

**H.R. 7776, H.R. 7872, H.R. 7938,
AND H.R. 8263**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON WATER, WILDLIFE AND
FISHERIES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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**LEGISLATIVE HEARING ON H.R. 7776, TO
AMEND THE BOULDER CANYON PROJECT
ACT TO AUTHORIZE THE SECRETARY OF
THE INTERIOR TO EXPEND AMOUNTS IN
THE COLORADO RIVER DAM FUND, AND
FOR OTHER PURPOSES, “HELP HOOVER
DAM ACT”; H.R. 7872, TO AMEND THE
COLORADO RIVER BASIN SALINITY
CONTROL ACT TO MODIFY CERTAIN RE-
QUIREMENTS APPLICABLE TO SALINITY
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MENT SUPPORT ACT OF 2024”; AND H.R.
8263, TO AMEND THE RECLAMATION
PROJECT ACT OF 1939 TO ENCOURAGE
NON-FEDERAL HYDROPOWER DEVELOP-
MENT WITH RESPECT TO BUREAU OF REC-
LAMATION PROJECTS, “RURAL JOBS AND
HYDROPOWER EXPANSION ACT”**

**Wednesday, May 22, 2024
U.S. House of Representatives
Subcommittee on Water, Wildlife and Fisheries
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to notice, at 10:14 a.m., in Room 1334, Longworth House Office Building, Hon. Cliff Bentz [Chairman of the Subcommittee] presiding.

Present: Representatives Bentz, LaMalfa, Boebert; Huffman, and Hoyle.

Also present: Representatives Curtis; and Lee of Nevada.

Mr. BENTZ. The Subcommittee on Water, Wildlife and Fisheries will come to order.

Good morning, everyone. I want to welcome Members, witnesses, and our guests in the audience to today's hearing.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Member.

Therefore, I ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted in accordance with the Committee Rule 3(o).

Without objection, so ordered.

I also ask unanimous consent that the Congressman from Utah, Mr. Curtis, be allowed to participate in today's hearing.

Without objection, so ordered.

We are here today to consider four legislative measures: H.R. 7776, the Help Hoover Dam Act, sponsored by Representative Lee of Nevada; H.R. 7872, the Colorado River Salinity Control Fix Act, sponsored by Representative Curtis of Utah; H.R. 7938, the Klamath Basin Water Agreement Support Act of 2024, sponsored by myself; and H.R. 8263, the Rural Jobs and Hydropower Expansion Act, sponsored by Representative Boebert of Colorado.

I now recognize myself for a 5-minute opening statement.

**STATEMENT OF THE HON. CLIFF BENTZ, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF OREGON**

Mr. BENTZ. Again, I want to thank the Members for being here and for their interest in the issues we are discussing.

I also want to thank our witnesses for their participation, especially those who traveled to Washington to be here.

Today, we will be considering four bills that build on the important work done by the Bureau of Reclamation and reform the permitting process for hydropower projects. Two bills would make important changes along the Colorado River.

H.R. 7872, the Colorado River Salinity Control Fix Act, introduced by Congressman John Curtis, would address the cost imbalance that the Upper and Lower Colorado River Basins face in administering the Colorado River Basin Salinity Control Program. This program funds salinity control projects that reduce water salinity levels, which helps to generate positive crop yields. The program has historically received most of its funding through appropriations and power revenues. H.R. 7872 maintains the existing funding structure, but adjusts the percentages of reimbursable and non-reimbursable funds.

We will also consider H.R. 7776, the Help the Hoover Dam Act, introduced by Congressman Susie Lee. This legislation would authorize the Bureau of Reclamation to access \$45 million in unused ratepayer funds for upgrades and maintenance of the Hoover Dam.

Third, we will consider H.R. 8263, the Rural Jobs and Hydropower Expansion Act, introduced by Congresswoman Lauren Boebert. The intent of this legislation is to reform the permitting process for non-Federal hydropower projects. H.R. 8263 would clarify that the Bureau of Reclamation has sole jurisdiction over

hydropower development within the reclamation project. With hydropower production at a 22-year low, the energy demand expected to increase in the years and decades ahead, reforming this process will encourage more hydropower development.

Finally, the fourth bill we will consider is H.R. 7938, the Klamath Basin Water Agreement Support Act of 2024. I was proud to introduce this legislation. I am thankful that Tracey Liskey of the Klamath Water Users Association is here with us today.

The Klamath Project encompasses about 200,000 acres of irrigated lands which straddle the Oregon-California border. The project relies on water from the Klamath and Lost River systems, including regulated storage in the Upper Klamath Lake, Clear Lake, and Gerber Reservoir. The project not only supports family farms and the rural economy, it also is the sole means for delivering water to two wildlife refuges: the Lower Klamath and the Tule Lake National Wildlife Refuges, managed by U.S. Fish and Wildlife.

As many of the Subcommittee know, the Klamath Project is the poster child of water conflict in the West. Yet today, we are not talking about water allocation, but rather how off-project actions, mainly the removal of the four PacificCorp dams, impact the continued operations of the project. H.R. 7938 builds upon the promises made regarding the PacificCorp dam removal, and specific restoration which will follow, and is intended to shield farmers from the adverse effect of these actions.

The legislation also ensures that the Department of the Interior remains accountable, preventing the transfer of river infrastructure unrelated to irrigation costs onto farmers.

I am looking forward to discussing these important issues at today's hearing. I thank the Members and witnesses for being here.

With that, I recognize Ranking Member Huffman for his opening statement.

STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HUFFMAN. Thank you, Mr. Chairman, and welcome to our witnesses. It has been some time since we have had a hearing with a focus on hydropower, so I look forward to working through the bills before the Subcommittee today.

Our agenda includes four bills, and we will discuss solutions to address the impacts of climate change to the Colorado River Basin, meeting the obligations made by our Federal Government under agreements in the Klamath Basin, and expanding Reclamation's Lease of Power Privilege.

As each of these bills touches on hydropower in some way, it is important that we highlight the impact that drought has had on our water supplies and communities. For the past several years, crippling drought conditions in the West have reduced available water supplies, harmed fish and wildlife, and reduced electricity generation. And while some of my colleagues claim that hydropower generation has been limited due to expensive and cumbersome environmental laws indicative of government over-reach, this ignores the fact that much of our water infrastructure was built prior to any concerns about climate change, and even before

we fully understood the potential impacts these projects have on fish and wildlife.

The climate crisis is fundamentally changing our water availability, and we need to be collaborative in finding solutions to protect and preserve our water supplies. I am glad to see that two of the bills slated for consideration meet that description. They are collaborative, bipartisan solutions to address the impacts that drought has on hydropower generation in the Colorado River and available revenues for key programs.

Ms. Lee's Help Hoover Dam Act will authorize the Bureau to access unused funds for necessary operations, maintenance, and improvement projects to offset the impacts of ongoing drought in the Basin, and strengthen operations at Hoover Dam.

Mr. Curtis' bill addresses challenges concerning salinity in the Basin. Under the Colorado River Basin Salinity Control Act, Congress directed Reclamation to carry out salinity control projects to address the impacts of increasing salinity levels from natural and agricultural sources. Reclamation currently utilizes a Federal cost share for these programs, with 30 percent being funded by the Upper and Lower Basin funds. These funds come from the sale of power, water, and transmission in the Basin, but ongoing drought has reduced available cost share dollars. So, the Colorado River Salinity Control Fix Act increases the Federal cost share for salinity control programs in the Basin to keep these programs operating, and that makes sense to me.

The next bill on the agenda is of interest not only to its sponsor, but to me, as well. I represent the lower region of the Klamath Basin, and Chair Bentz's legislation, H.R. 7938, would address numerous provisions made under the Klamath Basin Agreements.

This Basin has been contentious since settlers first arrived in the region, leading to decades of unjust treatment and neglect of the region's Indian tribes, an issue that persists to some degree to this day. Only recently have agreements initiated by the tribes been made to remove the lower four Klamath River dams, allowing for the restoration of this ecosystem and salmon habitat. I look forward to seeing the benefits for water quality, river temperatures, and the survival of fish species that tribes and fishing communities depend on as removal and restoration efforts continue in the Basin. This has been a long fight, but progress was made through several agreements between the Federal, state, tribal, and local governments and stakeholders.

Given both Mr. Bentz's and my shared concern for the long-term sustainability of the Klamath River Basin, I am happy to have a robust discussion on how his legislation will help these communities by supporting the commitments made under the Klamath Basin Agreement.

It is important to note that Mr. Bentz has made some changes to the introduced text from last Congress, and I hope to hear more about the reasons behind those changes and their implications for Reclamation in implementing the legislation if it is enacted.

Lastly, we will consider Representative Boebert's H.R. 8263, which looks more broadly at hydropower development under Reclamation's Lease of Power Privilege to expand that authority to permit the development of hydropower at all Reclamation facilities,

rather than just those authorized for Federal hydropower development. I look forward to hearing more from Reclamation about what this would look like.

And before I end, I would like to ask unanimous consent for Representative Susie Lee of Nevada to participate in today's hearing.

Mr. BENTZ. Without objection.

Mr. HUFFMAN. Thank you, Mr. Chair, I yield back.

Mr. BENTZ. I will now introduce our first panelist. As typical with legislative hearings, the bills' sponsors are recognized for 5 minutes each to discuss their bills. With us today is Congresswoman Boebert.

Congresswoman, you are recognized for 5 minutes.

STATEMENT OF THE HON. LAUREN BOEBERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Ms. BOEBERT. Thank you, Mr. Chairman. I am proud to testify in support of H.R. 8263, my Rural Jobs and Hydropower Expansion Act.

This common-sense legislation amends the Reclamation Project Act of 1939 to allow new, non-Federal hydropower development on Reclamation projects.

My bill would also streamline burdensome and unnecessary Federal regulations and the permitting process encountered by many irrigation water districts and electric utilities seeking to develop hydropower on Reclamation infrastructure.

Hydropower is one of the cheapest, cleanest, and most reliable forms of electricity. Further expanding hydropower development will help lower energy costs for American families and small businesses, and create jobs in rural America.

The hydropower industry supports nearly 8,000 good-paying jobs in the United States, mostly in rural America. The Bureau of Reclamation is the country's second-largest hydropower producer, and owns and operates 53 hydroelectric plants. These plants generate 40,000 megawatt hours of electricity, meeting the demand of approximately 3.5 million homes. In 2021, the hydroelectric power produced 31.5 percent of the total renewable electricity and 6.3 percent of total U.S. electricity.

My Rural Jobs and Hydropower Expansion Act builds on past efforts to streamline the permitting process, and spurs additional non-Federal hydropower development on Reclamation projects on a much larger scale, to include diversion dams and other facilities. I worked closely with the Bureau of Reclamation, which supports the intent of the bill, and I worked also with several stakeholders to draft this legislation that will help cut through the bureaucracy, expand hydropower development, and create good-paying jobs in Colorado.

I look forward to listening to all of the testimonies today, hearing feedback from our witnesses, and working with the Committee here and the House Natural Resources and Reclamation to incorporate any technical changes to protect water operators under the expanded hydro development authorization in this bill.

I certainly urge passage of my bill through Committee and, Mr. Chairman, I yield back in anticipation to hear from our witnesses today. Thank you.

Mr. BENTZ. I thank Congresswoman Boebert for her testimony. I now recognize Congresswoman Lee for 5 minutes.

**STATEMENT OF THE HON. SUSIE LEE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEVADA**

Ms. LEE. Thank you, Mr. Chairman and Ranking Member Huffman, and thanks for all the attendees here today.

Las Vegas and Southern Nevada have been home and host to countless American icons over the years, but at 726 feet tall, the one that I am privileged to be championing today truly towers above the rest: the Hoover Dam. My bipartisan, bicameral Help Hoover Dam Act would unlock \$46 million in much-needed resources for the storied Nevada symbol and the National Historic Landmark featured in the bill's title, without requiring any new Federal money.

Constructed in the 1930s, the Hoover Dam generates hydroelectric power for more than a million people across Nevada, Arizona, and California each year. Lake Mead, the dam's reservoir, can store an average flow of the Colorado River for 2 years, supplying water to 25 million people and serving as the focal point of America's first and largest national recreation area. The Dam is as much a wonder of the West today for the power, the water, and the recreational opportunities that it continues to provide as it was when it first became part of the Nevada landscape nearly 90 years ago.

But not even an icon like Hoover Dam is immune from the effects of aging, with maintenance needs mounting as the dam approaches its centennial. One particularly pressing project alone, replacing the gate stems that raise and lower the dam's gates, is likely to cost \$19 million over the next 6 years. Another project to replace key components of the dam's generators will require an estimated \$29 million through 2033. New piping needed throughout the dam's power plant to prevent breakages caused by rust and years of wear and tear is expected to add another \$14 million in expenses.

Mr. Chairman, my bills that I often introduce here in this Committee really do focus on cutting red tape. But the Help Hoover Dam Act could be the dictionary definition of that. As we speak, there is \$46 million sitting, locked away in an orphaned Federal account, money that has been collected for decades from Hoover hydropower contractors. This money originally was intended to support post-retirement benefits, or PRBs, for Hoover employees. Those now duplicative savings have since become stranded, as Hoover PRBs are covered in full by the Civil Service Retirement and Disability Fund.

This bill, quite simply, gives the Bureau of Reclamation clear authority from Congress to partner with Hoover contractors in recovering and utilizing this \$46 million for operations, maintenance, and other authorized activities at the dam and the lands connected with the dam.

Reclamation officials note that the cost of major plant investments at the Hoover Dam are the “responsibility of Hoover contractors, and will be included within future hydropower rates accordingly.” But they emphasize that the funding released by this legislation can play an essential role in helping stabilize Hoover hydropower rates, which are already facing increased pressure due to drought conditions on the Colorado River.

The bill was crafted with the assistance from Reclamation, as well as the Western Area Power Administration, to ensure no impacts to PRBs for past, current, or future Hoover employees. It has been co-sponsored by Republicans and Democrats across the Southwest, including Nevada’s entire House Delegation and fellow members of this Committee, Representatives Gallego, Gosar, and Napolitano.

The identical companion bill, led by Senator Sinema, is backed by the Nevada, Arizona, and California Delegations in full, and supporters range from national organizations like the American Public Power Association to multiple state and regional agencies, including Nevada’s own Colorado River Commission, whose Executive Director, Eric Witkoski, is joining us as a witness here today.

So, thank you and welcome, Eric, and thanks again to all of my colleagues for your consideration of the Help Hoover Dam Act. And I yield back.

Mr. BENTZ. I thank Congresswoman Lee for her testimony. I now recognize Congressman Curtis for 5 minutes.

**STATEMENT OF THE HON. JOHN R. CURTIS, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH**

Mr. CURTIS. Thank you, Mr. Chairman and Mr. Ranking Member, for this hearing. Thank you for including my bipartisan bill.

You all know in the West we are blessed with amazing public lands and resources. However, excessive salt in our rivers can damage sites in Utah’s iconic national parks, limit available drinking water in a rapidly growing state, and tarnish the water that ranchers use to feed the rest of the country.

Ancient seas that once covered much of the Intermountain West left significant saline rock formations. When water contacts these formations, it dissolves and discharges them into the Colorado River and its tributaries, thereby elevating the river’s salinity. This causes environmental damage and hundreds of millions of dollars in economic losses each year for water users.

Congress recognized this problem several decades ago. In 1974, Congress created the Salinity Control Program to address it. For nearly 50 years, this program has successfully reduced the amount of salt in the Colorado River. We all know there is less water flow today, and budgetary issues require us now to make changes to this Act.

One particular example in Utah shows the importance of this program. The Washington County Water Conservation District in Saint George, Utah is partnering with Reclamation to evaluate how they can beneficially reduce salinity at the local hot springs, the Colorado River’s second-highest source of salinity. The spring

produces approximately 5,000 gallons of water per minute, or more than 7 million gallons daily. The springs release an astonishing 109,000 tons. Think about that. That is 6,813 semi-truck loads of salt annually. The spring's high salinity limits use and poses unique challenges to regional and local water supply. Programs incorporated in the Salinity Control Act, combined with innovative water districts, have the potential to make hundreds of millions of gallons of water usable for activities in Utah, and that we love and rely on for grazing and recreation.

I am grateful that we have Utah resident Don Barnett with us today, and I look forward to questions a little later in today's hearing. And you will be able to explain technically what most of us cannot. So, thank you, and I am looking forward to that.

I yield my time.

Mr. BENTZ. I thank the Congressman for his testimony. I now recognize myself for 5 minutes to speak regarding H.R. 7938.

H.R. 7938, the Klamath Basin Water Agreement Support Act of 2024, is designed to implement commitments made to the Klamath Basin, Oregon communities by the Bureau of Reclamation in the process leading to the recent and ongoing removal of the four Lower Klamath dams. Those commitments are contained in agreements referred to in the bill.

The commitments that are addressed include: (1) the Secretary of the Interior implementing programs and efficiency measures based upon local agreements that align water supplies and water demand in the Klamath Basin. It is a pretty simple statement, but it has been years as people fought to figure out how to "align water supplies and water demand in the Klamath Basin," but that charge is placed in this bill.

(2) the Secretary of the Interior implementing recommendations of the local parties to supply net, delivered electrical power for water distribution purposes at a cost equal to or less than the applicable geographical power cost benchmark. The purpose of this, of course, is to recognize the fact that the dams had been supplying power to not only farmers, but also pumping activities designed to supply water to refuges in the Basin.

(3) actions by the Secretary of the Interior to design, construct, and operate projects in the Klamath Basin that protect fish and aquatic resources. And in this case the challenge is, what do we do now that the four dams are gone? What happens to the many different things that are in the river above those four dams? The Secretary is directed to design, construct, and operate projects that address those issues.

(4) the Secretary entering into an agreement to reimburse the Tule Lake Irrigation District up to 69 percent of the cost incurred in maintaining a pumping plant that delivers water to several of the national wildlife refuges in the Basin. I already mentioned the fact that water has to be pumped to, in many cases, supply those refuges.

(5) direction to the Secretary to implement and comply with that portion of the 2016 Klamath Power and Facilities Agreement which addresses and outlines responsibility for the Keno and Link River dams on the Klamath. And once again, the charge here contained in those previously existing agreements is that the Bureau makes

sure that the Bureau pays, or someone other than the farmers pay, for the improvements now necessary to Keno and Link River.

(6) imposes conditions upon the Bureau of Reclamation requiring actions that must occur prior to the reintroduction of aquatic species above the Keno Dam. The purpose of this language is to make sure that we don't suddenly have a demand made upon project owners or members to pay for things that need to be done, but the responsibility for which has not yet been allocated. This bill says figure that out, and then go ahead and begin to take those actions.

(7) designates the certain irrigation water flume on the project described in the bill is a qualified emergency extraordinary operation.

(8) reforms a certain contract between the Klamath Irrigation District and the Bureau of Reclamation regarding repayment obligations.

And (9) makes it clear that the Klamath Project will not be responsible for future costs incurred by the Secretary in complying with laws of the United States that have been used to force the removal of the dams or reallocation of water.

This bill is necessary because people in communities who have relied upon our government's water development policies over the past 125 years are now being severely damaged by changes in government policies. These people and the communities they have established have every right to rely upon the promises made by government agencies, and every right to build their economic and family futures on those policies. When the government changes direction, it cannot ignore the damage it does to those who justifiably relied upon its past promises.

This bill would provide redress for at least a few of the communities, and there are many of them, water-related challenges. This bill is not designed to focus on just one group, but on many.

We have with us today my friend Tracey Liskey, who has traveled across the nation to share with us the support for this bill.

I thank all of you and I ask, of course, for your support of H.R. 7938.

And with that I want to thank the Members for their testimony. I will now introduce our second panel.

Mr. David Palumbo, Deputy Director of Operations with the Bureau of Reclamation in Washington, DC; Mr. Craig Horrell, President of the Deschutes Basin Board of Control in Redmond, Oregon; Mr. Don Barnett, Executive Director of the Colorado River Basin Salinity Control Forum in Farmington, Utah; Mr. Eric Witkoski, Executive Director of the Colorado River Commission of Nevada in Las Vegas, Nevada; and Mr. Tracey Liskey, President of the Klamath Water Users Association in Klamath Falls, Oregon.

Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record.

To begin your testimony, please press the "on" button on the microphone.

We use timing lights. When you begin, the light will turn green. When you have 1 minute remaining, the light will turn yellow. And

at the end of the 5 minutes, the light will turn red, and I will ask you to complete your statement.

I will also allow all witnesses to testify before Member questioning.

I now recognize Mr. Palumbo for 5 minutes.

STATEMENT OF DAVID PALUMBO, DEPUTY COMMISSIONER OF OPERATIONS, BUREAU OF RECLAMATION, WASHINGTON, DC

Mr. PALUMBO. Good morning, Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee. I am David Palumbo, Deputy Commissioner for the Bureau of Reclamation within the Department of the Interior. Thank you for the opportunity to address the Subcommittee on how these four bills being discussed today represent effective ways to address the challenges Reclamation faces in water, hydropower, and related resources management in the West.

First, on Chairman Bentz's bill, H.R. 7938, the Klamath Basin Water Agreement Support Act of 2024, Reclamation has been part of life in the Klamath Basin for more than a century. In recent years, Reclamation has worked closely with our Klamath Basin Federal and state agencies, Indian tribes, farmers, and ranchers, and other Basin partners on several Klamath agreements to provide a comprehensive solution for water, fisheries, and power issues in the Basin. We continue to seek solutions that resolve issues within the Basin based on thorough coordination, dialogue, and consensus building.

H.R. 7938 addresses certain commitments made within the Klamath Hydroelectric Settlement Agreement. If enacted, this legislation would amend Section 4 of the Klamath Basin Water Supply Enhancement Act of 2000 to authorize the Secretary to plan, design, construct, operate, and maintain certain restoration projects in the Klamath Basin watershed.

H.R. 7938 provides authority and direction for Reclamation activities to reduce power costs within the Basin and address the reimbursement of other costs.

Reclamation supports the intent of H.R. 7938, and remains committed to the Klamath Settlement Agreements, but would like to work with the Subcommittee to better understand the few additional sections that were added to the Senate version of the legislation.

Regarding Congressman Curtis' bill, H.R. 7872, the Colorado River Salinity Control Fix Act of 2024, the Colorado River provides agricultural, municipal, and industrial water to over 40 million people across seven U.S. states, 30 Tribal Nations, and two states in the country of Mexico. High salinity levels in the Colorado River reduces agricultural production and adds significant treatment and maintenance costs to municipal and industrial water users. Since its establishment, the Salinity Control Program has been successful in reducing salt loading into the Colorado River by approximately 1.3 million tons per year, and damages by approximately \$300 million per year.

The Salinity Control Act authorizes salinity control projects through Reclamation's Basinwide and Basin States Program, and NRCS' EQIP program. The Act requires upfront cost-sharing at

fixed amounts from hydropower generation revenues. However, given the ongoing and historic drought conditions in the Basin, we have seen shortfalls in cost-sharing dollars in the last two decades. This bill would seek to address this challenge by reducing the cost share percentages required from hydropower revenues. Reclamation supports the intent of this legislation to address the current shortfall in funding for this program.

Next, Congresswoman Lee's bill, H.R. 7776, the Help Hoover Dam Act, would give Reclamation the authority to utilize unused and inaccessible funding to support ongoing operations, maintenance, and necessary upgrades at Hoover Dam.

It is important to highlight that all Federal employees receive their defined retirement benefits from the Civil Service, Retirement, and Disability Fund, so the use of the aforementioned unused and inaccessible funds for other purposes will not negatively affect Federal retirement for past, current, or future Hoover employees.

Reclamation supports the intent of this legislation, as it would help maintain critical infrastructure that could be used to help stabilize hydropower rates.

Finally, Congresswoman Boebert's bill, H.R. 8263, the Rural Jobs and Hydropower Expansion Act, seeks to streamline the permitting process for non-Federal hydropower development. Reclamation is the second-largest producer of hydropower in the country, and supports clean energy and climate change initiatives by increasing hydropower capabilities and value, and facilitating incremental, carbon-neutral energy generation. This bill builds upon past successful bipartisan efforts to streamline the permitting process by amending the Reclamation Project Act of 1939 to explicitly expand Lease of Power Privilege authorities across all Reclamation project sites.

Reclamation supports the intent of this legislation, and will continue to review and assess opportunities to further increase Reclamation's project hydropower capabilities and value.

I appreciate being invited to testify on these four important pieces of legislation. I would like to thank the Subcommittee for its time today, and look forward to answering your questions.

[The prepared statement of Mr. Palumbo follows:]

PREPARED STATEMENT OF DAVID PALUMBO, DEPUTY COMMISSIONER,
U.S. BUREAU OF RECLAMATION

ON H.R. 7938, H.R. 7872, H.R. 7776, AND H.R. 8263

Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, I am David Palumbo, Deputy Commissioner for the Bureau of Reclamation (Reclamation) within the Department of the Interior (Interior). Thank you for the opportunity to provide the Subcommittee an update on Reclamation's hydropower efforts and provide Interior's views on these four bills.

H.R. 7938, Klamath Basin Water Agreement Support Act of 2024

The Klamath Project is one of the oldest in Reclamation's entire portfolio, and we have been part of life in the Basin for more than a century. In more recent years, Reclamation and the Department of the Interior have worked closely with our federal and state partners, Klamath Basin Indian Tribes, farmers and ranchers, and other Basin stakeholders on several Klamath agreements to provide a more comprehensive solution for water, fisheries, and power issues in the Basin. These

included the 2010 Klamath Hydroelectric Settlement Agreement (KHSA) and the Klamath Basin Restoration Agreement (KBRA).

When the KBRA expired in 2015 due to lack of federal legislation, the KHSA was amended and the Klamath Power and Facilities Agreement (KPFA) was executed with an intent to address, in part, the issues that remained unresolved after expiration of the KBRA.

H.R. 7938, as written, addresses certain commitments made within the KPFA. If enacted, the legislation would amend Section 4 of the Klamath Basin Water Supply Enhancement Act of 2000 (Enhancement Act, P.L. 106-498) to authorize the Secretary to plan, design, construct, operate, and maintain certain restoration projects in the Klamath Basin watershed, including: a) facilities to reduce fish entrainment, b) projects that reduce or avoid impacts on aquatic resources of facilities involved in the storage or diversion of water for irrigation, and c) projects that restore habitats in the Klamath Basin watershed.

The language would also authorize the Secretary to undertake certain studies (including feasibility studies) and improvements, and to enter into contracts, memoranda of understanding, cost-sharing agreements, and other appropriate agreements with State, Tribal, and local government agencies and private parties, all toward the goals of reducing or resolving the short- and long-term conflicts relating to Basin water and protecting the natural resources in the Basin watershed. The bill encourages collaboratively developed agreements to meet these goals.

Additionally, H.R. 7938 would direct the Secretary to implement the findings and recommendations documented in the report prepared pursuant to the 2018 amendments to the 2000 Enhancement Act,¹ to reduce power costs within the Basin, and to regularly report to Congress on progress and changes; it would also address replacement of the C Canal Flume and reimbursement of certain costs incurred for the operation and maintenance of Pumping Plant D by increasing the federal share of costs and reducing the amounts that would be reimbursable by the project beneficiaries. Unlike its Senate companion, S. 482, H.R. 7938 explicitly states that certain past and future costs not explicitly identified in the contracts between the Secretary and the Klamath Project contractor shall not be allocated to or considered for reimbursement by the contractor. Reclamation understands the intention of this language is to meet the commitments of the KHSA and KPFA to make certain additional activities for environmental protection non-reimbursable to the contractors. However, the effect of this language, as currently written, is not fully understood and may extend beyond the commitments within those agreements. Reclamation would like to work with the committee to better understand the intent of this section and provide technical edits to address Reclamation's concerns.

Importantly, H.R. 7938 would direct the Secretary to comply with the terms of the KPFA, including Attachment A. This would confirm that Link River Dam and Keno Dam would be operated consistent with existing contracts and historic practice and subject to applicable law, and direct that any construction, operation, maintenance, rehabilitation, betterment, or other costs associated with Link River Dam and the Keno facility be non-reimbursable by Klamath Project users. H.R. 7938, unlike S. 482, explicitly states that no modification of Keno Dam infrastructure to modify current fish passage capability and no artificial action to introduce or reintroduce aquatic species above the dam shall occur until 90 days after the Secretary has certified to House Natural Resources and Senate Energy and Natural Resources that all State and Federal parties are in compliance with sections II.B.2.a and III.C. of the 2016 KPFA and section 1.9 of the KHSA. Reclamation remains committed to the KPFA and KHSA and continuing efforts to resolve the water, fisheries, lands, agriculture, refuges, and economic sustainability issues through coordination, dialogue, and consensus building among all of the parties. However, Reclamation would like to work with the committee to better understand the intent of this language and recommend amendments, as it may have unintended consequences and may not be feasible to implement.

Reclamation supports the intent of H.R. 7938, which would authorize the Department to undertake restoration activities and partner with States, Tribes, and local governments in efforts to address the Basin's water challenges in a collaborative manner. The activities described in the bill would provide additional certainty to water users and stakeholders throughout the Basin. Reclamation remains committed to the intent of the Klamath settlement agreements and is seeking pathways to fund its commitments with other appropriated dollars.

¹ P.L. 115-270, Title IV, Subtitle C, Section 4308.

H.R. 7872, Colorado River Salinity Control Fix Act of 2024

The Colorado River and its tributaries provide municipal and industrial water to more than 40 million people across seven U.S. states, 30 Tribal reservations, and two states in Mexico. The river provides irrigation water to 5.5 million acres of land in the United States and 500,000 acres in Mexico. The threat of salinity is a major concern in both the United States and Mexico. High salinity levels in the Colorado River water reduce agricultural production and add significant treatment and maintenance costs to municipal and industrial water users. Reclamation participates in the Colorado River Basin Salinity Control Program which includes U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS), the Bureau of Land Management, the U.S. Geological Survey, the Environmental Protection Agency, and the 7 Colorado River Basin states. Reclamation also works with hundreds of local agencies, organizations, and companies. The Program has existed for 50 years and has spent approximately \$1 billion in Federal funding, Basin states cost share dollars, and cost sharing by program participants which include farmers, Tribes, other water users, and canal companies. The Program has reduced annual salt loading into the Colorado River by 1.33 million tons per year and reduced quantifiable damages by approximately \$300 million per year.

The Colorado River Basin Salinity Control Act of 1974 (Salinity Control Act, P.L. 93-320) and amendments thereto authorizes and supports salinity control projects and research across the American West through Reclamation's Basin-wide and Basin States Programs, and NRCS's Environmental Quality Incentives Program. These programs provide aid to farmers and canal companies who utilize salinity control measures to improve water quality for downstream users. The Salinity Control Act allocated specific non-federal cost sharing amounts from hydropower revenues based on historic levels of hydropower generation within the Colorado River Basin. However, since then, the Colorado River has experienced historic and ongoing multi-decade drought conditions that have reduced hydropower generation and created an imbalance between the obligations of the program and the costs payable through hydropower.

For these reasons, when funding is appropriated for salinity control through either Reclamation or NRCS programs, and the Salinity Control Act requires upfront cost sharing at fixed amounts from hydropower generation revenues, hydropower revenue availability limits the amount of salinity control. The Colorado River Salinity Control Fix Act would seek to address this challenge by reducing the cost-share percentages from hydropower revenues and increasing the federal non-reimbursable costs for these salinity control programs across the Colorado River Basin.

H.R. 7872 would also modify specific requirements applicable to salinity control units. The Act acknowledges the federal obligation concerning the Colorado River as a waterway spanning states and for maintaining harmony with Mexico on an international level, as well as the Federal ownership of the land in the Colorado River Basin.

Reclamation supports the intent of this legislation.

H.R. 7776, Help Hoover Dam Act

Hoover Dam is one of the iconic landmarks in the American West and a testament to our country's ability to construct monolithic projects in the midst of adverse economic conditions. However, the operations and maintenance needs of critical aging infrastructure like Hoover are significant.

H.R. 7776 authorizes the Secretary of the Interior to utilize funds that have been or will be recovered on a non-reimbursable basis. Since 2000, these funds have been collected from Boulder Canyon Project (BCP) Contractors as part of the hydropower rate of the facility for the unfunded costs of employee retirement benefits and consist of Health Insurance Benefits (FEHB), Life Insurance Benefits (FEGLI), and Civil Service Retirement System (CSRS)/Federal Employee Retirement System (FERS) pensions. However, these Post-retirement Benefit (PRB) funds are unable to and not needed to be used for their intended purpose and have been collecting within a unique account, separate from the BCP operating funds.

At present, Reclamation does not have the authority to spend these funds. Reclamation currently holds approximately \$46 million of this funding as available budget, with approximately \$2 million collected additionally per year, in a non-interest-bearing account. H.R. 7776 would grant the Secretary of the Interior the flexibility to utilize these funds recovered from the Boulder Canyon Project for various essential purposes without the requirement for reimbursement. These funds can support ongoing operations, maintenance, and necessary upgrades within the Boulder Canyon Project at Hoover Dam, ensuring the continued functionality and

efficiency of the infrastructure. Additionally, they can be allocated towards investigative and cleanup actions, addressing any environmental concerns or remediation efforts necessary to preserve the surrounding ecosystem and community well-being.

Over the next five years, current estimates are that Hoover Dam will require \$110 million in major plant investment over and above routine operation and maintenance, and another \$117 million over the subsequent six years. These costs are the responsibility of BCP Contractors and will be included within future hydropower rates. However, the \$46 million in funding that has already been collected by BCP Contractors could be used to stabilize future hydropower rates that are already facing increased pressure due to drought conditions on the Colorado River without deferring important major plant investments.

Federal employees receive their defined retirement benefits under the Federal Employees' Retirement System (FERS) or the Civil Service Retirement System (CSRS). Employer and employee contributions deposited in the Civil Service Retirement and Disability Fund finance future retirement benefits. These benefits are administered by the Office of Personnel Management. If enacted, Reclamation would utilize the approximately \$46 million in funding already collected from the BCP Contractors to address operations, maintenance, and necessary upgrades within the BCP. Reclamation would use this funding over time, in coordination with the BCP Contractors, to avoid the deferral of important plant investments and consequent additions to the backlog of maintenance and repair, and to help stabilize hydropower rates at the BCP.

Reclamation supports the intent of this legislation as it helps maintain critical infrastructure, helps stabilize hydropower rates, and allows for the use of funding that currently cannot be accessed.

H.R. 8263, Rural Jobs and Hydropower Expansion Act

Reclamation is the second largest producer of hydropower in the country. Reclamation owns and operates 53 hydroelectric plants, comprising over 14.7 megawatts of installed capacity. Each year on average, Reclamation plants generate 40,000 megawatt-hours of electricity (equivalent to the demand of 3.5 million homes). Reclamation's hydropower program supports Administration and Department clean energy and climate change initiatives by increasing hydropower capabilities and value, and facilitating incremental, low-carbon energy generation on Reclamation projects. In administering Reclamation's hydropower program, Reclamation always seeks opportunities to maintain and enhance the value of Reclamation power resources and improve program effectiveness and reliability.

A lease of power privilege (LOPP) is a contractual right issued by Reclamation to a non-federal entity to use a Reclamation project site for hydroelectric power generation consistent with Reclamation project purposes. Reclamation supports non-federal hydropower development on Reclamation projects, as it allows for additional hydropower generation and utility of existing federal infrastructure. A LOPP project must not impair the efficiency of Reclamation-generated power or water deliveries, impact the structural integrity of the Reclamation project, jeopardize public safety, further negatively impact imperiled species, or negatively affect any other Reclamation project purpose.

At present, both Reclamation and the Federal Energy Regulatory Commission (FERC) are authorized to permit the use of Reclamation project sites to non-federal entities for the purposes of hydropower development—Reclamation via a LOPP and FERC via a License. The two agencies have entered into Memorandum of Understanding (MOU) agreements to define jurisdictional boundaries, roles, and responsibilities. Per the MOUs, unless otherwise specified in law, the two agencies administer a site-specific jurisdictional determination process for projects proposed on Reclamation project sites.

H.R. 8263 builds on past, successful bipartisan efforts to streamline the permitting process, spurring additional, non-federal hydropower development on Reclamation projects. As written, H.R. 8263 would amend the Reclamation Project Act of 1939 to explicitly expand LOPP authorities across all Reclamation project sites, not just conduits as described in the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act (P.L. 113-24), and offer further streamlining opportunities for our operating partners and beneficiaries.

The act would allow any existing FERC authorization to be renewed and remain active under FERC. If and when the FERC authorization becomes inactive, site jurisdiction would shift to Reclamation.

Reclamation supports the intent of the legislation to streamline the permitting process.

QUESTIONS SUBMITTED FOR THE RECORD TO DAVID PALUMBO, DEPUTY
COMMISSIONER, BUREAU OF RECLAMATION

Mr. Palumbo did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Napolitano

H.R. 7776—Help Hoover Dam Act

Question 1. Deputy Commissioner, back when I was Chair of this subcommittee, I toured Hoover Dam and was made aware that they were lowering the turbines in order to create enough electricity to power the dam. These have been critical to ensuring adequate hydroelectricity during drought years.

1a) Is there still enough water for these turbines and will there be a need in the future for additional, lower turbines?

Question 2. Can you explain to the Committee the impacts that climate change and drought pose on aging infrastructure and how can this legislation help address these challenges and the funding needs outlined in your testimony?

H.R. 7872—Colorado River Salinity Control Fix Act

Question 1. Deputy Commissioner, could you briefly explain the impacts of high salinity content in our water supplies on water users and the significance of the Colorado River Basin Salinity Control Program in proactively addressing these concerns?

Mr. BENTZ. Thank you. I now recognize Mr. Horrell for 5 minutes.

**STATEMENT OF CRAIG HORRELL, PRESIDENT, DESCHUTES
BASIN BOARD OF CONTROL, REDMOND, OREGON**

Mr. HORRELL. Thank you. Good morning, Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee. My name is Craig Horrell, and I am the Managing Director of Central Oregon Irrigation District. Today, I testify on behalf of the Deschutes Basin Board of Control (DBBC), where I am the President, and the Family Farm Alliance, where I serve on the Advisory Committee.

The DBBC is comprised of eight irrigation districts in central Oregon, responsible for delivering water supply to over 7,600 farm families, schools, local parks, and the Deschutes Basin. And as you know, Family Farm Alliance is a grassroots organization of family farmers, ranchers, irrigation districts, and allied industries in 16 Western states.

Thank you for the opportunity to testify on H.R. 8263, which expands the concept of legislation the Family Farm Alliance helped advance in the 113th Congress. It did so by amending the Reclamation Project Act of 1939 to encourage non-Federal hydropower development on a broader set of Reclamation facilities.

The Alliance and the DBBC support the intent of this bill. We agree that clarifying jurisdiction about which Federal agencies approve certain hydro projects and reducing red tape for non-Federal development of hydropower will produce a win-win solution that benefits water users in the Western communities.

We still are receiving feedback on the introduced version of the legislation, and look forward to working with you to address

technical components of this bill. Those deal primarily with ensuring water operations, existing Reclamation projects where hydropower is an authorized purpose to be protected.

Irrigation districts in the Deschutes River Basin are a great example of renewable energy, and can be integrated with water operations. DBBC members are aggressively pursuing modernization projects within their irrigation facilities. A central component of these efforts is replacing open canals that leak with buried pipe. These projects reduce water losses and protect agricultural water and deliveries, and increase stream flows to meet the required ESA species' needs.

In addition to conserving water, these projects will add renewable hydropower and reduce on-farm energy use by delivering pressurized water. Overall, our districts have identified over 12 megawatts of hydro potential associated with modernization projects, on top of the significant existing hydro generation detailed in our written testimony. Projects like these provide needed carbon-free electricity to meet clean energy grid resiliency goals. They are also an important source of revenue to help districts fund additional improvements and conservation projects. Similar opportunities have been identified by water users West-wide.

But realizing these types of benefits and achieving H.R. 8263's objectives, spurring non-Federal hydro development depends on efficient project approval by Reclamation and other agencies. Unfortunately, Reclamation's Lease of Power Privilege, LOPP, compliance with environmental and historic preservation laws and other Federal requirements have lengthy, complicated, and very expensive approval process. These create challenges for the deployment of these hydro projects, especially smaller projects where profit and operating margins are very small.

We would like to see a more transparent and predictable LOPP process that would feature streamlined proposals, submissions, and reviews, an establishment of an alternative track for approval of small projects that are either being installed as part of a broader improvement or do not require modifications to facilities. NEPA and the Historic Preservation Compliance also can continue to be a source of added time and money. We believe that working with us to tackle these issues would encourage more clean energy development and relieve pressure on the Reclamation staff.

Thank you again for the opportunity to testify and your interest in expanding hydropower in the West, and I look forward to answering any questions you have.

[The prepared statement of Mr. Horrell follows:]

PREPARED STATEMENT OF CRAIG HORRELL, GENERAL MANAGER, CENTRAL OREGON
IRRIGATION DISTRICT AND PRESIDENT, DESCHUTES BASIN BOARD OF CONTROL
ON H.R. 8263

Dear Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee: Thank you for the opportunity to present this testimony.

My name is Craig Horrell, and I'm here today representing the Deschutes Basin Board of Control (DBBC) and the Family Farm Alliance (Alliance).

The Deschutes Basin Board of Control (DBBC) is comprised of eight irrigation districts in Central Oregon—Arnold Irrigation District, Central Oregon Irrigation District (COID), Lone Pine Irrigation District, North Unit Irrigation District (NUID), Ochoco Irrigation District, Three Sisters Irrigation District (TSID), Tumalo

Irrigation District, and Swalley Irrigation District. DBBC members are responsible for delivering water supply to over 7,600 farm and ranch families, schools, and local parks and recreation districts throughout the Deschutes Basin. Overall, DBBC member Districts irrigate over 150,000 acres of productive agricultural lands.

I'm also testifying today on behalf of the Family Farm Alliance, where I serve on the Advisory Committee, along with over fifty other district managers, association executives, attorneys and engineers from across the West. The Alliance over ten years ago helped drive the passage of legislation similar to a bill that is on today's docket. That earlier bill—the "Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act"—was signed into law by then-President Obama in 2013.

I am testifying today on Rep. Boebert's H.R. 8263, which amends the Reclamation Project Act of 1939 to encourage non-Federal hydropower development with respect to Bureau of Reclamation (Reclamation) projects. It would also streamline burdensome and unnecessary federal regulations and rules encountered by many irrigation water districts and electric utilities that seek to develop hydropower on Reclamation infrastructure.

Irrigation Modernization and Hydropower Development in the Deschutes Basin

The members of the DBBC are actively and aggressively pursuing modernization of their irrigation facilities. A central component of many of these modernization efforts revolves around installation of buried pipelines in place of open canals, which reduces water losses and will allow continued agricultural water deliveries even as the volume of required instream flows for the environment triples in the next five years. In addition to conserving water, these projects create considerable potential for the development of clean, renewable hydropower that will add to the significant existing hydro generation in the Basin.

At COID, we currently generate over 8 megawatts (MW) in carbon free energy with two existing conduit hydro facilities, and as we pipe additional portions of our system we expect to install an additional 6–9 MW. Likewise, other DBBC districts have existing and planned hydropower facilities, including:

- Tumalo Irrigation District, which has identified up to 1,500 MWh of annual production (in an average water year) potential on its system.
- TSID, which has built in-conduit hydro projects for a total of 1.2 MW. Two of these facilities are Qualified Conduit projects that were built using the process that H.R. 678 (P.L. 113-24) created. TSID has identified over 60 future on-farm projects using Net Meter and Micro Hydro turbines that will generate an additional 1 MW of renewable green power.
- NUID hosts two hydro facilities totaling 3.5 MW. It is currently installing another 1.4 MW that is being constructed to provide resilience for first responders after a Cascadia seismic event. Another project would add nearly 4 MW from floating solar combined with in-conduit hydrokinetic.

The existing and future hydropower generation on DBBC member facilities will provide multiple benefits, including additional carbon free electricity to meet clean energy goals, grid resiliency and power sources for emergency response plans. It will also generate revenue for our districts to help fund additional modernization and conservation projects.

Family Farm Alliance Background

The Alliance is a grassroots organization of family farmers, ranchers, irrigation districts and allied industries in 16 Western states. Many of the Alliance's members operate existing irrigation canals, ditch systems and diversion dams that may provide opportunities to develop hydroelectric projects that have tremendous potential for producing significant amounts of renewable energy. Importantly, these projects can be accomplished with virtually no negative environmental impacts. There are many other benefits associated with developing projects of this type. Historic irrigation structures can be retained while the system is updated with modern clean energy producing technologies. Increased revenues from the sale of this renewable energy can result in a new source of funding for operating, maintaining, and rehabilitating our aging water delivery infrastructure at lower costs to farmers, ranchers and other Reclamation beneficiaries. And, importantly, irrigation water delivery services can continue while utilizing flows for clean, emissions-free green energy production.

A great deal of energy is needed to treat, transport and convey water throughout the Western U.S., not only to support economic growth and well-being but also to

sustain basic life. These inseparable links of “water for energy” and “energy for water” comprise the energy-water nexus. Many Family Farm Alliance members across the West are provided with water and power generated by Reclamation-built projects, sometimes where ownership of those facilities is mixed. For example, the Columbia Basin Project (CBP) has seven powerplants on Reclamation facilities owned by the three CBP irrigation districts. Five of these hydroelectric plants are operated by Columbia Basin Hydropower—which provides administration, operations, and maintenance for the hydroelectric facilities owned by the three CBP irrigation districts. The other two are plants operated by contract by a local utility. The seven hydroelectric plants annually generate an average of 560,000,000 kwh and provide the three CBP irrigation districts with an annual revenue stream of \$8 million used to improve project facilities.

These types of opportunities for hydro development exist across the West. In fact, according to a report by Oakridge National Laboratory, “[t]he agricultural sector accounts for nearly half the potential for new conduit hydropower development, 662 megawatts.” The report goes on to show that 9 of the 10 top states for conduit hydropower development potential are Reclamation states.¹

Current Challenges with Hydro Development on Reclamation Facilities

As noted above, some Western canal systems and other water delivery facilities are owned by Reclamation but are operated and maintained by local entities like irrigation districts and water user organizations. The Alliance was involved with securing the earlier changes to streamline installation of small conduit hydro in P.L. 113-24, which has proven to be a valuable way for districts to produce clean, renewable energy and generate revenue that can be used to improve and modernize their facilities.

While we appreciate this step to further clarify which federal agency has authority to approve hydropower development on Reclamation owned facilities, achieving H.R. 8263’s objective of encouraging non-federal hydropower development also depends on an efficient project approval by Reclamation and other agencies. Unfortunately, Reclamation’s process for Lease of Power Privilege (LOPP) agreements, compliance with environmental and historic preservation laws, and other federal requirements have resulted in a lengthy, complicated, and expensive approval process that sometimes serves as a disincentive for valuable projects. Depending on the specific circumstances, the time, cost and uncertainty of the existing requirements can negate the economics of a project altogether.

A transparent and effective Reclamation LOPP process is central to facilitating greater hydro development. Ultimately, directing more projects to Reclamation rather than FERC for authorization is only helpful if the LOPP program is functioning well. Alliance members have identified a number of concerns with the process that need to be improved to streamline required approvals. First and foremost, the timelines embedded in the LOPP often seem to be treated as targets rather than maximums, resulting in a lengthy—and at points, uncertain—process. This is often manifested in project sponsors initiating LOPP with limited insight into the technical aspects needed for approval, long stretches with no or limited feedback on applications or proposals, and delayed responses requesting additional or different information. We certainly understand that Reclamation currently has a heavy workload. It would behoove Reclamation and its customers to work together to establish a more transparent and predictable process, which would allow project sponsors to more readily produce the details required to make decisions.

The overall cost of securing a LOPP is another concern. For some large projects, we have heard that completing a LOPP could cost up to \$10 million. Smaller projects also face uncertainty about the cost they will face for reviews and engaging Reclamation staff, with the knowledge that even modest expenses can jeopardize the economics of marginal projects.

We also believe that the LOPP would be greatly improved by developing an alternative track for approval of small projects that: 1) are being installed as part of a broader improvement or rehabilitation project; or 2) do not require modifications to facilities. Developing a “plug and play” process that allows these types of simple projects to be quickly reviewed and approved (especially when they are being requested by the transferred works operating entity) would encourage more energy development and relieve pressure on Reclamation staff reviewing LOPP requests.

Environmental and historical preservation reviews occasioned by the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) are universally time-consuming and expensive and can create challenges for

¹ <https://www.ornl.gov/project/assessing-us-conduit-hydropower-potential>

hydropower development. Even “just an Environmental Assessment (EA)” requires considerable time and expense, and more often than not the facilities being modified are over 50 years old and require review and mitigation despite the operational improvements being achieved. Right now, COID is in year three of the NEPA process for a set of canal piping and hydro projects and has at least one year left to complete. The additional time has added \$1,000,000 in costs to the process, for a total of \$2,100,000 to complete.

The White House Council on Environmental Quality (CEQ) on May 1 issued its Final Rule implementing Phase 2 of significant revisions to NEPA regulations. The Final Rule implements significant changes that require agencies to identify an environmentally preferable alternative and undertake additional consideration of climate change and environmental justice in environmental analyses. Given the significant changes to the NEPA process in the Final Rule, it is likely that these changes will further complicate an already daunting NEPA environmental review process by opening new pathways for litigation and requiring courts to interpret the changes before providing regulatory certainty.

Because the irrigation cycle only allows for many of these projects to be constructed during the off-season, even slight delays in the LOPP, environmental or historic preservation reviews can delay projects a whole year. It is important that federal agencies keep these constraints in mind on all infrastructure programs.

Lastly, we feel it is important to note that uncertainties in the power market can also be another challenge for efforts to expand hydropower generation from water facilities. Many water users that invested in conduit or small hydropower early on are beginning to reach the end of initial power sales contracts. For a variety of reasons, we are frequently seeing contract renewal negotiations that offer significantly lower power rates. In some cases, the rates are below what would be required to cover operation and maintenance of the facilities. This experience can create challenges with continued operation of the existing small hydropower generation, and also complicate efforts to justify further investment in certain types of hydro facilities.

Initial Overview and Reaction to H.R. 8263

We first saw the final text of H.R. 8263 earlier this month, when it was initially introduced. Overall, we support the intent of this bill, which seeks to expand the concept of legislation the Family Farm Alliance helped advance in the 113th Congress. That bill—H.R. 678—overwhelmingly passed the House and Senate and was signed into law by President Obama in August 2013 as P.L. 113-24. That law, enacted via H.R. 678, provided authorization for small hydropower installation on Reclamation canals and conduits. It also streamlined burdensome and unnecessary federal regulations and rules encountered by many irrigation water districts and electric utilities that seek to develop hydropower on Reclamation infrastructure. Rep. Boebert’s current bill intends to expand these provisions to diversion dams and other facilities.

We thank Rep. Boebert and this subcommittee for inviting our input and addressing our concerns. The bill represents another important step towards facilitating the development of clean, renewable energy on Reclamation projects. With that philosophy in mind, we offer the following observations on the bill.

H.R. 8263 seeks to address many of the challenges faced by Reclamation-facility water managers by authorizing development of hydropower using all Reclamation facilities. This authorization makes clear that Reclamation would oversee hydropower development at those facilities. The bill would also authorize Reclamation to apply its categorical exclusion (CE) process under NEPA to applicable hydropower development, with the notable exception of transmission siting. It would also designate the Power Resources Office in Reclamation’s Denver headquarters as the lead office for hydropower development. This provision intends to set up a centralized location for uniformity purposes yet does not prohibit area offices from implementing specific hydropower development.

We support provisions in existing law that require Reclamation to offer the LOPP first to the entity/entities operating and maintaining the facility (“right of first refusal”). Some water districts are concerned that recent federal policies encouraging the development of new hydropower facilities in existing irrigation canal systems have attracted outside developers. Sometimes, these outside interests do not share the same management priorities as irrigation districts. It can be very difficult to make arrangements like this work.

H.R. 8263 extends two important protections in the underlying law to the expanded universe of Reclamation facilities authorized by the bill, including reaffirming hydropower development as secondary to water supply and delivery

purposes and ensuring that there will be no financial and operational impacts to existing water users.

The Alliance is still receiving input from its members on H.R. 8263 and may have a few technical detail concerns that we would like to continue to discuss and resolve with Rep. Boebert and Subcommittee staff. We appreciate the bill retaining the existing safeguards for project operators and beneficiaries provided in the law. However, we will continue to seek feedback from our members, Reclamation, and other stakeholders to ensure we understand any additional consideration that potentially may need to be addressed under the expanded jurisdiction created by H.R. 8263. We appreciate the conversations to date and understanding that water operations must be protected as we expand hydro development. We look forward to working with the sponsor and subcommittee on this specific issue.

In addition, we would like to work with the Subcommittee to address concerns that the amendments to foundational Reclamation law could unintentionally impact certain existing hydropower projects and power users. Recent case law and unique aspects of various Reclamation projects require some small changes to the bill that we would like to work through with the bill sponsor and this Subcommittee.

We support the intent of H.R. 8263, and we hope that these additional recommendations are considered in the constructive manner in which they are offered. We are confident this Subcommittee will work with us, as they have in the past on many other issues, to address our further recommendations, and that this legislation will serve as an appropriate vehicle for continued discussions.

Conclusion

Thank you again for this opportunity to testify in favor of H.R. 8263. This legislation is very important to the many beneficiaries of the federal projects within the Deschutes Basin Board of Control and throughout the arid West. I respectfully urge the Subcommittee's favorable consideration of H.R. 8263.

I stand ready to answer any questions you may have regarding my testimony.

Mr. BENTZ. Thank you. I now recognize Mr. Barnett for 5 minutes.

STATEMENT OF DON BARNETT, EXECUTIVE DIRECTOR, COLORADO RIVER BASIN SALINITY CONTROL FORUM, FARMINGTON, UTAH

Mr. BARNETT. Chairman Bentz and Ranking Member Huffman, thank you for the opportunity to speak to you today on behalf of the Colorado River Basin Salinity Control Forum in support of H.R. 7872.

The Colorado River Basin Salinity Control Forum is an interstate water organization created 50 years ago by the governors of the Colorado River Basin states of Arizona, California, Colorado, New Mexico, Nevada, Utah, and Wyoming to work cooperatively on Colorado River water quality matters. I serve as the organization's Executive Director.

The Colorado River is the most important water supply in the Southwestern United States. Waters from the Colorado River are used by 40 million people for municipal and industrial purposes, and it is used to irrigate 5.5 million acres of land in the United States, some of which provides a meaningful portion of the nation's winter fruits and vegetables.

However, though the Colorado River at its headwaters is very clean, as it flows downstream it picks up a large amount of salt, 9 million tons annually. That is because much of the upper Colorado River Basin historically was covered by an ancient sea, which deposited marine shells. When water comes in contact with soils derived from these shells, it dissolves salts and brings them into the Colorado River system.

Congress created the Colorado River Basin Salinity Control Program in 1974 to reduce the salinity of the Colorado River. The program does so by reducing the contact between the fresh water and the saline soils, mostly through agricultural water efficiency improvement practices implemented by the Bureau of Reclamation and the Natural Resources Conservation Service (NRCS). BLM also implements salinity control by reducing the erosion of saline soils.

High salinity in water causes environmental concerns, and it creates economic damages to water users in the form of reducing the life of plumbing and appliances within homes, increasing water treatment costs, reducing water re-use opportunities, and decreasing agricultural productivity.

The good news is that, through projects implemented under the program, the downstream salinity today is 100 milligrams per liter less than it would have been but for the program. Annual damages to water users have been reduced by about \$300 million per year and, in total, the program has saved billions of dollars in salt-related damages.

The concern is that there is still approximately \$350 million in annual damages, and modeling shows that this will increase to \$450 million per year if the program is not continued to be implemented.

When Congress created the Salinity Control Program, it recognized that most of the salt in the Colorado River comes from Federal lands, and therefore Congress set the program funding as 75 percent non-reimbursable, or from appropriations, and 25 percent is reimbursable. This reimbursable portion, which was later increased to 30 percent and changed to an upfront cost share, comes from a mill levy, or a tax on hydropower sales from Federal power projects on the Colorado River. This funding arrangement has worked well for many years, as witnessed by the program's successes.

Here is the issue that we are seeking to fix with H.R. 7872. With the extreme, 20-plus year drought experienced in the Colorado River Basin, the revenue from the mill levy on hydropower sales is insufficient to meet the reimbursable requirements. The carry-over balance in the Lower Basin Fund has been fully expended, and the program is now operating in arrears. Because all of the funding pieces, the appropriation, the reimbursable portion, and the mill levy are all set by statute, the only way to correct the funding imbalance is through a legislative fix.

The Basin states have been working closely with the Bureau of Reclamation and NRCS to identify the least disruptive way to fix the salinity control funding imbalance. What is proposed in H.R. 7872 achieves this goal by making minor technical changes to the non-reimbursable/reimbursable percentages to a few pieces of the program. It preserves the overall integrity of program efforts and makes continued funding sustainable, even within the context of severe drought. This is a most important program to millions of water users in the United States.

I urge this Committee, on behalf of the Colorado River Basin states, to preserve the funding integrity of this program by passage of H.R. 7872. Thank you for your support, and I look forward to answering any questions.

[The prepared statement of Mr. Barnett follows:]

PREPARED STATEMENT OF DON BARNETT, EXECUTIVE DIRECTOR, COLORADO RIVER
BASIN SALINITY CONTROL FORUM

ON H.R. 7872

The Colorado River is the most important water supply in the Southwestern United States. Water from the Colorado River is used by approximately 40 million people for municipal and industrial purposes and used to irrigate approximately 5.5 million acres in the United States. Natural and human-induced salt loading to the Colorado River causes environmental and economic damage. In 2023 the Bureau of Reclamation (Reclamation) estimated the *quantifiable* damages to Lower Colorado River Basin water users, due to elevated salinity levels, at about \$348 million per year (unquantifiable damages add to this amount), including damages to consumer and commercial equipment, water supply treatment processes, agricultural productivity, groundwater replenishment activities, and wastewater recycling. Congress authorized the Colorado River Basin Salinity Control Program (Program) through the Colorado River Basin Salinity Control Act (Act) (P.L. 93-320) in 1974 to offset increased damages caused by continued development and use of the waters of the Colorado River. Past efforts have reduced current salinity levels in the Lower Basin by about 100 mg/L and the annual damages to water users by about \$300 million per year resulting in several billion dollars in reduced salinity related damages to water users over the life of the Program. Yet, modeling by Reclamation indicates that the quantifiable damages will rise to approximately \$447 million annually by the year 2040 without continuation of the Program.

Much of the Upper Colorado River Basin is underlain by saline soils derived from salt-laden geologic formations which were deposited by ancient seas that historically covered much of the Upper Basin. When water comes in contact with the saline soils, it dissolves salt and transports it to the Colorado River and its tributaries. The heart of the Program is to reduce the contact between freshwater and saline soils. Much of this is accomplished through irrigation water efficiency improvement practices implemented by the Bureau of Reclamation and NRCS. BLM also participates in the Program by reducing the erosion of saline soils and the washing of salts into river systems. It is much more cost effective to keep salt from entering the Colorado River System than to remove it through treatment processes once it has been dissolved into the water. What Congress created is like a cost-effective, giant upstream water treatment plant which stops salts from entering the Colorado River System and generating environmental and economic damages. It also establishes compliance with EPA approved water quality standards promulgated through the Clean Water Act.

In authorizing the Program in 1974, Congress recognized that most of the salt discharge to the Colorado River System comes from Federal lands. As initially authorized, 75 percent of the Program funding was non-reimbursable, and 25 percent was reimbursable. In 1984, through an amendment to the Act, the reimbursable portion was changed to 30 percent. The nonreimbursable portion of the funding comes from annual appropriations. The reimbursable portion of the Program funding comes from a mill levy (a kind of tax) on power sales from Federal hydropower facilities on the Colorado River.

Of the total reimbursable portion of the Program costs, 15 percent comes from the Upper Colorado River Basin Fund (Upper Basin Fund) and 85 percent comes from the Lower Colorado River Basin Development Fund (Lower Basin Fund), collectively referred to as the Basin Funds. The Act authorizes the Secretary of the Interior to adjust power rates in the Upper Basin Fund to meet Program requirements. The remaining 85 percent of the total reimbursable portion of the Program costs comes from the Lower Basin Fund. Money is generated to this fund through a 2.5 mill levy on power sales from Hoover, Parker, and Davis Dams. The 2.5 mill levy was established by Congress in 1984. It has not been adjusted for inflation, nor does the rate vary with increasing or decreasing demands on the fund. For many years the 2.5 mill levy was sufficient to meet the Program reimbursable requirements. However, with the extreme drought experienced in the Colorado River Basin beginning in about 2000, power production has dropped with the corresponding reductions in Colorado River flows. As the annual power revenues are no longer sufficient to meet the annual statutory Program requirements, the carryover balance in the Lower Basin Fund has declined.

The carryover balance in the Lower Basin Fund has now been fully expended, yet the annual reimbursable requirement from the Lower Basin Fund still exceeds the annual revenues. In 1996 Congress changed the Program funding mechanisms such

that the reimbursable portion of the funding goes back into the Program as an upfront cost share. For example, prior to the change, if Reclamation was directed to construct a \$10 million project, it would receive a \$10 million appropriation, build the project, and then 30% (the reimbursable portion) or \$3 million, would be repaid to the Treasury from the Basin Funds. After the 1996 change, if Reclamation was directed to construct a \$10 million project, it would instead receive a \$7 million appropriation and combine it with \$3 million (still 30% of the total) from the Basin Funds as an upfront cost share in the project. With revenue in the Lower Basin Fund now below the required cost share amount, Reclamation has been forced to delay the statutorily required project implementation.

Because all the factors which go into the cost-share calculations are set by statute (i.e. appropriation, reimbursable/cost-share requirement, and mill levy) only a legislative change can fix the present funding imbalance and make this most critical Program sustainable again. The seven Colorado River Basin States, collectively through their Governor-appointed representatives to the Colorado River Basin Salinity Control Forum, have worked closely with Reclamation and NRCS to identify the least-disruptive way to fix the salinity control funding imbalance. The goal is to adjust the nonreimbursable and reimbursable percentages in just a few places while leaving the remaining funding arrangements untouched. The proposed fix (H.R. 7872) has two parts:

1. Reduce the reimbursable portion in the NRCS EQIP part of the Program from 30% to 15%. This change would reduce the up-front cost-share requirement and the pool of salinity control dollars available to the Program from the Lower Basin Fund by approximately \$3.1 million annually. Federal appropriations would remain the same.
2. Reduce the reimbursable portion of operations and maintenance (O&M) on three older Reclamation projects. This change would reduce the draw on the Lower Basin Fund by about \$1.2 million annually with a commensurate increase in Reclamation O&M funding.

(See attached briefing document for funding details)

If implemented, the changes proposed in H.R. 7872 will reduce the demand on the Lower Basin Fund by about \$4.3 million annually and bring the fund back into balance, including a catch-up on delayed project implementation, by the year 2032. What is proposed is a small technical change or tweak to the nonreimbursable and reimbursable percentages to a portion of the funding which will make continuance of the Program possible by making the long-established funding mechanisms sustainable.

The seven Colorado River Basin States through the Colorado River Basin Salinity Control Forum seek Congress' support in making the proposed changes so that this critically important program can be sustainable into the future despite unprecedented drought in the Colorado River Basin (see attached letter of support). This Program is critically important to millions of water users and the Forum urges Congress to pass this legislation.

ATTACHMENTS

Attachment 1

Colorado River Basin Salinity Control Forum

October 30, 2023

Chairman Westerman
Ranking Member Grijalva
House Committee on Natural Resources

Dear Westerman and Ranking Member Grijalva:

On behalf of the seven Colorado River Basin States, through their gubernatorially appointed representatives to the Colorado River Basin Salinity Control Forum (Forum), I hereby convey our unanimous support of proposed legislation to amend the current cost-share percentages under the Colorado River Basin Salinity Control Program (Program).

The proposed changes are needed to resolve deficiencies in the cost share generated by power revenue reductions from the drought-stricken Colorado River System. The changes reflect several years of review and discussion between the Colorado River Basin States and the Federal agencies involved in Program implementation.

The Colorado River Basin Salinity Control Act (Act, 1974, as amended), authorizes the construction of projects and other activities to reduce the salt load of the Colorado River System. The Act specifies that "In recognition of Federal responsibility for the Colorado River as an interstate stream and for international comity with Mexico, Federal ownership of the lands of the Colorado River Basin from which most of the dissolved salts originate, and the policy embodied in the Federal Water Pollution Control Act Amendments of 1972" most of the expenses for implementation of the salinity control efforts are non-reimbursable. The remaining expenses are reimbursable (cost share).

The Act provides that the cost share in the Program is to be provided with moneys generated from mill levies on power revenues from the Upper Colorado River Basin Fund (Upper Basin Fund) and the Lower Colorado River Basin Development Fund (Lower Basin Fund). The Act provides that the Secretary adjust power rates to provide for the salinity cost-share dollars from the Upper Basin Fund. However, salinity funding in the Lower Basin fund is fixed at 2.5 mills on specific power sales from Hoover, Parker, and Davis Dams, regardless of funding need.


Pursuant to the Act, whenever there is an appropriation or allocation of funds for Colorado River salinity control activities, there is a corresponding cost-share requirement which is met by the withdrawal of moneys from the Upper Basin Fund and the Lower Basin Fund. However, in recent years, with reduced power generation due to prolonged drought conditions, and increased costs of implementing projects, there has been insufficient money in the Lower Basin Fund to meet the cost-share requirements.

The Basin States, through the Forum, have been working with Federal agencies for several years to determine the best solution to fix the funding imbalance. The attached legislation is the best solution to make the needed changes. The Basin States, through their gubernatorially appointed representatives on the Forum, unanimously support the proposed legislative fix.

Sincerely,

BILL HASENCAMP,
Chair

Attachment 2



January 2024

Colorado River Salinity Control Fix Act

Background

- Ancient seas that once covered much of the intermountain western U.S. left significant saline rock formations. When water contacts these formations, it dissolves salts and discharges them to the Colorado River and its tributaries, thereby elevating the River's salinity, which causes environmental damage and hundreds of millions of dollars in economic damages each year to water users.
- Most of the salt load of the Colorado River System comes from Federally administered lands.
- In 1974, Congress authorized the Colorado River Basin Salinity Control Program (PL 93-320) to implement projects to reduce the salt load of the Colorado River. Most of the projects are implemented by Reclamation (BoR) and NRCS.
- Per the Salinity Control Act, funding for the Program derives jointly from appropriations ("nonreimbursable portion," generally 70%) and from Federal Colorado River System power project revenues deposited in the Basin Funds ("reimbursable portion," generally 30%).
- Initially the reimbursable portion took the form of repayment to the Treasury, but in 1996 Congress changed it to an up-front cost share which puts the funds back into the Program.

Need for Legislation

- Per the Salinity Control Act, 15% of the reimbursable portion derives from the Upper Colorado River Basin Fund. The Secretary adjusts power rates to accommodate for Program needs. The remaining 85% of the reimbursable portion comes from the Lower Colorado River Basin Development Fund. Unlike the Upper Basin Fund, salinity dollars to the Lower Basin Fund are fixed by the Hoover Power Plant Act (1984, PL 98-381) at 2.5 mills on power sales (\$2.50 per MWh) regardless of Program needs.
- Hence, when Congress appropriates money for salinity control, the Salinity Control Act requires a 30% up-front cost share, of which 85% comes from the Lower Basin Fund, whose income is fixed at 2.5 mills.

Appropriation or expenditure of dollars for salinity control

Salinity Control Act requires 30% reimbursable portion in the form of an up-front cost share, of which 85% comes from the Lower Basin Fund

Hoover Power Plant Act fixes income to the Lower Basin Fund at 2.5 mills on power sales

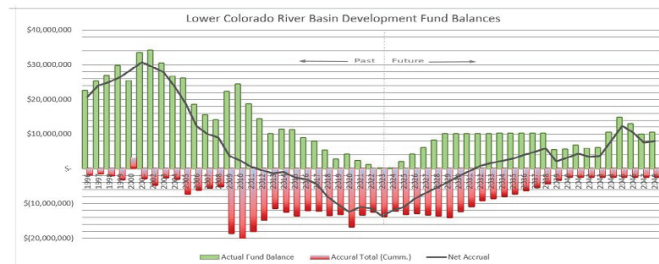
- For nearly 40 years this funding arrangement has worked. However, the severe 20-plus-year drought in the Colorado River System has reduced power production in the Lower Basin, and power sales **no longer generate sufficient money** to meet the reimbursable requirement.
- Only a legislative fix can adjust the reimbursable percentages to bring it in balance with the dollars available from the Lower Basin Fund.

Proposed Fix/Support

- The seven Colorado River Basin States, collectively through their Governor-appointed representatives to the Colorado River Basin Salinity Control Forum, have worked closely with BoR and NRCS to identify the least-disruptive way to fix the salinity control funding imbalance. The goal is to adjust the nonreimbursable and reimbursable percentages in just a few places while leaving the remaining funding arrangements untouched. The proposed fix has two parts, summarized in the bullets and table below:
 1. Reduce the reimbursable portion in the NRCS EQIP program from 30% to 15%. This change would reduce the up-front cost-share and pool of salinity control dollars available to the Program from the Lower Basin Fund by approximately \$3.1 million annually. Federal appropriations would remain the same.
 2. Reduce the reimbursable portion of operations and maintenance (O&M) on three BoR projects. This change would reduce the draw on the Lower Basin Fund by about \$1.2 million annually with a commensurate increase in Reclamation O&M funding.

Current and Proposed Non-Reimbursable Percentages by Project and Project Element						
Name	Unit	Construction	Operations & Maintenance	Replacement	Wildlife	Reduction in Nonreimbursable Costs
Paradox	1592 (a)(1)	75%	75% 90%	75%	75% 90%	\$530,000
Grand Valley	1592 (a)(2)	75%	75% 100%	75%	75% 100%	\$420,000
Las Vegas Wash	1592 (a)(3)	75%	75%	75%	75%	
Lower Gunnison	1592 (a)(4)	70%	70%	70%	70%	
McElmo/Dolores	1592 (a)(5)	70%	70% 100%	70%	70% 100%	\$280,000
Basinwide	1592 (a)(6)	70%	70%	70%	70%	
EQIP	1592 (c)		70% 85%			\$3,110,000
						\$4,340,000

- Because Reclamation, the fiduciary of the Basin Funds, cannot overdraw the funds, the recent shortfall in revenues has forced delays in salinity control implementation. The graph below shows the salinity portion of the Lower Basin Fund with the net accrued deficit of implementation funds in recent years (black line). Part 1 of the fix (above) stops the accrued deficit from increasing, Part 2 is required to bring the accrued obligation back to a positive balance by 2032.



- This bipartisan funding fix was developed in conjunction with BoR and NRCS and is unanimously supported by all seven Colorado River Basin States. The fix is captured in the proposed Colorado River Salinity Fix Act.

Page | 2

Mr. BENTZ. Thank you. I now recognize Mr. Witkoski for 5 minutes.

STATEMENT OF ERIC WITKOSKI, EXECUTIVE DIRECTOR, COLORADO RIVER COMMISSION OF NEVADA, LAS VEGAS, NEVADA

Mr. WITKOSKI. Thank you. Good morning, Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee. Thank you for the opportunity to testify in support of Help the Hoover Dam Act, H.R. 7776.

My name is Eric Witkoski, Executive Director of the Colorado River Commission of Nevada. Our agency manages Nevada's allocation of hydropower from the Colorado River.

On this bill, we have joined with the hydropower customers of Hoover Dam from Nevada, California, and Arizona that support the bill. We have bipartisan and bicameral support from our Representatives and Senators on this important legislation, and we appreciate their support, and we appreciate Congresswoman Lee's leadership on this bill.

The Help the Hoover Dam Act will allow Bureau of Reclamation to utilize some stranded funds currently in the Colorado River Dam Fund. They can be used for operation, maintenance, investment, environmental clean-up actions, and capital improvements at the Boulder Canyon Project Act.

Hoover Dam is an iconic symbol of American ingenuity and pride that provides renewable hydropower to Western utilities that serve urban and rural communities and important industrial customers. The Dam provides power, often at critical times when the demand for energy is high and resources are scarce in the West, but there are some cost increases on the horizon.

Hoover Dam was built over 80 years ago, and Reclamation works hard to maintain Hoover Dam, but the plant will require major investments of \$110 million over the next 5 years, and another \$117 million over the 6 years following to be paid by customers. So, the customers are looking for solutions, and one of those solutions is H.R. 7776, because it will free up \$46 million of stranded funds that can be used at Hoover Dam.

The background on these funds was the Western Area Power Administration, an agency under the Department of Energy, collects the costs of Hoover Dam, and those funds are deposited in the Colorado River Dam Fund. And that is as required by the Boulder Canyon Project Act.

Additionally, the Department of Energy ordered WAPA to collect an additional \$2 million to fund any gap for post-retirement benefits. But this was changed. A change was made 20 years ago, and it was really a policy change and not a change of law. And Congress already provides appropriations to the Office of Personnel Management to cover any funding gap to ensure all retirement benefits and costs are covered, and that is covered from another law.

So, Reclamation sought advice on what to do with the funds. There is no authority to transfer them to Treasury, but they were cautioned not to use the funds for project purposes without direct direction from Congress. Consequently, the funds are stranded, and they will continue to be stranded without H.R. 7776. Therefore, we ask for your support to free up these funds already paid by Hoover Dam power customers that are needed at Hoover Dam for investments and contribution operations.

Thank you for holding the hearing today, and I am happy to answer any questions.

[The prepared statement of Mr. Witkoski follows:]

PREPARED STATEMENT OF ERIC WITKOSKI, EXECUTIVE DIRECTOR COLORADO RIVER
COMMISSION OF NEVADA
ON H.R. 7776

Good morning, Chairman Bentz, Ranking Member Huffman, Congresswoman Lee, and members of the subcommittee. Thank you for providing me with the opportunity to testify in support of the Help Hoover Dam Act (H.R. 7776).

My name is Eric Witkoski and I serve as the Executive Director of the Colorado River Commission of Nevada. My agency manages Nevada's allocation of electrical power resources from the Colorado River. We have joined with Hoover Dam power customers in California and Arizona, including the Metropolitan Water District of Southern California, the Irrigation and Electrical Districts Association of Arizona, and the Arizona Power Authority, to garner bipartisan and bicameral support from our respective representatives and Senators for this important legislation. I appreciate Congresswoman Susie Lee for her leadership and the Nevada congressional delegation for their support of H.R. 7776.

The Help Hoover Dam Act will give the U.S. Bureau of Reclamation (Reclamation) the authority to utilize stranded funds currently in the Colorado River Dam Fund. The bill will allow these otherwise trapped funds to be used for authorized activities related to the operation, maintenance, investment, cleanup actions, and capital improvements within the Boulder Canyon Project at Hoover Dam.¹

Hoover Dam is an iconic symbol of American ingenuity and pride, that provides renewable hydropower to western utilities in urban and rural communities and important industrial customers. The dam provides power, often at critical times, when the demand for energy is high and resources are scarce. Hoover Dam is a hydropower workhorse that was built over eighty years ago, and its aging plant and equipment needs to be replaced to keep the plant operating reliably. The hydropower customers that the dam serves are contractually obligated to pay for maintenance, repairs, and replacements at Hoover Dam. The same customers that are seeing these increased costs are also seeing reduced hydropower generation because of climate change and drought. The hydropower customers of Hoover Dam are seeking solutions to help mitigate the cost increases and H.R. 7776, is one of those solutions.

As way of background, the Boulder Canyon Project Act of 1928 set the terms for Hoover Dam construction, operation, and maintenance.² Each year, the Western Area Power Administration (commonly referred to as WAPA), an agency within the Department of Energy (DOE), collects funds through contract power rates from hydropower project contractors. Revenues from Hoover Dam power rates are deposited into the Colorado River Dam Fund, a revolving fund controlled by the Bureau of Reclamation as directed by the Boulder Canyon Project Act. Generally, the funds collected from Hoover Dam power contractors³ are authorized to be used to pay for the cost of operation, maintenance, and replacement at Hoover Dam.⁴

In addition to the fees collected for project purposes at Hoover Dam, DOE directed WAPA to collect an additional \$2 million annually from Hoover Dam power contractors to fund Post Retirement Benefits (PRBs) for WAPA and Reclamation's federal employees to cover any gap in benefits from Department of Labor allocations. This change started over 20 years ago based on a DOE policy decision, not a law change. However, Congress already provides appropriations to the Office of Personnel Management to cover that funding gap and ensures all retirement benefit costs are covered under the federal Civil Service Retirement and Disability Fund (CSRDF) 5 U.S.C. § 8348(f).

Reclamation sought advice from the Solicitor's office on what to do with these stranded PRB funds in the Colorado River Dam Fund. Reclamation was advised there was no authority to transfer the funds from the Colorado River Dam Fund to the U.S. Treasury. Further, Reclamation was advised not to use the stranded funds for Hoover Dam project purposes without clear direction from Congress.

¹ This includes funds in Colorado River Dam Fund account XXXR5656P1

² Boulder Canyon Project Act—<https://www.archives.gov/milestone-documents/boulder-canyon-project-act#:~:text=The%20Boulder%20Canyon%20Project%20Act,among%20the%20lower%20basin%20states>

³ Hoover Power Contractors based on Hoover Power Allocation Act: <https://crc.nv.gov/2017hooverallocation/files/Hoover%20factsheet%20-%202020130801.pdf>

⁴ Congress passed the Hoover Power Allocation Act of 2011, which authorized WAPA to enter into 50 year power contracts with state, municipal and utility entities for Hoover Dam hydropower (PL 112-72); the bill authorized WAPA to enter into contracts with existing entrants that received power from the 1984 Act and set new policies for new allottees to benefit from Hoover hydropower.

Consequently, the funds are stranded and will continue to accumulate in the account without Congressional action.

Reclamation works diligently to maintain Hoover Dam, but the plant will require major plant investments of \$110 million over the next five years and another \$117 million over the following six years to be paid by its customers.⁵ The Help Hoover Dam Act provides a much-needed solution to free up \$45 million, already paid by its customers, to be utilized for Hoover Dam's operation and plant investment at the plant. The stranded funds can make a substantial contribution to the continued operation of Hoover Dam.

We look forward to working with Reclamation as the legislation is implemented to ensure the funds are expended on important priorities for Hoover Dam.

Thank you for holding this hearing today, and I am happy to answer any questions that the Committee might have.

Mr. BENTZ. Thank you. I now recognize Mr. Liskey for 5 minutes.

**STATEMENT OF TRACEY LISKEY, PRESIDENT KLAMATH
WATER USERS ASSOCIATION, KLAMATH FALLS, OREGON**

Mr. LISKEY. Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, thank you for the honor of providing testimony on H.R. 7938, the Klamath Basin Water Agreement Support Act of 2024.

My name is Tracey Liskey. My family has been in the Basin since 1889. I am a fourth-generation farmer in the Klamath Basin. I am currently the President of Klamath Water Users Association, KWUA, and a Board Member of Klamath Drainage District. As President of KWUA, I represent members of approximately 175,000 acres of highly-qualified agricultural land in Klamath County, Oregon, and Siskiyou and Modoc Counties in California.

The roots of this legislation go back nearly 20 years, and are intertwined with other activities and agreements. All the provisions of this bill are important and covered in detail in my written testimony. Today, though, I want to emphasize to the Subcommittee that the bill is needed immediately to mitigate negative impacts of Klamath River dam removals to the agricultural communities of the Klamath Project.

The removal of four hydroelectric dams privately owned by PacifiCorp on the Klamath River is happening right now, and everyone is watching to see what happens. I am not here to argue about whether the dam removal is good or bad overall; that is not what the bill is about. I am here to tell you that our Klamath Project agriculture community is currently experiencing negative impacts and are at great risk of experiencing even more impacts from dam removal. This is the reason for the legislation.

First, for 10 years, irrigators in the Klamath Project have paid a dam removal surcharge on their monthly power bills. We paid that surcharge without balking, but with assurances from other involved parties that there would be no negative impacts on our agriculture community.

Along with the challenge of dam removal, PacifiCorp, which for about a century has been operator of other infrastructures on the river, is basically leaving the Klamath Basin, turning over their remaining infrastructure to the Bureau of Reclamation. For over 15

⁵ August 2023: Bureau of Reclamation's Boulder Canyon Project Preliminary 10 Year Operating Plan

years, parties advocating for dam removal have agreed that Klamath Project irrigators should not have to pick up the cost of operating these remaining facilities that were formerly operated by PacifiCorp.

As mentioned, right now myself, my irrigation district, and my neighbors are being billed by the Bureau of Reclamation for the cost of operating Link River Dam. These were costs paid by PacifiCorp for over 100 years, which are now being passed on to me and my neighbors.

In addition, the Bureau of Reclamation is about to take over Keno Dam, which has been owned and operated by PacifiCorp. Irrigators should not be struck with that new cost, either.

This legislation would take care of those financial problems and honor commitments made to irrigators long ago.

The second negative impacts of dam removal that we are worried about are new regulatory restrictions and liabilities. The dams that are being removed are downstream of the Klamath Project. While in place, they blocked upstream migration of salmon, steelhead, and other fish. That is why other involved parties wanted them removed. With the dams out, we are told we would routinely have salmon in our part of the Basin. The Klamath Project was not constructed and is not operated based on salmon being in our backyard. We have not tried to stop the removal of the downstream dams, but it is not right if the fish trigger new regulatory burdens that have negative impacts on agriculture in the Basin.

Again, parties who advocated for dam removal have long agreed that we should not be stuck with any new regulatory burdens. Fourteen years ago these parties committed in writing that irrigators would not experience the kind of regulatory impacts that now concern us. Most recently, in 2016, Federal and state agencies and many other parties signed and supported the Klamath Power and Facilities Agreement, in which they “commit to take every reasonable and legal permissible step to avoid or minimize” any adverse regulatory impacts to project irrigators. That commitment has existed for many years but, to the best of our knowledge, nothing has been done to carry out that promise.

H.R. 7938 includes directives for agencies to keep the promises they have already made to the agriculture in the Basin. It also would be authorizing much-needed help with fish screens and other new infrastructure that may be desired.

Thank you for your time and attention to this important legislation. As mentioned earlier, my written testimony includes greater detail on provisions, and I look forward to your questions.

[The prepared statement of Mr. Liskey follows:]

PREPARED STATEMENT OF TRACEY LISKEY, PRESIDENT,
KLAMATH WATER USERS ASSOCIATION

ON H.R. 7938

Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee, thank you for holding this important hearing and for allowing me the honor of providing testimony before this Subcommittee.

My name is Tracey Liskey. I am a farmer in the Klamath Project, a member of the Boards of Directors of Klamath Drainage District and Klamath Water Users Association (KWUA), and the President of KWUA's Board of Directors. I am pleased

to provide this testimony in support of H.R. 7938, “The Klamath Basin Water Agreement Support Act of 2024.”

This legislation will provide important tools and protections for farms and fish that are imminently needed, especially in light of the ongoing non-federal dam removal activities on the Klamath River. The bill will also provide tools for agencies and irrigators to address ongoing challenges in the difficult circumstances of the Klamath River Basin.

Last summer, KWUA provided written testimony in support of S. 482, which is very similar to H.R. 7938. We look forward to working with you and your colleagues in the Senate to realize enactment of this much needed legislation at the earliest possible time.

I am a fourth-generation farmer in the Klamath Basin. My family on the Liskey side came to the Basin in 1886 and my grandfather on my mother’s side was a World War I homesteader. My families came to this Basin along with many other families when it was still undeveloped and they put in an unbelievable amount of effort to turn the Basin into the highly productive agricultural region of today with the promise from our federal government of ample water to irrigate these lands.

KWUA is a nonprofit corporation, formed in 1953, whose members are irrigation districts who are contractors of the United States Bureau of Reclamation’s (Reclamation) Klamath Project (Project). Our members use water from the Klamath River and Upper Klamath Lake and deliver that water to approximately 175,000 acres of high-quality agricultural land in Klamath County, Oregon, and Siskiyou and Modoc Counties in California. KWUA member districts also operate the infrastructure that delivers water to Tule Lake and Lower Klamath National Wildlife Refuges, critical areas in the Pacific Flyway.

In the testimony below, I provide background and context for the legislation, as well as KWUA’s summary of the need and basis for the specific provisions of the bill. As an initial matter, I want to thank Chairman Bentz for his authorship and introduction of this legislation. It is very important to KWUA’s members, and indicative of the Chairman’s tireless work to support constructive and stable solutions for the Klamath Basin. We also thank Representative LaMalfa for your support of previous iterations of this legislation, and for your continued support of Project irrigators.

BACKGROUND AND NEED

The Klamath Basin and Klamath Project

The Klamath Basin comprises about 10 million acres, 200,000 of which are the irrigated lands of the Project. (See Attachment A, map with shading of the Klamath Basin and circle around Project area.) The Project, which straddles the Oregon-California border, was developed by Reclamation under the 1902 Reclamation Act, and Reclamation maintains some operational and oversight responsibilities for delivery of Project water via irrigation districts to the end user landowners (farmers). The Project relies on water from the Klamath and Lost River systems, including regulated storage in Upper Klamath Lake, Clear Lake, and Gerber Reservoir. Consumptive use of water on Project lands is almost certainly less than what occurred in undeveloped conditions. This is because there were areas of open water and marsh on what are now irrigated lands, and the evaporation and evapotranspiration rates on those lands were greater than the rate of evapotranspiration on cropland.

The irrigated lands of the Project support family farms and ranches that produce cereal grains, potatoes, pasture and hay, beef and dairy, and several specialty crops including horseradish, mints (for both oil and tea), strawberry rootstock, and others. Agricultural production supports local businesses and rural communities built on farming. The area of irrigated land today is not significantly different than it was in the early 1940’s, although there have been major investments by growers and irrigation districts who constantly improve the efficiency of irrigation infrastructure. The Project is known for its extreme efficiency in water use, attributable largely to repeated re-use of the irrigation water supply.

Project facilities are the sole means for delivery of water to two long-standing and highly valued federal wildlife refuges—Lower Klamath and Tule Lake National Wildlife Refuges—managed by the U.S. Fish and Wildlife Service.

Our agricultural communities share the Klamath Basin with tribes in both Oregon and California. Three of these tribes (Klamath Tribes, Yurok Tribe, Hoopa Valley Tribe) have fishing rights as a matter of federal law. Others (for example, Karuk Tribe) also have a powerful interest in fisheries that have been part of the tribes’ lifestyle and cultures for time immemorial. There are also threatened and endangered fish species in the Klamath Basin. Unfortunately, the basin has become

known for conflict, largely centered on allocation of water, with these interests and others all active.

Also, and very topical now, for over a century, there have been hydroelectric dams in the mainstem Klamath River: the first, Copco I, was constructed around 1915, and the newest (Iron Gate Dam) was constructed in the early 1960s. All four dams are covered under a license issued in 1956 (with amendments) by the Federal Energy Regulatory Commission (FERC). The hydroelectric dams have had a functional and legal relationship with the Project since 1917. The FERC license expired in 1956. Based on the dam owner's (PacifiCorp) timely application for renewal, and as provided in the Federal Power Act, the original license has been automatically renewed one year at a time, pending FERC action on the renewal application. The re-licensing process was a catalyst for activities and agreements discussed immediately below.

Commitments to Project Irrigators in 2010

As the 2006 expiration date for PacifiCorp's FERC license approached, KWUA and many other stakeholders in the Klamath Basin engaged in good faith negotiations in search of interest-based solutions to conflicts over water and related resources.

This process led to the concurrent signing, in February 2010, of the Klamath Basin Restoration Agreement (KBRA) and the Klamath Hydroelectric Settlement Agreement (KHSa).

At its core, the KBRA was a water right settlement, aimed at reducing potential conflicts between the Project and reserved tribal water rights in the Klamath Basin. A key element of that settlement was a "Limitation on Diversions" for the Project, including fairly significant reductions during drought.

A related commitment in the KBRA was the agreement by three basin tribes, and the United States as trustee for all tribes, that any senior tribal water rights could not be exercised in a manner that reduced Project diversions below agreed-upon levels.

To make the agreement durable, the KBRA also addressed the critical elements necessary for all parties to support that settlement. For Project water users, those elements included:

1. Programs to align irrigation supplies with demands, particularly during periods of drought;
2. Continuation of affordable power that Project water users had experienced since 1917 due to the fact that PacifiCorp dams generated power using Project facilities and Project water rights; and
3. Regulatory assurances, including measures that would ensure there would be minimal or no negative impacts to agriculture resulting from dam removal and attempts to bring anadromous fish into the Upper Basin.

The KHSa provides a path for potential removal of four privately-owned hydroelectric dams on the Klamath River. Under the February 2010 KHSa, dam removal could occur only if a number of conditions were satisfied, including the enactment of legislation to authorize the Secretary of the Interior to decide whether the dams would be removed and to act as the dam removal entity and for Reclamation to take title to Keno Dam, which is owned and operated by PacifiCorp (though not a power generating facility).

Importantly, another condition on dam removal under the 2010 KHSa was that federal legislation also be enacted authorizing implementation of the KBRA, including its protections for Project water users. The parties supported a single federal legislative measure that would have authorized both agreements.

The KBRA terminated automatically on December 31, 2015, in accordance with its terms, due to lack of congressional authorization.

The KHSa did not automatically terminate, but the lack of timely authorizing legislation was one of a handful of "potential termination events" that could lead to termination of the KHSa. Given its terms and the impossibility of enactment of legislation for the (now expired) KBRA, it appeared inevitable that the KHSa would also terminate. PacifiCorp would have to go back to the relicensing process and the parties to both agreements would have to re-engage if they wanted to return to the basin-wide stability promised in the suite of interrelated agreements.

However, dam removal proponents (including the states of Oregon and California and the federal government) and PacifiCorp chose to disregard the indivisibility of the previous package of agreements. They negotiated an overhaul of the KHSa to make the KHSa go forward as a stand-alone agreement, divorced from the carefully negotiated package that had been necessary to make the KHSa possible.

Supporters of a “dam removal only” package thus scrapped and replaced the 2010 KHSA through amendments that fundamentally changed the KHSA approach and abandoned the concept of a comprehensive settlement.

In April 2016, there was a second signing ceremony for a KHSA. The 2016 KHSA provided for dam removal to occur through a new non-profit organization created by the states of Oregon and California (the Klamath River Renewal Corporation), with federal approval by FERC.

The 2016 KPFA

In an effort to not be wholly left aside and subject to the regulatory measures that would likely come with dam removal and anadromous fish in the Upper Basin, KWUA scrambled to negotiate at least some protections and preserve some elements of the formerly integrated package of agreements. These actions led to the Klamath Power and Facilities Agreement (KPFA), which includes as parties the Department of the Interior, the Department of Commerce, the states of Oregon and California, and several non-profit organizations, alongside KWUA and KWUA member entities.

The KPFA included certain express commitments by the Department of the Interior and Reclamation with respect to certain facilities. It also included broader commitments by all the parties to work to address issues related to fisheries and related resources.

The Department of the Interior’s express commitments with respect to Project facilities are to:

1. Operate and maintain Keno Dam consistent with historical practices at no cost to Project water users;
2. Continue to operate and maintain Link River Dam consistent with historical practices;
3. Construct “fish entrainment alleviation facilities” as necessary to prevent fish from entering Project facilities; and
4. Otherwise minimize new regulatory burdens that could result from the presence of anadromous fish in currently unoccupied areas.

Additionally, the KPFA included a commitment by the non-federal parties to support federal legislation to carry out the above measures and further provide that Reclamation’s costs in connection with Link River Dam also not be reimbursable by Project water users.

The broader commitments by all parties in both the KPFA and KHSA (as amended) are to work to address issues related to water quality, habitat restoration, and conflicts related to water use, fisheries, and related resources.

A more concrete commitment of the parties to both the KPFA and KHSA is to “develop and complete an agreement or agreements to address issues affecting their interests and resolving resources conflicts and related issues.” The parties even stated their intent “to conclude the agreement or agreements within the next year.” This commitment, of course, has not been fulfilled.

Some key elements of the KPFA-supported terms were enacted by Congress in 2018.

The proposed legislation, H.R. 7938, completes the process begun in 2018 and would enact the remaining provisions of the KPFA, as the parties to the agreement committed.

SECTION-BY-SECTION SUMMARY

The bill has only three sections.

Section 1. Short Title

Section 1 provides that the title of the Act is “The Klamath Basin Water Agreement Support Act of 2024.”

Section 2. Findings

Section 2 consists of congressional findings that describe the background and context for the legislation’s substantive provisions.

Section 3. Klamath Project Water and Power

Section 3 consists of two subsections. Subsection (a) is the substantive part, in that it amends section 4 of the Klamath Basin Water Supply Enhancement Act of

2000 (Enhancement Act),¹ as further described below. Subsection 2(b)(2) provides a “savings” clause that addresses the administrative effect of these amendments: it requires compliance with existing federal law; that the legislation shall have no effect on water rights or tribal trust, or treaty obligations; and, the unavailability of federal funding and funding authorization for dam removal activities.

The amendments in subsection (a) of section 3 of H.R. 7938 address certain concerns with existing authorities, and adds specific new authorities, which can be categorized as follows.

Programs to Align Irrigation Supplies and Demands

Under H.R. 7938, subsection (b) of section 4 of the Enhancement Act would be amended by restating, verbatim, the existing subsection, which authorizes programs to align irrigation supplies and demands, with the exception of very minor wording changes as well as the omission of a sentence in the current law that imposes a \$10 million average annual limit on expenditures under the subsection. A new subsection (e) would also further elaborate on the goals of such programs.

Rationale: The existing cost cap has proven to be difficult for Reclamation to administer and impractical for Project water users in light of severe drought and significant reductions in Project allocations. Reclamation has supported and expended upwards of \$27 million in a single year (2021) under the existing authority, with the result of being constrained in subsequent years to implement effective programs in light of continued drought and other constraints. By striking the current cost cap, Reclamation will have flexibility to address repeated years of severe drought, as has recently been experienced.

The nature and scope of existing programs is not expected to change if the cost cap is eliminated. However, the subsection may be a basis of authority for use of appropriations under other laws such as the Inflation Reduction Act (which appropriated \$4 billion to Reclamation for expenditure under existing authorities).

Affordable Power

Subsection (c) of section 4 of the Enhancement Act would be amended to add new language authorizing implementation of the recommendations for achieving affordable power that previously were transmitted to Congress, including through cooperative agreements and financial assistance.

Rationale: For over 90 years, Project water users received affordable power rates under the various contracts between the United States and PacifiCorp and its predecessors. Affordable power was furnished to water users in recognition that it was necessary to fulfill the Project’s purpose and that Project facilities and water rights were being used to generate power at the hydroelectric facilities on the Klamath River. With the expiration of that arrangement, Project water users are among the very few PacifiCorp tariff customers for irrigation pumping, and do not have a meaningful opportunity for lower-cost power such as from the Bonneville Power Administration.

A 2020 study required by Congress concluded that Klamath irrigation pumpers in Oregon pay double, and Klamath irrigation pumpers in California pay triple, the average rate for power paid by customers in similarly situated reclamation projects in the northwest.

The amendments to subsection (c) would authorize Reclamation to implement measures to develop alternative sources of or measures for affordable power for Project water users.

Restoration Activities

A new subsection (d) would be added to section 4 of the Enhancement Act authorizing the Secretary of the Interior to undertake projects to reduce fish entrainment, reduce or avoid impacts to aquatic resources due to operation of the Project, and

¹ <https://www.govinfo.gov/content/pkg/PLAW-106publ498/html/PLAW-106publ498.htm>. The Enhancement Act, in its section 6, authorizes nonreimbursable appropriations for purposes of the Enhancement Act. The Enhancement Act was amended in 2018 to include some of the terms supported in the 2016 KPFA. See section 4308 of Pub. L. No. 115-270 (<https://www.Congress.gov/115/bills/s3021/BILLS-115s3021enr.pdf>). In 2020, a technical corrections bill was enacted. Pub. L. No. 116-191 (<https://www.govinfo.gov/content/pkg/BILLS-116s3758enr/html/BILLS-116s3758enr.htm>).

restore fishery habitat in the Klamath Basin. The Secretary would also be authorized to undertake feasibility studies in connection with such projects. A new subsection (e) would further elaborate on the goals of such projects.

Rationale: This section is necessary to allow Reclamation to sponsor the construction of fish entrainment alleviation facilities (e.g., fish screens) at no cost to Project water users in accordance with the terms of the KPFA. These facilities are not currently required but are desired by dam removal proponents, and may be demanded by regulators, when anadromous fish are present in the Upper Klamath Basin.

Pumping Plant D

A new subsection (f) would be added to section 4 of the Enhancement Act authorizing the Secretary of the Interior to reimburse the Tulelake Irrigation District for up to 69 percent of the costs incurred by the district in operating and maintaining this facility, in relation to the benefits conferred to the United States.

Rationale: Pumping Plant D is the primary means of managing water levels in both Tule Lake and Lower Klamath National Wildlife Refuges, which were two of the nation's first refuges established for migratory birds. This section is necessary to allow the Department of the Interior to reimburse the Tulelake Irrigation District for Pumping Plant D costs to the extent that such operations benefit the United States.

Keno and Link River Dams

A new subsection (g)(1) would be added to section 4 of the Enhancement Act authorizing Reclamation to carry out the terms of the KPFA with respect to not requiring reimbursement by Project water users for any costs incurred in connection with Keno and Link River Dams.

Rationale: In the 2016 KHSA, the Department of the Interior agreed for Reclamation to take title to Keno Dam from PacifiCorp and operate and maintain the dam in perpetuity. In late 2022, Reclamation and PacifiCorp entered into an agreement specifying the title and related conditions for this transfer to be consummated. On July 5, 2023, PacifiCorp filed for a license amendment with FERC to remove Keno Dam from the existing federal license based on this transaction. In December, FERC approved the removal of Keno from the license, although provided that its order will not be effective until Reclamation has taken title. It appears inevitable that the transfer will occur, notwithstanding lingering questions about Reclamation's subsequent authority to operate and maintain Keno Dam, particularly at no cost to Project water users.

Based on discussions with Reclamation and the state of Oregon, it is anticipated that Reclamation would, if the law is enacted, undertake a feasibility study on the future of Keno Dam in accordance with the authority provided in the new subsection (d) to section 4. It is commonly understood that there are likely less expensive and more environmentally friendly alternatives to operating and maintaining Keno Dam in perpetuity. Any feasibility study recommending new construction would have to be presented to Congress for further authorization.

Reclamation owns Link River Dam. However, Reclamation has never been directly responsible for the operation and maintenance of Link River Dam, which was constructed and operated by PacifiCorp and its predecessors. As such, Project water users have generally not incurred costs in connection with the dam over its 102-year existence.

Under present conditions, Link River Dam is operated primarily to produce certain downstream flows and achieve certain lake levels. Originally, such operations benefited power production and accordingly, were covered by the power company. Parties to the various settlements have appropriately acknowledged that their advocacy for PacifiCorp's departure from the Klamath Basin should not result in irrigators taking on cost obligations historically borne by PacifiCorp. In addition, Link River Dam is operated largely to benefit fish.

Realization of Benefits

Subsection (g)(2) of the new section 4 of the Enhancement Act would incentivize parties, including federal and state agencies, to keep important commitments that they made in 2010 and renewed in 2016.

Specifically, and echoing a term from the KBRA, the first sentence of section II.B.2.a of the KPFA states that the parties “commit to take every reasonable and legally permissible step to avoid or minimize any adverse impact, in the form of new regulation or other legal or funding obligation that might occur to users of water or land associated with the Klamath Reclamation Project from introduction or re-introduction of aquatic species to currently unoccupied habitats or areas, or from habitat restoration activities.” We are aware of no action that has been taken to honor this commitment, even though it was first made 14 years ago. Additionally, recognizing that there would have been no KHSA without a parallel agreement on water, and that Project irrigators were losing the benefit of their bargain when the KHSA was subsequently made divisible from the KBRA, the parties to the KPFA and the 2016 KHSA committed to reconvene in good faith to re-establish a water settlement. There has been no meaningful effort to attempt to honor that commitment.

The new section 4(g)(2) would disallow modifications to Keno Dam to improve fish passage until such time as the Secretary has certified to Congress that the above commitments have been kept. Under the new section 4(g)(3), the Secretary would be required to furnish a draft certification to the parties to the KPFA and KHSA at least 180 days prior to providing certification to Congress.

Rationale: Federal agencies and other parties have made commitments to irrigators that they have failed to keep. Further, these commitments were made in recognition of lost benefits to Project water users that occurred when other parties abandoned commitments that the KHSA would be indivisible from its sibling agreement, and for the purpose of preserving at least part of Project irrigators’ bargained-for benefits. Moreover, it would be especially inappropriate to take action that would increase the abundance or likely presence of new aquatic species until long-standing commitments regarding regulatory protections are actually in place.

C Canal Flume Replacement

A new subsection (g)(4) would be added to section 4 of the Enhancement Act directing Reclamation to enter into an amendatory contract with the Klamath Irrigation District designating as nonreimbursable 35 percent of the existing repayment obligation for replacement of the C Canal Flume.

Rationale: The Klamath Irrigation District replaced the C Canal Flume in 2016, with a portion of the costs covered by the United States pursuant to a repayment contract with Reclamation. The C Canal serves over 70,000 acres within the Project, which generates return flows that have historically been the primary source of water for Tule Lake and Lower Klamath National Wildlife Refuges. As originally constructed, the elevated C Canal Flume crossed over a state highway, underneath a railroad overpass, and was immediately adjacent to a public high school.

In 2013, Reclamation designated the flume’s replacement as critical to human safety and protection of public infrastructure, which we believe should have triggered the 35 percent nonreimbursable authority for extraordinary operation and maintenance projects designated as emergency work under current law (Pub. L. No. 111-11). Considerable support was provided for Reclamation to make that designation, but it failed to act. Therefore, this provision is necessary to give effect to authority provided by Congress relative to emergency, extraordinary operation and maintenance.

Cost Allocation Accounting

Subsection (g)(5) of the new section 4 of the Enhancement Act would provide that past and future costs incurred by the Secretary for compliance with federal environmental laws not explicitly referenced in contracts with Project contractors shall not be allocated to such contractor or accounted as being reimbursable costs to be repaid to the federal government.

Rationale: Over decades, Reclamation has requested and received appropriations for compliance with certain laws, primarily the Endangered Species Act. Reclamation does not consult with contractors in making its budget requests or in the expenditure of congressionally appropriated sums. The contracts between Reclamation and its contractors provide no requirement or mechanism for the contractors to reimburse these costs. However, as an accounting and budgeting matter, these costs may be categorized as “reimbursable” simply because the Project’s authorized purpose is limited to irrigation. This accounting mechanism creates confusion and can become

an obstacle to contractors' ability to conduct other activities such as current efforts to transfer title to transferred works.

Again, thank you for the opportunity to provide testimony in support of the enactment of H.R. 7938 in the U.S. House of Representatives. I would be happy to answer any questions the Subcommittee has on this important bill.

Attachment



Mr. BENTZ. I thank the witnesses for their testimony, and I will now recognize Members for 5 minutes each for questions.

Mr. LaMalfa, you are recognized for 5 minutes.

Mr. LAMALFA. Thank you, Mr. Chairman.

I have a little geographic update. Mr. Huffman claims he represents the Basin.

No, you represent the last 50 miles of the river.

Mr. HUFFMAN. I said lower. I said lower.

Mr. LAMALFA. Huh?

Mr. HUFFMAN. I said lower, I represent the lower.

Mr. LAMALFA. That is not the Basin. The Basin, Mr. Bentz and I—

Mr. HUFFMAN. Back to geography class.

Mr. LAMALFA. You need the geography class.

Mr. BENTZ. Gentlemen, gentlemen.

Mr. LAMALFA. You have been screwing around up there for long enough.

Mr. BENTZ. Gentlemen.

Mr. HUFFMAN. Jesus.

Mr. BENTZ. Gentlemen.

Mr. LAMALFA. Mr. Liskey, I hear your concerns with the agreement there. And they use the word “minimize” in the process up there of impacts to you. And that is probably enough wiggle room for them to do a lot of regulatory things that are still to come after the dams have been destroyed, as well as a good chunk of the economy up there.

So, talk to me a little more about your concerns, though, with the Keno Dam being turned over to the Bureau, and what kind of implications that could be for new costs to the growers there.

Mr. LISKEY. Keno Dam right now is being regulated strictly, mainly for the fish going downstream, and it looks like there is a more than \$20 million upgrade that needs to be done, plus fish ladders’ upgrades for the salmon are coming back upstream. And all those costs, as it looks like now, will be put onto the Klamath Project users. And in our agreements that has been said it would not be. And this is what the bill is trying to do, is make sure that those costs do not come to the Klamath Project users.

Mr. LAMALFA. Right, but that will probably be seen as a handout to the growers, rather than the original promise of the project, which was set up for agriculture, not fish, not other things. Right?

Mr. LISKEY. Correct. The water that is stored in the lake under Oregon water law is stored for irrigation.

Mr. LAMALFA. Yes, they keep ignoring that law.

Mr. Palumbo, the Klamath project was the second one to ever authorize, and it has a responsibility to the Basin and the adjoining counties, Klamath, Modoc, and Siskiyou. Does the Bureau have any accounting for these costs or proposals to compensate the counties for all the things that have been mentioned with the removal, the mitigation, et cetera?

Mr. PALUMBO. Thank you very much for the question. I appreciate that perspective.

Reclamation is in the process of developing cost estimates for all elements of the agreements that are going to be in place if this law is passed, including the Keno Dam replacement costs or Keno Dam

improvement costs, Link River Dam improvement costs, and costs to restore the Klamath River after the dam removal.

Mr. LAMALFA. Remember, you are talking about damage to the local economy, as it is. The dam being removed in Klamath is the largest property tax asset they have there, as well as the three dams in Siskiyou are the three largest property tax assets they have there. So, you are talking about forward-going plans. What about the ones that the effects are already in place? Is that something that you are looking at with some kind of compensation for the property owners or those counties?

Mr. PALUMBO. Congressman LaMalfa, we would be happy to sit down and work with your office to determine what those—

Mr. LAMALFA. No, no, I am not, these are already happening.

Mr. PALUMBO. Correct.

Mr. LAMALFA. These things are already damaging the economy and the people of those areas. You have so far no plan in place after all these years of KBRA, and all these other years of all the movements that have been made by both states as well as FERC and such to do so?

Mr. PALUMBO. There are several elements that are part of the amended KHSA agreement, as well as the KPFA that provide revenues to the counties, and Reclamation supports the agreements that were made.

I think, furthermore, the legislation, if passed, moves those agreements into law, which will ensure that those benefits do go to the counties and go to the other beneficiaries that are identified in the legislation.

Mr. LAMALFA. All right. So, part of the effort is, as I said, to minimize the effects on people up there with power rates. Can you point to any specific plans that would decrease the cost to the Basin for power through energy conservation or efficiency?

Mr. PALUMBO. Reclamation undertook a study in 2018 as a result of the agreements that were passed to look at ways in which to offset, defray, or minimize cost impacts resulting from the removal of the dams. They include looking at hydropower purchases.

Mr. LAMALFA. Purchases from where?

Mr. PALUMBO. From the Western grid through the Western Area Power Administration.

Mr. LAMALFA. Right. I am going to run out of time here quick. Currently, hydropower is about \$20 a megawatt, wind is about \$53, solar is about \$68, and offshore wind is \$115. So, how are you going to, if you don't get the hydro from somewhere else, or is there a plan to install new hydro on the Klamath River to keep the low-cost energy?

How do you intend to have the lowest-cost power in the area?

Mr. PALUMBO. Currently there are no plans for additional hydro on the Klamath River.

Mr. LAMALFA. Right.

Mr. PALUMBO. There are provisions in the legislation that cap the reimbursable requirements for power that would be implemented. That would have the net effect on—

Mr. LAMALFA. Cap it on the users or cap it on the government?

Mr. BENTZ. The gentleman's time is expired.

Mr. PALUMBO. On the users.

Mr. LAMALFA. Cap the user costs, or cap the government?

Mr. BENTZ. The gentleman's time has expired.

Mr. PALUMBO. On the users.

Mr. BENTZ. Answer the question for the record, go ahead. Did you have an answer?

Mr. PALUMBO. Oh, yes, Chairman Bentz, yes. It would be a benefit to the users by virtue of the legislation that you are sponsoring.

Mr. BENTZ. Thank you. The Chair recognizes Ranking Member Huffman for 5 minutes.

Mr. HUFFMAN. Thank you, Mr. Chairman.

When we talk about the complexities and history of conflict and difficulty in the Klamath River Basin, a couple of good reasons for that are the deep ignorance and arrogance we sometimes hear in talking about these issues. To suggest that the lower 50 miles of the Klamath River somehow don't count as part of the Basin or as part of the watershed is a pretty good example of that ignorance and arrogance.

But Mr. Palumbo, I want to start by asking you about the Hoover Dam Act, and I want to ask about the fact that these funds were originally collected for post-retirement benefit for Hoover Dam employees, as I understand it. So, my question is whether this legislation would leave these Federal employees and retirees without coverage if enacted. I just want to make sure that that is taken care of.

Mr. PALUMBO. Thank you very much, Ranking Member Huffman.

I can assert very confidently that the Hoover Dam employees, both past, current, and future will not be negatively impacted. These revenues that are collected are currently stranded, unused, and unavailable for use. Retirement benefits are covered under the Civil Service Retirement and Disability Fund. Essentially, we are collecting money for something that is already being covered under a different fund, and therefore unleashing this funding would have benefits ultimately to the power users.

Mr. HUFFMAN. I appreciate that clarification.

Can you describe briefly how Reclamation would use the funding under this legislation to benefit operations at Hoover?

Mr. PALUMBO. Correct. As was identified, there is \$46 million that has been collected. About \$2 million additional every year will be collected. We would use that very strategically. Based on elevations in Lake Mead and flow through Hoover Dam, that impacts the amount of generation that can be generated at the facility. So, we would tailor our maintenance activities to use that funding to defray maintenance costs, to help stabilize the rates.

There are a variety of projects: piping replacement, capital improvements, and other maintenance activities that we would employ in a very strategic way to help stabilize the rates, year over year, utilizing those funds.

Mr. HUFFMAN. Thank you.

Mr. Witkoski, any specific examples of projects at Hoover that could benefit from these funds, from your perspective?

Mr. WITKOSKI. Just so you are aware, there is an engineering and operation committee that meets once a quarter with the customers, and there is a 10-year plan, and they discuss the investments that need to be made.

Under the 10-year plan, that is the \$110 million that is estimated for the next 5 years for projects in that plan that need to be done. And then following that, there is another \$117 million needed for, I don't have the specifics. I think the gates that Congresswoman Lee mentioned, those are important projects that are going on right now. But we have more to come.

Mr. HUFFMAN. All right, thank you.

Back to you, Mr. Palumbo. H.R. 7938 has a provision for Keno Dam that would limit any modification to fish passage or actions to introduce or reintroduce aquatic species upstream until Reclamation notifies Congress that certain provisions of the Klamath Basin agreements have been met.

These agreements are very broad. They cover a lot of ground. If this bill were enacted, what would its implementation look like, given that breadth?

Mr. PALUMBO. Thank you, Ranking Member Huffman.

I think our first step that we would take with the enactment of this bill, should it happen, is we are charged with: (1) taking title of Keno Dam, and (2) conducting a feasibility study to look at what type of improvements need to be made on the facility, both from an operations and maintenance standpoint, as well as an aquatic species standpoint, at which time we would submit a report to Congress and work with Congress on how we move forward.

There are provisions in the bill that we want to sit down with the Subcommittee on to better understand the restrictions on moving forward with those activities. We think that there is an opportunity to line out things in a strategic way that we can expediently address the issues in the agreements, as well as what we identify in the feasibility study.

Mr. HUFFMAN. There is also a provision that would prohibit contracts from incurring costs for compliance with environmental laws unless specified in the contract. If you were to implement this, how would you determine which costs are even deemed appropriated under a provision like that?

Mr. PALUMBO. Thank you for that question, as well. That is another element of this current legislation that we would like to sit down with the Subcommittee on, and get some more specificity of how to address past laws and future laws that may come into place, and make sure we understand the breadth of what might be the responsibilities of Reclamation, and what might be the responsibilities of other beneficiaries, and making sure that that is lined out in a clear way. And we stand ready to sit down with the Subcommittee to do that.

Mr. HUFFMAN. Thank you.

I yield back.

Mr. BENTZ. The Chair recognizes Mr. Curtis for 5 minutes.

Mr. CURTIS. Thank you, Mr. Chairman, I would like to direct my questions to Mr. Barnett.

And once again, thanks for traveling and being with us. I know firsthand that you have left a beautiful place to come out here to Washington, DC. So, thank you.

Those of us that grew up in the West are used to stories about loss of life and violence associated with water disputes. Yet, you come to us today with a suggestion that has seven Basin states in

agreement. Can you explain how, in these difficult water circumstances, you have been able to actually get agreement?

And why is it that seven states all agree on the solution?

Mr. BARNETT. Absolutely.

First of all, improved water quality is better for everybody. Whether you are in the top portion of the river or the lower portion of the river, improving water quality increases its utility, makes it so that it is better for human consumption, and that it is more productive in its uses.

Also, importantly, is that it helps the states comply with Clean Water Act standards that were initiated 50 years ago under the Clean Water Act by EPA. So, it allows for compliance within the Colorado River Basin of those standards.

And then lastly, I would say that 50 years ago the seven Colorado River Basin states came together and said this is a Basin-wide issue. We are going to work together on a Basin-wide basis, and we are going to cooperatively solve the water quality issue. Therefore, despite the fact that there is an awful lot of pressure and tension on the river itself, water quality itself has remained something that the states have worked unitedly on ever since it has passed.

In my organization we work together, and it is always a unanimous vote. And if we don't have a unanimous vote, then we go back and we rework it until all the states are together.

Mr. CURTIS. That is a pretty darn good model. Maybe we should study it here in Washington. Thank you to you and your colleagues for that work.

So that people could better understand the program, could you give us maybe a specific of a project that is indicative of the type of work that they are doing?

Mr. BARNETT. Absolutely. Maybe I would give you two quick ones.

Mr. CURTIS. Sure.

Mr. BARNETT. One is the Bureau of Reclamation in western Colorado has worked on what we call the Paradox Valley Unit, where we have about 150,000 tons of salt that flow into the Dolores River in one little reach of the river. Bureau of Reclamation picks up that salt, and injects it deep into the Earth so that it doesn't come into the Colorado River.

On a more general basis, the bread and butter of the program is to work with irrigation agriculture, and to go to them and work with them on improving water efficiency practices. So, the Bureau of Reclamation's Basin-wide program, for example, in the Muddy Creek Irrigation Company that received a grant from the Bureau of Reclamation several years ago, they took that grant and they piped 37 miles of previously earthen ditches that were leaking into very salty soils, and put it in a pipeline so that that leakage no longer continued. That one project alone saved 3,000 tons of salt from coming into the river.

And equally important, then it opened up the area so that NRCS could follow the Bureau of Reclamation and come in and improve the on-farm water efficiencies. Through the EQIP program, they go to the irrigators and they say, "Would you cost share with us in changing, so that you don't irrigate like great granddad did and

flood the daylight out of the ground and wash a bunch of salt into the river? But rather, we will put sprinklers on your property, and therefore you only apply enough water to meet the crops' need, and there is not extra water to dissolve salt and bring it into the river." So, another, then, 3,000 tons of salt were able to be saved on another 3,000 acres through that improvement.

Mr. CURTIS. So, if I understood that example correctly, also saving water.

Mr. BARNETT. Yes, water efficiency then reduces the amount of water they needed to divert to the fields.

Mr. CURTIS. Great. Your testimony did a great job, but would you just take a minute and articulate, if Congress doesn't pass these changes, what happens to the Colorado River?

Mr. BARNETT. In my mind, disaster, quite honestly.

The Bureau of Reclamation is required under law, as soon as there is money spent for salinity control, to cost share from the Basin funds. If Reclamation goes to the Basin funds, and because power revenues are down there is no money there, then they are in a bind, they can't implement. So, it puts in jeopardy the entire program.

Mr. CURTIS. Thank you very much for your testimony and for being here today.

Mr. Chairman, I yield my time.

Mr. BENTZ. The Chair recognizes Congresswoman Boebert for 5 minutes.

Ms. BOEBERT. Thank you, Mr. Chairman, and thank you to the witnesses, especially General Manager Horrell, who traveled all the way from Oregon to be here today.

Thank you so much. General Manager Horrell, you discussed how my bill would designate the Power Resources Office in Reclamation's Denver headquarters as the lead office for hydropower development and said, "This provision intends to set up a centralized location for uniformity purposes, yet does not prohibit area offices from implementing specific hydropower development."

Can you elaborate on how having one centralized location as the lead office for hydropower development will reduce the time and associated costs for new hydropower projects?

Mr. HORRELL. Yes, that is a good question.

What we are looking for is transparency, and we are looking for efficiencies. And I think we lose a lot when we are talking to multiple people and getting multiple answers at different times. So, it is kind of bring me a rock, bring me another rock. And we are looking at making that efficiency help the Bureau, as well as help us get through faster and more efficiently, which will save money.

Ms. BOEBERT. Thank you very much. We certainly love transparency, efficiency, and expedience. Four years and \$2.1 million for NEPA for the canal piping and hydro projects that you discussed in your testimony is discouraging. And it seems like your irrigation district could have really benefited from the provisions in my bill if we had passed this a little bit sooner.

General Manager Horrell, can you further discuss how my bill would ensure that there will be no financial and operational impacts to existing water users with the development of the new hydropower authorization by this legislation?

Mr. HORRELL. In my experience, what we do is we generate revenue that brings in to help keep our costs down, keep our rates low for our end users, our farmers. These projects that we build are paid for by generating hydro revenue within my district, and it is at no cost to the patrons.

Ms. BOEBERT. Awesome. Thank you so much. I appreciate you being here, and your testimony, and for answering so many questions.

Deputy Commissioner Palumbo, thank you also for being here today, and all of Reclamation's technical assistance in drafting this important bill. You touched on it in your testimony, but could you also please elaborate on how this bill will spur additional non-Federal hydropower development in Reclamation projects?

Mr. PALUMBO. Thank you very much, Congresswoman Boebert.

As you identified, streamlining is fundamental to implementing projects. Right now, we currently implement projects with FERC authority, as well as Lease of Power Privilege authority. This would centralize the authority under Lease of Power Privilege, making it very clear to work with Reclamation on developing hydropower, both Federal and non-Federal, on Reclamation lands. So, that envelope of our lands that we have, our facilities that we have, we would use one authority. That would be Lease of Power Privilege, centralized through our power resources office, making it very efficient to move through the process of implementing projects as quickly as possible, as smartly as possible, and as strategically as possible.

Ms. BOEBERT. Thank you, and I would agree with that. Just the fast track of streamlining this, having that one authority, it being centralized, and streamlining a permitting process that can typically be very burdensome at times, obviously, I mean, that sounds like a wonderful thing that we should be working on, and I think that this will accomplish more for our stakeholders on the ground in states like Colorado.

Now can you elaborate on the importance of and benefits associated with existing hydropower and the need for new hydropower to be encouraged and developed at a larger scale?

Mr. PALUMBO. Yes, thank you very much for that question.

We often talk about wind and solar coming on-line. We consider that a variable resource. Hydropower is the ability to backstop, to stabilize the grid very quickly when that variable resource might drop out. So, it enables solar and wind to be generated, and also, with hydropower backstopping it, it stabilizes the grid, providing overall value to all the beneficiaries of that particular section of the grid. It provides a tremendous benefit by stabilizing the system and speeding up implementation of future projects.

Ms. BOEBERT. Yes, and my time is expired. Mr. Chairman, since we kind of have a smaller group, may I ask General Manager Horrell one more question? OK, thank you.

General Manager Horrell, you discussed the current challenges with hydropower development on Reclamation facilities. Can you please elaborate on how the White House Council on Environmental Quality final rule implementing Phase 2 of significant revisions to NEPA regulations will further complicate an already daunting NEPA process, cause further litigation, increased costs,

and provide further regulatory uncertainty that undermines hydro-power development?

Mr. HORRELL. I can't comment specifically on that rule, because I am not as familiar with it, but I can talk about NEPA and how I have had to deal with that.

NEPA has added cost, time, and these projects have a small margin to get done. It is not that we are not trying to follow all the rules, I just think that there is a lot of time involved and money that gets added on.

We have a collaborative Basin, and when you have a collaborative Basin, that puts water back in for species we think that we are doing good things, and we continue to do those, and we believe we are following what the species need.

In my case, anything that we can do to speed these processes up makes our projects more affordable.

Ms. BOEBERT. Thank you very much, and I appreciate the Chairman and the Ranking Member for allowing me to go over my time. We will discuss this further when we mark up this legislation. Thank you all.

Mr. BENTZ. Thank you. The Chair recognizes himself for 5 minutes.

Deputy Commissioner, does the Bureau now own Keno Dam?

Mr. PALUMBO. I am sorry, Chairman. Did you say who owns Keno Dam?

Mr. BENTZ. Yes, who owns it?

Mr. PALUMBO. Currently, today, PacifiCorp owns Keno Dam.

Mr. BENTZ. It is my understanding that the Bureau is going to be taking title to Keno Dam. Is that correct?

Mr. PALUMBO. Correct. In the coming weeks or months, as soon as JC Boyle Dam comes out, there is a provision where that title transfers to Reclamation.

Mr. BENTZ. And will PacifiCorp write a big check to the Bureau of Reclamation for the amount of accrued repairs and improvements that need to be done to Keno Dam before you take title to it?

Mr. PALUMBO. No, they will not.

Mr. BENTZ. And why not is the question.

Mr. PALUMBO. That was a provision of the agreements made around the removal of the PacifiCorp dams.

Mr. BENTZ. All right, so I am going to shift. I am going to move here rapidly.

Mr. Liskey, the Keno Dam is a regulatory device that was used primarily to regulate the flow of the water down the Klamath to the four dams that are now being removed. And as a result, it was primarily for the purpose of regulation, and also to protect the town of Klamath Falls from flooding. Would you think that it would be fair to impose upon the farmers the cost, some have estimated it at \$100 million, to upgrade Keno Dam with fish passage and to repair it in its dilapidated state left by PacifiCorp.

Mr. LISKEY. No, I would not. I mean, Keno Dam is mainly used to regulate for the fish and the salmon. So, that is a public good, and that should be paid by the public. The Klamath irrigators cannot afford that project.

Mr. BENTZ. And Mr. Liskey, is it safe to draw the conclusion that the Bureau of Reclamation, U.S. Fish and Wildlife, NMFS, and others enthusiastic about the removal of the dams agreed to shoulder the responsibility, perhaps with the thought of shunting it off to you farmers, in order to get PacifiCorp to walk away from their four lower dams?

Mr. LISKEY. I know in our agreements that were all signed by Interior, Commerce, California, supported by the Klamath California Trout, Yurok Tribes all agreed that those costs should not go to the irrigators. Whether the government was going to do it or not, I do not know.

Mr. BENTZ. So, what seems to be happening is the party that had owned the four lower dams has now conveyed them into a shell corporation, and then placed in that shell corporation \$200 million paid by ratepayers, you are one of them. And the \$200 million paid by the state of California, and then another \$50 million. I am not sure where it came from, \$450 million inside this shell. And that money is being used now to remove those dams.

It would seem that the real focus for all of us should have been on the definition of dam removal, because the consequences of dam removal are certainly going to be fish passage above those four dams, yet that was not included as one of the dam removal costs, was it?

Mr. LISKEY. No, it was not. And, I mean, Warren Buffett got out of this really well by leaving the Basin, and walking away, and handing this to the Reclamation, and leaving the question of who pays for it and where it gets paid, and the irrigators are afraid we are the ones that are going to have it.

Mr. BENTZ. But the design of this bill is intended to head off that inequity, that current cost that is floating around for, frankly, everybody above those dams, the Keno Dam being one, and the Link River Dam, which is, of course, just above the Keno Dam by a couple of miles that holds back Klamath Lake.

These dams were operated for the benefit of the PacifiCorp for many years. But now, when those four lower dams go away, someone is going to have to pay. So, our bill is designed to make sure that it is not the farmers and, indeed, it is those who were enthusiastically supporting the removal of those four lower dams. Do I have it right?

Mr. LISKEY. That is correct. These agreements were signed by everybody all the way from KBRA up through the 2014, 2016 agreements supported by the tribes and everybody else, that the Klamath irrigators would not be the payers of those—

Mr. BENTZ. And to that point, indeed, the dam that holds the lake back, some would say, was for the benefit of the irrigators, but that hasn't been the case over the past number of years, has it?

It has been for the benefit of the fish, the sucker fish inside the lake, and the benefit of the salmon downstream from the lake, as you farmers went without. Do I have that right?

Mr. LISKEY. That is correct. PacifiCorp built Link River to regulate water for producing power on those lower dams. And now the only regulation that is really being done by those is to hold lake levels up for the sucker fish, and to let water down through for the salmon and steelhead on the lower end.

Mr. BENTZ. Yes.

Mr. LISKEY. Agriculture has a very small part of that issue.

Mr. BENTZ. Yes. And my time has expired. I want to thank the witnesses for their testimony, and all of you for traveling here, and the Members for the questions.

The members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to these in writing. Under Committee Rule 3, members of the Committee must submit questions to the Subcommittee Clerk by 5 p.m. Eastern Time on Tuesday, May 28. The hearing record will be held open for 10 business days for these responses.

I will also ask unanimous consent to enter into the record a letter from the governing bodies of Siskiyou and Modoc Counties in California and Klamath County, Oregon, expressing support for H.R. 7938, the Klamath Basin Water Agreement Support Act of 2024.

Without objection, so ordered.

[The information follows:]

**COUNTY OF SISKIYOU, CALIFORNIA
COUNTY OF MODOC, CALIFORNIA
KLAMATH COUNTY, OREGON**

May 17, 2024

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Re: H.R. 7938 Klamath Basin Water Agreement Support Act of 2024—SUPPORT

Dear Chairman Bentz and Ranking Member Huffman:

On behalf of the residents and governing bodies of Siskiyou County and Modoc Counties, California and Klamath County, Oregon (Tri-Counties), we are writing to express our unwavering support for H.R. 7938, the “Klamath Basin Water Agreement Support Act of 2024.” (Act) We respectfully request that this letter be entered into the record of the Subcommittee’s May 22, 2024 hearing on the Act.

This Act, in different forms and slightly different language, has been introduced in past Congresses, has passed the Senate, and almost nearly became law. In 2018, Congress enacted portions of past requests, but this did not include all aspects. Now that the Lower Klamath Dams removal is actively occurring, the implementation of the left behind portions, which are included in the Act, is critical and immediately needed. In general, these include, calls for actions to align water supply and demand, authority for Reclamation to implement certain environmental and mitigation projects, authority related to Link River and Keno dams, and authority concerning power costs.

In conclusion, we appreciate your sponsorship of this bill, and we urge your fellow elected members to support H.R. 7938 and join us in these efforts.

Sincerely,

Brandon A. Criss, District 1
Siskiyou County Board of
Supervisors

Ned Coe, District I
Modoc County Board of Supervisors

Michael N. Kobseff, District 3
Siskiyou County Board of
Supervisors

Geri Byrne, District V
Modoc County Board of Supervisors

Derrick DeGroot
Klamath County Commissioners

Mr. BENTZ. And with that, the Subcommittee stands adjourned.
[Whereupon, at 11:31 a.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Bentz

Colorado River Basin Salinity Control Forum

October 30, 2023

Chairman Westerman
Ranking Member Grijalva
House Committee on Natural Resources

Dear Westerman and Ranking Member Grijalva:

On behalf of the seven Colorado River Basin States, through their gubernatorially appointed representatives to the Colorado River Basin Salinity Control Forum (Forum), I hereby convey our unanimous support of proposed legislation to amend the current cost-share percentages under the Colorado River Basin Salinity Control Program (Program).

The proposed changes are needed to resolve deficiencies in the cost share generated by power revenue reductions from the drought-stricken Colorado River System. The changes reflect several years of review and discussion between the Colorado River Basin States and the Federal agencies involved in Program implementation.

The Colorado River Basin Salinity Control Act (Act, 1974, as amended), authorizes the construction of projects and other activities to reduce the salt load of the Colorado River System. The Act specifies that “In recognition of Federal responsibility for the Colorado River as an interstate stream and for international comity with Mexico, Federal ownership of the lands of the Colorado River Basin from which most of the dissolved salts originate, and the policy embodied in the Federal Water Pollution Control Act Amendments of 1972” most of the expenses for implementation of the salinity control efforts are non-reimbursable. The remaining expenses are reimbursable (cost share).

The Act provides that the cost share in the Program is to be provided with moneys generated from mill levies on power revenues from the Upper Colorado River Basin Fund (Upper Basin Fund) and the Lower Colorado River Basin Development Fund (Lower Basin Fund). The Act provides that the Secretary adjust power rates to provide for the salinity cost-share dollars from the Upper Basin Fund. However, salinity funding in the Lower Basin fund is fixed at 2.5 mills on specific power sales from Hoover, Parker, and Davis Dams, regardless of funding need.

Pursuant to the Act, whenever there is an appropriation or allocation of funds for Colorado River salinity control activities, there is a corresponding cost-share requirement which is met by the withdrawal of moneys from the Upper Basin Fund and the Lower Basin Fund. However, in recent years, with reduced power generation due to prolonged drought conditions, and increased costs of implementing projects, there has been insufficient money in the Lower Basin Fund to meet the cost-share requirements.

The Basin States, through the Forum, have been working with Federal agencies for several years to determine the best solution to fix the funding imbalance. The attached legislation is the best solution to make the needed changes. The Basin States, through their gubernatorially appointed representatives on the Forum, unanimously support the proposed legislative fix.

Sincerely,

Bill Hasencamp,
Chair

**METROPOLITAN WATER DISTRICT OF SOUTHERN
CALIFORNIA**

May 21, 2024

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Re: Support for Colorado River Salinity Control Fix Act, H.R. 7872

Dear Chair Bentz and Ranking Member Huffman:

The Metropolitan Water District of Southern California (Metropolitan) supports the Colorado River Salinity Control Fix Act, H.R. 7872, and appreciates you holding a hearing on the bill. Metropolitan is the largest wholesale drinking water in the nation, providing water for 26 public member agencies to deliver to nearly 19 million people living in Southern California. Roughly one-half of Metropolitan's imported water comes from the Colorado River.

Since 1972, the Colorado River Basin (CRB) Salinity Control Program (Program) has reduced the salinity of the river by over 90 milligrams per liter at Lake Havasu, the reservoir from which Metropolitan draws its Colorado River supply. Despite the Program's success, salt in the Colorado River continues to cause an estimated \$348 million in damages to water users each year. For example, high-salinity water damages the pipes of consumer and commercial equipment, increases water treatment costs, and reduces the yield of salt sensitive crops. Without the Program, damages to water users would be much higher, rising to approximately \$447 million by 2040, according to modeling by the Bureau of Reclamation.

Funding for the Program is derived jointly from appropriations and CRB-state-generated hydropower revenues. While the current funding model has served the Program well for decades, the recent drought has reduced hydropower revenue at a time when inflation is increasing project costs. As a result, the CRB states are unable to meet their cost-share requirements. H.R. 7872 was developed in conjunction with the Bureau of Reclamation and Natural Resources Conservation Service to address this problem. Without this fix, the salinity of the Colorado River would increase and cause additional economic damages over time.

Thank you for holding a hearing on H.R. 7872. Metropolitan supports this legislation and encourages Congress to enact it.

Sincerely,

Adel Hagekhalil,
General Manager

Submissions for the Record by Rep. Huffman

**TROUT UNLIMITED
THE NATURE CONSERVANCY
NATIONAL AUDUBON SOCIETY
THEODORE ROOSEVELT CONSERVATION PARTNERSHIP**

May 21, 2024

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Re: Support for H.R. 7872, the Colorado River Salinity Control Fix Act

Dear Chair Bentz and Ranking Member Huffman:

On behalf of our organizations' millions of members and supporters, we thank you, and your hard-working staff, for holding a legislative hearing on a variety of western water and drought bills. We write to express our support for H.R. 7872, the Colorado River Salinity Control Fix Act, which is a bipartisan bill with support from multiple Colorado River basin states.

The Colorado River is one of the American West's national treasures. It is a foundation for the West's economy, supporting five million acres of irrigated farmland that deliver produce nation-wide, and providing drinking water for over 40 million people, including under-served Tribal and rural communities. Winding its way through 11 national parks, the river supports a \$26 billion recreational economy with total economic impacts estimated at over \$1 trillion. The river, though, is in crisis and we applaud your Committee's continued focus on much-needed solutions for this crisis. H.R. 7872 contributes to this response by modifying cost requirements for critical salinity control measures in the basin and increasing the allowable federal cost share of salinity control projects.

While efforts must focus on finding solutions to the current drought crisis, we urge you to continue to focus on long-term solutions to restore our ecosystems, protect fish and wildlife, and build community resilience throughout the West. Please contact Caitlin Wall with any questions or concerns.

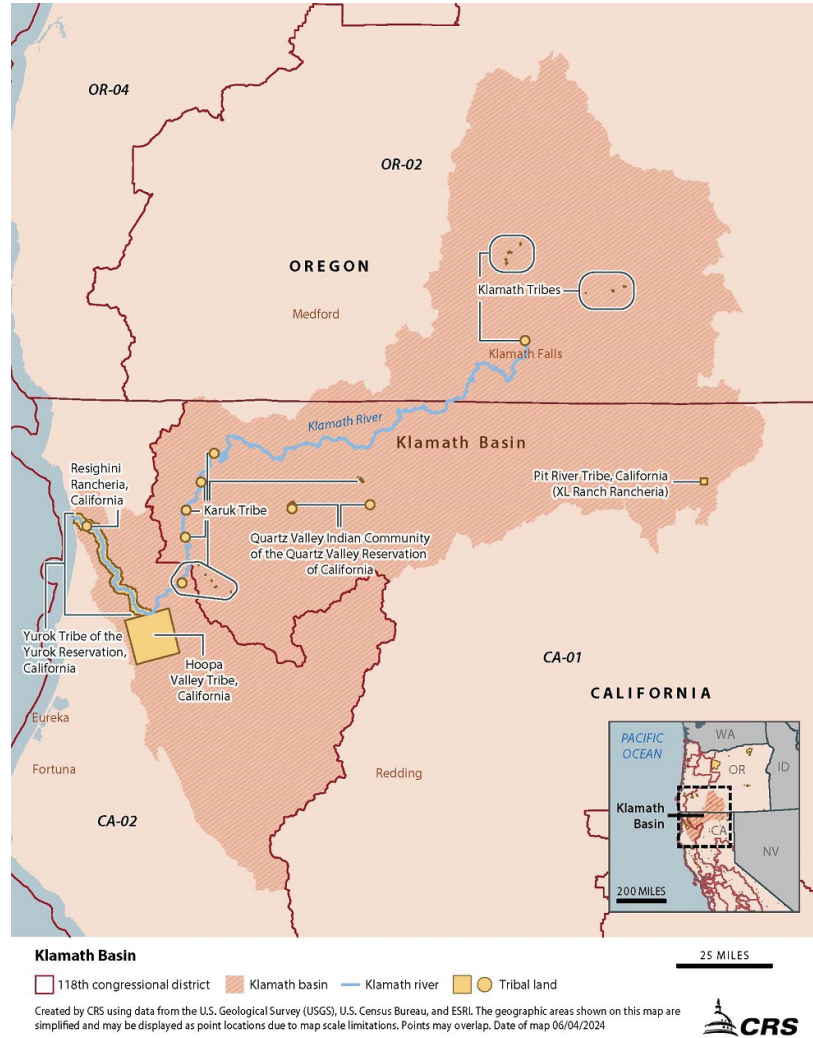
Sincerely,

National Audubon Society

Theodore Roosevelt Conservation
Partnership

The Nature Conservancy

Trout Unlimited



Submissions for the Record by Rep. Lee

NV Energy

May 20, 2024

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Re: Support for Help Hoover Dam Act (H.R. 7776/5. 4016)

Dear Chair Bentz and Ranking Member Huffman:

I write in support of the Help Hoover Dam Act (H.R. 7776). This legislation will give the Bureau of Reclamation the authority to access \$45 million in stranded funds within the Colorado River Dam Fund. It is important that the funds collected from Hoover Dam power rates are used effectively and for the benefit of improving Hoover Dam's facilities and energy infrastructure.

The Help Hoover Dam Act will further support Nevada's sustainability and energy resiliency efforts. As part of Berkshire Hathaway Energy, NV Energy proudly provides power to millions of people throughout Nevada. We continue to exceed the state's renewable energy portfolio requirements while ensuring our customers have access to affordable, clean energy resources. The hydropower generated from Hoover Dam remains an important part of our company's clean energy portfolio in southern Nevada.

I applaud this legislative effort to ensure that all power revenues collected for Hoover Dam are used efficiently and can be applied towards operating and maintaining this important hydropower resource. Thank you for holding a hearing on this important legislation.

Sincerely,

TONY F. SANCHEZ III,
Executive Vice President,
Business Development and External Relations

**LINCOLN COUNTY POWER DISTRICT NO. 1
OVERTON POWER DISTRICT NO. 5
VALLEY ELECTRIC ASSOCIATION, INC.
CITY OF BOULDER CITY
COLORADO RIVER COMMISSION OF NEVADA
SOUTHERN NEVADA WATER AUTHORITY**

May 16, 2024

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Re: Support for Help Hoover Dam Act (H.R. 7776)

Dear Chair Bentz and Ranking Member Huffman:

We write in support of the Help Hoover Dam Act (H.R. 7776). This legislation is key to unlocking necessary funding for Hoover Dam, a cornerstone in our hydropower infrastructure. By freeing up stranded funds in the Colorado River Dam Fund for critical project upgrades, this legislation ensures Hoover Dam will continue to play an essential role in hydropower production for Nevada.

While Hoover Dam attracts many visitors to our region, its capacity to support Nevada's shift towards renewable energy sources is indispensable. Nevada's power allocation from Hoover Dam provides important energy resources to communities and stakeholders throughout Southern Nevada. Constructed over 80 years ago for flood control and irrigation, the strategic importance of Hoover Dam has only increased since its inception. Hoover Dam provides its Nevada customers with essential and affordable clean energy. This legislation will allow the Bureau of Reclamation to access stranded funds that will be used to augment investments at Hoover Dam, which are necessary for the ongoing operation and maintenance of this important energy infrastructure.

We encourage the House Natural Resources Committee to pass H.R. 7776 as soon as possible. The Help Hoover Dam Act will ensure Hoover Dam can meet the challenges and opportunities of the twenty-first century. Thank you.

Eric Witkoski
Executive Director
Colorado River Commission of
Nevada

John J. Entsminger
General Manager
Southern Nevada Water Authority

Dane Bradfield
General Manager
Lincoln County Power District No. 1

Joe Stubit
Utilities Director
City of Boulder City

Mark Stallons
Chief Executive Officer
Valley Electric Association, Inc.

Mendis Cooper
General Manager/CEO
Overton Power District No. 5

**ARIZONA MUNICIPAL POWER USERS' ASSOCIATION
GRAND CANYON STATE ELECTRIC COOPERATIVE ASSOCIATION
ARIZONA POWER AUTHORITY
IRRIGATION & ELECTRICAL DISTRICTS' ASSOCIATION OF ARIZONA**

May 16, 2024

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Re: Support for the Help Hoover Dam Act (H.R. 7776/S. 4016)

On behalf of public power interests in Arizona, the Arizona Municipal Power Users' Association (AMPUA), Arizona Power Authority (APA), Grand Canyon State Electric Cooperative Association (GCSECA) and Irrigation and Electrical Districts Association (IEDA), write in support of H.R. 7776—Help Hoover Dam Act, a commonsense solution to help an ever-increasing issue faced by public power utilities that receive Hoover power. Unprecedented drought on the Colorado River severely threatens the provision of reliable and affordable electric service to the members and customers represented by our organizations.

AMPUA is an association of Arizona public and consumer owned power entities including irrigation districts, electrical districts, electric cooperatives, municipally owned electric systems, Salt River Project, and Central Arizona Project. The majority of AMPUA's members have contracts for federal hydropower.

The APA is a corporate and political body of the State of Arizona. The Authority is the designated contractor for the entitlement of the State of Arizona in electric capacity and energy associated with the Hoover Dam. The Authority markets and schedules this entitlement to 63 power customers throughout the state of Arizona, consisting of tribes, cities and towns, irrigation and electrical districts, and the Central Arizona Water Conservation District.

GCSECA is a membership trade organization consisting of six Electric Distribution Cooperatives and the Arizona Generation and Transmission Cooperatives who collectively serve approximately 450,000 rural residents across 12 counties in Arizona. GCSECA's member cooperatives are rural, not-for-profit utilities that are owned and governed by the people they serve.

IEDA represents 25 members, a majority of which receive and rely on power from Hoover Dam. IEDA has been in existence since 1962, with a primary purpose of protecting the contracts of its members for federal hydropower.

Drought on the Colorado River has had a dramatic impact to Hoover Dam customers, reducing generation by over 48% since 2000. Lower lake levels have reduced the effective head at the dam, reducing capacity. Additionally, conservation methods have reduced the volume of water released downstream, reducing energy. Both have caused this baseload, renewable resource rate to grow, year over year. For public power entities with contracts for Hoover power, this has created a major impact, requiring these not-for-profit utilities to acquire purchase power from the wholesale energy market to replace the generation lost at the dam. This replacement power is significantly more expensive than federal hydropower.

As not-for-profit electric utilities, increased costs for replacement power are shouldered directly by public power customers at a time when the country is already facing high inflation and energy prices.

H.R. 7776 would authorize the Bureau of Reclamation to utilize stranded funds for their intended purpose: *to fund the operation, maintenance, and capital improvements of the Boulder Canyon Project*. Access to these funds will allow the Bureau to mitigate rate impacts now and into the future, freeing up \$45 million in funds that customers have already pre-paid.

This legislation is urgently needed to help not-for-profit, community-owned utilities served by Hoover Dam to continue to serve their preference customers in desperate need of financial relief during this difficult time. Thank you for your consideration of this important issue.

Sincerely,

Russell Smoldon
AMPUA

Jordy Fuentes
APA

Dave Lock
GCSECA

Ed Gerak
IEDA

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

May 21, 2024

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Re: Support for Help Hoover Dam Act, H.R. 7776

Dear Chair Bentz and Ranking Member Huffman:

The Metropolitan Water District of Southern California supports the Help Hoover Dam Act, H.R. 7776, and appreciates you holding a hearing on the bill. Metropolitan is the largest wholesale drinking water provider in the Nation. Our 26 member agencies, either directly or through their sub-agencies, provide water to the nearly 19 million people living in Southern California. Metropolitan holds power contracts with the Bureau of Reclamation based upon California's allocation of power from Hoover Dam. Hydropower from Hoover Dam helps power our operations as we deliver water throughout Southern California.

The Help Hoover Dam Act will allow the Bureau of Reclamation to access and utilize funds that are currently stranded in the Colorado River Dam Fund for operation, maintenance, investment, cleanup actions, and capital improvements within the Boulder Canyon Project at Hoover Dam. Reclamation estimates the Hoover Dam requires \$110 million in repair and upgrade work over the next five years. This legislation will free up approximately \$45 million and growing in stranded funds to help off-set this cost or make other investments that Reclamation, in coordination with Hoover Dam power contractors, determines are needed.

Thank you for holding a hearing on this bill. Metropolitan supports H.R. 7776 and encourages Congress to enact this legislation.

Sincerely,

Adel Hagekhalil,
General Manager and Chief Executive Officer

