S. HRG. 109–273

MISCELLANEOUS WATER BILLS

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON

S. 1025 **S. 1498**
S. 1529 **S. 1578**
S. 1760

OCTOBER 6, 2005

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MISCELLANEOUS WATER BILLS

THURSDAY, OCTOBER 6, 2005

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

The subcommittee met, pursuant to notice, at 3 p.m. in room SD–366 Dirksen Senate Office Building, Hon. Lisa Murkowski presiding.

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

Senator MURKOWSKI. Good afternoon, and welcome to the Water and Power Subcommittee. We've got five bills before the subcommittee this afternoon. We have first S. 1025, sponsored by Senator Roberts, which authorizes a water recharge project in Kansas; S. 1498, sponsored by Senators Allard and Salazar, conveys certain water distribution facilities in Colorado to a local water district; S. 1529, sponsored by Senators Kyl and McCain, is a land swap between the Bureau and the city of Yuma, Arizona; S. 1578 is sponsored by Senators Allard, Salazar, Bennett and Hatch, and reauthorizes an Endangered Fish Recovery Program; and S. 1760, sponsored by Senators Smith and Wyden, authorizes the early repayment of contract obligations for two water districts in Oregon.

I'd like to welcome you, Senator Allard, to the subcommittee today. You have a couple of bills here on the agenda, and I know that you would like to take an opportunity to make a couple of comments. Why don't we go ahead and ask you for your comments—I know you have other matters that you have to attend to—and then we can hear from any other Senators that may wish to comment.

Senator Allard.

[The prepared statement of Senator Kyl follows:]

PREPARED STATEMENT OF HON. JON KYL, U.S. SENATOR FROM ARIZONA, ON S. 1529

Madam Chairman, thank you for holding this hearing on S. 1529, the City of Yuma Improvement Act of 2005. This bill, which I am sponsoring, would consolidate state and federal land ownership in a 22-acre area along Yuma's downtown riverfront to implement the City Council approved Riverfront Master Redevelopment Plan.

Located at one of the few good crossings along the Colorado River, Yuma has a long, rich river heritage that includes the traditional crossing by the Quechan Tribe and the 49ers seeking California gold in the 1800s. Once a bustling and vibrant commercial hub, Yuma seeks to recapture this past by revitalizing the downtown riverfront. The city intends to build a hotel/conference center, visitors center, residential, and retail development.

City authorities believe that to accomplish this revitalization, the land ownership in the riverfront downtown must be consolidated. Currently, it is a checker boarded ownership common in the West, dating back to the 1905 Yuma Project. The primary land owners are the City and the Bureau of Reclamation. In 2003, the parties agreed in principle to a land exchange. Essentially, the city would convey to the Bureau title to the land over which the Bureau rail line runs in exchange for several administrative parcels within the redevelopment area. The only thing holding back the consummation of the deal is the authority to accomplish it. This legislation provides that authority and the mechanism for transfer.

There is broad support in Yuma for this legislated land swap given its public purpose objectives, thorough planning, and the economic opportunity it brings. I hope the Committee will work with me to secure swift Senate passage.

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

Senator ALLARD. Madam Chairman, I'm not as pressed as I was going to be, we had a vote scheduled at 3 o'clock and that has been changed. So fortunately——

Senator MURKOWSKI. It's changed for now.

Senator ALLARD. That's right. And Madam Chairman, I appreciate the opportunity to appear before you and your committee and also recognize the presence of Senator Smith, and I'm glad that you're both here to take an interest in some legislation that's important to my State of Colorado. In fact, it's important to many of the States on the Colorado River drainage system.

Madam Chairman, I'm here to testify in favor of two pieces of legislation that I have sponsored along with my colleague Senator Salazar, S. 1498, and S. 1578. I'd like to thank you for including them as a part of this hearing and for giving them your full consideration.

S. 1498 would authorize the transfer of title of three Colorado-Big Thompson water conveyance facilities from the jurisdiction of the United States to the Northern Colorado Water Conservancy District. The three facilities involved in the transfer of the title are the St. Vrain Supply Canal, the South Platte Supply Canal and the Boulder Creek Supply Canal, which extends from the St. Vrain River to Boulder Creek, including the portion of the canal that extends from the St. Vrain River to Boulder Reservoir, which is also known as the Boulder Feeder Canal. This proposed title transfer is beneficial to all parties involved. It's a win-win situation. Following the completion of the title transfer the Federal Government will be relieved of liability associated with these facilities. But the Government and the water users can be assured that the transferred facilities will continue to be operated as they have been, and will continue to meet the needs of the District's water users.

The district will gain efficiency in its water operations and administration of these facilities by eliminating duplicative Federal oversight and administering of duties. This will save the district and its water users unnecessary costs.

Similar legislation was passed in 2000 that allowed the district to obtain full control or other portions of the water delivery system. This transfer, and the maintenance and operation of the transferred facilities have been very successful, and I'm confident that the district will achieve similar success with these facilities.

The second bill I'd like to comment on today is S. 1578, the Upper Colorado and San Juan River Basin Endangered Fish Recov-

ery Implementation Programs Reauthorization. The bill would extend authorization for two very successful programs which are based in Colorado, but that affect the States of New Mexico, Wyoming, Utah, and in fact the entire West.

The goal of the Upper Colorado and San Juan River Basin Endangered Fish Recovery Implementation Programs is to provide the means to carry out necessary water use and development while recovering four endangered species of fish.

As my colleague and good friend Senator Salazar can also tell you water is the lifeblood of the West. Without access to this precious resource communities cannot sustain themselves. This program is necessary to recover endangered fish and vital to provide water to the communities of the Colorado and San Juan River Basins in the West.

I can think of few things as contentious right now as the Endangered Species Act. I, myself, have been outspoken on how we can make improvements to the Act. However, there are few programs which show how the Endangered Species Act could work. The Upper Colorado and San Juan River Basins Endangered Fish Recovery Implementation Program is one of them. They have established species recovery goals approved by the Fish and Wildlife Service, and have taken action toward these goals producing positive results. Their work on fish recovery has been both innovative and fruitful.

I am grateful to the bill's co-sponsors, Senators Salazar, Hatch, and Bennett. Their support of this bill speaks to its laudable qualities. Senators from Utah, New Mexico, and Colorado, have supported these programs since I offered the original Senate authorization in the year 2000. I'm as thankful for their support now as I was then.

These programs have tackled the impossible task of allowing access to water while actually recovering species. I'm pleased to go on the record stating that they are producing good results and should be reauthorized.

Madam Chairman, I again send my thanks and those of my constituents for your consideration of these two important bills. I would ask that you allow me to include several letters of support that my office has received for each of these bills. I would also like to extend a warm welcome to Mr. Jim Witwer, who is testifying on behalf of S. 1498, and to Mr. Tom Blickensderfer, who is here to testify on behalf of S. 1578.

Thank you, Madam Chairman.

[The prepared statement of Senator Allard follows:]

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

As a founding member and current co-chairman of the Senate Renewable Energy and Energy Efficiency Caucus it is a pleasure to be here to help open the second Solar Decathlon.

The Senate Renewable Energy and Energy Efficiency Caucus is a bipartisan caucus. The Caucus has 36 members, over 1/3 of the Senate; but we are always recruiting new members, so participants, encourage your Senators to join if they are not already members.

I am proud to say that the University of Colorado team was the winner of the first Solar Decathlon—held in 2002. I'd like this year's team to know that I expect them to uphold CU's bragging rights.

Nationally and internationally more attention is being given to clean energy technologies, by both industry and consumers.

Great opportunities exist for solar, wind, geothermal, biomass, fuel cells and hydro to make significant contributions. But we should also focus on increasing energy efficiency. It is faster, cleaner and more effective to save a megawatt of power than to produce one. The Decathlon focuses on both clean production and conservation.

However, there is another very important aspect of this competition: livability. Part of the competition is to make the houses not only efficient and self-sufficient, but to ensure that a normal household can function in them.

I think that it is very important for people to see that homes can be both highly energy efficient and functional.

Having this competition on the National Mall also helps to raise its profile. Each of the homes is open for the public to tour and enjoy.

In closing I'd like to reemphasize the importance of the work that each of the teams is doing, welcome you all to Washington, and wish all of the teams good luck in the competition.

Senator MURKOWSKI. Thank you, Senator Allard. The letters that you've requested will be included as part of the record.

Senator ALLARD. Thank you.

Senator MURKOWSKI. I appreciate your time here this afternoon.

I would like to welcome Mr. Wayne Rinne, who's the Deputy Commissioner of Reclamation, who's going to be presenting the administration's testimony on all five of these bills. Before we hear from him though, I will turn to my colleague here, Senator Smith, for any opening comments that he may have on the legislation. I will also include and note for the record that we have received a number of letters in support of the various bills that we have on the calendar here this afternoon. Those will be included in the record as well.

So with that, Senator Smith, if you would like to make any comments.

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

Senator SMITH. Thank you, Madam Chairman. Do you have among your letters this one from the Harry & David Corporation? I would like to include it in the record.

Senator MURKOWSKI. I don't believe that we do. It will be included, if it's not in there already.

Senator SMITH. I appreciate very much your convening this legislative hearing to receive testimony on several pending water bills. I know from experience that all these site-specific bills are important to the local entities involved. I believe that we must seek to resolve these water issues in ways that support local communities wherever possible.

That's why I'm sponsoring one of the bills before us today, which is co-sponsored by my colleague from Oregon, Ron Wyden. S. 1760 would authorize an early repayment of obligations to the Bureau of Reclamation within the Rogue Valley River Irrigation District for the Medford Irrigation District in Southern Oregon. This bill will resolve issues raised by the Bureau's current rules for reporting requirements under the Reclamation Reform Act. These rules are inhibiting a major employer in southern Oregon from accessing certain financial tools. Legislation is needed in this case because the RRA prohibits the early repayment of outstanding obligations to

the Bureau, unless payment was explicitly provided for in contracts in force at the time of their enactment.

By authorizing the prepayment of outstanding obligations in these districts, we'll provide a vehicle for a corporate landowner to move forward with its efforts to strengthen and expand its business.

This legislation will resolve a paperwork reporting requirement for this corporation, while not modifying the amount of the project water that the landowner receives.

I'm pleased that the Bureau of Reclamation will testify in support of the bill today. S. 1760 will not enable this landowner to irrigate lands in excess of the acreage limitations set in law. In addition, this bill will not alter, amend, or modify the contractual rights that exist between the irrigation districts and the United States. We will not open or amend existing contracts. Thank you, Madam Chairman, I look forward to hearing the testimony today.

And I also want to join in welcoming Deputy Commissioner William Rinne, who will testify on behalf of the Bureau.

Senator MURKOWSKI. With that, let's go to you, Mr. Rinne. Welcome to the subcommittee this afternoon. We appreciate your time and your testimony.

STATEMENT OF WILLIAM E. RINNE, DEPUTY COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Mr. RINNE. Thank you Madam Chairman. I would request also that my written testimony be made part of the record.

Senator MURKOWSKI. The entire testimony will be included.

Mr. RINNE. Madam Chairman, I'm Bill Rinne, Deputy Commissioner for the Bureau of Reclamation and I'm pleased to present the Department of the Interior's views on the five bills before the subcommittee today: S. 1578, S. 1760, S. 1498, S. 1025 and S. 1529.

First, the administration strongly supports S. 1578 to reauthorize the Upper Colorado River and San Juan Railroad Basin Endangered Fish Recovery Implementation Program. The goals of the programs are to recover four endangered fish species and allow continued operation of over 800 water projects. The program involves management of endangered fish by providing water acquiring and restoring habitat, and stocking and monitoring endangered fish population and habitat. The programs also build and operate fish hatcheries, grow-out ponds, fish screens, water diversion canals and fish passage structures.

Congress has appropriated $46 million for these programs, with cost sharing provided by the States, power users and water users.

S. 1578 would increase the federally-authorized ceiling, recognize additional non-Federal cost sharing and extend the construction authorization from 2008 to 2010.

S. 1578 will continue a unique partnership to meet water needs in local communities while recovering endangered species. We urge passage of S. 1578.

Madam Chairman, the administration is also pleased to support S. 1760, a bill to authorize early repayment of obligation to Reclamation within the Rogue River Valley Irrigation District and the Medford Irrigation District. All three districts in our Rogue River Project are subject to acreage limitation provisions of Federal rec-

lamation law. A district may not make early repayment of constructions costs, unless its contract allowed this before the Reclamation Reform Act of 1983 became law. One of the three districts, the Talent District, in the Rogue River Project has such a contract today. As a result, a landowner who may own land in that district and one or more of the other two districts in the Rogue River Project and would like to pay out early will find that early repayment is allowed only in the Talent District.

We support S. 1760's approach to treat all landowners in these districts equally. S. 1760 will not affect the district's contracts with Reclamation. However, early payout will accelerate repayment of these project costs to the Treasury.

Let's turn to S. 1498, to transfer title to certain facilities of the Colorado-Big Thompson Project to the Northern Colorado Water Conservancy District. We're working diligently with the district to accomplish this title transfer, because we feel it will provide efficiencies and other benefits to all parties. We're in the early stages of the transfer of Northern Colorado. We hope to work out a memorandum of understanding with Northern this month. Then you can sort out the remaining issues and make certain that no amendments to the legislation are needed in the future.

Madam Chairman, Northern Colorado is one of our most valued partners, and we look forward to working with you and with Northern to complete this title transfer efficiently and cost effectively.

S. 1025 would authorize the Equus Beds Division of the Wichita Project. The project would recharge the groundwater in the Equus Beds Aquifer, adding storage underground for Wichita without inundating more surface area, thus reducing evaporation and loss of land. The Equus Beds Division is consistent with Reclamation's current mission. S. 1025 caps the ultimate Federal cost share at 25 percent or $30 million, whichever is less. This limits our uncertainty as to the ultimate Federal share. However, our tight budget prevents us at this time from supporting the project to a long list of currently unfunded projects.

The last bill, Madam Chairman, is S. 1529, the City of Yuma Improvement Act. And I have, Madam Chairman, a map to the right that I asked someone to point out a few things. The Department supports the intent of S. 1529, but it could also be accomplished through existing land transfer processes provided by the General Service Administration's authority.

Both Reclamation and the city of Yuma stand to benefit from S. 1529. As part of this transfer, Reclamation will obtain clear title to a railroad right-of-way for Reclamation's Yuma Desalting Plant. Meanwhile, the city of Yuma would obtain several parcels currently owned, but not needed by Reclamation. And the city will use these to further city development. We have no objection to transfer of these specific lands from Reclamation ownership.

While none of the parcels to be exchanged have been appraised, we estimate that the worth of the parcel being conveyed to the city would not exceed $500,000.

S. 1529 would have our unqualified support if it included a role for GSA in confirming that the exchange meets GSA's criteria for transfer without compensation to the Federal Government.

This concludes my remarks. I'd be happy to try to answer any questions, Madam Chairman.

[The prepared statement of Mr. Rinne follows:]

PREPARED STATEMENT OF WILLIAM E. RINNE, DEPUTY COMMISSIONER OF THE BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

ON S. 1025

Madam Chairman, I am William E. Rinne, Deputy Commissioner of the Bureau of Reclamation. I am pleased to present the Administration's views on S. 1025, Senator Roberts's bill to authorize the Equus Beds Division of the Wichita Project. Although the project has merit, budgetary constraints prevent the Administration from supporting the bill at this time.

For water management purposes, S. 1025 would authorize this project as a division of the existing Wichita Project. The Equus Beds Division would recharge the groundwater in the Equus Beds Aquifer and would provide significant new underground water storage capacity for municipal and industrial water customers in the city of Wichita, Kansas without inundating large surface areas. This project would enhance the storage and supply capability of the Wichita Project, an above-ground reservoir built and owned by the Bureau of Reclamation.

As a supplement to the existing Reclamation project, the Equus Beds Division is consistent with Reclamation's current mission. The fact that S. 1025 caps the ultimate Federal cost at 25 percent, or $30 million whichever is less, limits uncertainty as to the ultimate federal share of the costs.

Having partnered with the City of Wichita on an earlier groundwater recharge demonstration, Reclamation is familiar with the current proposal to recharge the groundwater in the Equus Beds Aquifer. Recharging the Equus Beds Aquifer has the potential to efficiently expand the effective amount of stored water that is ultimately available, because it significantly reduces losses due to surface evaporation.

S. 1025 would require the city to pay 75 percent of the cost of development and 100 percent of operations and maintenance costs. The Federal government would not hold title to the facilities.

Water rights for this project have been resolved. In 1998, the State issued the City of Wichita a conjunctive use water rights permit that replaced and combined two previous city permits, one for the Wichita Project, the other for the Equus Beds Groundwater Aquifer. By combining the permits for these two resources into a single, integrated operation, the city can more effectively and economically deliver water to municipal and industrial customers.

Madam Chairman, throughout the city's planning process, including extensive public involvement with input from State and Federal agencies, no significant opposition to Equus Beds surfaced. However, given Reclamation's already tight budget, we are not in a position to support the addition of this project to the list of unfunded projects already authorized and awaiting Federal funding.

Madam Chairman, this concludes my testimony and I am pleased to answer any questions the Committee may have.

ON S. 1498

Good morning, I am William E. Rinne, Deputy Commissioner of the Bureau of Reclamation. I am pleased to appear before this Subcommittee to provide Reclamation's views on S. 1498, legislation to transfer title to certain water distribution facilities of the Colorado-Big Thompson Project (C-BT) located in Colorado, to the Northern Colorado Water Conservancy District. Mr. Chairman, we are working diligently with the District to accomplish this title transfer because we are convinced it has the potential to provide operations efficiencies and other benefits. However, we are concerned that the legislation may be premature because we have not yet worked out the details of the title transfer with the District.

To date, our most successful transfers have relied on a simple plan—identify issues and obstacles at the local level and address them prior to the introduction of legislation authorizing the title transfer. Toward this end, Reclamation has a clear and collaborative process for title transfers. Not only has the preferred approach helped entities identify and address concerns of other interested parties early on in the process, but it has also enabled Reclamation and the districts to accurately predict and assign costs, and resolve other issues during the more flexible period preceding legislation. This process has been quite successful and we strongly encourage the District to continue to work through it with us before legislation advances.

The transfer contemplated by S. 1498 has only just begun. On January 24 of this year, Reclamation wrote to the District, acknowledging its interest in title transfer and urging it to follow the title transfer process described above. On July 26, 2005, H.R. 3443 was introduced in the House. On September 7, 2005, the District wrote Reclamation requesting that an MOU be entered into by October 7, 2005. We have begun working with the District on that MOU, and if no unexpected issues arise, we anticipate executing the MOU by October 7. Subsequent to the completion of that MOU, Reclamation and the District need to thoroughly discuss the remaining issues associated with the transfer of these facilities.

Mr. Chairman, we look forward to working with you and the District to complete this title transfer is the most efficient and cost-effective manner possible.

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

ON S. 1529

Madam Chairman, I am William E. Rinne, Deputy Commissioner of the Bureau of Reclamation. I am pleased to provide the Administration's views of S. 1529, which provides for the transfer of certain Federal lands managed by the Bureau of Reclamation to the City of Yuma, Arizona, and the receipt by the Bureau of Reclamation of clear title to certain parcels of land, known as the "railroad parcels," which are used by Reclamation for its Yuma Desalting Plant. The Department supports the intent of this legislation, but we believe that this can be accomplished through existing land transfer processes provided by the General Service Administration's authorities.

There would be benefits to both Reclamation and the City of Yuma from this land transfer. Reclamation will obtain clear title to portions of a railroad right-of-way required for the delivery of chemicals to the Yuma Desalting Plant managed by Reclamation's Yuma Area Office. The title to the rail property has been clouded for many years due to its sale by Southern Pacific Transportation Company to both the City of Yuma and Reclamation.

In exchange for giving up its claim to the railroad parcels, this legislation provides that the City of Yuma would obtain title to seven parcels currently owned by Reclamation located within the City. These parcels total approximately 7 acres but are scattered throughout the City. The parcels slated for transfer are difficult for Reclamation to manage and are not usable for project purposes. Previously, three of the Federal parcels were used by the Yuma County Water Users Association for ditch rider residences. These residences have been moved to more convenient locations, and Reclamation has no further need for these properties or any of the other parcels listed in this exchange. The City of Yuma will use these properties in order to further the City's development plans.

As a matter of policy, we support working with states and local governments to resolve land tenure and land transfer issues that advance worthwhile public policy objectives, and we have no objection to the transfer of these specific lands from Reclamation ownership. While none of the parcels to be exchanged has been appraised, Reclamation's rough estimate is that the parcels being conveyed to the City are not worth more than $500,000. We view this as a directed exchange by Congress, not an equal value exchange.

We think that the end goal of transferring the lands in question to the City is laudable, but we note that this legislation provides for a directed exchange that avoids the normal procedures followed for Federal land disposal. The value to the United States of clear title to the railroad parcels is uncertain. The lack of established value from the railroad parcels does not compel opposition to the proposed transfer, however, because in the absence of legislation, an administrative process exists through which the General Services Administration (GSA) can accomplish the intended purpose of this legislation. The Administrator of GSA can make government-owned land available at no cost to cities such as Yuma for a variety of public use purposes, such as public health, public education, for historic monuments, airports, parks and recreation, emergency rescue, fire fighting, law enforcement, and many other public uses. We could support this legislation if it included a role for GSA in ensuring that the lands to be transferred meet GSA's criteria for transfer to the City without compensation to the Federal government.

This concludes my statement. I am pleased to answer any questions.

ON S. 1578

Madam Chairman and members of the Committee. Thank you for the opportunity to appear today on behalf of the Administration in support of S. 1578, a bill to reauthorize the Upper Colorado River and San Juan River Basin endangered fish recovery implementation programs. The Administration commends Senator Wayne Allard

for introducing the bill and Senators Bennett, Hatch, and Salazar for cosponsoring this measure.

The Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Programs were established in 1988 and 1992, respectively. The goals of the programs are to recover four endangered fish species in a manner consistent with state and tribal laws, interstate compacts, the Endangered Species Act, other federal laws, and Indian trust responsibilities while water development proceeds. Participants in these two programs include the States of Colorado, New Mexico, Utah, and Wyoming; federal agencies, including the Bureau of Reclamation, Fish and Wildlife Service, Western Area Power Administration, National Park Service, Bureau of Land Management, and Bureau of Indian Affairs; American Indian tribes including the Navajo Nation, Jicarilla Apache Nation, Southern Ute Tribe, and Ute Mountain Ute Tribe; water users; power users; and environmental organizations.

Actions taken by the Programs to recover the Colorado pikeminnow, humpback chub, razorback sucker, and bonytail meet Endangered Species Act (ESA) requirements for operation of federal multi-purpose projects, water projects benefiting the tribes, and non-federal water projects. Activities and accomplishments of these programs provide ESA compliance for more than 800 federal and non-federal water projects depleting approximately 2.5 million acre-feet per year in the Upper Colorado River and San Juan River Basins.

Recovery Implementation Program actions include providing water for endangered fish, managing nonnative fish species, restoring habitat, stocking endangered fish, and researching and monitoring fish populations and habitat. The Recovery Implementation Programs' construction elements include construction and operation of fish hatcheries and grow-out ponds, fish screens in water diversion canals, fish passage structures around migration barriers, and restoration and maintenance of floodplain habitats.

Congress authorized federal expenditures for these programs in Public Law 106-392, recognizing cost sharing provided by the states, power users, and water users. A total of $100 million for construction was authorized for the two programs. Congressional appropriations are providing $46 million; Western Area Power Administration is providing $17 million from power sales revenue (this is considered a contribution by local power users); the states of Colorado, Utah, Wyoming and New Mexico are providing $17 million; plus an additional $20 million in benefits foregone from power users and water users.

With indexing for inflation, the authorized Federal amount for construction of projects in the Upper Colorado River Basin is now $64.5 million. Current total estimated costs are $77 million, indicating an estimated shortfall in authorization of approximately $12.5 million.

The estimated additional costs and time to complete Upper Colorado River Basin construction elements result from:

- increasing construction costs, energy costs, and the world market demand for steel;
- delayed construction due to property acquisition issues; and
- additional components and design features as identified necessary from previous construction of fish passages and screens.

This bill would amend Public Law 106-392 (as amended by Public Law 107-375) by:

- increasing the Federal authorized ceiling by $15 million for capital construction for the Upper Colorado River Recovery Program, for a total of $61 million;
- recognizing an additional $11 million in non-federal cost sharing from water users and power revenue losses over the original $20 million from these sources, bringing the non-Federal share to $65 million; and
- extending the construction authorization period of both Recovery Implementation Programs from 2008 to September 30, 2010.

Enactment of this bill will allow these Recovery Implementation Programs to complete construction projects critical to the recovery of the four endangered fishes and ensure continued successful water management for multiple uses. S. 1578 provides a unique opportunity to sustain a partnership combining federal and non-federal funding in an ongoing effort to recover endangered species while fully recognizing and meeting the water needs of local communities. We urge passage of S. 1578.

This concludes my testimony. I am happy to answer any questions.

ON S. 1760

Madam Chairman, I am William E. Rinne, Deputy Commissioner of the Bureau of Reclamation. Thank you for the opportunity to testify in support of S. 1760, a bill to authorize early repayment of obligations to the Bureau of Reclamation within the Rogue River Valley Irrigation District or within the Medford Irrigation District.

I am pleased to present the Department's views in support of S. 1760. There are three districts in our Rogue River Project that are subject to the acreage limitation provisions of Federal reclamation law. Under section 213 of the Reclamation Reform Act of 1982 (RRA), early repayment of a district's construction costs is prohibited unless the district's repayment contract with Reclamation included a provision allowing for early repayment when the RRA was enacted.

One of the three districts in the Rogue River Project has such a provision (specifically, the contract with Talent Irrigation District). As a result, a landowner who may own land in Talent Irrigation District and one or both of the other two districts in the Rogue River Project and would like to payout early would find that early repayment is allowed in only one of the districts. We support S. 1760's approach to allow early repayment in all three districts within this particular project. This legislation would accomplish such by providing early repayment authority to landowners in the Rogue River Valley Irrigation District and the Medford Irrigation District. Early payout would accelerate the repayment of these project costs to the United States Treasury.

This concludes my written statement. I am pleased to answer any questions.

Senator MURKOWSKI. Thank you, Mr. Rinne, and I apologize for mispronouncing your name there.

Senator Salazar has joined us. Senator, if you would care to make a couple of comments, particular for those issues that you have an interest in, and then we can move to the questions. And Senator Johnson, the invitation is open to you as well. Welcome.

Senator Salazar.

STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR FROM COLORADO

Senator SALAZAR. Thank you very much, Madam Chairwoman, for agreeing to hold this hearing. There are a number of important bills before us today. I'm proud to be a co-sponsor of two of these bills with Senator Allard, S. 1498 and S. 1578.

I would like to welcome to the U.S. Senate my good friend Tom Blickensderfer, and my good friend Jim Witwer, who is counsel for the Northern Colorado Water Conservancy District.

S. 1498 would direct the Secretary of the Interior to transfer title to certain water distribution facilities in the Northern Colorado Water Conservancy District. The district has fulfilled its obligation to repay the capital costs of these facilities under a three payment contract. Transfer of these facilities would lead to greater flexibility, Federal water efficiencies, and certainty for the district as it meets the demanding future needs of water users in northern Colorado.

The district, under the direction of the U.S. Congress, received title to similar facilities on the northern end of the system under Public Law 106-376. The successful title transfer has greatly benefited water users in northern Colorado and has led to more efficient uses of water and assists in system flexibility of water delivery.

Our bill is drafted similarly to Public Law 106-376, which provides a useful model for this legislation.

S. 1578, would reauthorize the Upper Colorado and San Juan River Basin Endangered Fish Recovery Implementation Programs. I am pleased that Senator Bingaman has agreed to co-sponsor this bill, and I thank him for that effort. This recovery program, first

established in 1988, continues to be a great success for the States of water permit Colorado River. It is a national model for cost-effective public and private partnerships working to recover endangered species, while allowing much needed water development to occur. As a result of concerted efforts to manage northern pike and small mouth bass in certain river reaches—the program will help ensure that the humpback chub, bonytail, Colorado pikeminnow, and the razorback sucker remain the heritage of the West.

Thank you Madam Chairman, I look forward to today's testimony.

Senator MURKOWSKI. Thank you.

Senator Johnson, would you care to add any opening comments?

STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. I have some comments that I'd submit for the record, and I think we'll leave it at that. Thank you, Madam Chairman.

[The prepared statement of Senator Johnson follows:]

PREPARED STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Thank you, Madame Chairman. I would like to extend a welcome to Deputy Commissioner Rinne of the Bureau of Reclamation, and to the other witnesses who have traveled here to provide us with their views on the bills before the sub-committee.

I'd just like to quickly point out that the full Committee held a mark-up last week in which we approved 6 bills out of the Water & Power sub-committee. All were non-controversial which is a testament to how well things can work when the Administration, the staff, and the parties involved all work together. I hope that continues to be the case so that the sub-committee remains productive and continues to move legislation important to our constituents.

Thank you for your leadership in that effort Madame Chairman. I look forward to today's testimony.

Senator MURKOWSKI. Thank you. We'll include those.

Let's start the questioning with Mr. Rinne.

Senator Salazar just spoke to S. 1498, and made reference to Public Law 106-376, and that referenced a similar model. Was the title transfer accomplished under the direction of that Public Law considered by the Bureau to be successful? And then along these same lines, what are the differences between the title of the transfer of the facilities involved in what we're dealing with here under S. 1498, as opposed to what we saw in Public Law 106-376?

Mr. RINNE. I assume you're talking about the earlier title transfer with Northern? Madam Chairman, we do consider that the first one was successful. I think if I talk about differences I would say I'm not sure there's lots of differences in terms of process, at least that we would prefer to use, which is to try to get together and work with Northern now and try to identify any issues that we have to address, and move into evidence in a memorandum of understanding. So we kind of know who's going to do what and where there are costs associated with it, and who will be paying those, and then move ahead.

I think the way we always prefer it to be would be is if we could work out as many of those things in the front end—the checklist and MOU of the process—and then try to minimize the work at the end of it, when we get through legislation. I mean that's when things work best from our end. I recognize that that particular

process does not go in that order. I think in fact we actually may have had legislation in before we were able to move on through with the checklist. But yes, we thought it was a successful process and I think other than that, we would look forward to this moving forward as quickly as we could.

Senator MURKOWSKI. Has the Bureau calculated the amount owed under the "aid-to-irrigation" repayment obligation?

Mr. RINNE. There's nothing to my knowledge. It's fully paid out on these facilities, so there is no repayment obligation that's owed from the district at this time.

Senator MURKOWSKI. Let's go up to S. 1025, the Wichita Project. Does the Bureau have an estimate of the total cost of this proposed project? I thought I heard you say $30 million.

Mr. RINNE. A good $30 million is right. I will look. If it's important, I'll be glad to——

Senator MURKOWSKI. I wrote 30 down and I wasn't sure if that was the total cost. Now I understand that the Bureau was involved in the Water Recharge Demonstration Project within the city of Wichita, that became the basis for this project proposal. Can you describe the Bureau's involvement in that particular project, and whether, again, that was a successful project?

Mr. RINNE. Madam Chairman, I think it was very successful. And, again, it was a project where several alternatives were looked at. In other words, this one that we're talking about would involve underground storage, but at the same time there were some alternatives, things such as—it's part of the Wichita Project—things like increasing the size of the existing storage reservoir, and other ways to augment the water supply. So there were several public meetings, there were Federal and non-Federal parties that were involved in this process, and we think it went well to kind of narrow down and focus on what we really knew would make a good project in this case. So, yes, we think it was real successful.

Senator MURKOWSKI. Good. With regard to the City of Yuma Improvement Act, how long has the Bureau worked with the city on this proposed land swap?

Mr. RINNE. This particular one, to actually do this transfer at this time, this has come up and moved to the forefront, rapidly, more recently. The purchase, for example, of the railroads that you saw, that's where some of the involvement is. There's some city land, some reclamation land in there. That dates back several years in there, and it's been a—it continues to be kind of a cloudy title situation. It's one that I think, if we can clear it up, it will help both the city and the Bureau of Reclamation in purposes needed.

Senator MURKOWSKI. And as far as the parcels to be conveyed here, the Federal and non Federal parcels are they same fair market value, in equal exchange.

Mr. RINNE. The one thing we don't have—we do not have a value today as to what the railroad right-of-way property would be. The other property—and I use the word rough, I don't know if I even want to say an appraisal, but the initial estimate is around less than probably $500,000. I think they're fairly close, but I think I'd want to check on that one, rather than say that without knowing for sure.

Senator MURKOWSKI. And if you could let us know on that we'd appreciate it.

Mr. RINNE. We can do that.

Senator MURKOWSKI. I think at this time I will go to Senator Smith, and see if there are additional questions. Do you object? Okay.

Senator Salazar.

Senator SALAZAR. I have no questions.

Senator MURKOWSKI. Senator Johnson? You guys must really like your legislation. And that's a good thing.

Senator JOHNSON. Let me follow up just a bit on the city of Yuma issue again. Is it the administration's position that it already owns fee title to the railroad process?

Mr. RINNE. Senator, some parts of it. My understanding on this issue is that, if you look at the parcel, the part that we were looking for, to transfer it, it's in the blue up on the map, we currently would own that. That would clear that up. Other parts of it. That's a spur, it kind of goes on out in the valley and goes to the base of where this—plants. So some of it we know—this we do not have. We do not have clear title to that.

Senator JOHNSON. Is there any chance that either the city or Reclamation could recover on a claim against the Southern Pacific Transportation Company, which allegedly sold the parcels to each party?

Mr. RINNE. I don't know the answer to that. I can follow up with you and ask some of the people about that, but I don't know the answer to that.

Senator JOHNSON. Given your testimony that S. 1529 does not represent an equal value exchange, is it correct then to state that Reclamation does not believe clear title to the railroad parcels has significant value?

Mr. RINNE. Clearing title to the railroad parcel does have significant value to us as far as getting the title cleared in that, yes.

And the reason again would be so that we're sure we can operate that. Should we ever operate that plant, we'd want to have that cleared.

Senator JOHNSON. You made reference to GSA's criteria for land transfers that provide no compensation to the Federal Government, I wonder if you can give us an idea as to what those criteria are.

Mr. RINNE. In the transfer we would look at things such as value of the transfer of the property that's being transferred. I think they would also look at the public use end of it. We'd be talking about that on some of the Federal lands. And they would—you know the value thing of course would come in to make sure that there wasn't a loss to the Federal interest on it.

Senator JOHNSON. Relative to S. 1760, you indicated that only one of the three irrigation districts involved in the Rogue River Project had a repayment contract that allowed for early retainment. Was there any policy reason at the time the contracts were developed to quit treating the districts differently?

Mr. RINNE. Senator, I don't know that. I did look. Before I came over I was kind of digging. In fact, I went back and looked at the project history a little bit to see if I could pick that out, and I couldn't. I can follow up on it. Although the other two were kind

of handled together, it just looks like they went forward together and it may have just been the nature of the contract. We run into that sometimes in our different contracts, in different projects, even though this one's the same way, you'll look at them and they'll be a provision in there that was negotiated and there wasn't in others.

Senator JOHNSON. Very good. Madam Chairman, I have some other obligations that I'm going to have to excuse myself for, but if I may, I have some written questions that I'd like to leave with the committee and have the panel members respond to.

Senator MURKOWSKI. We will certainly do that. I appreciate you being here this afternoon, Senator Johnson.

Just a couple of follow-ups here, Mr. Rinne. Going back to the city of Yuma, you had stated that the intent of S. 1529 could be accomplished administratively through existing GSA processes; can you describe how that would work?

Mr. RINNE. I can't give you all the steps, but I can tell you it would be an administrative process that would require, among other things, noticing. There may or may not be a public meeting part. There's certainly noticing of this that's going on. There would probably be a search of the title records. You know, there's a little longer-term process that would have to go on here with a GSA process to run it through. And they would run that through and at the end of that time—and I suppose the other thing is, it would have to get onto their agenda, if you would. You know their timeline. There's a lot of—I'm sure they have a lot of things in front of them, so it would depend on when that actually was put in front of them.

Senator MURKOWSKI. Okay. Thank you. S. 1760, the authorization of early repayment to the Bureau of Reclamation repayment, what are the outstanding capital obligations that are owed to the Bureau by the two irrigation districts?

Mr. RINNE. I will get back to you on that.

Senator MURKOWSKI. Thank you. And one final question, regarding S. 1578, which extends the authorization for the Capital Construction Projects through the year 2010, is the current authorization not adequate to make construction schedules, and that's why we've pushed it out?

Mr. RINNE. That's correct, Senator, there are a couple of reasons I can think of in just doing the construction. Sometimes we found that there are some other prerequisites, and its taken a little longer. That would be one of the reasons that I understand. Another thing is sometimes we found out as we—I'll just take an example, it may not be a good one, but like a fish pass, if we're trying to design something, we've learned as we went along in this program and we find out that there's more to the construction of it than we thought, there's a longer construction period, or a longer design period. It's that type of thing I think that's moved this a little bit. I think there's real progress, I just think that there's more left to be done.

Senator MURKOWSKI. Okay. All right. So thank you, I appreciate your testimony here this afternoon, and your work that you do on behalf of the Bureau. Thank you.

Mr. RINNE. Okay. Thank you very much, Senator. Thank you.

Senator MURKOWSKI. With that, we will move to the second panel. All right. We welcome to the second panel. Mr. Jerry Blain, the water supply projects administrator for the city of Wichita Water and Sewer Department, in Wichita, Kansas, welcome. We also have the Honorable Larry Nelson. Mayor Nelson is from the city of Yuma, Arizona. Welcome, Mr. Mayor. Mr. Jim Witwer, the counsel for the Northern Colorado Water Conservancy District located in Berthoud, Colorado. And Mr. Tom Blickensderfer, endangered species program director for the Colorado Department of Natural Resources out of Denver. Welcome to you this afternoon.

Why don't we go from my left, beginning here with you. Mr. Blain, if you would give us your testimony. Welcome.

STATEMENT OF GERALD T. BLAIN, WATER SUPPLY PROJECTS ADMINISTRATOR, CITY OF WICHITA, KANSAS, WATER AND SEWER DEPARTMENT

Mr. BLAIN. Thank you, Madam Chairman.

Senator MURKOWSKI. And thank you all for traveling this distance, we appreciate.

Mr. BLAIN. Thank you, Madam Chairman, members of the committee, I appreciate the opportunity to talk to you this afternoon. The city of Wichita, Kansas has had water supply wells in the Equus Beds Aquifer for over 60 years, and has been a major source of the city's drinking water. However, because of excess pumping from the aquifer by municipal and agricultural users, by 1992, water levels in the aquifer had declined up to 40 feet from their pre-development levels.

Because of this overdevelopment, the Equus Beds Aquifer is threatened by saltwater contamination from two sources. One source is natural saltwater from the Arkansas River this is located along the southwest border of the city's wellfield. The other source is oilfield brine contamination left over from the development of oil wells in the Burton area in the 1930's, which is located northwest of the wellfield.

Groundwater modeling by the Bureau of Reclamation indicates that the chloride levels, which are an indicator of salinity, could exceed the standard for drinking water in much of the wellfield by the year 2050. In order to protect the water quality of the area, steps must be taken to retard the movement of the salt-water plumes.

In 1993, the city of Wichita began implementation of a unique integrated local water supply plan that is intended to meet the city's water supply needs through the year 2050. The city's plan uses a variety of local water resources to meet water needs. Rather than requiring the city to transfer water from a remote reservoir in Northeast Kansas, a key component of the plan includes an Aquifer Storage and Recovery, or ASR, project to recharge the city's existing wellfield in the Equus Beds.

The excess pumping from the aquifer, and the resulting water level decline, has created a storage volume of almost 65 billion gallons that can be used to store water. The basic concept of the city's ASR project is to capture water from the Little Arkansas River and use it to recharge the aquifer. Computer modeling, and past experience at other sites throughout the country, has found that re-

charging the aquifer can help turn the hydraulic barrier to retard the movement of the salt-water plumes. In addition, the 65 billion gallons that could be stored in the dewatered portion of the aquifer could be used as a component of the city's water supply.

Because all of the "conventional" water rights in the river have already been allocated, the city will only be able to use excess flows in the river, which occur only after it rains or snows. These events occur often enough to capture enough water to recharge the aquifer and become a valuable component of the city's water supply. Now this project can only capture a fraction of the water flowing down the river, and it would not have a negative impacts on the river.

The city recognized that some of the concepts included in the proposed ASR project have not been done before, so to prove the feasibility of those concepts the city completed a 5-year demonstration project. During the demonstration project, which was done in partnership with the Bureau of Reclamation and the U.S. Geological Survey, the city constructed a full-scale well adjacent to the Little Arkansas River, a river intake and a water treatment plant, as well as a number of recharge facilities.

To prove that the recharge project was safe, over 4,000 water samples were collected and analyzed for up to 400 different contaminates. During the demonstration project, over one billion gallons of water were successfully recharged into the aquifer, and the city was able to prove that excess flows in the Little Arkansas River could be captured and recharged, and that it can be done without harming the aquifer.

The full-scale ASR project, which will be constructed in phases, will capture and recharge up to 100 million gallons per day of water, and will cost approximately $137 million. All of the water that will be recharged into the aquifer must meet drinking water standards.

The city of Wichita and others believe that the ASR project is a win-win project, because it appears that all of the stakeholders receive benefits from the project. As a result of this project, the city develops a water supply source that will allow it to meet its water supply needs through the year 2050; the water quality of the wellfield is protected from salt-water contamination; there is no requirement to curtail irrigation to restore water levels and protect water quality; irrigators will have lower pumping costs, because water levels will be higher; low flows in the Little Arkansas River will improve, because additional water will "leak" from the equus beds back into the river; and the project uses less land than any other surface water development project.

Phase I of the ASR Project, which is currently being designed, will have the capacity to recharge up to 10 million gallons per day of water from the river. The location of the first recharge facilities is intended to begin the formation of a hydraulic barrier to the movement of the salt-water plume from the Burton area. It will take almost 10 years to construct all of the components of the full-scale project.

The city believes that this project represents a new approach to developing water resources, while at the same time protecting an existing water resource from contamination. The city of Wichita

therefore urges support for Federal assistance for this unique project.

[The prepared statement of Mr. Blain follows:]

PREPARED STATEMENT OF GERALD T. BLAIN, P.E., WATER SUPPLY PROJECTS ADMINISTRATOR, CITY OF WICHITA, KANSAS, WATER AND SEWER DEPARTMENT, ON S. 1025

The City of Wichita, Kansas has had water supply wells in the Equus Beds Aquifer for over 65 years, and the aquifer has been a major source of the City's drinking water. However, because of excess pumping from the aquifer by municipal and agricultural users, by 1992 water levels in the aquifer had declined up to 40 feet from their pre-development levels. Because of this over development, the Equus Beds aquifer is threatened by saltwater contamination from two sources. One source is natural saltwater from the Arkansas River located along the southwest border of the City's wellfield. The other source is oilfield brine contamination left over from the development of oil wells in the Burrton area in the 1930's, located northwest of the wellfield. Groundwater modeling by the Bureau of Reclamation indicates that the chloride levels, which are an indicator of salinity, could exceed 300 mg/l in much of the wellfield by the year 2050. This would be above the 250 mg/1 standard for drinking water. In order to protect the water quality of the area, steps must be taken to retard the movement of the salt-water plumes.

In 1993 the City of Wichita began implementation of a unique Integrated Local Water Supply Plan that is intended to meet the City's water supply needs through the year 2050. By the year 2050 it is projected that the City's water supply needs will almost double what they are now. The City's Plan uses a variety of local water resources to meet water needs, rather than requiring the City to transfer water from a remote reservoir in Northeast Kansas. A key component of the Plan includes an Aquifer Storage and Recovery (ASR) project to recharge the City's existing wellfield in the Equus Beds Aquifer.

The excess pumping from the aquifer, and the resulting water level decline, has created a storage volume of almost 65 billion gallons that can be used to store water. The basic concept of the City's ASR project is to capture water from the Little Arkansas River and use it to recharge the aquifer. Computer modeling, and past experience at other sites throughout the country, has found that by recharging the aquifer a hydraulic barrier can be created that would retard the movement of the salt-water plumes. In addition, the 65 billion gallons that could be stored in the dewatered portion of the aquifer could be used as a component of the City's water supply.

Unfortunately, all of the "conventional" water rights in the Little Arkansas River have already been allocated. However, excess flows in the river, which occur only after it rains or snows, have not been allocated. Computer modeling has predicted that excess flow events occur with enough frequency to allow enough water to be captured and recharged to become a valuable component of the City's water supply. The modeling predicts that if the City builds an ASR system with the capacity to capture up to 100 million gallons per day, that it would still capture only a fraction of the water flowing down the river, and it would not have a negative impact on the river.

The City intends to capture water from the river using two techniques, either by using "bank storage" wells or by pumping directly from the river. "Bank Storage" wells take advantage of a unique geological condition that occurs along the river. As the river rises above the base flow, water is temporarily stored in the river's banks, but as the flow in the river declines, the water in the banks discharges back into the river. The City intends to drill wells adjacent to the river that will capture "bank storage" water and induce river water to replace the water pumped.

The City recognized that some of the concepts included in the proposed ASR project have not been done before, so to prove the feasibility of those concepts the City completed a five-year Demonstration Project. During the Demonstration Project, which was done in partnership with the Bureau of Reclamation and the U.S. Geological Survey, the City constructed a full-scale well adjacent to the Little Arkansas River, a river intake and a water treatment plant, and a variety of recharge facilities. To prove that the recharge project was safe, over 4,000 water samples were collected and analyzed for up to 400 different potential contaminates. During the Demonstration Project over one billion gallons of water were successfully recharged into the aquifer, and the City was able to prove that excess flows in the Little Arkansas River could be captured and recharged, and that it can be done without harming the aquifer.

The full-scale ASR project, which will be constructed in phases, will capture and recharge up to 100 million gallons per day, and will cost approximately $137 million. All of the water that will be recharged into the aquifer must meet drinking water standards, and will be monitored and regulated by the Kansas Department of Health and Environment and the U.S. Environmental Protection Agency.

Normally, when surface water is developed for a water resource, it requires the construction of a reservoir. A reservoir that would provide the same storage as this ASR project would probably consume around 25,000 to 30,000 acres of prime farmland. It is projected that the ASR project will use less than 400 acres of farmland.

The City of Wichita and others believe that the ASR project is a Win-Win project, because it appears that all of the stakeholders receive benefits from the project. As a result of this project:

- The City develops a water supply source that will allow it to meet its water supply needs through the year 2050.
- The water quality of the wellfield is protected from salt-water contamination.
- There is no requirement to curtail irrigation to restore water levels and protect water quality.
- Irrigators will have lower pumping costs because water levels will be higher.
- Low flows in the Little Arkansas River will improve, because additional water will "leak" from the Equus Beds back into the river.
- The project uses less land than any other surface water development project.

The City has already implemented some components of the Integrated Local Water Supply Plan, including implementation of a water rate structure designed to reduce water consumption, and a greater emphasis on using water from Cheney Reservoir, and a corresponding reduction in water pumped from the Equus Beds. That alteration in water use has already allowed water levels in the Equus Beds to rise over 20 feet in some areas.

Phase I of the ASR Project, which is currently being designed, will have the capacity to capture and recharge up to 10 million gallons per day of water from the Little Arkansas River by using Bank Storage wells. The location of the first recharge facilities is intended to begin the formation of a hydraulic barrier to the movement of the salt-water plume from the Burrton area. It will take almost 10 years to construct the entire full-scale project.

The City believes that this project represents a new approach to developing water resources, while at the same time protecting an existing water resource from contamination. The City of Wichita therefore urges support for federal assistance for this unique project.

Senator MURKOWSKI. Thank you, Mr. Blain.

Next is Mr. Witwer. Welcome.

STATEMENT OF JIM WITWER, COUNSEL FOR THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT, BERTHOUD, CO

Mr. WITWER. Thank you and good afternoon, Madam Chair, and members of the committee. My name is Jim Witwer. Our law firm—Trout, Raley, Witwer and Freeman—is general counsel for the Northern Colorado Water Conversancy District. Thank you for the opportunity to testify before the subcommittee today on a proposed transfer of title of three single-purpose water conveyance facilities of the Colorado-Big Thompson Project from the United States to the Northern Colorado Water Conservancy District, as proposed in S. 1498.

The district is the local sponsor and contract beneficiary of the Colorado-Big Thompson Project, the largest transmountain diversion project in the State of Colorado. The district entered into a repayment contract with Reclamation in 1938, which defines the contractual obligations of both the district and Reclamation associated with the design, construction, operation, maintenance, administration and repayment of the project, and grants to the district the perpetual right to the water yielded from the project. Construction

of the project began in 1938 and was completed in 1957, when the project was placed into full operation.

The three facilities involved in this transfer of title, in this legislation include the St. Vrain Supply Canal, the Boulder Creek Supply Canal, and the South Platte Supply Canal.

The location of these facilities are shown on the map, which is an enlargement of the map in exhibit A, accompanying my written testimony to my right.

The C-BT Project diverts water from the headwaters of the Colorado River and conveys the water under the Continental Divide to the eastern slope of Colorado. Once on the eastern slope, the water flows through five hydroelectric generating plants to two eastern slope terminal storage reservoirs, the Horsetooth and Carter Lake Reservoirs.

From these terminal storage reservoirs, the project's water supply is delivered to water users within district boundaries through the project's single-purpose water conveyance facilities.

Since completion of the project in 1957, the district has been solely responsible for performing and paying for the operation, maintenance, and administration of all the project's single-purpose water conveyance facilities. These activities have been carried out under the oversight, but without the extensive involvement, of Reclamation.

In 2000, the title to the four single-purpose water conveyance facilities located downstream of Horsetooth Reservoir was transferred from the United States to the district under the authority of Public Law 106-376.

S. 1498 is very similar to Public Law 106-376. It would authorize the transfer of title of the C-BT project's three remaining single-purpose water conveyance facilities, which are located downstream of Carter Lake Reservoir.

The provisions of these two pieces of legislation are nearly identical. We simply ask that Congress once again support a successful transfer of title as it did in 2000 with the passage of Public Law 106-376.

The function and operation of the proposed transferred facilities will not be altered or modified as a result of the passage of this legislation, and the facilities will continue to be operated to meet the needs of the water users within the district boundaries by C-BT project water supplies.

A special provision of S. 1498 addresses the South Platte Supply Canal. During project development, an agreement was reached with two local ditch companies which allowed the United States to enlarge the companies' canal to accommodate the diversion and conveyance of C-BT Project water from Boulder Creek to the South Platte River, and to allow the continuing diversion, conveyance, and delivery of the companies' water supplies. S. 1498 would allow the companies' use of the South Platte Supply Canal to continue and be unaffected by the transfer of title for this facility.

All financial obligations associated with these facilities were met. The "aid-to-irrigation" financial component associated with these facilities is an obligation of the C-BT project power beneficiaries, and is addressed in the proposed legislation. Further, all Federal

liability associated with the operations of these facilities will be eliminated as a result of the transfer of title.

S. 1498 will improve the efficiency of these facilities by eliminating the redundant and unnecessary oversight role now being performed by Reclamation. This will save the district and its water users unnecessary costs.

This legislation is actively supported by local water interests. Letters supporting the introduction of this legislation are included as exhibit D to my written testimony. We respectively urge this legislation be moved forward to accomplish this transfer of title as soon as possible.

Thank you.

[The prepared statement of Mr. Witwer follows:]

PREPARED STATEMENT OF JAMES S. WITWER, COUNSEL FOR THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT, ON S. 1498

I. INTRODUCTION

S. 1498 would authorize the transfer of title of three Colorado-Big Thompson (C-BT) Project single-purpose water conveyance facilities from the United States to the Northern Colorado Water Conservancy District (District). The District is the contract beneficiary of the C-BT Project. The three facilities involved in this transfer of title include:

1. The St. Vrain Supply Canal;
2. The Boulder Creek Supply Canal that extends from the St. Vrain River to Boulder Creek. This facility also includes that portion of the canal that extends from the St. Vrain River to Boulder Reservoir, which is also known as the Boulder Feeder Canal; and
3. The South Platte Supply Canal.

The locations of these facilities are shown on the map in Exhibit A accompanying this testimony. The physical dimensions and description of each of the facilities are shown on Exhibit B.*

The proposed title transfer is beneficial to all parties involved. Operational efficiencies are realized by both the federal government and the District, outstanding financial obligations of the C-BT Project's power beneficiaries are satisfied, and the federal government is relieved of any liability associated with these facilities following the completion of the title transfer. The District gains efficiency in its water operations and administration of these facilities by eliminating unnecessary federal oversight and administrative redundancy.

II. BACKGROUND

The C-BT Project is a multi-purpose project. Its primary purpose is to provide a supplemental water supply. Its secondary purpose is power generation. The C-BT Project was built by the United States Bureau of Reclamation (Reclamation) with the District acting as the project sponsor and as the local repayment entity for the Project. The District and Reclamation entered into a Repayment Contract on July 5, 1938. The Repayment Contract defines the contractual obligations of both the District and Reclamation associated with the repayment obligation, operation, maintenance, and administration of the C-BT Project, and grants to the District the perpetual right to the water yielded from the C-BT Project. Construction on the C-BT Project began in 1938 and was completed in 1957 when the Project was placed into full operation.

As stated earlier, the C-BT Project provides a supplemental water supply for beneficial use within the boundaries of the District, an area that includes approximately 1.6 million acres as depicted on the map attached as Exhibit C. The area served by the C-BT Project includes approximately 693,000 acres of irrigated farmland. A portion of this farmland receives water directly from the C-BT Project through deliveries from the Project to approximately 120 ditch and reservoir companies which distribute Project water for irrigation purposes. Further, the C-BT Project provides water supplies to 32 towns and cities and many domestic water purveyors that, when combined, serves water to more than 750,000 people.

* Exhibits A-C have been retained in subcommittee files.

The C-BT Project diverts water from the headwaters of the Colorado River into the collection facilities of the C-BT Project. These facilities include Grand Lake, Shadow Mountain Reservoir, Lake Granby, and Willow Creek Reservoir. Utilizing these storage reservoirs, as well as the Willow Creek Pumping Plant and the Fan Pumping Plant, water captured by the collection system is eventually diverted to the eastern slope of the Continental Divide through the 13.1-mile long Alva B. Adams tunnel. This tunnel runs under the Continental Divide and beneath Rocky Mountain National Park, delivering water into the Big Thompson River watershed. Once on the eastern slope, C-BT Project water flows through five hydroelectric generating plants as the water drops more than 2,600 vertical feet to two eastern slope terminal storage reservoirs, Horsetooth Reservoir and Carter Lake Reservoir.

From these terminal storage reservoirs, the Project's water supply is delivered to water users within District boundaries through the Project's distribution facilities. These distribution facilities consist of single-purpose water conveyance facilities located downstream of the C-BT Project's two East Slope terminal storage reservoirs.

Since the C-BT Project was placed into full operation in 1957, the District has been solely responsible for: the operation, maintenance, and administration of the single-purpose water conveyance facilities; the administration and protection of the lands and easements associated with these facilities, including issuance of licenses and crossing permits for entities seeking to utilize portions of the canal lands and easements for various purposes; and the payment of the full costs of operation, maintenance, and administration of these facilities. These activities have been carried out under the oversight, but without the extensive involvement, of Reclamation.

In 2000, the title to the four single-purpose water conveyance facilities located downstream of Horsetooth Reservoir was transferred from the United States to the District under the authority of Public Law 106-376. Facilities transferred by Public law 106-376 included:

1. Charles Hansen Supply Canal;
2. Windsor Extension Canal;
3. North Poudre Supply Canal (also known as the Monroe Gravity Canal); and
4. Dixon Feeder Canal.

III. PROPOSED LEGISLATION

S. 1498 would authorize the transfer of title of the C-BT Project's single-purpose water conveyance facilities located downstream of Carter Lake Reservoir in the southern portion of the C-BT Project. The passage of S. 1498, when combined with Public Law 106-376, would complete the transfer of title of all single-purpose water conveyance facilities within the C-BT Project from the United States to the District. The current legislation is very similar to that contained in Public Law 106-376.

The function and operation of the proposed transferred facilities will not be altered or modified as a result of the passage of this legislation. The transferred facilities will continue to be operated to meet the needs of the water users within the District boundaries for the supplemental water supplies provided by the C-BT Project.

The South Platte Supply Canal originally became a facility of the C-BT Project during Project construction when an agreement was reached with the Consolidated Lower Boulder Reservoir and Ditch and the Coal Ridge Ditch companies (the Companies). Under the agreement, the United States acquired the existing ditch easements, purchased additional easements, and enlarged the Companies' existing canal to accommodate: a) the diversion and conveyance of C-BT Project water from Boulder Creek at a point downstream of the City of Boulder for delivery to the South Platte River at a point near the Town of Fort Lupton; and b) the continuing diversion, conveyance, and delivery of water yielded from water rights owned by Companies. Of note is that the senior water right associated with the original canal is the oldest, most senior adjudicated water right in the South Platte Basin within Colorado, dating back to 1859. The operation of the Companies' canal and the exercise of the associated water rights were not affected because of the enlargement of the original canal as part of the C-BT Project's construction. This remains true today as the Companies continue to divert and beneficially use their own water rights through this canal as they would have had the canal never been enlarged to accommodate C-BT Project water.

Further, in July 1954, the District entered into operating agreements with the Companies for the operation and maintenance of the South Platte Supply Canal. As part of that operating agreement, the District is responsible for paying between two-thirds and three-fourths of the operating costs associated with various segments of the South Platte Supply Canal.

The proposed legislation will improve the efficiency and operation of these facilities by eliminating the redundant and unnecessary oversight role now being performed by Reclamation. Operation, maintenance, and administration of these facilities and their associated easements have historically been carried out by the District without significant oversight or involvement by Reclamation. The level of maintenance performed on these facilities by the District, and by the Companies on the South Platte Supply Canal, has never been found to be in any way deficient during the periodic inspections performed by Reclamation. Elimination of the federal redundancy in the administration of these facilities will save the District and its water users unnecessary costs.

All financial obligations of the District associated with these facilities were met under the terms of the Repayment Contract with final payment made by the District to Reclamation in December 2001. The "aid-to-irrigation" financial component associated with these facilities is an obligation of the C-BT Project power beneficiaries. The repayment of that financial obligation is addressed in the proposed legislation and will be paid by the Project's power beneficiaries. Lastly, all federal liability associated with the operations of these facilities will be eliminated as a result of the transfer of title.

This legislation is actively supported by local water interests. Letters supporting the introduction of this legislation are included as Exhibit D. These include letters from the City of Boulder, the Town of Erie, the Lefthand Water District, the City of Longmont, the New Coal Ridge Ditch Company, and the New Consolidated Lower Boulder Reservoir and Ditch Company.

IV. CONCLUSION

Transfer of title of these three single-purpose C-BT Project water conveyance facilities from the United States to the District: a) will improve the efficiency of government, both on the federal and local levels, by eliminating redundancy in the operation, maintenance, and administration of these facilities; b) will eliminate all federal liability associated with the transferred facilities; c) will not change the operation of the facilities; and d) will complete the transfer of all single-purpose water conveyance facilities within the C-BT Project. We urge this legislation be moved forward to accomplish this transfer of title as soon as practical.

Senator MURKOWSKI. Thank you, Mr. Witwer.

Mayor Nelson, welcome.

STATEMENT OF LAWRENCE K. NELSON, MAYOR, CITY OF YUMA, AZ

Mr. NELSON. Madam Chairman, committee members, it is an honor and privilege to be here representing the wonderful city of Yuma, Arizona. My name is Lawrence K. Nelson, the mayor of the city of Yuma, Arizona. I appreciate this opportunity to testify in support of S. 1529, the city of Yuma Improvement Act of 2005, and would like to thank Senators Jon Kyl and John McCain for their leadership on this issue.

Like many American cities in the 20th century, Yuma had neglected its river heritage. For the past decade, however, the Yuma community has worked to reconnect with the original crossings of the Colorado River in three important ways.

First, with the support of the Federal and State governments, we have undertaken an ambitious wetlands restoration and conservation project, called the Yuma East Wetlands.

Second, we are developing riverfront parks, which give the public better river access and recreational opportunities.

And third, the city has worked to redevelop 22 acres along Yuma's downtown riverfront with significant private sector commitments for investment.

The city recognized that this commercial redevelopment project was primarily a local responsibility. The challenge was that the State and Federal Governments owned small portions of the 22-

acre site. Over the past 6 years, we have assisted in the relocation of the National Guard facility and the Border Patrol Sector headquarters. The city has spent considerable local sums to assemble these properties.

At the same time, the city has been working with a private sector development partner to implement an $80 million redevelopment project, which includes a riverfront hotel and conference center, visitor's center, office buildings, 60-80 residential condominiums, and retail shops. In November 2004, Yuma City Council approved a development agreement, which requires construction to begin by July 2006.

As planning for this project got underway in 2000, it became apparent that along the riverfront there was a patchwork quilt of ownership dating from the inception of the Yuma project in 1905 undertaken by the U.S. Reclamation Service. For the past 5 years, city and Reclamation staff have worked together to try to make sense of the property situation. As early as 2003, both staffs agreed in principle that there could be a fair exchange. The Bureau of Reclamation would receive title to city-owned land over which their railroad tracks run to the desalinization plant. The city would receive title to "orphan" parcels which served no purpose to the Bureau of Reclamation. In addition, the city agreed, at its own cost, to relocate functions of the Yuma County Water Users' Association, which would then free up land for important public uses like a visitor's center and an ancillary water treatment facility.

For the past 2 years, the city has proceeded with all required environmental compliance and has paid for the relocation of the Yuma County Water Users Association functions. All that remains is for Congress to provide authorization for this exchange.

Passage of this legislation will facilitate phase 1 of the riverfront development, including the hotel and conference center construction. For future phases, we continue to work with other Federal partners, such as the U.S. Fish and Wildlife Service, to assist in relocating their Kofa National Wildlife Refuge headquarters.

Our downtown riverfront is the heart of our community. It is the site of the historic crossing of the Colorado River by 60,000 people during the 1849 Gold Rush. The Yuma Crossing was established as a National Historic Landmark in 1967. We look forward, however, to the day when the Yuma Crossing will once again be a bustling commercial riverfront.

With the assistance of Congress, Yuma will be able to regain control and ownership of this land and return it to productive use.

Thank you again for the opportunity to speak in support of S. 1529.

Senator MURKOWSKI. Senator Kyl.

Senator KYL. Thank you. With the permission of the last witness, I just want to interject one thing about this, because I'll have to go. Mayor Nelson and the city council of Yuma have been working on this now for several years. I've seen the project as it has unfolded and it is a good project. The only thing that impedes this particular part of it is that the Bureau of Reclamation and the city of Yuma have interlocking land right along the river. Very low value. And there's orphan parcels. But the Bureau of Reclamation has the railroad right-of-way, and the city would like to have those

orphan parcels that the Bureau owns right now, and the easiest, simplest, and least expensive way to do this is with legislative action.

OMB has given the usual "We could also do it administratively" testimony, and there's nothing wrong with that, except that it makes it more expensive, it takes a lot longer, and I'm not sure that the Bureau then would get the right-of-way for the railroad that it would like. So what Mayor Nelson proposes is exactly the right way to solve this. Senator McCain and I certainly agree with that, and we hope the committee will be able to adopt this legislation expeditiously.

Mayor Nelson, thank you very much for all the hard work that you and the folks in Yuma have done on this. And thank you, Madam Chairman and Senator Salazar, for my brief intercession here.

Mr. NELSON. Thank you very much, Senator.

Senator MURKOWSKI. Senator Kyl, I appreciate your comments and your support of this, and for the Bureau.

With that, let's go to our final witness on this panel, Mr. Blickensderfer.

STATEMENT OF TOM BLICKENSDERFER, ENDANGERED SPECIES PROGRAM DIRECTOR, COLORADO DEPARTMENT OF NATURAL RESOURCES, DENVER, CO

Mr. BLICKENSDERFER. Thank you, Madam Chair and committee members. I am Tom Blickensderfer, I'm the endangered species program director for the Colorado Department of Natural Resources. I'd like to thank Senator Wayne Allard for his introduction of S. 1578. Senator Allard introduced the legislation which enacted Public Law 106-392, which authorized the capital construction projects for the two programs: the Upper Colorado and San Juan Fish Recovery Programs. I'd also like to thank Senator Ken Salazar for his co-sponsorship and for his support of these programs, which dates back to his service as executive director of the Colorado Department of Natural Resources in the 1990's, when he sat on the Implementation Committee for the Upper Colorado Program. We appreciate also the co-sponsorship of Senators Bennett and Hatch.

Wyoming, Utah and New Mexico joined Colorado in support of the passage of S. 1578. We are committed to recovering these four endangered fish—the humpback chub, the Colorado pikeminnow, the bonytail and the razorback sucker. These programs attempted to accomplish our dual objectives of recovery of the fish while we accommodate additional water storage and development. Actions toward recovery are driven by the recovery goals developed and approved by U.S. Fish and Wildlife Service in 2002, which provide the biological mileposts and timeframes against which we measure our success.

The work done includes restoring floodplain and wetland habitat, providing flows in accordance with the State water law for the fish, throughout our various reaches of stream in the programs; construction of fish passageways to greatly expand fish habitat; installing fish screens to prevent endangered fish from being trapped in diversion canals; managing detrimental non-native species; propagation and stocking of the endangered fish; and finally, research,

monitoring and data management to teach us what the endangered fish need to survive, grow and reproduce in the wild.

The ability of these two programs to accomplish these simultaneous goals of fish recovery and water development is nothing short of extraordinary. These programs serve as the means for Endangered Species Act compliance for 800 water projects diverting over 2.5 million acre-feet of water per year, serving millions of citizens in all four States. The programs provide ESA compliance for large and small tribal water projects in the two basins, and allows the United States to fulfill its trust responsibilities in compliance with the Endangered Species Act.

In all of this, not one lawsuit has been filed under the ESA on any one of these 800 projects during the entire existence of both programs.

While program partners have been judicious and careful in the expenditure of dollars in these programs, we face circumstances beyond our control which bring us before you today to advocate for S. 1578. Construction costs are on the rise in a dramatic fashion, driven much by the increase in energy costs and the worldwide increase in the demand for steel. Our construction schedules on different projects have been delayed due to access and property acquisition issues. Finally, we have had to redesign fish screens to accommodate site-specific conditions in the Colorado River, including changing design criteria to accomplish debris removal from these fish screens.

The estimated additional costs above the present authorization to complete the programs' construction projects total $12.5 million. We are requesting an additional $2.5 million for contingencies, to be appropriated only if needed, resulting in our request for a $15 million increase in our appropriation authorization.

In addition, we are asking the subcommittee to acknowledge $11 million in additional non-Federal cost share. This additional cost share is attributed to loss of Colorado River Storage Project power revenues from project reoperation to benefit endangered fish at a level of $7.1 million and also attributed to capital costs for water users who provide water for the endangered fish from Elkhead Reservoir in Colorado at a level of $3.9 million.

Finally, the programs ask that we seek a time extension for capital project completion from 2008 to September 30, 2010, which will allow for full implementation of all construction projects while avoiding any real increase in Reclamation's annual appropriations requests for the programs.

This increase in authorized expenditures is needed this year so Reclamation can factor it into its 3-year advanced budget planning, thus ensuring that the capital construction program can be completed by 2010.

Again, we offer our thanks to Senators Allard, Salazar, Bennett and Hatch for sponsoring this legislation.

I would request my testimony be included in the record, and I would be happy to answer any questions of the subcommittee.

[The prepared statement of Mr. Blickensderfer follows:]

PREPARED STATEMENT OF TOM BLICKENSDERFER, ENDANGERED SPECIES PROGRAM DIRECTOR, COLORADO DEPARTMENT OF NATURAL RESOURCES, ON S. 1578

Thank you, Madam Chair and Committee members, for this opportunity to appear before you today and to speak about two Programs which have become known as national models for endangered species recovery efforts. I'd like to thank Senator Wayne Allard for his introduction of S. 1578, and his ongoing support for the Upper Colorado and San Juan Programs. Senator Allard introduced the legislation which enacted Public Law 106-392, which authorized the capital construction projects for these Programs. Thank you, also, to Senator Ken Salazar for his co-sponsorship and for his support of these Programs, which dates back to his service as Executive Director of the Colorado Department of Natural Resources in the 1990's when he had a seat on the Implementation Committee for the Upper Colorado Program. We appreciate also the co-sponsorship of Senators Bennett and Hatch.

The State of Colorado joins with the States of Wyoming and Utah as partners in the Upper Colorado River Fish Endangered Fish Recovery Program and with the State of New Mexico as partner in the San Juan River Basin Recovery Implementation Program in requesting passage of S. 1578. We are deliberate and comprehensive in our commitment as states to recovering these four endangered fish—the humpback chub, the Colorado pikeminnow, the bonytail and the razorback sucker. These Programs combine the unique expertise of water engineers, biologists, and policy administrators to accomplish our dual objectives of recovery of the fish while we accommodate additional water storage and development. Actions towards recovery are driven by the recovery goals developed and approved by U.S. Fish and Wildlife Service in 2002, which provide the biological mileposts and timeframes against which we measure our success. The work done to proceed towards recovery of these species to date has been extensive. It includes restoring floodplain and wetland habitat, providing flows in accordance with the state water law in cooperation with water users, constructing fish passageways to greatly expand access to the rivers for the fish, installing fish screens to prevent endangered fish from being trapped in diversion canals, managing detrimental non-native species, propagation and stocking of the endangered fish and conducting the necessary research, monitoring and data management to provide critically important information about what the endangered fish need to survive, grow and reproduce in the wild and to monitor progress towards reestablishment of self-sustaining populations needed to delist these species from the ESA endangered species list.

From Colorado's perspective, both the Upper Colorado River and the San Juan River Recovery Programs provide the means for our citizens to carry on with necessary water use and development activities while at the same time accomplishing species conservation and ultimately recovery of the four endangered fishes. This ability of these two Programs to accomplish these simultaneous goals is nothing short of extraordinary. The Programs serve as the means for Endangered Species Act compliance for 800 water projects diverting over 2.5 million acre-feet per year of water, serving millions of citizens in all four states. The programs provide ESA compliance for large and small tribal water projects in the two basins, and allow the United States to fulfill its trust responsibilities in compliance with the Endangered Species Act. In all of this, not one lawsuit under the ESA has occurred on any one of these 800 projects during the entire existence of both Programs. Since their inception, the Programs have annually achieved sufficient progress toward the recovery of the four fish necessary to ensure ESA compliance for water depletions, as independently determined by the United States Fish and Wildlife Service.

All four states have undertaken their cost-share obligations seriously, and have received strong support from their various Legislatures to fund their respective portions of this enormous undertaking in species recovery. The Colorado General Assembly passed legislation in 1998 and in 2000 to establish and fund the Native Species Conservation Trust Fund, from which Colorado will draw its full cost-share for both programs of $9.146 million. The Utah Legislature created a restricted Species Protection Account in 1997, and the Wyoming Legislature appropriated its funding share during their 1998 and 1999 legislative sessions. The New Mexico Legislature has chosen to appropriate funds into the State's "operating reserve," thus making them available at any time and not tied to a specific calendar year.

Colorado has chosen to fulfill the bulk of its cost-share obligation for the Upper Colorado River Program by committing funding to the enlargement of Elkhead Reservoir in Northwest Colorado, which will ultimately provide 5000 acre-feet per year of additional water in Colorado's Yampa River to enhance habitat for the fish in months when water flows are the lowest, and allow the Program to lease an additional 2000 acre-feet per year.

While Program partners have been judicious and careful in the expenditure of dollars in these Programs, we face circumstances beyond our control which bring us before you today to advocate for S. 1578. Construction costs are on the rise in a dramatic fashion, driven much by the increase in energy costs and the worldwide increase in the demand and resulting cost of steel. Our construction schedules on different projects have been delayed due to access and property acquisition issues. Finally, we have had to redesign fish screens to accommodate site-specific conditions in the Colorado River, including changing design criteria to accomplish debris removal from these fish screens. The estimated additional costs above the present authorization to complete the Programs' construction projects total $12.5 million; we are requesting an additional $2.5 million for contingencies to be appropriated only if needed, resulting in our request for a $15 million increase in our appropriation authorization. In addition, we are asking this Subcommittee to acknowledge $11 million in additional non-federal cost share. This additional cost share is attributed to loss of Colorado River Storage Project power revenues from project reoperation to benefit endangered fish ($7.1 million) and also attributed to capital costs for water users who provide water for the endangered fish from Elkhead Reservoir ($3.9 million) in Colorado. (A detailed explanation of the additional cost share is attached to my testimony.) Congress recognized these types of cost sharing in Public Law 106-392. The bill would increase the total authorization for the Programs to $126 million; with $65 million attributed to the non-federal cost-share and $61 million to the federal share.

The Programs also seek a time extension for capital project completion from 2008 to September 30, 2010, which will allow for full implementation of all construction projects while avoiding any real increase in Reclamation's annual appropriations requests for the Programs.

This increase in authorized expenditures is needed this year so Reclamation can factor it into its three year advanced budget planning, thus ensuring that the capital construction program can be completed by 2010.

Colorado joins with its sister states in requesting your passage of S. 1578. This will allow the Programs to fully implement the recovery goals so as to accomplish delisting and hence recovery of these endangered fish species.

Again, we offer our thanks to Senators Allard, Salazar, Bennett and Hatch for sponsoring this legislation.

I would be happy to answer any questions of the Subcommittee.

ATTACHMENT TO TOM BLICKENSDERFER'S TESTIMONY:
ADDITIONAL $11.0 MILLION NON-FEDERAL COST SHARE

POWER REVENUE NON-FEDERAL COST SHARE: During the development and passage of P.L. 106-392, it was anticipated that the value of "lost" CRSP power revenues due to changed operations at Flaming Gorge Dam to meet endangered fish needs was approximately $15 million. Congress recognized this as a non-federal cost share in P.L. 106-392. However, this expectation has been far exceeded. The estimated cost of this lost revenue to the Western Area Power Administration is $22.1 million, $7.1 million more than was originally estimated. Congress is asked to recognize the additional $7.1 million in lost power revenues as non-federal cost share, as in the original authorizing legislation (P.L. 106-392).

WATER USERS NON-FEDERAL COST SHARE: The enlargement of the Elkhead Project will provide an additional 5,000 acre-feet of water for use on a permanent basis by the Recovery Program to provide flows for endangered species. In addition, the Program will lease up to 2,000 acre-feet/year from the Colorado River Water Conservation District at a rate of $50/acre-foot, paying only for the water actually leased in a given year. On average, the lease is expected to be 500 acre-feet/year at a cost of $25,000. The amortized cost of providing 2,000 acre-feet of storage in Elkhead Reservoir is $110/acre-foot/year, or $220,000/year, resulting in a non-federal cost share to the Program of $195,000/year for 20 years, for a total of $3.9 million. This is in addition to the $5.0 million that was recognized in P.L. 106-392 as a water user cost share as a result of releases from Wolford Mountain Reservoir.

Senator MURKOWSKI. Thank you. Your testimony will be included, as will the testimony from all those who have appeared before us this afternoon.

Mr. Blain, I believe that I heard you indicate that the total cost of the project would be $137 million and that the estimated time to complete it is 10 years.

Mr. BLAIN. Ten years, yes.

Senator MURKOWSKI. Mr. Witwer, can you tell me why the district chose to come to the Congress for another title transfer, as opposed to utilizing the Bureau's administrative process for this?

Mr. WITWER. Yes, thank you. Thank you, Senator. The process that was really precedent-setting in this regard was Public Law 106-376, which took four single-purpose project facilities and transferred title from the United States to the Northern District in a very efficient and cost-effective manner. This project, like that—this set of facilities is virtually identical to that, it's just on the other end of the—sort of the downstream end of the terminal storage, from Carter Lake—or rather Horsetooth Reservoir. And we believe that that legislation coins an effective model for how to transfer the title successfully.

Senator MURKOWSKI. We can do it, cost effective and efficient. I like to hear that. I understand that there might be a possible title issue of the South Platte Supply Canal; can you address that?

Mr. WITWER. Sure, I'd be happy to. As I stated earlier, there were two existing ditch companies using a canal at the time of our project construction, and rather than build a stand-alone facility, the Bureau negotiated with those two companies for basically a right to enlarge and carry project water through those facilities, while continuing to preserve the right of those owners to convey their water. This legislation would convey the districts—excuse me, the Bureau's interest only in those facilities and both of those companies would retain all rights that they have in the past and their operations would be unaffected. And I note that in the letters of support which are attached as exhibit D to my testimony, both of those companies involved have submitted letters of support.

Senator MURKOWSKI. Mayor Nelson, can you give me the estimated cost for this land swap? I believe I heard you say that the city would be responsible for the cost; is that correct?

Mr. NELSON. Yes, that's correct.

Senator MURKOWSKI. And what is the estimated cost?

Mr. NELSON. The city's already paid $300,000 to swap the land with the Yuma County Water Users. And I don't know if we've got a total dollar figure. It is probably a half a million dollars total.

Senator MURKOWSKI. Okay, thank you. Now, the administration has testified that this conveyance will clear title on the rail line. Can you address that?

Mr. NELSON. Yes, I will. That rail line—and there's a lot of history in that waterfront area—used to be the first crossing across the Colorado River that there was to get from East to West, when the railroad bridge went in. And then, later on, the railroad went on down to Mexico. Unfortunately, it now goes down to the desalinization plant. And the property in the early years was owned by the city, and indeed in numerous transactions, it ended up partially in the city's hands, partially in the Bureau's hands, with a lot of the orphan parcels in there as well. But it dates all the way back from the 1900's.

Senator MURKOWSKI. Now, it's been stated here by Mr. Rinne that this process could be handled administratively. Senator Kyl had mentioned that as well, and that he thinks that the route that you are taking, the legislative route, is the preferable one for the city of Yuma. I'm assuming that is correct, because you're here.

Mr. NELSON. That is absolutely correct. Because we have found that the JSA route is not only more time consuming, but also more costly to both parties.

Senator MURKOWSKI. And Mr. Blickensderfer, in S. 1578, there's an increased appropriations ceiling for the Upper Colorado Basin Recovery Program, but not for the San Juan River Recovery Program. Can you explain why additional appropriations are not necessary for the San Juan River Recovery Program?

Mr. BLICKENSDERFER. Madam Chairman, we have in the San Juan Program problems that are similar to our problem in the Upper Colorado Program, which are merely construction delays in coordination with the various tribal governments that are affected by the San Juan Program. So I'm not sure that I could at this point give you a delineation of the dollars between the two programs. But we do have, at least as far as delays go, similar expense, run-ups there, and that is what's driving the costs in the San Juan.

Senator MURKOWSKI. So you're suggesting that there may be a need for additional funds for the San Juan Recovery then?

Mr. BLICKENSDERFER. Yes, Madam Chair, I am. But once again, we haven't—because we were bringing these both together in one package—we haven't really split them out between the two programs, we're taking them as a whole in this legislation.

Senator MURKOWSKI. Thank you.

Senator Salazar.

Senator SALAZAR. Thank you, Madam Chair. First, with respect to S. 1578, the recovery programs on the Colorado River and the San Juan River, I remember when those programs were started and I sat on the negotiating teams and the implementation committees and, Mr. Blickensderfer, I would just say that I think they're good role models for how you can effectively implement the Endangered Species Act requirements, while at the same time not keeping it in the way of water development or affecting water users and water rights within Colorado. So I applaud you and your leadership and that of the Department of Natural Resources, as well as all the organizations that are part of it. And I will note that it is a program that has huge and broad support—unlike lots of other things that we deal with here in this Congress—when you think that the letters of support that I believe have all been included in the record, including letters of support from Governor Dave Freudenthal of Wyoming, Governor Bill Richardson of New Mexico, random organizations like The Nature Conservancy, the Western Resource Advocates, and a whole host of other organizations. So I just applaud you for your work and ask you to continue to update us on the progress of the recovery efforts under both programs.

A question, Mr. Witwer, concerning S. 1498. And let me just say at the outset that your organization, the leadership of Eric Wilkinson and your board, I think are a well model for how we manage and distribute water supply in the West and so I often ask other water conservancy organizations, Madam Chairperson, to go to the Northern Water Conservancy District to learn how to do it right.

So I congratulate you for what you guys do. I have a question that was asked earlier about the processes for the conveyance. Looking back at the way that Public Law 106-376 was imple-

mented, was it in fact the most effective and efficient way to achieve the desired transfer?

Mr. WITWER. Well, thank you, Senator Salazar, for your original co-sponsorship and support of this legislation and for your kind words, which I will convey to Mr. Wilkinson upon my return. Yes, we do think that the Public Law 106-376 was the effective model for how to transfer single purpose conveyance facilities connected with this project. That was done effectively, and as you know, with the removal of many costs and other liability for the Federal Government and also significant cost reduction for the district and its water users.

Senator SALAZAR. Thank you very much.

Mr. WITWER. Thank you.

Senator MURKOWSKI. Thank you, Senator Salazar. I have no further questions. As you heard from Senator Johnson, he did have some questions that we will be submitting to you for your written response. I appreciate the time that you've taken to join us, the effort that you have made to travel the distances that you have, and for your testimony and for all that you're doing within your respective communities. Thank you. And with that, we stand adjourned.

[Whereupon at 4:10 p.m. the hearing was adjourned]

APPENDIXES

APPENDIX I

Responses to Additional Questions

STATE OF COLORADO DEPARTMENT OF NATURAL RESOURCES,
OFFICE OF THE EXECUTIVE DIRECTOR,
Denver, CO, October 19, 2005.

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

Re: Responses to Questions for the Record posed by Senators Domenici and Johnson regarding S. 1578, a Bill to Reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery programs.

DEAR SENATOR MURKOWSKI: Attached please find my responses to the questions posed by Senators Domenici and Johnson regarding S. 1578. I hope the Subcommittee members find my answers to be substantive and complete. If there are additional questions, I would be happy to answer them.

Thank you, once again, for the consideration and kindness you and your fellow Subcommittee members extended to me during my testimony on Thursday, October 6th

Sincerely,

TOM BLICKENSDERFER,
Endangered Species Program Director.

[Enclosure.]

RESPONSE TO QUESTION FROM SENATOR DOMENICI

Question 1. Senate Bill S. 1578, titled "A Bill to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs", seeks authority to expend an additional $15 million of Federal appropriated funds for the Upper Colorado Program and extend the deadline for completing construction of capital projects from 2008 to 2010 for both Programs. Why does the Bill not seek additional funds for the San Juan Program while asking for an extension of time to complete capital construction projects?

Answer. P.L. 106-392, as amended, authorized the expenditure of $18 million for the San Juan Program with a 2008 deadline for completion of capital projects. The federal share of this authorization is indexed based on the Consumer Price Index. With indexing the current authorization is $19 million. By 2010, based on a CPI increase of three percent per year, the available authorization will be approximately $20 million.

Through fiscal year 2005 the San Juan Program has expended approximately $7,032,000 for capital projects identified as necessary to recover the razorback sucker and Colorado pikeminnow. These funds have provided for the construction of facilities to restore fish passage at the Hogback, Cuedi and Public Service Company of New Mexico diversion dams in New Mexico, and construction of propagation facilities in New Mexico required to support fish stocking efforts.

The San Juan Program has recently identified the need to construct a fish screen at the Hogback diversion dam to prevent the entrainment of native fish and reduce fish mortality. The estimated cost of this facility is approximately $1.4 million. It is scheduled for completion in 2008.

The Program is currently evaluating the need for fish passage at the Arizona Public Service Company diversion dam and the Fruitland Project diversion dam near

Farmington. The estimated cost of the passage at Arizona Public Service Company passage is estimated at $2.2 million, if needed. The estimated cost of the Fruitland passage is $2.3 million, if needed.

The Program is also evaluating the need for backwater habitat restoration on the San Juan River. Four million dollars has been reserved within the authorized ceiling for this purpose. It is very likely that the amount needed will be much less.

Improvements to the current hatchery facilities are estimated at approximately $200,000. No other major hatchery facilities are anticipated in order to meet recovery goals.

The *total* additional capital expenditures described above are estimated at a maximum of $10.1 million. If all of these expenditures are made, which appears very unlikely, the total cost of capital projects would be $17.132 million, against a currently authorized ceiling of $19 million. With indexing the ceiling is expected to grow to $20 million by 2010.

Based on current identified needs and a management assessment of required funding, it does not appear that capital projects funds above the current authorization will be required to achieve the recovery goals.

The additional time to construct capital projects is being requested to accommodate ongoing field monitoring and evaluation of the need for additional facilities, and to plan, design, and construct those facilities. In addition, the additional two years of authorization through 2010 will allow appropriation requests to remain at about the same levels as previous appropriations to Reclamation to the Program, and avoid a significant increase in requests in 2008.

RESPONSES TO QUESTIONS FROM SENATOR JOHNSON

Question 1. Have the Upper Colorado and San Juan Recovery Programs been successful in improving the status of the species involved in the programs?

Answer. Yes. Both Programs are successfully undertaking management actions to increase the numbers and enhance the survival of the four fish species (humpback chub, Colorado pikeminnow, razorback sucker and bonytail). These actions include managing nonnative fish, stocking endangered fish, restoring floodplain habitats, providing beneficial flow conditions, and constructing fish passages and screens at diversion dams and canals. These management actions are consistent with the August 1, 2002, U.S. Fish and Wildlife Service recovery goals. These actions are yielding positive results.

Management of nonnative species, particularly northern pike and smallmouth bass, has successfully reduced the within-year abundance of nonnative fishes in some stretches of the Yampa and Green rivers. Removal of catfish in the San Juan River has had a substantial impact on the presence of large predators. There are encouraging signs that these nonnative fish management actions will reduce the long-term abundance of problematic nonnative fishes while bringing about positive responses in populations of endangered fishes.

Razorback sucker were near extinction and bonytail were functionally extinct in the Upper Basin. Populations of razorback sucker and bonytail are being reestablished through stocking of hatchery-reared fish. Stocked razorback suckers are surviving and reproducing, and stocked bonytails are being recaptured at several locations.

Nursery habitats for young razorback suckers are being provided through acquisition and restoration of floodplain wetlands in the Green River and Colorado River systems. Both Programs are working cooperatively with local, State, Federal, and tribal agencies to provide river flows to meet the needs of endangered fish. Fish passages constructed at diversion dams restore access to reaches of critical habitat. Fish screens constructed at diversion canals prevent endangered fish from becoming trapped.

Question 2. Can you provide some specifics regarding any such improvement—for example, population increases?

Answer. *Colorado pikeminnow*: Today, there are two self-sustaining populations in the Upper Colorado River Basin. Estimates of adult abundance in the Colorado River have steadily increased and range from 450 in 1992 to about 780 in 2003. Estimates of adult abundance in the middle and lower Green River declined during the recent record-setting severe drought from 3,100 in 2001 to 2,300 in 2003. A positive sign is that estimates for young Colorado pikeminnow in 2004 were the highest they have been since 1996 in the middle Green River and since 2000 in the lower Green River. This suggests that populations are rebounding as wetter hydrologic conditions return.

About 20 wild adults were estimated in the San Juan River in the early to mid 1990's. Reestablishment of fish in the San Juan River is being accomplished through

an aggressive stocking effort. Over 668,000 juveniles were stocked in 2002-2004, and survival of stocked fish has been documented.

Humpback chub: Today, there are five self-sustaining populations in the Upper Colorado River Basin. Estimates of adult fish vary considerably by location, and efforts are underway to improve and better understand these population estimates. Similar to Colorado pikeminnow, some populations showed apparent declines during the recent drought. Yampa Canyon supports a small population, consisting of about 400 adults. Recent estimates of adults in Desolation and Gray Canyons vary considerably from year to year, ranging from 1,000 to 2,200 during 2001-2003. In the Black Rocks-Westwater Canyon complex, estimates of adults were steady at about 3,000 fish during 1999-2003. Cataract Canyon supports a small population, consisting of about 150 adults.

Razorback sucker: The number of wild fish had declined to only a few hundred adults in the middle Green River by the early to mid 1990's. Populations are now being reestablished through stocking of hatchery-reared fish. Stocked fish are surviving and reproducing. In the middle Green River, stocked fish in reproductive condition have been captured at spawning sites, and captures of larvae confirm that these fish are successfully reproducing. Larvae were collected for the first time on record in the Gunnison River in 2002 and 2003, indicating reproduction by stocked fish. In the San Juan River, reproduction by stocked fish at separate locations has been documented through collection of larvae every year since 1998, and juveniles have been found in 2002 and 2003.

Bonytail: The number of wild fish had declined to only a few individuals in the Upper Colorado River Basin by the early 1980's. Populations are now being reestablished through stocking of hatchery-reared fish. Stocked fish are being recaptured at several locations throughout the Upper Colorado River Basin one or more years after stocking.

DEPARTMENT OF THE INTERIOR,
OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS,
Washington, DC, November 15, 2005.

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

DEAR MADAM CHAIRWOMAN: Enclosed are responses prepared by the Bureau of Reclamation to the questions submitted following the October 6, 2005, hearing regarding the following bills: S. 1025, S. 1498, S. 1529, S. 1578, and S. 1760.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

JANE M. LYDER,
Legislative Counsel.

[Enclosure.]

RESPONSE TO QUESTION FROM SENATOR MURKOWSKI ON S. 1025

Question 1. I understand that the Bureau was involved in the water recharge demonstration project with the City of Wichita that became the basis for this Project proposal. Please describe the Bureau's involvement in that demonstration project. Was the demo project a success?

Answer. Reclamation and the City of Wichita signed an agreement in 1995 to initiate a process to demonstrate seasonal water storage and recovery to supplement the Equus Beds Aquifer. Reclamation's involvement included cost sharing, reviewing the water quality data, partnering in the NEPA process, reviewing all engineering data, and issuing the final report. The final report, completed in April 2000, concluded it was feasible and suitable for full-scale implementation.

RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI ON S. 1498

Question 1. How does the title transfer of the facilities involved in S. 1498 differ from those transferred as part of Public Law 106-376?

Answer. Facilities previously transferred under P.L. 106-376 were located near Horsetooth Reservoir and were water supply facilities for the northern part of the District. Facilities proposed for transfer under S. 1498 are located at Carter Lake Reservoir and are water supply facilities for the southern portion of the District.

The facilities that were successfully transferred pursuant to Public Law 106-376 were the North Poudre Supply Canal and Diversion Works, the Charles Hansen (Supply) Canal and Windsor Extension, and the Dixon Feeder Canal. The facilities

proposed to be transferred pursuant to S. 1498 are the St. Vrain Supply Canal, the Boulder Creek Supply Canal (including the Boulder Feeder Canal) and the South Platte Supply Canal. These facilities distribute water from Carter Lake Reservoir to the southern portion of the C-BT Project.

The primary differences include the sequence of events, and overall approach, in pursuing the transfer. P.L. 106-376 was the result of considerable coordination between Reclamation and the District well in advance of the legislative introduction and extending throughout the process. Reclamation and the Northern Colorado Water Conservancy District had little interaction prior to the introduction of S. 1498.

Prior to the earlier transfer, Reclamation and the District executed an MOU identifying roles and responsibilities for the transfer process, along with the reimbursement of associated costs. A draft MOU is currently under review by the District.

Question 2. At the hearing you stated that no "aid to irrigation" is due for a repayment obligation. Is that correct or were you just referring to the fact that the Northern Colorado Water Conservancy District does not owe any "aid to irrigation obligation"? Isn't there still a federal "aid to irrigation" obligation on this transfer?

Answer. To clarify, the District has fulfilled its repayment obligation, as specified by contract, for irrigation costs allocated to the project. The remaining portion of the cost to construct the irrigation features are being paid by the power customers as "aid to irrigation." As part of the title transfer process, a valuation of the facilities to be transferred will include an analysis, to be conducted in cooperation with the Western Area Power Administration, of the payments necessary to fulfill the aid-to-irrigation obligation to the United States associated with the facilities proposed for transfer. Section 2(a)(2) appears to envision the need for this valuation to be completed, but because of the premature nature of this bill, that process was not initiated prior to the legislation being introduced.

It has always been the Administration's position that the entity requesting title transfer should either arrange payment of the power assistance costs with the power customers before the legislation is passed or should pay those costs themselves.

RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI ON S. 1529

Question 1. Who has title to the railroad parcels included in this bill and depicted on the map titled "City of Yuma Proposed Property Ownership" and dated July 25, 2005?

Answer. Reclamation (United States of America) purchased the Yuma Trackage from Southern Pacific Transportation Company (SPTC) in 1989 for the purpose of providing transportation of chemicals required for operation of the Yuma Desalting Plant. Prior to that purchase (1974), SPTC had sold parcels to the City of Yuma without exempting the track from those sales. Therefore, Reclamation and the City of Yuma both hold an interest in portions of the track as shown on the above-referenced map.

Question 2. How long would it take to complete the land exchange in S. 1529?

Answer. The passage of S. 1529 would expedite the transfer of titles to both the City of Yuma and Reclamation. Allowing for the drafting of the appropriate title documents and review and acceptance by government legal staff, the process could be consummated in six months to one year.

Question 3. How long would it take to complete the GSA administrative process referenced in your testimony to transfer the federal parcels to the city?

Answer. GSA has already contacted and offered assistance to the Department of Interior regarding the conveyance of Bureau of Reclamation property in Yuma. GSA has broad discretion in the development of a disposal plan and has linked its budget to performance for measuring disposal cycle time. It is possible that the administrative process could be faster at this time without the legislation. Public benefit conveyances are generally concluded within 12 months time.

Question 4. What does that process entail?

Answer. GSA's process under the Federal Property Act ensures that the Federal government recycles its real property assets with other executive agencies to minimize the cost outlay for new land acquisitions. After this federal screening to determine whether another Federal agency needs the property in question, GSA conducts a public body screening whereby the property is made available to public bodies for public use. Real property can be conveyed for public education, public health, law enforcement, fire and rescue, homeless, park and recreational use among others uses. These types of conveyances require an application showing the intended program of use and are available with discounts in value up to 100%.

Question 5. What role would the Bureau of Reclamation have in a GSA administrative land transfer?

Answer. Once Reclamation makes a determination that the lands are excess to its project needs and turns the lands over to GSA, we have no more direct involvement with the transfer.

Question 6. Does S. 1529 accomplish the same purpose as the GSA process you described without having to go through all this red tape?

Answer. Yes.

Question 7. The legislation would also go a step further and allow the Bureau to have clear title to the railroad line-is that correct?

Answer. That is correct. Reclamation requires clear title to the track in order to be able to maintain and operate the track for the purpose of delivering chemicals to the Yuma Desalting Plant.

RESPONSE TO QUESTION FROM SENATOR MURKOWSKI ON S. 1760

Question 1. What are the outstanding capital obligations owed to the Bureau by the two Irrigation Districts at issue?

Answer. The remaining construction obligation for the Medford Irrigation District is $589,760.32. The remaining construction obligation for the Rogue River Valley Irrigation District is $436,920.00.

RESPONSES TO QUESTIONS FROM SENATOR JOHNSON ON S. 1025

Question 1. If I understand your testimony, Reclamation has participated in a demonstration project associated with the Equus Beds Division.

Has the overall project been the subject of a feasibility assessment? If so, what was the result?

Answer. Yes, a feasibility assessment by the city of Wichita was completed in April 2000. It was concluded the project was feasible and suitable for full scale implementation.

Question 2. Is it Reclamation's position that the project is a good one—but there are simply no federal dollars to support it?

Answer. Although the project has merit, given Reclamation's already tight budget, we are not in a position to support the addition of this project to the list of unfunded projects already authorized and awaiting Federal funding.

RESPONSES TO QUESTIONS FROM SENATOR JOHNSON ON S. 1498

Question 1. Your testimony indicates that Reclamation is close to executing an MOU with the Northern Colorado Water Conservancy District, and will then need to thoroughly discuss issues associated with the transfer. Do you anticipate some difficult issues arising?

Answer. While we have not yet identified all of the issues, we do not anticipate any at this point that cannot be resolved. A partial list of potential issues to address includes access to remaining project facilities for operation and maintenance, and the completion of a valuation of the facilities. This valuation would also include an analysis, to be conducted in cooperation with the Western Area Power Administration, of the payments necessary to fulfill the aid-to irrigation obligation associated with the facilities proposed to be transferred. While the District has fulfilled its contractually-required repayment obligation, remaining costs for construction of the irrigation features that were considered beyond the District's ability-to-pay are being paid by the power customers as "aid to irrigation." Further, we need to determine the potential impacts of this transfer with, and on, other C-BT contractors and stakeholders to make sure that we protect their interests and ensure that there are no unintended consequences of this proposed transfer. While we have no indications that this will be a complicated effort, we believe it is important to complete this process before the transfer legislation is enacted.

In addition, there has been a long-standing issue regarding ownership of the South Platte Supply Canal, one of the features proposed for transfer. While we are not aware of any formal opposition to the legislation from affected ditch companies, Reclamation has only had the opportunity to briefly discuss the legislation with one of the ditch companies.

Question 2. The bill directs the Secretary of Treasury to transfer an unspecified amount of money from the Reclamation Fund to the Secretary of the Interior. What is the purpose of this transfer and how will that funding be utilized?

Answer. We believe the intent of this section is to address payment of the remaining costs for construction of the irrigation features from power revenues (aid to irrigation) in the Pick Sloan Missouri Basin Program that were considered beyond the

ability-to-pay of the District. The current language is unclear. In its place we suggest language similar to what was included in P.L. 106-376 addressing this issue.

Question 3. Section 2 of the bill states: "The Secretary shall, as soon as practicable after the date of the enactment of this Act and in accordance with all applicable law, convey to the District all right, title, and interest in and to the transferred water distribution facilities." Pursuant to this language, would Reclamation perform any NEPA analysis or ESA consultation as part of the title transfer process? If not, would there be any opportunity to identify any environmental issues that may arise as a result of the transfer?

Answer. The language quoted is the same language as in Public Law 106-376, which directed the transfer of certain other single distribution features of the Colorado-Big Thompson Project. Based on advice from the Office of the Solicitor, Reclamation determined that the transfer of title to the facilities pursuant to P.L. 106-376 was a non-discretionary Federal action and consequently NEPA and ESA requirements were not triggered. One of the reasons that we believe this transfer is premature is that we have had no opportunity to identify any environmental issues that could arise as part of the transfer. More time to work on this proposed transfer would enable us to identify environmental issues and work towards a solution in advance of or as part of the legislative process.

RESPONSES TO QUESTIONS FROM SENATOR JOHNSON ON S. 1529

Question 1. Has there ever been any attempt by the City of Yuma or Reclamation to clear title to the railroad parcels? Is it the Administration's position that it already owns fee title to the railroad parcels? Is there any chance that either the City or Reclamation could recover on a claim against the Southern Pacific Transportation Co., which allegedly sold the parcels to each party?

Answer. Railroad parcels were sold to the City of Yuma in 1974 by SPTC with no exemptions for the actual railroad track. In 1989 SPTC quit claimed the railroad track in its entirety to Reclamation (United States of America). Discussions have been held between the City of Yuma and Reclamation regarding title to the railroad track parcels. No agreements were reached. The Southern Pacific Transportation Co. (SPTC) also attempted to reconcile the error in approximately 1990. However, all of SPTC's interests were sold to Union Pacific Railroad prior to completion of any correction to the title. Reclamation could clear title to the railroad parcels through a judicial quiet title process. This would result in either a finding that the United States has title to the parcels at issue or a finding that the City has a valid claim and obtaining clear title would require the use of the United States' eminent domain powers and compensation for the City. There is a chance that the City or Reclamation could recover against SPTC but without more development of the underlying facts it is hard to predict the outcome of such a case, especially given that SPTC no longer exists.

Question 2. Given your testimony that S. 1529 does not represent an equal value exchange, is it a correct to state that Reclamation does not believe clearing title to the railroad parcels has significant value?

Answer. Having the ability to maintain and operate the railroad track is critical to the delivery of materials to the Yuma Desalting Plant. Because of the disputed title it is difficult to determine the monetary value of the railroad track parcels to Reclamation. However, Reclamation will need to clear title in order to protect the integrity of the track and guarantee our ability to deliver chemicals to the Yuma Desalting Plant.

Question 3. You refer to GSA's criteria for land transfers that provide no compensation to the federal government. Can you give us an idea as to what those criteria are?

Answer. GSA has prepared a brochure on this subject, available in pdf format at *http://rc.gsa.gov/resourcecenter/PublicPages/default.asp?type=3&page=2* Generally, Federal properties that are no longer needed by the Federal Government may be made available for public uses to state and local governments, regional agencies, and non-profit organizations. Public uses for properties are those that are accessible to and can be shared by all members of a community, and include community centers, schools and colleges, parks, municipal buildings, and many other public uses. As explained in the GSA brochure, there are many different classes of public benefit conveyances, each sponsored by a designated Federal agency which is responsible for reviewing the application for the public benefit conveyance, educating the grantee of the conditions of the conveyance and deeding the property to the new owner where appropriate. Types of public benefit conveyances that may apply to the lands in Yuma include conveyance for the protection of public health, a program administered by the Department of Health and Human Services, and

conveyance for a public park or recreation area, administered by the National Park Service. These types of conveyances allow a discount of up to 100% of the value of the property. If the City of Yuma's intended uses of the properties did not qualify for these programs, they might qualify for a negotiated sale, a transaction in which the Federal Government offers state and local governments the right to purchase property at appraised fair market value before it is offered to the general public. Negotiated sales must be conveyed with a public use in mind, such as a city municipal or administrative building, or redevelopment of the parcel of land.

RESPONSE TO QUESTION FROM SENATOR JOHNSON ON S. 1578

Question 1. Your support for this legislation seems to indicate that the Administration views the programs as successful in improving the status of the endangered species involved.

Is that indeed the case? Are these programs a good model for addressing endangered species requirements?

Answer. The Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program are national models of cost-effective, collaborative efforts to recover endangered fish while managing water to serve human needs. The ongoing progress toward these programs' success has been recognized by State and Federal leaders throughout the country.

Recovery is defined as an "improvement in the status of listed species to the point at which listing is no longer appropriate under the criteria set out in § 4(a)(1) of the Endangered Species Act." 50 C.F.R. § 402.02. Whether a species should be downlisted or delisted is based upon a 5 factor analysis of such threats as habitat destruction, disease or predation, overutilization for commercial or recreational purposes, inadequate regulatory mechanisms, and other natural or manmade factors. 16 U.S.C. § 1533(a). Management actions implemented by the recovery programs to reduce or remove the threats to the survival of the endangered fish species show success.

There are five populations of humpback chub and two populations of Colorado pikeminnow in the Upper Colorado River Basin. Stocked Colorado pikeminnow are surviving, stocked razorback sucker are reproducing, and recaptures of stocked bonytail indicate good growth and survival.

Other species conservation or recovery partnerships have consulted with the Upper Colorado River and San Juan River programs for guidance to structure and implement similar programs for (as examples) the Klamath River Basin, June sucker, Virgin River, and Rio Grande.

The Department of the Interior fully supports these recovery programs, as illustrated by the following quotes by Secretary of the Interior Gale Norton:

> "Meeting the needs of endangered species while respecting the legal rights of water users has been a priority of the Department of the Interior under this Administration. In the Upper Basin, we have had success building multi-stakeholder programs to address the needs of listed species. The Upper Colorado River Endangered Fish Recovery Program [is an example] of how a broad group of stakeholders—including federal, state, tribal, and private interests—can work together to improve water management on the Colorado [River]." (Excerpted)
>
> Secretary of the Interior Gale Norton, December 11, 2003
>
> Colorado River Water Users Association Annual Meeting, Las Vegas, Nevada

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> "The programs [San Juan River Basin and Upper Colorado River] are engaged in the hard, day to day work of recovering endangered species. They provide Endangered Species Act compliance for more than 800 water projects. Amazingly, no lawsuits have been filed on ESA compliance on any of those water projects. The Upper Colorado program has become a national model for recovering endangered species while addressing the demand for water development to support growing western communities."
>
> Secretary of the Interior Gale Norton, January 28, 2005
>
> Colorado Water Congress 47th Annual Convention, Denver, Colorado

RESPONSE TO QUESTION FROM SENATOR JOHNSON ON S. 1760

Question 1. You indicate that only one of the three irrigation districts involved in the Rogue River project had a repayment contracts that allowed for early repayment.

Was there any policy reason at the time the contracts were developed for treating the districts differently?

Answer. Nothing could be found within Reclamation's records that indicated a policy decision was made to treat the districts differently. Because contracts are in fact individually negotiated agreements, it is not uncommon to have contracts in the same project area with different contract language.

RESPONSE OF JERRY BLAIN TO QUESTION FROM SENATOR JOHNSON

Question 1. S. 1025 Calls for a 25% federal investment, up to $30 million, in support of the project. Is the project viable if that funding is not available?

Answer. Wichita, KS and the surrounding region of nearly 500,000 citizens must clearly have a reliable supply of water. Current projections indicate that water demands will exceed available supplies in the Wichita area in approximately 10 years. Therefore, the City will proceed with the project with or without federal investment. Nonetheless, federal investment in the project is appropriate for a number of reasons:

- The project is innovative and breaks new ground in Kansas for developing a sustainable water supply. The information gained from this project will have water supply implications beyond Kansas.
- The project serves more than a regional water supply interest. Without this project, water resources for a significant agricultural area will be negatively impacted both in terms of water quality and water quantity. Those parties are not being asked to participate in the cost.

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

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, October 11, 2005.

Hon. LARRY NELSON,
Mayor, City of Yuma, Arizona.

DEAR MAYOR NELSON: I would like to take this opportunity to thank you for appearing before the Senate Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Thursday, October 6, 2005, to give testimony regarding S. 1529, to provide for the conveyance of certain Federal land in the city of Yuma, Arizona.

Enclosed herewith please find a list of questions which have been submitted for the record. If possible, I would like to have your response to these questions by Friday, October 28, 2005.

Thank you in advance for your prompt consideration.

Sincerely,

LISA MURKOWSKI,
Chairman, Subcommittee on Water and Power.

[Enclosure.]

QUESTION FOR LAWRENCE K. NELSON FROM SENATOR MURKOWSKI

Question 1. I assume the City would prefer to accomplish this conveyance via the legislative route-is that correct?

QUESTIONS FOR LAWRENCE K. NELSON FROM SENATOR JOHNSON

Question 1. Does the City of Yuma believe that it presently holds fee title to the railroad parcels?

Question 2. Reclamation has proposed language that would incorporate GSA criteria for the exchange. Is that language acceptable to the City?

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, October 11, 2005.

Hon. JIM WITWER,
Northern Colorado Water Conservancy.

DEAR MR. WITWER: I would like to take this opportunity to thank you for appearing before the Senate Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Thursday, October 6, 2005, to give testimony regarding S. 1498, to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District.

Enclosed herewith please find a list of questions which have been submitted for the record. If possible, I would like to have your response to these questions by Friday, October 28, 2005.

Thank you in advance for your prompt consideration.

Sincerely,

LISA MURKOWSKI,
Chairman, Subcommittee on Water and Power.

[Enclosure.]

QUESTION FOR JAMES S. WITWER FROM SENATOR JOHNSON

Question 1. The bill directs the Secretary of Treasury to transfer an unspecified amount of money from the Reclamation Fund to the Secretary of the Interior. What is the purpose of this transfer and how is it anticipated that the funding will be utilized?

APPENDIX II

Additional Material Submitted for the Record

LEFT HAND WATER DISTRICT,
Niwot, CO, July 21, 2005.

Hon. WAYNE ALLARD, KEN SALAZAR, MARILYN MUSGRAVE, and MARK UDALL,
Washington, DC.

DEAR SENATORS ALLARD AND SALAZAR AND REPRESENTATIVES MUSGRAVE AND UDALL: I am writing on behalf of the Left Hand Water District to voice our support for the proposed title transfer of single-purpose water conveyance facilities within the Colorado-Big Thompson (C-BT) Project. These facilities include the St. Vrain Supply Canal the Boulder Creek Feeder Canal, the Boulder Creek Supply Canal, and the South Platte Supply Canal.

As a C-BT Project water user and dependent upon the St. Vrain Supply Canal and Boulder Feeder Canal for a portion of our water supply, we feel this title transfer is in the best interests of our constituents. We have benefited from the Northern Colorado Water Conservancy District's operations of the facilities over the past 48 years. Their high standard of facilities maintenance and their ability to work progressively with water users if and when issues arise have enhanced the reliability of the supplies we receive from the C-BT Project.

We wholeheartedly support the title transfer of these single-purpose water conveyance facilities from the United States to the Northern Colorado Water Conservancy District.

Sincerely,

KATHY PETERSON,
General Manager.

NEW CONSOLIDATED LOWER BOULDER RESERVOIR & DITCH COMPANY,
Longmont, CO, July 22, 2005.

Hon. WAYNE ALLARD, KEN SALAZAR, MARILYN MUSGRAVE, and MARK UDALL,
Washington, DC.

DEAR SENATORS ALLARD AND SALAZAR AND REPRESENTATIVES MUSGRAVE AND UDALL: I am writing on behalf of the New Consolidated Lower Boulder Reservoir and Ditch Company to voice our support for the proposed title transfer of single-purpose water conveyance facilities within the Colorado-Big Thompson (C-BT) Project. These facilities include the St. Vrain Supply Canal the Boulder Creek Feeder Canal, the Boulder Creek Supply Canal, and the South Platte Supply Canal.

As a C-BT Project water user and dependent upon the St. Vrain Supply Canal and (Boulder Supply/Boulder Feeder and/or South Platte Supply) Canal for a portion of our water supply, we feel this title transfer is in the best interests of our constituents. We have benefited from the Northern Colorado Water Conservancy District's operations of the facilities over the past 48 years. Their high standard of canal maintenance and their ability to work with water users if and when issues arise have enhanced the reliability of the supplies we receive from the C-BT Project.

We wholeheartedly support the title transfer of these single-purpose water conveyance facilities from the United States to the Northern Colorado Water Conservancy District.

Sincerely,

DAVID J. YARDLEY,
Secretary.

CITY OF LONGMONT, COLORADO,
WATER/WASTEWATER UTILITIES DEPARTMENT,
Longmont, CO, July 22, 2005.

Hon. WAYNE ALLARD,
U.S. Senate, Washington, DC.

DEAR SENATOR ALLARD: I am writing on behalf of the City of Longmont Water/Wastewater Utilities to voice our support for the proposed title transfer of single-purpose water conveyance facilities within the Colorado-Big Thompson (C-BT) Project. These facilities include the St. Vrain Supply Canal, the Boulder Creek Feeder Canal, the Boulder Creek Supply Canal, and the South Platte Supply Canal.

As a C-BT Project water user, Longmont has and will continue to rely on the St. Vrain Supply Canal for delivery of a critical portion of our water supply. I feel this title transfer is in the best interests of our customers by placing both the ownership as well as the responsibility to maintain the Canal with the Northern Colorado Water Conservancy District. This action will assist in ensuring that the St. Vrain Supply Canal continues to reliably deliver water to Longmont as well as many other water users in the St. Vrain Valley.

Longmont's water customers have benefited from the Northern Colorado Water Conservancy District's operations of the facilities over the past 48 years. Their local presence, along with their high standard of canal maintenance and ability to work with water users if and when issues arise, has enhanced the reliability of the supplies we receive from the C-BT Project.

I wholeheartedly support the title transfer of these single-purpose water conveyance facilities from the United States to the Northern Colorado Water Conservancy District.

Sincerely,

DALE F. RADEMACHER,
Director.

VRANESH AND RAISCH, LLP,
ATTORNEYS AT LAW,
Boulder, CO, July 22, 2005.

Hon. WAYNE ALLARD, KEN SALAZAR, MARILYN MUSGRAVE, and MARK UDALL,
Washington, DC.

DEAR SENATORS ALLARD AND SALAZAR AND REPRESENTATIVES MUSGRAVE AND UDALL: I am writing on behalf of the Town of Erie to voice its support for the proposed title transfer of single-purpose water conveyance facilities within the Colorado-Big Thompson (C-BT) Project. These facilities include the St. Vrain Supply Canal, the Boulder Creek Feeder Canal, the Boulder Creek Supply Canal, and the South Platte Supply Canal.

CBT water comprises an important component of the Town's water portfolio. As a C-BT Project water user and one which will rely upon the St. Vrain Supply Canal and the Boulder Supply/Boulder Feeder Canals for a portion of the Town's water supply, Erie feels this title transfer is in the best interests of its constituents. The Northern Colorado Water Conservancy District's high standard of canal maintenance and their ability to work with water users if and when issues arise have enhanced the reliability of the supplies the Town receives from the C-BT Project.

The Town of Erie wholeheartedly supports the title transfer of these single-purpose water conveyance facilities from the United States to the Northern Colorado Water Conservancy District. Please feel free to contact me with any questions.

Sincerely,

PAUL K. ZILIS.

NEW COAL RIDGE DITCH COMPANY,
Longmont, CO, July 25, 2005.

Hon. WAYNE ALLARD, KEN SALAZAR, MARILYN MUSGRAVE, and MARK UDALL,
Washington, DC.

DEAR SENATORS ALLARD AND SALAZAR AND REPRESENTATIVES MUSGRAVE AND UDALL: I am writing on behalf of the New Coal Ridge Ditch Company ("Company") to voice our support for the proposed title transfer of single-purpose water conveyance facilities within the Colorado-Big Thompson (C-BT) Project. The Company depends upon the Saint Vrain Supply Canal, the Boulder Creek Supply Canal and the South Platte Supply Canal for a portion of its water supply. The Company believes this title transfer is in the best interests of its shareholders. The Company has ben-

efited from the Northern Colorado Water Conservancy District's operations of the facilities over the past 48 years, their high standard of canal maintenance and their ability to work with water users if and when issues arise have enhanced the reliability of the supplies the Company receives from the C-BT Project.

The Company supports the title transfer of facilities from the United States to the Northern Colorado Water Conservancy District.

Sincerely,

ALFRED SATER,
President.

CITY OF BOULDER, COLORADO,
CITY COUNCIL OFFICE,
Boulder, CO, July 27, 2005.

Hon. WAYNE ALLARD, KEN SALAZAR, MARILYN MUSGRAVE, and MARK UDALL,
Washington, DC.

DEAR SENATORS ALLARD AND SALAZAR AND REPRESENTATIVES MUSGRAVE AND UDALL: I am writing on behalf of the City of Boulder to voice the City's support for the proposed title transfer of single-purpose water conveyance facilities within the southern portion of the Colorado-Big Thompson (CBT) Project. These facilities include the St. Vrain Supply Canal, the Boulder Creek Feeder Canal, the Boulder Creek Supply Canal, and the South Platte Supply Canal.

The City of Boulder is a CBT Project allottee and a Windy Gap Project allottee. These water supplies are delivered to Boulder through the St. Vrain Supply Canal and Boulder Feeder Canal into Boulder Reservoir. The City obtains half of its municipal water supply from CBT water either used directly at the Boulder Reservoir Water Treatment Plant or exchanged to diversion points on Boulder Creek tributaries through the Boulder Supply Canal. Due to the City's great reliance on these facilities, we believe this title transfer is beneficial to our citizens. The Northern Colorado Water Conservancy District has done a superior job of maintaining and operating these facilities since 1957 when the facilities first went into operation. The District has adhered to a very high standard of canal maintenance and has operated in a cost-efficient manner. Based on the District's proven record of working closely with water users to be responsive to their needs, we are confident that the title transfer of these facilities will continue and enhance the reliability of the water supplies we receive from the CBT Project.

The City of Boulder strongly supports the title transfer of these single-purpose water conveyance facilities from the United States to the Northern Colorado Water Conservancy District.

Thank you for your consideration of this proposal.

Sincerely,

MARK RUZZIN,
Mayor.

STATE OF NEW MEXICO,
OFFICE OF THE GOVERNOR,
Santa Fe, NM, September 8, 2005.

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

Re: Support for Enactment of S. 1578, the Upper Colorado and San Juan Basin Endangered Fish Recovery Implementation Programs Reauthorization Act of 2005

DEAR CHAIRMAN MURKOWSKI: On July 29, 2005, Senator Allard, along with cosponsors from the States of Colorado and Utah, introduced S. 1578, the Upper Colorado and San Juan Basin Endangered Fish Recovery Implementation Programs Reauthorization Act of 2005. I am writing to express my strong support for this bill and to urge its enactment into law as soon as possible.

This bill is needed for completion of the capital construction projects associated with the San Juan River Basin Recovery Implementation Program and the Upper Colorado River Endangered Fish Recovery Program. Successful completion of these programs is necessary to provide Endangered Species Act compliance for the states to develop and use their compact-apportioned waters. Enactment of S. 1578 will amend Public Law 106-392 by extending the construction authorization period for both the Upper Colorado and San Juan River recovery programs from 2008 to September 30, 2010. In addition, the bill increases the authorized ceiling by $15.0 mil-

lion for capital construction for the Upper Colorado River Program to address a recognized shortfall of measures to recover endangered fish species.

The goals of these two successful programs are to recover the Colorado River endangered fish species and to allow water development in the Upper Colorado and San Juan river basins to proceed in compliance with state laws, interstate compacts, the Endangered Species Act, other federal laws, and Indian trust responsibilities.

New Mexico is most appreciative of the Subcommittee's past support of the authorizing legislation for the capital construction activities of the two recovery programs and again seeks your assistance in accomplishing the necessary extension of time period and increase in authorization ceiling. Thank you for your consideration of this request.

Sincerely,

BILL RICHARDSON,
Governor.

STATE OF COLORADO,
EXECUTIVE CHAMBERS,
Denver, CO, September 20, 2005.

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

DEAR CHAIRMAN MURKOWSKI: On July 29th, Senator Allard,, along with his colleagues from the States of Colorado and Utah. introduced S. 1578, the Upper Colorado and San Juan Basin Endangered Fish Recovery Implementation Programs Reauthorization Act of 2005. I am writing to express my strong support for this bill and to urge its enactment into law as soon as possible.

This bill is needed to allow completion of the capital construction projects associated with the Upper Colorado River and San Juan River Basin Recovery Implementation Programs. Its enactment will amend Public Law 106-392 by increasing the authorized ceiling by $15.0 Million for capital construction for the Upper Colorado River Endangered Fish Recovery Program. In addition, the measure extends the construction authorization period for both the Upper Colorado and San Juan River recovery programs from 2008 to September 30, 2010.

The goal of these two successful programs is to recover the Colorado River endangered fish species in a manner that is consistent with state and tribal laws, interstate compacts, the Endangered Species Act, other federal laws, and Indian trust responsibilities.

Thank you for your consideration of this request. Sincerely,

Sincerely,

BILL OWENS,
Governor.

CENTRAL UTAH WATER CONSERVANCY DISTRICT,
Orem UT, September 28, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: We are requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These 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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988.

We would appreciate your continued support of these two vital programs with approval of S. 1578.

Sincerely,

DON A. CHRISTIANSEN,
General Manager.

TRI-COUNTY WATER CONSERVANCY DISTRICT,
Montrose, CO, September 28, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: We are requesting that the Subcommittee on Water and Power approve S. 1578. the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These 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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988.

We would appreciate your continued support of these two vital programs with approval of S. 1578.

Sincerely,

MIKE BERRY,
Manager.

UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT,
Gunnison, CO, September 28, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: We are requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These 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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins. The program is very important to water users through out the Upper Colorado River and San Juan River Basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988. We would appreciate your continued support of these two vital programs with approval of S. 1578.

Please feel free to contact us if you have any questions or comments.

Sincerely,

KAREN H. SHIRLEY,
District Manager.

COLORADO WATER CONGRESS,
Denver, CO, September 28, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: The Colorado Water Congress is a statewide organization of municipal, agricultural, industrial, and recreational water users. The Colorado Water Congress joins the governors of Colorado, New Mexico, Utah, and Wyoming in requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These 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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The requested increase in authorization ceiling of $15 million is needed to complete the capital construction program in the Upper Colorado River Basin. The increase is justified based on increased energy costs, increased price of construction materials, including steel and cement, and some unanticipated construction difficulties resulting from site-specific design considerations. The requested two year time extension is needed to keep appropriations requests at levels similar to previous year.

An additional $11 million in non-federal cost sharing is being provided, bringing the total requested authorization to $126 million. Of this amount, $65 million is being provided in non-federal cost share from the states, water users, and power users, and $61 million in federal appropriations.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988. They have been cited by various administrations as "success stories" and as a "model of how the Endangered Species Act should be implemented."

We would appreciate your continued support of these two vital programs with approval of S. 1578.

Sincerely,

TOM PITTS,
Project Coordinator,
Special Project on Threatened and Endangered Species.

SAN JUAN WATER COMMISSION,
Farmington, NM, September 29, 2005.

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

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI: We are requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These 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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988.

We would appreciate your continued support of these two vital programs with approval of S. 1578.

Sincerely,

L. RANDY KIRKPATRICK,
Executive Director.

APS, A SUBSIDIARY OF PINNALE WEST CAPITAL CORPORATION,
FOUR CORNERS POWER PLANT,
Fruitland, NM, September 30, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: We are requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These 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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988. We would appreciate your continued support of these two vital programs with approval of S. 1578.

Sincerely,

DAVID L. SALIBA,
Plant Manager.

COLORADO RIVER ENERGY DISTRIBUTORS ASSOCIATION,
Tempe, AZ, September 30, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: The Colorado River Energy Distributors Association (CREDA) is a non-profit organization comprised of 155 electric systems in the states of Arizona, Colorado, New Mexico, Nevada, Wyoming and Utah, who are firm power customers of the Colorado River Storage Project (CRSP). CREDA is also an active participant in the technical and policy committees of the Upper Basin Endangered Fish Recovery Implementation Program (RIP), and CRSP power revenues have funded both capital ($17 million) and o&m (up to $6 million annually) aspects of the RIP.

CREDA testified in support of the RIP at the time of original authorization, and supports passage of S. 1578. The bill requests a $15 million increase in the authorization ceiling, as well as a two-year time extension. Further, the bill provides an additional $11 million in non-federal cost sharing. This increase results in a total program authorization of $126 million, $61 million of which is provided by federal appropriations. The increase in funding and time extension is necessary for the program to complete construction of the capital features and to keep appropriations requests at levels similar to the previous year.

CREDA would appreciate your support of the program through passage of S. 1578.

Sincerely,

LESLIE JAMES,
Executive Director.

NORTHERN COLORADO WATER CONSERVANCY DISTRICT,
Tempe, AZ, September 30, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: On behalf of the Board of Directors of the Northern Colorado Water Conservancy District, I am requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River Basin and San Juan River Basin endangered fish recovery programs. These programs are recovering endangered fish species in a manner that is compatible with state law. The programs provide ESA compliance for more than 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988.

We would appreciate your continued support of these two vital programs with approval of S. 1578.

Sincerely,

ERIC W. WILKINSON,
General Manager.

CITY OF AURORA, CO,
WATER DEPARTMENT ADMINISTRATION,
Aurora, CO, October 2, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: We are requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These 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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988.

We would appreciate your continued support of these two vital programs with approval of S. 1578.

Sincerely,

PETER D. BINNEY,
Director.

DENVER WATER,
Denver, CO, October 3, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: Denver Water is requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These 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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988.

We would appreciate your continued support of these two vital programs with approval of S. 1578. Sincerely,

Sincerely,

H.J. BARRY,
Manager.

HARRY & DAVID HOLDINGS, INC.,
Medford, OR, October 3, 2005.

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

DEAR SENATOR MURKOWSKI: As President and CEO of Harry & David Holdings, Inc., I ask the Committee's support for S. 1760. You may know our Company through our holiday gift baskets or our signature products, Harry and David's Royal Riviera® pears and Jackson & Perkins® roses. Harry & David Holdings, Inc. is headquartered in Medford, Oregon. In addition to our extensive fruit growing, production and customer service operations in Oregon, we have rose growing operations in California, a call center and distribution facility in Ohio, and Harry and David stores in 34 states. The thousands of employees that will benefit from the continued strength and growth of our enterprise also ask the Committee's support for S. 1760.

Harry & David Holdings, Inc. is seeking an early-repayment option of its financial obligations to the U.S. Bureau of Reclamation so it will have flexibility in financing the continued growth and development of its businesses. This legislation will allow landowners in the Rogue River Valley Irrigation District and the Medford Irrigation District to make an EARLY repayment of their financial obligations. The only other irrigation district in Southern Oregon, Talent Irrigation District, has an early-repayment option in its contract. As you know, other water districts and irrigation districts across the Reclamation West have 9(d) repayment contracts that include an early repayment option.

If Harry & David were to make an early repayment of its obligation to the Bureau of Reclamation in all three Southern Oregon water districts today, the income to the Bureau is estimated to be $240,000.00.

This legislation is as important to us for what it will do, as it is important to others in the Districts for what it will not do. It will not modify the contractual rights that may exist between the Districts and the United States under their respective Reclamation contracts, or amend or reopen those contracts; nor does it modify any rights, obligations or relationships that may exist between the districts and their landowners as may be provided or governed by Oregon state law.

This legislation was developed in collaboration with the Department of the Interior, our Congressional delegation and the Southern Oregon irrigation districts. We wish to extend our thanks to Senators Wyden and Smith and Congressman Walden, and the Department of the Interior for their assistance and the tremendous effort they have made in helping us find a win/win solution.

We would appreciate the Committee's support for S. 1760's passage and ultimate enactment into law.

Thank you for your consideration of S. 1760.

Sincerely,

WILLIAM H. WILLIAMS,
President and CEO.

STATE OF WYOMING,
OFFICE OF THE GOVERNOR,
Cheyenne, WY, October 3, 2005.

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

Re: Support for S. 1578, the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs Reauthorization Act of 2005

DEAR CHAIRMAN MURKOWSKI: On July 29th, Senator Allard, along with his colleagues from the States of Colorado and Utah, introduced S. 1578, the Upper Colorado and San Juan Basin Endangered Fish Recovery Implementation Programs Reauthorization Act of 2005: I am writing to express my strong support for this bill and to urge its enactment into law as soon as possible.

This bill is needed to allow completion of the capital construction projects associated with the Upper Colorado River and San Juan River Basin Recovery Implementation Programs. Its enactment will amend Public Law 106-392 by increasing the authorized ceiling by $15.0 Million for capital construction for the Upper Colorado River Endangered Fish Recovery Program. In addition, the measure extends the construction authorization period for both the Upper Colorado and San Juan River recovery programs from 2008 to September 30, 2010.

The goal of these two successful programs is to recover the Colorado River endangered fish species in a manner that is consistent with state and tribal laws, interstate compacts, the Endangered Species Act, other federal laws, and Indian trust responsibilities.

We are most appreciative of the Subcommittee's past support of the authorizing legislation for the capital construction activities of the two recovery programs and we again seek your assistance in accomplishing the necessary extension of time period and increase in authorization ceiling. Thank you for your consideration of this request.

With best regards,

DAVE FREUDENTHAL,
Governor.

SOUTHWESTERN WATER CONSERVATION DISTRICT,
Durango, CO, October 4, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: We are requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These 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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988.

We would appreciate your continued support of these two vital programs with approval of S. 1578.

Sincerely,

FRED V. KROEGER,
President.

COLORADO RIVER WATER CONSERVATION DISTRICT,
Glenwood Springs, CO, October 4, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: On behalf of my board and Western Colorado, I respectfully urge the Sub-committee's approval S. 1578, reauthorizing the Upper Colorado River and San Juan River basins endangered fish recovery programs. Western Colorado water users have been active partners in these two exemplary programs. These programs are successfully recovering the listed fish species consistent with state wildlife and water law. These two programs have been heralded as how the current ESA can and should be administered in cooperation with states, affected interests, and the general public. These two programs provide ESA compliance for more than 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed broad bipartisan support both in Congress and through several administrations since 1988. We would appreciate your continued support of these two vital programs with approval of S. 1578.

Sincerely,

R. ERIC KUHN,
General Manager.

WYOMING WATER ASSOCIATION,
Cheyenne, WY, October 6, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: The Wyoming Water Association supports the passage of S. 1578, a bill to reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs. 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 adopted a resolution supporting the Upper Colorado Recovery Implementation Program at the time the Program was initiated in January 1988 and is a participating entity in the Upper Colorado Recovery Program. We are represented on the Upper Colorado Recovery Program's Biology, Management and Implementation Committees by Mr. Tom Pitts, of Water Consult, Inc. We join our Program partners, including the States of Colorado, New Mexico, Utah, and Wyoming and power and conservation community interests in requesting that the Subcommittee on Water and Power approve S. 1578.

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 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

S. 1578 has been introduced to provide an increase in the appropriations authorization ceiling needed for the recovery programs' capital construction projects. The bill authorizes an increase of $15 million and is both needed and justified based on increased fuel and energy costs, increased price of construction materials (including steel and cement) and some unanticipated construction difficulties resulting from site-specific design considerations. The requested two-year time extension is needed to keep appropriations requests at levels similar to previous year's appropriations to the Bureau of Reclamation for these necessary construction activities.

An additional $11 million in non-federal cost sharing is being provided, bringing the total requested authorization to $126 million. Of this amount, $65 million is being provided in non-federal cost share from the states, water users, and power users, and $61 million in federal appropriations.

These programs have enjoyed continued support in Congress and involve multiple federal agency participation in their ongoing implementation. The Wyoming Water Association is pleased to note that these programs have been touted and held up as national models for how resources use and development can continue in concert with Endangered Species Act compliance under the current law.

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. 1578.

Sincerely yours,

JOHN W. SHIELDS,
Executive Secretary.

PNM,
Albuquerque, NM, October 31, 2005.

Hon. GEORGE RADANOVICH,
Chair, Subcommittee on Water and Power, Resources Committee, U.S. House of Representatives, Washington, DC.

Hon. GRACE NAPOLITANO,
Ranking Member, Subcommittee on Water and Power, Resources Committee, U.S. House of Representatives, Washington, DC.

Support for H.R. 3153: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—November 3, 2005 Hearing

DEAR CHAIRMAN RADANOVICH AND REPRESENTATIVE NAPOLITANO: We are requesting that the Subcommittee on Water and Power approve H.R. 3153, the bill to reauthorize the Upper Colorado River and San Juan River basins endangered fish recovery programs. These programs are recovering endangered fish species in a manner that is compatible with state wildlife and water law. The states of Colorado, Wyoming, Utah, and New Mexico, environmentalists, tribes, and water users are working collaboratively with federal agencies to achieve recovery of four endangered fish species. The programs provide ESA compliance for more than 800 water projects, including federal Reclamation projects and tribal projects in the Upper Colorado River and San Juan River basins.

The programs have enjoyed bipartisan support both in Congress and through several administrations since 1988.

Please include this letter in the hearing record.

We would appreciate your continued support of these two vital programs with approval of H.R. 3153.

Sincerely,

JOHN MYERS,
Vice President, Power Production.

THE NATURE CONSERVANCY,
WESTERN RESOURCE ADVOCATES,
October 6, 2005.

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

Hon. TIM JOHNSON,
Ranking Member, Water and Power Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Support for S. 1578: To Reauthorize the Upper Colorado and San Juan River Endangered Fish Recovery Implementation Programs—October 6, 2005 Hearing

DEAR SENATOR MURKOWSKI AND SENATOR JOHNSON: The Nature Conservancy and Western Resource Advocates are long-time participants as conservation representatives to the Upper Colorado River Endangered Fish Recovery Program. As such, we join the governors of Colorado, New Mexico, Utah, and Wyoming, and other program participants in requesting that the Subcommittee on Water and Power approve S. 1578, the bill to reauthorize the Upper Colorado River and San Juan River basins

endangered fish recovery programs. The Upper Colorado River Program, in which we participate, takes a collaborative approach to endangered fish recovery, seeking to recover species while providing for continued human uses of water. It has been cited by various observers as a model for implementation of the Endangered Species Act, and has enjoyed bipartisan support both in Congress and through several administrations since 1988.

At the same time, we would like to take this opportunity to emphasize two additional aspects of the Upper Colorado Program, because the continued success of this Program depends not only on the completion of its capital components which would be made possible by the passage of S. 1578, but also on the rigorous application of adaptive management and on stable, long-term base funding.

- Adaptive Management Framework: The Upper Colorado Program has recently adopted a rigorous, science-based framework for evaluating the connection between program activities and recovery of the species. We believe this framework is necessary to improve recovery actions over time, to ensure wise allocation of program resources, and ultimately, to achieve lasting recovery of the species.
- Long-term Base Funding: This capital expenditure authorization will ensure completion of important, on-the-ground facilities that protect and enhance native endangered fish. Equally important to capital construction, though, is the long-term annual funding for this Program. The recovery objective is not assured with completion of capital projects in 2010; rather, we will continue to work for years to come to control threats to the species like predatory non-native fish, to rear and stock the rarer species, to manage flows throughout the basin, and to monitor the status of the species for progress towards recovery. Stable long-term funding for on-going recovery activities will be essential to realizing the benefits of the capital projects and achieving self-sustaining populations of native fish.

We are therefore pleased to express our support for the Upper Colorado River Endangered Fish Recovery Program and would appreciate your continued support of this vital Program by enactment of S. 1578.

Sincerely,

DAN LUECKE,
BART MILLER,
Western Resource Advocates,
ROBERT WIGINGTON,
TOM ISEMAN,
The Nature Conservancy.

STATEMENT OF DAVE FREUDENTHAL, GOVERNOR, STATE OF WYOMING, ON S. 1578

Madame Chairman and Members of the Water and Power Subcommittee, I am pleased to submit this statement urging this Committee to favorably consider, and report without amendments, S. 1578. This bill is needed to allow completion of the capital construction projects associated with the Upper Colorado River and San Juan River Basin Recovery Implementation Programs, as authorized by Public Law 106-392 (and subsequently amended by Public Law 107-395), That public law authorized federal expenditures for the capital construction projects and recognized cost sharing being provided by the states, power users, and water users. This bill increases the authorized appropriations ceiling by $26 Million: $15 Million in additional federal appropriations and $11 Million in non-federal cost sharing; and extends the time allowed for completion of the Programs' capital construction projects from the end of fiscal year 2008 to September 30, 2010,

Enactment of this legislation is Important to the interests of the State of Wyoming. Completion of the Programs' construction projects is critical to the recovery of the Colorado River Basin endangered fish species. The ongoing and successful Upper Colorado and San Juan every programs have, since their initiation in 1988 and 1992, respectively, provided a cooperative, workable and effective mechanism for continued compliance with the Federal Endangered Species Act for hundreds of federal and non-federal water projects in the Upper Colorado River basin and the San Juan River basin, including projects that provide water to meet tribal needs and that fulfill the federal government's trust responsibility to tribes in compliance with the Endangered Species Act. Accordingly, continuation of the implementation of these recovery program, including the completion of the programs' capital construction projects directly benefiting the endangered fish species is imperative to our States' ability to continue to develop our compact-apportioned water resources.

S. 1578 does not amend the Federal Endangered Species Act. The measure maintains a cap and time-period sunset provision on capital construction expenditures as established in the original authorization. The impact on the annual federal budget of the increased appropriations authorized by S. 1578 is not significant. From 1999 through fiscal year 2004, Congressional appropriations to the Recovery Programs averaged $4.8 Million. Continued appropriations by Congress to the Bureau of Reclamation at this level during fiscal years 2008 through 2010 will provide the needed funding to complete the capital construction projects. The time-period extension (from 2008 to 2010) authorized by this legislation is necessary to avoid large annual increases in Reclamation's budget—and will allow the Recovery Programs' construction program to continue as presently staffed to complete ongoing and planned construction projects.

The current appropriations ceiling authorized by Public Law 106-392 is $100 Million, of which $46 Million is from appropriations by Congress, $17 Million provided by power users, $17 Million provided by the four Upper Basin states and $20 Million in additional non-federal funding for the cost of replacement power purchased due to modifying the operation of the Colorado River Storage Project and the capital cost of water dedicated to the benefit of the endangered fish and their habitat from Wolford Mountain Reservoir in Colorado. With indexing for inflation, the current authorized amount for projects construction in the Upper Basin is $64.7 Million. The current total estimated cost to complete the Recovery Programs' capital construction projects is $77.2 Million, revealing an authorization shortfall of $12.5 Million. Accordingly, S. 1578 would authorize the expenditure of an additional $2.5 Million, to be expended only if needed, to cover unforeseeable increases in construction costs through 2010.

The $12.5 Million shortfall for completing the needed construction projects arose for several reasons. The original authorization for these Recovery Programs was enacted into law in October 2000. The cost estimates for construction projects needed to achieve recovery of the endangered species incorporated into Public Law 106-392 were developed in the years prior to that enactment, e.g., in the late 1990s. While the project list has remained materially the same since that time, construction costs have increased faster than the consumer price index for the last several years due to the improved economy, increased energy costs, and increased world market demand for steel. In addition, some unanticipated costs have been experienced with property acquisition and access, delays in construction, and unanticipated components of fish passages and screens specific to the Colorado River.

As noted above, Public Law 106-392 recognized as part of the non-federal cost share a total of $20 Million for the cost of replacement power purchased due to modifying the operation of the Colorado River Storage Project and the capital cost of water from Wolford Mountain Reservoir in Colorado. Revised estimates of power revenue losses due to Colorado River Storage Project re-operation to benefit endangered species indicate that the loss will be $7.1 million over the original $15 million estimated. In addition, water users are providing additional cost sharing of $3.9 million for the Elkhead reservoir Enlargement Project, bringing the total non-federal cost sharing from power losses and water users to $31 million, rather than $20 million originally estimated from these sources in P.L. 106-392. This legislation, S. 1578, recognizes and includes these additional non-federal expenditures in its upward adjustment of the capital construction appropriations ceiling to a total authorization of $126 Million. The non-federal share will be $65 Million and the federal share, as adjusted upon enactment of this bill, will be $61 Million.

The Recovery Programs' dual objectives of recovery while accommodating additional water resources development in the Basin represent the best approach yet devised to resolving the conflict between the federal Endangered Species Act (ESA) and water development needs. State and federal agencies, Indian tribes and private organizations are cooperating through these two recovery programs to achieve recovery of endangered fish while meeting continuing demands for water in the arid West. The recovery programs are serving as national models for how willing partners can use effective, collaborative partnerships to meet important needs.

Application of the ESA in Wyoming's portion of the Upper Colorado River Basin has not impeded our ability to develop our water resources since the Upper Colorado Recovery Program's initiation in 1988. This is, in my view, a critical and key measure of the Program's success in meeting its commitment to allowing needed water development to proceed in compliance with the ESA. Further, the programs' participants are making substantial progress towards recovery of the four endangered fish species. After completing the Programs' capital construction projects—once these facilities are "on the ground" and operating—we will have taken those steps that our Program's biologists believe are necessary for the four endangered fish species to reach self-sustaining population levels needed for downlisitng and recovery.

Thank you for the opportunity to submit this testimony. I request, in addition to your consideration of its contents, that you make it a part of the formal hearing record concerning this important legislation needed to complete the capital construction projects associated with the Upper Colorado River and San Juan River Basin Endangered Fish Recovery Implementation Programs.

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