaluable and successful program in our District.

The SWCD Board of Directors supports the passage of S. 1453. Continued, consistent funding through 2023 will enable this very successful program to continue its work of recovering endangered fish species while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

We would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Respectfully,

JOHN PORTER,
President.
BRUCE T. WHITEHEAD,
Executive Director.

STATEMENT OF R. L. SCHAFER, SECRETARY-WATERMASTER, TULE RIVER ASSOCIATION

The Tule River Association, representing all the water rights holders at and below Success Reservoir, Tule River, California, fully supports S. 789.

The Tule River Association was engaged for more than 10 years, along with the South Tule Independent Ditch Company and riparians along the South Fork Tule River, with the Tule River Indian Tribe in the negotiation and settlement of the reserved water rights of the Tule River Indian Reservation. The Tule River Association accepted and agreed to the terms and conditions of the "Tule River Tribe Reserved Water Rights Settlement Agreement Among the Tule River Indian Tribe, the Tule River Association and the South Tule Independent Ditch Company" (Settlement Agreement) in November 2007, however, the Agreement has not been ratified by the Congress or the United States District Court for the Eastern District Court of California.

The Settlement Agreement quantifies and allocates all of the residential, commercial, industrial, public, fire, livestock, mining and irrigated agricultural reserved water right uses for the Tule River Indian Reservation and would be available to your committee upon request.

COUNTY OF RICHLAND,
OFFICE OF COUNTY COMMISSIONERS,
Sidney, MT, August 11, 2009.

Hon. JEFF BINGAMAN,
Chairman, U.S. Senate Committee on Energy and Natural Resources, 304 Dirksen Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the people that live and work in this region on Eastern Montana, we want to support the Dry Redwater Water Project.

This project is vitally important to this region if we are to continue to produce the agricultural products and the energy that is crucial to our nation.

The lingering drought has depleted wells due to a lower water table and made it difficult for ranchers and farmers to have safe healthy water for domestic and agricultural use. Some water quality has been suspect in our area since this country was settled. It contains high amounts of minerals that are not safe or healthy for people and/or livestock. Water from the Dry Redwater project would be safe and abundant when this project comes to fruition.

Richland County has been involved with this project from the beginning both financially and with board representation because we feel this is so important to our county and area, so we ask for support in making Dry Redwater Water System a reality.

Sincerely,

MARK REHBEIN,
Chairman.
DON STEPPLER.
LOREN H. YOUNG.

STATE OF COLORADO,
OFFICE OF THE GOVERNOR,
Denver, CO, July 16, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support passage of S. 1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering four species of endangered Fish in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

BILL RITTER, JR.,
Governor.

STATE OF MONTANA,
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION,
Helena, MT, July 20, 2009.

Hon. JEFF BINGAMAN,
Chairman, Senate Committee on Energy and Natural Resources, 304 Dirksen Senate Building, Washington, DC.

RE: S. 637—Dry-Redwater Regional Water Authority System Act of 2009

DEAR CHAIRMAN BINGAMAN: Montana's Congressional delegation, working with the Dry-Redwater Regional Water Authority, has introduced legislation in the U.S. Congress for authorization of the Dry-Red water Regional Water System. The proposed system is located in eastern Montana and western North Dakota between the Yellowstone and Missouri Rivers.

The need for clean and plentiful drinking water in the Dry-Redwater area is great. Investigations into the quality of the drinking water within the area have determined that "rural users in the proposed service area do not have access to a quality of water needed for a healthy existence."

In the past five years, the Dry-Redwater Regional Water authority has worked hard with my staff to assess and document project need, community support, and project feasibility. Preliminary engineering investigations have identified preferred alternatives for water source, treatment and distribution systems that are cost efficient. Information collected at over 20 public meetings indicates that the need for safe and reliable water is a high priority in the service area. I believe that this important project is critical to the future of eastern Montana.

I would appreciate the support of your committee for 5637. The Dry-Redwater regional water supply system will greatly improve the quality of life for the communities and rural users in region.

Sincerely,

MARY SEXTON,
Director.

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, UT, July 21, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBACK, It is my pleasure to join Utah's entire Congressional Delegation in support of S. 1453 and its companion bill in the House of Representatives, H.R. 2288. Enactment of this bill will provide for the continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the current authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

Therefore, I respectfully request the Subcommittee's support for this essential amendment to Public Law 106-392. Thank you for your attention to this very important matter.

Sincerely,

JON M. HUNTSMAN, JR.,
Governor.

McCONE ELECTRIC CO-OP., INC.,
Circle, MT, December 6, 2007.

Dry-Redwater Rural Water Authority,
PO Box 276, Circle, MT.

Subject: Letter of Support

TO: BOARD OF DIRECTORS: DRWA The purpose of this letter is to formally declare the support of the Board of Directors and Management of McCone Electric Co-op., Inc. for the Dry-Redwater rural water system project. The stated purpose of the DRWA is to "own and operate a water system that will provide good quality and quantity household and livestock water to the owners and members in the coverage area."

This noble vision certainly parallels the vision of those people in the early 1940s who clearly saw the benefits of bringing central station power to rural America. Few can dispute that accomplishment forever changed the face of our rural heritage. Out of that vision we became McCone Electric Co-op., Inc.; a member-owned power distribution cooperative that has helped its members grow by leaps and bounds in what is still the somewhat modern age of electricity and certainly stay in tune with the ever-evolving world of technology. The DRWA vision of bringing quality water to that same rural area holds the same promise of fulfilling a need that grows every year.

We therefore pledge our support to a project we deem vital to our respective service areas.

Best regards,

MIKE C. KAYS,
General Manager.

MONTANA ELECTRIC COOPERATIVES' ASSOCIATION,
Great Falls, MT, October 12, 2007.

Mr. Mike McKeever,
Chairman, Dry-Redwater Regional Water Authority, P.O. Box 276, Circle, MT.

DEAR MR. MCKEEVER: On behalf of Montana Electric Cooperatives' Association, I am writing to formally inform you of our statewide association's position on the proposed federal legislation authorizing construction of the Dry-Redwater Regional Water Authority System.

Our association board of directors voted at its meeting on October 2, 2007 to support federal allocation of federal preference power for the Dry-Redwater project from the point of water intake out of the Fort Peck Reservoir up to and including preference power for pumping water to the water treatment plant and for operation of the treatment plant.

I trust this position is helpful in your efforts to develop the Dry-Redwater system. We recognize the significant benefits of this proposed project to the people of rural eastern Montana.

Should you have any questions regarding this matter, please don't hesitate to contact me here at (406) 268-1211 or, via electronic mail. My e-mail address is tom@cmepc.org

Sincerely,

TOM HUNTLEY,
Chairman.

DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS,
Fort Peck, MT, August 30, 2006.

Dry-Redwater Regional Water Authority,
Todd Kasten, Treasurer, PO Box 520 Circle, MT.

MR. KASTEN: I am writing to inform the Board of Directors that the US Army Corps of Engineers, Fort Peck Project, is interested in the availability of water from the proposed Dry-Redwater Regional Water Authority System. Access to potable water is critical to further enhancements and improvement of recreational facilities along the Big Dry Arm of Fort Peck Lake.

Specifically, development at the Rock Creek Recreation Area including the existing fish cleaning station and possible future campground, RV Dump-station, and expansion of the Marina Facilities depend on a reliable water source. Though we can not make a commitment to the project at this time, the Corps certainly recognizes the benefits presented by the development of this proposed system.

In addition, the Corps of Engineers reserves the right to review and approve all design and construction plans that may occur on or across Fort Peck Project. Please ensure that the Fort Peck Project Office receives copies of all design or construction plans that may impact Corps lands.

Sincerely,

JOHN E. DAGGETT,
Operations Project Manager.

DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS,
Fort Peck, MT, October 25, 2006.

Mr. Brian Milne,
Interstate Engineering, Inc., PO Box 648, Sidney, MT.

DEAR MR. MILNE, This letter is in response to your request to utilize areas along the Big Dry Arm of Fort Peck Lake as potential water intake sites for the Dry Redwater Regional Water Authority (DRWA). The minimum operating pool for Fort Peck Lake is elevation 2160 msl. We would strongly recommend designing your intakes to be functional with this lake level. Based on existing access and development, the Rock Creek Recreation Area probably offers the least impacts environmentally and puts the intake closer to potential customers within the Rock Creek Cabin Area. This office has reviewed 1934 topographic maps for Fort Peck Project which do not show impacts due to siltation. Topography of the lake in this area may have sufficient depth to meet water intake operational needs at the 2160 msl elevation. However, elevations within this or any proposed intake site of Fort Peck Lake need to be confirmed by the water project designers against intake operational needs.

Other proposed intake sites north of Rock Creek may also be options so long as the intake is constructed out into the Big Dry Creek channel. 1934 topo maps indicate the mouth of Sand Arroyo and Spring Creeks are at approximate elevation 2160. The mouth of Bear Creek Bay offers adequate depths, however, access to this site is extremely poor and management of Bear Creek Recreation Area is being turned over to the US Fish and Wildlife Service. Any proposed intake site other than Rock Creek could involve greater environmental review and scrutiny as a result of potential impacts to these primitive areas. Additionally, review of the 1934 topo maps indicate any proposed intake location south of Rock Creek does not appear feasible as there is insufficient depth to maintain intake operations at the minimum operating lake elevation of 2160.

Please be aware that you will also have to cross the Charles M. Russell National Wildlife Refuge (CMR) to use any of the proposed sites along Fort Peck Reservoir. Any proposed DRWA project work crossing CMR will have to be coordinated with refuge staff in Lewistown, Montana. CMR Refuge manager is Barron Crawford who may be contacted at 406/538-8706, Ext. 221 or CMR Refuge, PO Box 110 Airport Road, Lewistown, Montana 59457. Though we are not endorsing any one proposed intake site from an engineering prospective, the Corps of Engineers reserves the right to review and approve all design and construction plans that may occur on or across Fort Peck Project. Please ensure that the Fort Peck Project Office and CMR receive copies of all design or construction plans that may impact Corps and Refuge lands.

If you have further questions or would like to meet and discuss these options in more detail, please contact John Daggett or Darin McMurry at 406/526-3411.

Sincerely,

JOHN E. DAGGETT,
Operations Project Manager.

DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS,
Omaha, NE, April 29, 2009.

Mr. Mike McKeever,
Chairman, Dry-Redwater Regional Water Authority, Box 276, Circle, MT.

DEAR MR. MCKEEVER: This is in response to your March 19, 2009 letter requesting a written statement from the Corps allowing the Dry-Redwater Regional Water Authority (DRWA) to pump water from Fort Peck Lake. That letter was addressed to Mr. John Daggett, Operations Project Manager for the Fort Peck Lake Project. Mr. Daggett has forwarded that letter to us for response. The letter seeks to obtain the approval of the United States Army Corps of Engineers for the project.

There is no objection to your proposed project to withdraw up to 4,000 acre-feet of water annually from the Fort Peck Lake, provided the project is approved by the Montana Department of Natural Resources and Conservation (DNRC). The proposed project is one recognized as an authorized purpose under the provisions of the Flood Control Act of 1944 (Public Law 78-534; 58 Stat. 887), which requires Department of the Army approval to withdraw water stored in an United States Army Corps of Engineers reservoir and to enter into an agreement for this purpose. Furthermore, upon approval by the Montana DNRC and your obtaining any required State Water Permit, you will need to enter into a formal storage agreement with the Corps at that time. This storage agreement will require a payment to the United States in accordance with the provisions of Section 6 of the Flood Control Act of 1944. This fee historically has been a reasonable amount for consumptive uses. Your request to enter into a formal storage agreement should be accompanied by detailed plans and the projected site location for the project. At a minimum, you will be required to obtain a Regulatory Permit pursuant to Section 404 of the Clean Water Act and an easement for the right-of-way across Federal Government lands.

If you have any additional questions, please contact me or Mr. John Daggett at (406) 526-3411.

Sincerely,

KATHRYN M. SCHENK,
Chief, Operations Division.

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Lewistown, MT, April 23, 2007.

Mr. Brian Milne,
Interstate Engineering, Inc., PO Box 648, Sidney, MT.

DEAR MR. MILNE, Thanks for the opportunity to comment on the proposed location of the intake structure and pipeline for the Dry Redwater Regional Water Authority. The proposed location, according to the map supplied in your letter dated March 14, 2007, is acceptable to the U. S. Fish and Wildlife Service (FWS), Charles M. Russell NWR staff. As stated during the conference call and in our letter dated November 14, 2007, the FWS will need to issue a Right of Way for all improvements that cross the Charles M. Russell NWR. Before a Right of Way can be issued the FWS will need to conduct a Compatibility Determination to ensure that this project is compatible with the mission of the FWS and the purpose of the refuge. We look forward to receiving the necessary information to proceed with developing the Compatibility Determination and processing your request for a Right of Way.

Again I want to thank you and the Board members for working closely with us on determining the best possible location for the pipeline and intake structure. I look forward to working with your staff on developing the necessary environmental documents to ensure this project will not impact any resources of the refuge. By working cooperatively I believe we can mitigate any potential impacts to refuge resources.

Please feel free to contact me at 406-538-8706 ext. 221 if you have any questions or would like to schedule another meeting to discuss this project. I look forward to hearing from you in the near future.

Sincerely,

BARRON CRAWFORD,
Refuge Manager.

WYOMING WATER ASSOCIATION,
Cheyenne, WY, July 15, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBACK: The Wyoming Water Association supports the passage of S.1453, a bill that will, when enacted, amend the current authorizations in federal law for the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs. Founded in 1933, the objectives of the state-wide Wyoming Water Association are to promote the development, conservation, and utilization of the water resources of Wyoming for the benefit of Wyoming people. The Wyoming Water Association annually adopts resolutions supporting the ongoing conduct of the Upper Colorado Recovery Program. The Wyoming Water Association has been a participating entity within the Upper Colorado Recovery Program since the Upper Colorado Recovery Program was initiated in January 1988. We are directly represented on the Upper Colorado Recovery Program's Biology, Management and Implementation Committees by Mr. Tom Pitts, of Water Consult, Inc. of Loveland, Colorado.

We join our Program partners, including the States of Colorado, New Mexico, Utah, and Wyoming; and hydroelectric power and environmental community interests in requesting that your Subcommittee favorably mark and approve S. 1453 expeditiously after the upcoming July 23rd hearing on this legislation.

The Upper Colorado and San Juan recovery programs are recovering endangered fish species in a manner that is compatible with state wildlife and water law. The programs provide ESA compliance for more than 1,800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins. The Programs' have constructed approximately \$100 million in facilities (fish passages, fish screens, flooded bottomlands habitat, hatcheries, and a reservoir that augments flows) that are directly benefitting the endangered fish and their habitat. Unless reauthorized by Congress at current levels, the use of CRSP power revenues for annual base funding of recovery program actions will decrease by 39% after fiscal year 2011. Critical activities would be eliminated from both recovery programs. This would delay and likely prevent attainment of recovery goals and would set back the recovery programs' restoring of self-sustaining populations of the endangered fishes—which is the means by which recovery of the species will be achieved.

The members of the Wyoming Water Association again request and will greatly appreciate your continued support of these two vital programs through approval of S.1453.

Sincerely yours,

RON CUNNINGHAM,
President.

TRI-COUNTY WATER CONSERVANCY DISTRICT,
Montrose, CO, July 15, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
*Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural
 Resources Committee, 304 Dirksen Senate Building, Washington, DC.*

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of
 Annual Base Funding for the Upper Colorado River and San Juan River Endan-
 gered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC: The Tri-County Water Conser-
 vancy District Board is asking you to support passage of S.1453 that provides for
 continued annual funding of the Upper Colorado and San Juan fish recovery pro-
 grams at current levels through fiscal year 2023. These highly successful and widely
 supported programs are recovering endangered fish species in the Upper Colorado
 River and San Juan River basins while providing compliance with the Endangered
 Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydro-
 electric power revenues at the currently authorized levels is essential for the pro-
 grams to provide continuing ESA compliance and to recover the endangered fish
 species in the basin.

The District would appreciate the Subcommittee's support for this essential
 amendment to Public Law 106-392.

Sincerely,

MIKE BERRY,
General Manager.

NORTHERN COLORADO WATER CONSERVANCY DISTRICT,
Berthoud, CO, July 17, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
*Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural
 Resources Committee, 304 Dirksen Senate Building, Washington, DC.*

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of
 Annual Base Funding for the Upper Colorado River and San Juan River Endan-
 gered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC: I am writing to support pas-
 sage of S.1453 that provides for continued annual funding of the Upper Colorado
 and San Juan fish recovery programs at current levels through fiscal year 2023.
 These highly successful and widely supported programs are recovering endangered
 fish species in the Upper Colorado River and San Juan River basins while providing
 compliance with the Endangered Species Act for more than 1,800 federal, tribal and
 non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydro-
 electric power revenues at the currently authorized levels is essential for the pro-
 grams to provide continuing ESA compliance and to recover the endangered fish
 species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to
 Public Law 106-392.

Sincerely,

ERIC W. WILKINSON,
General Manager.

UTAH WATER USERS ASSOCIATION,
Murray, UT, July 14, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

CARLY BURTON,
Executive Director.

SOUTHERN UTE INDIAN TRIBE,
OFFICE OF THE CHAIRMAN,
Ignacio, CO, July 20, 2009

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBAC,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBAC, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,
Matthew J. Box,

Chairman.

STATE OF MONTANA,
OFFICE OF THE GOVERNOR,
Helena, MT, July 16, 2009.

Hon. JEFF BINGAMAN,
Chairman, Senate Committee on Energy and Natural Resources, 304 Dirksen Senate Building, Washington, DC.

RE: S. 637—Dry-Redwater Regional Water Authority System Act of 2009

DEAR CHAIRMAN BINGAMAN: Montana's Congressional delegation, working with the Dry-Redwater Regional Water Authority, has introduced legislation in the U.S. Congress for authorization of the Dry-Redwater Regional Water System. Development of this rural water project will bring a safe, ample supply of drinking water to approximately 15,000 people living in eastern Montana and North Dakota on the divide between the Missouri and Yellowstone River watersheds.

The State of Montana has supported the planning and administration of this regional water project with appropriations of over \$350,000 to date. For the current biennium, the 2009 Montana Legislature appropriated funding of up to \$15 million for the state's portion of the non-federal cost share for construction of regional water systems. The Dry-Redwater system would be eligible to apply for a portion of those funds once the project is authorized by Congress.

Drinking water resources in the proposed service area are both inadequate and of poor quality. Providing safe and sufficient water supplies to this area of Montana will protect human health and spur economic activity in the region. The proposed regional water system is critical to the future of eastern Montana.

As a Senator from a western state, I know you appreciate the importance of good, safe water to rural communities. Your committee's support is critical for the success of this project and the long-term viability of the northeastern Montana economy. I would appreciate the support of your committee for S. 637, the legislation to authorize this vital project.

Sincerely,

BRIAN SCHWEITZER,
Governor.

SAN JUAN WATER COMMISSION,
Farmington, NM, July 15, 2009.

Hon. DEBBIE STABENOW,
Chair,

Hon. SAM BROWNBACK,
Ranking Member, Subcommittee on Water and Power, Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building, Washington, DC.

Subject: Support for S. 1453—An Amendment to P.L. 106-392 Re: Continuation of Annual Base Funding for the Upper Colorado River and San Juan River Endangered Fish Recovery Programs

DEAR CHAIR STABENOW AND SENATOR BROWNBACK, I am writing to support passage of S.1453 that provides for continued annual funding of the Upper Colorado and San Juan fish recovery programs at current levels through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in the Upper Colorado River and San Juan River basins while providing compliance with the Endangered Species Act for more than 1,800 federal, tribal and non-federal water projects.

Continuation of annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential for the programs to provide continuing ESA compliance and to recover the endangered fish species in the basin.

I would appreciate the Subcommittee's support for this essential amendment to Public Law 106-392.

Sincerely,

MARK DUNCAN,
Chairman.

STATEMENT OF TAYLOR HAWES, COLORADO RIVER PROGRAM DIRECTOR, THE NATURE CONSERVANCY, AND BART MILLER, WATER PROGRAM DIRECTOR, WESTERN RESOURCE ADVOCATES

The Nature Conservancy is an active participant in both the Upper Colorado River Basin and San Juan River endangered fish recovery programs. Western Resource Advocates is an active participant in the Upper Colorado River Basin program.

We are writing to support passage of S. 1453 and its extension of the annual base funding for both the Upper Colorado and San Juan recovery programs through fiscal year 2023. These highly successful and widely supported programs are recovering endangered fish species in these river basins while providing Endangered Species

Act compliance for water development under state water law and interstate compacts. Continuation of the annual base funding from Colorado River Storage Project hydroelectric power revenues at the currently authorized levels is essential to these effective and proven programs.

We would greatly appreciate the Subcommittee's adoption of this important amendment to Public Law 106-392.

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