

**Testimony of John Buse, Senior Counsel
Center for Biological Diversity
June 28, 2023**

**Before the United States House of Representatives Committee on Natural Resources
Subcommittee on Water, Wildlife and Fisheries**

H.R. 3675—To amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority

Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee:

I am a Senior Counsel at the Center for Biological Diversity, which is a non-profit, public interest environmental organization with over 87,000 members. The Center is dedicated to the protection of native species and their habitats through science, policy, and environmental law. I have worked on the Center's behalf on a range of federal and California state water policy and water infrastructure issues, and with that perspective, offer these comments in opposition to H.R. 3675.

H.R. 3675 is a small bill with large consequences. H.R. 3675 would amend section 4013 of the Water Infrastructure Improvements for The Nation Act ("WIIN Act," Public Law 114–322) to make another section of the WIIN Act—section 4011—permanent. Section 4011, which expired in 2021, provides that federal water service contracts may be "converted" to repayment contracts, where the Bureau of Reclamation sets a fixed repayment obligation for contractors.

As the House Natural Resources Committee's June 14, 2023 memorandum states, more than 80 federal water contractors took advantage of section 4011's contract conversion opportunity while that provision was in effect. Most or all of these contractors held short-term water supply contracts for water supplied by California's Central Valley Project ("CVP"). Under the terms of section 4011 of the WIIN Act, these water supply contracts were converted to *permanent* repayment contracts. Reclamation converted the contracts without any compliance with federal environmental laws, including the National Environmental Policy Act ("NEPA") and the Endangered Species Act notwithstanding the manifest environmental consequences of making the contracts permanent for California's San Francisco Bay-Delta system, for other watersheds affected by the CVP, such as the Trinity River Basin, for federally recognized tribes, and for federally protected species. Reclamation has acknowledged that water diversions for operation of the CVP have had serious adverse effects on the human environment, yet it has made these commitments permanent without any consideration of alternatives or conditions that would reduce or avoid these effects.

If H.R. 3675 becomes law, Reclamation will doubtless persist in converting water service contracts to permanent repayment contracts without complying with NEPA and the Endangered Species Act. We have challenged the lawfulness of Reclamation's failure to comply with federal

environmental laws in a case now pending in the Eastern District of California.¹ However, even if we prevail in this litigation, H.R. 3675 will perpetuate another grave injustice that has occurred with the conversion of federal water contracts under the WIIN Act.

Under the Central Valley Project Improvement Act, CVP contractors are obligated to pay environmental restoration costs to address the CVP's ongoing damage to the environment and fisheries.² However, in CVP contracts converted under the WIIN Act before section 4011 expired, Reclamation has consistently failed to allocate over \$340 million of these restoration costs to contractors.³ Thus, H.R. 3675 would make permanent a provision that Reclamation has used to shift the burden of funding hundreds of millions of dollars of vitally needed restoration away from wealthy CVP contractors.

For these reasons, the WIIN Act's contract conversion program should not be renewed, and we oppose H.R. 3675.

¹ *Ctr. for Biological Diversity v. U.S. Bureau of Reclamation*, Case No. 1:20-cv-00706-JLT-EPG.

² See Central Valley Improvement Act § 3406, Pub. L. No. 102-575, 106 Stat. 4600, 4706-31 (1992).

³ First Amended Complaint, *Hoopa Valley Tribe v. U.S. Bureau of Reclamation*, E.D. Cal. Case No. 1:20-cv-01814-JLT-EPG (attached) at ¶ 121.