S. HRG. 115–511

THE 2018 WESTERN WATER SUPPLY OUTLOOK AND WATER INFRASTRUCTURE AND DROUGHT RESILIENCE LEGISLATION

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

TO

EXAMINE THE 2018 WESTERN WATER SUPPLY OUTLOOK AND RECEIVE TESTIMONY ON THE FOLLOWING WATER INFRASTRUCTURE AND DROUGHT RESILIENCE LEGISLATION:

S. 2539
S. 2560
S. 2563

MARCH 22, 2018

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THE 2018 WESTERN WATER SUPPLY OUTLOOK AND WATER INFRASTRUCTURE AND DROUGHT RESILIENCE LEGISLATION

THURSDAY, MARCH 22, 2018

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

The Committee met, pursuant to notice, at 10:08 a.m. in Room SD–366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

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

The CHAIRMAN. Good morning, everyone. The Committee will come to order.

We had hoped to begin this morning's meeting with a quick business meeting, but we clearly do not have a quorum present. I know that there are significant hearings underway as we speak, in various committees, so we are competing a little bit.

But for purposes of so many in the West, there could not be anything more important than what we are doing here this morning and that is to examine the Western Water Outlook for 2018, as well as three bills related to water supply infrastructure and drought resilience.

For over a decade, the West has suffered through drought conditions. And after a brief respite last year, water conditions are again poor in much of the region, particularly in California and the Colorado River Basin. Changing climate conditions and weather patterns appear to be making the matters worse.

The good news is that we have potential solutions to shield our communities from harmful drought impacts. And it starts, as always, with infrastructure. Every Committee has been talking about infrastructure this Congress. It is an important topic because there is no question that we need to overhaul and modernize America's infrastructure. Across every sector, infrastructure is the cornerstone.

For Western water, drought resilience is simply not possible with insufficient and aging water systems that do not even function properly. We understand this in my state of Alaska where, believe it or not, we actually, every now and again, have some water shortages. Even in the Southeast where we are a literal rainforest, some areas have faced regional droughts. Most often what happens is that water scarcity is felt by communities that have plenty of pre-

cipitation, whether it is Wrangell or Metlakatla, but without the necessary infrastructure to capture it and transport it you are just kind of stuck.

In the arid West, the consequences of inadequate water supply infrastructure can be even more severe. The failure to store as much water as possible in a wet year can have devastating, long-term impacts.

With infrastructure as a foundation, we can also look to flexible water management practices to build drought resilience. Tools like conjunctive management, data-driven reservoir operations, conservation, and other innovative techniques can multiply the drought resilience benefits for our communities.

In order to succeed we need to consider alternatives beyond dams and reservoirs to provide needed storage, but we must also take a critical look at the broken permitting process that can kill good storage projects in the very early stages of the planning process. We also need to aggressively pursue water conservation, without pretending like that alone can solve the severe water resource challenges that we face.

The three bills before us today are important and will move us closer to our goals of modern infrastructure and a flexible, responsive water management strategy. I want to acknowledge my appreciation for the provisions in S. 2563 that allow Alaskans to access needed water efficiency and tribal technical assistance grants.

I look forward to hearing from our expert witnesses who bring a diverse set of perspectives on water security to the table. Whatever your viewpoint, whether it is government, irrigation, municipal water, conservation, or business, it is encouraging to see widespread agreement about the need to increase Western water supplies and the importance of taking an expansive approach to water management.

I thank you all, and now I turn to Senator Cantwell.

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

Senator CANTWELL. Thank you, Madam Chair. Thank you for calling a hearing on water in the West and thank you to our witnesses joining us today on World Water Day.

We are joining a global conversation on the importance of water for our communities and the science is abundantly clear that the climate is changing and it is affecting our water supply. Winters are warmer and the snowpack is melting sooner. This means less water when we need it most, and we must find consensus-based solutions grounded in the 21st century.

The Bureau of Reclamation projects help to support diverse agricultural economies in Eastern and Central Washington, and we must grow over 300 different commodities. We must make all of these things have the economic opportunity that comes with good water planning. Our agricultural economy's production topped $10.6 billion in 2016. We are very proud of that.

A well-managed water system also helps us provide affordable hydro for our communities, and Washington is fortunate that this year's water outlook and snowpack is normal or above normal.

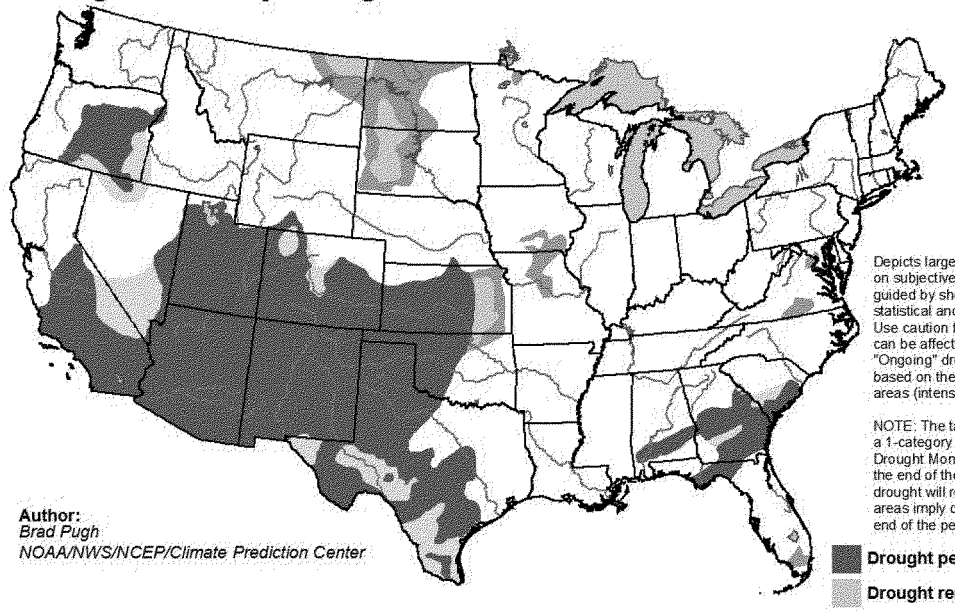
I look at this map that we have passed out to our colleagues as well and the brown areas are the most hard hit, impact projections for this year.

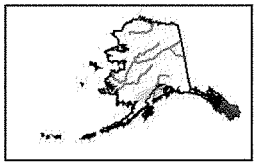
[The information referred to follows:]

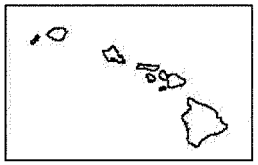
U.S. Seasonal Drought Outlook

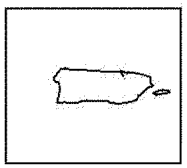
Drought Tendency During the Valid Period

Valid for March 15 - June 30, 2018
Released March 15, 2018









Author:
Brad Pugh
NOAA/NWS/NCEP/Climate Prediction Center

Depicts large-scale trends based on subjectively derived probabilities guided by short- and long-range statistical and dynamical forecasts. Use caution for applications that can be affected by short lived events. "Ongoing" drought areas are based on the U.S. Drought Monitor areas (intensities of D1 to D4).

NOTE: The tan areas imply at least a 1-category improvement in the Drought Monitor intensity levels by the end of the period, although drought will remain. The green areas imply drought removal by the end of the period (D0 or none).

- **Drought persists**
- **Drought remains but improves**
- **Drought removal likely**
- **Drought development likely**

http://go.usa.gov/3eZ73

I am relieved to see that the Pacific Northwest does not have any of that area this year, but it does not mean that I am any less committed to making sure we continue to move ahead on good water resource management.

I think this is all based on Bureau of Reclamation precipitation outlooks, and for the Pacific Northwest we are expected to be at 104 percent. We are used to wet in some parts of our state, but all of these things matter as it relates to snowpack and we can see for the rest of the West, the current snowpack and water forecast is dismal. The Rockies, which feed the Colorado River Basin, and the Sierras in California look particularly dry. Oregon's Governor Brown has already declared a drought through the Klamath Basin with 40 percent of expected snowpack.

So while we are grateful, again, for this outlook in my state, the trends show that a good water year may become the exception and not the norm. We remember what a drought looked like in 2015 to our communities, and the science is telling us that climate change is impacting and will continue to impact. A GAO report also found that the number and intensities of extreme weather events, like drought, will increase. This will cost taxpayers more than $1 trillion by 2039.

So I believe we must plan and we must prepare. I share the same interests as the sponsors of legislation we are considering and I am also looking at legislative ideas for comprehensive approaches that take us more than just to one year, but for many years, of planning in advance.

We must help our communities become resilient in the management of our water resources, especially in light of climate change, and there are provisions in this legislation that the Committee has previously considered. Some of those we have opposed, but we look forward to working with our colleagues on water conservation programs like WaterSMART, where we find a comprehensive approach.

We must also support collaborative solutions that do not pick winners and losers and, particularly, do not end up in court for a decade and a half and then stymie our ability to get some basic things done. This is exactly what we did in the Yakima Basin, a shared solution that benefited the entire ecosystem, and I am pleased Derek Sandison is here today to talk about that and other water issues.

Again, thank you to our witnesses for being here.

Dr. Petty, congratulations on your confirmation and welcome back. We look forward to hearing your testimony.

Thank you.

The CHAIRMAN. Thank you, Senator Cantwell.

We will begin this morning asking each of our witnesses to provide us with about five minutes of comments. Your full statements will be incorporated as part of the record. We thank you for being here.

We are joined this morning, as Senator Cantwell has noted, by the new Assistant Secretary for Water and Science, Dr. Tim Petty, who is now with the U.S. Department of the Interior. We are pleased that you are there and welcome you this morning.

Mr. Derek Sandison is the Director of the Washington State Department of Agriculture. Thank you for traveling across the country.

Mr. Patrick O'Toole is the President of the Family Farm Alliance. Welcome.

Laura Ziemer is the Senior Counsel and Water Policy Advisor with Trout Unlimited. Welcome.

Ms. Kathryn Sorensen is the Director for the City of Phoenix, Arizona, Water Services Department. Thank you for being here.

And Ms. Cindy Ortega is the Senior Vice President and Chief Sustainability Officer at MGM Resorts International. We are pleased to have you here.

With that, Dr. Petty, if you would like to kick off the panel here this morning. Again, welcome to you all.

STATEMENT OF HON. TIMOTHY PETTY, ASSISTANT SECRETARY FOR WATER AND SCIENCE, U.S. DEPARTMENT OF THE INTERIOR

Dr. PETTY. Thank you, Chairman Murkowski, Ranking Member Cantwell, and members of the Committee for the opportunity to discuss with you bills under consideration by the Committee today and to more generally discuss the water supply for water year 2018.

It is a privilege, actually, to be back before this Committee.

First, let me start with a summary overview regarding each bill before the Committee today.

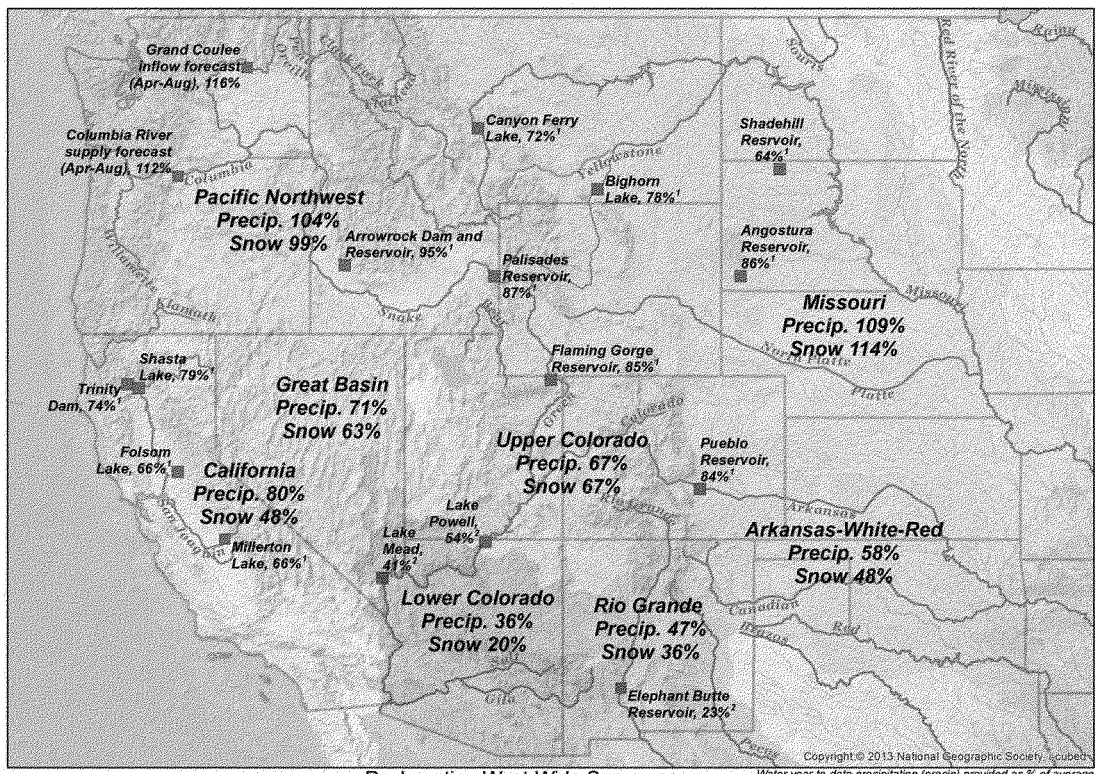
Starting with Senate bill 2563, it contains numerous provisions on which the Department has previously testified. We generally support the provisions of the bill and understand the important factors in each of the sections. I would direct each member to my written testimony which provides a much more detailed, section-by-section analysis for you and your staff for your review.

Shifting to the second bill, Senate bill 2539 reauthorizes the Pilot System Conservation Program for an additional four years. We recognize the importance of interstate cooperation with this program and while the Department does not oppose any of the reauthorization of the program, it's important to note the successful implementation is dependent on the support and participation of the funding partners and the Colorado River Basin states themselves.

And finally, regarding the third bill, the Department supports Senate bill 2560, the Reclamation Title Transfer Act, and appreciates the Committee for working closely with us in drafting its provisions.

If I could quickly turn your attention to the water supply for the Fiscal Year, for the year of 2018. I have provided at your desk the latest hydrology map reflecting the water storage levels, that's highlighted with the Reclamation logo, in the major basins in the West, which Senator Cantwell also addressed. What the map does not show, however, is how Reclamation's water impacts all of America.

[The information referred to follows:]



RECLAMATION
Managing Water in the West

Reclamation West-Wide Summary
Precipitation and Storage Figures

¹Storage percent of capacity more sensitive to seasonal inflows
²Storage percent of capacity less sensitive to seasonal inflows

Water year-to-date precipitation (precip) provided as % of average
Snow water equivalent (snow) provided as % of average
Reservoir storage provided as percentage of capacity
Precipitation, SWE, and reservoir data available from NRCS/BOR/CDEC
Updated as of March 19, 2018

Reclamation's water provides one out of every five Western farmers with water for 10 million irrigated farmland acres. The irrigated acres produce 60 percent of the nation's vegetables and 25 percent of the fruits and nuts.

Harnessing the power of this water, we are the largest electrical utility in the 17 Western states, nearly 31 million people all over the West depend on Reclamation projects for their municipal, industrial and domestic water supply. However, much in the West, those water supplies are scarce.

The 2017 water year was the wettest on record for most of Northern California, as well as the Central Valley Project Reservoirs. They were completely filled for the first time in over five years. But precipitation this year has been far from average. As we speak, Northern California is receiving precipitation right now which will be helpful to this year's forecast; however, we cannot continue to plan for March miracles year after year.

In the California Basins and the mountain ranges, rain is only about two-thirds normal and snow levels are even lower than that. The results of Shasta Lake is only 79 percent full, Trinity Dam is 74 percent full and Folsom Lake is 66 percent full. Compared to this from last year, it is a significant change already.

Unfortunately, lack of sufficient water storage prevents us from saving more of last year's water to supply this year's needs. Additional water storage would allow us to capture more water during those wet years, such as the year of 2017.

Pursuant to the WIIN Act passed in 2017, we have proposed projects for inclusion of the FY'2018 Appropriations bill which, if enacted, will provide us with much more needed funds to proceed on preconstruction work leading to more storage.

If I could turn our attention to the Colorado River Basin. Lake Powell and Mead are roughly half full due to the impact of long-term drought. We anticipate that they will be drawn down further this year due to poor hydrological conditions. Forecast and flow of these 50 percent averages have an incredible impact.

While Reclamation cannot make it rain, we can do more to capture and conserve the water supply we do have. We are committed to additional storage and water conservation to increase water reserves and supply reliability, pay close attention to local water conflicts, make investments in modernizing existing infrastructure and provide support for water development benefits, including Native Americans, to meet Reclamation's core mission need.

We know that, as a commitment shared with my fellow witnesses here today, we look forward to not only supporting these goals.

Thank you, and I'll be glad to answer any questions at the end.

Thank you.

[The prepared statement of Dr. Petty follows:]

Statement of Timothy Petty
Assistant Secretary for Water and Science
U.S. Department of the Interior
Before the
Energy and Natural Resources Committee
U.S. Senate

on S. 2563, the Water Supply Infrastructure and Drought Resilience Act of 2018,
S. 2539, the Colorado River Pilot Reauthorization Program Act of 2018,
S. 2560, the Reclamation Title Transfer Act of 2018 and
Water Supply Outlook for Water Year 2018

March 22, 2018

Chairwoman Murkowski, Ranking Member Cantwell, and Members of the Committee, I am Timothy Petty, Assistant Secretary for Water and Science at the Department of the Interior. Thank you for the opportunity to provide the views of the Department of the Interior (Department) on the three bills under consideration by the Committee, and to more generally discuss the water supply outlook for water year 2018.

S. 2563, the Water Supply Infrastructure and Drought Resilience Act of 2018

S. 2563 contains numerous provisions, several of which the Department has previously testified on. I will address each of these individually.

Title I – Water Supply Infrastructure

Subtitle A – Water Supply Permitting Coordination

Let me emphasize the importance of infrastructure investments in strengthening our economy and ensuring our Nation's competitiveness. The President has spoken to this often and Secretary Zinke is committed to maintaining and enhancing our Department's infrastructure to create jobs and reduce the cost of goods and services for American families and consumers as well as providing the most efficient means to allow visitors to experience our Nation's abundant beauty.

Subtitle A would authorize the Bureau of Reclamation (Reclamation) to coordinate the review of new surface storage projects. Specifically, similar to the coordination authority granted to other federal agencies under Title 41 of the FAST Act and Section 2045 of the Water Resources Development Act of 2007, this provision would authorize Reclamation to serve as the lead coordinating agency for purposes of coordinating all reviews, analyses, opinions, statements, permits, licenses, or other approvals or decisions required under Federal law to construct qualifying projects. While Reclamation may ultimately have fewer efficiencies where Reclamation is the coordinating entity for projects on lands managed by other bureaus or the U.S. Department of Agriculture, we believe this provision strikes the appropriate balance

between Reclamation's ability to serve as a coordinating lead on new surface water storage projects and the limits of Reclamation's authority to dictate the actions of other agencies and bureaus.

We appreciate the outreach from Senator Barrasso and the Committee on making additional refinements to this language[1] in order to meet our mutual goals streamlining and expediting, in a manner consistent with law, environmental reviews, and approvals for all infrastructure projects, including new surface water storage projects. Surface water storage projects are an important component of our Nation's infrastructure that create multiple benefits, including reliable water supplies, flood control, hydropower, and water quality improvements. We believe this provision will complement the ongoing efforts to streamline the implementation of the National Environmental Policy Act under Secretarial Order 3355 and Executive Order 13807, and we look forward to continuing work with the Committee to find additional efficiencies to streamline the approval of surface water storage projects.

Subtitle B – Modifications of Existing Programs

Section 111 expands the scope of eligible applicants for the Reclamation WaterSMART Program's competitively awarded, cost-shared grant funding authorized under the SECURE Water Act (Section 9504 of PL 111-11). New eligible applicants would include the State of Alaska and State, regional, or local water or power delivering authorities. Subtitle B also provides beneficial new flexibility to the Secretary to potentially make WaterSMART awards to an Indian tribe that intends to use the associated water savings. This language removes a potential complication for Indian tribes seeking to use their water rights.

Section 112 of the bill amends the authority for Reclamation to enter into grants and cooperative agreements currently reserved for Indian tribes, institutions of higher education, national tribal organizations, and tribal organizations to include Alaskan Native villages, Village Corporations, or Regional Corporations. Reclamation provides technical and financial assistance to Tribes and tribal organizations to increase opportunities for Tribes to develop, manage and protect their water and related resources. Reclamation does not oppose allowing the 229 federally recognized Alaskan villages, along with Alaskan Village and Regional Corporations, to be eligible for this program; however, these new entities will have to compete for funds with an already significant applicant base in the existing program as it has been implemented for the 17 core Reclamation states.

Section 113 amends Section 6001(5) of the Omnibus Public Land Management Act of 2009 to include watershed groups that are sponsored by a State or a conservation district to participate in the Cooperative Watershed Management Program. The Cooperative Watershed Management Program is used to support watershed groups, including outreach to ensure that the groups are representative of the stakeholders within the watershed, the development of watershed restoration plans to identify critical water issues related to water quantity and quality, and scoping and planning potential on-the-ground projects. Funding will be allocated on a competitive basis using established criteria. Reclamation continues to analyze this provision and has no position at this time.

[1] As noted in testimony before this Committee on June 14, 2017, on S. 677, the Water Supply Permitting and Coordination Act

Subtitle C – Bureau of Reclamation Transparency

Reclamation has had an Infrastructure Investment Strategy (Strategy) for assessing and reporting on infrastructure investment needs for our approximately 4,000 unique assets. The Strategy builds upon Reclamation's ongoing asset management planning and budget processes, including the existing major rehabilitation and replacements (MR&R) database. Much of the initial focus of this Strategy has been on "reserved works"; facilities constructed, owned, and operated by Reclamation, as opposed to "transferred works", which are those facilities that were built and are owned by Reclamation, but which are operated and maintained by water and power customers pursuant to contracts.

Reclamation's Strategy process focuses on: improving data collection, analysis, and reporting on the condition of Reclamation-owned infrastructure; categorizing potential investments according to relative importance and urgency; and collaboration with water and power customers in planning for these investments.

One of the main challenges associated with funding identified near-term needs as well as longer-term MR&R needs on Reclamation projects is the varying economic strength of our operating partners and project beneficiaries. Given the requirement under Reclamation law for these non-federal entities to fund maintenance costs either in the year incurred or over a limited time, Reclamation must work in collaboration with our water and power partners that must repay these investments. For some of these partners, the cost-share requirements associated with MR&R work are simply beyond their financial capabilities. Like any organization tasked with constructing, operating, and maintaining a wide portfolio of assets, Reclamation must prioritize its actions to maximize the benefits derived from investment of both federal and non-federal funds. Given the substantial economic and financial interest of Reclamation's non-federal partners, the development of cost estimates for maintenance requirements on reserved and transferred works is both collaborative and dynamic.

The requirements of this Subtitle would complement the processes described above, and the bill makes allowance for the valuable input from operating partners that is central to Reclamation's asset management program.

Title II – Management

Subtitle A. Review of flood control rule curves pilot project.

Subtitle A of this bill contains language of interest to both Reclamation and the Army Corps of Engineers. Section 202 authorizes the Secretary to establish a pilot project to adjust flood control curves in accordance with Army Corps of Engineers flood control and navigation regulations.

Reclamation believes that maintaining operations standards that reflect both the current state of science as well as changes in hydrology to be an important part of supporting water resource management. In Fiscal Year 2015, Reclamation began a Reservoir Operations Pilot Initiative as part of the WaterSMART program. Historically, uncertainties in weather prediction have

resulted in conservative federal operating criteria for reservoir management. The purpose of the Reservoir Operations Pilot Initiative is to explore whether improved forecasting and modeling can be used to increase flexibility in reservoir operations, and whether more flexible operations could improve the ability to cope with drought conditions and water supply shortages caused by increased or changing demands.

These activities are critical to understanding where flexibilities may be increased through identifying trends in water availability, hydrology, sedimentation, and conjunctive groundwater management. The five pilot studies are expected to be completed in the spring of 2018. If S. 2563 is enacted we will work to adapt this ongoing initiative to meet the requirements of the bill.

Subtitle B. Aquifer recharge augmentation.

The Department supports the aquifer recharge augmentation language with the following observations. Providing more specific authority for the use of project water and facilities for aquifer recharge is a useful clarification. The requirement that the Secretary identify opportunities to modify operations to make project water and facilities available to recharge aquifers in lieu of groundwater withdrawals based on contractor requests, as worded, may prove challenging to comply with and have unintended consequences. This requirement would create additional administrative burdens and may have potentially adverse impacts to other project contractors or provide unfair advantages/preference to some contractors over others.

Contractual water is not always released at specific timeframes and it may be potentially impractical to adhere to the proposed timeframes in the legislation and the proposed notification to other project contractors. It would be useful to clarify that the Secretary, at his discretion, may modify operations, where feasible, to make project water and/or capacity available and will notify contractors of the project.

While Reclamation currently has general authority to allow contracts to be executed for project water, the addition of specific authority in Section 213 to contract for excess project water is a positive clarification. The use of water for aquifer recharge is an authorized use of water – characterizing this as an authorized purpose is unclear and inconsistent with existing authorities.

It would be useful to clarify that project water may be used for aquifer recharge and simply exclude the language that characterizes it as an authorized purpose. Reclamation also currently has broad authority to covey non-project water for irrigation purposes under the Warren Act of 1911; as well as to exchange water pursuant to Section 14 of the 1939 Act. Finally, we would like to work with the Committee to ensure that the language specific to the Central Valley Project does not inadvertently impact Reclamation's ability to meet Central Valley Project demands, and we look forward to working with the Committee to address this topic.

Title III – Water Supply Certainty

Subtitle A – Water Rights Protection

This language appears to prohibit the federal land management agencies from requiring the transfer of water rights recognized under state law directly to the United States as a condition of permit issuance or renewal. The Department supports these goals and looks forward to working with the Committee to ensure the bill is calibrated to appropriately balance privately held water rights allocated under state law with the federal government's interest in managing public lands in the best interests of the American people.

As stated in July 26, 2017 testimony[2] before the Public Lands, Forests and Mining Subcommittee on a standalone version of this legislation, we would like to ensure that the Treatment of Water Rights language in this bill has no bearing on voluntary, mutually beneficial water-sharing or water-use agreements between the federal government and private water rights holders, such as rangeland improvements, conservation easements administered by the U.S. Fish and Wildlife Service, or partnerships to allow the use of groundwater on public lands for recreational use.

The Department appreciates the savings clause in Section 304, which recognizes the importance of Reclamation contracts, the Endangered Species Act, Federal Power Act, and state-acquired water rights owned by the United States. We particularly appreciate the recognition of the unique role of federally reserved Indian water rights, which will allow the Department to continue pursuing the settlement of Indian water rights disputes in order to break down barriers to social and economic programs for Tribes and help create conditions that improve water resources management by providing certainty as to the rights of all water users who are parties to the dispute. The Department also recommends subsections 304(a), (d), and (f) be amended to delete the word "existing", in order to ensure existing and future Interior authorities and federal reserved water rights are protected by the savings clause.

We recognize that U.S. Department of Agriculture has provided testimony on similar versions of the language in this Title and defer their views on how these provisions would affect lands under their jurisdiction.

Subtitle B – Permits for Water Transfers

This language would enact 40 CFR 122.3(i) into Federal law and codify its exclusion of some water transfers from EPA permitting requirements. Enacting this language would create more certainty in the permitting process. The Department, however, does not take a position on this provision.

Subtitle C – Endangered Fish Recovery Programs

This section is identical to S. 2166, on which the Department testified last month before the Water and Power Subcommittee. As stated in that hearing's testimony[3], the Department supports the efforts of both the Upper Colorado River Endangered Fish Recovery Program and

[2] https://www.doi.gov/ocl/s-1230
[3] https://www.doi.gov/ocl/s-2166

San Juan River Basin Recovery Implementation Program (Programs) and as such does not object to enactment of this Subtitle.

S. 2539 to increase Colorado River System water

The Pilot System Conservation Program (Pilot Program) is a voluntary, basin-wide approach to pool the financial resources of Reclamation and Colorado River Basin water agencies to pursue water conservation projects to create system water during the on-going, historic drought. The Pilot Program was established to test water conservation concepts that reduce historic water use and to determine if voluntary, measurable reductions in consumptive use of Colorado River water are a feasible and cost-effective approach to partially mitigate the impacts of long-term drought on the Colorado River System. Water conserved as a result of the Pilot Program is for the sole purpose of increasing storage levels in Lakes Mead and Powell as a benefit to the Colorado River System, and shall not accrue to the benefit or use of any individual user.

The Pilot Program thus far has provided approximately $20 million in funding for municipal and agriculture water uses, including tribal users, for a range of water conservation activities, including land fallowing, golf course turf replacement, forborne off-stream banking of Colorado River water, installation of drip irrigation systems, and construction of wells to inject treated effluent into the Colorado River aquifer. Projects are jointly selected by funding partners, Colorado River Basin States and Reclamation. The Pilot Program was authorized in 2014, and is set to expire on September 30, 2018. The Water Infrastructure Improvements for the Nation Act (PL 114-322) included an appropriation ceiling of $50 million for the Pilot Program.

S. 2539 would reauthorize the Pilot Program for an additional four years. Reclamation is currently investing significant effort to contend with the long-term impacts of the multi-year drought in the Colorado River Basin, which, among Colorado River water conservation activities, includes the Pilot Program. Reclamation continues to work with funding entities to determine the future of the Pilot Program. While Reclamation does not oppose the reauthorization of the Program, we recognize the importance of interstate cooperation, especially during times of increased risk of shortages on the Colorado River. We look forward to updating the Committee on our progress working with broad stakeholder support in identifying consensus tools and mechanisms to contribute to the conservation of water in the Colorado River system.

In concluding our comments on S. 2539, there may be another area worthy of consideration by the Committee, unrelated to the specific provisions of these bills, but pertinent to the discussion of infrastructure and water supplies. Reclamation plans to focus on opportunities to increase water resources and supply reliability by expanding cost-effective water storage opportunities, paying attention to local water conflicts, making investments in modernizing existing infrastructure, and providing support for water development benefiting Native Americans in order to meet Reclamation's core mission goals.

Reclamation uses a very broad array of tools to recruit and retain employees. One such tool is the reemployed annuitant program under the National Defense Authorization Act (NDAA) in PL 111-84, which has been authorized for use by the Department for the same purpose, but on a

more limited basis. Full NDAA authority (in the form available to DOD) offers a unique path to the Department and Reclamation to staff up quickly with highly experienced employees to meet the needs of near-term large-scale infrastructure projects, with the ability to immediately scale back to normal staff levels once these projects are completed.

We would be glad to work with this Committee on language to effectuate this extension of full NDAA authority to Reclamation.

S. 2560, the Reclamation Title Transfer Act of 2018

The Department supports the provisions of this bill and appreciates the Committee for working so closely with us in drafting its provisions.

Secretary of the Interior Ryan Zinke, and the Department generally, have long endorsed a legislative remedy to allow local water managers to make their own decisions to improve water management at the local level while allowing Reclamation to focus management efforts on projects with a greater Federal nexus.

S. 2560 would authorize the Secretary of the Interior to convey all right, title, and interest in any facility that is determined to be eligible based upon specific criteria.

Currently, Reclamation law requires that title to Reclamation projects, lands, and facilities remain with the United States until title transfer is specifically authorized by Congress. Even for simple transfers, this can be a time-consuming and costly process. Reclamation's legislative proposal aims to streamline the title transfer process for those "non-complicated" transfers, creating incentives for non-Federal entities to closely engage with the Secretary through Reclamation to complete the process, and allowing appropriate transfers to take place without legislation. It is our understanding that the focus of Section 203 is to facilitate the transfer of uncomplicated projects and facilities. This process will ensure that the transfer protects: the authorized purposes for which the projects were developed, the contractors and other stakeholders who enjoy benefits from these facilities, the public, the contractors and other stakeholders who enjoy benefits from these facilities, the public and tribal entities, the environmental resources that may be impacted by the project facilities, and the Federal financial investment.

While we have some technical recommendations for the Committee to consider, the Department strongly supports S. 2560.

WATER SUPPLY OUTLOOK

Assuring that our communities have an adequate water supply has been and will continue to be a central challenge of life in the American West. The Bureau of Reclamation (Reclamation) was created to harness the limited water supply in the West and make what was once arid land into the productive and dynamic farms and cities we live in today.

Today, Reclamation provides one out of five western farmers with water for 10 million irrigated farmland acres. These farmlands produce sixty percent of the nation's vegetables and twenty-five percent of its fruits and nuts. We are the largest electric utility in the 17 western states (operating 58 hydropower plants and the nation's largest wholesale water supplier, administering 338 reservoirs with a total capacity of 245 million acre-feet. Reclamation projects irrigate 60 percent of our nation's vegetable crops and one quarter of our fresh fruit and nut crops. Nearly 31 million people all over the West depend on Reclamation projects for their municipal, industrial, and domestic water supplies. In much of the West, those water supplies are scarce.

Limited water storage can sometimes result in a year-to-year operation. Additional water storage would allow us to capture more water during wet years, such as water year 2017, for delivery during dry years, such as water year 2018. We've been studying many water storage projects for over 20 years, so maybe it's time that we figure out which projects are economically and environmentally viable and build some of them.

Let me go around our regions to provide you with the most up-to-date hydrology information. This information is current as of March 5, 2018.

Mid-Pacific Region

Reclamation's Mid-Pacific Region encompasses the northern portion of California, much of the State of Nevada, and a small area of Oregon. The region manages one of the Nation's largest and best-known water projects, the Central Valley Project, as well as Oregon's Klamath Project; Nevada's Newlands, Humboldt, Washoe, and Truckee Storage projects; and California's Cachuma, Orland, Santa Maria, Solano, and Ventura River projects.

The 2017 water year was the wettest on record for most of northern California and CVP reservoirs were essentially full for the first time in five years; however, precipitation so far this year has been far below average. Early March statewide average snow water equivalent in the Sierra Nevada is only approximately 35-40 percent of its historical average; and total precipitation is currently at approximately 60 percent of the historical average for the northern Central Valley and Sierra Nevada, with averages for southern areas being lower.

North Sierra (Northern)/San Joaquin (Central)/Tulare Basin (South)- California (CVO)

OPERATIONS:

Releases from upstream reservoirs are being managed to conserve as much storage as possible given the low snowpack and limited precipitation to-date. Delta exports have been primarily restricted in recent weeks due to requirements under the State Water Resources Control Board's D-1641, with some limited periods of control by requirements under the NMFS biological opinion. South-of-Delta agricultural allocations are currently at 20% of contract amounts, and South-of-Delta municipal and industrial (M&I) allocations are at 70% pursuant to the Region's M&I shortage policy. All other M&I allocations are currently at the greater of 50% or public health and safety levels for the month of March, and will be reevaluated later this month. North-

of-Delta agricultural allocations will be similarly re-evaluated later this month, and contractors have been provided a daily quantity of water during March to meet minimal operational needs.

WEATHER DISCUSSION:

Extended forecasts indicate precipitation is expected in the Central Valley during the next week.

Truckee/Carson- Nevada (LBAO)

OPERATIONS:

For the Newlands Project the Truckee Carson Irrigation District has set the allocations at 100% for the 2018 irrigation season. Lahontan Reservoir is currently at 81% of capacity and is projected to end the irrigation season near 83 KAF based on current snowpack conditions. Reservoirs in the Truckee Basin are currently at 85% of capacity.

Klamath-Oregon (KBAO)

Inflows to Upper Klamath Lake have increased over the last week, although cumulative inflows for the 2018 Water Year they are still very low compared to the historical average (between the 80 and 90 percent exceedance curve). Upper Klamath Lake elevations are slightly above the historic average values for this time of year and Klamath River flows below Iron Gate Dam have recently increased above the minimum values identified in the 2013 BiOp (currently 1,000 cfs) and are expected to remain slightly above minimums for the next several days.

WEATHER DISCUSSION:

As of March 8, the Reno-Carson Airport has received 1.28 inches of rain for the month (average is above the normal average of 0.52 for March 18) but the total of 3.72 inches still remains lower than the average since October 1 of 4.93 inches. Precipitation in 2018 has increased considerably since mid-February, but still remains below average since January 1 of 2.57 inches. The majority of the 24.7 inches of total snowfall for since July 1 at the Reno-Carson Airport has occurred since March 1 (19.8 inches) which is below the normal average.

In terms of precipitation,

North Sierra (Northern) Year-to-Date Precipitation	72%
San Juaquin (Central) Year-to-Date Precipitation	62%
Tulare Basin (South) Year-to-Date Precipitation	46%
Truckee/Carson Water Year-to-Date Precipitation	81/79%
Klamath Water Year-to-Date Precipitation	76%

Pacific Northwest Region

Reclamation's Pacific Northwest Region encompasses the Columbia River Basin and includes all of Idaho, all of Washington, parts of Montana, parts of Oregon, and parts of Wyoming. In this region, water for irrigation and power generation is supplied from 54 reservoirs with a total

active storage capacity of approximately 18 million acre-feet. Reclamation delivers water to 175 irrigation districts and more than 72 dams and related structures support this water delivery.

Very warm temperatures were seen across the region in January, but a weather pattern shift in the middle of February brought very cold temperatures and snow throughout the region. This combination tempered the early start to irrigation and supplied snow accumulation to basins in the southern portion of the region that to this point had fallen well below average.

Hydrology: Even with the February storms, the snowpack in basins throughout Oregon and southwest Idaho still remain well below normal for this time of year. High reservoir carryover remaining from the wet water year of 2017 will be critical to providing adequate water supply for users in those basins in 2018.

In contrast, Grand Coulee, Hungry Horse, and Palisades in the Upper Snake basin are already very active with flood control operations as the snowpack continues to grow in those basins.

Upper Snake Water Year-to-Date Precipitation	106%
Idaho Middle Snake Water Year-to-Date Precipitation	91%
Oregon Middle Snake Water Year-to-Date Precipitation	102%
Yakima Water Year-to-Date Precipitation	108%
Central Oregon Water Year-to-Date Precipitation	84%
Rogue Water Year-to-Date Precipitation	76%

Grand Coulee inflow forecast *(Apr-Aug runoff)* 116% of average
Columbia River *(The Dalles water supply forecast) (Apr-Aug runoff)* 112% of average

Great Plains Region

Reclamation's Great Plains Region encompasses all or parts of nine states including Montana, North Dakota, South Dakota, Wyoming, Colorado, Nebraska, Kansas, Oklahoma, and Texas.

Hydrology: Current conditions in the Missouri River Basin have been wet, with above or near normal precipitation and snowpack across the basins in Montana and Wyoming. Mountain Snowpack has been particularly high in the north portion of the Missouri basin with values ranging from 120 to 130 percent of average snow water equivalent (SWE), including the Upper Yellowstone River basin at 152 percent of average SWE. Further south, snowfall has been below normal in the North and South Platte headwaters of Southern Wyoming and Northern Colorado, with SWE ranging from 68 to 85 percent of average. The Arkansas River Basin also remains dry, with 68 percent of average SWE.

Temperatures and precipitation in the Missouri River Basin this spring are forecasted to remain cool and wet in the northern basins and remain warm and dry in the south and west. Of importance, the April through July runoff figures for the Bighorn Lake (Yellowtail Dam) is presently forecasted at 158 percent of normal and the North Platte River Basin is at 78 percent of average.

Operations: With robust carryover storage, forecasts for the mountain states indicate there will be sufficient water supply for all needs in 2018. About half the reservoirs in Nebraska and Kansas are currently at or above normal storage. Water supplies in this area are expected to be short, but more than in recent drought years. Ten of twelve reservoirs in Oklahoma and Texas are at or above average currently. Water supplies are expected to be above average for 2018, but with areas of local shortage.

Arkansas River Basin Water Year-to-Date Precipitation	61%
Missouri River Basin (above Toston) Year-to-Date Precipitation	114%
Missouri River Basin (Mainstem) Year-to-Date Precipitation	132%
Missouri River Basin (Big Horn) Year-to-Date Precipitation	114%

Upper Colorado Region

Reclamation's Upper Colorado Region encompasses Arizona, Colorado, New Mexico, Utah, and Wyoming.

Operations: Lake Powell is currently 54% full, with a live storage content of 13.1 maf. Based on results from the February 2018 24-Month Study, Lake Powell releases for water year 2018 continue to be projected at 9.0 maf. The determination of this year's releases will be finalized with the April 2018 24-Month Study. Based on the current inflow forecast and projected releases, the February 24-Month Study projects Lake Powell elevation will end water year 2018 near 3,601 feet, with approximately 12.0 maf in storage (49 percent of capacity).

Hydrology: Conditions in the Upper Colorado River Basin have been very dry, and little time remains for significant improvement prior to spring runoff. While the Basin received a few beneficial snowstorms in early March, current snow accumulation values nearly match the record low levels seen in 2002. We are 89 percent of the way through the snow accumulation season, and current snowpack amounts to only 65 percent of the expected (30-year median) seasonal volume. Above average precipitation is expected this week, which will bring much needed precipitation to the Region. According to the Colorado Basin River Forecast Center, the forecasted inflow to Lake Powell is 3.14 million acre-feet (43 percent of average) for the 2018 April-July runoff period.

Upper Colorado Basin Water Year-to-Date Precipitation	68%
Great Basin Water Year-to-Date Precipitation	70%
Rio Grande Water Year-to-Date Precipitation	51%
Pecos Water Year-to-Date Precipitation	28%

Lake Powell Content 13.1 million acre-feet
Lake Powell % Capacity 54%
April-July Inflow Forecast 43% (3.14 million acre-feet)

Lower Colorado Region

The LC Region encompasses southern Nevada, southern California, most of Arizona, a small corner of southwest Utah and a small section of west-central New Mexico. The Region's programs and projects cover over 202,000 square miles of the West with a focus on the lower 688 river miles of the Colorado River system from Lee's Ferry in northern Arizona to the border with the Republic of Mexico. In a typical year, Reclamation facilities in the LC Region deliver 7.5 million acre-feet (maf) of water to Arizona, California, and Nevada, and 1.5 maf to Mexico. The water helps irrigate over 2.5 million acres of land and meet the domestic needs of more than 23 million people. Hydroelectric powerplants at Hoover, Davis and Parker Dams annually generate five to six billion kilowatt-hours of clean, hydroelectric power distributed to contractors in Arizona, Nevada and California.

Operations: Lake Mead is currently operating in a Normal Condition in calendar year 2018. Based on results from the February 2018 24-Month Study, Lake Mead's elevation at the end of calendar year 2018 is projected to be 1077.21 feet above mean sea level (msl), approximately 4 feet above the shortage elevation trigger of 1,075 feet. A Normal Condition is currently projected to occur in calendar year 2019; however, due to hydrologic and operational uncertainty, there is a 17% chance of a Lower Basin Shortage Condition in calendar year 2019.

Hydrology: Current conditions in the Lower Colorado River Basin are very dry, with record low precipitation and snowpack being reported at many sites throughout the Lower Basin. As of March 19, 2018, Lake Mead's elevation was 1,088.1 feet msl with 10.7 million acre-feet in storage (41% of live capacity). With a projected release of 9.0 million acre-feet from Lake Powell in water year 2018, Lake Mead is projected to decline to a seasonally low elevation of 1,075.7 feet msl with 9.7 million acre-feet in storage (37% of live capacity) in July 2018 and to end calendar year 2018 at an elevation of 1,079.10 feet msl with 9.9 million acre-feet in storage (38% of live capacity). Releases from Lake Powell account for approximately 90% of the total inflow into Lake Mead, with the other 10% derived from intervening flows between Glen Canyon Dam and Hoover Dam. The observed intervening flows for January and February 2018 were 80% of average.

In terms of precipitation,

Lake Mead Content	10.7 maf
Lake Mead % Capacity	41%
Elevation	1088.09 ft above MSL
Projected end of CY 2018	1077.2 ft above MSL

Without a doubt, water year 2018 is far below normal. Only the Missouri River Basin and the Yakima area has seen precipitation above normal. Most areas have seen rain and snow far below what is already historically low averages.

Fortunately, the American West has centuries of experience dealing with drought. And so against this backdrop, Reclamation and its managing partners will employ the best of their

experience and ingenuity to make the most of our finite water supplies. Mr. Chairman, that is the Department's most recent forecast for water supply in the arid West.

CONCLUSION

This concludes my written statement. I would be pleased to answer questions at the appropriate time.

The CHAIRMAN. Thank you, Assistant Secretary.
Mr. Sandison, welcome.

STATEMENT OF DEREK I. SANDISON, DIRECTOR, WASHINGTON STATE DEPARTMENT OF AGRICULTURE

Mr. SANDISON. Thank you.

Chairman Murkowski, Ranking Member Cantwell, members of the Committee, I appreciate the opportunity to testify today.

For the record, my name is Derek Sandison. I'm the Director of the Washington State Department of Agriculture. I was previously Director, Washington State's Office of Columbia River, and in that capacity I was responsible for managing water supply development projects in the Eastern half of the State of Washington.

My purpose in being here is not to provide testimony regarding specifics of the bills that are before you but to provide overall context for collaborative water supply development projects.

Unlike Western Washington, where clouds and rain are iconic, much of Eastern Washington has almost a desert-like climate. The mountain snowpacks and the river system provide the water needed to support agriculture, our communities, and our aquatic life.

Washington's agricultural industry is the second largest contributor to the state's economy. Our 36,000 farms produce about 300 different crops and commodities, and we lead the nation in the production of a number of crops including our well-known apples. The annual farm gate value of production is about $10.6 billion and we export nearly $7 billion worth of food and agricultural products. Of the 7.3 million acres of cropland in Washington State, 96 percent of those lie in Eastern Washington and over 2 million of those acres require irrigation.

In the past few decades, persistent water quality issues have adversely affected our agricultural production. Those two are declining aquifers and frequent droughts. In 2006, the Washington State Legislature passed landmark legislation to address water supply issues known as the Columbia River Water Management Act. The Act directed the Washington State Department of Ecology to "aggressively pursue" development of new water supplies for both instream and out-of-stream purposes.

Between 2006 and present, the Office of Columbia River, the entity created to implement the legislation, developed over 400,000 acre-feet of additional water supply for all uses. A number of factors contributed to the success of the water supply development efforts including creating an efficient and coordinated environmental review and permitting processes and incorporating broad stakeholder involvement.

Among the problems that the legislature directed the Office of Columbia River to address was the issue of declining groundwater in a portion of the Columbia Basin, known as the Odessa Subarea. The Office of Columbia River, in partnership with the Bureau of Reclamation, embarked on a project to provide the Columbia Basin project water to replace the diminishing groundwater supplies.

As a result of that project and through the operation of Reclamation's Lake Roosevelt and Banks Lake Reservoirs, enough water has been developed to replace groundwater at almost 90,000 acres of farmland and conveyance system improvements have been built

to move that water to the farms. To date, $176 million has been spent on the project of which $114 million has been provided by state and local irrigators.

While the Odessa project focused on agricultural water supplies, water development in the Yakima Basin is focused on a broader set of water and aquatic resource objectives. The Yakima basin is a 6,000 square mile basin in South Central Washington. Agricultural production in that basin in terms of farm gate value is about $2 million a year, $2 billion a year, excuse me. Historically, the Yakima River was the second largest producer of salmon and steelhead in the entire Columbia system.

Since 1905, Yakima Basin has been operated by or managed by the Bureau of Reclamation, including operation of five reservoirs which capture about one-third of the runoff on an annual basis. The Basin is heavily dependent on Cascade snowpack for water supply. The surface water resources are over-appropriated and the Basin has experienced numerous droughts in the past four decades. A number of salmon runs have been extirpated and steelhead and bull trout are listed as threatened under the Endangered Species Act.

Since 2006, the Office of Columbia River and Reclamation have collaborated with the Yakima Nation and Basin stakeholders to formulate and implement a comprehensive strategy to address critical resource needs. This strategy is known as the Yakima Integrated Plan.

The collaboration that we have experienced in the Basin has focused on expanding the federal Yakima River Basin Water Enhancement Project. Consensus was reached on the Yakima Integrated Plan with stakeholders in 2012 and the plan was subject to recent legislation that originated in this Committee—thank you, Senator Cantwell. The Integrated Plan involves reestablishment of fish stocks and construction of fish passage and habitat projects. It will expand water supplies by enhancing water conservation efforts and creating additional aquifer and surface water storage. To date, the State of Washington has invested about $200 million on plan implementation.

In closing, I want to emphasize that the success that we in Washington State have achieved in water resource development would not have been possible without the state being willing to invest in projects, without our strong partnership with Reclamation, and without active collaboration with Tribes and stakeholders.

That concludes my remarks.

Thank you for the opportunity to testify.

[The prepared statement of Mr. Sandison follows:]

TESTIMONY OF

DEREK I. SANDISON
DIRECTOR
WASHINGTON STATE DEPARTMENT OF AGRICULTURE

BEFORE THE
ENERGY AND NATURAL RESOURCES COMMITTEE
UNITED STATES SENATE

FULL COMMITTEE HEARING TO EXAMINE
THE 2018 WESTERN WATER SUPPLY OUTLOOK AND BILLS RELATED TO
WATER INFRASTRUCTURE AND DROUGHT RESILIENCY

MARCH 22, 2018

Chairman Murkowski, Ranking Member Cantwell, and members of the Committee, for the record my name is Derek Sandison and I serve as Director of the Washington State Department of Agriculture. However, prior to serving in my current role, I was the Director of the State of Washington's Office of Columbia River. In that capacity, I was responsible for managing water supply development in the eastern half of our state including the projects that I will discuss in my testimony.

Unlike the western part of our state where clouds and rain are iconic, much of the state east of the Cascade Mountain crest has a semi-arid climate. In some areas, total annual water equivalent precipitation in inches is in single digits. Thus, mountain snowpack and flows in the Columbia-Snake River system provide the bulk of the water needed to support agriculture, our communities, and aquatic life. Water is vital to our economy and our quality of life.

Washington's agricultural industry is the second largest contributor to our state's economy and represents a significant component of our agricultural industry nationally. Our 36,500 farms produce over 300 different crops and commodities. We lead the nation or are second in the nation in the production of numerous crops including apples, pears, cherries, raspberries, wine grapes, and potatoes. The farm gate value of our agricultural products is about $10.7 million per year and we export $6.8 billion of food and agricultural products, primarily to Pacific Rim countries.

Washington State has 7.3 million acres of active cropland, 96% percent of which is in eastern Washington. A little over 2 million acres of eastern Washington cropland require irrigation, including 675,000 acres in the Bureau of Reclamation's Columbia Basin Project and roughly 500,000 acres in our Yakima Valley.

In the past few decades, two persistent water supply issues have adversely affected agricultural production in eastern Washington: declining aquifers, most notably in a portion of the Columbia Basin referred to as the Odessa Subarea, and frequent drought, particularly in snowpack dependent agricultural areas such as the Yakima Valley. In 2006, the Washington State Legislature passed landmark legislation to address water supply issues known as the Columbia River Water Supply Management Act, or alternatively as the Columbia River Water Supply

Development Act. That act directed the Washington State Department of Ecology to "aggressively pursue" development of new water supplies for both instream and out-of-stream uses and provided a specific formula for new water developed with the $200 million in state funding made available to support the act, one-third for instream use and two-thirds for out-of-stream use. Regarding the latter, the Department of Ecology was directed to focus on the following needs:

- Finding alternative water supplies for irrigators to address declining aquifers in the Odessa Subarea;
- Develop water supplies to allow processing of pending water right applications;
- Create a new uninterruptible supply of water for the holders of interruptible water rights on the Columbia River mainstem: and
- Develop water for meeting future municipal, domestic, industrial, and irrigation water needs within the Columbia River basin.

Between 2006 and present, the Office of Columbia River (OCR), the entity created within the Department of Ecology to implement the Columbia River legislation, has created nearly 400,000 acre-feet of additional water supply for instream and out-of-stream uses through 20 different projects with an average cost of about $500 per acre-foot. A number of factors contributed to the success of the water supply development efforts including coordinated project permitting processes and strong stakeholder involvement. Although not a provision of the legislation, OCR created and consulted frequently with a Columbia River Policy Advisory Group (PAG) made up of federal agencies, state agencies, Tribes, irrigation districts, conservation groups and county commissioners. The PAG helped OCR shape water development policies, prioritize projects, achieve geographic equity, and ensure balance between instream and out-of-stream water supply efforts and between tributary and mainstem investments.

As previously noted, finding alternative water supplies for irrigators to address declining aquifers in the Odessa Subarea was an area of focus identified by the state legislature. OCR recognized the seriousness of the groundwater depletion problem in the Odessa Subarea and immediately embarked on four-interrelated projects to provide for replacement of the declining groundwater sources in order to prevent collapse of a major portion of the regional agricultural economy. The Odessa Ground Water Replacement Program was made possible by the strong, positive relationship between the Bureau of Reclamation (Reclamation) and OCR. The program focused efforts on portions of the Odessa Subarea that lie within the boundaries of the Bureau of Reclamation's Columbia Basin Project, the area with the greatest concentration of wells pumping under permanent state groundwater rights and the only portion of the Odessa Subarea where there was a reasonable likelihood of securing replacement water (i.e., federal Columbia Basin Project water). Reclamation and OCR were co-lead agencies for the National Environmental Policy Act (NEPA) and State Environmental Policy Act documents that were prepared for the project and jointly provided design and oversight services.

As a result of the project and through reoperation of Reclamation's Lake Roosevelt and Banks Lake reservoirs, OCR was able to issue 189,000 acre feet of additional water rights to Reclamation and created another 30,000 acre-feet of conserved water to replace declining ground water on almost 90,000 acres of farm land. In addition, much of Reclamation's East Low Canal has been widened to accommodate delivery of the water to area farms. Collectively, about $172

million have been spent on the Ground Water Replacement Project of which $98 million has been provided by OCR, $58 million provided by Reclamation, and $16 million through local bonds. Full completion of the project will require approximately another 10 years. Additional federal investments are being sought to support completion.

While the Odessa project focused on agricultural water supplies, water development in the Yakima River Basin is subsumed within a larger set of water and aquatic resource objectives. The Yakima River basin is an approximately 6,000 square mile drainage basin in south central Washington. It supports a population of about 360,000 people and is home to the Yakama Nation. Yakima River basin agriculture contributes over $3 billion annually to the economy of the state of Washington. In addition, historically, the basin was the second largest producer of salmon and steelhead runs in the entire Columbia River system.

Since 1905, when the state granted rights for all unappropriated surface water in the basin to Reclamation, river operations have been managed by Reclamation. Reclamation operates five existing reservoirs with a total capacity of about 1,000,000 acre-feet, which is about one-third of the annual runoff in the basin. The basin is heavily dependent on east-slope Cascade Range snowpack to supply water to the semi-arid lower basin during the summer months.

The surface water resources of the basin are overappropriated, and a state court adjudication of those water rights has been ongoing since 1977. The state closed the basin to additional ground water rights in the 1990s. Frequent droughts over the past several decades have demonstrated the vulnerability of the basin's water supplies. During droughts in 2001 and 2005, the irrigation districts served by Reclamation, referred to as the "proratable" irrigation districts, received only about 40 percent of their water supply.

Instream flows and aquatic resources of the basin have also suffered. Runs of salmon and steelhead that once numbered at least 800,000 fish declined to about 8,000 fish by the 1980's. Sockeye, Coho, and summer Chinook salmon have all been extirpated; although efforts are underway, led by the Yakama Nation, to reintroduce new stocks of those species. The basin's steelhead and bull trout are Endangered Species Act listed threatened species.

Water supply shortages coupled with severe reductions or elimination of major salmon and steelhead runs made the need for drastic improvements to water resources and aquatic resources of the Yakima River basin imperative. Thus, since 2009, OCR and Reclamation have been collaborating with the Yakama Nation and basin stakeholders to formulate and implement a comprehensive strategy to address critical resource needs. The collaboration is focused on expanding the work of the 1979 federal Yakima River Basin Water Enhancement Project (YRBWEP) and the 1994 Congressional Amendments that created YRBWEP Phase 2. The comprehensive strategy took shape in mid-2011 when consensus was reached on the Yakima River Basin Integrated Water Resource Management Plan (Integrated Plan). The Integrated Plan is being proposed as Phase 3 of YRBWEP and was the subject of recent legislation that originated in this committee. To date, the State of Washington has invested well over $200 million in the implementation of the Integrated Plan.

The Integrated Plan proposes major ecological restoration of the Yakima River basin. Fish passage facilities are being constructed at in-basin reservoirs to provide salmon and steelhead

access to upper basin spawning and rearing areas that have been blocked for a nearly a century. Substantial mainstem and tributary habitat enhancements are occurring.

The Integrated Plan also includes substantial improvements in water supply. Barriers to sales and transfers of water between willing buyers and willing sellers are being removed. Municipal and agricultural conservation efforts are being enhanced. In addition, studies are underway to better understand the potential role of aquifer storage in providing passive recharge to the mainstem of the Yakima River in targeted locations.

However, the objectives of the Integrated Plan cannot be met without significant improvements in surface water storage. Ultimately, development of an additional 450,000 acre-feet of water storage capacity, in the form of modified and new surface storage facilities, will be needed to provide:

- Drought relief to existing irrigators in the basin,
- Water supply security for our municipalities and resources to meet their future needs, and
- Adequate water for fish outmigration and pulse flows in all years.

Conservation is often suggested as a substitute for water storage; however, there are severe limitations to the role of conservation as a source of out-of-stream water supply. Additionally, the amount of conservation savings that could be captured through conservation is greatly reduced under drought conditions, because, simply put, you can't conserve water that doesn't exist.

In closing, I want to emphasize that the success we have achieved in water resource development in Washington would not have been possible without the state being willing to invest in projects, without our strong partnership with Reclamation, and without the active collaboration between Tribes, agencies, irrigation entities, local governments, conservation groups, and other stakeholders.

Thank you for the opportunity to testify. That concludes my remarks.

The CHAIRMAN. Thank you, Mr. Sandison.
Mr. O'Toole, welcome.

STATEMENT OF HON. PATRICK O'TOOLE, PRESIDENT, FAMILY FARM ALLIANCE

Mr. O'TOOLE. Thank you, Madam Chairman, members of the Committee. I really can't tell you how much I appreciate being able to be here.

We unfortunately missed our first plane yesterday and took the red-eye, so I got in at 6:30 this morning and, hopefully, I can be coherent in this discussion.

I am currently the President of the Board of the Family Farm Alliance. We represent irrigated agriculture in the 17 Western states and we see pretty much all of it. You know, we are disturbed that right now in the Central Valley they're looking at a zero allocation.

We're moving into a crisis in the Klamath that will be like the early 2000s. And you know, how are we going to address that and how are we going to solve it? And it's infrastructure.

I tell the story—I represented in the legislature, I was there a little before Senator Barrasso—that I represented the county that was the headwaters of both the Platte and the Colorado River. And in the Platte River, the infrastructure was built during the Roosevelt Administration, not Franklin. We did it more than 100 years ago.

That infrastructure was during a part of America where we thought we were going to build ourselves into the nation that we are and they used the comment, too thick to plow and too thin to drink, or the opposite of too thin. Anyway, the idea is that it turned into this great, incredible Eastern Wyoming and Nebraska agriculture and our cities are dependent on that infrastructure.

On the Colorado River, our family lives right off the Continental Divide. I tell people we raise cattle, sheep, horses, dogs and children, and we are a community of ranchers that have been there, our families, since 1881. And we've seen it all, drought, wet, good, bad, war, peace and what we've seen, most importantly, is that our water resource is crucial to us.

This bill that is being discussed today about the fast track, to some extent comes from our experience trying to build the reservoir in the '90s that took 14 years to permit. And that—I was, at that time, part of the legislature—took a lot of time and it was just a circle. It went around and around and you never really got any resolution. We downsized the reservoir to get the permit. It turned out to be half as big as it needed to be the day it was built. We're now looking at another permitting process and, hopefully, this process that we're talking about today can facilitate that.

But we have to understand, I have had some experience in food policy. I work on a group called AGree that has looked at—we need to double the food supply in the next 35 years. And yet, we're taking land out of production, you know, the numbers are 60 acres a minute are going out of agricultural production. Young people are not surviving or replacing us. The fastest growing category of agriculture is people like me, 70 and above. What does that tell you?

We don't have a system to facilitate the largest transfer of land in the history of America. And so, you know, how do we do it? Part of it is with the water infrastructure, making sure there's enough water.

I've served on two commissions—one was a presidential commission, one was the Johnson Foundation—on what we're going to do about water resources. Both, the easy answer is always take water away from agriculture. It's the discussion. I've been able to help blunt some of those discussions, but the reality is we need more water and more food.

And you may have seen, last week there was an article in the New York Times, 50 percent of our fruits are now coming from overseas. To a great extent that's because our members in California are leaving, en masse, because of the regulatory system.

And one story that really moved me was that I was in the San Luis Reservoir Bureau of Rec Office and saw a map of California of the 50-year plan—this was like two years ago—the 50-year plan for the State of California. It didn't do one infrastructure that was planned in that plan. Yet, they went from 6 million people to 39 million people. It's because we lost our commitment to infrastructure.

I can tell you very clearly, I think we have been dismantling the great agricultural bounty of this country. This bill is one of those things that's going to change that because what I hear people want to do is storage. And over the years, they say, well we want to do storage, but it's too hard to permit.

I think the effort here today, Senator Barrasso and all of you, have the opportunity to turn that around.

Thank you so much for the opportunity to talk to you.

[The prepared statement of Mr. O'Toole follows:]

Patrick O'Toole, President Family Farm Alliance

Testimony Before the
Committee on Energy and Natural Resources
United States Senate

Legislative Hearing
On
S. 2563 – "Water Supply Infrastructure and Drought Resilience Act of 2018"
S. 2560 – "Reclamation Title Transfer Act of 2018"
S. 2539 – Reauthorization of Colorado River System Conservation Program

March 22, 2018

Dear Chairwoman Murkowski and Ranking Member Cantwell:

My name is Patrick O'Toole, and I serve as the President of the Family Farm Alliance ("Alliance"). The Alliance advocates for family farmers, ranchers, irrigation districts, and allied industries in seventeen Western states. The Alliance is focused on one mission – To ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers.

The Family Farm Alliance appreciates the opportunity to testify on these three bills today. The bulk of our testimony will focus on the "*Water Supply Infrastructure and Drought Resilience Act of 2018*" and the *"Reclamation Title Transfer Act of 2018"*, which contain elements that our organization has been advocating for over the past decade. We encourage the Committee to move these important bills – with some suggested minor modifications – forward to enactment. I will also provide brief commentary on the bill that would reauthorize the Colorado River System Conservation Program.

Personal Background and Experience with Water Development

I have served on the Family Farm Alliance's Board of Directors since 1998 and was named as the organization's President in 2005. I am also a former member of Wyoming's House of Representatives. I presently serve on the Advisory Committee for AGree, a national agricultural policy group, and work closely with both the Intermountain Waterfowl Joint Venture and Partners for Conservation.

My family has a strong background in irrigated agriculture and our 125-year old ranch (Ladder Ranch) located near Savery, Wyoming produces cattle, sheep and hay. My family and Ladder Ranch were the recipients of the distinguished 2014 Wyoming Leopold Environmental Stewardship Award.

Our ranch straddles the Wyoming-Colorado border and has long afforded me the opportunity to view some unique water issues first hand. I have testified before Congressional committees several times, where I have highlighted the permitting challenges I have encountered in building the Little Snake Supplemental Irrigation Supply Project (High Savery Project) in Wyoming. That project was built in less than two years, but it took more than 14 years to permit. That reservoir is now delivering water that benefits multiple uses on the Little Snake River.

Overview

In the world of Western water, a massive flood event or devastating drought is sure to get policy makers focused on the need to update and create more effective water management policy. The recent, multi-year drought in California and the arid West ramped up Congressional interest in federal legislation to allow Western water providers to better address drought as well as improve preparations for future dry times. One year ago, the heaviest snows and rains in a decade overwhelmed parts of the Western U.S. Now, a year later, many water users are nervously looking to the skies, praying for much needed precipitation amid the extraordinarily dry, spring-like weather. This further underscores the critical importance of having modernized water storage and delivery infrastructure in place to optimize our water resources management.

Many communities of the West – as well as the farms and ranches they are intertwined with – owe their very existence, in large part, to the certainty provided by water stored and delivered by the Bureau of Reclamation (Reclamation) and other state and local water storage projects. The federal government has an enduring role in water supply infrastructure development and management that, consistent with state water laws, includes working with local water managers on both a policy and operational level and, in partnership with them, providing support for their efforts to secure a stable and sustainable water supply.

The Water Supply Infrastructure & Drought Resilience Act

Title I – Water Supply Infrastructure

Subtitle A – Water Supply Permitting Coordination

This subtitle provides a critical first step towards addressing current regulatory and bureaucratic challenges that often delay or even halt the development of new water supply enhancement projects in the Western United States. These provisions seek to streamline the current multi-agency permitting processes that can delay the construction of new or expanded surface water storage projects by creating a "one-stop permitting shop" process through Reclamation. This bill sets a schedule and time lines for agencies to consult and cooperate to complete environmental compliance. This bill also allows third parties to pay the costs of such permit processing. Congress provided similar authorities to the Army Corps of Engineers in the 2014 Water Resources Reform and Development Act (WRRDA 2014), P.L. 113-121, a law that was passed in both the House and Senate on a bipartisan basis and was signed into law by President Obama.

The Alliance believes the "one-stop permitting shop" approach would expedite projects through what is typically an unmanageable and inefficient permitting process and can help to reduce the permitting costs to project applicants.

This subtitle would direct the Secretary of the Interior (through Reclamation) to serve as a central hub for all federal permits, approvals, and decisions required related to new water storage projects. This includes permits for Clean Water Act (CWA), National Environmental Policy Act (NEPA), and Endangered Species Act (ESA) compliance, among the many others. In carrying out this task, Reclamation is directed to identify all federal agencies with permitting responsibilities or authority, notify them of pending applications, and set a schedule by which all cooperating agencies must complete and submit their reviews and permits. Cooperating agencies are required to adhere to the coordinated schedule and use one unifying document for all environmental reviews. This provision is intended to significantly reduce the time, cost, and inefficiencies associated with the existing multi-track, multi-agency NEPA analyses. Currently, each reviewing agency compiles its own data and reviews it separately in a vacuum.

This subtitle also takes significant steps to strengthen the voice of Western states in the water storage project review process by allowing willing states to participate as cooperating agencies. By allowing states to be involved at their discretion, the review process could include state developed science, data, and technical materials. This subtitle also requires that, consistent with

existing law, all relevant project data be made publicly available online. Finally, in order to help make multi-purpose surface storage projects more viable in an era of tightened federal budgets, this section of the bill includes a mechanism in which non-federal public entities are allowed to contribute financially to help defray the costs of the "one-stop shop" permitting review process.

Importance of the Opt-Out Provision

We are encouraged that the bill provides an "opt-out" provision that would allow local project sponsors to proceed on a different project implementation path that has historically provided successful outcomes with another federal agency in the lead role. Meeting the challenge of expanding and modernizing the West's aging water infrastructure will require highly qualified professionals serving in both the public and private sectors. Very rarely are there "one size fits all" templates that apply to management of Western water resources challenges.

In many cases, local water agencies have long-time relationships with local and regional Reclamation engineers and managers that have led to successfully completed projects, such as the ongoing collaborative work in the Yakima Basin in Washington State, where successful water and environmental projects are being completed with Reclamation functioning as the lead federal agency.

In other cases, local entities have developed close working relationships with other federal water agencies such as the Army Corps of Engineers. In these cases, local entities should be able to continue to work with the federal agency they successfully worked with in the past for projects of this nature. To cover this range of possibilities, the "opt-out" section in the bill provides flexibility for local project sponsors to either 1) engage with Reclamation in the facilitated permitting process articulated in this bill; or 2) opt-out, and proceed on a project implementation path that has historically provided successful outcomes with another federal agency such as the Army Corps in the lead role.

Either way, this subtitle could provide necessary improvements in the effectiveness and efficiency of the federal permitting process. This is necessary to provide additional water supply storage in a manner that fully complies with the requirements of NEPA, ESA, and other federal environmental laws.

Recommendation: Add Cost Estimates

The Alliance believes this subtitle could be improved by adding provisions that require the Secretary of the Interior to submit to the non-federal entity an estimate of the total cost of the federal administrative permitting process for the proposed projects and to provide a scheduled update on the actual administrative costs with an appropriate explanation of any major cost differences.

Recommendation: Add Non-Federal Projects

This subtitle should include language with a specific reference to non-federal state and local water

supply projects that could be integrated with the operation of federally owned facilities. We want to ensure Reclamation is the lead agency in the case of permitting a non-federally built storage project that has a direct federal nexus with a Reclamation project – i.e. Sites Reservoir (California)– where it will be integrated into the operation of the Central Valley Project (as proposed by the local Joint Power Authority) but remain a non-federally developed and owned facility. We would be happy to work with Committee staff to prepare specific amendment language that will address this concern.

Subtitle B – Modification of Existing Programs

This section makes a number of amendments to Reclamation's WaterSMART program. Many Alliance members are regional or local authorities that include entities with water or power delivery authority eligible for the WaterSMART program. Under current law, entities like joint power authorities that are not vested with water and power delivery authority themselves, but are composed of individuals that have such authority, seem to be ineligible for WaterSMART.

We support the bill's intent to increase eligibility for these types of entities. However, Reclamation's WaterSMART program continues to leverage small (maximum $5 million) cost-shared grants with local and state funding for water management improvements and conservation projects. This assists many local water providers – including Family Farm Alliance members – in making timely investments in their aging water delivery systems. The demand for WaterSMART program participation already far exceeds the dollars that have historically been appropriated to this program. Unfortunately, the bill intends to increase the eligibility for WaterSMART grants while at the same time holding the authorized spending levels static. This may negatively impact the program's effectiveness.

Recommendation: Larger Grants for Integrated Projects

We support expanding Reclamation's Water SMART grants to include even larger (up to $20 million) competitive cost-shared grants for water supply management projects integrated into a regional watershed plan. This could help cost share larger water conveyance and conservation infrastructure.

Recommendation: Add USDA Program Coordination

We also note that, by better coordinating federal conservation programs at the U.S. Department of Agriculture (such as the Environmental Quality Incentives Program and the Regional Conservation Partnership Program) with WaterSMART programs at Reclamation, such investments could become much more effective in constructing on- and off-farm water management improvement infrastructure.

Subtitle C – Bureau of Reclamation Transparency

Repairing and modernizing the West's aging infrastructure is a challenge critical to Reclamation and the water users served by Reclamation's aging facilities. Alliance leadership has worked extensively with Reclamation and the Congress over the past two decades in seeking to find

solutions with the White House Office of Management and Budget to discuss approaches to help finance aging federal infrastructure. These options include providing loan incentives and, perhaps, setting up a construction loan account associated with the Reclamation Fund.

Subtitle C of the bill requires the Secretary of the Interior to submit to Congress a report on the efforts of Reclamation to manage its infrastructure assets. This section would require Reclamation to publicly report on its repair needs every other year. The Alliance certainly supports the transparency and reporting requirements intended with this legislation.

Recommendation: Remove Reporting Requirements for Transferred Works

We do believe that this bill would have unintended consequences for our member Reclamation project water users. Some of our members believe that transferred works (federally-owned facilities where the operation, maintenance and replacement of these facilities has been transferred to local non-federal governmental entities, to be funded 100% at their own expense) should not be subjected to the reporting requirements of this bill.

The bill would also require a report to Congress that would describe the efforts of Reclamation to manage these facilities, standardize and streamline data reporting and processes across regions, and expand on the information otherwise provided in Reclamation's current Asset Management Reports. This provision could cause significant increased liability for nonfederal water contractors. It places Reclamation in a position of having to limit or even cease water delivery operations of a federally owned facility if such ratings were applied and the maintenance/rehabilitation activity was delayed or not implemented at all due to lack of resources.

Recommendation: Longer Term Planning Horizon

A large portion of the costs of maintaining, replacing, and rehabilitating these federal water facilities (both federally reserved and transferred works) mostly falls on the non-federal project water and power contractors. By publicly portraying these facilities as somehow not current on maintenance or replacement, these reports could actually accelerate the work on these projects to a point that may not be currently affordable to the non-federal entities on the hook for paying, in advance, these costs. The lack of any federally backed financing tools is a key contributor to the lack of affordability of such expedited projects to the local project sponsors.

We believe that a better approach would be for Congress to require that Reclamation work collaboratively and transparently with their project water and power contractors to establish planned maintenance, replacement and rehabilitation work over a ten or fifteen-year framework that could be reported to Congress on a regular basis. Also, the Alliance believes Congress should create a long-term low interest loan program similar to the Water Infrastructure Finance and Innovation Act (WIFIA) created by WRRDA 2014 for Reclamation water users to access in financing part of these large rehabilitation projects. This way, project water and power contractors can plan for long-term financing for their share of the costs of the work to be performed in a much more business-like and organized manner.

The Family Farm Alliance and other Western water interests stand poised to work to help create an improved Transparency Subtitle our family farmers and ranchers will fully embrace.

Title II – Management

Sec. 201 – Flood Control Rule Curve Adjustment

This Section would establish a pilot project to adjust flood control rule curves for Reclamation dams that meet the criteria of eligible projects and allow for certain non-federal entities to fund adjustments to these operational documents. Some of our members report that reviewing and adjusting Corps flood control curves is a steep challenge. Water users who have been working with the Corps in some cases have found it a difficult process, with the Corps very cautious about making such changes. We fully support the intent of this section. It remains to be seen how these provisions will help in getting the Corps to be more open to modifications of flood curves to enhance water storage at affected facilities.

Sec. 202 – Aquifer Recharge

This Section provides new authorities to allow greater flexibility in using Reclamation facilities and project water for aquifer recharge where it complies with state water law. We cannot emphasize enough the importance of ensuring that all activities promoted by this Section are consistent with state water laws. In Idaho, for example, recharge is conducted pursuant to decreed and/or licensed recharge water rights owned by the State Water Board and/or private recharge entities. With a few minor exceptions, recharge is conducted using these specific water rights when they are in priority.

Title III – Water Supply Certainty

Subtitle A – Water Rights Protection Act (WRPA)

Sections 301-304 would prohibit the Department of the Interior (Interior) and U.S. Department of Agriculture (USDA) from conditioning any permit, lease, or other use agreement on the transfer of a water right to the U.S. and directs federal policy to be consistent with state water law for surface water and groundwater resources. The Alliance has long advocated that solutions to conflicts over the allocation and use of Western water resources must begin with recognition of the traditional deference to state water allocation systems and laws. We have previously testified in support of the WRPA. The WRPA would protect communities, businesses, recreational opportunities, farmers and ranchers as well as other individuals that rely on privately held state-based water rights for their livelihood from federal takings. It would do so by prohibiting federal agencies from extorting water rights from non-federal entities through the use of permits, leases, and other land management arrangements, for which it would otherwise have to pay just compensation under the 5th Amendment of the Constitution.

We support this section because our farmers and ranchers rely on their vested water rights to secure operating loans in order to irrigate and produce crops and water livestock. Federal agencies should

not be able to leverage those private water rights against farming and ranching families who have long depended upon federal permits and leases to support actions like grazing.

Subtitle B – Permits for Water Transfers

The Supreme Court recently declined to review a George W. Bush-era rule exempting water transfers from Clean Water Act permits, leaving in place a lower-court decision that reinstated the policy. EPA issued the Water Transfers Rule in 2008 that excludes inter-basin water transfers from permitting requirements. Such systems are common in drinking water, irrigation, flood control and power generation infrastructure throughout the country. The rule formalized EPA's longstanding position that water transferred from one body of water to another via a pipe, tunnel or pumping station doesn't require a CWA National Pollutant Discharge Elimination System (NPDES) permit as long as there was not an industrial, municipal or commercial use along the way.

We support Section 311 of the bill, which codifies the existing CWA NPDES exclusion for the conveyance of waters of the U.S. when the transferred water is not subject to intervening industrial, municipal or commercial use. This would effectively limit any potential new level of regulation, permitting and certain litigation that could be put into place by another future Administration that could effectively hamstring the economies of states like Arizona, California, Colorado, and other Western states, where millions of acre-feet of water are delivered through inter-basin transfers every year.

Subtitle C – Endangered Fish Recovery Programs

Sections 321-322 would reauthorize the Upper Colorado Fish Recovery Program (Recovery Program) for an additional five years through the year 2023 and require a report on the program's achievements and expenditures. Recovery Program partners are recovering four species of endangered fish in the Upper Basin of the Colorado River and its tributaries in Colorado, Utah, and Wyoming, all while protecting continued water use and development in the Upper Basin to meet human needs in compliance with interstate compacts and applicable federal and state laws. The Recovery Program is a public private partnership that works together to bring these fish back from the brink of extinction. This program provides streamlined ESA compliance so that water development can proceed as fish populations recover. Water development is important to Upper Basin citizens, but it can change river flows and temperature, and block fish migration. The Recovery Program uses science and partnerships to manage those threats and support fish recovery in a way that minimizes impacts to water users, including many members of the Family Farm Alliance. We strongly support this Section.

S. 2560 – Reclamation Title Transfer Act of 2018

This important bill addresses the Reclamation Title Transfer Process and authorizes Reclamation to administratively carry out certain title transfers. The Alliance believes transferring the title to federally owned Reclamation irrigation projects to the non-federal operating entities is one of several positive means of strengthening control of water resources at the local level. In addition, these transfers can help to reduce federal costs and liability. They also allow for a better allocation of federal resources. Operational decisions are timelier, and many times are more cost effective

when made at the local level. Further, maintenance and rehabilitation of our aging federally owned facilities are more effectively financed and constructed by the local agencies currently responsible for these activities. Title transfer allows for these operation and maintenance benefits to thrive, as title ownership of these facilities is placed with the local beneficiaries and the irrigation districts involved in managing these projects for their benefit. This allows for a broader portfolio of financing alternatives for cost effective reinvestment in these facilities to be made available at the local level.

Despite these many benefits, local water agencies are at times discouraged from pursuing title transfer because the process is so expensive and slow. Environmental analyses can be time-consuming, even for uncomplicated projects that will continue to be operated in the same manner as they always have been. NEPA and the procedures required to address the transfer of real property, as well as cultural and historic preservation issues are often very inefficient, time consuming and expensive. Moreover, every title transfer currently requires an act of Congress to accomplish, regardless of whether the project covers 10 acres or 100,000 acres.

One other barrier for many title transfers in the past has been the continued use of federal project power at cost-based contracted rates to operate Reclamation projects after a title transfer. Many Reclamation projects were developed to include hydroelectric or other power sources that run pumps and other facilities at a low cost, thus ensuring that these water supply development projects have successfully and economically operated throughout their history. In many cases, these projects continue to require power at these project rates in order to remain economically viable for the farms and ranches dependent on the water supply. Many future title transfers will depend on the continuation of project power provided at current cost-based contracted rates.

As currently written, this bill would not provide further project power benefits in those instances where a project is completely transferred to a local entity. We fear this may provide a real disincentive for local interests to pursue title transfer. We look forward to working with this Committee, water users and power interests to determine if there is a better path forward to resolve this challenge.

We support the bill's provisions that ensure that Congress retain oversight of this program. It requires describing to Congress the actions taken to implement the Act and requires that a list of conveyances made or initiated under this Act be included in Reclamation's annual budget submission to Congress.

We appreciate the priority the Committee is placing on this important issue. There are many benefits to local entities and to the federal government associated with title transfer that are yet to be measured. As outlined above, we know there are irrigation districts successfully operating and maintaining transferred works in the West that are interested in acquiring title to these Reclamation owned facilities. Experience throughout the West demonstrates that when control and ownership of projects is assumed by local interests, the projects are run more cost effectively and efficiently, with far fewer items of deferred maintenance and less bureaucratic red-tape. In addition, the federal government holds title to these facilities only because federal funds were used to help construct them, and have, in many instances, long since been repaid.

S. 2539 – Colorado River System Conservation Program

Currently, the Colorado River Basin is again facing another drought year. If dry conditions continue, diminishing reservoir levels in Lakes Powell and Mead will have extremely negative consequences for water and power users throughout the watershed, including urban areas outside of the Basin that rely on Colorado River trans-basin diversions. Predicted near-term Colorado River water supply scenarios are already dire enough that drought contingency planning continues in the Colorado River Basin. These efforts may seek to emphasize demand reduction as one of the primary tools to stave off critical water shortages.

This bill would amend the Energy and Water Development and Related Agencies Appropriations Act, 2015, to reauthorize certain projects to increase Colorado River System water until the year 2022.

The Alliance in 2015 crafted a white paper articulating our principles for smart, effective management of water resources in the Colorado River Basin to help decision-makers in the Basin deal with the harsh realities of current and future water shortages due to drought and over-allocation of water to growing water demands. The driver behind the development of this paper was growing concern expressed by some of our members regarding the then-emerging System Conservation Pilot Program in the Upper and Lower Basins.

We understand that some water will inevitably move away from agricultural use in the Basin as long-term transitional strategies are developed. This is regrettable, since numerous studies and forecasts suggest that we will need to double our food and fiber output in the next 40 years to keep up with global hunger. Agriculture is also the only strong foundation for many rural communities in the Western U.S. and is vital to the economic, social and environmental health of those communities. Our members share a desire to keep irrigation water in its agricultural place of use in the rural West to the maximum extent practicable in order to ensure long-term agricultural and rural sustainability.

According to a 2015 economic report prepared by Pacific Northwest Project, the "Irrigated Agriculture Industry" predominately consists of three major sectors: agricultural production, agricultural services, and the food processing sectors. These sectors are the economic engine of irrigated agriculture. For the 17 states comprising the Western U.S. region in 2013, the annual direct household income derived from this industry is estimated to be about $70 billion. Taking into account the total direct, indirect and induced impacts of Western irrigated agriculture, the total household income impacts were estimated to be about $172 billion annually.

The direct net benefits provided by irrigated agriculture represent the opportunity costs of economic tradeoffs made in water resource allocation decisions. Opportunity costs are the values (benefits) of what you give up to pursue some other alternative. But there are other potential costs for decision makers to consider when taking into account broader economic implications from Western irrigated agriculture. These could be termed externality benefits or, if foregone, the "silent lost opportunity costs" inherent to changes to Western irrigated agriculture that are indirectly tied to the consumer spending economy. In other words, an affordable food supply provides large

blocks of disposable income to the consumer spending economy, as well as the abundance of high-quality food sources provided by Western irrigated agriculure.

While these economic policy considerations are driving many of the questions some have regarding System Conservation activities, the impacts are much different in the Upper Basin vs. the Lower Basin of the Colorado River. The Alliance recomends that the federal government continue work with the Basin states and all stakeholders in finding the proper mix of conservation of water use, demand management, and water storage in the Colorado River Basin.

Conclusion

Even though we experienced a very wet winter and spring last year, this year's dry winter will attest that there are no guarantees that the West will not experience even more intense multiple droughts in the future. In order to avoid disaster and to ensure that all reasonable water demands are met in the future, the West must begin to manage water as if every year was going to be a drought year. This will require everyone in the West to adopt a new paradigm: one that promotes wise management of our limited and valuable water resource and that protects carryover storage for future use in dry periods. This new paradigm will also mean additional investment in technology, conservation and new water storage and management infrastructure to deal with the uncertainties that lay before us. The "Water Supply Infrastructure and Drought Resilience Act of 2018" is an important step in the right direction.

The water infrastructure challenges our Nation and the West is currently facing are daunting, and they will require innovative solutions. The "Reclamation Title Transfer Act of 2018" provides a means of improving opportunities for locally-driven solutions. The infrastructure investments made by prior generations have benefited this country for over a hundred of years. Now it is this generation's responsibility to invest in infrastructure and invest for future generations.

Thank you again for this opportunity to testify before the Committee, and I stand ready to answer any questions you may have.

The CHAIRMAN. Thank you, Mr. O'Toole. We welcome you. I am sorry for your air traffic delays, but it was a bit of a mess here yesterday. We are glad you are here.

Ms. Ziemer.

STATEMENT OF LAURA ZIEMER, SENIOR COUNSEL AND WATER POLICY ADVISOR, TROUT UNLIMITED

Ms. ZIEMER. Good morning, Chairman Murkowski, Ranking Member Cantwell, and members of the Committee. Thank you for the invitation to testify today on behalf of Trout Unlimited (TU).

The future of the West is linked to its water, and we commend the Committee leadership for working on Western drought issues. There is also no better partner than my colleague on the panel, Patrick O'Toole, and the Family Farm Alliance for creating solutions that benefit both farms and fish.

For the past 20 years in my water work with Trout Unlimited, I've listened carefully to the needs of water users and listened to the challenges they face, and that is in order to find solutions that work for both interests and do not pit one against the other.

I live and work in Montana and know firsthand the devastation of prolonged drought. The key to getting through these difficult or—the key to this difficult work and getting through times of drought is to share the burden and the benefits across all sectors: agriculture, communities and river health.

In the suite of bills before this Committee, I would like to highlight four issues.

First, Senate bill 2563 contains the NEPA streamlining that Mr. O'Toole talked about to expedite projects on federal lands. TU is not opposed to simplifying the permit process, but we also believe that any streamlining should focus on promoting well-designed projects meeting multiple needs, where storage is one part of a portfolio of diverse strategies to increase water security.

Mr. Sandison has already described the Yakima Basin effort, thank you, and the Yakima plan is a flagship example of this portfolio approach. Also, California's Yuba River Basin has a relevant lesson for today. Water storage standing alone, even its million acre-feet, did not solve the Basin's water conflicts—the Yuba Accord did. Under the Accord, storage water is supplemented with aquifer recharge, sustainable groundwater pumping, downstream water transfers and extensive drought planning. The Accord successfully managed water through California's most severe drought, meeting both agricultural and imperiled fishery needs.

To promote sustainable solutions like these, we propose frontloading the NEPA process with a multi-stakeholder working group. And that working group would be charged with developing a portfolio of projects and approaches to address unmet water needs, including environmental flows. And then such an approach of this frontloading the NEPA streamlining process should result in producing more solutions like the Yakima and Yuba examples.

My second point is that Senate bill 2539, which extends the Colorado River Systems Conservation Pilot Program, is also a successful example of creating multiple benefits. Our long-standing work in Wyoming meant that we could work in partnership with ranchers to increase participation in each of the three years to date. The

program keeps participating ranchers whole, delivers water downstream for system reliability and improves trout habitat. We support the extension of the program as a short-term drought response measure while we also work on long-term strategies to build a resilient and basin-wide approach.

My third point is that the Water Rights Protection Act in Senate bill 2563 jeopardizes the ability of federal agencies to condition permit. A key part of drought resiliency in the basin-wide approach is protecting those headwater flows and the federal authority to condition water withdrawals on these federal lands is a necessary tool. We look forward to working with the Committee to clarify the lines of authority on water rights between states and federal agencies but without undermining the long-held federal authority to condition permits.

Fourth and finally, in my own work on the Sun River we found a way to benefit irrigation supply while restoring flows to the chronically dewatered Sun River with WaterSMART funding. Two thousand feet of lined canal, 2,300 feet of PVC pipe, put more water in the Sun River. When coupled with reservoir reoperations based on better use of snowpack data, it more than doubled the wild trout population in the Sun River.

Senate bill 2563 expands the pool of eligible applicants to WaterSMART. We think that including conservation organizations that have a long-standing track record of working well with irrigation districts and irrigators will help advance multi-benefit projects like the Sun River, but it's an oversubscribed program and the funding cap should also be increased.

I'll leave you with one concluding thought. The early pioneers found a spring or dug a well and then built their homestead, not the other way around. Although the scale is different today, the work is the same. If we're good stewards of the water, the water will take care of us.

Thank you, and I look forward to answering any questions you may have.

[The prepared statement of Ms. Ziemer follows:]

TROUT UNLIMITED
Laura Ziemer
Senior Counsel and Water Policy Advisor

Statement of Laura Ziemer, Senior Counsel and Water Policy Advisor for Trout Unlimited
Senate Committee on Energy and Natural Resources Hearing on S. 2539, S. 2560, and S. 2563, and on Western Water Supply Infrastructure and Drought Resilience.

March 22, 2018

Chairman Murkowski, Ranking Member Cantwell, and Committee members:

Thank you for the invitation to testify today on behalf of Trout Unlimited (TU) and its over 300,000 members and supporters nationwide. TU's mission is to conserve, protect and restore North America's trout and salmon fisheries and the watersheds they depend on. In pursuit of this mission TU has worked with farmers and ranchers, states and federal agencies across the West to restore streams and improve agricultural operations.

Our members and staff are passionate about trout fishing, but they are equally passionate about working with partners to make watersheds healthier. There is no better partner that TU has in the West than my colleague on the panel, Pat O'Toole, and the Family Farm Alliance.

Chairman Murkowski and Ranking Member Cantwell, we deeply appreciate the Committee's focus on finding workable solutions to our pressing western drought issues. There has never been a better time than now to develop a path forward to increase watershed resilience and community sustainability.

I have had the privilege of working for many years with TU's volunteers to restore local streams and engage young people in TU's efforts to conserve, protect and restore our Nation's watersheds. I live and work in Montana and have experienced first-hand the devastation of prolonged drought in an already-arid land. For the past twenty years in my work with TU, we have found ways to make the West's great landscapes more secure for agriculture, communities, and fish in the face of drought. The key to this difficult work is to find ways to lessen the devastation of drought across all three sectors—agriculture, communities, and river health—rather than pit one sector against the other.

The future of the West is inextricably linked to its water. The early pioneers first found a spring, stream, or dug a well, and then built their homestead—not the other way around. Although the scale is different today, water security and drought resilience are still fundamental to the West's future. The American West is one of the earth's great landscapes, with no other place quite like it. Its vast working landscapes, abundant fish and wildlife, and robust communities and metropolitan areas, have produced some of the most creative ideas, most innovative approaches, and offer some of the most inspiring views of any place on earth. The subject matter of today's hearing is fundamental to the West's water security and its future, and it is vital that we get it right. TU is honored to offer its twenty years of

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experience in increasing drought resilience across the West in our testimony on the suite of bills before this Committee.

TU's experience across nine western states is that the best approaches to increasing drought resilience come from the people who live and work in that particular river basin, and whose lives are connected to the water resource. Below, I first describe the work in several river basins where this approach has worked to bring new sources of water to meet increasing water demand. Common across these place-based stories is that new water storage, standing alone, was not the answer. Rather, a whole portfolio of projects and approaches to new water supply, coupled with either new, expanded, or re-operated water storage provided a better path forward.

Second, informed by this experience, TU offers comments on the suite of western water bills under consideration by this Committee. The Water Supply Infrastructure and Drought Resilience Act of 2018, S. 2563, aims to streamline National Environmental Policy Act (NEPA) review for new water storage projects built on federal lands, through coordinating federal agency review of proposed projects, prescribing deadlines for agency action, and clarifying the lines of authority over water rights between western states and federal agencies. TU is not opposed to new storage, and TU has worked to provide clarity and innovation around western water rights. In more detail below, TU offers support for specific provisions of the bill, and suggestions for aligning the bill with models of building drought resilience that have a track record of success. Building a portfolio of projects with diverse approaches for creating sustainable water supplies has worked to address drought resiliency in even water-short, contentious basins. For these reasons, TU supports S.2539, which extends the Colorado River Basin's System Conservation Pilot Program, because it creates system reliability for Upper and Lower Basin water users while keeping Northern Rockies' ranching operations whole and improving native trout habitat at the same time.

TU's work over the past 20 years—and the focus of our comments on the legislative proposals before this Committee—is to ensure that the West's great landscapes are more secure in the face of drought for agriculture, communities, and the fish.

I. Watershed Solutions with a Portfolio of Projects and Approaches: **The Path Forward**.

The seriousness and scale of drought in the West is why I have dedicated the last twenty years of my professional life to finding collaborative solutions to water scarcity. I have pioneered collaborative approaches to creating new water supplies with Montana ranchers, created working architecture for drought response plans that operate at the basin scale, and assembled diverse coalitions of interests to come together around innovative changes to water management across multiple, large river basins. Although these approaches vary in scale and focus, the one thing they have in common is building the trust to apply creativity to difficult, long-standing problems born of too many demands and too little water in arid lands. The Trout Unlimited message is simple: on the ground throughout the West, partners are coming together to find innovative solutions with a multiplicity of approaches to develop new sources of water at a variety of scales. Here are four of their stories:

A. Yakima River, Washington.

The West is trying to advance new ways of finding more water for agriculture and people, while also meeting its other pressing need to conserve valuable and imperiled fisheries and growing recreational demand. A diverse group of stakeholders in the Yakima River basin in central Washington have found a path forward.

The Yakima Basin Integrated Plan is a balanced package of actions that will return thousands of salmon and steelhead to the basin annually, improve water quality and quantity, and support a healthy agricultural and recreation economy. The plan was agreed upon by a diverse coalition of conservation groups, irrigators, farmers, sportsmen and women, local, state, and federal governments and the Confederated Tribes and Bands of the Yakama Nation. Similarly, these partners recognize that the resources needed to cover the costs of the plan must come from a variety of sources. Significantly, the State of Washington has provided $192 million to date toward implementation and agreed to a 50% cost share with the federal government and other sources.

Some portions of the Yakima Basin Integrated Plan need new Federal authorization. Thanks to the efforts of Senators Cantwell and Murray, working in a bipartisan effort with Senator Murkowski and others, the Yakima bill passed the full Senate in 2016 as part of the broader energy bill. In the 115th Congress, the Yakima bill has been reintroduced (S.714) and has passed out of this Committee (again as part of a larger energy package) and is awaiting a Senate floor vote. The Yakima Basin Integrated Plan has had this success in large part because it is built as a mosaic of approaches to drought resilience: water infrastructure improvements, new water storage, groundwater recharge, instream flow restoration, fish passage, headwater habitat restoration and protection, and flexibility in water management across the basin, from reservoir operations to temporary water right transfers. Collaborators in the Yakima Basin Integrated Plan are achieving results for their own interests that they would not standing alone.

In the past, Reclamation has borne the cost of constructing water supply facilities in the Yakima Basin, with the Project repaying these costs back to the federal government over time. The Yakima Basin Integrated Plan includes a new financing model. Under the Yakima Basin Integrated Plan, irrigation districts are proposing to finance, build and operate one of the major water supply projects called for in the Plan, estimated to cost about $200 million. They will make this large non-federal investment to build new drought emergency water supply infrastructure as well as new water conservation improvements in coordination with Reclamation and Washington State under the Yakima Basin Integrated Plan.

The collaborative, outside-the-box thinking that formed the Yakima Basin Integrated Plan has already spurred additional creative solutions to acute challenges in the basin. For example, during the 2015 drought, partnerships built through the Yakima Basin Integrated Plan resulted in rapid action through the Kittitas Reclamation District (KRD) to provide flows in streams that would have otherwise run dry,

securing important habitat for salmon and steelhead. TU is proud to partner with KRD and a diverse group of Yakima River stakeholders to balance water user and fishery needs.

B. Yuba River, California.

The New Bullards Bar Reservoir on the North Fork of the Yuba River stores nearly a million acre-feet of water coming from the western side of the Sierra Nevada Mountains. It supplies irrigation water for rice growers and other crops, generates hydropower, and provides flood control as its releases flow downstream to the mainstem Yuba River near Marysville, California and below its confluence with the Feather River, on through the Central Valley, and ultimately to the Bay Delta. The Yuba River is one of the last Central Valley tributaries with naturally-spawning, steelhead and spring-run Chinook salmon. Despite the magnitude of water storage in the Yuba River basin, groundwater in the south Yuba basin had become severely over-drafted, and conflict over water supplies to serve agricultural and environmental needs began to boil over in 2003 when the State Water Resources Control Board issued an order conditioning the water rights of the Yuba County Water Agency (YCWA) to provide instream flows in the Yuba River. Five separate lawsuits challenged the 2003 State Water Board's order, some alleging that the instream flow requirements were excessive, and others claiming that the order failed to adequately protect the spring-run Chinook and steelhead.

TU was among the groups attempting negotiations to end the opposing lawsuits. Detailed information on the fishery needs among state and federal agencies, flow and water use data in the basin, and centralized water management by the YCWA were important elements supporting the negotiations. Reliance on this data in over three years of negotiations provided the platform for extensive drought planning in the basin, ultimately resulting in the Yuba Accord signed by 18 different parties in 2007.

The Yuba Accord supplements the significant, existing water storage in the basin with a variety of different water management strategies and the development of alternative water supplies. Groundwater recharge from Yuba River flows in wet years brought the over-drafted south Yuba basin back, and able to provide groundwater pumping at sustainable yields. A well-planned series of seven different instream flow schedules provides water management guidance from wet years to the very driest years. The Accord also relies on revenue-generating, downstream water transfers to maintain flows and off-set costs.

Significant to the success of the Yuba Accord is that no agricultural ground is fallowed to meet instream flow targets, even in drought years. The Accord provides for switching to groundwater pumping at sustainable yield rates in exchange for storage-water releases to meet the fishery flow needs.

Testimony to the thoughtful planning and development of a variety of water management tools, the Yuba Accord provided the framework for all water needs to be met in 2013, despite the 100-year drought in the basin. Water storage, standing alone, would not have provided the drought relief of the Yuba Accord. The Accord supplements water storage with data, development of alternative water

supplies, downstream water transfers, and extensive planning to manage water through drought conditions to meet both agricultural and environmental water needs.

As with any agreement, it has not been perfect. In particular, the parties have struggled to implement the Accord's adaptive management provisions. Nevertheless, it remains a worthy model. Today, TU is working with the original parties and other stakeholders to see if the Accord can be adapted in a consensus manner to meet the needs of pending proceedings for a new hydropower license and updated water quality standards.

C. Sun River, Montana.

In Montana's upper Missouri River basin on the Sun River, TU, the Fort Shaw Irrigation District, and members of the Sun River Watershed Group worked together to create multi-sector benefits. This is an example of a public-private partnership at its best. This multi-stakeholder group recognized the need to bring new sources of water into the basin to address water shortages for irrigated agriculture as well the chronically-dewatered Sun River and its wild trout fishery. The group gave careful consideration to raising Gibson Dam, a Bureau of Reclamation project on Forest Service land, and of excavating storage lost to sedimentation behind the re-regulating Pishkun Reservoir. These alternatives were far costlier than irrigation infrastructure improvements, so the group decided to address reservoir operations and water delivery improvements first.

The Bureau of Reclamation's WaterSMART program provided significant irrigation infrastructure funding in 2012 and 2013, matched by state and local dollars, contributions from the Irrigation District, and private contributions from the Coca-Cola Company. The Natural Resources Conservation Service contributed to the success of the project with new on-ranch center pivots that required less water to be delivered, to match the more efficient delivery of water through the irrigation district. The Coca-Cola Company's contributions were essential to securing the flow restoration benefits to the chronically-dewatered Sun River from the irrigation infrastructure upgrades within Fort Shaw Irrigation District. Two-thousand feet of lined canal, 2,310 feet of PVC pipe, and a new bypass canal created the opportunity to keep more water in the Sun River's wild trout fishery. The Sun River's wild trout have responded by more than doubling their population over the last three years, even in low-water years.

D. Upper Colorado River – System Conservation Pilot Program (SCPP).

Over the past twelve years in Wyoming, TU has developed partnerships with ranchers and local and state resource agencies to find ways to benefit agricultural operations and rural communities while also improving stream health. We have found that by fixing aging irrigation infrastructure and improving water delivery for agricultural operations we can also improve trout streams that flow across private ranch lands. The quiet success of trust and friendships forged through restoration partnerships is increasing Wyoming's drought resilience, one stream at a time. The investment in private ranch land habitat is vital to reconnecting fragmented migratory corridors and allowing trout to fulfill their

migratory patterns that build healthier, more resilient populations. This work is successful because it is pragmatic, voluntary, and non-regulatory. It's designed to benefit both people and fish.

In 2015, the Bureau of Reclamation and four municipal water providers in the Colorado River Basin announced the System Conservation Pilot Program (SCPP) to begin developing tools for responding to long-term drought conditions. The purposes of the SCPP for the Upper Basin included testing voluntary, demand-management measures that could ultimately be used to insulate a variety of system operations including maintaining water in Lake Powell above the minimum levels needed to ensure compliance with Colorado River compacts and to maintain hydropower generation at the reservoir. In the Upper Basin, TU has worked closely with producers, state agencies and the Upper Colorado River Commission to successfully implement the SCPP. In the first round of the program, TU's work with producers over the past dozen years put us in position to develop six applications in partnership with producers, focused on split-season leasing. All six proposals were fully funded and the total volume of water conserved was 2,008.14 acre-feet. Producers were interested in the SCPP because it allowed them to make water and production management decisions without putting their water right at risk. The SCPP transactions are temporary, compensated and voluntary.

In the second round, TU worked with Wyoming ranchers to offer more than 10,000 acre-feet of water conservation during the 2016 irrigation season, and developed additional applications in partnership with landowners in Colorado and Utah. In all, 15 SCPP applications on which TU partnered with producers were approved in round two.

In 2017, TU helped advance market participation and helped with water shepherding issues by working with private landowners to design and implement a tributary model for water conservation. This model depends on SCPP participation by every water right holder in a tributary watershed – in this case, tributaries to the Upper Green River in Wyoming. The tributary model works within the confines of existing state law which allows for the conservation and delivery of water without regulation when neighboring landowners work together. While not all Wyoming applications were funded in 2017 due to a lack of federal funding, over 20 landowners wanted to participate. Additional applications were also submitted for a bevy of water users on the Price River in Utah, including significant participation from water users in the Carbon Canal Company.

For the 2018 SCPP enrollment process, TU and our partners once again expanded market demand and enrollment. Further, the tributary model in Wyoming gained additional momentum, developing four tributary-wide agreements on four different Upper Green River sub-watersheds. These producers are big believers that demand management tools like the SCPP can work for ranching and farming in a non-regulatory and voluntary way. Consistent and multi-year participation by water right holders in the SCPP demonstrates how a long-term program could scale-up and provide significant water conservation, offset shortages, and enhance system reliability in the Colorado River while also doubling up on ranch, and farm, and fishery benefits.

Trout Unlimited supports the SCPP because it is a voluntary, market-based tool that not only addresses ongoing water shortages in the Colorado River, but also offsets economic and environmental impacts of those shortages. Water leased under this program remains tied to the land and keeps operations whole, which has great benefits for both agriculture and coldwater fisheries. With the SCPP, landowners in parts of Wyoming, Utah, and Colorado have participated in and benefitted from a program that attaches a value to the non-diversion of their water rights during low-flow conditions, improving flows in Colorado River tributaries and sending water downstream for overall system reliability. The SCPP is innovative in creating drought resilience across agricultural, municipal, and fishery interests in a chronically water-short basin.

An extension of the SCPP is now warranted, but all interested parties must begin to consider how to develop more long-term solutions for the Colorado River basin, including a multi-pronged demand management strategy. TU is looking forward to working on short-term solutions, like SCPP, as well as long-term strategies to build a resilient basin-wide approach with multi-sector benefits to sustain communities and agriculture while supporting fish and wildlife.

II. Comments on S. 2563, S. 2560 and S. 2539

It is through this lens of our deeply-held experience with watershed-scale solutions that TU offers the following comments on the suite of bills before the Committee. We look forward to engaging with the Committee as it continues its work on this important and complex topic of water scarcity in the West.

S. 2563, The Water Supply Infrastructure and Drought Resilience Act of 2018.

Below, we highlight positive elements of this bill and offer constructive suggestions to help improve some areas of concern.

A. Title I, Water Supply Permitting Coordination—Adding a Portfolio Approach.

The Water Supply Permitting Coordination subtitle seeks to get surface water storage projects underway that are being held up by United States Forest Service (USFS) or Bureau of Land Management (BLM) review of projects on their BLM or National Forest lands. It does this by designating the Bureau of Reclamation as the lead, coordinating federal agency (Section 102). Reclamation serves as the point of contact for all entities involved in the project, and is responsible for coordinating preparation of a unified environmental record (Section 103). Section 103(b)(5)(B) requires all participating federal agencies to make project approval decisions within 13 months after the Draft Environmental Impact Statement's (DEIS') close of public comment, or, if only an Environmental Assessment (EA) is required, within a year of the agency determination that no EIS is required.

TU's experience is that the best ideas come from the people who live and work in the river basin, and whose lives are connected with the water resource. To capitalize on this local knowledge and accomplish NEPA streamlining, TU proposes to front-load the streamlined NEPA review process with a

multi-stakeholder working group whose charge is to develop a portfolio of project elements, in addition to the proposed new surface water storage. This project portfolio would increase drought resiliency and water security in the target river basin for agricultural, fish & wildlife, and community needs.

The project portfolio could include, but would not be limited to: wetland restoration; floodplain restoration and reconnection; efficiencies and infrastructure upgrades in the delivery of irrigation water; groundwater recharge and groundwater storage; source switching between surface and groundwater for existing uses, either temporarily in response to drought conditions, seasonally, or permanently; water trading or water sharing agreements; and streamflow enhancement to address fish & wildlife needs and water-supply bottlenecks. This project portfolio developed by the multi-stakeholder working group would work in connection with the proposed water storage project to address un-met water needs and improve fish and wildlife habitat.

As a condition for qualifying for the streamlined NEPA review, one-half of the storage project cost would be allocated to fund the project portfolio. This means that a third of the total project (storage project and project portfolio) cost would be allocated to the project portfolio. In addition, funding for the project portfolio would be allocated proportional to the un-met water need by sector; in other words, if agricultural water supply had a 30% deficit, environmental flows had a 50% deficit, and municipal demand had a 20% deficit, half of the project portfolio's funding would be allocated to increasing instream flows, and the remainder would be roughly split (30:20) between agricultural and municipal water-security measures. Ideally, however, many of the project portfolio's elements would benefit more than one sector, such as irrigation infrastructure modernization that could benefit instream flows and fish passage, along with reliability of delivering irrigation water.

Another important piece of TU's project portfolio approach is that legislation would authorize funding for facilitation of the project portfolio development phase. This would include facilitation support for the multi-stakeholder working group, data collection and analysis, design work, and production of planning documents, as needed and determined by the multi-stakeholder working group. Funding for facilitation, data collection, and data analysis will add speed and efficiency to the progress and quality of the work product and be good investment in water security.

Front-loading the NEPA streamlining process with the addition of a diverse project portfolio also contributes to the goals of Subtitle A – Water Supply Permitting Coordination. Because the water storage project would be analyzed together with the project portfolio in at least one alternative reviewed under NEPA, this would allow the project portfolio to off-set many of the environmental impacts of the proposed water storage project, further simplifying the NEPA review process and making project review easier for state and federal agencies. In addition, the implementation of the project portfolio may also reduce the volume required for new storage by bringing in alternative sources of water, potentially reducing the storage project costs.

TU notes that an additional amendment would be required to facilitate a front-loaded project portfolio prior to NEPA review. Section 103(b)(5)(B) requires all participating federal agencies to make project

approval decisions within 13 months after the Draft Environmental Impact Statement's (DEIS') close of public comment. TU believes a designated time-frame for a final agency decision could work in this NEPA streamlining context with a project portfolio. However, the clock would need to start at a final EIS phase, rather than a draft EIS phase, so that any supplemental or revised EIS documents would be part of the agency's decision-making record.

B. Title III, Subtitle A, Water Rights Protection Act.

TU is familiar with Subtitle A of Title III, the Water Rights Protection, from its prior introduction as S. 982. In its current form, the language of this subtitle will jeopardize the ability of federal resource agencies to condition federal permits. TU believes this would be at odds with the ability of the federal agencies to successfully streamline and expedite NEPA review of new water storage proposals under the Act's Title I, because a key part of drought resiliency is protecting headwater flows on federal lands.

Also, federal authority to condition some water withdrawals from federal lands to protect trout fisheries and maintain watershed health is a key conservation tool that should not be jeopardized. However, TU looks forward to working with the Committee on the specific language of the Water Rights Protection subtitle so that it can clarify the lines of authority between western states and federal agencies regarding state-governed appropriative water rights, without undermining long-held federal agency authority to condition permits for projects on federal land.

C. Title III, Subtitle B, Section 311: No permits for water transfers.

This subtitle elevates an existing provision of the Clean Water Act from regulation to statute. This is unnecessary legislation because the regulation at issue was recently affirmed by the federal courts and is currently being implemented by the agency.

D. Title III, Subtitle C, Sections 321-322: Reauthorization of the Upper Colorado Fish Recovery Program for an additional five years.

TU supports the reauthorization of the Upper Colorado Fish Recovery Program for an additional five years. Even though there are no native trout at stake, TU recognizes the importance of working toward healthy watersheds and supporting natural riverine processes.

E. Title II, Water Management Improvement.

TU supports Title II's water management improvement subtitle A to review and adjust flood control rule curves for Reclamation and non-federal dams using better forecasting and data. TU's work over the past twenty years has been successful in creating more storage through better use of data and forecasting. Across the West, managing reservoirs based on hydrologic relationships, rather than calendar days or strict adherence to out-dated rule curves, is providing better use of existing storage projects and more management flexibility.

Similarly, TU supports the goals of Title II's aquifer recharge subtitle B. Sustainable levels of groundwater pumping are an important element of water security in the West, and TU has worked to promote sustainable practices at the state level. Equally important to long-term watershed health is to protect peak-flow events, and the language of Title II appears to recognize this important need. TU looks forward to working with the Committee to ensure that the important hydrologic work that peak-flow events perform is not impaired by adding aquifer recharge activities in a basin.

F. Title I, Subtitle B: Extending WaterSMART program to Native American Tribes.

TU recognizes WaterSMART as an important part of bringing Reclamation funding to watershed-based solutions to water scarcity, as illustrated by TU's work in the Sun River basin in Montana. Title I, Subtitle B amends a number of WaterSMART provisions to extend eligibility for WaterSMART funding opportunities to Native American Tribes. Because the WaterSMART program is already significantly over-subscribed, the funding authorization levels for WaterSMART should be similarly increased if the pool of eligible applicants is increased as proposed in Subtitle B. Likewise, in order to maximize the benefit of WaterSMART-funded projects to address both agricultural and river health concerns, non-governmental organizations with a track-record of successful, collaborative work with water users and irrigation districts should be authorized to apply directly for WaterSMART funding.

G. Title I, Subtitle C: Bureau of Reclamation Transparency.

TU supports subtitle C's asset management reports for Reclamation projects, and the inventory and reporting on major repair and rehabilitation needs.

S. 2560, Reclamation Title Transfer Act.

TU supports the approach to title transfer that S. 2560 takes, by maintaining existing environmental and operational side-boards, and limiting title transfer to projects that are not major hydro-power producers. TU looks forward to working with the Committee to clarify how a private entity acquiring title to a Reclamation project would stand in the shoes of the federal agency in terms of compliance with federal environmental laws, since federal entities often have different obligations under federal environmental laws than private entities.

S. 2539, SCPP reauthorization.

TU supports an extension of the SCPP, for all the reasons TU highlighted above. In addition to the extension of SCPP, all interested parties must begin to consider how to develop more long-term solutions for the Colorado River basin, including a multi-pronged demand management strategy. TU is looking forward to working on short-term solutions, like SCPP, as well as long-term strategies to build a resilient basin-wide approach with multi-sector benefits to sustain communities and agriculture while supporting fish and wildlife.

III. Conclusion.

TU's experience in grappling with water security in the West over the last twenty years involves key federal elements to support successful efforts: support for collaborative, watershed-scale solutions; bringing financing to these solutions based on streamlined federal funding and public-private partnerships; using and advancing the best science, technology, and tools applied to water management; and recognizing that these watershed-scale, locally-driven solutions require the development of a portfolio of projects addressing watershed and flow restoration, reliability of irrigation water supply, and security of municipal water supply. As these concepts continue to evolve and are eventually expressed through legislation, TU looks forward to supporting them with our consistent, pragmatic, and collaborative track-record. In doing so, we look forward to helping develop local and sustainable solutions and working with partners to design, fund, and implement a path forward through difficult and controversial water scarcity conflicts.

TU appreciates the attention given by this Committee to this critical topic and I thank you again for the opportunity to testify today.

The CHAIRMAN. Thank you.
Welcome to you, Ms. Sorensen.

STATEMENT OF KATHRYN SORENSEN, DIRECTOR, CITY OF PHOENIX (ARIZONA) WATER SERVICES DEPARTMENT

Ms. SORENSEN. Good morning and Happy World Water Day.

Phoenix Water Services is the largest potable water utility in Arizona and one of the nation's 10 largest potable water utilities.

I would like to thank the Committee for recognizing the importance of drought resilience and water scarcity in the West, and I would also like to thank Senator Flake for his strong leadership in water issues which are so important to Arizona. These issues are of great concern to the City of Phoenix because, of course, it is the delivery of safe, clean, reliable water supplies that lays the foundation of public health, economic opportunity and quality of life in our desert city.

The 2018 Water Supply Outlook for the Colorado River Basin is terrible. Snowpack stands at a paltry 72 percent of normal and on the Salt and Verde River System, which supplies 60 percent of the water used in Phoenix, it stands at only 22 percent. After nearly two decades of drought we do not know if we are in year 18 of an 18-year drought or year 18 of a 100-year mega-drought. Perhaps the word drought no longer applies. Perhaps diminished snowpack and record-breaking heat is the new normal. In this new normal, we must plan methodically for worst-case scenarios, because the consequences of failing to deliver safe, clean water are unthinkable.

A recent Reuters article noted that three years ago the chance of a three-year drought in Cape Town, South Africa was less than one percent. Cape Town is now learning, in the most tragic of ways, the consequences of failing to deliver safe, clean water to a major city. It's unacceptable and those outcomes, those worst-case outcomes, must be proactively avoided. The kicker is that planning for water supply resiliency and the infrastructure necessary to achieve it is a long-term, continual effort. By the time Cape Town knew that it was in serious trouble, it was too late to build the necessary infrastructure to prevent a threat to public health.

When it comes to water supply availability, Phoenix is held to a higher standard than any other city in the country. And that's as it should be. We are, after all, in the middle of the Sonoran Desert and our standard must be absolute certainty. Public health mandates it. Quality of life depends on it. Economic investment is contingent on it.

The key to meeting this standard is infrastructure—storage projects, reservoirs, canals, surface water treatment plants, wells, pump stations, valves and pipelines. New investments in infrastructure are needed throughout the West to increase certainty. In Phoenix's case this means building additional well capacity to pump water we have stored underground in our aquifers to protect ourselves against drought on the Colorado River and in large transmission mains that move water to portions of our service territory that are vulnerable during shortages.

We must also continue to be vigilant of our culture of conservation, continue to reclaim our wastewater and reuse it and continue to recharge our aquifers. Our ability to meet the challenge of water

scarcity has always relied on innovative local initiatives but also on a strong partnership with the Federal Government, particularly the important Bureau of Reclamation projects that provide reliable water supplies to entire regions of the West and across municipal, agricultural and industrial sectors of the economy. That continuing partnership is critical for the coming years.

In Arizona and across the West, these water storage projects increase water security and flexibility. Collaborative, innovative management of these projects has a multiplier effect on water security and drought resilience. Some of the measures that this Committee is considering in this and other bills, such as continuing the WaterSMART program and ensuring proper asset management and flexible management of Reclamation infrastructure, are examples of how the Federal Government can increase water resiliency in the arid West.

The West has a long history of managing water scarcity, but we are facing an unprecedented test. The water supply outlook is terrible, but I am absolutely confident that with appropriate investment in infrastructure, collaborative and innovative partnerships, increased flexibility and a vigilant focus on a culture of conservation, we will continue to provide safe, clean, reliable water deliveries to our desert city in worst-case scenarios and for generations to come.

Thank you.

[The prepared statement of Ms. Sorensen follows:]

Kathryn Sorensen
Director
City of Phoenix Water Services Department

Testimony Before the
Committee on Energy and Natural Resources
United States Senate

Legislative Hearing
On
S. 2563 – "Water Supply Infrastructure and Drought Resilience Act of 2018"
S. 2560 – "Reclamation Title Transfer Act of 2018"
S. 2539 – Reauthorization of Colorado River System Conservation Program

March 22, 2018

My name is Kathryn Sorensen, and I am the Director of Phoenix Water Services, the largest potable water utility in Arizona. We provide safe, clean drinking water to approximately 1.6 million people across 540 square miles and provide wastewater treatment services for nearly 2.5 million people in the Valley of the Sun. Phoenix Water is one of the nation's ten largest potable water utilities.

I would like to thank the Committee for recognizing the importance of addressing drought resilience and water scarcity in the West. I would also like to thank Senator Flake for introducing this bill, and for his strong leadership in water issues which are so important to Arizona. These issues are of great concern to the City of Phoenix because of course it is the delivery of safe, clean, reliable water that provides the foundation of public health, economic opportunity, and quality of life in our desert city.

The 2018 Water Supply Outlook for the Colorado River Basin is terrible. Basin-wide, snowpack stands at a paltry 72% of normal and on the Salt & Verde River system, which supplies 60% of the water used in Phoenix, it stands at only 22%. The last time we faced these conditions was in 2002 – but back then, we faced them with a Colorado River reservoir system that was nearly full. Today, we face those conditions with a system that is only half full. After nearly two decades of drought on the Colorado River System, we have no way of knowing whether this is year eighteen of an eighteen-year drought or year eighteen of a 100-year mega-drought. Perhaps the word drought no longer applies. It appears that diminished snowpack and precipitation, along with record-breaking heat, is the new normal.

In this new normal, we must plan methodically for worst-case scenarios, because the consequences of failing to deliver safe, clean, reliable water supplies are unthinkable. A recent Reuters article noted that three years ago the chance of a three-year drought in Cape Town, South Africa was less than 1%. Cape Town is now learning, in the most tragic way, that any scenario that results in a loss of water supply to a major city – however unlikely – is unacceptable and must be proactively avoided. The kicker is that planning for water supply resiliency, and the infrastructure necessary to achieve it, is a long-term,

continual effort. By the time Cape Town knew it was in serious trouble, it was too late to build the necessary infrastructure to prevent worse-case outcomes.

When it comes to water supply availability, Phoenix is held to a higher standard than any other city in the country. That's as it should be. We are after all located in the middle of the Sonoran Desert and therefore our standard must be absolute certainty. Public health mandates it. Economic investment is contingent upon it. Quality of life depends on it. The key to meeting this standard is infrastructure.

The delivery of safe, clean, reliable water is dependent on infrastructure: Storage projects, reservoirs, canals, surface water treatment plants, wells, pump stations, valves, and pipelines.

New investments in infrastructure are needed throughout the West to increase certainty. In Phoenix's case, this means building additional well capacity to pump water we have stored in groundwater aquifers for use during Colorado River shortages, and in large transmission mains that move water to portions of our service territory that are vulnerable during Colorado River shortages. We must also continue to be vigilant of our culture of conservation, continue to reclaim our wastewater and reuse it, and continue to recharge our aquifers.

Our ability to meet the challenge of water scarcity has always relied on innovative local initiatives, but also on a strong partnership with the federal government, particularly the important Bureau of Reclamation projects that provide reliable water supplies to entire regions and across municipal, industrial, and agricultural sectors of the economy. That continuing partnership is critical for the coming years. In Arizona and across the west, these water storage projects increase water security and flexibility. Collaborative, flexible, innovative management of these storage projects has a multiplier effect on water security and drought resilience.

Some of the measures that the Committee is considering in this and other bills – such as continuing the WaterSMART program, ensuring proper asset management of Reclamation infrastructure, allowing for more flexible use of Reclamation dams, and providing flexibility in the use of Reclamation infrastructure for aquifer recharge are examples of how the federal government can increase water management resiliency in the arid west. Providing regulatory compliance paths that are predictable and efficient allows proper planning and investment in infrastructure to take place. The West has a long history of managing water scarcity but we are facing an unprecedented test that will demand innovation, collaboration, flexibility in the management of our infrastructure, and greater regulatory certainty.

The water supply outlook is terrible, but I am absolutely confident that with appropriate investment in infrastructure, collaborative and innovative partnerships, increased flexibility, and a vigilant focus on a culture of conservation, we will continue to provide safe, clean, reliable water deliveries to our desert city even in worst-case scenarios and for generations to come.

The CHAIRMAN. Thank you, Ms. Sorensen.
Ms. Ortega, welcome.

STATEMENT OF CINDY ORTEGA, SENIOR VICE PRESIDENT AND CHIEF SUSTAINABILITY OFFICER, MGM RESORTS INTERNATIONAL

Ms. ORTEGA. Thank you.
Chairman Murkowski, Ranking Member Cantwell and members of the Committee, thank you for the opportunity to testify on the critical subject of the 2018 Western Water Supply Outlook.
My name is Cindy Ortega, and I'm the Senior Vice President and Chief Sustainability Officer for MGM Resorts International.
I would ask that my full statement be made part of the record. Thank you.
MGM Resorts is a global entertainment company headquartered in the middle of the Mojave Desert, Las Vegas, Nevada. MGM owns and operates 28 destination properties across the United States and internationally. Our company is recognized in Las Vegas, across the globe and right here in the DC metropolitan area for offering best-in-class hotels and resorts, casinos, state-of-the-art meetings and conferences, incredible live entertainment spaces and an extensive array of restaurant, nightlife and retail offerings.
This year we celebrate the 90th anniversary of the law that gave rise to the Hoover Dam and subsequently Lake Mead, the largest reservoir in our country. These actions provided some of the critical ingredients necessary for Las Vegas to grow, focused national attention on Nevada, and was our first major tourist resort.
Many things have changed in Las Vegas over the last 90 years, but one thing that has remained the same, has always remained the same, is that Lake Mead provides nearly 90 percent of Las Vegas water and our drinking water. Lake Mead benefits Arizona and California, since they store water in it as well, but it's Las Vegas' and Southern Nevada's water supply.
Nevada has benefited from a long history of bipartisan leadership and cooperation amongst its Congressional delegation to protect, manage and conserve on water issues throughout the Silver State, and we are grateful that Senator Heller and the Ranking Member Senator Cortez Masto are continuing in this tradition. Thank you.
Given our strong reliance on this reservoir and our shared stake in its future, we have taken note of the impacts that the prolonged drought has had on Lake Mead. The 15 years of Western drought has dropped Lake Mead to some of its lowest levels since the Great Depression.
Nevada is proud that despite the fact that Southern Nevada is only entitled to two percent of the Colorado River's water, we use that water over and over again. Las Vegas returns nearly every gallon of water that is used indoors to Lake Mead so it can be used again.
Simply put, the growth of Las Vegas in combination with this persistent drought has forced Las Vegas to innovate and make major investments in water infrastructure and to value water in our business decisions like never before, and MGM is at the forefront of this innovation.

MGM Resorts has recognized the growing need for action. As a company, we are always exploring new solutions to help conserve our natural resources. Our commitment to being a global leader in sustainability and stewardship of the environment is embodied from the top of the company through the bottom. All told, the company's environmentally responsible practices have saved greater than 1.2 billion gallons of water.

The iconic Bellagio Lake uses no water from Lake Mead. Rather, it is supplied by and replenished from underground wells that are on the site. This results in the conservation of domestic, potable water equivalent to the annual usage of 5,000 residential pools.

When MGM built City Center from the ground up, we built in a range of state-of-the-art water and energy efficiency measures into the entire campus. The results have been exceptional and have enabled the entire development to save more than 50 million gallons of water every year. I welcome any of the members of the Committee to come to City Center, and we'll give you a back of the house tour if you'd like.

Even with all the strong programs and business leadership to conserve and reuse water, investments in longer-term solutions as well as well water infrastructure are needed. MGM and our competitors on the Las Vegas Strip are part of a larger ecosystem of parties who have a real and substantive interest in the health of the Colorado River and Lake Mead.

In order to prepare our communities and businesses for the future, states must collaborate in preparing and implementing long-term solutions for adequate water sources. We need to collaborate, we need collaboration that crosses state lines and local lines and welcomes business innovation but, most importantly, enlists everyone in the battle to preserve our water resources.

Today's hearing is a positive step toward that effort and hopefully the future attention on these issues will keep us focused in a way that will produce positive results.

Thank you again for the opportunity to testify and I look forward to your questions.

[The prepared statement of Ms. Ortega follows:]

TESTIMONY OF

CINDY ORTEGA
SENIOR VICE PRESIDENT AND CHIEF SUSTAINABILITY OFFICER
MGM RESORTS INTERNATIONAL

BEFORE THE
ENERGY AND NATURAL RESOURCES COMMITTEE
UNITED STATES SENATE

FULL COMMITTEE HEARING TO EXAMINE
THE 2018 WESTERN WATER SUPPLY OUTLOOK AND BILLS RELATED TO
WATER INFRASTRUCTURE AND DROUGHT RESILIENCY

MARCH 22, 2018

Chairwoman Murkowski, Ranking Member Cantwell, and Members of the Committee, thank you for the opportunity to testify on the critical subject of the 2018 Western Water Supply Outlook. I am Cindy Ortega, Senior Vice President and Chief Sustainability Officer for MGM Resorts International.

MGM Resorts International (MGM) is a global entertainment company headquartered in the middle of the Mojave Desert, Las Vegas, Nevada. MGM owns and operates twenty-seven destination properties across the United States and internationally. Our company is recognized in Las Vegas, across the globe, and right here in the D.C. metropolitan area with our National Harbor property for offering best-in-class hotels and casinos, state-of-the-art meetings and conference spaces, incredible live entertainment experiences, and an extensive array of restaurant, nightlife and retail offerings.

Today is a bit of a homecoming for MGM Resorts International. The Las Vegas our employees call home would not exist without the foresight by one of the predecessors of this Committee: the Irrigation and Reclamation Committee. In 1928, that Committee and the 70th Congress passed the Boulder Canyon Project Act.

This year we celebrate the 90th anniversary of the law that gave rise to Hoover Dam and subsequently Lake Mead, the largest reservoir in the country. These actions provided some of the critical ingredients necessary for Las Vegas to grow, focused national attention on Nevada, and it was our first major tourist attraction.

I doubt your predecessors on the Irrigation and Reclamation Committee would have predicted that Hoover Dam and Lake Mead would have helped create the Las Vegas we call home. But today, Las Vegas is the world's preeminent entertainment destination with more than 42 million annual visitors. So, on behalf of MGM Resorts International, let me extend a very heartfelt thank you.

Many things have changed in Las Vegas since concrete was poured in Boulder Canyon for Hoover Dam. We have gone from Elvis and Frank Sinatra to Bruno Mars and Cirque du Soleil. In 1950, the population of Las Vegas was 25,000 and the population of Clark County was 48,000. Today, MGM alone employs more than 50,000 people in Las Vegas and Clark County's population is 2.1 million.

Despite all the changes, one thing has remained the same. Las Vegas relies almost completely—approximately 90 percent—on Lake Mead for our water. Lake Mead benefits California and Arizona since they store water in it as well—but it is Southern Nevada's water supply.

Given our strong reliance on this reservoir and our shared stake in its future, we have taken note of the impacts the prolonged drought has had on Lake Mead. The fifteen years of Western drought has dropped Lake Mead to some of its lowest levels since the Great Depression. The Lake has not been full in three decades. The heart-rending visual of the bathtub rings that now encircle Lake Mead continually remind us of the inextricable tie between Mother Nature and our communities.

The hydrologic numbers on the greater Colorado River system are equally evident. From 2000 to 2016, the Department of Interior reports the Colorado River basin experienced drought conditions that resulted in the lowest period of inflows in over a century of record keeping. The Department of Interior also reports that as a result of the drought and declining reservoir levels, Lake Mead reached its lowest elevation in July 2016 since it began to be filled in the 1930s.

One of the core values of MGM Resorts International is that we take a strong, proactive role building and sustaining the communities in which we work and live. Everyone in the desert southwest relies on the Colorado River and we are all responsible for supporting the health of the Colorado River, Lake Mead, and the life-sustaining water they hold.

To ensure that future generations have precious water, we must all work together. We will need more partnerships. Through work with state and local partners like the Southern Nevada Water Authority we have been able to forge a path forward. Nevada and Las Vegas have led the way on water recycling, storage, efficiency, and managing water to maximize its usefulness.

Nevada is proud that despite the fact that southern Nevada is only entitled to two percent of the Colorado River's water, we use that water over and over. Las Vegas returns nearly every gallon of water used indoors back to Lake Mead so it can be used again. Simply put, the growth of Las Vegas, in combination with this persistent drought, has forced Las Vegas to innovate, to make major investments in water infrastructure, and to value water in our business decisions like never before.

We are proud of our record because Nevada has been able to work through the current drought and the prospect of water shortages, but if we fail to reverse current trends, or fail to work together, we might not be so lucky in the future. In order to prepare our communities for the future, we need a coordinated response to the ongoing drought and a long-term plan for ensuring we have adequate water sources.

We know business is part of that equation. States and local water managers must take the lead on supplying water to homes and businesses. The federal government should play a supporting role by investing and maintaining infrastructure, helping to plan for improved water security, and by promoting conservation.

To prepare our communities for the future, states and businesses must collaborate in preparing and implementing long-term solutions for adequate water sources because the burdens and challenges are mounting. MGM Resorts has recognized the growing need for action. We are determined to lead by example. As a company, we are always exploring new solutions to help conserve our natural resources. Our commitment to being a global leader in sustainability and stewardship of the environment is embodied from top to bottom throughout our company. All told, the company's environmentally responsible practices have saved approximately 1.2 billion gallons of water.

Across all MGM Resorts properties we have implemented sustainable practices that include linen reuse programs, water conservation while cleaning, low-flow fixtures, food

thawing procedures, and policies such as filling dishwashers to capacity. Those are important measures but they really are the low-hanging fruit in the effort to conserve water.

At MGM Grand Las Vegas, 100 percent of the property exterior irrigation and 60 percent of property cooling tower water needs are provided by well water sources. Just south of the MGM Grand, at the Mandalay Bay Shark Reef Aquarium, 90 percent of the Shark Reef water is reused and recycled, resulting in over 2.1 million gallons of reclaimed water annually.

The iconic Lake Bellagio uses no water from Lake Mead. Rather it and all Bellagio property irrigation are replenished from underground wells that are on site. This results in the conservation of domestic, potable water equivalent to the annual usage of 5,000 average residential pools.

When MGM built City Center, from the ground up we built in a range of state of the art water and energy efficiency measures into City Center's entire campus. The results have been exceptional and have enabled the entire development to save more than 50 million gallons of water each year. I welcome the Members of this Committee to visit and see firsthand the good work we have done in this area at City Center.

In April 2016, MGM opened The Park, an immersive outdoor dining and entertainment experience connecting New York-New York, Monte Carlo and the new T-Mobile Arena. The new destination reflects MGM's all-encompassing commitment to environmental sustainability from design and construction through to ongoing operations.

We envisioned The Park as a microcosm of the beautiful Mojave Desert which surrounds Las Vegas. We brought sustainability to life in the heart of the Las Vegas Strip. The Park features Mojave Desert vegetation including agave and yucca, and tree species such as Palo Verde, Acacias and Mesquites. All of these species are drought tolerant and can thrive in the desert.

We added point-source drippers that conserve 72 percent more water than traditional sprinklers and anemometers which monitor wind speeds and regulate the flow of fountains so when the wind picks up, the water features can be shut down. These features and the water savings technologies across that campus will save millions of gallons of water each year.

These investments in water efficiency have obviously not come without some extra expenditures on the part of MGM, but what we have experienced is that they have actually attracted more businesses to our properties. Our investments are paying dividends as like-minded people who share a commitment to building and sustaining the communities in which we work and live choose to do business with us.

Beyond our investments, MGM Resorts International seeks to inspire our employees, and the rest of the Las Vegas community, to use less water when they are at work and at home. Part of that effort includes the use of MY Green Advantage, an online, social application that challenges and encourages our employees to make smarter choices with environmental responsibility in mind.

This is important because no matter how many gallons of savings they can achieve at work—they can make a greater impact at their homes and with their families since residential water use comprises 59 percent of Southern Nevada's consumption, with resorts consuming seven percent.

We have been inspired by their results. In 2018, our employees have completed over five million green actions. Collectively, our employees have saved over 298 million gallons of water (enough to fill 453 Olympic swimming pools) since the program launched in 2013.

Even with all the strong local programs and business leadership to conserve and reuse water, investments in longer-term solutions as well as water infrastructure are needed. MGM and our competitors on the Las Vegas Strip are only part of a larger ecosystem of parties who have a real and substantive interest in the health of the Colorado River and Lake Mead.

In order to prepare our communities and businesses for the future, states must collaborate in preparing and implementing long-term solutions for adequate water sources. We need collaboration that crosses state and local lines, welcomes business innovation, and enlists everyone in the battle to preserve our water resources.

The Federal government has a critical role in this effort—and that role should include work with states and businesses on solutions that will make our limited precious water supplies sustainable and to make investments in the infrastructure and water security programs needed to supply it to our homes and businesses.

If we do not act, the water level in Lake Mead is going to become an increasingly important factor in the business decisions not only in Nevada, but all across the West. And just as we have tried to incorporate a holistic approach to water issues, we hope Congress and federal agencies will look for a holistic approach as well.

We encourage the Federal government to support initiatives that help keep more water in the Colorado River Basin as well as collaborative work with states, with matching funds, and technical assistance. That would help not only Nevada, but everyone throughout the entire Colorado River Basin.

We hope Congress and federal agencies will support efforts that improve water security and the related infrastructure needed to deliver it to homes and businesses. Take the new intake pipe which the Southern Nevada Water Authority finished constructing in 2015. It is an engineering marvel that emerges from underneath Lake Mead to access the water, rather than at an angle like the previous intake pipes, and works similar to a bathtub drain. It is important because if Lake Mead's elevation keeps falling, the new intake will ensure Nevada will still have access to its water supply. That's progress and water security.

Benjamin Franklin once said "When the well's dry, we know the worth of water." We are all here fighting to keep that well from going dry.

Today's hearing is a positive step in that effort and hopefully future attention on this issue will keep us focused in a way that will produce positive results.

Thank you again for the opportunity to testify and I look forward to your questions.

The CHAIRMAN. Thank you very much, Ms. Ortega, and thank each of you for being here this morning and for your very important testimony.

Mr. O'Toole, I want to start with you, but others are certainly welcome to respond as well.

When we talk about the significance and the importance of just the infrastructure of storage, clearly important to the management aspect across the country, particularly in the West. And yet, the reality that we deal with is this opposition that we see to surface storage, regardless of the size and the specifics. You said, I think your words were, that we lost the commitment to infrastructure in California and, I think, in other parts of the country as well.

We all recognize that infrastructure has got to be key here. We all recognize the need and yet we have, I think, some views, some perspectives that perhaps are old or outdated, certainly a negative view of reservoir projects.

In my state, we do not have the big reservoirs, the Hoover Dam. They are much, much smaller scale and we have been able to work relatively cooperatively with some communities that have a very keen focus on the environmental aspects. Sitka is a beautiful example of a community that came together and said, for purposes of our little island community, we have to have this capacity, and they worked together.

But we are dealing with a difficult mindset. How do we change it? Are you seeing things improve for the better or for the worse? And if they are not changing for the better, what do we do because there is a recognition that we have to address this?

Mr. O'TOOLE. Thank you, Madam Chairman.

It's something I do know a lot about. And I mentioned I was on a federal water commission in the mid–'90s, and it was Senator Hatfield's bill to look 20 years into the future. Well, we are now 20 years into the future. I'll give you one example.

Our valley is half Colorado and half Wyoming, the river crosses the state line 12 times. And so, on one level we've learned how to work together in the two states. But Governor Hickenlooper of Colorado put together roundtables all over the State of Colorado to try to deal with their long-term discussions.

In the Yampa/White, they did a—the consultants did a study and every single watershed is going to need storage. And this was the consultant's report. When I did the commission in the '90s, the word was we'll never build another storage reservoir. That just isn't true and what, you know, my lifestyle is to form partnerships and coalitions. I work with Ms. Ziemer, Audubon, Environmental Defense Fund, many other groups, and we all realize that working together on a watershed where you're working together to do multiple things. Our ranch is an important bird area with Audubon. We've done a project on our river to integrate our fishery and our irrigation, but without storage we're never going to be able to fulfill what we know is going to be the need.

We had two summer rain events in December and January at 7,000 feet in Wyoming. That water needs to be stored for the long-term. In my own view, I'm looking at two weeks early and two weeks late in terms of our capability for irrigation of water and without storage, we're not going to get there.

So, you ask, what could we do? This bill is one thing, the infrastructure dollar bill. In Wyoming, we had some far-reaching thought in the mid–'80s; put oil, gas, coal, uranium into a water fund along with permanent mineral trust fund, wildlife fund and an education fund so that we can begin to fund, to be able to take dollars, federal dollars, to help match what's called the private-public partnership. I'm sure you're aware of that discussion. That's the future.

So you've got to stimulate. You've got to let people know that permitting is not going to be an impediment. It's going to be facilitated so that when a watershed gets together with many partners, you're going to be able to do a project because the Federal Government says it's a priority.

The CHAIRMAN. Well, and I appreciate all that you have said in terms of the collaboration, the awareness, the education, the funding, but I think we just have a problem in this country with this, call it the Nimby attitude—I want to have the benefits of this, but I don't want to know that you are doing this. I don't want to know that you are building this, whether it is a reservoir, the storage capacity or whether it is pipelines that we use to move an energy resource so that we can get natural gas to the Northeast. It seems to me that we have some attitudes that we need to change.

I appreciate your efforts—and it sounds like everybody on the panel here does—in really trying to build these collaboratives that will help us change it, but we can talk about doing it legislatively. We also need to recognize that we have to be on the ground educating Americans regardless of where you are, whether you are in a drought-prone area or not so much, that these are shared benefits and that, ultimately, somebody is the host to this whether—in Louisiana they are host to offshore development. They bear the burden of that development offshore. How you share it, I think, it is no different than water because water is absolutely key to everything that we do.

Senator Cantwell.

Senator CANTWELL. Thank you, Madam Chair.

Ms. Ziemer, it's Ziemer, right? You talked about some of the solutions in watershed management. Could you expound on what you think some of those key tools are from the management, water management, strategy?

Ms. ZIEMER. Yes. Yes, thank you.

My vision for what that looks like is based on my 20 years of experience of living and working in the Rocky Mountain West and working on water issues. Those tools of water management I describe, in my experience in those 20 years in the Rocky Mountain West, the best tools come from the people living and working in a particular basin because every river basin is different and every river basin is unique. And so the best solution is the solution coming from the people who live and work and are tied to that water resource in that basin.

That said, there's a couple of commonalities across the individual needs of each basin.

The best solutions, I have found, come from both a multi-stakeholder process, as Mr. O'Toole has described, where projects and approaches are looking across all three sectors benefiting agri-

culture, making sure our working landscapes stay intact, benefiting thriving communities and, of course, trying to both sustain and restore abundant fish and wildlife. And what that requires is a portfolio of projects and a diverse group of strategies in addition to storage, and the storage may be new or re-operated or expanded, but the best storage, the fastest storage, the cheapest storage is storage embedded in this diverse portfolio of strategies. So a combination of built infrastructure and natural infrastructure can work together to secure water supply.

Senator CANTWELL. Isn't it in some of these projects that are collaborative, basically you are doing that, but you are taking the low-hanging fruit right away while you are looking at the larger questions as you go? Right? As opposed to——

Ms. ZIEMER. Yes, Senator.

Senator CANTWELL. As opposed to hiring lawyers and arguing for another 18 to 20 years?

Ms. ZIEMER. Right. Of course, the Yakima is a flagship example of that where the new storage and revised storage is embedded in the plan and then the plan is implemented where some of that low-hanging fruit that is cheaper and can be implemented first is done to help prepare the way for the effectiveness of new storage so that expensive investment in new storage really pays dividends in terms of meeting diverse water needs.

Senator CANTWELL. Where are you on aquifer recharging?

Ms. ZIEMER. An aquifer recharge is a key component because the cheapest way to store water is in the ground. And try unlimited supports to aquifer recharge provisions in the proposed bill so long as we do that in a way that also doesn't harm another cheap-acting natural piece of infrastructure, which is peak flows because peak flows work really cheaply but they're incredibly important for not only moving water across the landscape in providing aquifer recharge across a diverse area, but also maintaining river health.

In the Yuba Basin, which I talked about, before the Accord the South Yuba Basin was depleted and there was no sustainable groundwater pumping. The Accord helped manage aquifer recharge, to recharge that depleted South Yuba Basin, and now sustainable levels of groundwater pumping are one of the key pieces to make that million acre-feet of storage go a long ways in times of extreme drought. So aquifer recharge is a key piece of a long-term, basin-wide strategy, especially to weather the extreme drought events.

Senator CANTWELL. Well, what I like about this, from just a flat world perspective, is I like to empower people to help themselves. And the notion, you know, I get it, you know, the '60s, the strategy for water was a little different—but that was a long time ago.

And now, we really want to empower communities. I look at Dr. Petty and think, well, it is costing us about $1 trillion over the next 20 years in the expense of climate impact, instead of everybody coming back here and knocking on his door and waiting 7 to 10 years for an answer. What can we empower these communities with, the tools right now, to help themselves while we are answering the larger questions?

I, personally, like that because it is more water, cubic water flow for our regions. So whether that is for fish or for farming or for whatever the other activities are, to me, that is just very prudent.

So I just hope that we'll continue that—a strategy that pushes the best resources out to the communities as quick as possible if they are, in fact, being collaborative. Now, if they are arguing and somebody is trying to legislate a winner over—that is never going to get us there.

I hope that we can turn this on its ear and see that our water management strategy really does have to be about empowering communities, as you just said, to do the right things and giving them the tools to do that as quickly as possible.

Thank you.

The CHAIRMAN. Senator Gardner.

Senator GARDNER. Thank you, Madam Chair. Thank you to all the witnesses for being here.

I think I have said this before in this Committee, that in the Capitol Rotunda in Colorado on a mural there, the first words of the poem in the mural go something like this: "Here is a land where history is written in water." And so, certainly, very important to the State of Colorado.

Secretary Petty, you have talked a little bit about the challenges the basin faces. We have talked about my program there, my legislation on the Upper Colorado Endangered Fish Recovery Program Extension Act. I just wanted to get, briefly though, your further thoughts on the hydrology conditions in the Colorado River Basin overall because it is devastating at this point.

Dr. PETTY. It is, Senator.

I appreciate that question. I know you've had lengthy interactions even with the Secretary, with Secretary Zinke, on a lot of the concerns that you have. But specifically, the best part of what Bureau of Reclamation, and other parts of Interior, really works with you is how we can better understand, not only those communities and those relationships, but even the geology as well as that precipitation. What to do with it, the storage component, those areas are very specific. So I really do want to continue to interact with you and with your staff on those specific areas.

Senator GARDNER. Thanks.

Given this bleak hydrology, and you did outline some of it in your opening comments, can you talk a little bit about the ripple effects of Lake Mead's water supply falling under the level at which it is able to produce electricity?

Dr. PETTY. Yes.

And so, because we've had so many ongoing years of significant lower drought impacts, we're really using those two reservoirs as a balancing to try to facilitate water resources.

We've noticed incredible conservation components which other people here on the panel have really discussed on how we can manage the water that we actually have in there and then balance it between all these seven state impacts.

As those go forth, that is going to be a combination of how then do we go about working on a region-by-region, community-by-community level?

Senator GARDNER. Thanks.

You mentioned in your testimony additional water storage would allow us to catch and store more water in wetter years, like we had in 2017, to allow us to better deal with drier years, like 2018 is shaping up to be.

Dr. PETTY. Yes.

Senator GARDNER. I couldn't agree with you more. We have to be doing that.

In Colorado alone, if you look at the project that is named, known as NISP in Colorado, the Northern Integrated Supply Project, this would have provided opportunities to store some of that 5.5 million acre-feet of water since 2009. That is even more than that today.

You also mentioned the absurd permitting timeline that these projects are subjected to, up to 20 years. In Colorado, it has taken over 10 years just to get an expanded water storage project in place, just to add capacity to an existing reservoir that had Democrat, Republican, bipartisan support, multiple times.

I would like to talk with you further about the difficulties the agencies run into when it comes to water permitting storage projects and how we can do a better job of that. Is it your opinion that authorities provided in the permitting coordination title of the legislation we have today would help speed up the timelines of these water storage projects?

Dr. PETTY. It would, Senator. And I do look forward to working with you on really implementing what's in some of this legislation so that we can speed up those requests. It's opportunity that we are missing.

Senator GARDNER. Thank you.

I just want to point out too, I think it was Ms. Ziemer—is that how you say the last name, Ziemer?—that you talked about conservation.

Look, I think conservation is critically important. I do think that we have to have, sort of, this three-legged stool approach to water. We have to have water storage, we need new water storage and we have to have expanded capacity of existing water storage facilities. Without it, we are not going to have enough water to supply a growing state like Colorado. And we certainly won't be able to prevent the buy up and dry up of our most abundant and profitable and best farmlands in places like Colorado or Wyoming.

We also need critical conservation. We should do that. Northern Colorado Water Conservancy District, which is working on the NISP program, they have had a 22 percent reduction in water use throughout the NISP participants through the conservation efforts that they have undertaken.

We also have to have partnerships between the state and the federal and local governments to build critical partnerships to help address the permitting processes, the funding issues and how we can do this.

But I would like to drill into a little bit deeper about something you said. I want to thank you, first of all, for the work Trout Unlimited has done with us on Good Samaritan legislation. I hope that we can actually get a Good Samaritan bill through and start cleaning up some of these abandoned mine sites and get it across the finish line.

Regarding the Water Rights Protection Act that is under consideration today, does Trout Unlimited, to you, does it distinguish between forced transfer of title and ownership of water rights to the Federal Government through permitting fiat and the conditioning of permits with bypass flow conditions?

Ms. ZIEMER. Yes, Senator Gardner, absolutely.

The former, the forced transfer of water rights, is clearly out of bounds and contrary to state governance of Western water rights.

But there's a long-held federal authority to look at water projects or would work at permits on federal lands, bypass flow authority and supporting agencies to exercise that authority in a way that is constructive and helps meet all needs, Fish and Wildlife, agriculture in thriving communities on water projects. That's a tool that needs to stay in the tool box.

Senator GARDNER. What about between bypass flow conditions imposed on new permits for new projects versus bypass conditions imposed on permit renewals or limits for existing infrastructure where those conditions never existed before?

Ms. ZIEMER. Right.

And that has, that latter context has been more controversial, certainly. Trout Unlimited has been part of finding solutions in those contexts to support the Fish and Wildlife concerns, sometimes by both changing the bypass flow conditions or meeting those flow conditions through this kind of strategy approach of diverse projects and diverse strategies coming to bear.

But even on renewal projects the concern that the bypass flow authority is addressing is important to be addressed and, I think, having a diverse way to meet that concern is very important.

Senator GARDNER. Yes.

Again, I just want to make a statement. My belief that federal deference to state water law should remain and that the requirement the federal claims the use of that water would be asserted, quantified, adjudicated via the state McCarran Amendment principles.

Ms. ZIEMER. Right.

Senator GARDNER. Thank you.

The CHAIRMAN. Thank you, Senator Gardner.

Senator Hirono.

Senator HIRONO. Thank you, Madam Chair.

Dr. Petty, S. 2563, before us today, expands the eligibility of WaterSMART grants for planning, design and construction of water conservation and efficiency projects to entities in Alaska. I can certainly understand Alaska's interest in being eligible for these grants as we in Hawaii have been interested in expanding eligibility to entities in our state as well. I, along with my colleagues in both the House and Senate, have been working to do so over the course of the past four years.

Do you see value in expanding eligibility for WaterSMART grants to both Alaska and Hawaii? And if the program were to expand to our states, what additional resources or authorization would the Department need to ensure that the program could function at its current capacity?

Because I am not interested in making it harder for the states that are already, and the territories already eligible, taking from

them. We need to expand the pot, more of the pot. So let me hear your thoughts.

Dr. PETTY. Yes, Senator, it's a great question.

First of all, with regards to the language that has been put forth, we look forward to, obviously, working and expanding what WaterSMART has to offer.

What we have learned from already, WaterSMART is the effectiveness. And even if we can contribute even a small portion, it gives incredible amount of increase for those communities to be creative, but to also have resources that even the Department or even the Bureau of Reclamation can provide to that local community.

So, right off the bat, I think the best part of WaterSMART is really being able to demonstrate that it is very effective.

Senator HIRONO. I think this would be really terrific for a state like Hawaii then, because it is seven inhabited islands, each with their own water systems and within their locality.

So a bit of support could go a very long way toward the kind of creative solutions and approaches you are talking about. So you would be supportive?

Dr. PETTY. Yes. Yes, Senator.

Senator HIRONO. Okay.

Another question for you, Dr. Petty.

There are so many competing interests for our country's fresh water supply whether it is residential homes, agriculture, fish, businesses, you name it. They all rely on water and this is certainly not going to change in the future.

And one of our country's bedrock environmental laws, NEPA, requires federal agencies to undergo a process when performing large projects that include public input and evaluation of alternative actions. This helps to ensure that the public voice is heard and that the environmental impacts of the project are minimized.

How important is it for the Department to consider public input and project alternatives when dealing with such a sensitive and important resource as water?

Dr. PETTY. Senator, another really important question.

The Department, overall, puts a high priority on the NEPA process, the EIS, making sure that those communities are heard about the pros and cons that are being put forth by those communities. That's why the Secretary has put a high priority to really interact and engage the state and those local communities as one of our high priorities.

On another component though, the complexity of how long it takes to get through those is what we're really working to address now, is how can we effectively streamline it? There are so many bureaus that are connected and/or even agencies that are connected and each one has to have a say. And what happens is it just gets drawn out at an extensive rate? So, our goal——

Senator HIRONO. Yes, I am all for streamlining the process so that things and decision-making, that does not have to happen consecutively can happen on a parallel course.

Dr. PETTY. Yeah, thank you.

Senator HIRONO. So my question really has to do with making sure that the public voice is in there——

Dr. PETTY. Yes.

Senator HIRONO. ——before a project is even off the ground and that kind of relationship building is important.

I have a question, again for you, Dr. Petty.

During your confirmation hearing I asked you about climate change and you acknowledged that it is happening, which I appreciate. Climate change is threatening Hawaii's future freshwater security through sea level rise because we have the water table, increasing temperatures, increased strata, et cetera, and being in the middle of the Pacific when our freshwater supply runs out we are literally left high and dry.

Within the Department of the Interior, there are programs that provide funding for partnerships with universities and other non-federal groups to coordinate and conduct research on water-related programs or problems all across the nation, including Hawaii. Do you see value in these partnerships and leveraging resources to help states plan for an uncertain water future?

Dr. PETTY. Yes, absolutely, Senator.

Those are where we're back again to communities on the ground and that those relationships are really important so that those cooperative understandings and agreements can be worked through with what is needed in those local communities. And so many times those universities and those local, non-profit groups really work well together for that community.

Senator HIRONO. Are these partnerships in existence in Hawaii and could you provide me with a list of those which you consider are really working effectively?

Dr. PETTY. Yeah, I certainly will, Senator.

If you don't mind I'd like to just make sure that we get all those answers back to you?

Senator HIRONO. Yes.

Dr. PETTY. So we'll just get that back into the record.

Senator HIRONO. Yes, thank you.

Thank you very much, Madam Chair.

Dr. PETTY. Thank you, Senator.

The CHAIRMAN. Thank you, Senator Hirono.

Senator Hoeven.

Senator HOEVEN. Thank you, Chairman.

Dr. Petty, as you are aware, the Reclamation Title Transfer Act of 2018 would authorize the Secretary of the Interior to convey all right, title and interest in any facility that is determined to be eligible.

As you mentioned in your testimony, currently the Bureau of Reclamation requires the title to Reclamation projects, land and facilities remain with the U.S. until title transfer is specifically authorized by Congress.

The question is, how would this legislation address or change the current process which can be very time-consuming and costly? I am asking this because I have a number of specific conveyances I am trying to make with the help of your agency and others right now. One is the land around Jamestown Reservoir to homeowners there, and the other is land around Patterson Lake to the residents there. Both above the high-water mark, very nice homes, very nice setting and it is not only private homes, but you also have public land and other recreation facilities in the area where a conveyance is some-

thing that would be very nice. Jamestown probably has 15–20,000 people and Dickinson maybe 30,000. These are small communities, very nice communities, but these are tremendous facilities that can be utilized very well if we make conveyances. We are having to do a lot of work to get it done, passed. In fact, it takes an Act of Congress. You have heard that term?

Dr. PETTY. Yeah.

Senator HOEVEN. I am sure there are other examples around the country where we can do some real good for some of our wonderful citizens. I want your ideas on how we can improve this whole process.

Dr. PETTY. Sure, Senator.

You know, two, really, actually multiple great questions within that.

So what I'd like to start out with, obviously, the title transfer component. Bureau of Reclamation has been working very closely with this Committee as well as multiple members, even when I was a staff member with Senator Risch, we had multiple irrigation communities who were very interested in the title transfer component.

Senator HOEVEN. You were staff for Risch?

Dr. PETTY. Yes, I was.

Senator HOEVEN. So you really like this bill, don't you?

Dr. PETTY. Yes, I do.

[Laughter.]

It has been through multiple reiterations though. We worked very closely with both sides of the aisle on making sure how we can really utilize this title transfer. The communities, the irrigation communities, as well as the communities in those small, medium and large areas of the states have seen the importance, and the Bureau of Reclamation cannot do all things.

As a consequence, there's a lot of things that are small that we can't get time to do. What the title transfer allows us to do is to be, literally, more effective in allowing those communities to take on those responsibilities when all community areas are in agreement that it would be the most effective use of both the federal community as well as the state and local community. I wanted to address that right off the bat.

The second part that I wanted to address with you is regards to your land process. And I know, actually, another individual, Scott Cameron, was up here testifying as well on those. The position that we have is we really want to be able to work with you. We're a neutral position. We think if it's collectively within the communities to move that forward, we look forward to just being able to work with you to try to get that as successful as possible for those communities and your constituents.

Senator HOEVEN. Well, it sounds to me like you are doing a very good job in your position, Secretary.

Dr. PETTY. Well, thank you.

Senator HOEVEN. I am pleased to hear that.

But seriously, teasing a little there, but I really do appreciate the response on this. I think that is what people are looking for when we work with the agencies, and I want to thank you for that.

Dr. PETTY. That's our goal, Senator.

Senator HOEVEN. And it is a win for the Federal Government because of the incredible amount of co-investment that comes from the state and the local level. Once they know this is going to be a permanent situation, they are willing to come in and make major league investments that, and again, with the public recreational areas there, it is a real win for all concerned. So thank you.

Dr. PETTY. Looking forward to working with you.

Senator HOEVEN. Okay, whose map is this?

Dr. PETTY. Yeah, Senator Cantwell wanted to bring that up with drought. The one that I actually provided was the one with just, kind of, giving an overview of water in the West.

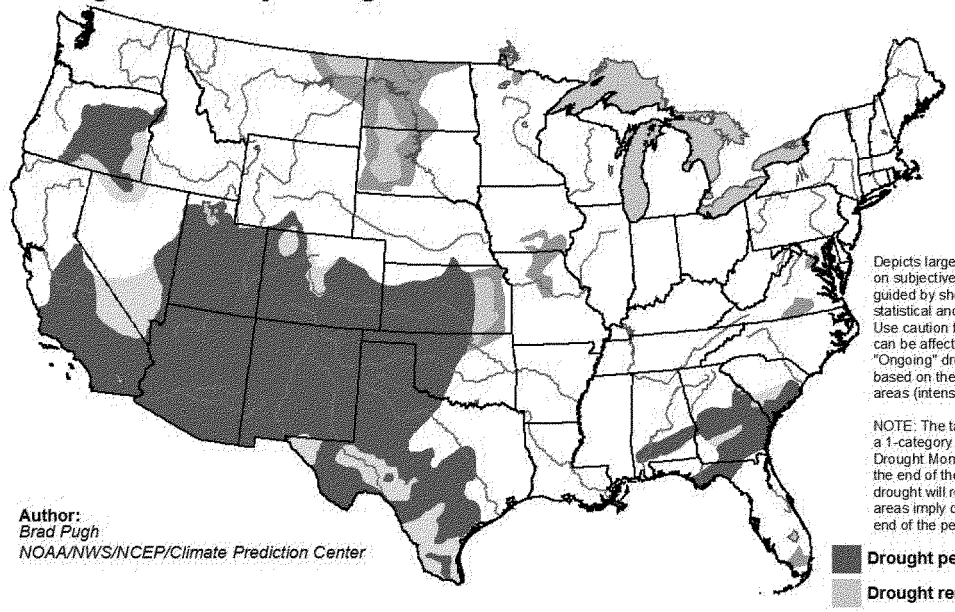
Senator HOEVEN. Who wants to tell me, how likely is it that this area up here in Montana and the Dakotas, it looks like it is coming out—I just want somebody to comment on, kind of, what you see. Is that continuing to trend the right direction?

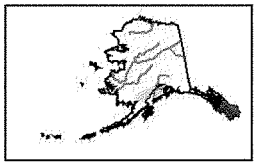
[The information referred to follows:]

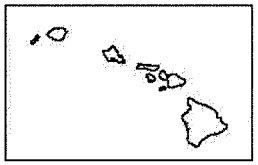
U.S. Seasonal Drought Outlook

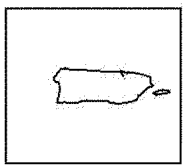
Drought Tendency During the Valid Period

Valid for March 15 - June 30, 2018
Released March 15, 2018









Depicts large-scale trends based on subjectively derived probabilities guided by short- and long-range statistical and dynamical forecasts. Use caution for applications that can be affected by short lived events. "Ongoing" drought areas are based on the U.S. Drought Monitor areas (intensities of D1 to D4).

NOTE: The tan areas imply at least a 1-category improvement in the Drought Monitor intensity levels by the end of the period, although drought will remain. The green areas imply drought removal by the end of the period (D0 or none).

- **Drought persists**
- **Drought remains but improves**
- **Drought removal likely**
- **Drought development likely**

Author:
Brad Pugh
NOAA/NWS/NCEP/Climate Prediction Center

http://go.usa.gov/3eZ73

We have been getting moisture lately. We are hoping to come out, most of our states come out, but the Western part we are concerned about. I just wondered if any of you had any thoughts in that regard. I would like to hear them.

Ms. ZIEMER. Senator Hoeven, I'm from Montana and the Eastern part of Montana, as you see on the map of the Dakotas, that's where it's been drier.

Senator HOEVEN. Right.

Ms. ZIEMER. And the forecast is for that to continue and so that means that we're really going to be dependent on the spring precipitation cycle and temperatures in the summer as to whether that drought persists. Right now, it's looking like those, that spring precipitation is going to hold up well. So it's really key what happens in April and May.

Senator HOEVEN. Yes, it is right now.

Looks like you all are doing pretty well. You have really moved a long way, haven't you?

Ms. ZIEMER. The skiing has been great this winter, sir.

Senator HOEVEN. Yes, and it is actually a little bit more now in South Dakota. But right now, it seems like the trend, knock on wood, is moving the right way and your sense is we are still making some progress?

Ms. ZIEMER. Yes.

Senator HOEVEN. Okay, good.

Thanks so much, I appreciate it.

The CHAIRMAN. Thank you, Senator Hoeven.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you.

Welcome to all of the panel members.

Let me start with Ms. Ortega. I so appreciate that you are here.

From an industry perspective, can you describe what water conservation, water vitality, in Nevada means for your business?

Ms. ORTEGA. Thank you, Senator.

You know, MGM, as you know and is your home, as you know, Senator, of the Mojave Desert, and so, our very way of being depends on the ecosystem and the resources around Las Vegas and around our community.

Water is, sort of, the center of everything. It's really interesting, as you know, in Nevada that we have such a strong water culture there. I'm always surprised, but we actually, sort of, because we don't have seasons we, sort of, keep our calendar by the watering cycle that all of us adhere to and are so used to for years and decades in Las Vegas, right? Everybody knows how you water externally.

From a business perspective, it's an interesting view because, as I said in my testimony, the water that is used by the guests and customers in Nevada really is mostly used in the resorts there. We have a system in Nevada that we're very proud of that actually reuses that water over and over. Whether you are at a restaurant or taking a shower at a Las Vegas resort, one way or the other, that water ends up in a drain and ends up back in Lake Mead, probably in about a day and a half. We're very proud of that, but nonetheless, we still think that it's very important for a company like MGM, who is the largest taxpayer and largest employer in the

State of Nevada, to take positions and act proactively in our policy arenas.

Senator CORTEZ MASTO. Right.

Can you just put it in perspective? How many rooms does your property have in Southern Nevada?

Ms. ORTEGA. Well, around 50,000 and we also have 57,000 employees in Southern Nevada.

Senator CORTEZ MASTO. Right.

One final thing because I am going to run out of time here, but is it also true that MGM has attracted more business because of the investments you have made in water efficiency?

Ms. ORTEGA. Certainly.

And certainly, with a wider range of sustainability initiatives, as our largest customers which are other businesses make decisions on whether to have conferences and meetings in our venues, our environmental footprint is one of those criteria they use for that.

Senator CORTEZ MASTO. Thank you.

Ms. ORTEGA. Thank you.

Senator CORTEZ MASTO. Ms. Ziemer, Trout Unlimited has worked in drought-stricken watersheds and has worked with local ranchers and irrigators to produce significant water savings in the past. And one of the programs I know that Trout Unlimited supports is the WaterSMART program.

Can you discuss what improvements you see that could be made to WaterSMART to allow groups like yours to help implement water efficiency and conservation projects and collaboration with farmers and ranchers and how would that work with Senate bill 2563?

Mr. ZIEMER. Yes, thank you.

That's such a good question because a lot of the discussion today has been that the best projects are those projects that are cost-effective by meeting multiple benefits at the same time.

Trout Unlimited has long been a champion of the WaterSMART program because it helps investments in irrigation infrastructure and often those investments have come from collaboration across conservation groups like Trout Unlimited and irrigation districts. And that allows projects that both increase the reliability of irrigation supply while putting water back into de-watered streams and also fixing a lot of fish passage issues.

Many irrigation districts are so strapped with the business of managing their own district and water supply that they don't have the capacity to invest in project design and, quite frankly, and no offense to the federal funding process, but the intricacies of applying for federal funding and tracking those funds. If conservation organizations like Trout Unlimited that have a long track record of working collaboratively with irrigators and irrigation districts can absorb some of that because we've been through the process before and we have some of that expertise, we feel like we can bring that expertise to bear and make those federal dollars go further.

Senator CORTEZ MASTO. Right.

I hear that—that seems to be consistent with your comments today: That idea of involving stakeholders in this process——

Ms. ZIEMER. Right.

Senator CORTEZ MASTO. ——at all levels because it can streamline the NEPA process, make it, hopefully, more efficient, but at the same time it is that collaboration, at the state, local and federal levels, where we are looking to best practices and everybody involved may have some background or experience that can add to the best practice.

That is what I am hearing today from you, is that right?

Ms. ZIEMER. Absolutely.

And Senator Cortez Masto, you raise a really good point that on our WaterSMART projects that also have to go through NEPA process and often are really big, complex infrastructure projects. Those have all really sailed through the NEPA process, partly because of that advanced stakeholder input and that the projects are already considering a diverse array of impacts and are designed to benefit fish and wildlife and agriculture at the same time. And then, low and behold, they sail through NEPA.

Senator CORTEZ MASTO. Great. Thank you.

I know my time is up. Thank you very much, all of you, for coming today.

The CHAIRMAN. Thank you, Senator.

Senator Barrasso.

Senator BARRASSO. Thank you, Madam Chairman. Thank you for holding the hearing today on the Western water supply outlook for the current water year.

As I have said before, water is the lifeblood of everything that we do in Wyoming, from cattle ranching to energy exploration, recreation, whether it is boating on Big Horn Lake, kayaking on Flaming Gorge Reservoir, water is the cornerstone of our economy and livelihood.

It has been mentioned today that the water outlook across the West and along the Colorado River is not looking good. In Wyoming we do have a different story. We have above-average snowpack this winter and are anticipating healthy runoff this spring so it allows us to focus on water management and water storage.

That is why I am so pleased to have with us today Pat O'Toole with the Family Farm Alliance. He is a sheep and cattle rancher with his family in Southern Wyoming along the Little Snake River, and I have known him for many years as a member of the Wyoming legislature. I know this year he was invited to address both the House and the Senate in the Wyoming legislature. He has been a great voice for the agriculture community in Wyoming, a leader in advancing water storage policy. So I am delighted you are here. You may have noticed I had to go out for a few minutes, Pat. I was on a radio station, KUGR, with Al Harris out of Green River and I was quoting you about how you said, "What do we do? We raise cattle, sheep, horses, dogs, and children." Which is what happens in Wyoming. That is what we do.

I just would like to just ask a question, if I could. First, given your experience building water storage projects, what is preventing the development of new storage that would help in high runoff years?

Mr. O'TOOLE. Yes, sir.

You know, in anticipation of this testimony I met with the Cheyenne Board of Public Utilities two weeks ago and talked about

their needs. Certainly, agriculture is looking for increased storage, virtually on every drainage, but so are the cities, and their understanding, I think you mentioned earlier, that on the big runoff years we have to catch more. So we're looking at Rob Roy and Houston Park and expansions of those reservoirs because what we're seeing is this volatility of flows, whether it be in California or in Wyoming.

I think the great thing that Governor Mead did by saying, "Ten in Ten," I mean, it's the message that Senator Murkowski mentioned, you know, we're messaging that it's a good thing. And Mr. Petty will appreciate that Idaho water users called yesterday and they wanted to have somebody from Governor Mead's office come and talk in Idaho because we speak about it openly and we're doing it. The ten reservoirs that are being built are a good example.

I mean, as I said earlier, in Colorado I'm on a watershed group that every single watershed thinks that they have to have storage in the future. So, you know, this to me, this hearing is just critically important because it's finally saying what we have known for years and years is that if we're not looking forward to managing our watersheds and as Ms. Ziemer and others said, it's people coming together. You don't get a project permitted without having a broad cross section of players whether it be the trout guys or the bird guys or the fish. I mean it's all together. Then we come up with a project that should be easily permittable. I think the one we're looking at right now, Senator, could be an EA rather than EIS which would be even a more facilitated process.

Senator BARRASSO. Yes, and you do have a really, strong reputation as being a leader in conservation and environmental programs. People have known you for that. I know, certainly, in the Wyoming legislature days as well as nationally, including habitat preservation efforts.

Can you speak a little bit about the assurance that the current environmental standards will be upheld if the permit process is streamlined?

Mr. O'TOOLE. If I might just expand a little bit.

You know, when we talk about who is against it, why are we not moving forward, not just with storage, but with other issues—I see a real distinction between the conservation groups that are represented here that I work with all the time and the litigators who have a different agenda.

I think what we're talking about, hopefully in this Administration, is that those partnerships that we're forming, for example, I talk about sometimes, the myth of efficiency. We don't want to always be doing sprinklers. We want to do flood irrigation.

There'll be an event the Little Snake River with Senator Hicks, in two weeks, talking about how the balance between conservation practices, flood irrigation, recharge of rivers is all integrated with—and our particular ranch we have a third sprinklers and two-thirds flood because we're trying to do multiple things with the water. I think that's the future, is understanding, you know, just how diverse, if you apply the water both in timing and in volume, you can do multiple things with the resource.

Senator BARRASSO. Thanks. If I was going to go on the radio again, I would quote you just as you just said, "The conservation

groups who work together all the time and the litigators who have a very different agenda."

Thanks so much.

Thanks, Madam Chairman.

The CHAIRMAN. Thank you, Senator Barrasso.

Senator Daines.

Senator DAINES. Thank you, Madam Chairman, and thank you all for being here today.

I want to particularly thank Ms. Ziemer for making the trip. It is always great to have a fellow Montanan in the room as well as somebody who is fighting on behalf of something I care a lot about which are trout. So, welcome.

As Chair of the Senate Western Caucus I know water infrastructure is a critical aspect in need of attention across the West. I am really glad we are addressing these important measures here today.

As you all know, last year Montana experienced an unprecedented drought in many areas resulting in a devastating wildfire season. We had severe drought conditions up in the Northeast part of our state, some of the worst conditions seen in a century. So severe the Rocky Boy Reservation nearly ran out of water completely.

Clean, reliable drinking water is one of the most basic needs of life, and yet much of rural Montana lacks access to suitable drinking water. To that end, I have introduced legislation, the Clean Water for Rural Communities Act, which would authorize two rural water projects in Montana. Authorizing these projects, the Musselshell-Judith Rural Water System and the Dry-Redwater Regional Water Authority System, is a key step to providing clean and safe drinking water to nearly 36,000 Montanans and North Dakotans whose current water does not meet basic, safe drinking water standards.

Dr. Petty, as you mentioned in your testimony, the Bureau of Reclamation was created to assure that Western communities have an adequate water supply. There are many authorized projects awaiting completion and many more that need authorization from Congress.

Dr. Petty, can you commit to working with us to ensure the needs of our rural communities, such as those in Montana, are not overlooked when it comes to providing a clean and reliable water supply?

Dr. PETTY. Yes, Senator, I can.

I've been here in all of your different hearings and I very much still remember the posters that you had demonstrated of that water that was distributing red, much more than clear and the need for that.

I look forward to just being able to work with you and the importance, obviously, of how we can work together in your communities to actually build and store future water so that those impacts are not happening in those communities.

Senator DAINES. Yes, those water samples were literally taken out of taps.

Dr. PETTY. Yeah.

Senator DAINES. It was shocking. You would think I was here representing some Third World country.

Dr. PETTY. Yeah. I remember.

Senator DAINES. It was just taken out of the taps of rural Montanans.

Dr. PETTY. I remember that hearing very well.

Senator DAINES. It is your responsibility to take seriously and the responsibility of Congress to spend these hard-working taxpayer dollars effectively and efficiently, and so often these stop/start approaches to these rural water projects ends up costing a whole lot more money. This is not a good way to spend the taxpayer dollars. It is not very efficient.

They have been waiting completion now for many, many years and they are also tied to economic opportunity and growth as well. So we will continue this push and thanks for your help on that.

These communities who are seeking authorization from Congress have been working on feasibility studies for more than 12 years. I am kind of tired of studies. I am ready for some action to get them done. The Bureau has spent millions of dollars combined in these efforts and, I think, it is really time to move forward. I realize we have to move forward here in Congress, and we need your help as well.

Dr. Petty, will you work with me to improve and streamline the rural water program to ensure that authorized projects are completed faster and other projects seeking authorization in which the Bureau and local communities have invested significant time, significant money and energy, can come to fruition?

Dr. PETTY. Senator, I do look forward to working with you. That is so much of what Reclamation was originally designed and built for was those communities out West which was trying to bring, basically, life into dry areas. That's the whole aspect behind our mission statement, so we really do look forward to working with you in these new parts.

Senator DAINES. Yes, and I am grateful too that our new Secretary, Secretary Zinke—when I was giving input to the Trump Administration on the Secretary of the Interior, I said it needs to be from the West. And I said, West does not mean West Virginia. I am talking West. I am glad we have a Montanan in that, leading that great organization.

Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Flake, you are up. Good timing.

Senator FLAKE. Thank you. I apologize for having to miss a part of this and I apologize if I am plowing old ground here, but I appreciate all of you being here, especially Ms. Sorensen. Thank you for coming, and I really appreciate what you have done.

As we have heard today, it is plain to see that, you know, in Arizona and much of the West we can string together one or two wet years, but it is always going to be followed by a dry year or a dry decade. So we have to do a lot of planning.

The Water Supply Infrastructure and Drought Resilience Act that I introduced with Senators McCain, Barrasso and Gardner, I think, will help states prepare for years, just like that we have had in the last couple of years and mitigate impacts of the next inevitable drought that we have had. The bill builds on legislation that we passed in Committee last Congress and includes input from the

Water and Power Subcommittee that we received from numerous hearings and roundtables and briefings in the past couple of years.

What I heard throughout the process boils down to the need to develop new water supply infrastructure and to fix existing assets, remove federal barriers to better management, and provide more legal certainty about the availability and use of water resources. If we do these things then our local water managers will be empowered to plan and invest and innovate and meet the water supply needs of communities and the economy.

S. 2563 includes a number of priorities that will improve water security across the West and I know there are a lot of other ideas, good ideas, out there, and as we go through this legislative process, I look forward to hearing more from stakeholders involved.

Ms. Sorensen, I appreciate your insights today and all the work you have done for Arizona. Like many cities in Arizona, Phoenix has taken a very proactive and expansive approach to water supply management to ensure a reliable water supply. Can you talk a little bit more about the importance of having a diverse water supply and the importance of keeping all options on the table when planning to meet long-term water needs?

Ms. SORENSEN. Yes, absolutely. Thank you, Senator Flake.

So Arizona can't afford to have all of its eggs in one basket. It is incredibly important for us to have a very diverse supply of water resources, not just physically diverse, but also legally diverse because of the complicated set of water rights that are before us.

We have worked for decades to acquire supplies that are physically diverse and legally diverse and we have to then show, to meet our 100-year assured water supply requirements, that those supplies are also financially available. It's a very high standard. And basically what we do is, we acquire diverse supplies. We acquire supplies decades before they are really needed to provide a buffer against drought and shortage on the Colorado River and a buffer that we can eventually grow into. We reclaim all of our wastewater and beneficially reuse it. We continually focus on our culture of conservation. That's an important part of meeting our demands as well.

As you know, we have been very careful to settle our water right disputes with Native American communities, agricultural interests, other cities, the state, the Federal Government, so that we can provide the certainty for real investment in our infrastructure.

Importantly in Arizona as well, we directly tie the ability to grow to an adequate water supply and that was done back in the 1980s. And it was an effort to show certainty for economic investment. To this day, no other state has matched the progressiveness of those laws. It's really important that we are able to show the security of our supplies for public health and for opportunities for investment as well. So yeah, a diverse water supply is the keystone of all of those.

Senator FLAKE. Well thanks for mentioning that.

Arizona has had a longstanding practice of looking forward in terms of water, and people see the desert there and think how in the world can it grow, how can metropolitan areas like Phoenix, in particular, grow and have an adequate water supply? Well, it is because of good planning from a lot of good people years ago.

You mentioned the Groundwater Code that was groundbreaking at that time in the 1980s. My uncle, Stan Turley, was Speaker of the House and then Senate President during that time and we have had just a whole generation of people who took this seriously, those who planned the Central Arizona project and big infrastructure projects that allowed us to go forward.

Ms. Ortega discussed how water security in desert cities is often a major factor in decisions made by businesses. Ms. Sorensen, can you talk about the nexus between water supply and efforts to attract businesses to Arizona?

Ms. SORENSEN. Absolutely.

So what we commonly find is the first question that we are asked when major investors come to Central Arizona is, do you have enough water? And, of course, the answer to that question must always be a resounding "yes."

So we work very closely with the state and with local partners to make sure that our supplies are resilient, that our infrastructure is available for that economic investment as well. Like I said in my testimony, Phoenix is just held to a higher standard than other cities across the nation, and we must always meet that standard or else we will not enjoy security for investment. There's a very close nexus between water supply resiliency and economic investment in Arizona.

Senator FLAKE. Alright, thank you.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Flake, and thank you for your leadership on so many of these issues as they relate to water.

There are those of us that have water and those that wish they had more water, but at the end of the day, even if you have it, you have to have that infrastructure. You have to have that storage. So it takes me back to the question that I had initially.

Dr. Petty, let me ask you about the Bureau of Reclamation's Tribal Technical Assistance Program that helps the tribal organizations better develop, manage and protect their tribal water and resources.

Last year, the Ahtna Intertribal Resource Commission in the interior part of our state applied for assistance and was denied because they said that Alaska was not one of the 17 Western states. I look to your map that you have provided us in terms of Reclamation here and the first thing that Senator Cantwell asked me, she is like, what happened to Alaska there?

Well, you know, we are, we have been one of the Western states since 1959 when we came in. So the question to you is whether you would anticipate any challenges to including eligible Alaskan entities in the Bureau's Tribal Technical Assistance Program? It seems to me that we are part of this Western region. We might not be on your map, but we are part of that West. What is your response?

Dr. PETTY. You know, Senator, that's the first thing that I definitely will make sure is we get Alaska as part of this as well.

The CHAIRMAN. Thank you. It is going to make your whole map out of whack.

Dr. PETTY. Different, but that's okay.

The CHAIRMAN. It is going to have to be an eight and a half by—I don't know.

[Laughter.]

Dr. PETTY. We will figure that out.

Senator RISCH. It will also make your life a lot easier.

[Laughter.]

Dr. PETTY. It certainly will.

So first of all, right off with your question. Even from the language that has been put forth, and it was part of this hearing, we really do look forward to incorporating, even the WaterSMART, as part of Alaska and its admission into those.

We actually, and I've had a briefing since I've been back up on the Hill, or back in Interior, of how we go about actually helping people who have submitted through WaterSMART or through these programs as well as just being affirmed that any tribal communities that also submit, that we give them support and full consideration on how those processes go through and we help them, technically, in making sure that they put forth the best technical capability so that we can give them resources that allows them and their community to move forward with water.

The CHAIRMAN. Okay.

Well, I know that we would like to work with you on that and again, hopefully, the good folks in the Ahtna region will see some of that.

Let me ask about title transfers and probably to you, Dr. Petty, and to you, Mr. O'Toole. Facilitating the title transfer of the Bureau of Reclamation facilities that are relatively uncomplicated and where the capital has or will be repaid, it has been discussed as a potential benefit to both the Federal Government and the non-federal operating entity.

Can you just share with us, Dr. Petty from the federal perspective and Mr. O'Toole from the non-federal perspective, what is the benefit and what is driving the interest in this transfer of the respective titles to these facilities?

Dr. PETTY. Well, if I could start first, just to respond specifically now since we also have the lead author of the bill in the title transfer, it will be a good combination of just referencing how important the Federal Government reviews and sees this title transfer capability. It allows those, even specifically those irrigation districts, who have been working hard for years and decades and even some, longer, on the importance of eventually moving that into their responsibility. They've been overseeing with the O&M, the operations and maintenance, but allowing them to actually carry that title. One, from a federal perspective it reduces not only our liability as a Federal Government but also the ability to resource other communities that need to get going and getting up and started.

I mean, even interacting with Senator Daines on some of his earlier interests, a lot of these irrigation districts have been doing this for such an amazing long time, working with the different communities and non-profit organizations to become better at what they're doing. That allows them to know what to fix and how to fix it more effectively on the ground and with us not having to be that overbearing and resources that are dependent upon those.

So I think those are some of the huge aspects that, for the Federal Government, gets us more out of the way for those who are doing extremely well, they know what they're doing. And then al-

lowing us to take those really precious resources and go and work in other communities that need even support and help from the Federal Government.

The CHAIRMAN. And on the non-federal side, Mr. O'Toole?

Mr. O'TOOLE. Madam Chairman, interestingly our community was going to have two storage reservoirs, one in Colorado and one in Wyoming. They're still authorized in the Bureau of Rec but were never built because of the vetoes that President Carter, back in the '70s—

We have worked so hard to get some storage. We've done 23,000 with the State of Wyoming, but that 100,000 was, sort of, the goal and that was what was analyzed was needed.

I called one of our members—and the Family Farm Alliance represents both Bureau and non-Bureau people, our value is non-Bureau or non-federal—he said it was the best thing that ever happened to him, Tom Knutson in Kearney, Nebraska.

And what my vision and I think you guys, you all are talking about this federal participation in infrastructure where there could be dollars to match state dollars. That's the new vision where we're not going to have quite the same storage building that we did in the '60s–'70s, that period of time, but the infusion of the states that are ready to build storage for themselves of dollars to help match with the state dollars is going to be critical.

I think it's the perfect example of how the Federal Government got something started in many places, then it became local and the local people are driving the process.

The CHAIRMAN. Very good. Good, thank you.

Senator Cortez Masto, do you have follow-up?

Seeing none, we appreciate the contributions from each of you, appreciate the time that you have given us this morning and the effort to come across the country at a time when most people were saying, we don't want to travel to the East Coast, but thank you for being here.

We look forward as we are developing these water solutions to ensure that we not only have what we need for our families, our farmers, our fishermen, but for all aspects of water and water use.

We thank you for your leadership and appreciate your time.

With that, the Committee is adjourned.

[Whereupon, at 11:47 a.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

U.S. Senate Committee on Energy and Natural Resources
March 22, 2018 Hearing: *The 2018 Western Water Supply Outlook and Water Infrastructure and Drought Resilience Legislation*
Question for the Record Submitted to the Honorable Timothy Petty

Question from Senator Mazie K. Hirono

Question: Dr. Petty, as discussed in the hearing, the Department of the Interior has programs that provide funding for partnerships with universities and other non-federal entities to coordinate and conduct research on water-related problems. Can you please provide me with a list of these partnerships that the Department funds within Hawaii and note the ones that you feel are working effectively?

Answer:
The Department helps fund various partnerships in Hawaii, including partnerships with the Center for Cultural and Technical Interchange Between East and West in Hawaii and the University of Hawaii Systems.

Specifically, the USGS Pacific Islands Water Science Center and the National and Regional Climate Adaptation Science Center partner with the Center for Cultural and Technical Interchange Between East and West in Hawaii; and the USGS Water Resource Research Center, the USGS Pacific Islands Ecosystem Research Center, and the National and Regional Climate Adaptation Science Center partner with the University of Hawaii system.

II

115TH CONGRESS
2D SESSION

S. 2539

To amend the Energy and Water Development and Related Agencies Appropriations Act, 2015, to reauthorize certain projects to increase Colorado River System water.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2018

Mr. HELLER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To amend the Energy and Water Development and Related Agencies Appropriations Act, 2015, to reauthorize certain projects to increase Colorado River System water.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF PROJECTS TO INCREASE COLORADO RIVER SYSTEM WATER.

Section 206(c)(2) of the Energy and Water Development and Related Agencies Appropriations Act, 2015 (43 U.S.C. 620 note; Public Law 113–235), is amended by striking "2018" and inserting "2022".

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II

115TH CONGRESS
2D SESSION

S. 2560

To authorize the Secretary of the Interior to establish a program to facilitate the transfer to non-Federal ownership of appropriate reclamation projects or facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2018

Mr. RISCH introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To authorize the Secretary of the Interior to establish a program to facilitate the transfer to non-Federal ownership of appropriate reclamation projects or facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Title Transfer Act of 2018".

SEC. 2. PURPOSE.

The purpose of this Act is to facilitate the transfer of title to eligible facilities to qualifying entities that have

completed the repayment of the capital costs of the eligible facilities through capital repayment contracts with Reclamation.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONVEYED PROPERTY.—The term "conveyed property" means an eligible facility that has been conveyed to a qualifying entity under section 4.

(2) ELIGIBLE FACILITY.—The term "eligible facility" means a facility that meets the criteria for potential transfer established under section 5(a).

(3) FACILITY.—

(A) IN GENERAL.—The term "facility" means—

(i) a Reclamation project or facility; or

(ii) a portion of a Reclamation project or facility.

(B) INCLUSIONS.—The term "facility" includes a dam or appurtenant works, infrastructure, a recreational facility, a building, a distribution and drainage works, and associated land or interest in land or water.

(C) EXCLUSIONS.—The term "facility" does not include a Reclamation project or facil-

ity, or a portion of a Reclamation project or facility, that—

(i) generates hydropower marketed by a Federal power marketing administration; or

(ii) is managed for recreation under a lease, permit, license, or other management agreement that does contribute to capital repayment.

(4) QUALIFYING ENTITY.—The term ''qualifying entity'' means an agency of a State or political subdivision of a State, a joint action or powers agency, a water users association, or an Indian Tribe or Tribal utility authority that—

(A) as of the date of conveyance under this Act, is the current operator of the conveyed facility pursuant to a contract with Reclamation; and

(B) as determined by the Secretary, has the capacity to continue to manage the conveyed property for the same purposes for which the property has been managed under the reclamation laws.

(5) RECLAMATION.—The term ''Reclamation'' means the Bureau of Reclamation.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

SEC. 4. AUTHORIZATION OF TRANSFERS OF TITLES TO ELIGIBLE FACILITIES.

(a) IN GENERAL.—Subject to the requirements of this section, the Secretary, without further authorization from Congress, may convey to a qualifying entity all right, title, and interest of the United States in and to any eligible facility, if—

(1) not later than 90 days before the date on which the Secretary makes the conveyance, the Secretary submits to Congress—

(A) a written notice of the proposed conveyance; and

(B) a description of the reasons for the conveyance; and

(2) a joint resolution disapproving the conveyance is not enacted before the date on which the Secretary makes the conveyance.

(b) RESERVATION OF EASEMENT.—The Secretary may reserve an easement over a conveyed property if—

(1) the Secretary determines that the easement is necessary for the management of any interests retained by the Federal Government under this Act;

(2) a portion of the conveyed property remains under Federal ownership; and

(3) the Secretary enters into an agreement regarding the easement with the applicable qualifying entity.

(c) INTERESTS IN WATER.—The Federal interest in associated water rights and uses relating to a conveyed property, if any, shall be conveyed under this section in accordance with applicable State law pursuant to a written agreement between the Secretary and the applicable qualifying entity.

SEC. 5. ELIGIBILITY CRITERIA.

(a) ESTABLISHMENT.—The Secretary shall establish criteria for determining whether a facility is eligible for conveyance under this Act.

(b) MINIMUM REQUIREMENTS.—

(1) AGREEMENT OF QUALIFYING ENTITY.—The criteria established under subsection (a) shall include a requirement that a qualifying entity shall agree—

(A) to accept title to the eligible facility;

(B) to use the eligible facility for substantially the same purposes for which the eligible facility is being used at the time the Secretary evaluates the potential transfer; and

(C) to provide, as consideration for the assets to be conveyed, compensation to the reclamation fund established by the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093), in an amount that is the equivalent of the net present value of any repayment obligation to the United States or other income stream that the United States derives from the eligible facility to be transferred, as of the date of the transfer.

(2) DETERMINATIONS OF SECRETARY.—The criteria established under subsection (a) shall include a requirement that the Secretary shall—

(A) be able to enter into an agreement with the qualifying entity with respect to the legal, institutional, and financial arrangements relating to the conveyance; and

(B) determine that the proposed transfer—

(i) would not have an unmitigated significant effect on the environment;

(ii) is consistent with the responsibilities of the Secretary—

(I) to protect land and water resources held in trust for federally recognized Indian Tribes; and

(II) to ensure compliance with any applicable international treaties and interstate compacts; and

(iii) is in the financial interest of the United States.

(3) STATUS OF RECLAMATION LAND.—The criteria established under subsection (a) shall require that any land to be conveyed out of Federal ownership under this Act is—

(A) land acquired by the Secretary; or

(B) land withdrawn by the Secretary, only if—

(i) the Secretary determines in writing that the withdrawn land is encumbered by facilities to the extent that the withdrawn land is unsuitable for return to the public domain; and

(ii) the qualifying entity agrees to pay fair market value based on historical or existing uses for the withdrawn land to be conveyed.

SEC. 6. LIABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), effective beginning on the date of conveyance of any eligible facility under this Act, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence based on the prior ownership or operation of the conveyed property.

(b) LIMITATION.—The United States shall retain the responsibilities and authorities of the United States for a conveyed property based on the prior ownership or operation of the conveyed property by the United States under Federal environmental laws, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

SEC. 7. BENEFITS.

After a conveyance of an eligible facility under this Act—

(1) the conveyed property shall no longer be considered to be part of a Reclamation project; and

(2) if the transfer of an entire Reclamation project occurs pursuant to such a conveyance, the qualifying entity to which the conveyed property is conveyed shall not be eligible to receive any benefits, including project power, with respect to the conveyed property, except for any benefit that would be avail-

able to a similarly situated entity with respect to property that is not a part of a Reclamation project.

SEC. 8. COMPLIANCE WITH OTHER LAWS.

(a) OPERATION OF CONVEYED PROPERTY.—After conveyance of an eligible facility under this Act, the qualifying entity to which the conveyed property is conveyed shall comply with all applicable Federal, State, and local laws (including regulations) in the operation of the conveyed property.

(b) FEDERAL ENVIRONMENTAL LAWS APPLICABLE TO TITLE TRANSFER.—For purposes of achieving compliance with Federal environmental laws (including regulations) applicable to a transfer of title under this Act, the Federal agency action shall be limited to the change in ownership status of an applicable eligible facility if the ability of the applicable qualifying entity to alter the existing uses or operations of the conveyed property after the conveyance is limited due to the fact that—

(1) any modification to the purpose or location of applicable water use would require a modification of a State-issued water right that requires action by the State in which the eligible facility is located; or

(2) any modification to the purpose or operation of the eligible facility requires an action by a

qualifying entity that is constrained by applicable requirements that were established—

(A) by an applicable State legislature, State regulatory agency, publicly elected board, appointed board, or other related entity; and

(B) through a public process or other, similar procedure that constrains, or imposes public scrutiny or additional accountability on, the ability of the qualifying entity to carry out such a modification.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act such sums as are necessary.

(b) USE OF AMOUNTS.—Amounts made available under subsection (a) may be used—

(1) to carry out any investigations appropriate to carry out this Act; and

(2) to pay any other costs associated with conveyances under this Act, including an appropriate Federal share, as determined by the Secretary, of the costs of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other applicable law.

(c) NOT TREATED AS PROJECT COSTS.—Expenditures made by the Secretary under this Act—

(1) shall not be a project cost assignable to a Reclamation project; and

(2) shall be nonreimbursable.

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II

115TH CONGRESS
2D SESSION

S. 2563

To improve the water supply and drought resilience of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2018

Mr. FLAKE (for himself, Mr. MCCAIN, Mr. GARDNER, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To improve the water supply and drought resilience of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Supply Infrastructure and Drought Resilience Act of 2018".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) BUREAU.—The term "Bureau" means the Bureau of Reclamation.

(2) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Bureau.

(3) RECLAMATION FACILITY.—The term "Reclamation facility" means each of the infrastructure assets that are owned by the Bureau at a Reclamation project.

(4) RECLAMATION PROJECT.—The term "Reclamation project" means any reclamation or irrigation project, including incidental features thereof, authorized by Federal reclamation law, or constructed by the United States pursuant to such law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary through the Bureau of Reclamation for the reclamation of lands.

(5) RESERVED WORKS.—The term "reserved works" means any building, structure, facility, or equipment—

(A) that is owned by the Bureau; and

(B) for which operations and maintenance are performed, regardless of the source of funding—

(i) by an employee of the Bureau; or

(ii) through a contract entered into by the Commissioner.

(6) RESPONSIBLE PARTY.—The term ''responsible party'' means—

(A) with respect to a reserved works—

(i) a non-Federal water user or power contractor that has an active repayment, water service, or power service contract with the Bureau;

(ii) a power contractor that has an active contract with a Federal power marketing administration for energy, capacity, or both from a hydropower facility owned by the Bureau; or

(iii) a non-Federal operating entity, such as a joint powers authority or Board of Control, that has assumed responsibility on behalf of multiple water users, through a contract with the Bureau, for the oper-

ation and maintenance of the reserved works; and

(B) with respect to a transferred works, the operating entity of the transferred works.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) TRANSFERRED WORKS.—The term "transferred works" means a Reclamation facility at which operations and maintenance of the facility is carried out by a non-Federal entity under the provisions of a formal operations and maintenance transfer contract or other legal agreement with the Bureau.

TITLE I—WATER SUPPLY INFRASTRUCTURE

Subtitle A—Water Supply Permitting Coordination

SEC. 101. DEFINITIONS.

In this subtitle:

(1) COOPERATING AGENCY.—The term "cooperating agency" has the meaning given the term in section 1508.5 of title 40, Code of Federal Regulations (or successor regulations).

(2) PARTICIPATING AGENCY.—The term "participating agency" means—

(A) a Federal agency with jurisdiction over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a qualifying project under applicable Federal law; or

(B) a State agency or an Indian Tribe subject to section 102(c).

(3) PROJECT SPONSOR.—The term ''project sponsor'' means an entity (including any private, public, or public-private entity) seeking an authorization for a qualifying project.

(4) QUALIFYING PROJECT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''qualifying project'' means a new surface water storage project in the United States covered under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.) constructed on land administered by the Department of the Interior or the Department of Agriculture, exclusive of any easement, right-of-way, lease, or private holding that does not otherwise qualify or is not otherwise selected as a covered project under—

(i) title XLI of the Fixing America's Surface Transportation Act (42 U.S.C. 4370m–1 et seq.); or

(ii) section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. 2348).

(B) EXCLUSION.—The term "qualifying project" does not include a project described in subparagraph (A) for which the project sponsor elects not to submit a substantially complete proposal under this subtitle.

(5) SUBSTANTIALLY COMPLETE PROPOSAL.—

(A) IN GENERAL.—The term "substantially complete proposal" means a proposal submitted by or on behalf of a project sponsor that includes information describing a proposed qualifying project and all components of the qualifying project in sufficient detail to understand jurisdictional boundaries to determine involvement of participating agencies and resources that may be affected by the qualifying project.

(B) INCLUSIONS.—A substantially complete proposal shall include, at a minimum, the following:

(i) A statement of the purposes and objectives of the proposed qualifying project.

(ii) A concise description, including the location, of the proposed qualifying project.

(iii) A summary of geospatial information, if available, illustrating the qualifying project area.

(iv) Geospatial information with locations, if any, of environmental, cultural, and historical resources (such as habitat types, species present or known to occur in the area, surface water, groundwater, wetland, and land ownership).

(v) A statement regarding the technical and financial ability of the project sponsor.

(vi) A statement of any Federal, State, and local agency and Tribal financing, environmental reviews, permits, and authorizations anticipated to be required to complete the proposed qualifying project.

(6) UNIFIED ENVIRONMENTAL RECORD.—The term ''unified environmental record'' means a com-

pilation of environmental compliance documents (such as those required under applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and division A of subtitle III of title 54, United States Code) on which all agencies with authority to issue approvals for a particular qualifying project shall base approval decisions.

SEC. 102. ESTABLISHMENT OF LEAD COORDINATING AGENCY AND PARTICIPATING AGENCIES.

(a) ESTABLISHMENT OF LEAD AGENCY.—The Bureau is established as the lead coordinating agency for purposes of coordinating all reviews, analyses, opinions, statements, permits, licenses, or other approvals or decisions required under Federal law to construct qualifying projects.

(b) IDENTIFICATION AND ESTABLISHMENT OF PARTICIPATING AGENCIES.—The Commissioner, on receipt of a substantially complete proposal, shall—

(1) identify, as early as practicable, any Federal agency that may have jurisdiction over a review, analysis, opinion, statement, permit, license, ap-

proval, or decision required for a qualifying project under applicable Federal law; and

(2) notify any Federal agency identified under paragraph (1), within a reasonable timeframe, that the agency has been designated as a participating agency with regard to the qualifying project unless that agency responds to the Commissioner in writing, within a timeframe established by the Commissioner, notifying the Commissioner that the agency—

(A) has no jurisdiction or authority with respect to the qualifying project;

(B) has no expertise or information relevant to the qualifying project or any review, analysis, opinion, statement, permit, license, or other approval or decision associated with the qualifying project; or

(C) does not intend to submit comments on the qualifying project or conduct any review of the qualifying project or make any decision with respect to the project in a manner other than in cooperation with the Commissioner.

(c) STATE OR TRIBAL AUTHORITY.—A State or an Indian Tribe (in the case of Tribal land) on which a quali-

fying project is being considered may choose, consistent with State or Tribal law—

(1) to participate as a participating agency; and

(2) to make subject to this Act all State or Tribal agencies that—

(A) have jurisdiction over the qualifying project;

(B) are required to conduct or issue a review, analysis, or opinion for the qualifying project; or

(C) are required to make a determination on issuing a permit, license, or approval for the qualifying project.

(d) COOPERATING AGENCIES.—The Commissioner, as the head of the lead coordinating agency, shall identify cooperating agencies pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 103. BUREAU RESPONSIBILITIES.

(a) IN GENERAL.—The principal responsibilities of the Commissioner under this subtitle are—

(1) to serve as the point of contact for any project sponsors, State agencies, Indian Tribes, and other entities regarding proposed qualifying projects;

(2) to coordinate preparation of a unified environmental record that will serve as the basis for all

Federal decisions necessary to authorize the use of Federal land for qualifying projects; and

(3) to coordinate all Federal agency reviews necessary for qualifying project development and construction of qualifying projects.

(b) COORDINATION PROCESS.—The Commissioner shall have the following coordination responsibilities:

(1) EARLY COORDINATION.—Lead early coordination, prior to the application of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as follows:

(A) On request from a project sponsor, advise the project sponsor in developing a substantially complete proposal for the qualifying project, including explaining applicable processes, data requirements, and applicant submissions necessary to complete the required Federal agency reviews within the timeframe established.

(B) Review a final proposal submitted by a project sponsor and, not later than 30 days after receipt of the final proposal, make a determination whether—

(i) the final proposal is a substantially complete proposal; and

(ii) the final proposal describes a qualifying project.

(C) Establish a preliminary schedule for the qualifying project.

(2) COORDINATE WITH PARTICIPATING AND COOPERATING AGENCIES.—

(A) Coordinate notification of participating agencies and invitation to cooperating agencies with respect to each proposed qualifying project by not later than 30 days after the date on which the Commissioner makes a positive determination under clauses (i) and (ii) of paragraph (1)(B).

(B)(i) Coordinate with the participating agencies and cooperating agencies throughout the Federal agency review process.

(ii) Identify and obtain relevant data in a timely manner.

(iii) Verify and, if necessary, revise the project schedule described in paragraph (3).

(iv) In consultation with the project sponsor, set necessary deadlines for participating agencies and cooperating agencies.

(3) SCHEDULE.—

(A) IN GENERAL.—Work with the project sponsor and participating agencies to establish a project schedule.

(B) FACTORS.—In establishing the project schedule under subparagraph (A), the Commissioner shall consider, among other factors—

(i) the responsibilities of participating agencies under applicable law;

(ii) the resources available to the cooperating agencies and the project sponsor, as applicable;

(iii) the overall size and complexity of the qualifying project;

(iv) the overall schedule for and cost of the qualifying project; and

(v) the sensitivity of the natural and historic resources that may be affected by the qualifying project.

(4) COORDINATED REVIEWS.—At the discretion of the Commissioner, ensure that all reviews, analyses, opinions, permits, licenses, and approvals required to be issued or made by a Federal, State, or local government agency or Indian Tribe for the development of a qualifying project shall be conducted, to the maximum extent practicable, concurrently and

completed within a time period established by the Secretary in cooperation with the participating agencies.

(5) ENVIRONMENTAL COMPLIANCE.—

(A) IN GENERAL.—Coordinate a unified environmental record for each substantially complete proposal, incorporating a single environmental record on which all participating agencies with authority to issue approvals for a particular qualifying project shall base project approval decisions.

(B) TIMELINES.—Help ensure that participating agencies make necessary decisions described in subparagraph (A), within the respective authorities of the participating agencies, regarding Federal approvals in accordance with the following timelines:

(i) Not later than 1 year after acceptance of a substantially complete proposal, when an environmental assessment and finding of no significant impact is determined to be the appropriate level of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(ii) Not later than 1 year and 30 days after the close of the public comment period for a draft environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), when an environmental impact statement is required under that Act.

(6) CONSOLIDATED ADMINISTRATIVE RECORD.—Maintain a consolidated administrative record of the information assembled and used by the participating agencies as the basis for agency decisions.

(7) PROJECT DATA RECORDS.—

(A) SUBMISSION; MAINTENANCE.—To the maximum extent practicable and consistent with Federal law, ensure that all qualifying project data is submitted and maintained in a generally accessible electronic format.

(B) COMPILATION; AVAILABILITY.—Compile, and where authorized under existing law, make available that project data to participating agencies, the project sponsors, and the public.

(8) PROJECT MANAGER.—

(A) IN GENERAL.—Appoint a project manager for each qualifying project.

(B) AUTHORITY; RESPONSIBILITIES.—The project manager shall—

(i) have authority to oversee the qualifying project and to facilitate the issuance of the relevant final authorizing documents by responsible officials; and

(ii) be responsible for facilitating fulfillment of all Commissioner responsibilities under this section and coordinating all participating agency responsibilities under section 104.

SEC. 104. PARTICIPATING AGENCY RESPONSIBILITIES.

(a) ADHERENCE TO BUREAU SCHEDULE.—

(1) TIMEFRAMES.—On notification from the Commissioner that the Commissioner has received a substantially complete proposal relating to a qualifying project, the head of each participating agency shall submit to the Commissioner a timeframe under which the participating agency reasonably will be able to complete the authorizing responsibilities of the participating agency relating to the qualifying project.

(2) SCHEDULE.—

(A) USE OF TIMEFRAMES.—The Commissioner shall use the timeframes submitted under this subsection to establish the project schedule under section 103(b)(3).

(B) ADHERENCE.—Each participating agency shall adhere to the project schedule established by the Commissioner under section 103(b)(3).

(b) ENVIRONMENTAL RECORD.—The head of each participating agency shall submit to the Commissioner all environmental review material produced or compiled in the course of carrying out activities required under Federal law, consistent with the project schedule established by the Commissioner under section 103(b)(3).

(c) DATA SUBMISSION.—To the maximum extent practicable and consistent with Federal law, the head of each participating agency shall submit all relevant project data to the Commissioner in a generally accessible electronic format, subject to the project schedule established by the Commissioner under section 103(b)(3).

SEC. 105. FUNDING TO PROCESS PERMITS.

(a) IN GENERAL.—The Secretary, after public notice in accordance with subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the "Administrative Procedure Act"), may accept and expend

funds for the development of a qualifying project under this subtitle, including the transfer to a participating agency for the purposes of this subtitle of funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity relating to a qualifying project.

(b) EFFECT ON PERMITTING.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) shall not procedurally impact impartial decisionmaking with respect to permits.

(2) EVALUATION OF PERMITS.—In carrying out this section, the Secretary shall ensure that the evaluation of permits carried out using funds accepted under this section shall—

(A) be reviewed by the Regional Director of the Bureau of the region in which the qualifying project is located (or a designee); and

(B) use the same procedures for decisions that would otherwise be required for the evaluation of permits for similar projects or activities not carried out using funds authorized under this section.

(3) IMPARTIAL DECISIONMAKING.—In carrying out this section, the Secretary and the head of each participating agency receiving funds under this section for a qualifying project shall ensure that the use of the funds accepted under this section for the qualifying project shall not—

(A) substantively or procedurally impact impartial decisionmaking with respect to the issuance of permits; or

(B) diminish, modify, or otherwise affect the statutory or regulatory authorities of the participating agency.

(c) LIMITATION ON USE OF FUNDS.—None of the funds accepted under this section shall be used to carry out a review of the evaluation of permits required under subsection (b)(2)(A) after the Regional Director of the Bureau completes the evaluation of permits.

(d) PUBLIC AVAILABILITY.—The Secretary shall ensure that all final permit decisions carried out using funds accepted under this section are made available to the public, including on the internet.

Subtitle B—Modifications of Existing Programs

SEC. 111. WATERSMART.

(a) DEFINITION OF ELIGIBLE APPLICANT.—Section 9502 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10362) is amended—

(1) in the matter preceding paragraph (1), by striking "section" and inserting "subtitle"; and

(2) in paragraph (7), by inserting "State, regional, or local authority the members of which include 1 or more organizations with water or power delivery authority," after "water district,".

(b) WATER MANAGEMENT IMPROVEMENT.—Section 9504(a) of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364(a)) is amended—

(1) in paragraph (2)(A)—

(A) by striking "within the States" and inserting the following: "within—

"(i) the States";

(B) in clause (i) (as so designated), by striking "and" at the end and inserting "or"; and

(C) by adding at the end the following:

"(ii) the State of Alaska; and".

(2) in paragraph (3)(B)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and indenting appropriately;

(B) in the matter preceding subclause (I) (as so redesignated), by striking "In carrying" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), in carrying"; and

(C) by adding at the end the following:

"(ii) INDIAN TRIBES.—In the case of an eligible applicant that is an Indian tribe, in carrying out paragraph (1), the Secretary shall not provide a grant, or enter into an agreement, for an improvement to conserve irrigation water unless the Indian tribe agrees not—

"(I) to use any associated water savings to increase the total irrigated acreage more than the water right of that Indian tribe, as determined by—

"(aa) a court decree;

"(bb) a settlement;

"(cc) a law; or

"(dd) any combination of the authorities described in items (aa) through (cc); or

"(II) to otherwise increase the consumptive use of water more than the water right of the Indian tribe described in subclause (I).".

SEC. 112. GRANTS AND COOPERATIVE AGREEMENTS WITH INDIAN TRIBES AND ORGANIZATIONS.

Section 201 of the Energy and Water Development Appropriations Act, 2003 (43 U.S.C. 373d) is amended in the first sentence by inserting "Native village, Village Corporation, or Regional Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602))," after "national Indian organization,".

SEC. 113. COOPERATIVE WATERSHED MANAGEMENT PROGRAM.

Section 6001(5) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1015(5)) is amended—

(1) in subparagraph (D)(iv), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(F) may be sponsored by a State or a conservation district.".

Subtitle C—Bureau of Reclamation Transparency

SEC. 121. DEFINITIONS.

In this subtitle:

(1) ASSET.—

(A) IN GENERAL.—The term "asset" means any of the following assets that are used to achieve the mission of the Bureau to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the people of the United States:

(i) Capitalized facilities, buildings, structures, project features, power production equipment, recreation facilities, or quarters.

(ii) Capitalized and noncapitalized heavy equipment and other installed equipment.

(B) INCLUSIONS.—The term "asset" includes assets described in subparagraph (A) that are considered to be mission critical.

(2) ASSET MANAGEMENT REPORT.—The term "Asset Management Report" means—

(A) the annual plan prepared by the Bureau known as the "Asset Management Plan"; and

(B) any publicly available information relating to the plan described in subparagraph (A) that summarizes the efforts of the Bureau to evaluate and manage infrastructure assets of the Bureau.

(3) MAJOR REPAIR AND REHABILITATION NEED.—The term "major repair and rehabilitation need" means major nonrecurring maintenance at a Reclamation facility, including maintenance related to the safety of dams, extraordinary maintenance of dams, deferred major maintenance activities, and all other significant repairs and extraordinary maintenance.

SEC. 122. ASSET MANAGEMENT REPORT ENHANCEMENTS FOR RESERVED WORKS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress an Asset Management Report that—

(1) describes the efforts of the Bureau—

(A) to maintain in a reliable manner all reserved works at Reclamation facilities; and

(B) to standardize and streamline data reporting and processes across regions and areas for the purpose of maintaining reserved works at Reclamation facilities; and

(2) expands on the information otherwise provided in an Asset Management Report, in accordance with subsection (b).

(b) INFRASTRUCTURE MAINTENANCE NEEDS ASSESSMENT.—

(1) IN GENERAL.—The Asset Management Report submitted under subsection (a) shall include—

(A) a detailed assessment of major repair and rehabilitation needs for all reserved works at all Reclamation projects; and

(B) to the maximum extent practicable, an itemized list of major repair and rehabilitation needs of individual Reclamation facilities at each Reclamation project.

(2) INCLUSIONS.—To the maximum extent practicable, the itemized list of major repair and rehabilitation needs under paragraph (1)(B) shall include—

(A) a budget level cost estimate of the appropriations needed to complete each item; and

(B) an assignment of a categorical rating for each item, consistent with paragraph (3).

(3) RATING REQUIREMENTS.—

(A) IN GENERAL.—The system for assigning ratings under paragraph (2)(B) shall be—

(i) consistent with existing uniform categorization systems to inform the annual budget process and agency requirements; and

(ii) subject to the guidance and instructions issued under subparagraph (B).

(B) GUIDANCE.—As soon as practicable after the date of enactment of this Act, the Secretary shall issue guidance that describes the applicability of the rating system applicable under paragraph (2)(B) to Reclamation facilities.

(4) PUBLIC AVAILABILITY.—Except as provided in paragraph (5), the Secretary shall make publicly available, including on the internet, the Asset Management Report required under subsection (a).

(5) CONFIDENTIALITY.—The Secretary may exclude from the public version of the Asset Manage-

ment Report made available under paragraph (4) any information that the Secretary identifies as sensitive or classified, but shall make available to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a version of the report containing the sensitive or classified information.

(c) UPDATES.—Not later than 2 years after the date on which the Asset Management Report is submitted under subsection (a) and biennially thereafter, the Secretary shall update the Asset Management Report, subject to the requirements of section 123(b)(2).

(d) CONSULTATION.—To the extent that such consultation would assist the Secretary in preparing the Asset Management Report under subsection (a) and updates to the Asset Management Report under subsection (c), the Secretary shall consult with—

(1) the Secretary of the Army (acting through the Chief of Engineers); and

(2) water and power contractors.

SEC. 123. ASSET MANAGEMENT REPORT ENHANCEMENTS FOR TRANSFERRED WORKS.

(a) IN GENERAL.—The Secretary shall coordinate with the non-Federal entities responsible for the operation and maintenance of transferred works in developing re-

porting requirements for Asset Management Reports with respect to major repair and rehabilitation needs for transferred works that are similar to the reporting requirements described in section 122(b).

(b) GUIDANCE.—

(1) IN GENERAL.—After considering input from water and power contractors of the Bureau, the Secretary shall develop and implement a rating system for transferred works that incorporates, to the maximum extent practicable, the rating system for major repair and rehabilitation needs for reserved works developed under section 122(b)(3).

(2) UPDATES.—The ratings system developed under paragraph (1) shall be included in the updated Asset Management Reports under section 122(c).

TITLE II—WATER MANAGEMENT IMPROVEMENT

Subtitle A—Review of Flood Control Rule Curves Pilot Project

SEC. 201. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE WORKS.—

(A) IN GENERAL.—The term "eligible works" means a reserved works, or a transferred works for which—

(i) the flood control rule curve has not been substantially adjusted during the 10-year period ending on the date of enactment of this Act; and

(ii) the Secretary receives a request in accordance with section 203(a).

(B) EXCLUSIONS.—The term "eligible works" does not include—

(i) any project authorized by the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

(ii) any project authorized by the Act of April 11, 1956 (commonly known as the "Colorado River Storage Project Act") (43 U.S.C. 620 et seq.); or

(iii) any project of the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 891, chapter 665)).

(2) PILOT PROJECT.—The term ''pilot project'' means the pilot project established under section 202.

SEC. 202. ESTABLISHMENT OF PILOT PROJECT.

The Secretary shall establish within the Bureau a pilot project to adjust flood control rule curves in accordance with section 204.

SEC. 203. SELECTION OF ELIGIBLE WORKS.

(a) REQUEST.—

(1) IN GENERAL.—In order for an eligible works to be selected for inclusion in the pilot project, a responsible party shall submit a written request to the Secretary.

(2) NOTICE.—Not later than 30 days after the date on which the Secretary receives a request under paragraph (1), the Secretary shall notify—

(A) each responsible party of that request, using lists maintained by the Bureau; and

(B) if applicable, the appropriate Federal power marketing administration.

(b) SELECTION.—Each year, the Secretary shall—

(1) select 1 or more eligible works for inclusion in the pilot project; and

(2) submit a list of those eligible works to—

(A) the Secretary of the Army;

(B) the Committee on Natural Resources of the House of Representatives; and

(C) the Committee on Energy and Natural Resources of the Senate.

(c) EXCLUSION.—The Secretary shall not select an eligible works for inclusion in the pilot project under subsection (b)(1) if, not later than 60 days after the date on which the notice is provided to each responsible party under subsection (a)(2)(A), a majority of the responsible parties submit to the Secretary an objection to the inclusion of the eligible works in the pilot project.

SEC. 204. ADJUSTMENT OF FLOOD CONTROL RULE.

(a) IN GENERAL.—The flood control rule curve of an eligible works shall be adjusted pursuant to section 7 of the Act of December 22, 1944 (33 U.S.C. 709), if the Secretary of the Army determines that the adjustment would enhance the authorized purposes of the eligible works.

(b) CONSIDERATIONS.—In the adjustment of a flood control rule curve under subsection (a), the following factors shall be considered:

(1) Forecast-informed reservoir operations.

(2) Improved hydrologic forecasting for—

(A) precipitation;

(B) snowpack;

(C) runoff; and

(D) soil moisture conditions.

(3) Any new watershed data, including data provided by a responsible party for the eligible works.

(c) CONSULTATION.—In the adjustment of a flood control rule curve under subsection (a), the following entities shall be consulted:

(1) Each responsible party for the eligible works.

(2) In the case of an eligible works that produces power marketed by the Federal Government, the Federal power marketing administration that markets the power.

SEC. 205. CONSULTATION.

The Secretary shall consult with the Secretary of the Army with respect to any action taken by the Secretary of the Army—

(1) pursuant to section 7 of the Act of December 22, 1944 (33 U.S.C. 709); and

(2) that relates to the pilot project.

SEC. 206. FUNDING.

(a) IN GENERAL.—The Secretary may accept amounts from responsible parties to fund all or a portion

of the cost of carrying out an adjustment under section 204.

(b) TRANSFER TO SECRETARY OF THE ARMY.—The Secretary shall transfer to the Secretary of the Army any amounts received under subsection (a) that are to be used for an adjustment under section 204.

(c) NON-FEDERAL RESERVOIR OPERATIONS.—Section 5 of the Act of June 22, 1936 (33 U.S.C. 701h), is amended by inserting after "authorized purposes of the project:" the following: "*Provided further,* That the Secretary is authorized to receive and expend funds from an owner of a non-Federal reservoir to formulate, review, or revise operational documents for any non-Federal reservoir for which the Secretary is authorized to prescribe regulations for the use of storage allocated for flood risk management or navigation pursuant to section 7 of the Act of December 22, 1944 (33 U.S.C. 709):".

SEC. 207. EFFECT.

Nothing in this subtitle—

(a) affects or modifies any existing authority to review or modify—

(1) reservoir operations, including any existing forecast-informed reservoir operations at a facility of the Corps of Engineers, such as Coyote Dam; and

(2) flood control operations; or

(b) affects or modifies any authorized purpose of any project carried out by the Secretary.

SEC. 208. TERMINATION.

The pilot project shall terminate on the date that is 15 years after the date of enactment of this Act.

Subtitle B—Aquifer Recharge Augmentation

SEC. 211. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE LAND.—The term ''eligible land'', with respect to a Reclamation project, means land that—

(A) is authorized to receive water under State law; and

(B) shares a groundwater source with land located in the service area of the Reclamation project.

(2) IN-LIEU RECHARGE.—The term ''in-lieu recharge'' means the use of surface water instead of pumped groundwater if that use of surface water will cause the direct reduction or elimination of groundwater withdrawals.

(3) NET WATER STORAGE BENEFIT.—The term ''net water storage benefit'' means an increase in the volume of water that is—

(A) stored in 1 or more reservoirs or aquifers; and

(B) available for use within the area served by a Reclamation project.

SEC. 212. RESCHEDULING OF WATER FOR AQUIFER RECHARGE.

(a) IDENTIFYING OPERATIONS.—On the request of a responsible party of a Reclamation project, the Secretary may identify operations—

(1) to allow for the rescheduling of water that is allocated in a water service or repayment contract with the Bureau with respect to the Reclamation project—

(A) to increase the ability to regulate the timing of releases that may increase the quantity of water available for aquifer recharge; and

(B) that occurs not earlier than 90 days before, and not later than 90 days after, the dates required for the release of water under the Reclamation project contract; and

(2) that—

(A) comply with State law; and

(B) the Secretary determines result in a net water storage benefit.

(b) CARRYING OUT OPERATIONS.—

(1) IN GENERAL.—The Secretary may carry out operations identified under subsection (a) in accordance with this subsection.

(2) REQUEST.—

(A) IN GENERAL.—Before the Secretary may carry out operations under paragraph (1), the responsible party shall submit to the Secretary a request for the operations.

(B) NOTICE.—Not later than 30 days after the date on which the Secretary receives a request under subparagraph (A), the Secretary shall notify—

(i) each responsible party of that request, using lists maintained by the Bureau; and

(ii) if applicable, the appropriate Federal power marketing administration.

SEC. 213. FLEXIBILITY TO ALLOW GREATER AQUIFER RECHARGE.

(a) CONTRACTS FOR AQUIFER RECHARGE.—

(1) IN GENERAL.—The Secretary may enter into a contract for the purpose of aquifer recharge using water—

(A) released from any Reclamation facility or body of water as a result of flood control operations; and

(B) that is surplus to the needs of a Reclamation project.

(2) REQUIREMENTS.—A contract under paragraph (1) shall—

(A) give priority to recharge of a groundwater basin that is fully or partially underlying land authorized to be served by a Reclamation project;

(B) be under such terms and conditions as the Secretary determines are appropriate;

(C) provide that the intended use of water is aquifer recharge;

(D) comply with State law; and

(E) not be implemented in a manner that is detrimental to—

(i) an existing water contract or power service contract under the Reclamation project; or

(ii) rights of prior appropriators under State law.

(b) AQUIFER RECHARGE ON ELIGIBLE LAND.—

(1) IN GENERAL.—Subject to paragraphs (3) and (4), a holder of a water service or repayment contract for a Reclamation project may—

(A) directly use water available under the contract for aquifer recharge on eligible land; or

(B) enter into an agreement with an individual or entity to transfer water available under the contract for aquifer recharge on eligible land.

(2) AUTHORIZED PROJECT PURPOSE.—The use of water for aquifer recharge under paragraph (1) shall be considered an authorized purpose for the Reclamation project under the reclamation laws.

(3) MODIFICATIONS TO CONTRACTS.—The Secretary may modify an existing water contract described in paragraph (1) if the Secretary determines that the modification is—

(A) necessary to allow for the use of water available under the contract for aquifer recharge under this subsection;

(B) in the best interest of the Reclamation project and the United States; and

(C) approved by the association of water users that is responsible for repaying the cost of construction, operations, and maintenance of

the facility that delivers the water under the contract.

(4) REQUIREMENTS.—The use or transfer of water for aquifer recharge under this subsection shall be subject to the requirements that—

(A) the use or transfer shall not be implemented in a manner that is detrimental to any water or power service for the Reclamation project; and

(B) before the use or transfer, the Secretary shall determine that the use or transfer—

(i)(I) results in a net water storage benefit for the Reclamation project; or

(II) contributes to the recharge of a depleted aquifer on eligible land; and

(ii) complies with State law.

(5) RELATION TO CENTRAL VALLEY PROJECT IMPROVEMENT ACT.—Section 3405 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4709) shall not apply to the use or transfer of water for aquifer recharge under a contract described in subsection (a) or this subsection.

(c) USE OF BUREAU FACILITIES.—

(1) IN GENERAL.—The Commissioner may allow the use of excess capacity in Bureau conveyance facilities for carriage of non-Reclamation project water for aquifer recharge, on the condition that—

(A) the use—

(i) shall not be implemented in a manner that is detrimental to any water or power service for the Reclamation project;

(ii) shall be consistent with existing water quality guidelines for the Reclamation project; and

(iii) shall comply with State law; and

(B) the non-Federal party to an existing contract for water or water capacity in a Reclamation facility shall consent to the use of the Reclamation facility under this subsection.

(2) EFFECT ON EXISTING CONTRACTS.—Nothing in this subsection affects a contract—

(A) in effect on the date of enactment of this Act; and

(B) under which the use of excess capacity in a Bureau conveyance facility for carriage of non-Reclamation project water for aquifer recharge is allowed.

(d) ADMINISTRATION.—

(1) DEPOSIT OF FUNDS.—Amounts derived under this section by the Secretary shall be—

(A) deposited in the reclamation fund established by the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093); and

(B) credited to the Reclamation project from which the water is supplied.

(2) IN-LIEU RECHARGE.—To the extent consistent with State law, in-lieu recharge may be carried out under this section.

(3) RECLAMATION LAW.—This section supplements and amends the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

SEC. 214. USE OF PUBLIC LAND FOR AQUIFER RECHARGE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary should give priority to the use of Bureau of Land Management land for aquifer recharge, to the extent that the use is consistent with the management of the multiple resource values of the land; and

(2)(A) areas of critical environmental concern may be compatible with, and in some cases benefit from, aquifer recharge activities; and

(B) the designation of an area of critical environmental concern should not disqualify that area from consideration for aquifer recharge if the land being protected by the designation could benefit in value from the application of a water supply.

(b) CONVEYANCE OF WATER.—The conveyance of water through a project facility that crosses Bureau of Land Management land for the purpose of aquifer recharge shall not require a new or additional permit or authorization if—

(1) the existing project facility has a valid right of way, easement, or other agreement that allows conveyance of water for a purpose other than aquifer recharge;

(2) that conveyance of water does not result in a substantial change to the operation of the project facility; and

(3) the entity operating the project facility consents to that conveyance of water.

TITLE III—WATER SUPPLY CERTAINTY

Subtitle A—Water Rights Protection

SEC. 301. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term ''Secretary'' means, as applicable—

(A) the Secretary of Agriculture; or

(B) the Secretary of the Interior.

(2) WATER RIGHT.—The term ''water right'' means any surface water, groundwater, or water storage right filed, permitted, certificated, confirmed, decreed, adjudicated, or otherwise recognized by a judicial proceeding or by the State, in which the user acquires the right to put the water to beneficial use, including water rights for federally recognized Indian Tribes.

SEC. 302. TREATMENT OF WATER RIGHTS.

The Secretary shall not—

(1) condition the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on the transfer of any water right (including joint and sole ownership) directly to

the United States, or on any impairment of title, in whole or in part, granted or otherwise recognized under State law, by Federal or State adjudication, decree, or other judgment, or pursuant to any interstate water compact;

(2) require any water user (including any federally recognized Indian Tribe) to apply for or acquire a water right in the name of the United States under State law as a condition of the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement; or

(3) condition or withhold the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement, in whole or in part, on—

(A) limiting the date, time, quantity, location of diversion or pumping, or place of use of a State water right beyond any applicable limitations under State water law; or

(B) the modification of the terms and conditions of groundwater withdrawal, guidance and reporting procedures, or conservation and

source protection measures established by a State.

SEC. 303. POLICY DEVELOPMENT.

In developing any rule, policy, directive, management plan, or similar Federal action relating to the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement, the Secretary—

(1) shall—

(A) recognize the longstanding authority of the States relating to evaluating, protecting, allocating, regulating, permitting, and adjudicating water use; and

(B) coordinate with the States to ensure that any rule, policy, directive, management plan, or similar Federal action is consistent with, and imposes no greater restriction or regulatory requirement, than applicable State water law; and

(2) shall not—

(A) adversely affect—

(i) the authority of a State in—

(I) permitting the beneficial use of water; or

(II) adjudicating water rights;

(ii) any definition established by a State with respect to the term ''beneficial use'', ''priority of water rights'', or ''terms of use''; or

(iii) any other right or obligation of a State established under State law; or

(B) assert any connection between surface and groundwater that is inconsistent with such a connection recognized by State water laws.

SEC. 304. EFFECT.

(a) EXISTING AUTHORITY.—Except as provided in section 302, nothing in this subtitle limits or expands any existing legally recognized authority of the Secretary to issue, grant, or condition any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on Federal land that is subject to the jurisdiction of the Secretary.

(b) RECLAMATION CONTRACTS.—Nothing in this subtitle interferes with any existing or future Bureau contract entered into pursuant to Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act).

(c) ENDANGERED SPECIES ACT.—Nothing in this subtitle affects the implementation of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(d) FEDERAL RESERVED WATER RIGHTS.—Nothing in this subtitle limits or expands any existing reserved water rights of the Federal Government on land administered by the Secretary.

(e) FEDERAL POWER ACT.—Nothing in this subtitle limits or expands authorities pursuant to sections 4(e), 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e), 803(j), 811).

(f) INDIAN WATER RIGHTS.—Nothing in this subtitle limits or expands any existing reserved water right or treaty right of any federally recognized Indian Tribe.

(g) FEDERALLY HELD STATE WATER RIGHTS.—Nothing in this subtitle limits the ability of the Secretary, through applicable State procedures, to acquire, use, enforce, or protect a State water right owned by the United States.

Subtitle B—Permits for Water Transfers

SEC. 311. PERMITS FOR WATER TRANSFERS.

Section 122.3(i) of title 40, Code of Federal Regulations, is enacted into law.

Subtitle C—Endangered Fish Recovery Programs

SEC. 321. EXTENSION OF AUTHORIZATION TO USE UPPER COLORADO RIVER BASIN FUND REVENUES FOR ANNUAL BASE FUNDING OF FISH RECOVERY PROGRAMS; REMOVAL OF CERTAIN REPORTING REQUIREMENT.

Section 3(d)(2) of Public Law 106–392 (114 Stat. 1604; 126 Stat. 2444) is amended—

(1) in the fourth sentence—

(A) by striking "2019" and inserting "2023"; and

(B) by striking "; except that" and all that follows through "capital projects and monitoring"; and

(2) by striking the fifth, sixth, and seventh sentences.

SEC. 322. REPORT ON RECOVERY IMPLEMENTATION PROGRAMS.

Section 3 of Public Law 106–392 (114 Stat. 1603; 126 Stat. 2444) is amended by adding at the end the following:

"(j) REPORT.—

"(1) IN GENERAL.—Not later than September 30, 2021, the Secretary shall submit to the appropriate committees of Congress a report that—

"(A) describes the accomplishments of the Recovery Implementation Programs;

"(B) identifies—

"(i) as of the date of the report, the listing status under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) of the Colorado pikeminnow, humpback chub, razorback sucker, and bonytail; and

"(ii) as of September 30, 2023, the projected listing status under that Act of each of the species referred to in clause (i);

"(C)(i) identifies—

"(I) the total expenditures and the expenditures by categories of activities by the Recovery Implementation Programs during the period beginning on the date on which the applicable Recovery Implementation Program was established and ending on September 30, 2021; and

"(II) projected expenditures by the Recovery Implementation Programs during

the period beginning on October 1, 2021, and ending on September 30, 2023; and

"(ii) for purposes of the expenditures identified under clause (i), includes a description of—

"(I) any expenditures of appropriated funds;

"(II) any power revenues;

"(III) any contributions by the States, power customers, Tribes, water users, and environmental organizations; and

"(IV) any other sources of funds for the Recovery Implementation Programs; and

"(D) describes—

"(i) any activities to be carried out under the Recovery Implementation Program after September 30, 2023; and

"(ii) the projected cost of the activities described under clause (i).

"(2) CONSULTATION REQUIRED.—The Secretary shall consult with the participants in the Recovery Implementation Programs in preparing the report under paragraph (1).".

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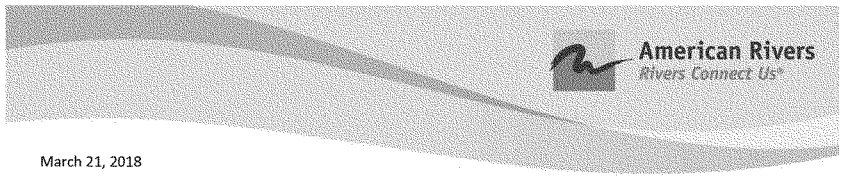

March 21, 2018

Chairman Lisa Murkowski
Committee on Energy and Natural Resources
304 Dirksen Senate Building
United States Senate
Washington D.C. 20510

Ranking Member Maria Cantwell
Committee on Energy and Natural Resources
304 Dirksen Senate Building
United States Senate
Washington D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of American Rivers members and supporters nationwide, we thank you for your leadership in hearing legislation to help individuals and communities in parts of the west deal with current historic drought conditions. We are writing to express concerns with specific sections of S. 2563, the "Water Supply Infrastructure and Drought Resilience Act." As currently drafted, the bill undermines critical state and federal environmental laws, which protect fishing jobs, water quality, water supply, and the environment.

In particular, Title I of the bill would erode environmental review and permitting of dams by the Bureau of Reclamation. Throughout the western United States, federal dams have significantly increased water supply, but often these projects have come at the cost of significant harm to Tribes, water quality, and fisheries; climate change is likely to increase the risks of dam failures and flooding. Ensuring adequate environmental review of new dams is essential to protect lives, property, and the environment. Yet Title I would designate the Bureau of Reclamation to be the lead agency for all environmental reviews and permits notwithstanding existing roles of agencies such as the U.S. Fish and Wildlife Service in carrying out laws including the Fish and Wildlife Coordination Act. This subtitle also requires unrealistic specified deadlines to be met for consulting with cooperating agencies, completing environmental reviews, and determining project schedules. Reclamation has testified to the fact that there have been no examples of any Reclamation or U.S. Department of Agriculture (USDA)-sited surface water storage projects that have been denied construction because of delays associated with project reviews or shortcomings in communication among Reclamation, USDA, or any other state or federal partners. The effect of Title I would be to limit the application of existing authorities under the purview of federal and state agencies, leading to potentially poorly sited and operated projects.

American Rivers strongly opposes Title III of S. 563, the "Water Rights Protection Act," which contains similar language to previously introduced legislation. The overly broad language of this title will jeopardize the ability of federal resource agencies to condition federal permits and

apply for state water rights needed to protect valuable fisheries.

Drought resiliency and water supply security in the West is contingent upon protecting healthy river and stream flows on federal lands. Federal land managers have an important role to play in protecting streams—under the authority of the Property and Treaty Clauses of the United States Constitution, Section 505 of the Federal Land Policy and Management Act, provisions of the Federal Power Act, and other authorities—and they also have a responsibility to work with their stakeholders and the states to do it right. Provisions of this title would harm the ability of federal land managers to use these authorities to protect the river health and water supplies on federal lands.

In June 2015, Reclamation testified that the Water Rights Protection Act "threatens the Federal Government's longstanding authority to manage federal lands and associated water resources, uphold proprietary rights for the benefit of Indian tribes, and ensure the proper management of public lands and resources." Moreover, Reclamation stated that "[t]he legislation is overly broad, drafted in ambiguous terms, and likely to have numerous unintended consequences that would have adverse effects on existing law, tribal water rights, and voluntary agreements." We could not agree more. Title III of S. 2902 ambiguous, broad, and its enactment would not protect the water rights of the United States or of private water users. Instead it would lead to years of costly litigation, enriching water lawyers at the expense of water users and taxpayers.

We appreciate the attention given by this Committee to this critical topic and we look forward to continuing to work with Members of the Committee and the Senate to find common sense solutions to addressing the issues of persistent West-wide drought.

Sincerely,

Matthew B. Niemerski
Director, Federal Policy
American Rivers

March 21, 2018

Chairman Murkowski
Energy and Natural Resources Committee
U.S. Senate
304 Dirksen Senate Building
Washington D.C. 20510

Ranking Member Cantwell
Energy and Natural Resources Committee
U.S. Senate
304 Dirksen Senate Building
Washington D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

Thank you for your leadership in holding a hearing on S. 2539, *A bill to amend the Energy and Water Development and Related Agencies Appropriations Act, 2015, to reauthorize certain projects to increase Colorado River System water.* On behalf of our organizations' over a million members and supporters, we are writing to support an extension of the authority for the System Conservation Pilot Program (SCPP).

Reservoirs in the Colorado River Basin have seen historic lows following an eighteen-year drought – the worst in 100 years of record keeping – while the region's population continues to grow. Diminished stream flows pose serious challenges for the drinking water supplies of over 36 million people, significant agricultural production, future economic growth and a $26-billion outdoor recreation economy with its quarter million jobs. The Bureau of Reclamation and basin states project that, by 2060, demand for water from the Colorado River may exceed supply by 3.2 million acre-feet or more.

SCPP has proven to be a critical tool for protecting water storage levels in Lakes Mead and Powell. The pilot projects have shown that temporary, voluntary and compensated reductions in water use can benefit both water users in multiple sectors and the entire Colorado River system – a novel goal that reflects increased collaboration across water use sectors. Launched in FY14 with funding from both Reclamation and four cities in the Basin, Congress has continued to invest in the program in subsequent years. Demand for SCPP has been greater than the available funding. While an extension of the program is now warranted, all interested parties must begin to consider how to develop more long-term solutions for the Colorado River basin, including a multi-pronged demand management strategy.

Again, thank you for your leadership in holding this hearing on S. 2539 and we look forward to working with you on short-term solutions, like SCPP, as well as long-term strategies to build a resilient basin-wide approach with multi-sector benefits to sustain communities and agriculture while supporting fish and wildlife.

Sincerely,

American Rivers

National Audubon Society

CC: Senator Heller

American Rivers * Center for Biological Diversity * Defenders of Wildlife
Earthjustice * Endangered Species Coalition * Friends of the River
Golden Gate Salmon Association * Hip Hop Caucus * Natural Resources Defense Council
Pacific Coast Federation of Fishermen's Associations * Power Shift Network * Save EPA
Sierra Club * The Bay Institute

March 21, 2018

Dear Senator:

On behalf of the undersigned groups, and our millions of activists and members nationwide, we are writing to oppose S. 2563 (Flake), the "Water Supply Infrastructure and Drought Resilience Act." As currently drafted, the bill undermines critical state and federal environmental laws, which protect fishing jobs, water quality, water supply, and the environment.

In particular, Title I of the bill would erode environmental review and permitting of dams by the Bureau of Reclamation. Throughout the western United States, while dams have significantly increased water supply, these projects have come at the cost of significant harm to Tribes, water quality, fish and wildlife and fishing jobs, and climate change is likely to increase the risks of dam failures and flooding. Ensuring adequate environmental review of new dams is essential to protect lives, property, and the environment. Yet Title 1 of this bill would establish the Bureau as the lead agency for all environmental reviews and permits and would significantly limit the time for preparation of environmental reviews of new dams. These provisions would undermine the roles of the federal wildlife agencies (the Fish and Wildlife Service and National Marine Fisheries Service) under the Endangered Species Act, Fish and Wildlife Coordination Act, and Clean Water Act.

Title III of the bill would significantly undermine the federal government's existing rights to condition permits to protect fisheries and the environment. This unnecessary legislation, which responds to previously withdrawn guidance, would unreasonably restrict the federal government's ability to protect fisheries and fishing jobs by requiring instream flows under existing law. And we strongly oppose section 311 of the bill, which codifies a Bush-era regulation that generally excludes water transfers from certain permitting under the Clean Water Act, despite the fact that water transfers can cause environmental impacts, including harming salmon runs, spreading invasive species and degrading water quality.

In addition, while we are supportive of the concepts of groundwater recharge and changing flood control curves to adapt to a changing climate and better weather forecasting, we are also extremely concerned that as currently drafted, Title 2 of the bill could be interpreted to preempt state and federal environmental laws, including the Endangered Species Act and the Clean Water Act. For instance, Section 204 requires changes to flood control curves at existing reservoirs, but the bill does not require the Secretary to consider the impact of these changes on fisheries, the environment, or water rights, nor does it require consultation with state or federal fish and wildlife agencies. Similarly, Section 213 of the bill allows the Secretary to execute contracts for aquifer recharge, but it does not require the Secretary to consider environmental impacts or

consult with fishery agencies or state agencies that administer water rights. Properly implemented, we believe that groundwater recharge and changes to flood control curves can reduce flooding risks, improve water supply, and protect the environment. However, as currently drafted S. 2563 requires no consideration of the impacts of these programs on state water rights, on commercial and recreational fishing, or on the environment, and as a result the bill could significantly undermine state and federal environmental protections that fishermen, Tribes, and the public depend on.

For these reasons, we respectfully urge you to oppose S. 2563.

Sincerely,

American Rivers
Center for Biological Diversity
Defenders of Wildlife
Earthjustice
Endangered Species Coalition
Friends of the River
Golden Gate Salmon Association
Hip Hop Caucus
Pacific Coast Federation of Fishermen's Associations
Power Shift Network
Save EPA
Sierra Club
The Bay Institute

The Nature Conservancy
Colorado River Program
2424 Spruce Street
Boulder, CO 80302
nature.org/coriver

March 23, 2018

The Honorable Lisa Murkowski, Chairman
The Honorable Maria Cantwell, Ranking Member
U. S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

Subject: S. 2539, A bill to amend the Energy and Water Development and Related Agencies Appropriations Act, 2015, to reauthorize certain projects to increase Colorado River System water

Dear Chairman Murkowski and Ranking Member Cantwell:

Thank you for your leadership in holding a hearing on S. 2539, *A bill to amend the Energy and Water Development and Related Agencies Appropriations Act, 2015, to reauthorize certain projects to increase Colorado River System water*. The Nature Conservancy has been actively engaged in the development and implementation of the System Conservation Pilot Program in the Upper Colorado River Basin since its inception as we explore ways to increase water security for people and nature that depend on the Colorado River System. We have also worked with partners from agriculture, industry, municipalities, and state governments to evaluate lessons learned from the current pilot program and critical next steps.

Based on this experience, the Conservancy supports the extension of the authorization by S. 2539 to ensure we build on the pilot program's momentum and socialization of a demand management program. The pilot program has offered incredible lessons for the Basin in how to develop a long-term drought contingency and demand management program. We must have a broad array of tools to withstand prolonged drought and increased demands.

Consequently, we support the extension, however, we want to stress the need to focus on the many outstanding questions in the Upper Basin as well. The Upper Colorado River Commission recently completed an evaluation report titled: *Colorado River System Conservation Pilot Program in the Upper Colorado River Basin, February 2018*. We believe that the success and effectiveness of this pilot program, as well as more long-term solutions for the Colorado River System, depend on the timely and collaborative resolution of these issues.

On behalf of our organization's members and supporters who are committed to making conservation work for nature and people world-wide, we again thank you for your leadership in holding this hearing on S. 2539 and we look forward to working with you on both pilot and long-term solutions for all who rely on the Colorado River.

Sincerely,

Taylor E.C. Hawes
Colorado River Program Director
The Nature Conservancy

CC: Senator Heller

Dan Vink, Executive Director,
South Valley Water Association

Testimony Before the Committee on Energy and Natural Resources United States Senate

Legislative Hearing On
S. 2563 – "Water Supply Infrastructure and Drought Resilience Act of 2018" &
S. 2560 – "Reclamation Title Transfer Act of 2018"

March 29, 2018

Dear Chairwoman Murkowski and Ranking Member Cantwell,

On behalf of the South Valley Water Association (SVWA), I submit the following comments with respect to two of the bills on the hearing agenda. The first is S. 2563, the Water Supply Infrastructure and Drought Resilience Act of 2018, and the second is S. 2560, the Reclamation Title Transfer Act of 2018. Overall, SVWA is very pleased that the Committee is focused on water supply and western drought measures and I look forward to working on these important issues as these bills move through the legislative process.

S. 2563- The Water Supply Infrastructure and Drought Resilience Act of 2018

SVWA has concerns with language in Section 212 – Rescheduling of Water for Aquifer Recharge. We represent a large portion of the repayments contractors who receive Central Valley Project (CVP) water from the Friant Division. The language on Rescheduling and Pre-use is problematic for our members.

Applied strictly to the Friant Division, the provision does not provide anything that is not currently allowed under our contracts, it only makes it a statutory obligation. Beyond that, it does apply some restrictions on the use of the water that do not currently exist under the current rescheduling guidelines for Friant contractors, namely the 90-day window to use the rescheduled water and the act of tying the rescheduling to the purpose of aquifer recharge, a limitation that does not exist today. That would not be helpful. We face challenges every year in trying to get Reclamation to respond to the needs of the contractors in a timely manner and issue flexible rescheduling guidelines. That's a challenge that needs to be addressed at an administrative level and not by making it an act of Congress.

The bigger issue is how the rescheduling language could be applied to other parts of the CVP that don't currently allow for rescheduling and how that might impact Reclamation's ability to meet project obligations like Exchange and Settlement contracts. Rescheduling is a unique tool that can be used to bolster water supply and provide flexibility for the contractors to use water on schedules that fit the contractor's needs. It's also a tool that cannot be wielded in such a way that it impacts Reclamation's ability to meet its water rights obligations. The language in Section 212 runs that very real risk.

Reclamation provides for rescheduling in both Millerton and San Luis Reservoirs only and on a conditional basis subject to annual guidelines. Attempts to add rescheduling to Shasta and other parts of the CVP were struck from the WIIN Act of 2016 primarily because of concerns related to the loss of flexibility by Reclamation to meet base water rights obligations.

For these reasons, the SVWA does support the language in Section 212 that provides for rescheduling and pre-use of CVP water. We do support the

language of Section 213 and Section 214 that provide for greater flexibility related to aquifer recharge and the ability to recharge using public lands. Both are creative tools that will help our members, and other parts of the CVP, protect and enhance groundwater.

S. 2560- The Reclamation Title Transfer Act of 2018

SVWA supports S.2560 in general but would like to draw attention to the difference between title transfer of larger portions of Reclamation projects versus title transfer of district level distribution systems and recommends a different process for transferring title to the district level systems.

Reclamation projects are authorized by Congress through either one act or a series of acts and include the obligation for all or partial repayment to the United States by the beneficiaries of the projects. The Central Valley project is an example of a larger Reclamation project that was authorized in stages and included repayment provisions for both the backbone infrastructure of the CVP like Shasta, Folsom, Friant, and the San Luis Unit that delivered large volumes of water to contractors from the dams and canals that make up the CVP.

Those same authorizations allowed for construction and repayment of smaller irrigation systems that supplied water to landowners within the four walls of the contractor boundaries who contracted with the United States for water from the CVP.

Broader CVP Authorizations and Project Construction

The Water Service and Water Repayment contracts issued by Reclamation to CVP contractors include provisions for capital repayment of these projects. With some exceptions, the cost of the CVP projects were spread out to the entirety of the CVP contractors irrespective of the Division from where they receive the water. In sum, the United States built a series of dams and canals and the contractors collectively agreed to repay the costs.

Characteristics of the broader CVP:

- The projects serve multiple users and multiple purposes.
- The United States is also the sole owner and operator of these systems either directly or through contract for operations with other agencies.
- Since the first authorization in 1935, the United States has continued to add capital improvements to the CVP and adjusts the contractor's share of capital repayment on an annual basis accordingly.

Authorization and Repayment of District-Level Distribution Systems

Water is delivered from the dams and canals in the CVP in accordance with water service or repayment contracts negotiated with irrigation and water districts who receive the water. Distribution of water from these main canals to the individual farmers is the responsibility of the local districts. Irrigation and water districts use a distribution system of internal canals and pipelines within the boundaries of those districts to convey water to individual farms. This system is used only by that irrigation district. Reclamation administers loans that allow water users to build these distribution systems to provide water service.

Relevant provisions of the Repayment Contractors include:

1. Authorization for the Secretary to make funds available on a loan basis "for the construction of a distribution system" specific to that irrigation district.

2. Direction to the Secretary to "enter into a repayment contract" with the irrigation district to provide "assurance of prompt repayment of the loan."

3. Requirement that "when full repayment has been made to the United States, the Secretary shall relinquish all claims under said contracts."

Repayment Contracts were entered into with seven individual districts within SVWA. Characteristics of these internal distribution systems include:

- They serve only the landowners within the boundaries of the irrigation district.
- The cost of Operations and Maintenance is, and has always been, the sole responsibility of the irrigation district.
- The loans that provided for the construction of the systems have been repaid in full.

Under the Reclamation Act of 1902, while responsibility for OM&R of facilities can, and often is, transferred from Reclamation to the applicable water users, title/ ownership of the facilities and project must remain with the United States until Congress specifically authorizes their transfer.

That action by Congress has not happened.

As part of the continued development of S. 2560, The Reclamation Title Transfer Act of 2018, Congress should authorize an administrative process under a categorical exemption for projects that meet well defined qualifications of an internal district-level distribution system.

Thank you for the opportunity to submit written testimony. Your collective efforts

in addressing water supply and resource issues for our members is much appreciated. I am available to discuss any of this and look forward to working with the Committee.

Sincerely,

Dan Vink

March 21, 2018

Chairman Murkowski
Energy and Natural Resources Committee
U.S. Senate
304 Dirksen Senate Building
Washington D.C. 20510

Ranking Member Cantwell
Energy and Natural Resources Committee
U.S. Senate
304 Dirksen Senate Building
Washington D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of the Theodore Roosevelt Conservation Partnership, its 56 partners, 35,000 individual members and 1400 affiliated local and state clubs, all working to guarantee Americans great places to hunt and fish, I would like to thank you for your leadership in holding a hearing on S. 2539, *A bill to amend the Energy and Water Development and Related Agencies Appropriations Act, 2015, to reauthorize certain projects to increase Colorado River System water.* The TRCP supports an extension of authority for the System Conservation Pilot Program (SCPP).

Reservoirs in the Colorado River Basin have seen historic lows following 18 years of drought – the worst in a 100-year record – while the region's population continues to grow. Diminished stream flows pose serious challenges for the drinking water supplies of over 36 million people, significant agricultural production, future economic growth and a $26-billion outdoor recreation economy with its quarter million jobs. The Bureau of Reclamation and basin states project that, by 2060, demand for Colorado River water may exceed supply by 3.2 million acre-feet or more.

SCPP has proven to be a critical tool for protecting water storage levels in Lakes Mead and Powell. The pilot projects have shown that temporary, voluntary and compensated reductions in water use can benefit both water users in multiple sectors and the entire Colorado River system – a novel goal that reflects increased collaboration across water use sectors. Launched in FY14 with funding from both Reclamation and four cities in the Basin, Congress has continued to invest in the program in subsequent years. Demand for SCPP has been greater than the available funding. While an extension of the program is now warranted, all interested parties must begin to consider how to develop more long-term solutions for the Colorado River basin, including a multi-pronged demand management strategy.

Again, thank you for your leadership in holding this hearing on S. 2539 and we look forward to working with you on short -term solutions, like SCPP, as well as long-term strategies to build a resilient basin-wide approach with multi-sector benefits to sustain communities and agriculture while supporting fish and wildlife.

Sincerely,

Interim Director, Center for Water Resources

CC: Senator Heller

2350 Balsam Drive, Suite 103 | Boulder, CO 80304 | 303.579.5453 | mkassen@trcp.org | www.trcp.org