H.R. 489, H.R. 818, AND H.R. 470

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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LEGISLATIVE HEARING ON H.R. 489, TO CLARIFY THE JURISDICTION OF THE SECRETARY OF THE INTERIOR WITH RESPECT TO THE C.C. CRAGIN DAM AND RESERVOIR, AND FOR OTHER PURPOSES; H.R. 818, TO DIRECT THE SECRETARY OF THE INTERIOR TO ALLOW FOR PREPAYMENT OF REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE UINTAH WATER CONSERVANCY DISTRICT; AND H.R. 470, TO FURTHER ALLOCATE AND EXPAND THE AVAILABILITY OF HYDROELECTRIC POWER GENERATED AT HOOVER DAM, AND FOR OTHER PURPOSES.

Thursday, May 12, 2011
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:00 a.m., in Room 1334, Longworth House Office Building, Hon. Tom McClintock, Chairman of the Subcommittee, presiding.

Present: Representatives McClintock, Gosar, Napolitano, Grijalva, and Garamendi.

Also Present: Representatives Heck and Matheson.

STATEMENT OF HON. TOM McCLINTOCK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MCCLINTOCK. The hour of 10:00 has arrived. The quorum of the Committee is present. All of our witnesses are here. And so, the meeting of the Subcommittee on Water and Power will come to order.

This Committee meets today to hear testimony on H.R. 489, sponsored by Congressman Gosar; H.R. 818, sponsored by Congressman Matheson; and H.R. 470, sponsored by Congressman Heck and Congresswoman Napolitano. I would ask unanimous consent of the Committee that the gentleman from Nevada, Mr. Heck,

and the gentleman from Utah, Mr. Matheson, be allowed to sit with the Subcommittee and participate in the hearing. If there is no objection, so ordered.

We will begin with five-minute opening statements by myself and the Ranking Member, followed by members of the Committee on the order of their arrival. So, we will start the clock and I will yield myself five minutes.

The bills before us today make minor adjustments to current water projects, but they also open up larger issues that I hope to address during the coming session. We have, again, before us the Hoover Power Allocation Act, H.R. 470, authored by Dr. Heck of Nevada and Mrs. Napolitano of California. The Hoover Dam is an ideal model to which we must return. It produced a cornucopia of water storage, hydroelectricity, recreational resources, and flood control, financed not by general taxpayers, but by the users of these benefits. The Federal Government helped front the money for the construction. The project participants paid back that money with interest from the proceeds of their water and electricity sales. The original project was paid off long ago and continues to store up to 28 million acre-feet of water and to generate 2,000 megawatts of electricity, while providing one of the great recreational gems of the West and shielding the Colorado River Basin from the devastating cycle of floods and droughts which once ravaged it.

We have drifted far, far from this model of abundance in previous Congresses and we need to get back to it. In the meantime, the question arises of how to allocate these power benefits when current contracts expire in 2017. One approach is before us today. It allocates power at cost rates for the project participants with a five percent set-aside for latecomers to the vineyard. With the exception of this set-aside, it follows existing precedent.

A second approach was rejected by Congress in the 1980s, to put the power out for bid at market rates. This would reap a windfall for the Treasury, but at enormous expense to 29 million existing ratepayers. This approach would also discourage future partnerships by denying participants the full fruit of their investments.

A third approach is to default this decision to the Western Area Power Administration that is pursuing an administrative process. This has the advantage of engaging in far more detailed discussions and negotiations than can be addressed by Congress, but with the drawback of unaccountability to taxpayers and ratepayers, not to mention potential lawsuits and the reigniting of conflicts between the affected States.

Our next bill, H.R. 498, authored by Congressman Paul Gosar of northern Arizona, addressees a growing problem that we are having with the U.S. Forest Service. This bill arises from the bureaucratic intransigence, megalomania, and abuse that has become the new hallmark of this rogue agency. In this case, there is a small water system called the Cragin Project, serving several small rural communities in Arizona that was transferred from private ownership, ultimately to the Bureau of Reclamation. The water system is nearly 50 years old and it needs repairs. Simple enough, you just go and fix it. Except in this case, the Forest Service bureaucrats have claimed jurisdiction and have actively impeded, obstructed, delayed, and disrupted efforts to repair this vital water system.

Having watched the Forest Service's abusive behavior in my own district, I have no doubt that it is deliberately attempting to create conditions that would ultimately expel these long-established communities from the national forests. This is a pattern of abuse that we are watching across the western United States and is particularly ironic considering that the original mission of the Forest Service was to open the forests for the benefit of the people.

This bill restates and reenforces existing law, that the Bureau of Reclamation alone has jurisdiction over the maintenance and operation of the Cragin Project and it tells the King's foresters to go pound sand. And the only thing I can add to this bill is Amen.

The Subcommittee will also review H.R. 818, a bill sponsored by Congressman Jim Matheson of Utah. This legislation allows a local water district to prepay its loan obligations to the Federal Treasury in the same way a family has the option to prepay its home loan to save compounded interest costs. This is a principle that we should replicate uniformly, and I hope that this Committee will produce a more comprehensive bill during this session.

With that, I yield back my time and yield to the Ranking Member, Congresswoman Napolitano, for five minutes.

[The prepared statement of Mr. McClintock follows:]

Statement of The Honorable Tom McClintock, Chairman, Subcommittee on Water and Power, on H.R. 470, H.R. 489, and H.R. 818

The Water and Power Subcommittee meets today to review three bills that make minor adjustments to current water projects, but that open larger issues I hope to address in coming months.

We have again before us the Hoover Power Allocation Act, H.R. 470 authored by Dr. Heck of Nevada and Mrs. Napolitano of California.

The Hoover Dam is an ideal model to which we must return. It produces a cornucopia of water storage, hydroelectricity, recreational resources and flood control—financed not by general taxpayers but by the users of these benefits. The federal government helped front the money for construction, the project participants paid back that money with interest from the proceeds of their water and electricity sales. The original project was paid off long ago and continues to store up to 28 million acre-feet of water and generate 2,000 megawatts of electricity, while providing one of the great recreational gems of the West and shielding the Colorado River Basin from the devastating cycle of floods and droughts which once ravaged it.

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In the meantime, the question arises of how to allocate these power benefits when current contracts expire in 2017.

One approach is before us today. It allocates power at at-cost rates for the project participants, with a five percent set-aside for latecomers to the vineyard. With the exception of this set-aside, it follows existing precedent.

A second approach was rejected by Congress in the 1980's: to put the power out for bid at market rates. This would reap a windfall for the Treasury, but at enormous expense to 29 million existing ratepayers. This approach would also discourage future partnerships by denying participants the fruit of their investments.

A third approach is to default this decision to the Western Area Power Administration that is pursuing an administrative process. This has the advantage of engaging in far more detailed discussions and negotiations than can be addressed by Congress, but with the drawback of unaccountability to taxpayers and ratepayers, potential lawsuits and re-igniting conflicts between the affected states.

The Subcommittee will also review H.R. 818, a bill sponsored by Congressman Jim Matheson of Utah. This legislation allows a local water district to pre-pay its loan obligations to the Federal Treasury, in the same way a family has the option to pre-pay its home loan to save compounded interest costs. This is a principle that should be replicated uniformly, and I hope that this committee will produce a more comprehensive bill during this session.

STATEMENT OF HON. GRACE F. NAPOLITANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. NAPOLITANO. Thank you, Mr. Chair. As you stated, today's legislative hearing focuses on these three pieces of legislation that were already considered in the 111th Congress. And I will not go into them, other than that I am glad that we are finally getting to the Hoover bill. We expected it to get passed last year and, unfortunately, it did not.

To all of our witnesses, thank you for making the journey to be here with us and to share your information with us. My focus will be on the H.R. 470 legislation, to allocate the power for 50 years from Hoover Dam to power customers in the local and other river basin states—Arizona, Nevada, and my home state of California.

Power from Hoover was first allocated in 1928, as part of the Boulder Canyon Project Act. It is the only hydropower in Western's service territory that has always been allocated by Congress. The legislation would also create a new pool of Schedule-D power, over 100 megawatts of power given up by the existing customers that will make available to WAPA, to reallocate to, thankfully, the tribes and other entities who also want to benefit from the resource.

I am also pleased to see that Western is here today Mr. Moe. I want to ensure that Western is committed to implementing a full and transparent process in the allocation of this resource. We also expect that the state regulatory agencies of Arizona and Nevada will follow the same process, procedures, and commitment to an impartial and unbiased allocation determination for all parties, and I speak especially to the tribes that have been left out for eons and also the municipalities who might be able to qualify.

Mr. Chair, I would like to introduce into the record three letters, dated in 2009 from the tribal leadership. It is the Gila River Indian Authority, Indian Community Utility Authority, dated December 8; Ak-Chin Indian Community, December 9; and the Intertribal Council of Arizona. They were unable to get something real quickly when I called and asked if they wanted to put their two cents into this hearing. It is important for us to understand that they also are going to be needing assistance. This is the copy for you and this is for the record.

Mr. MCCLINTOCK. And without objection, it will be entered into the record.

Mrs. NAPOLITANO. Also, I have since the legislation has 33 bipartisan cosponsors from the lower basin, I would like to submit for the record 101 letters of support the Committee has received from a wide array of interested parties, and there you are, sir, from a wide variety of groups——

Mr. MCCLINTOCK. Letter by letter or we will just——

Mrs. NAPOLITANO. I could. I have the list.

Mr. MCCLINTOCK. ——accept them all at once.

Mrs. NAPOLITANO. Accept them all at once, if you would, please.

Mr. MCCLINTOCK. Without objection.

[NOTE: The letters submitted for the record have been retained in the Committee's official files.]

Mrs. NAPOLITANO. Thank you, sir. And I do look forward to working with my cosponsor, Rick Heck—he has done a good job on

getting this through—and the members of this Committee for enacting this really critical piece of legislation for the western states of which I happen to represent one of them. And with that, I yield back my time.

[The prepared statement of Mrs. Napolitano follows:]

Statement of The Honorable Grace F. Napolitano, Ranking Member, Subcommittee on Water and Power, on H.R. 470

Today's legislative hearing focuses on three pieces of legislation that were also considered by the Committee in the 111th Congress:

- **H.R. 470**, The Hoover Dam Power Allocation Act of 2011, introduced by my colleague Representative Heck;
- **H.R. 489**, a bill that would clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir, introduced by Congressman Gosar, and
- **H.R. 818**, legislation that would direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Uintah Water Conservancy District, introduced by Congressman Matheson.

Thank you to our witnesses for making the journey to be with us today.

I would like to focus on H.R. 470—legislation that would allocate power for 50-years from the Hoover Dam to power customers in the Lower Colorado River Basin States of Arizona, Nevada, and my home state of California.

Power from Hoover Dam was first allocated in 1928 as part of the Boulder Canyon Project Act. It is the only hydropower in Western's service territory that always has been allocated by Congress.

The legislation would also create a new pool of Schedule-D Power, over 100 megawatts of power given up by existing customers that will made available to WAPA to reallocate to tribes and other entities who also want to benefit for this resource.

I am also pleased to see that the Western is here today—Welcome Mr. Moe. Mr. Moe we want to ensure that Western is committed to implementing a full and transparent process in the allocation of this resource.

We also expect that the State regulatory agencies of Arizona and Nevada will follow the same procedures and commitment to an impartial and unbiased allocation determination for all parties, including tribes and municipalities.

The legislation has 33 bipartisan cosponsors from the Lower Basin states. I would like to submit into the Record the **101** letters of support the Committee has received from a wide variety of groups.

I look forward to working with Representative Heck and members of this Committee in enacting this important legislation.

Mr. MCCLINTOCK. Mr. Gosar.

STATEMENT OF HON. PAUL A. GOSAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA, ON H.R. 489

Dr. GOSAR. Thank you. First, I would like to take this opportunity to thank Chairman McClintock and Ranking Member Napolitano for holding a legislative hearing on H.R. 489, a bill aiming to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir. It is not often Congress gets the opportunity to focus on details of infrastructure, but it is dams like this which provide power and water that form the backbone of our communities. This legislation is a common-sense solution to the bureaucratic wrangling that has occurred between the Departments of the Interior and Agriculture that has compromised the routine maintenance of this critical water infrastructure in my district.

The C.C. Cragin Project, formerly known as the Blue Ridge, consists of a number of facilities, including a dam and reservoir, diversion tunnel and pump shaft, pumping plant, priming

reservoir, pipeline, electrical transmission line, and a generating plant. The majority of the project is located on Federal lands on both the Coconino and Tonto National Forests. This critical water infrastructure project is an important aspect of the Salt River Reclamation Project. It is integral to providing a water supply for Phoenix, the fifth largest city in the country, and is instrumental in making 3,500 acre-feet of water available to Gila County. The Town of Payson and the neighboring communities in the county rely on this pipeline to supply municipal drinking water to their residents, my constituents.

In 2004, at the request of SRP and with the support of Reclamation and the former owner of the project, the Arizona Water Settlement Act authorized a title transfer of the C.C. Cragin Project from SRP to the Bureau of Reclamation. Under this language, the Federal Government would own the project, but SRP would still operate and maintain it. Once that legislation was implemented, it became clear there was a disagreement between the U.S. Forest Service and the Bureau of Reclamation over who had the responsibility for approving requested operation, maintenance, and the responsibility for repairs related to the C.C. Cragin Project. Specifically, the Bureau of Reclamation argued that it should approve SRP's work plans, environmental compliance, and other regulatory permitting requirements associated with the project. The U.S. Forest Service asserted that Reclamation was required to obtain a special use permit to operate, maintain, and repair the water project. This simply isn't a tenable situation for the short-term or long-term management of the C.C. Cragin Project. The bureaucratic wrangling that delayed much-needed repairs to the Cragin facilities increased repair costs and placed the development project of the Town of Payson at risk.

On January 26 of this year, I introduced H.R. 489 to settle this jurisdictional issue once and for all. I appreciate the Committee moving forward with this important legislation in an expeditious manner. This is not the first time this Congress and this Committee has been forced to address this type of bureaucratic dispute and I hope that future situations can be resolved in a more timely and efficient manner.

The language in this legislation reflects a compromise reached by the relevant parties in thorough negotiations, and grants the Department of the Interior exclusive jurisdiction to manage the Cragin Dam Project and grants the Department of Agriculture administrative jurisdiction over land management activities that do not conflict or adversely affect the operational maintenance or replacement repair of the project. The bill meets the needs of SRP and Reclamation, to ensure the infrastructure can be maintained, while accommodating the Forest Service, ensuring they continue to manage the lands underlying the utility corridor with respect to recreation, wildfire, law enforcement, and other activities consistent with its authorities, responsibilities, and expertise.

It is important to note, this legislation does not relieve the Bureau of Reclamation or SRP from compliance with all requirements under Federal law, including the National Environmental Policy Act or NEPA. In addition, the implementation of this legislation has no cost to the taxpayer.

I look forward to hearing today's testimonies and ultimately moving this bill forward through the legislative process. It is critical to my community that a solution is met that ensures the future management of the C.C. Cragin Project. And I yield back the balance of my time.

[The prepared statement of Dr. Gosar follows:]

Statement of The Honorable Paul A. Gosar, a Representative in Congress from the State of Arizona, on H.R. 489

Good morning:

First, I would like to take this opportunity to thank Chairman McClintock and Ranking Member Napolitano for holding a legislative hearing on H.R. 489, a bill aimed clarifying the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir. It is not often Congress gets the opportunity to focus on the details of infrastructure, but it is dams like this, which provide power and water, that form the backbone of our communities. This legislation is a common-sense solution to the bureaucratic wrangling that has occurred between the Department of Interior and Agriculture that compromises routine maintenance of critical water infrastructure in my district.

The C.C. Cragin project, formerly known as Blue Ridge, consists of a number of facilities, including a dam and reservoir, diversion tunnel and pump shaft, pumping plant, priming reservoir, pipeline, electrical transmission line, and a generating plant. The majority of the project is located on federal lands in the Coconino and Tonto National Forests.

This critical water infrastructure project is an important aspect of Salt River Project Federal Reclamation Project. It is integral to providing a water supply for Phoenix, the fifth largest city in the country, and is instrumental in making 3,500 acre-feet of water a year available to the Gila County. The Town of Payson and the neighboring communities in the county rely on the pipeline to supply municipal drinking water to their residents, my constituents.

In 2004, at the request of the SRP and with the support of Reclamation and the former owner of the project, the Arizona Water Settlements Act authorized the title transfer of the C.C. Cragin Project from SRP to the Bureau of Reclamation. Under this language, the federal government would own the Project, but SRP would still operate and maintain it.

Once that legislation was implemented, it became clear that there was a disagreement between the U.S. Forest Service and the Bureau of Reclamation over who had the responsibility for approving requested operation, maintenance and repairs related to the C.C. Cragin Project. Specifically, the Bureau of Reclamation argued that it should approve SRP's work plans, environmental compliance, and other regulatory permitting requirements associated with the project. The U.S. Forest Service asserted that Reclamation was required to obtain a special use permit to operate, maintain, and repair the water project.

This simply isn't a tenable situation for short-term or long-term management of the C.C. Cragin project. The bureaucratic wrangling has delayed much-needed repairs to the Cragin facilities, increased repair costs, and placed the economic development project of the Town of Payson at-risk.

On January 26th of this year, I introduced H.R. 489 to settle this jurisdiction issue once and for all. I appreciate the committee moving this important legislation forward in an expeditious manner. This is not the first time this Congress, and this Committee, has been forced to address this type of bureaucratic dispute and I hope that future situations can be resolves in a more timely and efficient manner.

The language in this legislation reflects a compromise reached by the relevant parties in thorough negotiations. It grants the Department of Interior exclusive jurisdiction to manage the Cragin Dam Project and grants the Department of Agriculture administrative jurisdiction over land management activities that do not conflict or adversely affect the operation, maintenance, or replacement/repair of the project.

The bill meets the needs of SRP and Reclamation to ensure the infrastructure can be maintained, while accommodating the Forest Service, ensuring they continue to manage the lands underlying the utility corridor with respect to recreation, wildfire, law enforcement, and other activities consistent with its authorities, responsibilities, and expertise.

It is important to note, this legislation does not relieve the Bureau of Reclamation or SRP from compliance with all requirements under federal law including the Na-

tional Environmental Policy Act (NEPA). In addition, the implementation of this legislation has no cost to the taxpayer.

I look forward to hearing today's testimonies, and ultimately moving this bill forward through the legislative process. It is critical to my community that a solution is met that ensures the future management of the C.C. Cragin project.

Mr. MCCLINTOCK. Mr. Matheson.

STATEMENT OF HON. JIM MATHESON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH, ON H.R. 818

Mr. MATHESON. Well, thank you, Mr. Chairman for giving me the opportunity to participate. I am not a member of this committee, but I have to say, coming here and seeing everyone seated before 10:00 and you started the hearing right at 10:00 makes me interested, maybe this is a good committee because I am very impressed. That is not standard operating procedure in Congress, I must say. So, I compliment you on that. And I do want to thank the Chairman and Ranking Member Napolitano for holding this hearing on the bill I have introduced, H.R. 818. It is a bill that directs the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and Uintah Water Conservancy District I would also like to thank my constituent, Mr. Snow, who is the General Manager of the Uintah Water Conservancy District for his testimony and participation today. And I also thank the Bureau of Reclamation for its support of this legislation.

A lot of times we use this phrase around here, but this is a commonsense bill. It is a bipartisan bill. It encourages and promotes fiscal responsibility at all levels of government and it passed the House of Representatives in the 111th Congress unanimously and it has been reintroduce by my Senate counterparts in the Utah delegation, Senators Hatch and Lee, during this Congress.

Allowing the Water Conservancy District to pay their debt obligations back early and in a timely manner is a win-win. It is financially beneficial to both local government and the Federal Government alike. It provides local government the ability to responsibly self-govern, giving them the flexibility to pay off their loan early and save hundreds of thousands of dollars in future interest payments. The savings will result in lower cost to the water users, which is very important as we continue to grow out of the current economic recession and look for additional ways to support much-needed economic development in rural communities. And likewise, allowing for the prepayment results in a significant payment to the Federal Treasury. It is estimated roughly between $4- and $5 million. How often do we have legislation come forward that actually provides a little help in reducing the deficit. If Congress continues to look for ways to trim the Federal budget and encourage best practices and good government policies, allowing for prepayment is a good model to follow. In addition, I believe this legislation provides a good opportunity to help rural communities prioritize and implement best practices to utilize scarce resources, in an effort to meet fewer water demands in a cost-effective and fiscally responsible manner.

Last, I want to point out that there is a precedence for allowing prepayment of these repayment contracts. H.R. 818 is similar to legislation used by the Central Utah Water Conservancy District,

which allows for prepayment of the repayment contracts for the Bonneville Unit. This effort saved hundreds of thousands of dollars in taxpayer dollars and allowed for project managers to consider and implement cost savings through a balanced approach to managing an important resource in my State.

I support the testimony of Mr. Snow and the proposed technical amendment he will discuss. Essentially, this amendment would provide greater flexibility to the District should future amendments to the prepayment contracts occur. Under similar prepayment legislation for the Central Utah Water Conservancy District, Congress had authorized prepayment on several different occasions. This technical amendment seeks to avoid a similar circumstance for Uintah by allowing all future amendments to the contract with the Bureau of Reclamation to be considered eligible for prepayment.

So, Mr. Chairman, again, I really appreciate the opportunity to speak before the Committee on H.R. 818. I want to thank the Committee for once again holding a hearing on this important topic. I certainly look forward to working with you to advance this bill once again. And I yield back the balance of my time.

[The prepared statement of Mr. Matheson follows:]

Statement of The Honorable Jim Matheson, a Representative in Congress from the State of Utah, on H.R. 818

Thank you, Chairman McClintock and Ranking Member Napolitano for holding a hearing on my bill, H.R. 818, to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Uintah Water Conservancy District. I'd also like to thank my constituent, Mr. Gawain Snow, General Manager of the Uintah Water Conservancy District for his testimony today. I also thank the Bureau of Reclamation for its support.

This is a common sense, bipartisan bill that encourages and promotes fiscal responsibility at all levels of government. It passed the House unanimously in the 111th Congress and has also been reintroduced by my Senate counterparts in the Utah delegation Sens. Hatch and Lee. Allowing the Uintah Water Conservancy District to pay their debt obligations back early and in a timely manner is a win-win: it's financially beneficial to local and Federal government alike. It provides local government the ability to responsibly self-govern, giving them the flexibility to pay off their loan early and save hundreds of thousands of dollars in future interest payments. This savings will result in lower costs to the water users—very important as we continue to grow out of the current economic recession and look for additional ways to support much-needed economic development in rural communities. Likewise, allowing for prepayment results in a significant payment to the Federal Treasury, from $4–5 million.

As Congress continues to look for ways to trim the federal budget and encourage best practices and good government policies, allowing for prepayment is a good model to follow. In addition, I believe this legislation provides a good opportunity to help rural communities prioritize and implement best practices to utilize scarce resources in an effort to meet rural water demands in a cost effective and fiscally responsible manner. Lastly, I want to point out that there is precedence for allowing for prepayment of repayment contracts. H.R. 818 is similar to legislation used by the Central Utah Water Conservancy District, which allowed for prepayment of the repayment contracts for the Bonneville Unit. This effort saved hundreds of thousands in tax payer dollars, allowed for project managers to consider time and cost savings through a balanced approach to managing an important resource in my state.

I support the testimony of Mr. Snow and the proposed technical amendment he will discuss. Essentially this amendment would provide greater flexibility to the District should future amendments to the prepayment contracts occur. Under similar prepayment legislation for the Central Utah Water Conservancy District, Congress had to authorize prepayment on several different occasions. This technical amendment seeks to avoid a similar circumstance for Uintah by allowing all future amendments to the contract with the Bureau of Reclamation to be considered eligible for prepayment.

Mr. Chairman, I appreciate the opportunity to speak before the Committee on H.R. 818 and thank the Committee once again for holding a hearing on this important topic. I look forward to working with you to advance this bill once again. I yield back the balance of my time.

Mr. MCCLINTOCK. Dr. Heck.

STATEMENT OF HON. JOSEPH J. HECK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA, ON H.R. 470

Dr. HECK. Thank you, Chairman McClintock, Ranking Member Napolitano. I thank you for allowing me to sit with the Water and Power Subcommittee today to discuss H.R. 470, the Hoover Power Allocation Act. As you know, this issue is very important to my home state of Nevada and to more than 29 million residents across Nevada, Arizona, and California that benefit from Hoover power. Hoover Dam is located in my district and Hoover power is critical to southern Nevada's economy, businesses, and consumers. The power is clean and affordable and today, we are taking an important step toward making it stable.

The Hoover power contracts are due to expire in 2017. H.R. 470 would authorize the distribution of electricity from Hoover Dam over the next 50 years and create a new resource pool to make Hoover power available to Indian tribes and other customers who could not access this power in the past. Extending Nevada's access to low-cost, clean hydroelectric power through the enactment of H.R. 470 is key to Nevada's economic recovery because it will create certainty over future electricity prices. This is exactly what our economy needs right now in order to get people back to work.

H.R. 470 was developed as a consensus bipartisan plan to ensure the continued availability and reliability of Hoover power to the citizens of Nevada, California, and Arizona. Hoover contractors, who participated in developing this plan, have invested more than $1.3 billion to construct, operate, and maintain Hoover Dam in the past. They agreed to contribute five percent of their post-2017 allocation to form a 100 megawatt resource pool that would be made available to customers, such as tribes, irrigation districts, and rural cooperatives that were not eligible to apply for allocations under prior laws.

H.R. 470 provides that this resource pool be allocated by a Federal-state partnership involving the Western Area Power Administration and the States of Nevada, California, and Arizona. Again, this legislation is essential to the millions of consumers who have invested in this renewable source of energy over the past 75 years, because it will continue to provide them with Hoover power for the next 50 years, as well as allows new customers to benefit from the clean, low-cost energy.

Again, Mr. Chairman, I thank you for the opportunity to sit here with you today. I thank the Ranking Member for all of the hard work she has put into this bill and I urge the Subcommittee's favorable recommendation. And I yield back the balance of my time.

[The prepared statement of Mr. Heck follows:]

Statement of The Honorable Joseph J. Heck, a Representative in Congress from the State of Nevada, on H.R. 470

Chairman McClintock and Ranking Member Napolitano: thank you for allowing me to sit with the Water and Power Subcommittee today to discuss H.R. 470, the Hoover Power Allocation Act. As you know, this issue is very important to my home state of Nevada and the more than 29 million residents across Nevada, Arizona, and California that benefit from Hoover power.

Hoover Dam is located in my district, and Hoover power has been critical to Southern Nevada's economy, businesses, and consumers. The power is clean and affordable, but today we are taking an important step toward making it stable. That is why the Hoover Power Allocation Act, H.R. 470, is the first piece of legislation I introduced when I came to Congress in January, 2011.

The Hoover power contracts are due to expire in 2017. H.R. 470 would authorize the distribution of electricity from Hoover Dam for the next 50 years, and create a new resource pool to make Hoover power available to Indian tribes and other customers who could not access this power in the past.

Extending Nevada's access to low-cost, clean hydropower though the enactment of H.R. 470 is key to Nevada's economic recovery, because it will help create certainty over future electricity prices. This is exactly what our economy needs right now in order to get people back to work.

H.R. 470 was developed as a consensus bi-partisan plan to ensure the continued availability of and reliability of Hoover power to the citizens of Nevada, California and Arizona.

Hoover contractors who participated in developing this plan have invested more than $1.3 billion to construct, operate and maintain Hoover Dam in the past. They agreed to contribute five percent of their post-2017 Hoover power allocations to form a 100 megawatt resource pool that will be made available to customers such as tribes, irrigation districts and rural cooperatives that were not eligible to apply for allocations under prior laws.

H.R. 470 provides that this resource pool will be allocated by a federal-state partnership involving the Western Area Power Administration, and the States of Nevada, California and Arizona. Additionally, it requires the current and new Hoover contractors to pay Hoover Dam's future costs.

Again, this legislation is essential to the millions of consumers who have invested in this renewable source of energy over the past 75 years because it will continue to provide them with Hoover power for the next 50 years, as well as allows new customers to benefit from this clean, low-cost energy.

Mr. MCCLINTOCK. Thank you, very much. We will now hear from our panel of witnesses. Each witness' written testimony will appear in full in the hearing record. So, I would ask that each of you keep your oral statements to five minutes, as outlined in your invitation letter and under Committee Rule 4[a].

I also want to explain how our timing lights work. When you began to speak, the clerk will start the timer, and a green light will appear. After four minutes, a yellow light will appear. And at that time, you should begin to conclude your statement. At five minutes, a red light will come on and that means that you need to stop talking and be quiet. And if there is any consolation, we hold our Members to the same standard.

Our first witness is The Honorable Kenny Evans, Mayor of Payson, Arizona.

STATEMENT OF HON. KENNY EVANS, MAYOR, PAYSON, ARIZONA

Mr. EVANS. Thank you, Mr. Chairman, Chairman McClintock, Ranking Member Napolitano. It is a privilege to be able to come back here and to be able to address this group today concerning Representative Gosar's House bill, H.R. 489. My name is Kenny Evans, as you mentioned, and I am just an old farm boy, cowboy, who has had the privilege of growing up in the shadow of those

Rocky Mountains—southern Rockies in central Arizona. Interestingly enough, I am now currently the Mayor. I find myself as the Mayor of a beautiful small mountain town called Payson. I have served as the President of the Northern Arizona Municipal Water Users Association, as well. It represents the nine major communities in northern Arizona. I am also the immediate past president of the Arizona Farm Bureau, where I served as either the President or Vice President for 27 years and the current President, who succeeded me, is in the room today, Kevin Rogers.

Over the last 40 years, I have had the privilege of riding horseback and sleeping under the stars, under those Ponderosa trees that are part of the magical, mystical mountains that we call Rim Country of Arizona. And additionally, I have had the privilege of dragging three generations, as a grandpa, a father, and a son, as Boy Scouts up to camp to enjoy the wonders of Blue Ridge Reservoir. So, I come to you today and you have my written testimony before you. I appreciate Representative Gosar's statement and your statement at the beginning, Chairman McClintock. You have said much of what needs to be said about this bill; but I think from a very personal standpoint, as somebody who has lived there and who understands how critical water is in the Southwest, I would plead with this Committee to use whatever influence you have to expedite action on this issue.

Payson is an island in the middle of the national forest. From my deck, I have the privilege of being able to look out and see parts of four different national forests, two national wilderness areas, two national monuments. That is how encircled we are. And so, I speak from experience when I say we have learned, as a community, we have had to learn how to deal with bureaucrats from multiple agencies. We cannot survive without doing that.

As you mentioned, the challenge that we face today is that we have been trying to put it into perspective, so the members of the Committee can understand it, those who are not from Arizona, the Mogollon Rim is an escarpment that runs from the northwest part of the State of Arizona to the southeast, bisecting the State for almost 200 miles. It is a 2,500 foot cliff, so to speak, that runs that entire distance, with the higher elevation to the north and east, the lower elevations to the south and west. To give you a relative visualization of what we are doing, it would be like having the Blue Ridge Reservoir on the north rim of the Grand Canyon and be trying to bring the water form that north rim down to the bottom of the canyon. That is what we are attempting to do.

And the Blue Ridge Reservoir, the C.C. Cragin Project, is not a new project. It was built in 1963, so it is almost 60 years old now. The pipeline that brought the water about a third of the way to our community is part of that old established project that was done by a private mining company called Phelps Dodge in 1963. About a decade ago, they found that they no longer needed that water and pursuant to the agreement that allowed them to build that facility, they transferred ownership to SRP. And in 2004, as part of the Indian Settlement Act, as part of the Arizona Indian Settlement Act, SRP transferred ownership to the Bureau of Reclamation.

Enter the little Town of Payson. We are a small town. We have a population of just over 15,000 people. But, we were able to nego-

tiate with the consent of all the participants—and in Arizona getting everybody to agree to anything is a major, major coup, but we were able to get them to agree to transfer about a third of the water that comes out of Cragin or about 3,500 acre-feet a year to the Town of Payson. We have gone through all the regulatory issues. We have gotten it done so that we can have that water transferred to us. It is solely the Forest Service that has held this up and it has held us up to date to the tune of about six or seven months.

I would take any questions and, again, thank you, Mr. Chairman, Ranking Member Napolitano.

[The prepared statement of The Honorable Kenny Evans follows:]

Statement of The Honorable Kenny J. Evans, Mayor, Town of Payson, Arizona, on H.R. 489

Chairman McClintock, Ranking Member Napolitano and Members of the Subcommittee, thank you for the opportunity to submit testimony in support of H.R. 489, a bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir.

My name is Kenny J. Evans; I'm an old farm boy who has had the wonderful privilege of growing up in the shadow of the Rocky Mountains. I am currently the Mayor of the beautiful mountain community of Payson, Arizona. I also serve as President of the Northern Arizona Municipal Water Users Association and on the Executive Committee of the Arizona League of Cities and Towns. I am the immediate past President of the Arizona Farm Bureau where I served as state President or Vice-President for over 27 years.

Over the past 40 plus years I have been privileged to bring three generations of Boy Scouts to camp and fish at Blue Ridge Reservoir (now CC Cragin). I have a great love for Blue Ridge and am intimately aware of its history and management. I am also keenly aware of the damage that the current bureaucratic turf battle is causing. What H.R. 489 does not do is relieve either the Bureau or SRP from compliance with all requirements of federal law.

Payson is an island in the middle of National Forests and National Monuments. From the deck of my home I can see four National Forests, two National Monuments and two National Wilderness Areas. The Town of Payson truly understands the complexity of working with Federal Agencies on a daily basis. After much study, we fully support H.R. 489 which will clarify that since the Project is now being operated as a component of the Salt River Federal Reclamation Project (SRP), the Bureau of Reclamation (Bureau) is responsible for approval of all operation, maintenance and repair activities just like more than a dozen other reservoirs and dams and other federal reclamation projects in Arizona, including the other Salt River Project facilities located on lands within the boundaries of the other National Forests.

H.R. **489 only applies** to the C.C. Cragin Project, which is located within the Coconino and Tonto National Forests in northern Arizona approximately 25 miles north of my community. The C.C. Cragin Project consists of a number of facilities including a 147-foot high dam, 15,000 acre-foot reservoir, diversion tunnel and pump shaft, pumping plant, priming reservoir, a 10 mile long pipeline, electrical transmission line, and small generating plant which supplies power to the Project's pumping plant. Originally known as the Blue Ridge Project, the dam, reservoir, and associated facilities were constructed by Phelps Dodge in the 1960's as part of a water exchange with SRP. In the last ten years, Phelps Dodge found that it no longer needed the Blue Ridge Project for water exchange and pursuant to the terms of their agreement, Phelps Dodge transferred ownership of all of the Blue Ridge Project facilities to SRP.

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

In 2004, with support from all participants, including the U.S. Bureau of Reclamation, language was included as part of the Gila River Indian Community Water Rights settlement in Section 213(i) of the Arizona Water Settlements Act, Public Law 108–451, 118 Stat. 3478, 3532, authorizing title transfer of the Blue Ridge Project from SRP to the Bureau and renaming it C.C. Cragin. Up to 3,500 acre-feet per year were to be made available to Payson and surrounding communities with the facilities operated and managed by SRP pursuant to its September 6, 1917 contract with the Bureau of Reclamation. Subsequently, SRP officially transferred title to the C.C. Cragin Dam and Reservoir together with all of its associated facilities, including 77 acres of fee land to the Bureau and concluded the surface water right title transfer and agreement with the Town of Payson. In accordance with the 1917 contract with the Bureau and as directed by Section 213 (i)(5) of the Arizona Water Settlement Act, SRP began operating and maintaining the C.C. Cragin Project.

As part of its maintenance efforts, SRP identified numerous serious leaks present in the existing pipeline needing immediate repair. Not only is the pipeline's integrity important to the general operation of C.C. Cragin Project and SRP's water supply for the Phoenix metropolitan area, but it also has special significance to the Town of Payson and neighboring communities in Northern Gila County who will rely heavily on the Project to supply municipal drinking water in the future. As a part of this effort, the Town of Payson received an allocation of $10.6 million from the American Recovery and Reinvestment Act (ARRA) stimulus money to assist in paying for the repairs to the pipeline and extending the pipeline and other municipal water-related improvements needed to make the water available to residents.

Once SRP began working with the Bureau on repairs of the C.C. Cragin Project, it became evident that the Bureau (U.S. Department of Interior [Bureau of Reclamation)]) and the Forest Service (U.S. Department of Agriculture [USDA—FS]) disagreed as to who had responsibility for approving the requested operation, maintenance and repair functions associated with this Reclamation Project. Please note that this had nothing to do with compliance with State and Federal rules, laws and regulations. It had everything to do with who gave the approval to proceed (Bureau or USDA-FS). The Forest Service asserted that the Bureau needed to obtain a special use permit from them prior to Project operation by SRP and that all maintenance and repairs needed prior approval by them. The Bureau and SRP maintain that under the terms of the Arizona Water Settlements Act, the C.C. Cragin Project is just like all of the other Salt River Federal Reclamation Project facilities located on Forest Service land. On those facilities, jurisdiction over approvals of work plans, maintenance, repairs, environmental compliance, and other permitting associated with Project operation and maintenance belongs to the Bureau, while jurisdiction over recreation, fire suppression, etc. lies with the Forest Service. This approach is consistent with Reclamation Projects across the western United States pursuant to a 1987 Memorandum of Understanding between the Departments of Agriculture and Interior.

For the past five years SRP and the Bureau have unsuccessfully attempted to resolve this jurisdictional dispute with the Forest Service. The Forest Service has insisted on having ultimate approval authority for the Project even though these facilities are components of the Salt River Federal Reclamation Project. Meanwhile, the resulting bureaucratic wrangling over approval requirements between the two Departments has delayed and created uncertainty in planning much-needed repairs to the Cragin facilities, increased repair costs, and has placed a portion of the Town of Payson's $10.6 million stimulus grant at risk. The bill before you, H.R. **489**, clarifies the jurisdiction over the C.C. Cragin Project. It is consistent: (1) with the 1987 Memorandum of Understanding between the Departments of Agriculture and Interior; (2) with Section 213(i) of the Arizona Water Settlements Act, Public Law 108–451, 118 Stat. 3478, 3532; (3) with the September 6, 1917 contract with the Bureau of Reclamation pursuant to the 1902 Reclamation Act; and, (4) with the process used with other Reclamation projects located on Forest Service lands within the State of Arizona and throughout the west.

The bill before you, H.R. 489, would resolve this jurisdiction conflict by withdrawing the approximately 512 acres that comprise the Cragin Project for Bureau of Reclamation purposes. Under this arrangement, the underlying lands would remain part of the National Forest, while clarifying that the Secretary of Interior has exclusive jurisdiction to manage the Cragin Project on these lands in accordance with the terms of section 213(i) of the Arizona Water Settlements Act. This change will make the administrative structure of the Cragin Project consistent with the six additional dams and reservoirs owned by the Bureau and operated by SRP within the Tonto National Forest.

In managing the Cragin Project, the Secretary of Interior and SRP are required to ensure the compliance of their activities with all applicable federal laws, includ-

ing regulations. The Secretary of Interior is authorized to enter into a contract with the Secretary of Agriculture to undertake the management of recreation, wild land fire activities, public conduct and law enforcement, cultural and other resources, and any other appropriate management activity. The Forest Service requested several changes to the original language on this issue to further clarifying their management activities, as well as several other technical changes to other portions of the bill language. These changes are incorporated into H.R. 489 and fully supported by the Town of Payson.

The Town of Payson's ARRA grant will be at risk if there are continuing delays. I sincerely ask that you approve H.R. **489** so that this much-needed project can proceed under the Bureau of Reclamation's oversight and in compliance with all applicable laws, rules and regulations.

Chairman McClintock, Ranking Member Napolitano and Members of the Subcommittee,, thank you once again for the opportunity to testify before you today. I would be willing to answer any questions you might have.

Mr. MCCLINTOCK. Thank you, very much, for your testimony. Our next witness is Mr. Gawain Snow, General Manager of the Uintah Water Conservancy District in Vernal, Utah. Thank you for joining us.

STATEMENT OF GAWAIN SNOW, GENERAL MANAGER, UINTAH WATER CONSERVANCY DISTRICT, VERNAL, UTAH

Mr. SNOW. Thank you, Mr. Chairman, Congresswoman Napolitano, and members of the Subcommittee. I appreciate being here today to testify in support of H.R. 818. I also wanted to thank Representative Jim Matheson for introducing this bill on behalf of Uintah Water Conservancy District, which was formed in 1956, as part of the Colorado River Storage Act. The District encompasses almost all of Uintah County, Utah, and Uintah County is adjacent to Colorado and Wyoming.

At the time when the Jensen Unit was constructed, there was 18,000 acre-feet of municipal and industrial (M&I) water that was to be developed along with that project. That amount of water was developed in anticipation of and predicated upon Project Independence, a 1974 Federal initiative to aid the United States in becoming independent of foreign nations in the production of energy, particularly that of oil and gas and oil shale development. The project, however, failed to materialize. The need for all of that water was not then necessary at that time. Due to that, we entered into a mandatory contract with the Bureau of Reclamation, which allowed us to take 2,000 acre-feet of that for the M&I water, which we are under contract. And looking to the future, we anticipate that we will use some other blocks of water, as becomes necessary.

In that mandatory contract, there was not a prepayment clause included. And so at this time, H.R. 818 would direct the Secretary of the Interior to allow for prepayment of the specified repayment contracts between the United States and the Uintah Water Conservancy District under the terms and conditions similar to those used in implementing the provisions of the Central Utah Completion Act. It would provide for prepayment and maybe provide it in several installments, to provide a substantial completion of the delivery facilities being prepaid, would adjust to confirm to a final cost allocation, and may not be adjusted on a basis of the type of prepayment financing utilized by the District. What this would allow us to do then was to go out and find some money that would be of less interest than what we are presently paying, returning to the

U.S. Government $4- to $5 million. And finally, we would ask the Subcommittee to entertain a technical amendment to the bill, which would expand the references of our contracts with the Reclamation to include all subsequent amendments made under subsection 9[c] of the Reclamation Act of 1939.

Again, we feel that this is a good bill. It allows us some flexibility. Our working relationship with the Bureau of Reclamation has been excellent in the past and we desire to continue to do that. I would like to thank you for the opportunity to testify here today and be happy to respond to any questions that the Committee might have. Thank you.

[The prepared statement of Gawain Snow follows:]

Statement of Gawain Snow, General Manager,
Uintah Water Conservancy District, in Support of H.R. 818

Chairman McClintock, Congresswoman Napolitano and members of the Subcommittee, I am grateful to be able to appear here today and testify in support of **H.R. 818**. I want to also thank Rep. Jim Matheson for introducing this bill on behalf of the Uintah Water Conservancy District (District). The District was formed in 1956 for the purpose of "conserving, developing and stabilizing supplies of water for domestic, irrigation, power, manufacturing, municipal and other beneficial uses, and for the purpose of constructing drainage works." The District operates and maintains the Vernal and Jensen Units of the Central Utah Project, which was authorized by Congress as part of the Colorado River Storage Project Act of 1956. The District encompasses almost all of Uintah County, Utah in eastern Utah adjacent to the border of Colorado.

At the time of its construction (1984–1987), the Jensen Unit was to provide 18,000 Acre-Feet (AF) of municipal and industrial (M&I) water to the residents of Uintah County. This amount of water was based on an anticipated accelerated population growth within the District's service area predicated on Project Independence, a 1974 Federal initiative to aid the United States in becoming independent of foreign nations in the production of energy, particularly the production of oil and gas, including oil shale development. Project Independence failed to materialize, however, resulting in the curtailment of energy development and a corresponding decrease in population, rather than the anticipated population growth. Of the total 18,000 AF of M&I water to be developed, 6,000 AF were to be developed with the construction of Red Fleet dam (which was built) and another 12,000 AF were to be developed at a later date with the construction of the Burns Bench Pump station on the Green River in Jensen, Utah. Due to the economic bust described above, the demand for water that had been foreseen was no longer there. As a result, an amendatory contract was signed in 1989 with the Bureau of Reclamation (Reclamation) reducing the amount of water subscribed to by water providers to 2,000 AF and reserving to the United States the remaining 4,000 AF of developed M&I water and the 12,000 AF of undeveloped M&I water for marketing by the United States, provided among other things, that the water would not be marketed within the District's boundary and that the District would have the right of first refusal to acquire such M&I water. The amendatory contract also provided for the delay in construction of the Burns Bench Pump station until such time as the demand develops for the additional 12,000 AF of water.

Reclamation desires to do a final cost allocation on the Jensen Unit. Such action would be premature without developing the remaining 12,000 AF on the Green River, because the cost per acre-foot would be approximately 2.5 times as much as if the 12,000 AF were developed. Also, at this time, not all of the remaining 4,000 AF of water in Red Fleet Reservoir has been subscribed. Reclamation took 700 AF of the 4,000 AF to increase the conservation pool in the reservoir leaving 3,300 AF of available water in Red Fleet Reservoir. The Burns Bench pump station will not be constructed until all of the M&I water available in Red Fleet is subscribed. In the past year, the District has received several inquiries for the remaining M&I water in Red Fleet but no contracts have been signed. The price of the water is set by the amendatory contract. The amount per acre-foot is based on the cost of the Jensen Unit (including an estimated cost of the pump station) divided by 18,000 AF. The resulting cost is $5,555.21 per acre-foot and is payable by dividing that amount by the number of years remaining until 2037 with the last payment being made in 2037. Based on this formula, water purchased in 2006 would be paid for at a rate

of $179.07 per acre-foot per year for 31 years. The District approached Reclamation about the possibility of discounting those payments at the rate set by the Office of Management and Budget for such prepayments. However, according to Reclamation, the amendatory contract does not allow for prepayment. The District then determined that it would seek legislation similar to a bill that was used by the Central Utah Water Conservancy District, which allowed for prepayment of the repayment contracts for the Bonneville Unit. Prepayment of our contract with Reclamation, as proposed in H.R. 818, would substantially reduce the cost of water to the District and result in a substantial payment to the federal treasury, estimated to be between $4–5 million.

H.R. 818 directs the Secretary of the Interior to allow for prepayment of the specified repayment contracts between the United States and the Uintah Water Conservancy District under terms and conditions similar to those used in implementing provisions of the Central Utah Project Completion Act. It also provides that the prepayment: (1) may be provided in several installments to reflect substantial completion of the delivery facilities being prepaid; (2) shall be adjusted to conform to a final cost allocation; and (3) may not be adjusted on the basis of the type of prepayment financing utilized by the District.

Finally, we ask the Subcommittee to entertain a technical amendment to the bill which expands the references to our contracts with Reclamation to include all subsequent amendments made under Section 9(c) of the Reclamation Act of 1939. This is needed to cover a letter agreement signed by the District and Reclamation in 2005 and a Board Resolution which affected the terms of the previous agreements and provide flexibility for further contract amendments. Again I want to thank you for the opportunity to testify today and will be happy to respond to any questions.

Mr. MCCLINTOCK. Thank you for your testimony and your brevity. Our next witness is Mr. David Murillo. He is the Deputy Commissioner for Operations, Bureau of Reclamation, here in Washington, D.C.

STATEMENT OF DAVID MURILLO, DEPUTY COMMISSIONER FOR OPERATIONS, U.S. BUREAU OF RECLAMATION, WASHINGTON, D.C.

Mr. MURILLO. Thank you. Thank you, Chairman McClintock, Ranking Member Napolitano, and members of the Subcommittee. I am David Murillo, Deputy Commissioner for Operations at the Bureau of Reclamation. I am pleased to provide the views of the Department of the Interior on H.R. 498 and H.R. 818. With me today is Robert Cunningham, Assistant Director of Lands of the U.S. Forest Service, who is prepared to respond to any technical questions the Subcommittee may have on H.R. 489. My written statement has been submitted for the record.

H.R. 489 seeks to clarify Federal jurisdiction with respect to the C.C. Cragin Project, which includes a dam, reservoir, and 11.5-mile utility corridor containing the transmission line and high-pressure pipeline. The project is located nearly entirely within the Coconino National Forest in north central Arizona. Language included in the Arizona Water Settlement Act created questions about the respective jurisdictions of the Forest Service and the Bureau of Reclamation related to the C.C. Cragin Project. We have come to an agreement that we think can resolve this issue and this legislation is consistent with that arrangement.

Reclamation and the Forest Service work closely with the Salt River Project Agriculture Improvement and Power District, the entity that operates and maintains the C.C. Cragin Project and reached agreement in mid-2010 on the terms of managing the project and associated legislation to clarify jurisdiction of the Federal agencies. This legislation accommodates the needs of Reclama-

tion and SRP by ceding exclusive administrative jurisdiction over that land underlying the dam and reservoir to Reclamation and by expressly acknowledging SRP's responsibility for operating and maintaining the dam, reservoir, and utility corridor, pursuant to the Settlement Act of the 1917 agreement between the Department of the Interior and SRP. In addition, this approach accommodates the Forest Service by allowing the agency to manage the land underlying the utility corridor for recreation, wildfire, law enforcement, and other activities.

The Administration believes that this legislation provides a sound approach for future management of the project. Both Departments are committed to working diligently with SRP to ensure needed work for the project can be accomplished expeditiously. Reclamation's longstanding experience with SRP over nearly a century has been very productive. SRP has proven to be a responsible and reliable operator and caretaker of U.S. interests and resources. It is our hope that combining that history with the Forest Service land management authority and expertise would result in even more effective stewardship.

H.R. 818, as introduced on February 18, 2011, allows for prepayment of the current and future repayment contract obligation to the Uintah Water Conservancy District of the cost allocated to their municipal and industrial water supply on the Jensen Unit of the Central Utah Project and provides that the prepayment must result in the United States recovering the net present value of all repayment streams that would have been payable to the United States if H.R. 818 were not enacted. The Department supports H.R. 818. The District entered into a repayment contract, dated June 3, 1976, in which they agreed to repay all reimbursable costs associated with the Jensen Unit of the CUP. The Jensen Unit's total water supply was envisioned at that time to be roughly 18,000 acre-feet because plans envisioned completion of another pumping plant at a location on a green river known as Burns Bench. However, for a variety of reasons, the Burns Bench feature was never built and this is described in my written statement.

Under Reclamation law, water districts are not authorized to prepay their M&I repayment obligation based upon a discounted value of the remaining annual payments. However, this legislation would authorize early repayment by the Uintah Water Conservancy District to the Federal Government because there is an interest component to the M&I repayment streams to be repaid early. Early repayment without an adjustment for interest would result in lower overall repayment to the United States. To keep the United States whole, the Bureau of Reclamation would elect that the net present value of the whole amount that would be due without early repayment.

The language in H.R. 818 has been amended from the language contained in an earlier version of this legislation. The amendment language clarifies that this legislation requires that the Federal Government be paid what it is owed by the Conservancy District because the United States supports the goal of providing for early repayment under this contract and H.R. 818 clearly establishes that the Department supports this legislation. Thank you, again,

for this opportunity to testify and I would happy to answer any questions the Subcommittee may have.

[The prepared statement of David Murillo follows:]

Statement of David Murillo, Deputy Commissioner, Operations, Bureau of Reclamation, U.S. Department of the Interior, on H.R. 489

Chairman McClintock and Members of the Subcommittee, I am David Murillo, Deputy Commissioner of Operations of the Bureau of Reclamation (Reclamation). Thank you for the opportunity to provide the views of the U.S. Department of the Interior (Department) on H.R. 489, legislation specific to lands underlying the C.C. Cragin Dam, Reservoir and utility corridor (C.C. Cragin project) in Arizona. The legislation seeks to clarify federal jurisdiction with respect to the C.C. Cragin project, which includes a dam, reservoir, and 11.5-mile utility corridor containing a transmission line and high-pressure pipeline. The project is located nearly entirely within the Coconino National Forest in north-central Arizona.

Language included in the Arizona Water Settlements Act (AWSA, Public Law 108–451) created questions about the respective jurisdiction of the U.S. Forest Service (Forest Service) and Reclamation related to the C.C. Cragin project. We have come to an agreement that we think can resolve this issue. This legislation is consistent with that arrangement. We look forward to continue working with the Committee on reaching a resolution.

Reclamation and the Forest Service worked closely with the Salt River Project Agricultural Improvement and Power District (SRP), the entity that operates and maintains the C.C. Cragin project under the AWSA, and reached agreement in mid-2010 on legislation to clarify jurisdiction of the Federal agencies. The legislation, S. 1080, was considered during the 2nd session of the 111th Congress. The bill was not enacted during the last Congress, but both H.R. 489 and its companion bill, S. 201, contain the same provisions as S. 1080, as reported.

This legislation accommodates the needs of Reclamation and SRP by ceding exclusive administrative jurisdiction over the lands underlying the C.C. Cragin project to Reclamation and by expressly acknowledging SRP's responsibility for operating and maintaining the C.C. Cragin project pursuant to the AWSA and the 1917 agreement between the Department and SRP. This is a unique situation due to the AWSA. In addition, this approach accommodates the Forest Service by allowing the agency to manage the lands underlying the utility corridor with respect to recreation, wildfire, law enforcement, and other activities consistent with the Forest Service's authorities, responsibilities, and expertise; the AWSA; the 1917 agreement; and the existing right-of-way over the utility corridor held by another party. This approach would allow for integrated management of tens of thousands of acres of ecosystems across National Forest System lands underlying and adjacent to the C.C. Cragin project, including watershed, wildlife habitat, range, and vegetation management. H.R. 489 allows for a workable agreement for both day-to-day activities and other activities that will improve the management and safety of the covered land. The Administration believes that this legislation provides a sound approach for future management of the C.C. Cragin project. Both Reclamation and the Forest Service are committed to working diligently with SRP to ensure needed work for the C.C. Cragin project can be accomplished expeditiously, including any necessary emergency and non-emergency repairs and replacement of improvements, in full compliance with applicable law, including the National Environmental Policy Act and the Endangered Species Act, as provided in the AWSA.

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

This concludes my testimony. I will be pleased to answer any questions.

Statement of David Murillo, Deputy Commissioner, Operations, Bureau of Reclamation, U.S. Department of the Interior, on H.R. 818

Chairman McClintock and Members of the Subcommittee, I am David Murillo, Deputy Commissioner of Operations of the Bureau of Reclamation (Reclamation). Thank you for the opportunity to provide the views of the Department of the Interior (Department) on H.R. 818, as introduced on February 18, 2011. This legislation

allows for prepayment of the current and future repayment contract obligations of the Uintah Water Conservancy District (District) of the costs allocated to their municipal and industrial water (M&I) supply on the Jensen Unit of the Central Utah Project (CUP) and provides that the prepayment must result in the United States recovering the net present value of all repayment streams that would have been payable to the United States if H.R. 818 were not enacted. H.R. 818 would amend current law to change the date of repayment to 2022 from 2037. The legislation would also allow repayment to be provided in several installments and requires that the repayment be adjusted to conform to a final cost allocation. The Department supports H.R. 818.

The District entered into a repayment contract dated June 3, 1976, in which they agreed to repay all reimbursable costs associated with the Jensen Unit of the CUP. The Jensen Unit's total water supply was envisioned at this time to be roughly 18,000 acre-feet because plans anticipated completion of another pumping plant at a location on the Green River known as Burns Bench.

However, for a variety of reasons, the Burns Bench feature was never built. And with the enactment of language in Section 203(g) of the Central Utah Project Completion Act of 1992 (P.L. 102–575), the District's contract was amended in 1992 to reduce the project M&I supply subject to repayment to 2,000 acre-feet annually, and temporarily fix repayment for this supply based upon a reduced interim cost allocation developed for the still-uncompleted project. The amended 1992 contract required the District to repay about $5.545 million through the year 2037 at the project interest rate of 3.222% with annual payments of $226,585. The current balance due, without discounting, is $3,949,058 as of 2011.

It is important to note that this $3,949,058 figure reflects a repayment amount that is statutorily lowered by the 1992 legislation, and does not reflect the true repayment costs of the Jensen Unit. The costs allocated to the 2,000 acre-feet of contracted M&I supply, and the M&I supply available through additional incomplete project features, may be significantly revised upward in the future upon project completion or enactment of this bill, both of which would require a Final Cost Allocation. An additional currently unallocated cost of $7,419,513 is expected to be allocated to the contracted 2,000 acre-feet in order to achieve a full and final project repayment.[1] These are the costs that paragraph 3 of H.R. 818 requires to be included in the prepayment. .The 2011 balance on the 1992 M&I repayment contract is $3,949,058 and the adjustment amount when factoring in the total project cost including interest on that debt is $7,419,513. Therefore, in total non-discounted dollars, the Conservancy District owes the Federal government $11,368,571.

Under Reclamation law, water districts are not authorized to prepay their M&I repayment obligation based upon a discounted value of their remaining annual payments.

This legislation would authorize early repayment by the Uintah Conservancy District to the Federal government. Because there is an interest component to the M&I repayment streams to be repaid early, early repayment without an adjustment for interest would result in lower overall repayment to the United States. To keep the United States whole, the Bureau of Reclamation would collect the present value of the whole amount that would be due without early repayment.

The language in H.R. 818 has been amended from the language contained in an earlier version of this legislation, H.R. 2950. The amended language clarifies that this legislation requires that the Federal government be paid what it is owed by the Conservancy District. Because the United States supports the goals of providing for early repayment under this contract so long as the United States is kept whole, and H.R. 818 clearly establishes that early repayment under this legislation must be of an amount equal to the net present value of the foregone revenue stream, the Department supports this legislation.

This concludes my testimony. I will be pleased to answer any questions.

Mr. MCCLINTOCK. Thank you, very much, for your testimony. Our next witness is Mr. Darrick Moe. He is the Desert Southwest Regional Manager for the Western Area Power Administration in Phoenix, Arizona, and sitting behind Mr. Moe is an accompanying witness from the U.S. Forest Service. Mr. Moe for five minutes.

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[1] This allocation will be subject to revision should there be additions to the project.

STATEMENT OF DARRICK MOE, DESERT SOUTHWEST REGIONAL MANAGER, WESTERN AREA POWER ADMINISTRATION, PHOENIX, ARIZONA

Mr. MOE. Chairman McClintock, Ranking Member Napolitano, members of the Subcommittee, I appreciate having the chance to be here today to discuss Hoover Power Plant allocations. My name is Darrick Moe. I am the Regional Manager for Western Area Power Administration in the Desert Southwest Region. Western's mission is to market and deliver reliable, cost-based Federal hydropower from facilities such as Hoover Dam, which is within the geographic area of Western's Desert Southwest Region. As you have already stated, Chairman McClintock, Ranking Member Napolitano, Congressman Heck, Hoover Power Plant is a very important and vital resource to the Desert Southwest Region. With the maximum capacity of over 2,000 megawatts, Hoover supplies clean power to millions of homes in Arizona, California, and Nevada.

In accordance with existing policy and Federal law, Western's post-2017 power allocation effort is composed of a series of proposals introduced to the public through Federal Register notices and public forums. Western makes policy decisions only after all interested parties have had an opportunity to provide input, as you mentioned in your opening statement, Mr. Chairman. We consider that input and develop new Hoover Dam allocations in the public's interest.

Western initiated the public process to allocate Hoover Dam electricity in November of 2009. This Federal notice proposed the extension of 95 percent of the energy and capacity available to market from Hoover to the existing Hoover contractors, while making five percent available to new customers. It proposed 30-year contract terms and invited comments on other items. Based on the comments received, Western extended the comment period under this notice through the end of last September. After considering comments from that notice, Western issued its latest Federal Register notice for this effort on April 27, 2011.

Western therein decided it is appropriate to apply the Power Marketing Initiative, or PMI, to the Hoover allocation process. The PMI has been applied to all of Western's remarketing effort since it was announced as a final rule in 1995, following a four-year public process. Through the application of PMI, Western balances the public interest of maintaining resource stability for existing customers and the regional power grid against the public interest of providing for widespread use of Federal hydropower resources by new customers, such as tribal governments and other eligible customers. Western also decided with that Federal Register notice on a 30-year term to achieve a balance between resource certainty and providing for an allocation opportunity for future customers at an appropriate time. Finally, Western made numerous proposals, included the amount of energy and capacity to market the size of the resource pool for new customers and provisions for marketing excess energy. The current comment period is open through June 16, 2011.

There are numerous steps ahead yet in the administrative process. We currently project that we should have this process completed and be able to issue new contracts for Hoover power by the

summer of 2014, based on the current schedule. It is important that the process be finalized, of course, well ahead of 2017, to provide customers time to balance their energy portfolios, to make transmission arrangements, and allow related state agencies time to carry out their own allocation process.

Western has reviewed H.R. 470. We appreciate the work this Subcommittee has done over the last year to address concerns that Western had with the prior version of this bill, such as allowing for 36 months for Western to complete its administrative process under H.R. 470. Western's written testimony notes areas of departure between current administrative process and H.R. 470 and provides additional background. However, the broad outlines of H.R. 470 are similar in many respects to the proposal Western recently has made in our process. Both would result in a resource pool for new customers. Western's current proposal would result in a similar size resource pool being allocated to existing contractors and new customers, as compared to H.R. 470.

It is Western's mission to market Federal hydropower. We are using due diligence in moving this process forward, to allocate the vitally important Hoover resource in the public's interest and in a timely manner. We also stand ready to implement H.R. 470 and will apply ourselves accordingly should Congress decide to enact. I would be pleased to answer any questions.

[The prepared statement of Darrick Moe follows:]

Statement of Darrick Moe, Regional Manager of the Desert Southwest Region, Western Area Power Administration, U.S. Department of Energy, on H.R. 470

Mr. Chairman and members of the Subcommittee, I am Darrick Moe, Regional Manager of the Desert Southwest Region, speaking on behalf of Timothy J. Meeks, the Administrator of the United States Department of Energy's Western Area Power Administration (Western). I am pleased to be here today to discuss H.R. 470, the Hoover Power Allocation Act of 2011. This legislation seeks to amend the Hoover Power Plant Act of 1984. The legislation proposes revised allocations of the generation capacity and energy from the Hoover Dam power plant, a feature of the Boulder Canyon Project (BCP), after the existing contracts expire on September 30, 2017.

Western's mission is to market and deliver reliable, renewable, cost-based hydroelectric power from facilities such as Hoover Dam. Hoover Dam was authorized and constructed in accordance with the Boulder Canyon Project Act of 1928. Pursuant to this Act, the Secretary of the Interior was authorized to contract for the sale of generation based upon general regulations as he may prescribe. Subsequent power sales contracts were executed that committed Hoover power through May 31, 1987. With the passage of the Hoover Power Plant Act of 1984, Congress authorized the Secretary of the Interior to implement an uprating program, which increased the generation capacity of the Hoover Dam facilities, to make additional facility modifications, and to resolve issues over the disposition of Hoover power, post-1987. Western proceeded to market Hoover Dam power and entered into 30-year term contracts with the current Hoover contractors in accordance with the Hoover Power Plant Act of 1984, and Western's Conformed General Consolidated Power Marketing Criteria. This process resulted in the allocation of 1,951 megawatts of contingent capacity with an associated 4,527,001 megawatt-hours of firm energy. (Contingent capacity is capacity that is available on an as-available basis, while the firm energy entails Western's assurance to deliver.)

The Hoover power plant is a significant hydroelectric power resource in the desert Southwest with a maximum rated capacity of 2,074 megawatts. Under existing Federal law and policy, Western markets Hoover power at cost. Hoover power is hydropower and is considered "clean energy" with a minimal carbon footprint. The Hoover Dam power plant is able to ramp up and down rapidly and is used by contractors for various power-related ancillary services. For these reasons, Hoover power is an extremely valuable resource for power contractors in the southwestern United States.

The existing power sales contracts between Western and the contractors will expire on September 30, 2017. As this expiration date becomes more prominent on the planning horizon, efforts have progressed among both Federal and non-Federal sectors to determine the allocation of Hoover Dam power after 2017.

In accordance with policy and existing Federal law, Western's post-2017 power allocation effort comprises a series of proposals introduced to the public through public information forums and public comment forums. Western makes policy decisions only after all interested parties have been provided ample opportunity to be engaged in the process and public input has been carefully considered to develop new Hoover Dam allocations that are in the public's best interest and provide widespread use of this Federal resource.

Western's public process to allocate Hoover Dam electricity was initiated on November 20, 2009, in a *Federal Register* notice that proposed several key aspects of the allocating effort. Among other things, this *Federal Register* notice proposed the application of Western's Power Marketing Initiative (PMI) developed under the Energy Planning and Management Program (EPAMP), the extension of a major percentage of the marketable resource to existing contractors, reservation of an approximate 5% resource pool to be allocated to eligible contractors, and provision of 30-year contract terms. Western conducted three public information forums from December 1–3, 2009. These public information forums were well attended by current customers and interested parties and engaged the attendees through question and answer sessions. Public comment forums were held from January 19–21, 2010. Interested parties were provided an opportunity to submit comments related to Western's proposals contained in the November 20, 2009 *Federal Register* notice. In an April 16, 2010 *Federal Register* notice, Western extended the comment period from January 29, 2010, to September 30, 2010. This extension provided interested parties additional time to submit comments and allowed Western to consult with Tribes to inform them of the remarketing process.

After considering comments received, Western announced in an April 27, 2011 *Federal Register* notice its decision to apply its EPAMP PMI to the Boulder Canyon Project remarketing effort. The PMI has been applied to all of Western's remarketing efforts since it was announced as a final rule in 1995 following a four-year public process. Application of the PMI to the Boulder Canyon Project expressly protects and reserves a major portion of the existing customers' allocations while also providing potential customers, such as Tribal governments and other eligible customers, an opportunity to acquire an allocation. The PMI has historically provided a balancing of the needs of the existing customers with those of prospective customers. Western also decided on a 30-year contract term to achieve a balance between resource certainty and providing for an allocation opportunity for future customers at an appropriate time. Finally, Western also made additional proposals and is seeking further comments on the amount of marketable contingent capacity and firm energy, the size of the resource pool to be created for new customers, and excess energy provisions. As described in the *Federal Register* notice, a public information and comment forum has been established for all interested parties to provide written and oral comments on these proposals. The comment period for these proposals closes June 16, 2011.

There are numerous steps ahead in the Administrative process. Western currently projects that this process will be completed with finalized contracts in the summer of 2014. It is important that the process be finalized well in advance of 2017 to provide customers the time to balance their energy portfolios and make required transmission arrangements, and to allow related state Agencies time to carry out their allocations process.

Western has reviewed H.R. 470. There are several similarities between the draft legislation and Western's initial proposals brought forward in the November 20, 2009 *Federal Register* notice, and there are some departures. To provide background that may be useful to the Subcommittee members as this bill is considered, I'll address some of these differences in my comments.

All of Western's allocation efforts are open to public participation and conducted in accordance with the Administrative Procedures Act. At each stage of the process, Western proposes actions and/or policy to be considered and is open for public comment and input. Western believes soliciting and integrating public input into policy decisions allows Western to develop results that are in the public's best interest and lead to the most widespread use of this resource.

Western has 15 current contractors who receive an allocation of Hoover power. Two of those existing contractors are the Colorado River Commission (CRC) and the Arizona Power Authority (APA). CRC and APA sub-allocate their Hoover power to customers under prescribed guidelines and regulations. Both H.R. 470 and Western's administrative effort propose an amount of resource to be allocated to new cus-

tomers. H.R. 470 proposes certain quantities to be allocated to APA and CRC for their disposition to new customers. While it is anticipated that new customers to APA and CRC could result from this effort, Western's process affords the opportunity to fully seek public input and assures all interested parties are considered in the power's disposition.

Western has received numerous written comments and statements from Native American Tribes expressing concern that their interests have not yet been fully vetted and considered. In recent history, Tribes have been active in Western's remarketing efforts, and one goal of Western's Strategic Plan is to seek partnerships with Tribes on numerous initiatives. I believe that soliciting input from Tribes and other entities that do not already have an allocation of Hoover power is in the public interest.

H.R. 470 would direct that Hoover's full maximum rating of 2,074 megawatts of capacity be allocated to Hoover customers in a multi-faceted approach. As described in Western's November 20, 2009 *Federal Register* notice, we propose to market 2,044 megawatts of contingent capacity; 30 megawatts below the maximum rating. The retention of 30 megawatts of contingent Hoover Dam capacity for use by Western for project integration purposes should provide the tools we need to meet our mission and statutory requirement of delivering reliable Federal hydro-generation. Western manages multiple federally owned generation and transmission projects in the Desert Southwest on a minute-by-minute basis. While these projects are financially segregated, they are operated as an integrated system. This 30-megawatt capacity to be held by the Federal Government would provide significant benefit to the operation of the integrated projects and the Western Area Lower Colorado balancing authority that Western operates. Retaining 30 megawatts would also likely allow our Hoover Dam power customers to experience cost-neutral conditions. Should Western be unable to retain approximately 30 megawatts, we would expect to procure replacement power from the market at a higher cost, if it is available. These higher costs would in turn need to be passed through to Western customers in the form of higher rates.

H.R. 470 expressly requires that each contract offered to a new allottee for Hoover Dam power should require the new allottee to execute the Boulder Canyon Project Implementation Agreement. Western finds significant value in the provisions and results of the Implementation Agreement. However, this agreement was jointly constructed between Western and our customers for unique circumstances that existed in 1994. Should this requirement be retained, the current Implementation Agreement would need to be evaluated and potentially revised to accommodate current conditions. We support the universal benefits achieved by the Implementation Agreement and will work with our customers to determine the appropriate documentation to meet all of our customers' needs; both current and future.

H.R. 470 expressly requires that each contract offered to a new allottee for Hoover Dam power includes a provision requiring the new allottee to pay a proportional share of its State's funding contribution for the Lower Colorado River Multi-Species Conservation Program, known as the LCR MSCP. The LCR MSCP is a 50-year, multi-stakeholder, Federal and non-Federal partnership, responding to the need to balance the use of lower Colorado River water resources and the conservation of native species and their habitats in compliance with the Endangered Species Act (ESA). The LCR MSCP is a comprehensive approach to species protection developed after nearly a decade of work. This program is funded on a cost-share basis comprised of 50-percent Federal and 50-percent non-Federal. The States of Arizona, California and Nevada have worked internally with water and power customers to fund each State's respective share. H.R. 470 recognizes these funding requirements and obligates new power customers to contribute to this funding in a proportional manner. Supporters of H.R. 470 note that the 50-year obligation of the LCR MSCP is, in part, reason to proceed with 50-year Hoover power supply contracts. Western continues to review the LCR MSCP requirements in our administrative process. However, Western's position is that the 50-year LCR MSCP term need not coincide with the Hoover Dam power sales contracts' term. The adoption of a 50-year contract term, as opposed to Western's decision to apply 30-year contract terms, could potentially exclude evolving classes of customers in decades to come. The modern day electrical industry is dynamic in its regulations, technologies, operations and participants. The landscape of potential customers in decades to come has the capability to yield new Hoover customers, as we strive to meet the needs of all our customers; existing and future.

As drafted, H.R. 470 states that Subdivision E of the General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects published in the *Federal Register* on December 28, 1984, (Criteria) shall be deemed to have been modified to conform to this legislation. Western would like to refine this statement

as Western's December 28, 1984, *Federal Register* notice is more precisely titled Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Conformed Criteria). Western published the Criteria on May 9, 1983, which was in need of conformance per the Hoover Power Plant Act of 1984. Pursuant to the Hoover Power Plant Act of 1984, Western conformed the 1983 Criteria in its December 28, 1984, *Federal Register* notice. In doing so, the pertinent section is now Subdivision C of the Conformed Criteria. If H.R. 470 is to move forward, edits would be needed to refer to Subdivision C Western's Conformed Criteria and not Subdivision E of the Criteria.

Western respectfully recognizes that our administrative process is not the exclusive means of allocating Hoover power. I would welcome the opportunity to work with this Subcommittee to address the technical concerns I have raised and to ensure the widespread use of this valuable resource as work continues on this legislation. In the absence of congressional action, Western will uphold our authority and responsibility to market Hoover power consistent with historical statutes and in concert with the rules and regulations as the Secretary of Energy prescribes.

This concludes my prepared remarks and I would be pleased to answer any questions you or members of the Subcommittee might have.

Mr. MCCLINTOCK. Thank you for your testimony. Our next witness is Ms. Phyllis Currie. She is the General Manager, Pasadena Water and Power Department, Pasadena, California. Welcome to Washington.

STATEMENT OF PHYLLIS E. CURRIE, GENERAL MANAGER, PASADENA WATER AND POWER DEPARTMENT, PASADENA, CALIFORNIA

Ms. CURRIE. Thank you. Chairman, McClintock and Ranking Member Napolitano, I am pleased to testify today on behalf of the Southern California Public Power Authority and the City of Pasadena, as well as the other member agencies of the Southern California Public Power Authority. As a joint power authority consisting of 11 municipal utilities and 1 irrigation district, SCPPA members deliver electricity to approximately 4.8 million consumers over an area of 7,000 square miles. The SCPPA members that are Hoover participants include the municipal utilities of the Cities of Anaheim, Azusa, Banning, Burbank, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon.

The City of Pasadena was one of the original contractors for power from Hoover Dam. In 1931, Pasadena, along with the Cities of Glendale, Burbank, and Los Angeles, the Metropolitan Water District of Southern California, Southern California Edison, and the States of Arizona and Nevada, all agreed to pay rates sufficient to guarantee the Federal Government that construction costs of the Hoover Dam would be repaid in 50 years. Hoover Dam and the Power Plant were paid for entirely by the original power users, not by the Federal taxpayers. All the benefits of this dam, which have been spoken by other speakers this morning, were made possible by the financial commitment of these original power users. Millions of citizens in Arizona, California, and Nevada have enjoyed these benefits since the dam's inception.

Pasadena was also one of the parties that agreed in 1984 to advance fund the cost of up-rating the turbines at Hoover, which resulted in another 500 megawatts of generation. Pasadena joined the SCPPA Cities of Glendale, Anaheim, Riverside, Azusa, Banning, Colton, Vernon, and the States of Arizona and Nevada in that up-rating effort, which, again, used no taxpayer money.

Power from Hoover Dam has always been allocated by act of Congress, rather than through an administrative proceeding, through the Boulder Canyon Project Act of 1928, which authorized the original construction, and the Hoover Power Plant Act of 1984, which authorized the up-rating. The contractors have guaranteed that funds required would be paid by the participants.

In anticipation of the expiration of the current contracts in 2017, the power users in Arizona, California, and Nevada got together more than three years ago to begin the negotiations that have led to the legislation before you today. This legislation authorizes the Secretary of Energy to enter into 50-year contracts with the existing contractors for 95 percent of the capacity and energy they now receive. It gives power users a contract term that matches the financial commitment that has been made by those contractors in the 2009 Lower Colorado River Multi Species Conservation Plan legislation. The funds under that bill will be used for 50 years of environmental mitigation on the lower Colorado River.

H.R. 470 also creates a set-aside pool for new entrants, including Indian tribes, municipalities, rural electric cooperatives, irrigation districts that do not now receive Hoover power. From Pasadena's point of view, passage of this legislation will enable us to plan effectively for long-term power supplies to meet customer demand. It will also offset the higher cost of renewable resources that we will have to acquire to meet a 40 percent by 2020 renewable target that Pasadena has adopted. All of the other SCPPA Hoover contractors have adopted targets in a similar range. Additionally, the State of California has enacted legislation that would require all utilities, including SCPPA members, to meet a 33 percent renewable standard and a 30 percent reduction in greenhouse gases by 2020.

Pasadena is proud to have been one of the original Hoover participants and an original participant in the up-rating project. This unique facility has provided many benefits, but has not been paid for by the Federal Government. We are proud that the legislation we are discussing today was unanimously agreed to by Hoover contractors in the three states and we are especially gratified for the support, bipartisan support that we have, as represented by the Chairman and the Ranking Member. Thank you for the opportunity to present this statement and I would be happy to answer any questions you may have.

[The prepared statement of Phyllis E. Currie follows:]

Statement of Phyllis Currie, General Manager, Pasadena Water and Power, on H.R. 470

Chairman McClintock and Ranking Member Napolitano, thank you for inviting me to participate in today's hearing on H.R. 470 the *Hoover Power Allocation Act of 2011.*

I am Phyllis Currie, the General Manager of the Pasadena Water and Power. I am testifying today on behalf of the City of Pasadena and the other nine Hoover contractors who are members of SCPPA, the Southern California Public Power Authority.

The SCPPA is a joint powers authority consisting of 11 municipal utilities and one irrigation district. Our members deliver electricity to approximately 2 million customers over an area of 7,000 square miles, with a total population of 4.8 million consumers. SCPPA members that are Hoover participants include the municipal utilities of the Cities of Anaheim, Azusa, Banning, Burbank, Colton, Glendale, Los Angeles, Pasadena, Riverside and Vernon.

Pasadena was one of the original contractors for power from Hoover Dam. In 1931, Pasadena, along with Glendale, Burbank, Los Angeles, Metropolitan Water District of Southern California, Southern California Edison and the States of Arizona and Nevada agreed to pay rates sufficient to guarantee the federal government that construction costs of the multi-purpose, almost 1,500 megawatt dam would be repaid in 50 years.

Hoover Dam and power plant were entirely paid for by the original power users—not by the federal taxpayers. All the benefits of this multi-purpose dam, including flood control, municipal and industrial water supply, irrigation and recreation were made possible by the commitment of these original power users to pay for the dam. Since its inception, Hoover Dam has provided these multiple benefits to millions of citizens in Arizona, California and Nevada.

Pasadena was also one of the parties that agreed, in 1984, to advance fund the costs of uprating the turbines at Hoover, which resulted in another 500 MW of generation from the dam. Pasadena joined SCPPA cities Glendale, Anaheim, Riverside, Azusa, Banning, Colton, Vernon and the States of Arizona and Nevada in that uprating effort which, again, used no taxpayer money.

Power from Hoover Dam has always been allocated by Act of Congress, rather than through an administrative proceeding. The *Boulder Canyon Project Act of 1928* authorized construction of the dam and related facilities and allocated power to the original contractors, including Pasadena. The *Hoover Power Plant Act of 1984* authorized the Hoover uprating project, re-allocated power to the original contractors and allocated the new capacity and energy to the uprating participants.

In anticipation of the expiration of current contracts for Hoover, in 2017, power users in Arizona, California and Nevada got together more than three years ago to begin negotiations that led to the H.R. 4349. These negotiations led to the legislation before you today.

The key features of this legislation are as follows:

- Authorizes the Secretary of Energy to enter into 50-year contracts with existing contractors for 95% of the capacity and energy they now receive;
- Gives power users a contract term that matches the financial commitment made by water and power contractors in the Lower Colorado River Multi-Species Conservation Plan legislation signed into law in 2009. The MSCP funds will be used for 50 years of environmental mitigation on the Lower Colorado River;
- Creates a 5% "set aside" of capacity and energy for new entrants, including Indian tribes, municipalities, rural electric cooperatives and irrigation districts that do not now receive Hoover power;

From Pasadena's point of view, passage of this legislation will enable us to plan effectively for long-term power supplies to meet customer demand. It will also offset the higher cost of renewable resources we will acquire to meet the 40 by 2020 target Pasadena has adopted. All of the other SCPPA Hoover contractors have adopted similar, or higher, renewable energy targets. Additionally, California has enacted state legislation that would require all utilities, including SCPPA members, to meet a 33% renewable energy standard and 30% reduction in greenhouse gas reduction by 2020.

And, passage of this bill will match the commitment water and power users made to fund the MSCP with contracts that ensure the benefits of the power generated at Hoover.

Pasadena is proud that it was one of the original Hoover participants and that we were participants in the uprating authorized in 1984. This unique facility, paid for by power users, not by the federal government, provides immeasurable benefits to citizens Southern California, Arizona and Nevada.

We are also proud that the legislation we are discussing today was agreed-to unanimously by Hoover contractors in the three states. And, we are gratified to have strong bi-partisan support for the bill from the Chairwoman and many other Members of Congress from Arizona, California and Nevada. Thank you for the opportunity to present this statement and I would be happy to answer any questions you may have.

Mr. MCCLINTOCK. Thank you for your testimony. Our next witness is Mr. John Sullivan, Associate General Manager of the Salt River Project in Phoenix, Arizona.

STATEMENT OF JOHN F. SULLIVAN, ASSOCIATE GENERAL MANAGER, THE SALT RIVER PROJECT, PHOENIX, ARIZONA

Mr. SULLIVAN. Chairman McClintock, Ranking Member Napolitano, and members of the Subcommittee, thank you for the opportunity to testify in support of House Bill 470. I would like to begin by thanking Representative Heck and Ranking Member Napolitano for introducing this bill and to Representatives Flake, Franks, Gosar, a fellow Tucsonan, Grijalva, Quayle, and Schweikhart for recognizing the importance of this legislation to Arizona and signing on as cosponsors. My name is John Sullivan. I am the Associate General Manager of the Water Group of the Salt River Project in Phoenix.

Arizona currently receives 377 megawatts of Hoover power through a contract between the United States and the Arizona Power Authority, the APA, as authorized by Federal law. The APA has subsequently allocated Hoover power to 30 eligible entities, including SRP, within the State under provisions of Arizona law. Hoover power allocations allow those cost-based entities, including municipal utilities, irrigation districts, and electrical districts, to supply power to their customers at rates that help support Arizona agriculture and local economies. Hoover power also plays a critical role in supplying Colorado River water to central and southern Arizona through an APA contract with the Central Arizona Water Conservation District. Passage of H.R. 470 is necessary to secure power allocations for those entities that have invested in and rely on Hoover power, but is also important so that Indian tribes, electric cooperatives, and other eligible entities not currently benefitting from Hoover power can receive allocations. The bill sets aside five percent of the total capacity specifically for those new entrants. SRP is committed publicly and privately to work with APA and entities seeking new allocations in the state allocation process.

In addition, we recognize the importance of certainty for existing contractors and new entrants alike and that is why SRP has offered to sell a backstop product with the same operational and price characteristics as Hoover to certain entities within the State of Arizona, in the event they do not receive an allocation through the state process. We feel the five percent set aside in the legislation for new entrants and our written offer is a fair solution that provides certainty to all parties in Arizona. However, securing Arizona's allocation through the passage of this bill, as introduced, is a critical first step, and I urge support and passage of H.R. 470.

I would also like to take a moment to express SRP's support for H.R. 489, which Mayor Evans testified on just a little bit earlier. SRP operates and maintains the C.C. Cragin Project under a contract with the Bureau of Reclamation. As you have heard, this bill would simply clarify that Reclamation is responsible for approval of operation, maintenance, and repair activities at the project, as is the case for all other Federal Reclamation projects located on national forest lands in the State of Arizona. It would not relieve either the Bureau of SRP from full compliance with environmental laws. I have submitted a written statement for the record on that bill and appreciate the opportunity to address that briefly.

Chairman McClintock, members of the Subcommittee, thank you again for the opportunity to testify before you today. I would be happy to answer any questions.

[The prepared statement of John Sullivan follows:]

Statement of John F. Sullivan, Associate General Manager, Salt River Project, on H.R. 470

Chairman McClintock, Ranking Member Napolitano and Members of the Subcommittee, thank you for the opportunity to submit testimony in support of H.R. 470, a bill to allocate Hoover Dam power to existing customers and also to establish allocations to new customers. My name is John F. Sullivan. I am the Associate General Manager of the Water Group at the Salt River Project ("SRP"), a large multi-purpose federal reclamation project providing water and power service in the Phoenix, Arizona metropolitan area.

SRP fully supports H.R. 470, which will both allocate and expand the availability of hydroelectric power generated at Hoover Dam. Hydropower from Hoover Dam is an important, emission-free, renewable resource to SRP and to the State of Arizona, as well as the States of California and Nevada. H.R. 470 will ensure that this clean, affordable and reliable source of electricity will continue to be available to our region, and will set aside a portion of the available electricity to benefit Indian Tribes and other eligible entities which do not currently receive Hoover power.

Hoover power allocations were initially authorized for 50 years under the Boulder Canyon Project Act of 1928. The Hoover Power Plant Act of 1984 extended those allocations and authorized customer funding to upgrade the turbines at Hoover, creating an additional 500 MW of capacity. Hoover Dam power has been critical to the development of the region and continues to be a vital source of low-cost, renewable power for 29 million people in Arizona, California and Nevada, helping to keep our energy costs to consumers as low as possible. Substantial investments have been made by the Hoover contractors to improve and utilize the Hoover resource, including a commitment to fund a portion of the Lower Colorado River Multi-Species Conservation Program for 50 years.

Arizona currently receives 377 MW of Hoover power through a contract between the United States and the Arizona Power Authority ("APA") as authorized by federal law. The APA has subsequently allocated Hoover power to 30 eligible entities, including SRP, within the State under provisions of Arizona law. Hoover power allocations help these cost-based entities, including municipal utilities, irrigation districts and electrical districts, supply power to their customers at rates that help support Arizona agriculture and local economies. Hoover power also plays a critical role in supplying Colorado River water to central and southern Arizona through an APA contract with the Central Arizona Water Conservation District, the operator of the Central Arizona Project.

Passage of H.R. 470 is necessary to secure power allocations for those entities that have invested in and rely on Hoover power, but is also important so that Indian Tribes, electric cooperatives and other eligible entities not currently benefiting from Hoover power can receive allocations. SRP looks forward to working with the APA and these new entrants in the State allocation process. In an effort to promote certainty, SRP has offered to sell a "backstop" product with the same operational and price characteristics as Hoover to certain entities within Arizona, in the event they do not receive an allocation through the State process.

H.R. 470 is supported by existing customers in all three states, who worked for two years to negotiate and come to agreement on the legislation. In the 111th Congress, an identical bill (H.R. 4349) passed the House of Representatives as well as the Senate Energy and Natural Resources Committee with strong bipartisan support and without opposition. The current contracts for Hoover power expire in 2017; and, given the need for certainty and the time required to develop alternate power supply plans if necessary, along with the time required to develop federal power contracts and administer the State allocation and contract process, early passage of this bill is essential.

The clean, renewable energy generated at Hoover Dam is vital to SRP and the other customers in the region and passage of H.R. 470 is necessary to secure continued access to the power and to provide the opportunity for access by new customers. We urge your support and prompt passage of this important bill.

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

Mr. MCCLINTOCK. Thank you, Mr. Sullivan, for your testimony. Our final witness is Ms. Ann Pongracz, Senior Deputy Attorney General of Colorado River Commission of Nevada, stationed in Los Vegas, Nevada. Welcome.

STATEMENT OF ANN C. PONGRACZ, SENIOR DEPUTY ATTORNEY GENERAL, COLORADO RIVER COMMISSION OF NEVADA, LAS VEGAS, NEVADA

Ms. PONGRACZ. Thank you, very much, Mr. Chairman, Ranking Member Napolitano, members of the Committee, for this opportunity to testify today in favor of H.R. 470. We would like to begin by expressing our thanks to Congressman Heck, Congresswoman Berkeley, our Nevada senators, and Congresswoman Napolitano, and other cosponsors of the legislation.

Hoover power, as Congressman Heck pointed out earlier today, is a critically important resource for the Nevada economy and for our citizens and prior to coming to Washington, we had prepared written comments in favor of H.R. 470, in order to support the bill. I have submitted these written comments for the record and will focus my limited amount of time available on issues presented by the testimony of the Western Area Power Administration.

The Colorado River Commission of Nevada and other Hoover contractors are quite concerned about certain aspects of the testimony Western has presented today—and particularly aspects of the testimony that relate to Western's plans for remarketing post-2017 Hoover power that are set forth in its April 27th Federal Register notice. While the Hoover contractors certainly recognize that Western has a very important role to play in allocating Hoover power, we object to several aspects of the approach taken in the April 27th Federal Register notice. Western makes major decisions in that notice, which it proposes to become effective upon May 27th of this year, barely two weeks from the date of today's hearing. And on these points, Western is proposing to take an approach that varies dramatically from the approach advocated in H.R. 470, in terms of Western has decided to apply its PMI to Hoover power, which has not been done in the past; Western is proposing that the resource pool would be marketed only by Western, in contrast to the Federal-state sharing of allocation authority that is included in H.R. 470; and Western proposes a contract term of 30 years, as opposed to the 50-year contract term that is set forth in H.R. 470.

Application of the PMI to Hoover power would ignore the substantial historic differences between Hoover Dam and other Federal hydropower projects in Western's region. Congress has in the past recognized that it is appropriate to market Hoover hydropower differently. This distinction is rooted in the historical fact that Ms. Currie referred to, that contractors have funded the construction and ongoing operation of Hoover Dam, whereas other projects have had billions of dollars of funding by the U.S. Treasury. Western is attempting to erase this distinction without demonstrating that such change is necessary.

The Hoover contractors further object to Western's decision to reduce the relationship between the funding mechanism for the Lower Colorado River Multi Species Conservation Program or MSCP and Hoover contracts. There is a very close relationship cre-

ated in H.R. 470 between MSCP funding and receipt of the Hoover power and H.R. 470 makes a provision that all future Hoover power allottees will have to, in their contracts for Hoover power, make the same commitment to funding the MSCP program, that existing Hoover contractors have made. We think that maintaining that strong relationship through the 50-year contracts is crucial to the future success of the MSCP.

Now, Hoover contractors believe that Western does not, absent H.R. 470, have the legal authority to allocate Hoover power to tribes. We support the inclusion of tribes in the allocation process for the resource pool, but note that there is a problem with doing so without the enactment of H.R. 470. Hoover contractors also believe that Western lacks the legal authority to apply its PMI to Western. Both of these issues will lead to litigation if Western continues down this road. This would upset the delicate balance of responsibility that has worked so well in the past between the Federal and state government and between Western and the various parties, the existing Hoover contractors who have worked together with Western and with each other so well in the past.

Now there is a potential solution here that we would like to bring to the attention of the Committee, which would be, if Western would issue a notice in the Federal Register clarifying, perhaps clarifying that they did not intend to actually make these decisions effective May 27th and that those decisions would be included as proposals, as would all the other issues that are set forth in the Federal Register notice and go through the comment process that Western lays out in the notice that would go a long way to addressing the problem that has been created by the phrasing of the notice that was published.

We urge Congress to send Western a strong signal regarding the proper approach for allocating Hoover power and enact H.R. 470 as soon as possible. Thank you, very much. I stand ready to respond to questions.

[The prepared statement of Ann C. Pongracz follows:]

Statement of Ann C. Pongracz, Senior Deputy Attorney General, Counsel to the Colorado River Commission of Nevada, on H.R. 470, H.R. 489 and H.R. 818, in Support of H.R. 470

Good morning Chairman McClintock, Congresswoman Napolitano and Members of the Subcommittee. My name is Ann C. Pongracz, Senior Deputy Attorney General, and I serve as Counsel to the Colorado River Commission of Nevada. I appreciate your invitation to speak to you today regarding H.R. 470, and I want to especially thank Congressman Heck and Congresswoman Napolitano for your efforts and leadership on this bill. I speak today on behalf of the State of Nevada, one of the three lower basin states directly affected by the Hoover power contracts. The Colorado River Commission of Nevada strongly supports H.R. 470. I also submit for the record support letters from the Nevada customers who benefit from Hoover power including the Southern Nevada Water Authority and NV Energy.

The Colorado River Commission is the state agency charged with, among other duties, receiving and allocating federal hydropower from the Colorado River that is provided to the State of Nevada. This legislation is crucial to my state. On behalf of the State in its sovereign capacity and also as principal on its own behalf, the Colorado River Commission receives electric power generated by Hoover Dam through delivery contracts with the Western Area Power Administration of the U.S. Department of Energy. The Commission, in turn, contracts to deliver Hoover power to retail and wholesale customers in Southern Nevada. We also operate a power delivery system to deliver this critical resource to our customers.

The Colorado River Commission of Nevada has worked for three years with representatives of Arizona and California to develop this consensus approach to ensur-

ing that the benefits of Hoover power will continue to be delivered to the citizens of our three states after current contracts expire in 2017.

H.R. 470 extends current Hoover power contracts for fifty years to 2067. It redirects five percent of Hoover capacity and associated energy from current contractors to a resource pool that will be made available to new allottees in Nevada, Arizona and California who do not receive any Hoover power today. This bill will allow federally-recognized Indian tribes to apply to access the dam's power for the first time, as well as entities eligible under section 5 of the Boulder Canyon Project Act such as states, municipal corporations and political subdivisions.

H.R. 470 provides coordinated federal/state management of the new allottees' resource pool. The Western Area Power Administration will allocate two-thirds of the pool, and the remaining one-third of the pool will be distributed in equal shares through the Arizona Power Authority (for new allottees in Arizona), the Colorado River Commission of Nevada (for new allottees in Nevada), and Western (for new allottees in California). H.R. 470 requires new allottees to pay a proportionate share of the costs borne today by current contractors for operational and environmental purposes.

We urge the Congress to approve H.R. 470. We believe that Congress should allocate post-2017 Hoover power as it has done since Hoover Dam was constructed in 1935. Congressional approval is needed to ensure the continued availability and reliability of Hoover power to the citizens of Nevada, Arizona and California. The State of Nevada supports H.R. 470 in its entirety and urges the Committee to approve the bill. Thank you again for the opportunity to speak with you today. I'd be happy to answer any questions you may have.

Mr. MCCLINTOCK. Great. Thank you all, very much, for your testimony today and for many of you who have traveled so far to be here. At this point, we will begin questions by the Members. To allow all of our Members to participate and to ensure that we can hear from all of our witnesses today, we will be limiting questioning to five minutes. After the Ranking Member and I pose our questions, I will then recognize Members on alternating sides of the aisle, in order of their arrival and seniority. And I will begin with my five minutes.

Mr. Murillo, regarding H.R. 818, that allows local water utility to repay its loan balance to the Federal Government. I have supported the concept of prepayment. I just want to clarify why this bill is necessary. Does the Bureau of Reclamation have the ability to allow for loan prepayment without specific congressional authorization?

Mr. MURILLO. Without this legislation, we do not have that ability to have them prepay.

Mr. MCCLINTOCK. Are you aware of how many similar loans in the western United States need congressional approval for prepayment?

Mr. MURILLO. No, I am not.

Mr. MCCLINTOCK. Could you provide that number to the Subcommittee? As I said——

Mr. MURILLO. I can provide that information for the record.

Mr. MCCLINTOCK. I think this is a matter that we, at some point, need to discharge with a uniform policy on the subject. I think it is sound public policy and ought to apply in all cases.

Mr. MURILLO. Yes, I can provide that information for the record.

Mr. MCCLINTOCK. Great. Thank you. Also, to correct the record, the representative from the Forest Service is here backstopping your testimony, not Mr. Moe's. But on that subject, to your knowledge, has the Forest Service attempted to interfere or obstruct the maintenance of any other water systems?

Mr. MURILLO. I am not aware where they have tried to interfere with the maintenance or operations of other facilities. This is a unique situation and I think that is why we are in the situation we are with this one, with Cragin.

Mr. MCCLINTOCK. The situation may be unique as to their interference with the maintenance of this vital water project, but it is not unique with respect to their behavior in a wide range of areas involving the management of the national forest. As I said, I believe this evinces an overall design ultimately to expel the people from the people's forests. And I certainly appreciate the Bureau of Reclamation looking into that and getting back to this Committee, if there are other examples of this kind of behavior throughout the areas where the Forest Service claims jurisdiction over Bureau of Reclamation projects.

Mr. MURILLO. Yes, we will look into that and provide that information for the record.

Mr. MCCLINTOCK. Thank you. Next, regarding the Hoover power issue, and I will ask any of the Hoover power witnesses to respond. In the event that Congress does not follow legislative precedent by passing this Hoover power bill and the Western Area Power Administration then steps in to allocate the hydropower that is generated at Hoover Dam—obviously, the agencies started that process. I have heard a lot of rumblings from Hoover power customers that the effort will be subject to controversy and potential litigation. I wonder if any of the witnesses can elaborate on those concerns.

Ms. PONGRACZ. Yes, Mr. Chairman. Ann Pongracz for the record. We do believe that it is quite likely that litigation would ensue in the event that this legislation is not enacted. While we are quite willing to participate in a Western remarketing processing, we have participated in the process thus far. We intend to continue to participate in the process as it goes forward. However, Western's decision to make certain decisions effective May 27th virtually guarantees that certain parties will feel a need to sue as soon as later this month, in order to prevent these provisions from going into effect. This is because of the application of the Administrative Procedures Act and under the terms of the Federal Administrative Procedures Act, some of our Hoover contractor participants are extremely concerned that once those decisions go into effect, the courts would be required to apply a very different standard of review to Western's proposed approach than they would if the procedures were not yet in effect.

Mr. MCCLINTOCK. Thank you. Perhaps I could direct this question to Ms. Currie, as one of the project participants. The Federal Government fronts much of the money for these projects and then it is paid back by the users of the water. What benefits does the Federal Government derive once the project is paid for?

Ms. CURRIE. Well, the Federal Government continues to have the price stability that this project represents and the fact that the consumers have price stability leads to overall economic benefit that the Federal Government certainly shares in. So, we believe that the success of this project has been demonstrated in terms of the leveling of energy costs that it has brought to our region.

Mr. MCCLINTOCK. Mr. Moe, why should parties that have had no part in the financing of these facilities be given a five percent slice of the project, I am sorry, in three seconds or less. I will save that for the second round of questions. My time is up. I recognize the Ranking Member, Ms. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair. And to Mr. Moe, why is Western proposing something so different in the administrative allocation process that was negotiated by the three states, the contract, 30 years versus the 50, and the 30 megawatt set aside for WAPA and what would it be used for if this bill does not pass?

Mr. MOE. A couple of areas where our current proposals are different are the 30 year versus 50 year. For example, we asked for comments for that and had a comment period open for about a year and believe, based on reviewing those comments, that 30 years is a proper balance between providing long-term costs and economic certainty and allowing for new customers. For example, 30 years ago, prior to the 1984 allocation, the Western's regulatory process did not make it very easy for tribes to become customers. In the meantime, we have 87 tribes as customers. So——

Mrs. NAPOLITANO. OK.

Mr. MOE. So, it allows us to look for widespread use and balance that against economic——

Mrs. NAPOLITANO. My time is running, so let me cut it short because of the comment you made about tribes and I noticed that you first outreached to the tribes in January—well, actually, you started a process in January of 2010 and then you start reaching out to the tribes in September. Why the time lapse and have you reached out to them before? And have you negotiated with them before and for how long?

Mr. MOE. Yes. We initiated our process on November 2009 and sent it, you know, to all interested parties.

Mrs. NAPOLITANO. Including tribes?

Mr. MOE. They would have been included. One of the reasons we extended it——

Mrs. NAPOLITANO. Would have been included, sir? Were they included?

Mr. MOE. Yes. One of the reasons we extended the process is to send particular notice to all 59 tribes in the marketing area, to make sure individually that they all got notice of the process and so that is one of the reasons we extended the process until the end of September of last year.

Mrs. NAPOLITANO. Thank you. And your Federal notice proposing to allocate less for new entrants than the bill would, 93 megawatts versus 103 megawatts, this means the entities would have less opportunity under the Federal Register notice. Can you justify that?

Mr. MOE. Yes. The 30 megawatts is another difference that you mentioned. We believe the 30 megawatts is important to integration of the project and operating the balancing authority reliably. It is a proposal at this time. We have not made a decision on it, so it is something we are still seeking comments on before we make a final decision.

Mrs. NAPOLITANO. OK. How many tribes are in the Desert Southwest marketing area and how many of those are eligible to apply for the 103 megawatt Schedule D?

Mr. MOE. There are 59 tribes in the Boulder Canyon marketing area and the Hoover marketing area. And we haven't moved the process to asking for allocations yet. That is one of the future steps in our process. But, those tribes have all been notified that the process is going on.

Mrs. NAPOLITANO. OK. If these tribes are successful in being able to get allocations, Federally recognized tribes, what are you going to do to be able to help them be successful in being able to get into the allocation properly?

Mr. MOE. One of the things that we have done with the issuance of the Power Marketing Initiative and in that same time frame is change the regulations on how tribes could participate in our allocation pools. A major example is they do not need to be utility status in order to participate. And, again, in the last 20 to 30 years, we have had 87 new tribal customers because of that. Again, in the Hoover process, we are not that far along yet for me to speak to any decisions that have been made in the process. But, that is an example of something we have done in recent history to——

Mrs. NAPOLITANO. Would you be asking some of the tribes that are currently receiving how to outreach to the tribes that you have not, would be new entrants, possibly new entrants?

Mr. MOE. Well, two entities, in addition to tribal, directly sending notice to the tribes. We work with the Arizona Tribal Energy Association and the ITCA, the Intertribal Council of Arizona, to try to help us in our outreach efforts and we would intend to continue those kinds of activities.

Mrs. NAPOLITANO. Thank you. Mr. Snow, in your testimony, you mentioned a need for a technical amendment to H.R. 818, as introduced is identical to language that passed last Congress. What does it do and why is the language necessary?

Mr. SNOW. I have been told what the technical amendment would do.

Mrs. NAPOLITANO. I cannot hear you, sir.

Mr. SNOW. I have been told what the technical amendment would to. I have not seen the technical amendment. But, I understand that it might extend to other forum, water service contract, possibly repayment on water service contract.

Mrs. NAPOLITANO. Would you submit it for the record, please, sir?

Mr. SNOW. Submit the technical——

Mrs. NAPOLITANO. Any information you may have.

Mr. SNOW. OK. Thank you.

Mrs. NAPOLITANO. Thank you. Thank you, Mr. Chair.

Mr. MCCLINTOCK. Mr. Gosar.

Dr. GOSAR. Well, first of all, Mr. Murillo, thank you for your testimony on H.R. 489. As you mentioned, it is consistent with what we have put in the bill, your background and your support. And on behalf of the Administration in support of this, maybe we can look at it as a good approach to the future of future projects. But my first question is for you, Mr. Sullivan. Tell me why Congress needs to step into a jurisdictional dispute between the agencies?

Mr. SULLIVAN. Chairman McClintock, Representative Gosar, I have been involved personally in negotiations now between the Bureau of Reclamation and the U.S. Forest Service over the dispute

between those two agencies over who would actually have control. It is tough enough dealing with one master; but dealing with two masters, two bureaucracies is unbelievably complicated. We had a number of instances of delays just to make sure that paperwork was in a form satisfactory to the U.S. Forest Service. These are environmental issues where we addressed it. We got the approval of the Bureau of Reclamation. So, it went through their process. And then the Forest Service said, no, we have to put in a form that is acceptable to us. And it is strictly a form issue. It is not an issue of substance.

So, we tried for a good four-and-a-half years to deal with this administratively. We really got no traction. In fact, we got to a point in the last Congress where we decided we just were not going to be able to move forward. That is when we asked that a bill be introduced. It was introduced in both the House and Senate. Unfortunately, it did not pass in the last Congress, so we are back again. But, we believe that at this point, Congress needs to send a signal to the agencies that one should be sufficient, not two.

Dr. GOSAR. And can you tell me the estimate cost? Because, these are basic services. These aren't extravagant aspects. This is water delivery to the constituents within the area. Tell me what kind of cost was actually passed along to you?

Mr. SULLIVAN. Chairman McClintock, Representative Gosar, I cannot give you specific costs, although I can provide those to the Subcommittee at a later date. But, I can tell you that, you know, 60-day, 90-day delays when you have a schedule and when you are operating in an area where there are some endangered species and so the period of time within which you can do maintenance is limited, caused delays in having contractors come in and not be able to do that work or not being able to schedule contractors in during the period where we can do the maintenance because spotted owl nesting issues.

Also, probably on a much larger scale is the Town of Payson and the impacts of not having a reliable water supply to Mayor Evans' 15,000 constituents. I am not sure we can put a price tag on that. The Town of Payson's other water supply is a very limited groundwater supply. And they have already experienced several periods in this last decade where they have had to limit groundwater supply to the citizens of Payson because of drought. Cragin provides another reliable supply and they can co-manage groundwater and surface water, to be able to supply water to their citizens. If that water is not available, they face a future of increasing curtailments in water supply to their citizens.

Dr. GOSAR. And, Kenny, thank you, very much, Mayor, for coming over here. It is great to see you. You know, you have had a very progressive town and trying to take care of itself getting economics and one of those facilities to provide economics is to have sound water basis. Tell me what kind of implications that was for Payson for the City Council and for your directives in trying to keep Payson sound?

Mr. EVANS. Interestingly enough, we are the most water conserving community in the State of Arizona, probably in the West. Our conservation measures have kept water usage below 80 gallons per person per day versus the 360 gallons per person in southern

California. So, we really do and are concerned about water. One of the huge challenges we face is the cost of bringing this project down and the fact that we are in an era when interest rates are going up for projects dramatically. We are about to lose a significant part of our era grant because we cannot get this job because of the Forest Service's intervention.

Dr. GOSAR. Thank you.

Mr. MCCLINTOCK. Thank you. Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman. And Mr. Murillo and also I think it is Mr. Cunningham from the Forest Service, just a quick response, and the Cragin Dam bill, 489, that Mr. Gosar has introduced, its previous form that came through the House and we went through those hearings, there were some questions that came up, and let me just bring those back up again because I think this version is more reflective of the Senate version than it was the House version that came out of here. The precedent, and maybe you can address the precedent question, both agencies, since most of the discussions were between you and the conflict that we hear about is that there is a precedent being set, because that was one of the concerns that came up about usurping Forest Service ability to manage its land by making the transfer to the Bureau?

Mr. MURILLO. Thank you, very much, for the question. I think this is more or less a unique situation. What we have here is we have part of the project features that are on Reclamation fee title and then you have other part of the features that are on Forest Service lands. If you look at the other projects that are in place, those projects are entirely on withdrawn lands through Reclamation.

Mr. GRIJALVA. Right.

Mr. MURILLO. So, it is more unique. So, I think what we are looking at here is just trying to provide the legislation so we get that consistent with the structure that was with the other projects.

Mr. GRIJALVA. The other units, the other SRP units that they have the management that are on public land, they carry the same unique characteristics as the one we are talking about now?

Mr. MURILLO. No. Those are on withdrawn lands through Reclamation, those feature are.

Mr. GRIJALVA. OK. Mr. Cunningham? I think specifically, Mr. Cunningham, the concern was on the land management side, some of the issues that Mr. Sullivan brought up in his testimony, issues dealing whether with Endangered Species Act, other kinds of environmental issues that are particular to Forest Service jurisdiction, how does that manage in the transfer?

Mr. CUNNINGHAM. I think this bill takes care of a lot of those points. It does a very good job of it.

Mr. GRIJALVA. I appreciate it, sir. Thank you. Mr. Sullivan, if I may, one of the points in the last discussion we had on this and, again, I am assuming it is a point again, is the arrangements with the electric coops in relationship to Mr. Heck's legislation. The coop situation, they are on Schedule D. They were guaranteed allocation. Can you describe the arrangement that is in the present legislation, why you feel that it is a comfortable one to go forward with?

Mr. SULLIVAN. Representative Grijalva, Chairman McClintock, the arrangement for coops, and currently coops are all categorized,

as you mentioned, in the last category for Hoover power, is that this set aside, the portion that goes to the State of Arizona would then be part of the process that the Arizona Power Authority will go through under state law for allocation.

Mr. GRIJALVA. That request, I think, is specific to a special preference under Schedule that is not part of the arrangement, as I understand it, and maybe you can respond specifically to that.

Mr. SULLIVAN. I believe you are correct. I was not in any of the meetings with the coops. But, I believe you are correct, they are asking for a special preference and that, what I believe, would bring up a conflict within the State of Arizona between state law and Federal law. Frankly, this issue is, once the power is allocated to the State of Arizona, which is the state agency, the Arizona Power Authority, then Arizona state law covers how that power would be allocated. And the Arizona Power Authority would allocate the additional power, that five percent set aside, the coops would be in that pool of eligible entities, along with the tribes.

Mr. GRIJALVA. The delicate balance is preeminent right here. That has already been arrived at, right?

Mr. SULLIVAN. Right.

Mr. GRIJALVA. And let me just in closing, Mr. Chairman, all the stakeholders and the people that went through this probably wonderful negotiations that went on for ever, the inclusion of native lands and tribes, I think, is a very, very important addition to it and I want to commend you for making sure that occurred. Thank you.

Mr. MCCLINTOCK. Thank you. Mr. Heck.

Dr. HECK. Thank you, Mr. Chairman, again. I appreciate the opportunity to participate today as a guest of the Committee. Mr. Moe, a question first is on the 35 megawatt set aside for project integration. Has there been a set aside in the previous years for you to use in project integration?

Mr. MOE. Well, the current proposal that Western has would actually increase the marketed capacity from what it has been in previous years, but that increase is still 30 megawatts different than what the legislation proposes. The legislation would be 30 megawatts higher. And, again, the reason that we are currently proposing the 30 megawatts is to allow us to reliable integrate the——

Dr. HECK. That is not answering the question. The question was, did you have the set aside or the ability to utilize the power previously for your project integration?

Mr. MOE. It hasn't been as critical in the past because the marketed capacity has been lower in the past.

Dr. HECK. This is a yes or no question.

Mr. MOE. So, no, as set aside was not required.

Dr. HECK. OK. But have you used power from the Hoover Dam in your project integration in the past?

Mr. MOE. Hoover Dam is currently part of the BA and we make sure that the right people are paying the right cost.

Dr. HECK. Can you explain to me what the benefit would be of having your agency be the sole marketing source of power?

Mr. MOE. We do not have a position either way in terms of a benefit. I mean, I think, you know, we are moving forward, our

process, because it is our responsibility to make sure it is marketed. If the legislation is passed, you know, we appreciate the chance we have had to work on technical issues with that and believe we can also accommodate that.

Dr. HECK. And that brings me to my last question. This bill was dropped on January 26th. Three months later, your agency published the Federal Register notice on April 27th with the intent to move forward with certain changes in how the system operates. I would ask why, as the sponsor of this bill, no one took the time to come and discuss what was going to be put forth, with either myself or the Ranking Member, who had this bill previously and who is the cosponsor?

Mr. MOE. Well, certainly, it was not our intention to not have discussion. We had been in a public process since November of 2009 on the issue predominantly of the Power Marketing Initiative, as well as term and some other issues we proposed. Because of comments from current contractors, as well as tribes and others, we extended that comment period all the way until September of last year and spent quite a lot of time reviewing comments from that period. And we had been telling, you know, interested parties that we actually hope to move another step forward earlier than we were able to. So, it was not a strategy to time when we finally got the point of being able to issue our next Federal Register notice with respect to the legislation at all. And, certainly, we would be pleased to continue dialogue, if that is——

Dr. HECK. I am not trying to suggest there was some subversive attempt here, but I would think with three months from the time a bill was dropped that has significant impact on your agency, you would be able to find a time to come and talk to the primary sponsors of that bill about where you thought the agency would be heading. And I think this leads to the greater issue that we are addressing in this Congress is the systematic overreach of executive agencies without legislative direction. With that, Mr. Chairman, I thank you and yield back my time.

Mr. MCCLINTOCK. That concludes our first round of questioning. We will now move to our lightening round. I just have a few questions left. I wanted to pick up on my point, Mr. Moe, of why should parties that had no part in financing this project initially given a five percent slice of the project now?

Mr. MOE. Well, as many people have said, Hoover power is very valuable for those that have it and valuable for those that would like to be able to use it in the future. Again, as I just discussed with Congressman Heck, we had a comment period of over a year for whether we should open a new resource pool. We had——

Mr. MCCLINTOCK. But, again, this is a project that was financed by the participation and by the resources of various entities. As I see it, they own it. They paid for it; they own it. Why should we now be parceling out additional slices to those who had no participation in the project?

Mr. MOE. Whoever the contractors are would pay the rates, in the past they have, to repay the project in the——

Mr. MCCLINTOCK. Ms. Currie, you are a contractor. What are you thoughts on the subject?

Ms. CURRIE. My thoughts are we have been paying the freight on this project since its inception and we should be able to continue to have the benefits. All of our customers collectively in the three states——

Mr. MCCLINTOCK. Why the five percent slice off then?

Ms. CURRIE. The five percent does recognize that people who have not been able to benefit need an opportunity. And so this was part of the give and take

Mr. MCCLINTOCK. Oh, I see.

Ms. CURRIE.—that the existing contractors came up with.

Mr. MCCLINTOCK. Why are we locking in these contracts for 50 years? One thing that is being done at the administrator level, which I think makes a little more sense, is to keep it to 20 or 30 years. Fifty years was initially required to pay off the capital cost of construction. Beyond that, aren't we hamstringing future generation to respond to changing conditions or policies?

Ms. CURRIE. Well, we are telling the existing contractors that the commitment they have made in 2009 to fund environmental mitigation over 50 years will be matched by the term going forward on this.

Mr. MCCLINTOCK. But those policies may change a lot sooner than 50 years. Why would we want to hamstring the next generation to keep them from responding to those changes in policy, in science, in necessity?

Ms. CURRIE. Well, the obligation to pay, as set forth in that 2009 environmental mitigation legislation, that is not going to change. That 50 years is a contract between the participants in Hoover and the Federal Government to pay for mitigation. And so, we believe that that should be honored by the 50-year commitment that is in H.R. 470.

Mr. MCCLINTOCK. One thing I would like to hear from all of the witnesses here that are on the Hoover issue, and you do not have to answer it right now, but just if you could offer thoughts, if you have them, in writing while the hearing record is open, I am interested in how we can provide a uniform standard for all future power contract extensions, so that it is not done a piecemeal basis. It may be to be. There may be unique circumstances with each of these issues that need specific attention. But, to the extent that we can provide a uniform standard that everybody knows, everybody can rely upon, it seems to me to be a better way to approach the issue and any thoughts you have on that subject for future legislation would be much appreciated. And with that, I will yield back the balance of my time and recognize the Ranking Member.

Mrs. NAPOLITANO. Thank you, Mr. Chair, and to Mr. Sullivan, I have read your testimony with quite a bit of interest because you apparently have learned to conserve water in your Payson area, am I correct?

Mr. SULLIVAN. Actually, you need to direct that to the Mayor.

Mrs. NAPOLITANO. To the Mayor, I am sorry; the Mayor, I am sorry, yes.

Mr. SULLIVAN. He is the conserver.

Mrs. NAPOLITANO. He is the conserver, good. Are you using any of the solar to be able to reduce some of the electricity that does require it?

Mr. EVANS. Yes, and I have wish I had time to explain to you some of the forward-looking things we are doing.

Mrs. NAPOLITANO. Send me a note, please.

Mr. EVANS. Yes. We have currently the largest solar field in the State on educational facilities. We have 2.8 megawatts that are being generated, which make them nearly energy neutral. Additionally, we are in the process of constructing another 10 megawatts to provide the energy for a new four-year college. UAS campus is coming to our town.

Mrs. NAPOLITANO. Well, thank you, so much. I am impressed. And just as a matter of a comment to any of you who might want to respond real quickly, because my time will go through, in local level, and I am sure you understand we, sometimes, have to retrain employees. Would there be any comment about having the agencies retrained or be able to work with each other and to work with you? Any comment? You are laughing now.

Mr. EVANS. I have to continue to work with the Forest Service people back home on a daily basis, so I think you noticed I have tempered my thoughts considerably compared to some of you, who are in the position above it.

Mrs. NAPOLITANO. Understood and acknowledged. Anybody else?

Mr. EVANS. I would think that training and cross training would be very valuable. One of the real tough challenges we face at the doing level. I mean, the old adage about the rubber meets the road, we are the ones who are facing the citizens who expect, you know, the quality of life to improve and——

Mrs. NAPOLITANO. Thank you. I am running out of time.

Mr. EVANS. Yeah, when that gets held up by a bureaucrat, who simply wants the form filled out on his piece of paper, that is tragic.

Mrs. NAPOLITANO. Thank you. Anybody else? OK, your lips are sealed. Ms. Currie, what role does the Multi Species Habitat Plan play in allowing for the water and power deliveries?

Ms. CURRIE. Fifty percent of the cost of that program is paid for by water and power contractors. So, that is an essential part of this issue of 50 years versus 30 years. When the up-rating was done in 1984 with the 30-year time frame, we did not have this environmental cleanup obligation as part of it. So that is a key difference that we are facing now and we believe that that 50-year term is fair and appropriate.

Mrs. NAPOLITANO. Thank you. Mr. Chair, I yield back.

Mr. MCCLINTOCK. Thank you. Mr. Gosar?

Dr. GOSAR. Well, first of all, I want to thank my colleague, Congressman Grijalva, for clarifying the Forest Service and Reclamations from the past House bill, so that we had better clarity on that aspect. So, thank you, so very, very much. Mayor Evans, I know there are lots of this going on and particularly being an island out there in the Federal land area. This is not the only aspect that has caused problems with you, has it?

Mr. EVANS. It has not. As I mentioned, we have to deal with five or six agencies, Federal agencies and the challenge we face is the bureaucratic wrangling between those agencies. We get along better with them than they get along with one another oftentimes.

Dr. GOSAR. And then that really does have an impact, particularly to the economics.

Mr. EVANS. In my little town, and it is a small town, but it is measured—I believe someone asked that to be quantified. In our terms, it is measured in millions. We have a project that the delays have cost us or will cost future generations in our community $200 million, as a result of delays associated with somebody saying I don't have the information I need on the form that I have and so I can't understand it. It wasn't that it was violating some rule, regulation, law; it was simply a delay associated with their inability to make a decision.

Dr. GOSAR. And I know that you have been very innovative in regard to trying—I mean, you are surrounded by forests and in Arizona, we have been in drought. We have dry spells. We have high volumes of lightening strikes and stuff. So, we are at risk for a lot of fires. And so, I know that you have been on the aspect of trying to be on the forward aspect of prevention. This would just be another place that we could definitely ask the agencies to get along, to help us out, and start working with us.

Mr. EVANS. Absolutely. We have located bladders in the forest, so that we have water close to those ignition sources that may—you know, they are out disbursed in areas over which we have no control. But, we have used our own local resources to get money and to put bladders out there, so water is disbursed into the forest, so we can protect those forest resources.

Dr. GOSAR. And I know we have seen the Forest Service really start to come to the table, to start really looking at this cooperatively with us.

Mr. EVANS. Exactly. And as I said, and it sounded funny, but we do work well with the Forest Service. Our challenge is trying to get them to be able to work with other sister agencies, U.S. Fish and Wildlife, Department of Ag, other agencies within the Department of Ag, other agencies within the Department of the Interior, the Army Corps, et cetera.

Dr. GOSAR. Thank you. Mr. Moe, the Hoover Dam depends on a lot of its water from water release from upstream and the Glen Canyon Dam and I know there are a number of people that have wanted to take out and to remove the Glen Canyon Dam. Can you give me some ideas in regards to what kind of allocation or problems that may facilitate or be problematic with?

Mr. MOE. Well, the removal of Glen Canyon Dam would definitely be a major change in the way water is operated on the Colorado River. It is a centerpiece for balancing allocations between the upper and lower basins on the Colorado River, for example. It would also impact hydropower. So, there would be major impacts. But, you know, it is not something that Western Area Power Administration has been doing any work on for sure and I do not know how to give you any more specifics than that.

Dr. GOSAR. Well, along with the Hoover project, we also have the Parker-Davis Project, as well, that you have allocations. So, the rural coops get electricity from both, right?

Mr. MOE. Arizona Electric Power Cooperative does have a Parker-Davis power allocation. I believe they also have a Colorado River Storage Project allocation.

Dr. GOSAR. And Native Americans do get some of that power, I mean, from the Navajo Nation to the White Mount Apaches and the San Carlos Apaches. We get that and they can still apply through that process, can they not?

Mr. MOE. Those two projects I mentioned, both also have Native American customers, yes.

Dr. GOSAR. Thank you, very much.

Mr. MCCLINTOCK. Thank you. Mr. Grijalva?

Mr. GRIJALVA. Thank you, Mr. Chairman, again. For Ms. Currie and Ms. Pongracz, and Mr. Sullivan, probably the same question, the Chairman brought up the timing issue in terms of the Multi Species Act and the restoration commitment and environmental commitment that is made with that Act, which I think is very significant to put the long-term water availability and the restoration obligation that is being made there and the legislation that we are talking about today. Talk about not only the timing issue and why the 50 year is critical for both the function and also why they are not only from a policy perspective, but from a water usage perspective tied together, if you would?

Mr. SULLIVAN. I will take a shot, since I am the water guy sitting on this panel. From a water supply perspective and from a power supply perspective, directly addressing the issue of the multiple different species that are impacted by the operation of the Colorado River and doing it for a long period of time assures that the power supply and the water supply provided by Hoover to the lower Colorado region is there. And so having made the commitment to protect endangered species on the lower Colorado, we also protect the ability to deliver water to the three states and to the country of Mexico under the Treaty. We also then——

Mr. GRIJALVA. That is a certainty issue, right? There is a certainty issue.

Mr. SULLIVAN. There is a certainty issue.

Mr. GRIJALVA. Yeah.

Mr. SULLIVAN. And there is certainty to the Federal Government that the three states will continue in their commitment for 50 years to help fund that.

Mr. GRIJALVA. Any response?

Ms. CURRIE. I would just echo those comments in terms of he is a water guy; I came out of the finance area. When you are making investments over long terms, you put money forward with the expectation that you will have certain outcomes. And matching these terms with the legislation before you, with the 2009 environmental cleanup legislation just makes it that much better for long-term planning.

Mr. GRIJALVA. Thank you.

Ms. PONGRACZ. I agree with the comments of the prior two speakers, Congressman Grijalva, and have nothing to add.

Mr. GRIJALVA. Thank you. And, Mayor, it just reminds me, there is—it will remain nameless—a community that is located inside of a reservation, tribal lands, and like you said, I have to be careful where—and I explained to them, you know, you are renting here. You have to be really careful how you deal with the tribe that is in control of the land. And I understand that. I think that the legislation that we are dealing with today provides also some certainty

to your community, which I think is a good step forward. And I yield back, Mr. Chairman.

Mr. MCCLINTOCK. Well, thank you, very much, folks. Thank you for joining us today and for your valuable testimony. I know members of the Subcommittee may have additional questions for witnesses. We will ask that you respond to those in writing. The hearing record will be kept open for 10 days to receive responses. And if there is no further business and without objection, the Subcommittee stands adjourned.

[Whereupon, at 11:34 a.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

[A statement submitted for the record by the Mohave Electric Cooperative, Navopache Electric Cooperative, Sulphur Springs Valley Electric Cooperative, Trico Electric Cooperative, and Arizona Electric Power Cooperative on H.R. 470 follows:]

STATEMENT OF MOHAVE ELECTRIC COOPERATIVE, NAVOPACHE ELECTRIC COOPERATIVE, SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, TRICO ELECTRIC COOPERATIVE AND THE ARIZONA ELECTRIC POWER COOPERATIVE ON H.R. 470 THE HOOVER POWER ALLOCATION ACT

MAY 12, 2011

"And one should bear In mind that there is nothing more difficult to execute, nor more dubious of success, nor more dangerous to administer than to introduce a new order to things; for he who introduces it has all those who profit from the old order as his enemies; and he has only lukewarm allies in all those who might profit from the new. This lukewarmness partly stems from fear of their adversaries, who have the law on their side, and partly from the skepticism of men, who do not truly believe In new things unless they have personal experience in them."—Niccolo Machiavelli

Over the past two years, several rural electric cooperatives in Arizona have banded together in an effort to secure an allocation of power from Hoover Dam. This endeavor has not been easy, and as Niccolo Machiavelli noted in his preceding comment, bringing about a new order of things is hampered by many impediments. Nevertheless, we continue the pursuit of this valuable National resource (Hoover Power), not only for those we serve, but for the countless future residents that the State of Arizona will undoubtedly attract.

The provisions incorporated into H.R. 470 are expected to provide guidance to the Federal Government and the States of California, Nevada, and Arizona until the year 2067. However, these guidelines—for the most part—consist of the perpetuation of the status quo. In other words, the vast majority of those that currently receive power from Hoover Dam will continue to do so—in fact, many entities will see an increase in their allocations. Although changes have been proposed to existing policy—and rightly so—to allow Native American tribes and the "have-nots" (the Schedule D pool) the opportunity to acquire Hoover power, it has always been our contention that, in Arizona, the Schedule D pool is insufficient to address the needs of all those who will seek to obtain it.

We, collectively known as the Arizona Cooperatives, have no quarrel with the manner in which the States of California and Nevada will govern and remarket their respective allocations of power from Hoover. Our concerns lie in the 70-year old exclusionary practices that prevent Arizona's Electric Cooperatives from receiving an apportionment of Arizona's allocation of Hoover power.

Federal statutes and Congressional intent are replete with references as to the legitimacy of electric cooperatives entitlement to clean, efficient, inexpensive hydropower "...[to] encourage the development of rural areas..." In fact, the Reclamation Act of 1906 provided the Federal Government's entry into the electric power field, and the Federal Power Act of 1920 codified preference to a "...particular class of users, such as public bodies and **cooperatives."** According to a 2001 Government and Accounting Office (GAO) report on FEDERAL POWER requested by then Chairman of the Committee on Resources—The Honorable James V. Hansen -

> "one primary benefit that the Congress sought in giving priority to public utilities and cooperatives, which distribute directly to customers without a profit incentive, was to obtain lower electricity rates for consumers"

The report went on to further reiterate 95 years of Congressional intent by indicating that

> "the notion of providing public bodies and cooperatives with preference for federal hydropower rests on the general philosophy that public resources belong to the nation and their benefits should be distributed directly to the public whenever possible. In many cases, the preference provisions of federal statutes give the electric cooperatives... priority in seeking to purchase federally produced and federally marketed power."

We make note of the statements contained in the report because we believe—and as the report points out—that electric cooperatives are entitled to fair and equitable consideration in the marketing of our Nation's hydropower. It is this "preference" that we want this Congress to acknowledge and reiterate, and provide safeguards to its compliance.

We believe Congress can ensure the protection of this noteworthy policy by adopting a simple amendment to H.R. 470. Fairness in the application of Federal preference laws is needed. In Arizona, existing discriminatory practices which cloud and often repudiate Congressional intent must be addressed. To clarify any misconceptions, we believe H.R. 470 should be amended to include a provision that states unequivocally that any remarketing of Arizona's allocation of Hoover power should be contingent upon extending a fair and equitable consideration to cooperatives within the state.

Fair and equitable access to Federal resources is a law of the Land. We, the Arizona-based Electric Cooperatives, believe its application can be accomplished without any violation of the State of Arizona's rights or laws.

Many of our opponents have promoted the perception that the amendment we seek usurps Arizona state law. But we do not believe that Congress's assurance of fair and equitable consideration is an infringement upon the State of Arizona's discretion in the remarketing of their allocation of Hoover power. In fact, we view it as one more policy to consider in fairly redistributing Hoover power,

The discretion to distribute Arizona's allocation of Hoover power would still be allowed to proceed under State Statute. Nothing in the proposed amendment would prevent the State of Arizona, or its agent the Arizona Power Authority, from utilizing Arizona's Statutes to significantly advantage the District class of customer—as is currently the case. It is our contention that our amendment would only require that there be some fair and equitable consideration of the other classes of customers as well. The discretion of implementing the "fair and equitable" aspects is up to the State and the APA.

Another myth we'd like to dispel is that the Cooperatives do not have Hoover power because we have not submitted the necessary data. We have not provided the APA with data because it is our understanding that the APA's actual post-2017 Hoover marketing process Isn't presently active, and In fact, is not expected to commence until 2016–17. We have been given examples of the type of data that are expected and will gladly submit this information, along with the other entities in Arizona that are currently receiving Hoover power or seeking Hoover power, when the time is appropriate and the APA is actively remarketing Hoover.

We would also like to clarify a misconception that has been allowed to flourish regarding the Arizona Power Authority's "costs" for Hoover power. Many of our opponents have indicated to congressional staff that they "paid" for Hoover and it's upgrades and that the Arizona Cooperatives "can have Hoover power" if they "buy In". We assume this statement infers that those that currently receive Hoover power are equity partners in Hoover Dam. We view these comments as inaccurate and the "buy in" statement as ludicrous. Hoover Dam is a national public resource owned by the people of the United States, not any single or collective entity that may be the recipient of the power generated at the Dam.

Factually, the Hoover facility and its uprates and the costs associated with the facility are all paid by the allottees through the cost of the power remarketed, and in Arizona, the cost of Hoover to the Arizona Power Authority is recovered through its rates to its customers. Beginning in 2017, as it is today, the Arizona Power Authority will recover any Hoover related costs through the rates that it charges its customers for the Hoover power and energy resold to them,

There is also some rendition of history that the cooperatives did have an allocation of Hoover power in the early 1960's. That particular portion of history provides the example of why an amendment is needed. Prior to 1963, the State of Arizona—through the Arizona Power Authority (APA)—did market a blended product of Hoover power, Parker-Davis Project power, and purchased steam power as Colorado

River Power. The APA had excess surplus of this blended power and some of the cooperatives in Arizona did purchase this power along with entities such as investor-owned utilities. Those of us that purchased this excess power from the APA did not have allocations.

It is important to note that the Parker-Davis Project power was required by law to be marketed in accordance with federal preference rules. In 1963, the federal government decided that Arizona's "super preference" laws were not consistent with the Federal Preference laws and took the Parker-Davis Project power away from the State and marketed it directly to preference entities in accordance with preference power provisions. It was then that the cooperatives received Parker-Davis power in 1963. Since 1963, the cooperatives have not received an allocation of Hoover power, and the power they received prior to 1963 was actually a blend of Parker-Davis Project power, Hoover power, and purchased steam power and, again, not an allocation.

In closing, we want to thank the Members of this Committee, and staff for providing us with the opportunity to share our concerns and to propose a solution to our dilemma. We firmly believe our amendment can correct the 70 years of discrimination and exclusion the Arizona Cooperatives have experienced in their quest to obtain Hoover power. We wish to reiterate that our amendment does not impact the States of California or Nevada or the manner in which they allocate their apportionment of Hoover power.

We are grateful to the Salt River Project for working with us and for proposing to provide Mohave Electric Cooperative, Navopache Electric Cooperative, and the Sulphur Springs Valley Electric Cooperative with up to three [3] mw (collectively) of Hoover power. This offer isn't effective until 2017 (at the earliest) and is contingent upon the APA's refusal to provide the Arizona Cooperatives with Hoover power once the new contracts are executed in 2017. Nevertheless, we view this gesture by SRP as honorable, and in the spirit of fairness and cooperation.

We also want to express our sincerest gratitude to Congressman Ed Pastor. His willingness to listen to our concerns, and advocate that the Arizona Cooperatives be given an equal opportunity to obtain Hoover power, has been invaluable. We are deeply appreciative of Congressman Pastor's efforts and for pursuing what he believes is in Arizona's best interests.

Lastly, over the last two and one-half years we have had the courage to speak the truth, and fight for our customers and rural Arizona. It is our hope that this Congress will not allow the perpetuation of the outdated practices of the past, at the expense of the needs of millions of rural Arizonans. Eighty-three year old policies must be reviewed and amended to ensure their relevancy for future generations. The enactment of H.R. 470 will codify in public law provisions which will govern the allocation of Hoover power until 2067. In its current form,

H.R. 470 allows for the continuation of a policy that is detrimental to Arizona's Electric Cooperatives. We ask that you not allow this injustice to continue for the sake of political expediency. We ask that you adopt the amendment we have proposed, or work with us in arriving at a mutually beneficial solution.