

STATEMENT TO THE SUBCOMMITTEE ON WATER AND POWER, ENERGY AND NATURAL RESOURCES COMMITTEE, U.S. SENATE REGARDING SENATE BILL 2239, TO AUTHORIZE THE BUREAU OF RECLAMATION TO PROVIDE COST SHARING FOR THE ENDANGERED FISH RECOVERY IMPLEMENTATION PROGRAMS FOR THE UPPER COLORADO AND SAN JUAN RIVER BASINS.

By

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and

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on behalf of

Colorado Water Congress, Utah Water Users Association, and
Wyoming Water Development Association

for the

Upper Colorado River Basin Endangered Fish Recovery Implementation Program

and

Water Development Steering Committee,

San Juan River Basin Recovery Implementation Program

April 25, 2000

Thank you for the opportunity to appear today to discuss the support of water users in Colorado, Utah, Wyoming, and New Mexico for Senate Bill 2239 that authorizes the Bureau of Reclamation to provide cost sharing for the Upper Colorado River and San Juan River recovery implementation programs. In attendance at the hearing today in support of the bill is Mr. Eric Kuhn, Secretary-Manager, Colorado River Water Conservation District, Glenwood Springs, Colorado and member, Colorado Water Conservation Board..

The Upper Colorado River and San Juan River recovery implementation programs have been in place for 12 years and 9 years, respectively. In the past, the Upper Basin program has been funded through appropriations to the Bureau of Reclamation, contributions by the Upper Basin

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states, and contributions from power users and water users. To date, the San Juan River Basin program has been involved in research on endangered fish. These efforts have been funded annually by Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, and U.S. Fish and Wildlife Service. The legislation before the Subcommittee today arose from three concerns: 1) Congress is concerned that expenditures for the recovery programs are significant, and are not directly authorized by Congress, 2) Congress is concerned that funding of the recovery programs' capital construction projects had no defined ceiling approved by Congress, and 3) given the currently projected expenditures for the program, the Administration believes that increased cost sharing by non-federal parties is justified. S. 2239 is the culmination of five years of good faith negotiation involving federal agencies, the States of Colorado, Wyoming, Utah, and New Mexico, power users, water users, and environmentalists to address the concerns of Congress and the Administration.

Water users in Colorado, Wyoming, Utah, and New Mexico are active participants in these two programs. Water users support passage of S. 2239. The Subcommittee has received letters of support for the bill from a number of water user organizations, and more will be received within the next week.

The Upper Colorado River program has been expending funds for capital construction projects to recover endangered fish since 1994 (hatcheries, fish passages, acquisition of riparian bottomlands, non-native fish control and acquisition of water in accordance with state law). The San Juan Program has initiated construction of fish passages. In the past, the Recovery Program has relied on 100 percent Reclamation funding for capital construction. In the future, this funding will be shared among Reclamation (\$46 million), States (\$17 million), power users (\$17 million), and water users (estimated \$2 million). The Colorado River Water Conservation District is providing water for fish flows to the Upper Basin Recovery Program at a capital cost of approximately \$5 million. In addition, power users will experience increased costs on the order of \$15 million just in the next few years to replace lost hydroelectric peaking power due to reoperation of federal reservoirs to enhance flows for the endangered fish. Considering all costs, the combined non-federal share exceeds 50 percent of the capital costs of the programs.

The Upper Basin Program annual costs for program operation and research are shared by federal agencies, the States, and power users. We anticipate these cost sharing arrangements will continue. However, the capital projects needed to recover the fish will be in need of continuing operation and maintenance. Therefore, the legislation specifies use of nonreimbursable power revenues up to \$4 million for the Upper Basin Program, and up to \$2 million for the San Juan Program to cover these and other operations costs.

In the Upper Colorado River Basin in 1983, and again in the San Juan River Basin in 1989, there appeared to be irreconcilable conflicts between the Endangered Species Act on one side, and, on the other side, state law allocating water among state water users, interstate compacts and Supreme Court decrees allocating water among the states, and the Secretary of Interior's trust responsibilities to native Americans. The recovery programs we are discussing today are the result of sincere, diligent, and difficult negotiations to resolve those conflicts at the regional level with long-term mutually acceptable solutions.

The fundamental goals of both recovery programs are to recover endangered fish while water development in the Upper Basin and San Juan Basin proceeds in accordance with state law, interstate compacts, Supreme Court decrees, and the Secretary of Interior's trust responsibilities

regarding continued water development for native Americans. These programs came about as a result of commitment by federal agencies, the states, environmentalists, water users, power users, and tribes to develop solutions that are locally acceptable, while meeting the standards established by Congress in the Endangered Species Act. The goals of these two programs are not simply to maintain the status quo, but to recover and de-list the endangered fish species under the Endangered Species Act. We see the recovery programs as the only viable long-term solutions.

We have brought Congress a solution instead of a problem with respect to potential conflicts in these two river basins. Without the positive attitude taken by all parties to these programs, we could be experiencing the same difficulties that you are hearing about in other regions, where solutions appear to be extremely difficult and cost estimates exceed by orders of magnitude the request being made for the Upper Colorado and San Juan programs.

We have brought Congress a locally acceptable solution that will lead to recovery of endangered fish within a Congressionally authorized ceiling and with substantial non-federal cost sharing. We hope that Congress will take a positive and supportive attitude towards the approach being taken in the Upper Colorado River and San Juan River recovery programs. Therefore, we urge your support for S. 2239.

Thank you for the opportunity to appear before the Subcommittee today. We respectfully request that the hearing record be left open for receipt of additional correspondence from the parties to the programs.