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H.R. 135, H.R. 495, H.R. 901 and H.R. 1284

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

Tuesday, April 1, 2003

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LEGISLATIVE HEARING ON H.R. 135, TO ESTABLISH THE "TWENTY-FIRST CENTURY WATER COMMISSION" TO STUDY AND DEVELOP RECOMMENDATIONS FOR A COMPREHENSIVE WATER STRATEGY TO ADDRESS FUTURE WATER NEEDS; H.R. 495, TO APPROVE THE SETTLEMENT OF THE WATER RIGHTS CLAIM OF THE ZUNI INDIAN TRIBE IN APACHE COUNTY, ARIZONA, AND FOR OTHER PURPOSES; H.R. 901, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONSTRUCT A BRIDGE ON FEDERAL LAND WEST AND ADJACENT TO FOLSOM DAM IN CALIFORNIA, AND FOR OTHER PURPOSES; AND H.R. 1284, TO AMEND THE RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992 TO INCREASE THE FEDERAL SHARE OF THE COSTS OF THE SAN GABRIEL BASIN DEMONSTRATION PROJECT.

Tuesday, April 1, 2003
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
Washington, DC

The Subcommittee met, pursuant to notice, at 2:04 p.m., in room 1324, Longworth House Office Building, Hon. Ken Calvert [Chairman of the Subcommittee] presiding.

Present: Representatives Calvert, Tancredo, Hayworth, Osborne, Renzi, Pearce, Nunes, Napolitano, Inslee, Grijalva, Rodriguez and Baca.

Also Present: Representative Ose.

Mr. CALVERT. The Subcommittee on Water and Power will come to order.

The Subcommittee is meeting today to hear testimony on H.R. 135, H.R. 495, H.R. 901, and H.R. 1284. Under Committee Rule 4(g), the Chairman and Ranking Minority Member can make opening statements.

STATEMENT OF THE HON. KEN CALVERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CALVERT. Our Subcommittee continues to pursue balanced and integrated water management approaches for growing and competing water uses. Today, we will focus our attention on four bills that make existing water supplies go further, improve the dependability and security of the water infrastructure for long-term use, and promote cooperative efforts to implement best water management practices.

H.R. 1284, introduced by the distinguished Ranking Member, Mrs. Napolitano, increases the Federal share of the cost of the San Gabriel Basin Demonstration Project in California. H.R. 495, authored by our distinguished Arizona colleague, Mr. Renzi, approves the settlement of longstanding water rights claims of the Zuni Indian Tribe, the State of Arizona, and local water and power users.

In response to a Federal decision to close a road over a Federal facility that has severely impacted local communities and thousands of commuters, H.R. 901 authorizes the Secretary of Interior to construct a bridge on Federal land near Folsom Dam in California to enhance the security of the dam and the reservoir. And H.R. 135 establishes a commission to develop recommendations for a comprehensive, long-term national water strategy.

These bills attempt to find common sense solutions to the many problems facing our communities. I thank our witnesses for coming here today, and look forward to hearing from them on these important bills.

[The prepared statement of Mr. Calvert follows:]

Statement of The Honorable Ken Calvert, Chairman, Subcommittee on Water and Power, on H.R. 135, H.R. 495, H.R. 901, and H.R. 1284

Our Subcommittee continues to pursue balanced and integrated water management approaches for growing and competing water uses. Today, we will focus our attention on four bills that make existing water supplies go further, improve the dependability and security of the water infrastructure for long-term use, and promote cooperative efforts to implement best water management practices.

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Mr. CALVERT. Mrs. Napolitano is going to be here shortly. In the meantime, are there other members who have an opening

statement? With that, we will start the opening statements with the Members who are here today, and when Mrs. Napolitano arrives, we will take time for her opening statement.

I will recognize Mr. Linder for your opening statement.

STATEMENT OF THE HON. JOHN LINDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. LINDER. Thank you, Mr. Chairman. I would like to thank the Committee and the staff for putting H.R. 135, the "21st Century Water Commission Act of 2003" on the agenda of today's hearing. I appreciate the opportunity to testify before the Subcommittee about the value of creating a water commission to ensure the future of our Nation's water supply well into the 21st century.

Last May, I testified before this Subcommittee on behalf of my initial water commission bill, H.R. 3561 Since that time, my staff and I have worked with the Chairman, his staff, and other interested parties, to create a new and improved version of this water bill, H.R. 135.

In particular, I would like to mention two individuals who worked closely with us on H.R. 135, Mr. Bob Lynch and Mr. Tom Donnelly. Mr. Lynch is an attorney with extensive expertise on water rights issues in Arizona, as well as Mr. Donnelly and the National Water Resources Council.

[The prepared statement of Mr. Donnelly follows:]

Statement of Thomas F. Donnelly, Executive Vice President, National Water Resources Association

Mr. Chairman, members of the Committee, my name is Thomas F. Donnelly and I am the Executive Vice President of the National Water Resources Association. On behalf of the membership of the Association, it is my privilege to present testimony on H.R. 135, a bill to establish the Twenty–First Century Water Policy Commission.

The National Water Resources Association (NWRA) is a nonprofit federation of associations and individuals dedicated to the conservation, enhancement, and efficient management of our Nation's most precious natural resource, WATER. The NWRA is the oldest and most active national association concerned with water resources policy and development. Its strength is a reflection of the tremendous "grassroots" participation it has generated on virtually every national issue affecting western water conservation, management, and development.

During the last Congress, the National Water Resources Association presented testimony in opposition to the legislation. Since that time, Mr. Lynch and I have had the privilege of working with Congressman Linder and his staff on the proposed mission of the Commission and its makeup. We have both been impressed with Congressman Linder's dedication to improving the manner in which we manage our nation's water resources and his flexibility in drafting H.R. 135. We applaud his dedication to improving the manner in which we manage our nation's water resources and improved Federal agency coordination.

We are pleased to announce our support of H.R. 135 and look forward to working with Congressman Linder and the Committee on this legislation. We trust that the Commission will keep in mind the unique hydrologic characteristics and related needs of the arid and semi-arid West. We hope that the Commission will address water quality and quantity problems on a regional basis.

In the West, water infrastructure is every bit as important as transportation infrastructure. It is essential to the continued economic growth and development.of the region. Water infrastructure needs continue to exist, particularly rural water supply. However, on the whole, the approach to meeting these needs will be quite different from those of the past. No one envisions a future infrastructure development program and financing arrangements like the original Reclamation program, which facilitated the development and unprecedented economic growth of the West during much of this century. Future projects are more likely to include non-structural features, environmental enhancement, proven best management practices,

innovative approaches to water quality/quantity concerns and greater levels of non-Federal financing.

Following are a few of the issues we would recommend that the Commission include in its mission:

Today, many of our existing projects are beginning to show their age. It is essential that we rehabilitate these projects in a timely and cost effective manner. Currently, rehabilitation costs are handled like operation and maintenance expenses and are required to be repaid within one year. Major rehabilitation projects can run into the tens of millions of dollars, making them beyond the ability to repay in one year. Reclamation's customers are not looking for a Federal handout, simply repayment terms that allow these much needed rehabilitation projects to go forward.

An essential element, which is currently missing from the Federal planning equation, is a basin-by-basin infrastructure and programmatic needs assessment. Such an assessment cannot be developed without the active involvement and, perhaps, leadership of the nation's governors, water resources professionals, and state and local officials. We would strongly recommend that this be a primary mission of the Commission.

Several water development projects have been authorized by the Congress but remain unfunded. These projects should be reviewed to determine if they still meet the needs they were authorized to address. These projects should be prioritized on a state and regional (watershed) basis and Congress should determine what project benefits are in the Federal interest for funding purposes.

In closing, I wish to express NWRA's appreciation for Congressman Linder's willingness to address the concerns raised by our members and I thank the Chairman and the Committee for this opportunity to present NWRA's thoughts and recommendations regarding this legislation.

Mr. LINDER. These two folks made huge constructive contributions in changes in our bill, and I understand they are testifying on behalf of the bill.

With these revisions to the bill, H.R. 135 also has support from the Association of California Water Agencies and other water groups.

Some of the more notable revisions included in H.R. 135 are as follows:

A "Findings Section" listed in the beginning of the bill has been added to express the sense of the Congress that the Nation's water resources must be utilized to their fullest capacity. This section also states that the Congress finds a comprehensive strategy to increase our water supply vital to the economic and environmental future of our Nation.

Another revision is that the commission will be composed of seven members named by the President, who are of recognized standing and distinction on water issues. The previous commission was composed of 17 members. This smaller number will allow for the commission to function more effectively, we think, thus increasing the likelihood that the commission's recommendations will be enacted.

In addition, the powers and duties of the commission have been modified and clarified. It will now be required to submit an interim report within 6 months of when it starts its activities, ongoing reports after that for every 6 months while it is conducting its work, and a final report within 3 years of its inception. The commission will also be required to hold at least ten hearings, with one hearing being in Washington, D.C., to take testimony from Federal officials, and other hearings in distinct geographical regions of the U.S. seeking a diversity of views, comments and input.

The future of our Nation's water supply is a serious and critical issue. Many states across the Nation are currently facing a water

crisis, or have in the last several years. Once thought to be a problem only in the arid West, severe droughts last summer have caused water shortages up and down the East Coast. States once accustomed to an unlimited access to water are now experiencing problems the West has had for decades.

I have read countless articles chronicling these crises, as no doubt has every member of the Subcommittee. Newspaper articles have described not only how rivers and wells are drying up all over the country,. but also that aquifers are being challenged by salt water intrusion, and now fish, wildlife and crops are being threatened, also. Meanwhile, projected population growth for the United States means that water demand will continue to increase in coming years. We must develop a water strategy to meet future demands now, before full-blown water shortages hit.

Let me be clear. My bill does not give the Federal Government more control over water. Rather, this commission will coordinate water management efforts on all levels so that localities, states and the Federal Government can work together to enact a comprehensive water policy to avoid future water shortages, without encroaching on state and local governments' traditional authority over water policy.

The 21st Century Water Commission will work to ensure an adequate supply of fresh water for U.S. citizens over the next 50 years. It will not place increased mandates on state and local governments, and it will seek to eliminate conflict and duplication among governmental agencies. Most importantly, it will reduce the bureaucratic red tape many local communities face when trying to build water reservoirs and other infrastructure needs.

The bill will also consider all available technologies for increasing water supply efficiently while safeguarding the environment, recommending means of capturing excess water for future droughts, suggesting financing options for public works projects, and will fully respect the primary role of states in adjudicating, administering, and regulating water rights and uses.

The United States and its resources have changed dramatically over the past three decades. We simply cannot afford to maintain the status quo with something as critical as our Nation's fresh water supply. It is time to get ahead of this issue, rather than stay "behind the curve" as Congress does far too often.

Providing all Americans with fresh water is a matter of life and death, and I hope that the Committee will support my objective of ensuring an adequate and dependable water supply of fresh water for all Americans throughout the 21st century.

Thank you, Mr. Chairman. I will be happy to take any questions, should you have some.

[The prepared statement of Mr. Linder follows:]

Statement of The Honorable John Linder, a Representative in Congress from the State of Georgia

I wish to thank Chairman Calvert, Ranking Member Napolitano, and the other distinguished members of the Subcommittee on Water and Power for putting H.R. 135, the "21st Century Water Commission Act of 2003," on the agenda of today's hearing. I appreciate having the opportunity to testify before the Subcommittee about the value of creating a water commission to ensure the future of our nation's water supply well into the 21st century.

Last May, I testified before this Subcommittee on behalf of my initial water commission bill, H.R. 3561. Since that time, my staff and I have worked with Chairman Calvert, his staff, and other interested parties, to create a new and improved version of this water bill, H.R. 135.

In particular, two individuals I have worked closely with on H.R. 135 are Mr. Bob Lynch and Mr. Tom Donnelly. Mr. Lynch, an attorney with extensive expertise on water rights issues in Arizona, as well as Mr. Donnelly and the National Water Resources Council, are two notable authorities on water issues who testified on H.R. 3561 last year, and offered constructive suggestions on ways to improve the bill. I understand that today they will testify in support of H.R. 135.

With these revisions to the bill, H.R. 135, also has support from the Association of California Water Agencies (ACWA), and other water groups.

Some of the more notable revisions included in H.R. 135 are as follows:

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- In addition, the powers and duties of the commission have been modified and clarified. It will now be required to submit an interim report within six months of when it starts its activities, ongoing reports after that for every six months while it is conducting its work, and a final report within three years of its inception. The commission will also be required to hold at least 10 hearings, with one hearing in Washington, D.C., to take testimony from Federal officials, and other hearings in distinct geographical regions of the U.S. seeking a diversity of views, comments, and input.

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Providing all Americans with fresh water is a matter of life and death, and I hope that the Committee will support my objective of ensuring an adequate and dependable water supply of fresh water for all Americans throughout the 21st Century.

Thank you. I'll be happy to answer any questions Subcommittee Members may have.

Mr. CALVERT. I thank the gentleman.

Why don't we go ahead and get the opening statements of all the Members who are here present, and then we'll ask questions. That way we will be able to free all of you up to go about doing your business.

With that, Mr. Doolittle, you're recognized.

Mr. DOOLITTLE. Mr. Chairman, could I request that the primary sponsor of this bill go first?

Mr. CALVERT. Without objection.

STATEMENT OF THE HON. DOUG OSE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. OSE. Thank you, Mr. Chairman. I thank the Member from the district next door.

Mr. Chairman and distinguished members of the Subcommittee, thank you for providing this opportunity to testify today and provide the Committee another opportunity to consider a new American River crossing downstream from the Folsom Dam. Today I ask that you support H.R. 901, authorizing the Bureau of Reclamation to construct a new bridge on Federal land west of and adjacent to the Folsom Dam.

It gives me little satisfaction to appear before you on this matter. As you may recall, Congressman Doolittle and I proposed in June, 2001, that the Bureau of Reclamation be authorized to commence with the construction of a replacement arterial carrying traffic from one side of Folsom Dam to the other. Since then, our concerns about the security of the dam itself have been recognized by various bodies. The most recent of which is the Defense Threat Reduction Agency and the Bureau of Reclamation, which has moved unilaterally to close the road. I share the concern that priority must be given to issues of homeland security.

The consequence of the closure has been that up to 18,000 cars per day that were using the road atop Folsom Dam are now impacting the streets and neighborhoods of the surrounding community. The city of Folsom is incurring significant unanticipated expenses in handling the traffic safety issues because of the actions of the Bureau in closing the Road. These added costs are directly related to the homeland security issue identified by the Defense Threat Reduction Agency and acted upon by the Bureau, to wit, the closure of the road.

It is noteworthy to mention that in yesterday's Wall Street Journal, on page A-12, White House Office of Management and Budget Director Mitch Daniels is quoted as saying that relieving air carriers of their increased security costs "could have a certain logic to it." I think you will see that in the supplemental we're going to look at at the end of this week.

You may hear today the same arguments that were put forth last time around that the Bureau doesn't build bridges. I have in my pocket a list of at least 17 bridges that the Bureau has built since

1970. Having come from a construction background, it would seem that if you estimate construction time for a bridge at about 2 years, start to finish, then the Bureau has, in fact, been in the bridge construction business since I entered high school.

Mr. Chairman, this is an issue of homeland security that is adversely affecting a number of communities across multiple congressional districts. Given these facts and the history of the Bureau, I urge that the Committee favorably report H.R. 901 to the full Committee.

Thank you for allowing me the opportunity to testify today. I would be happy to answer any questions.

[The prepared statement of Mr. Ose follows:]

Statement of The Honorable Doug Ose, a Representative in Congress from the State of California, on H.R. 901

Mr. Chairman and distinguished members of the Subcommittee, thank you for providing this opportunity to testify today and provide the Committee another opportunity to consider a new American River crossing downstream from the Folsom Dam. Today, I ask that you support H.R. 901, authorizing the Bureau of Reclamation to construct a new bridge on Federal land west of and adjacent to the Folsom Dam.

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Mr. Chairman, this is an issue of homeland security that is adversely affecting a number of communities across multiple congressional districts. Given these facts and the history of the Bureau, I urge that the Committee favorably report H.R. 901 to the full Committee.

Thank you for allowing me the opportunity to testify today.

Mr. CALVERT. I thank the gentleman.

Mr. Doolittle.

STATEMENT OF HON. JOHN T. DOOLITTLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. DOOLITTLE. Mr. Chairman and members, thank you very much. It's just about a year ago that we were here, as Mr. Ose pointed out, seeking essentially the same relief that we seek today.

This Subcommittee at that time was gracious enough to grant it to us.

All that has changed now, Mr. Chairman, since a year ago is that, in a rather precipitous decision, with basically 1 week's notice, the Bureau of Reclamation announced that it was closing permanently access across Folsom Dam, access which had been relied upon for nearly 50 years by the city of Folsom. The city of Folsom straddles both sides of the American River. Until 3 years ago, there were only two bridge crossings that ran through there. One was, of course, the Folsom Dam, which we talked about, and the other was the Rainbow Bridge.

Because of the concerns the city had for the amount of growth and making sure that, since occasionally the road over the dam could be closed for maintenance and so forth, they felt that in order to ensure appropriate access for emergency vehicles, et cetera, that serve both sides of the community, that a new bridge was needed. I think it's very significant that this community, which is not all that large—it's a city of about 50,000—funded entirely with no cost sharing of any kind the construction of a brand new bridge at a cost of $75 million. So there were then three crossings over the American River that linked the two halves of the city of Folsom.

Since the 1995 bombing in Oklahoma City, the Federal Government has been concerned about certain key structures, and Folsom Dam has been one of those. That is why Mr. Ose and I introduced legislation last year to address this problem. We knew that with the change in circumstances, circumstances that really didn't exist back in the 1950's when the dam was built, that it was now to be considered a terrorist target. And since this dam is the main source of flood protection for the city of Sacramento downstream, and since that dam and reservoir are a vital part of the California Central Valley project, which provides water for families, fish and farmers, which provides water to assist with the Sacramento San Joaquin Delta situation, and the power plant of the dam generates a huge amount of power for the local region, this has become a very, very sensitive area.

The Bureau of Reclamation decided to close the road out of safety concerns for the dam as a target. We wish we would have had more notice over that because this has caused a real congestion nightmare for Folsom and for the people of this region. My district adjoins Mr. Ose's, and until the road was closed, there were 18,000 trips a day over this road. These people are now having to find other ways to cross the river. That means there is a tremendous amount of congestion on the two remaining bridges.

For that reason, we seek passage of this bill and your approval for authorization of a new bridge and connecting structures to be borne at Federal expense over the American River.

I thank you for your attention. You have the complete statement before you that I have submitted for the record.

[The prepared statement of Mr. Doolittle follows:]

Statement of The Honorable John T. Doolittle, a Representative in Congress from the State of California, on H.R. 901

Mr. Chairman and members of the Committee, today I ask for your support of H.R. 901. This bill would authorize the Bureau of Reclamation (Bureau) to

construct a new bridge and related connecting structures on Federal land west of and adjacent to the Folsom Dam, which is located next to my district.

You may remember that last year, I testified before this Committee regarding this same issue. At that time, I explained that the immediate construction of a new bridge to replace the current road that runs over the top of Folsom Dam was essential to the people of Northern California for two reasons: First, and foremost, it would greatly improve the safety and security of the entire region. Second, it would enhance the efficiency of the region's transportation system. I concluded my remarks last year by explaining that should the Bureau make the decision to close the existing Folsom Dam Road before a new, alternative bridge was built, the district I represented would suffer a significant economic, environmental and transportation impact.

Today, nearly a year later, I come before you to report that the very situation I feared has occurred. On February 28, 2003, with almost no notice, the Bureau permanently closed Folsom Dam Road to both motorized and pedestrian traffic. As I sit before you, the communities that Congressman Ose and I currently represent are bearing the brunt of that decision and Congress' inability to act. As such, I come before you with one clear, simple message: Congress can wait no longer to build this bridge. We must act now.

As way of background, let me briefly explain the history of this issue: Following its completion in 1956, the Folsom Dam included a two-lane maintenance road on its top intended for the use of the Bureau. Over the years, as a service to local drivers, the Bureau has allowed restricted use of the Folsom Dam Road to the public. In the decades since its construction, however, the growing communities both north and south of the crossing have come to depend on the dam road as an important transportation route. Over the years, this has created numerous problems for both the Bureau and the public. As I mentioned, these problems came to a head on February 28, 2003, when the Bureau permanently closed the dam road to both motorized and pedestrian traffic.

THREAT TO SECURITY

Recently, I received a security briefing that revealed that Folsom Dam could be a potential terrorist target and that the public's access to the road running on top of the dam was of particular concern. These concerns were not new, however. In fact, in the aftermath of the 1995 Oklahoma City bombing, the Federal Government expressed increased concern for the security of important structures such as dams, bridges, and power plants. Since that time, the Bureau has been particularly wary of Folsom Dam's appeal as a potential terrorist target. As you may know, the dam is the Sacramento area's primary defense against the intense flooding that the American River has historically generated. Furthermore, the Folsom Dam and Reservoir serve as a vital part of the Central Valley Project. They control the flow of water that is critical to farmers, families, and fish not only in the Sacramento Region, but also in the Bay–Delta and Southern California. Finally, Folsom's hydroelectric plant provides a significant amount of the energy consumed in the area. Given how crucial this facility is to the safety and vitality of California's capital, it is critical that it remains secure from the efforts of those who seek to harm our well-being.

IMPACTS ON THE COMMUNITY

Beyond the public safety factor, the current situation also causes numerous other problems. The eastern portion of the Sacramento suburban region, which I represent, is the fastest growing area in California. Traffic congestion is a growing concern for the City of Folsom and the neighboring communities that I represent. The demands placed on the Folsom Dam Road by the thriving commercial centers and neighborhoods that have developed nearby exceeded the structure's capacity. This road, which was originally designed to only accommodate maintenance crews, was handling 18,000 cars per day when it was recently closed. Now, most of those cars are traveling through already congested streets in the City of Folsom and other surrounding areas. Just a few years ago, the City of Folsom self-funded a $75 million bridge downstream from the dam to improve the flow of traffic. Nevertheless, a crossing at Folsom Dam remains one of the area's most important traffic needs and is the most convenient link between South Placer County, Folsom, and Western El Dorado County. Furthermore, it is a key route for workers commuting to and from the major job centers in the vicinity. Besides commuters, it also serves local shoppers, students, and visitors enjoying Folsom Lake's popular recreational opportunities.

THE SOLUTION

The solution to these traffic problems, as well as the severe security concerns, is the same—to replace reliance on the Folsom Dam Road by building a new bridge. H.R. 901 would authorize the construction of a four-lane structure just downstream of the dam. It also calls for the construction of necessary linkages from the bridge to existing roadways. Upon completion, the Bureau would transfer ownership of the facilities to the City of Folsom.

Many of this bill's opponents continue to ask the question, "Why should the Federal Government be responsible for building this bridge?" The answers are clear and compelling. First, Folsom Dam, the reservoir, and surrounding land are owned and operated by the Bureau. As such, the Bureau should take responsibility for closing a major transportation artery on its property by providing an alternative crossing. Second, the Federal Government has primary responsibility for the security of Federal facilities. Consequently, it should provide an alternative to the Folsom Dam Road that is going to protect Folsom Dam and downstream communities. Third, when the dam was first built, the reservoir inundated three existing two-lane river crossings. The Bureau compensated for that loss by allowing public access to Folsom Dam Road. Because the Bureau has now closed that road, proper mitigation should be expected for that action. Finally, the City of Folsom has already done its part to address both the security and transportation needs of the area. Since September 11th, its police department has cooperated with the Bureau to improve security measures at Folsom Dam and, as I stated earlier, the city recently built a $75 million bridge further downstream without any Federal assistance.

H.R. 901 has the endorsement and support of local governments, the business community, and local transportation advocates. In fact, today you will hear favorable testimony from the City of Folsom and the County of Sacramento. They will explain in greater detail the precariousness of the current situation and the great need for this bill.

I would like to remind my colleagues once again that one year ago I was seated before you with a similar piece of legislation, H.R. 2301, which the Committee reported out. Since that time, the need to protect Folsom Dam has increased, the local transportation needs of the region have grown, and the Federal Government has done nothing to resolve the problem. I therefore request your favorable support of H.R. 901 and ask that you allow for a markup of this needed legislation as soon as possible.

Mr. CALVERT. I thank the gentleman.

Mrs. Solis.

STATEMENT OF HON. HILDA L. SOLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. SOLIS. Thank you, Chairman Calvert, and also Ranking Member Napolitano, for holding this important hearing today.

I am here to testify in support of H.R. 1284, which amends the Reclamation Projects Authorization and Adjustment Act of 1992. The bill would increase the Federal cost share for the San Gabriel Basin groundwater clean-up project.

During the project's onset back in 1992, the Federal Government was authorized to pay 25 percent of the cost of projects to clean up local water supplies. In 1996, the funding level for the program was capped at $38 million, funding only a portion of the projects that had been designed. As a result of the cap, projects in the southern portion of the basin were not funded. Those included two of my cities that I currently represent, the El Monte operable unit and the South El Monte operable unit in my district.

Since the cap was put in place, the southern operable units have been working with EPA to develop groundwater clean-up plans. Now we need money to make the clean up happen. Clean up literally means the difference between healthy and unhealthy families. This area is contaminated with perchlorate and other

chlorinated solvents known as volatile organic compounds, or VOCs.

Each of these contaminants can cause serious health complications. Perchlorate increases chances of cancer and can induce thyroid problems. We've had several of our wells, I know, in the basin that have already been closed because of the traces that we found there. VOCs are also harmful to the central nervous system, the kidneys and the liver, and can cause a higher risk of cancer, especially leukemia.

The pollution that these communities have sustained has not only impacted their health and environment, but also their economy. Unemployment in the area is about 9.3 percent. According to the U.S. Census, 26 percent of the residents there are found to be below the poverty line. It has been difficult to attract businesses there because it's known as somewhat of a blighted area. One of the factors preventing those businesses and jobs from coming to the area is the pollution.

When the cap was put in place, these areas lost the chance to access Federal funds to clean up the environment and protect the health and safety of our economy there. Now we have the opportunity to make a difference in this region by helping them accomplish these much-needed goals.

Once again, I would like to thank the Chairman and the Ranking Member for holding this very important hearing. I know this is something that the members of our local delegation that represent that area are very much interested in seeing cleaned up.

I know in the past Congressman David Drier has also lent his name and support for this effort. So I would like to thank the Committee for sponsoring this hearing today.

Thank you. I yield back the balance of my time.

[The prepared statement of Ms. Solis follows:]

Statement of The Honorable Hilda L. Solis, a Representative in Congress from the State of California

Thank you, Chairman Calvert and Ranking Democrat Napolitano for holding this important hearing today. I am here to testify in support of H.R. 1284, which amends the Reclamation Projects Authorization and Adjustment Act of 1992. This bill will increase the Federal cost share for the San Gabriel Basin groundwater cleanup project.

During the project's onset in 1992, the Federal Government was authorized to pay 25% of the cost of projects to cleanup local water supplies. In 1996 the funding level for the program was capped at $38 million, funding only a portion of the projects that had been designed. As a result of the cap, projects in the southern portion of the basin were not funded, including the El Monte Operable Unit and the South El Monte Operable Unit in my district. Since the cap was put in place, the Southern Operable Units have been working with EPA to develop groundwater cleanup plans. Now, we need money to make the cleanup happen.

Cleanup literally means the difference between healthy and unhealthy families. This area is contaminated with perchlorate, trichloroethene and other chlorinated solvents known as "volatile organic compounds" or VOCs. Each of these contaminants can cause serious health complications. Perchlorate increases chances of cancer and can induce thyroid problems. Trichloroethene has been shown to make people more susceptible to lung and liver tumors. VOCs are harmful to the central nervous system, the kidneys and the liver and can cause a higher risk of cancer, especially leukemia.

The pollution that these communities have sustained has not only impacted the their health and environment, but also their economy. Unemployment in the area is 9.3%. According to the U.S. Census, 26% of the residents live in poverty. It has been difficult to attract businesses and jobs to the area. One of the factors pre-

venting those businesses and jobs from coming to the area is the pollution. When the cap was put in place, these areas lost the chance to access Federal funds to clean up their environment, protect their health and help their economy. Now we have the opportunity to make a difference in this region by helping them accomplish these much-needed goals.

Once again, I thank the Chairman and Ranking Member for holding this hearing. I urge the Subcommittee to favorably report this legislation and yield back the balance of my time.

Mr. CALVERT. I thank the gentlelady.

Before we get to questions, Mrs. Napolitano has an opening statement, and Mr. Renzi wants to speak to his bill, H.R. 495.

With that, Mrs. Napolitano.

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

Mrs. NAPOLITANO. Thank you, Mr. Chairman. I apologize for my not being here on time. It won't happen again.

I certainly want to thank you for allowing me to talk out of turn, so to speak, on the four bills that we have before the Subcommittee that represent and give a snapshot of the many pressing water issues facing our Nation.

Mr. Linder's H.R. 135 will establish the "21st Century Water Commission", which I feel is long overdue, in addressing our Nation's need to take a more proactive role in crafting a long-term water management plan with the participation of all States and coordination between the regions that they serve.

Congressman Renzi's H.R. 495 would approve a consensus plan negotiating between the State of Arizona and the Zuni Indian Tribe, local water agencies and the local power company. This can very well be the successful model to help settle long-standing water rights claims and might prove successful enough to be able to help other communities with water problems to be able to deal with the issue.

My own H.R. 1284 would raise the existing cap, as was just explained by my colleague, Congresswoman Solis, of the San Gabriel Basin demonstration project that was unfortunately capped before some of the other areas with water problems were able to get their request for funding and actually their programming up. This is a Superfund list that can also be used to help other urban areas deal with contaminated aquifers.

Finally, Congressman Ose's and Doolittle's 901, it's a dilemma that faces many of our communities after 9/11, with the increased costs for security that should be borne, I would hope, by homeland security, but is now on the Bureau of Reclamation's lap. I have spoken to the representatives of the city of Folsom early in March and they assured me they would work to achieve bipartisan support. But I am concerned, in that I have learned that this does not enjoy the support of the local area Democratic members and that an alternative bill, 892, has been introduced in the House with a companion bill by Senator Feinstein. But I do look forward to hearing all the testimony so that we may have further clarification on what can be an agreeable and win-win situation for everybody.

Mr. Chair, I thank you for holding the hearing. I want to thank the panelists, including my colleagues who took time out to come and present us with their thoughts and what their needs are for their areas.

Thank you.

Mr. CALVERT. I thank the gentlelady.

Mr. Renzi is recognized for an opening statement in regards to H.R. 495, water rights for the Zuni Indian Tribe.

STATEMENT OF THE HON. RICK RENZI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. RENZI. Thank you, Mr. Chairman.

The Zuni Indian Tribe Water Rights Settlement Act of 2003 will codify the settlement of the Zuni Indian Tribe water rights for its religious lands in northeastern Arizona. Congress first recognized the importance of these lands in 1984 when it created Zuni Heaven Reservation.

The small communities upstream from this reservation have been fully appropriated and, knowing this, the prospect of dividing this limited water with other users has created an uncertainty.

To resolve that uncertainty, and to avoid costly litigation, the Zuni Tribe, the United States on behalf of the Zuni Tribe, the State of Arizona, including the Arizona Game and Fish Commission, the Arizona State Land Department, and the Arizona State Parks Board, as well as the major water users in the area, negotiated for many years to produce an acceptable settlement to all parties.

I would like to commend the work of Senator John Kyl of Arizona on this important legislation. His leadership and perseverance has brought us to this point of a good settlement.

Mr. Chairman, I would also like to commend the work of the rural communities of the First District of Arizona, including the city of St. Johns, the town of Eagar, the town of Springerville, and the State of Arizona. in addition, the Salt River Project, Tucson Electric Power Company, St. Johns Irrigation and Ditch Company, the Lyman Water Company, and the Round Valley Water Users' Association, as well as those I mentioned earlier.

Mr. Chairman, I would ask that you allow my full remarks and testimony to be submitted for the Committee.

Mr. CALVERT. Without objection, so ordered.

Mr. RENZI. Thank you, Mr. Chairman.

[The prepared statement of Mr. Renzi follows:]

Statement of The Honorable Rick Renzi, a Representative in Congress from the State of Arizona, on H.R. 495

Chairman Calvert and members of the Subcommittee, I appreciate the opportunity to testify on H.R. 495, the Zuni Indian Tribe Water Rights Settlement Act of 2003. The Senate companion, S. 222, introduced by Senator Kyl, passed the Senate on March 13, 2003. I would like to commend the work of Senator Kyl on this important legislation.

The Zuni Indian Tribe Water Rights Settlement Act of 2003 would codify the settlement of the Zuni Indian Tribe's water rights for its religious lands in northeastern Arizona. Congress first recognized the importance of these lands in 1984 when it created the Zuni Heaven Reservation (Pub. L. No. 98–498, as amended by Pub. L. No. 101–486 (1990)).

The small communities upstream from this Reservation have been fully-appropriated. Knowing this, the prospect of dividing this limited water with another user created uncertainty. To resolve that uncertainty and to avoid costly litigation, the

Zuni Tribe, the United States on behalf of the Zuni Tribe, the State of Arizona, including the Arizona Game and Fish Commission, the Arizona State Land Department, and the Arizona State Parks Board, as well as the major water users in this area, negotiated for many years to produce an acceptable settlement to all parties.

This legislation would provide the Zuni Tribe with the resources and protections necessary to acquire water rights from willing sellers. In addition, this legislation will restore and protect the wetland environment that previously existed on the Reservation. In return, the Zuni Tribe would waive its claims in the Little Colorado River Adjudication. The Zuni Tribe will grandfather existing water uses and waive claims against many future water uses in the Little Colorado River Basin. This legislation exemplifies that the Zuni Tribe can achieve its needs for the Zuni Heaven Reservation and avoid a disruption to local water users and industry. In addition, the United States can avoid costly litigation and satisfy its trust responsibilities to the Zuni Tribe.

I would like to commend the work of the parties to the Zuni Settlement. The parties consist of rural communities in the First District of Arizona, including the City of St. Johns, the Town of Eagar and the Town of Springerville. In addition, the State of Arizona, specifically, the Arizona Game and Fish Department, the State Land Department and the Arizona State Parks Board, Salt River Project, Tucson Electric Power Company, St Johns Irrigation and Ditch Company, the Lyman Water Company and the Round Valley Water Users' Association.

I urge members of the Subcommittee and Full Committee to support the Zuni Indian Water Rights Settlement Act.

Mr. CALVERT. I want to thank all the members for attending this afternoon and for offering your testimony on good legislation.

First, Mr. Linder, I want to congratulate you on what I know has been a long-term effort. We have talked over the years about this and I think it's very timely for you to bring this legislation forward. As you well know, fresh water is not just an issue in the West, though it seems to many of us up here that we spend most of our time talking about water issues in the arid West. But as you well know, and as we in this country are now learning, water issues are shared by virtually every corner in every State in this country. So I look forward to working with you to make this H.R. 135 law and that we can work toward coming together with a water strategy for the 21st century.

A question I have for you. What progress do you believe the States, in general, are having in developing their own water strategies to meet these demands?

Mr. LINDER. We have a significant problem in Georgia, where we have three States suing each other—Georgia, Florida and Alabama—over access to water from two watersheds that originate in Georgia. The most valuable resources we have in Georgia are huge aquifers, and they have declined to such a level that salt water is seeping back into them, which will make them worthless.

We have had in the last several months a significant amount of water to fill up our lakes again and to recharge the aquifers. But there is no question that we've been working for four or 5 years now with neighboring States to try and find ways to sort out the rights to this water that does come from two watersheds.

The Corps that is dealing with the lakes we have in Georgia is trying to move toward regional water planning, watershed planning for the whole 32 counties. There is one watershed, for example, instead of just the counties that touch on access to the water. There is a significant amount of money being spent.

There are 90,000 people in the Federal Government that do nothing but water. There are 270,000 people in State and local

governments, and none of them are talking to each other. This whole idea is to get them to coordinate it and talk to each other.

Mr. CALVERT. On to the Folsom Bridge issue, of course—and we're going to be hearing from Commissioner Keys later, but I wanted to hear from Mr. Doolittle and Mr. Ose regarding this. We are revisiting this issue. From your perspective—and you said this in your opening statement, and I want to hear it again—do you believe that access over the Folsom Dam was closed because of the issues regarding homeland security? Mr. Ose.

Mr. OSE. Mr. Chairman, that's an excellent question. I was in Sacramento the week of the 21st of February. I received a call from the Bureau of Reclamation person at the time, a fellow named Larry Todd, who was in Sacramento to brief the regional director of the Bureau of Reclamation on this issue, having just received an analysis from the Defense Threat Reduction Agency as to the exposures that Folsom Dam, for lack of a better word, enjoys for a terrorist act.

I was given a classified briefing by Mr. Todd. It was completely surrounded by the issue of homeland security and terrorist acts that would otherwise undermine homeland security. That was the only subject on the table. It was the only subject broached.

Mr. CALVERT. Just for the record, are there any estimates of damage to property and loss of life that would occur if, in fact, the Folsom Dam was to be destroyed?

Mr. OSE. Mr. Chairman, I'm a little bit unclear on what I can put in the public domain and what I can't. I have that information and I would be happy to share it with you privately.

Mr. CALVERT. It is certainly significant, huge?

Mr. DOOLITTLE. May I volunteer an answer, because mine is not based on the terrorism threat.

There is $40 billion worth of assessed valuation property in the American River flood plain. In one study that I saw, of what would happen if there were a flood—which obviously would happen if the dam were blown up—it's hard to conjecture. But the study I saw, which was done by the Corps of Engineers, I believe projected a property loss from $6-20 billion, and a loss of life of about 100 lives.

You must remember that the city of Sacramento is essentially at sea level, maybe slightly below in places, and these vast levees that impound the American River rise more than 20 feet high. So when you've got a river at flood stage and the levee breeches, you will have a tidal wave of water engulfing the homes that lie in its path.

Mr. CALVERT. Thank you.

Mr. OSE. Mr. Chairman, I can tell you the exposure that was defined did not relate to the concrete portion of Folsom Dam. What was described to me was that in the winter time, when the storage and flood protection raises the level of the water from what is currently at 419 up to 475, when you put a vehicle on the earthen portion of the dam, which is the winged sides of the dam—and an analysis was done if such a vehicle exploded, much like they did at the Oklahoma City thing—you would displace enough earth that the structural integrity would be compromised and the earthen portions would collapse. That's the threat that was analyzed.

Mr. CALVERT. I thank the gentleman.

Any other questions for the panel? Mrs. Napolitano.

Mrs. NAPOLITANO. Mr. Ose, you mentioned that bridges had been built by the Bureau of Reclamation since 1902. When was the last one built, approximately?

Mr. OSE. To answer your question directly, the last one that I'm advised was built was Douglas Creek at Bobby Thompson campground, known as Black Water No. 1, for the Forest Service, in 1999. Prior to that, there's a Nazlini Wash bridge in Chinle, Arizona, 260 feet—

Mrs. NAPOLITANO. So they're more recent, they are recent.

Mr. OSE. Correct. There are 17 of them here that I've been able to identify since—

Mrs. NAPOLITANO. Then my next question would be—The projected cost is about $66 million?

Mr. OSE. That is correct.

Mrs. NAPOLITANO. What percentage is that of the Bureau's budget?

Mr. OSE. I don't know the answer to that question.

Mrs. NAPOLITANO. OK. It turns out to be not quite 10 percent, but close to that, according to the information I have. My concern is that it would take away a large portion of the Bureau's funding to deal with other projects that have been waiting on line, probably much like yours, but that actually have been the focus and goals of the Bureau. Although I know the Bureau is interested in reclamation and the storage, et cetera, I am concerned about what impact that would have. Would you mind—

Mr. OSE. If I may, that was one of the things I found most interesting about this article in the Wall Street Journal yesterday. This issue is so directly tied to homeland security and the added costs that come from our measures taken, it's very analogous, for instance, to the burdens we've put on the airlines. In this article in yesterday's Wall Street Journal, on page A-12, Mitch Daniels is cited as saying backing aid to the airlines to the extent of their added security costs pursuant to 9/11 "could have a certain logic to it".

So I would contend that, under that same logic that would support an airline request for assistance on added security costs, the logic could easily be applied to this particular situation, also.

We would have to work out in our regular order, you know, the amount that we would otherwise provide, whether it be under the Bureau's regular budget or over in homeland security. But it seems to me the foundation has been laid accordingly.

Mrs. NAPOLITANO. Following that same analogy, though, wouldn't it stand to reason that we should actually look also at transportation funds as well as homeland security funds, as well as the Army Corps of Engineers and Department of Interior, because they all are part and parcel of this project, if I may be so bold.

Mr. OSE. I have thought about that, if the gentlelady would allow me to respond.

Mrs. NAPOLITANO. Certainly.

Mr. OSE. I have thought about that, and the reality is that transportation and the Corps, they don't typically deal with issue of national or homeland security kinds of things. This is not a flood issue; this is not a transportation issue, if you will. This is an issue of homeland security, and that's what we're trying to address here.

We're trying to bring to bear the authorization under the homeland security rubric, which is the reason for the closure of the road, to provide some relief to these communities.

Mrs. NAPOLITANO. I understand, and I agree that it has to be done somewhere along the line. My concern is how the funding is going to be put together and the fact that you're asking for authorization to turn it over to Folsom totally without any strings attached, so to speak, and the maintenance and everything else will be the concern of the Bureau.

Mr. OSE. If I recall the bill correctly, the maintenance after the fact would be shifted to the city of Folsom.

Mrs. NAPOLITANO. The maintenance. I'm sorry.

Mr. OSE. Yes.

Mrs. NAPOLITANO. OK. Then I stand corrected.

But certainly the full funding, without any support—and I did talk to the members that came to see me in March, and I did specifically point out to them that normally projects of this nature do work better, for funding purposes and for other approval support systems, if there is a joint partnership with the community and with other agencies, including State agencies. I had not heard anything from anybody on that.

Mr. OSE. If I may, if this recommendation to close the road had come from anybody other than the Defense Threat Reduction Agency, as a result of an analysis they had done in quantifying a homeland security issue, I would tend to agree with you. But the entire driving logic behind this—and I'm sure Mr. Keys and maybe some of the others can testify to this—was that this is a homeland security issue. It's not a Corps issue, it's not a Department of Transportation issue. This is a homeland security issue.

Mrs. NAPOLITANO. It would then have the purview of transportation and homeland security, because it is transportation-related, and it also is a issue of security of the bridge.

Mr. OSE. I will be interested in Commissioner Keys' testimony. My understanding is the Defense Threat Reduction Agency are the ones who did the analysis.

Mrs. NAPOLITANO. Thank you for clarifying. I appreciate it.

Mr. CALVERT. I thank the gentlelady. Any questions for this panel?

Mr. Pearce.

Mr. PEARCE. Thank you, Mr. Chairman. My question will be for Mr. Linder. In section 4 of the bill, item (3) under that, it says the duties are to consult with representatives of such agencies to develop recommendations for a comprehensive water strategy, and then part (A) under that says it respects the primary role of States in adjudicating, administering and regulating.

Do you foresee any way, when States coexist, when they share a border and yet have different water laws—for instance, Texas has the rule of capture, which means they can pump just about whatever they want, and New Mexico right next to it has an appropriating system based on beneficial use. Those are completely different logics that underlie the rule.

How would the commission know how to sort that out?

Mr. LINDER. I have no answers. I have tons of questions. The whole idea behind this is to bring some people with expertise in

water issues around the table together, to look at everything. We can look and see what Los Angeles has done in saving and conserving water. They've done a remarkable job, and Las Vegas is recharging aquifers in a very, very environmentally friendly way. Tampa has the largest desalinization plant in the Western Hemisphere. There's all kinds of things that may be going on that we should just bring to the same place and share the information.

We lose a quarter of our water through leaky pipes. Philadelphia loses 85 million gallons of fresh water a day through leaky pipes.

We have a fund that is a low interest borrowing fund that localities can borrow from for infrastructure needs. It may have to be enlarged. We may have to have a huge public works project just to begin to save the water that's being lost through pipes.

So it is my hope that people who spend a lifetime thinking about these things will bring a lot of answers to the table and we can deal with them after the commission has done its work.

Mr. PEARCE. Thank you, Mr. Chairman.

Just from a small State perspective, New Mexico's perspective, I sat in 2 days of hearings where the State of Texas was telling New Mexico that, because you're good friends with us, you should give us 50,000 acre-feet. When we as good friends didn't give them 58,000 acre-feet of the Rio Grande water, then they took us to court.

My fear as a small State is that, with seven members and no balancing mechanism here, that small States would be disadvantaged extremely. And while I agree with the concept of your bill, I do have that deep-rooted concern, that the powerful will take the water from those who don't have quite as much political clout.

Thank you, Mr. Chairman.

Mr. CALVERT. Mr. Osborne.

Mr. OSBORNE. I have a question of Mr. Linder.

Traditionally, water issues have been State functions. My understanding is that this commission would continue to lead the primary focus at the State level and would simply be a coordinating agency, where we would try to gather best practices and make States better aware of what can be done and what is being done.

Mr. LINDER. The whole intention is to do just that, to bring some expertise to one table, to make a conscious effort to get around the country, to attend different hearings in different parts of the country, to find out what's being done in water policy, and to make recommendations.

I think if we undertook, for example, a huge public works project to fix the leaky pipes in most major cities, the Federal Government can be very helpful in financing that. Conservation is the first step. But I do not—in fact, I have written it in here quite specifically, that this is not a Federal takeover of water policy. In fact, in May of last year, that was the first response to many people who responded to the bill. I made it as clear as I can, that water policy is still driven at the local level. But this can be helpful.

Mr. OSBORNE. Thank you, Mr. Chairman.

Mr. CALVERT. I thank the gentleman.

Any other questions for this panel? Mr. Baca.

Mr. BACA. Yes, a couple of questions. I don't know if they've been asked, Mr. Chairman.

Since most highway projects require at least some cost sharing, has the city of Folsom considered implementing a reasonable cost-share plan for this project? As I looked at it, I don't know if it was answered or asked before or not.

Mr. OSE. Congressman Baca, this is a homeland security issue, that the reason the road was closed in the first place had to do with an analysis put forward by the Defense Threat Reduction Agency that identified Folsom as a very high potential target for terrorist activities. It's not a transportation issue; it's not a flood control issue. This is a homeland security issue related to getting vehicular traffic off of the dam road—excuse me, the road atop the dam—that would otherwise constitute a threat to the homeland security of our country.

Mr. BACA. Is there any kind of matching funds or any other kinds of funds that would be coming up or not?

Mr. OSE. As a result of its analysis as a homeland security issue, this proposal envisions having the Federal Government pay the entirety of the $66 million.

Mr. BACA. Has there been any kind of feasibility studies that have been done?

Mr. OSE. There have been some very preliminary design pieces, which I'm familiar with anecdotally. There has been an EIR done on a two-lane arterial on the land that the Bureau owns below the dam. But as far as any actual bid documents or construction documents, I'm not aware of those.

Mr. BACA. And would those be presented to the Chair of this Committee, if there was any kind of feasibility studies done in that area, for consideration?

Mr. CALVERT. To answer the gentleman's question, anything that's done under the Bureau of Reclamation is under our jurisdiction, so we would have the opportunity to review those documents.

Mr. BACA. Good. Thank you.

Mr. CALVERT. Mr. Inslee. By the way, Mr. Inslee, the Folsom Dam has nothing to do with global warming.

[Laughter.]

Mr. INSLEE. We'll find a way. We'll find a way.

Mr. Ose, I just want to know, do you think this is an issue of homeland security?

Mr. OSE. I believe this is a serious issue of homeland security. To answer your question, without equivocation.

Mr. INSLEE. Thank you.

Mr. CALVERT. OK. Any other questions for this panel?

I have one comment, and maybe you can answer this. For the record, I understand this is not an issue of whether or not we're going to obviously build on to the Folsom Dam, because if, in fact, even if the Folsom Dam was raised, which I know is somewhat controversial in that community, we still could not put transportation, I assume, on top of that facility for the exact reasons that we're here today; isn't that correct?

Mr. OSE. Mr. Chairman, it is my understanding that the Defense Threat Reduction Agency analysis of the homeland security threat exists whatever the condition of the dam is. They want the vehicular traffic off the dam.

Mr. CALVERT. So in order to get the vehicular traffic off the dam, we have to build a bridge?

Mr. OSE. That's my belief, yes.

Mr. CALVERT. I thank the gentleman.

Any other questions? If not, we certainly thank this panel for attending today. If you would like to join the rest of us up here for questions of other panelists today, you're certainly invited, if there's no objections from the people here today. I see none. So ordered. If not, thank you for attending.

Mr. CALVERT. Our next panel is the Commissioner of the Bureau of Reclamation, the Honorable John W. Keys, II, and Ms. Theresa Rosier, Counselor to the Assistant Secretary of Indian Affairs.

Thank you for attending our hearing today. With that, Commissioner, you're recognized.

STATEMENT OF HON. JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

Mr. KEYS. Mr. Chairman, I have three different statements. I would certainly request that the full text be entered into the record.

Mr. CALVERT. Without objection, so order.

Mr. KEYS. I would also ask, is there any particular order that you would prefer me to proceed in?

Mr. CALVERT. We'll leave that totally to your discretion.

Mr. KEYS. Mr. Chairman, we'll hit them head on, then.

Mr. Chairman, H.R. 901 would authorize the Secretary of the Interior to design and construct a bridge on Federal land west and adjacent to Folsom Dam in California which, when completed, would be transferred to the city of Folsom. H.R. 901 would also authorize $66 million to be appropriated for the bridge.

When construction of Folsom Dam was completed in the mid-1950's, the narrow two-lane road built on top of the dam was intended to serve as an access road for maintenance of the dam and for incidental recreation access to the lake. In the ensuing years, as the population of Placer and El Dorado counties has grown, the road over Folsom Dam has become a major transportation artery, with about 18,000 cars using it every day.

Folsom Dam is a flood control facility, protecting about 700,000 people downstream. For security purposes, the Bureau of Reclamation closed the road over Folsom Dam on February the 28th, 2003, for an indefinite period of time. This decision was not made lightly. The decision came after extensive security assessments from the Department of Defense's Defense Threat Reduction Agency. It was their professional recommendation, and the Department of Interior agreed, that it was prudent to close the road across the dam to protect the facility.

Mr. Chairman, I would certainly offer a secure briefing to you and the members of your Subcommittee to cover the details of that assessment and the implementation and why it was implemented, if that would be the pleasure of the Subcommittee.

Mr. CALVERT. I thank the gentleman.

Mr. KEYS. I'm certainly aware that the Folsom Dam road closure has resulted in traffic disruption in and around Folsom. I recently

met with Folsom city officials to discuss their concerns and the possibility of reopening the road.

While we are willing to work with the surrounding communities, the responsibility of building a new bridge to handle current and future traffic is not within Reclamation's purview. As such, the Administration cannot support H.R. 901 as drafted.

I do understand that a new bridge is warranted to handle current and future traffic, and I would urge the bill's sponsors and local stakeholders to work with the appropriate local, State and Federal transportation agencies to accomplish that.

I might add that the Federal Government has started construction of a new bridge below Hoover Dam, and that one is certainly one that has been receiving a lot of attention after 9/11. That structure is being funded, designed and constructed by the Department of Transportation.

There are several other issues with H.R. 901 that we're concerned about. The Administration is concerned about the lack of any local cost share requirements. The city of Folsom and surrounding communities would be the primary beneficiaries of the new bridge to alleviate transportation issues in their communities. A local cost share requirement would be appropriate.

Section (1)(b)(2) says "The Secretary shall provide appropriate sizing and linkages to support present and future traffic flow requirements for the city of Folsom." This language clearly states that the Secretary would be placed in the position of providing ancillary roadway connections and analyzing future transportation logistics. These requirements are more appropriate for the Department of Transportation and are beyond the mission of the Bureau of Reclamation.

In conclusion, Mr. Chairman, let me reiterate that the Administration understands and shares the concerns of the sponsors of H.R. 901 and the local communities about the additional traffic congestion caused by the closing of Folsom Dam road. The decision to close the road over the dam was not made in haste and was decided only after considerable review of the facts. However, Reclamation was entrusted with the task of protecting the Folsom Dam facility for the people who rely on it for flood control and water supply. I again urge the bill's sponsors and local stakeholders to work with appropriate local, State and Federal transportation authorities to address these traffic concerns.

[The prepared statement of Mr. Keys on H.R. 901 follows:]

Statement of John Keys, III, Commissioner, Bureau of Reclamation, U.S. Department of the Interior, on H.R. 901

My name is John Keys, III, Commissioner of the U.S. Bureau of Reclamation. I am pleased to provide the Administration's views on H.R. 901, to authorize the Secretary of the Interior to construct a bridge adjacent to the Folsom Dam in California.

H.R. 901 would authorize the Secretary of the Interior to design and construct a bridge on Federal land west and adjacent to Folsom Dam in California which, upon completion, would be transferred to the City of Folsom. H.R. 901 would authorize that $66,000,000 be appropriated for this purpose.

When construction of Folsom Dam was completed in the mid–1950's, the narrow two lane road built on the top of the dam was intended to serve as an access road for maintenance and for incidental recreational access to the lake. In the ensuing years, as the population of Placer and El Dorado counties has grown (Placer County has been listed as the fastest growing county in the nation), and since the area

adjacent to the dam is within the city limits of Folsom, California, which is one of the fastest growing cities in the state, the road over Folsom Dam has become a major transportation artery between these two counties. Over the last 20 years, traffic on this road has grown exponentially to the point that up to 18,000 cars were crossing the dam each day.

Since Reclamation last testified before this Subcommittee on a similar bill last April, there have been some developments in the Folsom area that I would like to bring to your attention. First, it is important to understand that the primary purpose of the Folsom Dam facility is flood control for the estimated 700,000 people downstream of the facility. For security reasons, Reclamation closed the two-lane road over Folsom Dam on February 28, 2003, for an indefinite period of time. We took this action because Reclamation is responsible for dam safety. Our decision was largely based upon the results of an extensive security assessment under contract with the Department of Defense's, Defense Threat Reduction Agency (DTRA). It was their professional recommendation, and the Department of Interior concurred, that it was prudent to close the road over the dam to protect the facility

I am certainly aware that the Folsom Dam road closure has resulted in traffic disruption in and around Folsom. In fact, I recently met with several Folsom city officials who expressed their concern about increased traffic control costs and the possibility of reopening the road.

While we are willing to work with the surrounding communities, the responsibility of building a new bridge to handle current and future local and commuter traffic is not within Reclamation's purview. Given that the closure decision was predicated on a homeland security issue, we are willing to discuss the issue with the Department of Homeland Security and the Department of Transportation to determine what role they can play in future transportation planning around Folsom. Unfortunately, the Administration cannot support H.R. 901 as drafted. I understand that a new bridge is in fact warranted to address current and future traffic, and I urge the bill's sponsors and local stakeholders to work with appropriate local, state, and Federal transportation agencies.

When construction of Folsom Dam was completed in the mid–1950's, the narrow two lane road built on the top of the dam was intended to serve as an access road for maintenance and for incidental recreational access to the lake. In the ensuing years, as the population of Placer and El Dorado counties has grown (Placer County has been listed as the fastest growing county in the nation), and since the area adjacent to the dam is within the city limits of Folsom, California B which is one of the fastest growing cities in the state B the road over Folsom Dam had become a major transportation artery between these two counties. Over the last 20 years, traffic on this road has grown exponentially to the point that up to 18,000 cars were crossing the dam each day.

Reclamation has always taken the job of dam safety seriously. However, as we have all unfortunately experienced the last few years culminating in the events of September 11, 2001, the traditional dam safety reviews are no longer adequate. The following events have shaped the evolution of Reclamation's security reviews at Folsom and at all of our facilities.

In 1995, a spillway gate at Folsom Dam failed which necessitated closing the road for an extended period for both immediate safety reasons and to accommodate repairs to the spillway. As a result, traffic congestion adversely impacted the city of Folsom and severely restricted emergency traffic (police, fire and ambulance) from reaching one side from the other.

After the Murrah Building in Oklahoma City, Oklahoma was bombed, the Government closely examined the vulnerability of all its structures. Reclamation completed security assessments at Folsom Dam in 1996, 1997, 1998 and 2001 and clearly documented the risks associated with open public access across this dam. The DTRA assessment was the latest of these reviews.

After the events of September 11, 2001, Reclamation closed the road across Folsom Dam which again resulted in serious traffic congestion in the community. Subsequently, the road was reopened during daylight hours to cars and pickups, but was closed to large vehicles at all hours. This was the case until February 28, 2003.

Additional Issues

H.R. 901 would require Reclamation to build a bridge unassociated with project operations. Designing and building bridges is the not the primary function of Reclamation. Passage of this bill would require Reclamation to transfer limited resources from core mission activities such as those I outlined to this Subcommittee on March 5, 2003. Reclamation's request for California projects in the Fiscal Year 2004 Water and Related Resources budget is approximately $190 million.

The Administration has concerns with the absence of any local cost-sharing requirements in H.R. 901. Any Federal involvement in the design and construction of a bridge should have state and local cost sharing arrangements consistent with Federal policy. The City of Folsom and surrounding communities will be the primary beneficiaries of a new bridge to ease and improve the transportation issues in those communities, and a local cost share requirement would be appropriate. Further, section (1) (c) requires the Secretary to transfer the bridge, property, and easements to the City of Folsom at no cost. Any transfer of land should be made to reflect the fair market value of the land. The legislation also specifically states in Section (1) (b) (2), the "Secretary shall—provide appropriate sizing and linkages to support present and future traffic flow requirements for the city of Folsom." The paragraph clearly states that the Secretary would be placed in the position of providing ancillary roadway connections and analyzing future transportation logistics. These requirements are more appropriate for the Department of Transportation and are beyond the mission of Reclamation.

In conclusion, Mr. Chairman, let me reiterate that the Administration understands and shares the concerns of the sponsors of H.R. 901 and the local communities about the additional traffic congestion resulting from the closure of the Folsom Dam road. The decision to close the road over the dam was not made in haste and was decided only after considerable review of the facts. However, Reclamation was entrusted with the task of protecting the Folsom Dam facility for the people who rely on it for flood control and water supply purposes. I again urge the bill's sponsors and local stakeholders to work with appropriate local, state, and Federal transportation authorities to address these traffic concerns.

That concludes my prepared remarks. I would be pleased to answer any questions.

Mr. KEYS. Mr. Chairman, H.R. 1284 would amend the Reclamation Projects Authorization and Adjustment Act of 1992, to increase the Federal share of the costs of the San Gabriel Basin Demonstration project by about $12.5 million.

Based upon Reclamation's investigation of this project, we do not believe that a cost ceiling increase is warranted at this time. Therefore, the Administration cannot support H.R. 1284 as written.

There are three main components of the San Gabriel Basin Demonstration project: the Rio Hondo Water Recycling Program, the San Gabriel Valley Water Reclamation Project, and the San Gabriel Basin Demonstration Project. Reclamation is authorized to provide up to 25 percent of the cost of planning, design and construction of these projects for a Federal contribution of no more than $38,090,000.

Through Fiscal Year 2003, $28,845,000 has been made available for those three projects. The Rio Hondo recycling program and the San Gabriel water reclamation project will be completed in 2004, and are within $900,000 of being fully funded for the 25 percent Federal cost share. That leaves $8.6 million under the existing ceiling to cover the 25 percent Federal share of the San Gabriel demonstration project.

In 1999, perchlorate was discovered in the groundwater of the San Gabriel Basin. In 2000, Congress created the San Gabriel Basin restoration fund, providing a 65 percent Federal cost share of costs for projects that would improve the quality of groundwater in the San Gabriel Basin. A total ceiling of $85 million was placed in the restoration fund, with $10 million of that reserved for the Central Basin cleanup and $75 million for the San Gabriel Basin.

We believe that the total funding ceiling provided by the title XVI authority and the restoration fund is sufficient to provide the Federal cost share for all projects that are contemplated for the San Gabriel Basin cleanup program. This title XVI project has more than $8 million left and the restoration fund has $25 million

remaining. We believe that these ceiling levels will adequately cover future projects under this authority. The cost ceiling for the San Gabriel demonstration project authorized by title XVI does not need to be increased beyond its currently authorized limit.

Mr. Chairman, I would add to that that we have had an excellent working relationship with the San Gabriel demonstration project people. We look forward to working with them for completion of this project.

[The prepared statement of Mr. Keys on H.R. 1284 follows:]

Statement of John Keys III, Commissioner, Bureau of Reclamation, U.S. Department of the Interior, on H.R. 1284

Mr. Chairman, and members of the Subcommittee, I am John Keys, III and I am the Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to be here today to comment on H.R. 1284, which amends the Reclamation Projects Authorization and Adjustment Act of 1992, to increase the Federal share of the costs of the San Gabriel Basin Demonstration project.

Based on our investigation of this project, we do not believe a cost ceiling increase is warranted at this time and therefore the Administration cannot support H.R. 1284 as written. We believe that there is sufficient funding available to provide the Federal cost share for all projects that are contemplated for the San Gabriel Basin cleanup program.

Title XVI of P.L. 102–575, enacted in 1992, authorizes Reclamation to participate in the San Gabriel Basin Demonstration Project. There are three components of the project: the Rio Hondo Water Recycling Program with the Central Basin Municipal Water District, the San Gabriel Valley Water Reclamation Project with the Upper San Gabriel Valley Municipal Water District, and the San Gabriel Basin Demonstration Project with the San Gabriel Basin Water Quality Authority. Reclamation is authorized to provide up to 25 percent of the cost of planning, design, and construction of the project components for a Federal contribution of no more than $38,090,000.

Congress provided the initial appropriation for the project in Fiscal Year 1994, and through the current Fiscal Year 2003, a total of $28,845,000 has been made available for the three components. Of that amount, all but $0.3 million has been obligated to existing agreements. With the exception of Rio Hondo and San Gabriel Valley Reclamation components, all existing agreements have been fully funded. The Rio Hondo and San Gabriel Valley Reclamation components, which are water recycling projects, should be completed within the next two years, and are within $900,000 of being fully funded for the 25 percent Federal share. This leaves a net available amount of $8.6 million before the ceiling is reached.

The primary component of the San Gabriel Basin Demonstration is the groundwater cleanup program that will result in the Basin being used as a conjunctive use water resource for the region. Reclamation, working closely with the San Gabriel Basin Water Quality Authority since 1994, has executed 9 funding agreements with the Authority to fund specific portions of the cleanup work. All agreements have been fully funded for the 25 percent Federal share.

Over the last ten years that the project has received funding, the schedules for all three components have slipped significantly. In light of this, the San Gabriel Basin Demonstration Project has consistently carried over significant amounts of unexpended funds every year as a result of the extended schedules. Due to these delays, the construction schedule is not firm. In addition, smaller agreements to cover cleanup projects in the El Monte, South El Monte and Puente Valley Operable Units are being implemented. An agreement has been executed with the Water Quality Authority to fund design activities for these Operable Units. We have executed an agreement for the Monterey Park Treatment Facility, which is in the South El Monte Unit. To date we have obligated $2.425 million for the project, and spent approximately $300,000 of that amount.

We believe that the total funding ceiling provided by the Title XVI authority and the Restoration Fund, which may also be available for these projects, is sufficient to provide the Federal cost share for all projects that are contemplated for the San Gabriel Basin cleanup program. This Title XVI project has more than $8 million remaining under its ceiling after fully funding all current project obligations. The Restoration Fund has $25 million remaining under its ceiling after fully funding all current project obligations. We believe that this will adequately cover future projects being contemplated. Therefore, the cost ceiling for the San Gabriel Basin

Demonstration Project authorized by Title XVI does not need currently to be increased beyond its authorized limit.

In conclusion, Mr. Chairman, I want to add that we have had an excellent working relationship with the San Gabriel Demonstration Project partners and look forward to working with them to complete this important project. This concludes my remarks. I would be happy to answer any questions at this time.

Mr. KEYS. Mr. Chairman, H.R. 135 would establish the 21st Century Water Commission to develop recommendations for a comprehensive water strategy to address future water needs of the United States.

The Department of the Interior supports efforts to address the future of America's water supply. In Reclamation's Fiscal Year 2004 budget request, we have proposed a program called the Western Water Initiative that is very consistent with what we perceive the intent of H.R. 135 to be. The Western Water Initiative would expand and focus on Reclamation's existing efforts to work with our partners to use technology and management techniques more efficiently and effectively to optimize water supplies.

This Initiative has four major components. The first one is enhanced water management and conservation. That would include pilot projects to work with different irrigation districts and entities around the West, for canal lining programs, for control structures, check structures, and measuring facilities to find better ways to stretch the existing water supplies to meet needs. It would also include experimental work and current work that we're doing in establishing water banks to help address additional water needs that are out there.

The second component of that program is preventing water management crises. Its main purpose is to take a look 25 years into the future to see where water needs occur that could not be met with existing infrastructure. It would let us look at where other water requirements may occur, such as are occurring in some places now with the Endangered Species Act, that are occurring now with growing populations and other requirements out there.

The third part of our Western Water Initiative is the expanded science and technology program. There are three main components of that one.

The first one is a hard look at desalinization and how we might bring the cost down for desalting seawater and brackish groundwater out on the plains. The goal that we have in that program is to reduce the cost of desalting water by about 50 percent by the year 2020. Currently, it costs about $650 an acre-foot to desalt seawater. If we can get that below $600 an acre-foot, it's competitive in the high cost markets of the western United States.

The second part of that science and technology program is adaptive management programs, such as we are implementing on the Colorado River below Glen Canyon Dam now.

The third part of it is peer review, taking a hard look at the science that backs up our projects, so that we know we're on the right track when we develop biological opinions and biological assessments to address endangered species needs. The fourth part of that initiative is to strengthen Endangered Species Act expertise inside Reclamation.

Mr. Chairman, my purpose in sharing our strategic vision of the Western Water Initiative with you is because H.R. 135 is generally consistent with this vision. There are a few specifics in H.R. 135 that we would like to share with you, though.

We are pleased to see that the bill recognizes the role of States on water rights and water uses. They are our close partners in water issues in all 17 of the Western States. H.R. 135 also differs from last year's bill by reducing the number of qualified commission members from 17 to 7. While the reduced commission size will reduce cost and maybe improve efficiency, we would still advocate emphasis on State representations.

As H.R. 135 moves through the legislative process, we would encourage you to remember the responsibilities that Congress and the judiciary have placed on the Department of the Interior, special ones, such as the unique role the Secretary has as water master for the lower Colorado River.

Lastly, the Administration objects to section 8(b)(2) of H.R. 135, which would give the commission the authority to detail to the commission "such personnel as the Commission considers necessary to carry out the provisions of this Act." Specifically, the Department of Justice has informed us that giving such power to an advisory commission raises constitutional concerns, including potential Appointments Clause problems. The Department of Justice recommends that the provision be amended to authorize and not require Federal agencies to detail personnel to the Commission.

Mr. Chairman, that concludes my oral comments. I would certainly entertain any questions that you might have today.

[The prepared statement of Mr. Keys on H.R. 135 follows:]

Statement of John W. Keys III, Commissioner, Bureau of Reclamation, U.S. Department of the Interior, on H.R. 135

Mr. Chairman and members of the Subcommittee, my name is John Keys and I am Commissioner of the Bureau of Reclamation. It is my pleasure to be here today to provide the Department of Interior's (DOI) views on H.R. 135, the Twenty–First Century Water Commission; a bill to develop recommendations for a comprehensive water strategy to address future water needs.

The Department supports efforts to address the future of America's water supply. In Reclamation's Fiscal Year 2004 budget request, we have established a program called the Western Water Initiative that is very consistent with what we perceive the intent of H.R. 135 to be. Basically, this initiative expands and focuses on Reclamation's existing efforts to work with our partners to use technology and management techniques more efficiently and effectively to optimize water supplies.

Reclamation has a long history of managing limited water supplies in arid environments. However, with increased population growth, aging facilities, severe drought, and environmental and health concerns, our skills and resources are being challenged like never before. Reclamation's Western Water Initiative is the beginning of what we hope will be the catalyst for a longer-term strategic approach to predicting, preventing, and alleviating water conflicts. It improves upon our historic proactive, rather than a reactive, approach to water management and conservation, desalination research and development, preventing water management crises, and strengthening Endangered Species Act expertise among Reclamation employees. Last year, Reclamation began identifying areas in the West that may have potential water supply problems today or 25 years from now. Using existing information, we identified areas where there was an increase in population, water-dependent Federally protected species and severe climatic conditions. The intent of this 25-year water supply study is to help us target funds in the Western Water Initiative to areas with the most critical needs.

The new Western Water Initiative uses collaboration, conservation, and innovation to make sure every drop of water counts. This means improved water conservation, investments in science and technology, and modernization of existing infra-

structures. This initiative will provide a comprehensive forward-looking water resource management program that will respond to growing water demands. It will position the bureau in playing a leading role in developing solutions that will help meet the increased demands for limited water resources in the West. This proactive initiative will benefit western communities that are struggling with increased water demands, drought, and compliance with the Endangered Species Act. The Western Water Initiative involves four major components:

Enhanced Water Management and Conservation. Funding will be used for the modernization of irrigation delivery structures such as diversion structures and canals. This will also allow Reclamation to use existing intrastate water banks where they are available, and to promote intrastate water banking as a concept to help resolve future water supply conflicts.

Preventing Water Management Crises. This initiative will enable us to provide effective environmental and ecosystem enhancements in support of Reclamation's project operations through proactive and innovative activities. For example, we are exploring ways of addressing issues at projects by identifying and integrating long-term river system ecological needs within the context of regulated river management. Pilot projects will be selected from a list of critical areas based on their potential for cost savings that could be realized from proactive planning. Pilot projects are anticipated to include environmental enhancements that provide support for project operations or optimization of project operations for both water supply and environmental benefits.

Expanded Science and Technology Program. Reclamation will expand its Desalination Research and Development Program to research cost reduction of water desalinization and waste disposal. It will also expand the effective use of science in adaptive management of watersheds. This cooperative effort with the USGS would assist Reclamation in reaching decisions that are driven by sound science and research, are cost effective, and are based on performance criteria. Funding will also provide for peer review of the science used in ESA consultations and other environmental documents issued by Reclamation. This initiative will improve Reclamation's use of science and technology to address critical water resource management issues.

Strengthening Endangered Species Act (ESA) Expertise. Funding will be used to strengthen staff expertise in implementing and complying with the Endangered Species Act, and will produce identifiable mechanisms in order to achieve continuity in evaluating biological assessments and/or biological opinions. This initiative will enable managers to acquire a greater understanding of the purpose, process and requirements of the ESA as it relates to Federal actions that are important to carrying out Reclamation's water resources management mission.

My purpose in sharing our strategic vision of the Western Water Initiative with you at this time is because H.R. 135 is generally consistent with this vision.

I am pleased to see the bill has been amended from the version in the last Congress, H.R. 3561, to specifically recognize the role of states on water rights and water uses. Last year I testified that a tremendous amount of research has already been done by Federal, state, local, and private entities. I am therefore pleased to see that the Commission would take this existing information into account before requesting additional studies.

For the past century DOI agencies have played an integral role in the development of Federal water management policy and any new management policy should continue to have strong input from DOI. As H.R. 135 moves through the legislative process, we would again encourage you to keep in mind the responsibilities that Congress (and the Judiciary, in some cases) has placed on DOI—for example, the unique role the Secretary plays as Water Master for the lower Colorado River.

I have already outlined for you the steps Reclamation hopes to take to improve water management in order to meet ever-increasing demands for water. Reclamation works in an environment of cooperation with state, tribal, and local governments and other Federal agencies. H.R. 135 also differs from last year's bill by reducing the number of qualified commission members from 17 to 7. While the reduced committee size will reduce costs and perhaps improve efficiency, we would still advocate that due deference be given on membership to representatives from state government.

Lastly, the Administration objects to Section 8(b)(2) of H.R. 135 which would give the Commission the authority to require Federal agencies to detail to "the Commission—such personnel as the Commission considers necessary to carry out the provisions of this Act. Specifically, the Department of Justice has informed us that giving such power to an advisory commission raises constitutional concerns, including potential Appointments Clause problems. The Department of Justice recommends that the provision be amended to authorize (and not require) Federal agencies to detail personnel to the Commission.

Thank you for the opportunity to comment. I would be happy to answer any questions at this time.

Mr. CALVERT. I thank the gentleman.

First we will hear from Ms. Theresa Rosier and then we'll have questions for both of you. Thank you. You are recognized.

STATEMENT OF THERESA ROSIER, COUNSELOR TO THE ASSISTANT SECRETARY OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Ms. ROSIER. Good afternoon, Chairman, and members of the Subcommittee. My name is Theresa Rosier and I am Counselor to the Assistant Secretary for Indian Affairs. I appreciate the opportunity to be here today to testify before the Subcommittee on H.R. 495, the "Zuni Indian Tribe Water Rights Settlement Act of 2003."

I would like to abbreviate my testimony and submit my full written testimony for the record.

Mr. CALVERT. Without objection, so ordered.

Ms. ROSIER. The Administration supports H.R. 495. This bill is the product of a cooperative effort over the past 5 years that involves the Zuni Pueblo, the State of Arizona, the United States, the Salt River Project, and local water users in northeastern Arizona.

The settlement agreement at issue here today concerns only the Zuni Tribe's relatively small water rights claim regarding the Zuni Heaven Reservation in northeastern Arizona. Zuni Heaven is a unique reservation, created fairly recently, to accommodate religious and cultural practices of the Zuni Tribe. As you all know, the main Zuni Reservation is in New Mexico, and this is where a majority of the Zuni members reside.

According to Zuni religious beliefs, a lake formerly located on the Zuni Heaven Reservation is a window into Heaven. The lake and the surrounding wetlands, however, have recently disappeared due to upstream diversions and ground-water pumping in the surrounding areas. This settlement provides the Tribe with water and land to restore the lake for future religious purposes.

H.R. 495 approves and authorizes Federal participation and a settlement agreement. When fully implemented, the settlement will constitute a final resolution of water rights claims of the Zuni Tribe and the United States on behalf of the Tribe.

The settlement would secure for the Zuni Tribe approximately 5, 500 acre-feet per year, which includes both surface water and groundwater, and also provides for the rehabilitation, restoration of the sacred land, wetlands, and riparian areas of the Reservation.

The surface water component of the settlement would be secured through the purchase of State law based water rights from willing sellers, as well as through flood flows of the Little Colorado River. To supplement surface flows in times of drought and to allow for restoration activities while the surface water rights are being initiated, the settlement provides the Tribe with groundwater rights of 1,500 acre-feet per year.

The settlement here today involves significant cost sharing and cooperation between the Federal Government, the State, and local parties. The Tribe's non-Indian neighbors have agreed to assist in the acquisition of water rights, to store surface water supplies for

the Tribe, and to make other contributions to help carry out the settlement.

In addition, some water supplies for the settlement will be secured through a $6 million grant from the State of Arizona. H.R. 495 would authorize a total Federal contribution of $19.25 million for the acquisition of water rights and also for necessary actions to restore the sacred lake, wetlands, and riparian areas of the Zuni Heaven Reservation.

We believe the Federal contribution contemplated in H.R. 495 is appropriate to facilitate resolution of the Zuni Tribe's water rights. The settlement is designed to release the United States from any potential damage claims that might be asserted by the Tribe, and also relieve the Federal Government of the obligation to litigate the Tribe's water rights claims. The United States does retain its ability to initiate enforcement actions, as necessary, in the future to protect the environment and water quality in this area. Resolution of the Tribe's water rights claims would provide certainty to its neighbors and to the Tribe, enabling both of them to make necessary plans for the future.

Negotiated agreements among Indian tribes, States and local parties are the most effective ways to resolve water rights claims. The settlement embodied in H.R. 495 is an example of creative solutions that are fostered by the collaborative process.

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

[The prepared statement of Ms. Rosier follows:]

Statement of Theresa Rosier, Counselor to the Assistant Secretary for Indian Affairs, U.S. Department of the Interior, on H.R. 495

Good morning Mr. Chairman and members of the Subcommittee. My name is Theresa Rosier and I am the Counselor to the Assistant Secretary—Indian Affairs within the Department of the Interior. I appreciate the opportunity to appear before this Subcommittee to discuss H.R. 495, "Zuni Indian Tribe Water Rights Settlement Act of 2003."

The Administration supports H.R. 495. The bill is the product of a cooperative effort over the last five years among the Zuni Pueblo, the State of Arizona, the United States, the Salt River Project and many local water users in northeastern Arizona. The Settlement Agreement has been signed by the Zuni Tribe and many other settlement parties.

Background

The Little Colorado River (LCR) Basin covers an area of approximately 17.2 million acres or 26,964 square miles in northeastern Arizona and northwestern New Mexico. The main stem of the Little Colorado River is entirely in Arizona. Therefore, this adjudication deals only with claims inside the borders of Arizona. Five different Indian tribes have reservations, or pending claims to reservation lands, within the Basin: the Navajo Nation, Hopi Tribe, Zuni Tribe, San Juan Southern Paiute Tribe and the White Mountain Apache Tribe.

The Settlement Agreement at issue here concerns only the Zuni Tribe's relatively small water right claims at the Zuni Heaven Reservation located in the south eastern section of the Basin, at the confluence of the Zuni and Little Colorado Rivers. Zuni Heaven is a unique reservation created fairly recently to accommodate the religious and cultural practices of the Zuni. The main Zuni reservation, in contrast, is located in New Mexico. The majority of the Zuni members reside on the main reservation.

According to Zuni religious beliefs, a lake formerly located on the Zuni Heaven Reservation is a window into heaven. That lake and the surrounding wetlands disappeared in recent history due to upstream diversions and groundwater pumping in the surrounding areas. The Settlement Agreement provides the Tribe with the water and land to restore the lake for use in future religious ceremonies.

The Zuni Heaven Reservation was established by Congress in 1984 through Public Law 98–498 and expanded in 1990 through Public Law 101–486 to further the religious and cultural needs of the Tribe. That legislation established the land base of the Reservation within the Tribe's aboriginal territory and facilitated the Tribe's regular pilgrimage from New Mexico to Arizona by authorizing the United States to obtain easements along the pilgrimage route.

Since 1979, water rights in the Little Colorado River basin have been the subject of an Arizona state general stream adjudication. The United States filed a water rights claim on behalf of the Zuni Tribe in the state proceeding for water rights to Zuni Heaven. Mirroring most general stream adjudications, the litigation has moved very slowly. Recognizing that the Zuni claims lent themselves to settlement, the parties devoted significant effort to negotiations. The Settlement Agreement and H.R. 495, which would ratify that agreement, are the fruits of that negotiation.

H.R. 495

H.R. 495 approves and authorizes Federal participation in a settlement agreement, which includes three subsidiary agreements. When fully implemented, the settlement would constitute a final resolution of the water rights claims of the Zuni Tribe and the United States on its behalf. The Settlement would secure to the Zuni Tribe approximately 5,500 acre-feet per year, including both surface water and groundwater, and provide for the rehabilitation and restoration of the Sacred Lake, wetlands and riparian areas of the Reservation. The surface water component of the Settlement would be secured through the purchase of state law based water rights from willing sellers, as well as through use of flood flows of the Little Colorado River. To supplement surface flows in times of drought and to allow for restoration activities to be initiated while surface water rights are acquired, the Settlement provides the Tribe with a groundwater right of 1,500 acre feet per year.

The Settlement involves significant cost sharing and cooperation between the Federal Government and the state and local parties. The Tribe's non–Indian neighbors have agreed to assist in the acquisition of water rights, to store surface water supplies for the Tribe and make other contributions to carry out the Settlement. In addition, some water supplies for the Settlement will be secured through up to $6 million in water protection grants funded by the State of Arizona. H.R. 495 would authorize a total Federal settlement contribution of $19.25 million. These funds would be used for the acquisition of water rights, as well as other actions necessary to restore the Sacred Lake, the wetlands and riparian areas of the Zuni Heaven Reservation. These actions include engineering, water and sediment distribution, removal of exotic vegetation, reestablishment of native vegetation, aggrading the river channel and other related activities.

We believe the Federal contribution contemplated in H.R. 495 is appropriate to facilitate resolution of the Zuni Tribe's water rights. The Settlement is designed to release the United States from any potential damage claims that might be asserted by the Tribe and will relieve the Federal Government of the obligation to litigate, at significant cost and over many years, the Tribe's water rights claims. The United States would retain its ability to initiate enforcement actions as necessary in the future to protect the environment and water quality in the area. Resolution of the Tribe's water rights claims would provide certainty to its neighbors, enabling them to plan and make necessary investments based on the assurance that they have secure and stable water rights.

Conclusion

Negotiated agreements among Indian tribes, states, local parties, and the Federal Government are, in general, the most effective way to resolve reserved water right claims in a manner that secures tribal rights to assured water supplies for present and future generations while at the same time providing for sound management of an increasingly scarce resource. The known benefits of settlement generally outweigh the uncertainties that are inherent in litigation to the tribe, the state, other interested parties and the United States. The settlement embodied in H.R. 495 is an example of the creative solutions that can be found to resolve contentious water rights problems in the West.

This concludes my statement. I would be happy to answer any questions the Subcommittee may have.

Mr. CALVERT. I thank the gentlelady.

Commissioner Keys, you have written a directive that all added security costs as a result of 9/11 will be paid for by taxpayers due

to the multipurpose nature of the Bureau's facilities; isn't that correct?

Mr. KEYS. Mr. Chairman, yes, sir.

Mr. CALVERT. Am I also correct that the Bureau closed the road because of the added 9/11 security concerns?

Mr. KEYS. Mr. Chairman, there are a number of threats that were evaluated since 9/11, and the closure was the direct result of those reviews.

Mr. CALVERT. Well, let me ask you another way. Would you assess the road closure if 9/11 had not occurred?

Mr. KEYS. Mr. Chairman, no.

Mr. CALVERT. Were any other bridges closed prior to 9/11?

Mr. KEYS. Mr. Chairman, the only time before 9/11 that we had closed roads was for a short time after the first attack on the World Trade Center, and for numerous times when we've had to do maintenance on the facilities.

Mr. CALVERT. All of that's true, but yet you indicate the Bureau cannot support funding for the bridge, even though the Bureau closed the road. Why is the Bureau changing its security costs policy only when it comes to building a bridge?

Mr. KEYS. Mr. Chairman, I don't see that as a change. What we are doing in other places—and it's even true at Folsom—is looking at the security forces necessary there, and then changes, you might say, to harden the facilities against attack. All of those costs we are trying to keep nonreimbursable.

The example that I used at Hoover is one where another agency, that is more amendable or capable of designing and building a bridge, is handling that activity.

Mr. CALVERT. Is it true that the Federal Government is paying for the construction of that facility?

Mr. KEYS. It is a cost-shared effort at Hoover, between the States of Arizona, Nevada, and the Department of Transportation.

Mr. CALVERT. But a significant amount of that is being paid for by the Federal Government?

Mr. KEYS. That's correct.

Mr. CALVERT. The Bureau certainly has, as well laid out by our colleague, Mr. Ose, you certainly have the capacity to plan and design a bridge, and you have built bridges as recently as 1999.

Mr. KEYS. Mr. Chairman, that's true.

Mr. CALVERT. What Bureau reservoirs currently allow automobile traffic?

Mr. KEYS. Mr. Chairman, we have—Mr. Chairman, I would rather answer that in a secure briefing, if I could.

Mr. CALVERT. OK. I understand. We'll have the opportunity to do that.

I'm certainly involved in the Armed Services Committee, so I have been involved in some of these briefings. But much of this is in the public media and has been exposed, so I don't think we're exposing any classified information here today. But certainly there have been threats to this country and you must do your job, as I know you are, and doing it properly. But again, a point must be made that certain roadways are being closed because of homeland security concerns, and you've answered that in the affirmative, isn't that correct?

Mr. KEYS. That's correct.

Mr. CALVERT. What plans does the Bureau have to mitigate the effects of road closures, since these are Federal decisions?

Mr. KEYS. Mr. Chairman, in most cases, those roads are not being used for the volumes of traffic that are occurring at Folsom. We have no plans for reimbursements.

Mr. CALVERT. I thank the gentleman.

The gentlelady from California, Mrs. Napolitano.

Mrs. NAPOLITANO. Commissioner Keys, thank you very much.

I was wondering whether on Mr. Ose's 901, whether there's been any effort by you to suggest to Mr. Ose and the other cosponsors to work together with other agencies, such as Transportation, Interior, the Army Corps?

Mr. KEYS. Mr. Chairman, Mrs. Napolitano, yes, we have talked with the people from Folsom, we have talked to the people that represent them back here, and have tried to put them in contact with some of the other agencies involved.

Mrs. NAPOLITANO. But have you convened any meeting where all the agencies are at the table at the same time, rather than somebody going out and starting from point A all over again in making the presentation and being able to get the agencies to enjoin in a cooperative manner?

Mr. KEYS. Mr. Chairman, Mrs. Napolitano, I have not convened such a meeting, but I have personally talked to representatives of the other agencies.

Mrs. NAPOLITANO. And?

Mr. KEYS. All the other agencies that I've talked about are willing to sit down and talk.

Mrs. NAPOLITANO. Thank you, Commissioner.

Mrs. NAPOLITANO. On my bill, H.R. 1284, you indicated you had done some investigation, or your Bureau had done some investigation, on the fact you feel there's enough money left in the VOC cleanup in the San Gabriel Basin.

How did the Bureau arrive at this conclusion?

Mr. KEYS. Mr. Chairman, Mrs. Napolitano, in reviewing the requirements for completion of the project, the three units—El Monte, South El Monte, and Puente Valley—those three are the three that are not started yet. To get those started and complete them is about $11 million of Federal cost share requirement.

In our title XVI appropriation, we have an $8.5 million ceiling left. There is also $25 million of ceiling left in the restoration fund ceiling that's left. So we feel there is plenty to cover those three projects that are left undone at this time.

Mrs. NAPOLITANO. But did the Bureau take into account that the coming projects that could be proposed by local entities may require more funding?

I would like to enter into the record, Mr. Chair, a copy of the actual contaminated—this is the Superfund site. The two on the left are El Monte and South El Monte, and the one on the bottom, the blue one, is Puente Valley. They all tie in. They all are part of the Superfund list.

Now, this is only what has been identified or is partly funded, while the bill itself, in 910, it only dealt with perchlorates. We're talking about VOCs in this area. The fact that it's twice as costly

to be able to clean some of the other, the perchlorates, it is depleting some of the funds. Their estimates are running higher than they thought. The fact that when El Monte, South El Monte and Puente Valley came on board, the actual funding cap had been placed so they really didn't know how much it was going to cost.

So how can you determine they are going to be able to fund out of the remaining funds available where there are still others that have not come on board dealing with this contaminated site, that have not been addressed because some of those cities did not have the expertise, they didn't have the ability to understand the whole impact or how it affected their drinking water.

Again, as you heard the Congresswoman indicate, there are carcinogens that affect health, especially of the elderly and children and those prone to cancer.

Mr. KEYS. Mr. Chairman, Mrs. Napolitano, I would say that we have evaluated those plans that have been presented to us under the authorizations that we're working with. If there are some that are out there that are incomplete or are still developing, we could certainly listen to those and evaluate them. But everything that we have been given to this date shows that we could cover the Federal share of that expenditure.

Mrs. NAPOLITANO. Commissioner Keys, did you by any chance have your staff talk to the three cities that I have tried to put this bill forth on?

Mr. KEYS. Mr. Chairman, Mrs. Napolitano, yes, we did. I spoke with my field office just Friday about all of these projects and how they came up with the numbers that supported my testimony.

Mrs. NAPOLITANO. OK. But did you actually have your staff talk to the city managers? I have letters that I would like to introduce into the record, Mr. Chairman, from all three cities, where they indicate this is a need. Apparently somebody from one of the water agencies indicated to your staff that there was no need to raise the cap, which is erroneous, because I have testimony from all three cities stating that there is a need.

Mr. KEYS. Mr. Chairman, Mrs. Napolitano, certainly if there's other information out there that we don't have, we would welcome it into Reclamation.

Mrs. NAPOLITANO. I would really appreciate it, Commissioner, and I look forward to working with you. I would like to enter these into the record, Mr. Chair.

Mr. CALVERT. Without objection, so ordered.

[The information referred to follows:]

CITY OF INDUSTRY

Incorporated June 16, 1957

March 31, 2003

Honorable Grace Napolitano
U.S. House of Representatives
1609 Longworth Building
Washington, DC 20515

Re: Increased Budget Authorization for the U.S. Bureau of Reclamation's San Gabriel Basin Demonstration Project Program

Dear Congresswoman Napolitano:

In June of 1999, the City of Industry, together with the cities of El Monte and South El Monte, asked you to introduce legislation for a modest expansion of the U.S. Bureau of Reclamation's San Gabriel Basin Demonstration Project, which was established in 1993. We asked you to raise the budget cap of $38.05 million imposed on Title XVI in 1996 by $12.5 million. The purpose of our request was to assure that the Title XVI had sufficient funds for groundwater cleanup and conjunctive use projects throughout the San Gabriel Basin, including projects in the cities of El Monte, South El Monte and Industry.

I write today to reaffirm the City of Industry's support for this increased budget authorization. We appreciate your efforts to raise the cap through your current bill, H.R. 1284, which is co-sponsored by Congressman Dreier and Congresswoman Solis, and support the bill's enactment for the current fiscal year.

As you know, the City of Industry is the home to almost 2,000 businesses, and is a major job center in our region. Reliable supplies of clean water are critical to keep and grow the large employment base in the City of Industry and other San Gabriel Valley communities. Local groundwater sources are an increasingly important part of our region's water supplies, especially with the recent redirection of Colorado River water that formerly came to southern California.

Since we wrote you in 1999, planning for groundwater cleanup projects throughout the southern part of San Gabriel Basin has moved into the final design stages, and some cleanup facilities have been constructed. While most of the Title XVI funds have gone to the largest cleanup projects in the northern part of the basin, the U.S. Bureau of Relation and its local partner, the San Gabriel Basin Water Quality Authority, have responded to the needs of our cities by directing or reserving some Title XVI funds to or for projects in El Monte, South El Monte and the City of Industry.

P.O. Box 3366, City of Industry, California 91744-0366 • Administrative Offices: 15651 E. Stafford St. • (626) 333-2211 • Fax (626) 961-6795

At this point, Title XVI dollars already spent on or earmarked for specific projects exhaust the $29.5 million previously appropriated for the program. Several recent applications pending before the Water Quality Authority will take up most of the remaining amount authorized for the program. Therefore, little or nothing will remain for new projects that we anticipate will be proposed over the next few years.

Sincerely,

Philip L. Iriarte
City Manager

cc: Mayor David Perez, City of Industry
Mayor Rachel Montes, City of El Monte
Mayor Blanca Figueroa, City of South El Monte
Kenneth Manning, Chairman, San Gabriel Basin Water Quality Authority

CITY OF EL MONTE
CITY COUNCIL'S OFFICE
11333 VALLEY BOULEVARD · EL MONTE, CA 91731-3293
(626) 580-2001 · (626) 580-2291
www.ci.el-monte.ca.us

March 31, 2003

The Honorable Grace F. Napolitano
Ranking Member
House Subcommittee on Water and Power
1609 Longworth House Office Building
Washington, D.C. 20515

Dear Congresswoman Napolitano:

In June of 1999, the City of El Monte together with the cities of South El Monte and Industry asked you to introduce legislation for a modest expansion of the U.S. Bureau of Reclamation's San Gabriel Basin Demonstration Project, which was established in 1993. We asked you to raise the budget cap of $38.05 million imposed on Title XVI in 1996 by $12.5 million. The purpose of our request was to assure that the Title XVI had sufficient funds for groundwater cleanup and conjunctive use projects throughout the San Gabriel Basin, including projects in the cities of El Monte, South El Monte and Industry.

As an El Monte Council Member, I write to reaffirm the City of El Monte's support for this increased budget authorization. We appreciate your efforts to raise the cap through your current bill, HR 1284, which is co-sponsored by Chairman Dreier and Ranking Member Solis, and support the bill's enactment for the current fiscal year.

As you know, a reliable and clean water supply is crucial for many Hispanic and minority-owned businesses as well as low-income households in the City of El Monte. El Monte currently has one of the lowest household incomes within Los Angeles County and very high unemployment. Securing reliable and clean water supply for my City is essential for me and my colleagues serving on the City Council as we work to restore and revitalize our economy for our working-class residents.

Since the three (3) cities wrote you in 1999, planning for groundwater cleanup projects throughout the southern part of the San Gabriel Basin has moved into the final design stages, and some cleanup facilities have been constructed. While most of the Title XVI funds have gone to the larger cleanup projects in the northern part of the basin, the U.S. Bureau of Reclamation and its local partner, the San Gabriel Basin Water Quality Authority, have responded to the needs of our cities by directing or reserving some Title XVI funds to or for projects in South El Monte, El Monte and Industry.

At this point, Title XVI dollars already spent on or earmarked for specific projects exhaust the $29.5 previously appropriated for the program. Several recent applications pending before the Water Quality Authority will take up most of the remaining amount authorized for the program. Therefore, little or nothing will remain for new projects that we anticipate will be proposed over the next few years.

Once again, we at the City of El Monte appreciate your efforts to secure funds for important groundwater cleanup and supply projects throughout the San Gabriel Basin. We are pleased to reaffirm the City's support for H.R. 1284.

Warm Regards,

PATRICIA A. WALLACH, COUNCILWOMAN
City of El Monte

PAW/HOJ/tmm/LTRS/NAPOLITANO HR 1284

CITY OF SOUTH EL MONTE

1415 N. SANTA ANITA AVENUE
SOUTH EL MONTE, CALIFORNIA 91733
(626) 579-6540 • FAX (626) 579-2107

March 28, 2003

The Honorable Grace F. Napolitano
Ranking Member
House Subcommittee on Water and Power
1609 Longworth House Office Building
Washington, DC 20515

Dear Congresswoman Napolitano:

In June of 1999, the City of South El Monte together with the cities of El Monte and Industry asked you to introduce legislation for a modest expansion of the U.S. Bureau of Reclamation's San Gabriel Basin Demonstration Project, which was established in 1993. We asked you to raise the budget cap of $38.05 million imposed on Title XVI in 1996 by $12.5 million. The purpose of our request was to assure that the Title XVI had sufficient funds for groundwater cleanup and conjunctive use projects throughout the San Gabriel Basin, including projects in the cities of El Monte, South El Monte and Industry.

As the mayor of South El Monte, I write to reaffirm the City of South El Monte's support for this increased budget authorization. We appreciate your efforts to raise the cap through your current bill, HR 1284, which is cosponsored by Chairman Dreier and Ranking Member Solis, and support the bill's enactment for the current fiscal year.

As you know, reliable and clean water supply is crucial for many Hispanic and minority-owned businesses as well as low-income households in the City of South El Monte. My community is physically dominated by small industrial businesses with several abandoned warehouses as the City is composed of 29% residential and 71% commercial property. South El Monte currently represents the lowest income area in the San Gabriel Valley within Los Angeles County as unemployment in my City is approximately 8.5% and 21.2% of the population is currently living at or below the poverty level. Securing reliable and clean water supply for my City is essential for me and my colleagues serving on the City Council as we work to restore and revitalize our economy for our working-class residents.

Since the 3 cities wrote you in 1999, planning for groundwater cleanup projects throughout the southern part of San Gabriel Basin has moved into the final design stages, and some cleanup facilities have been constructed. While most of the Title XVI funds have gone to the larger cleanup projects in the northern part of the basin, the U.S. Bureau of Reclamation and its local partner, the San Gabriel Basin Water Quality Authority, have responded to the needs of our cities by directing or reserving some Title XVI funds to or for projects in South El Monte, El Monte and Industry.

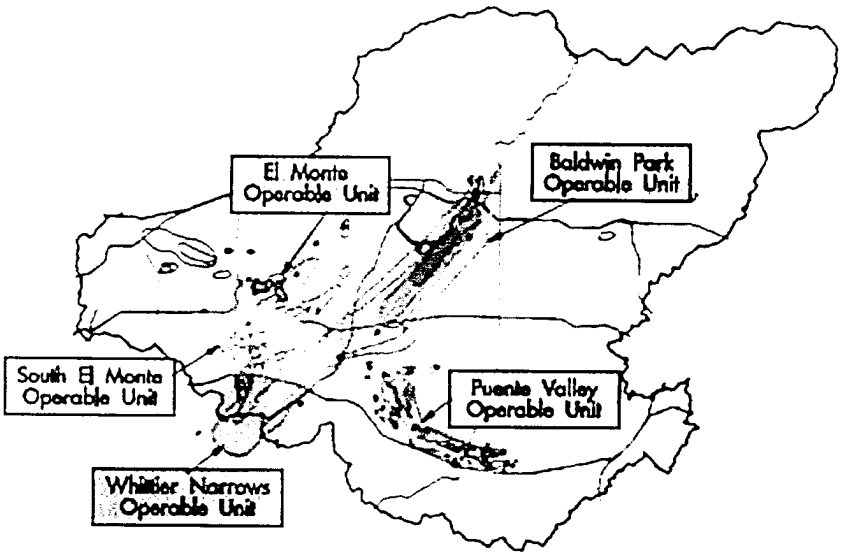
At this point, Title XVI dollars already spent on or earmarked for specific projects exhaust the $29.5 previously appropriated for the program. Several recent applications pending before the Water Quality Authority will take up most of the remaining amount authorized for the program. Therefore, little or nothing will remain for new project that we anticipate will be proposed over the next few years.

Once again, we at the City of South El Monte appreciate your efforts to secure funds for important groundwater cleanup and supply projects throughout the San Gabriel Basin. We are pleased to reaffirm the City's support for H.R. 1284.

Warm Regards,

Blanca M. Figueroa

Blanca Figueroa
Mayor
City of South El Monte



Mrs. NAPOLITANO. I certainly appreciate your willingness because it is, as you well know, a big site that continues to run into some road blocks here and there. I look forward to working with your Bureau to address those road blocks.

Thank you, Mr. Chair.

Mr. CALVERT. I thank the gentlelady.

Mr. Osborne.

Mr. OSBORNE. I would like to thank Mr. Keys for being here today. I have a couple of questions.

I gather from your testimony that the Western Water Initiative that you have already been working on is very similar to the concept of the 21st Century Water Commission that was envisioned by H.R. 135; is that correct? In other words, you feel there is some duplication or similarity here?

Mr. KEYS. Mr. Chairman, Mr. Osborne, there are a great number of similarities. I do not believe they would duplicate effort because certainly the Bureau of Reclamation only works in the 17 Western States. The initiative of the 21st century bill is for all of the United States. So ours does just focus on the Western States. But they are complimentary.

Mr. OSBORNE. There are a couple of statements that you have in your testimony that I would like to have you flesh out as little bit, if you could.

You mentioned that Reclamation is to promote intrastate water banking as a concept to help resolve future water supply conflicts. Could you explain that a little bit to me, as to how that works?

Mr. KEYS. Mr. Chairman, Mr. Osborne, we have used and are using water banks in several projects in the Western United States right now to address specific requirements associated with projects.

This year, in trying to address the problems in the Klamath Basin project in Oregon, we have established a water bank of 60,000 acre-feet there, where we have purchased that water from lands in the Basin—in other words, under a voluntary program, people have sold their water off of about 30-40,000 acres of land to produce 60,000 acre-feet of water to address the Endangered Species Act problems in the Basin. Setting that amount of water aside in a water bank, to be operated for the Endangered Species Act, frees the rest of the water supply in the Basin to be operated in its best manner for the irrigation in the Basin.

We have similar type water banks where we have purchased water going on in the Snake River Basin in Idaho, Washington, Oregon, in California, and we are in the process of working with the States of New Mexico and Texas on purchasing water into a similar water bank on the Middle Rio Grande for this year.

Mr. OSBORNE. Thank you. I guess my last question would be somewhat related. It says here that funding will be used to strengthen staff expertise in implementing and complying with the Endangered Species Act. So do you feel that staff knowledge and expertise can be improved in terms of implementing the Endangered Species Act and some aid is appropriate here?

Mr. KEYS. Mr. Chairman, Mr. Osborne, our people need all of the expertise that we can give them in addressing the Endangered Species Act, so that we can keep our projects running and at the same time accomplish the requirements of the Act.

Our projects are continually changing because of the demands on them, because of population growth, other requirements that are showing up that we didn't even plan for. For our folks to stay on top of those, we try to give them the best training that we can in dealing with the Endangered Species Act, the National Environmental Policy Act and so forth. This is to give our folks every advantage in working those projects, so that they can accomplish that.

Mr. OSBORNE. Thank you. I yield back.

Mr. CALVERT. I thank the gentleman.

Mr. Inslee.

Mr. INSLEE. Thank you, Mr. Keys. In regard to the Folsom Bridge project, if that was funded out of your budget, what impact would that have on other water related projects in your budget—for instance, the Yakima River Enhancement Project up in the State of Washington.

Mr. KEYS. Mr. Chairman, Mr. Inslee, our annual budget is about $850 million. Sixty-six million dollars is almost 10 percent of that. We are currently operating under a flat line assumption. In other words, our budgets are being held level with all of the other requirements on the Federal Treasury. I would anticipate a significant impact on our budget if that were to happen.

Mr. INSLEE. Thank you.

To fulfill Mr. Calvert's expectation, I wanted to ask you one question about global warming, because I don't want to let him down.

Just briefly, could you tell me what the Bureau has been doing to try to assess the impact of global warming on water supplies, particularly in the Western United States, if you can just give me a summary of your efforts, to the extent you have some.

Mr. KEYS. Mr. Chairman, Mr. Inslee, I don't have the people working for Reclamation that have that expertise. We work very closely with the Geological Survey and the National Academy of Science, who both have active programs underway evaluating global warming and what impacts there may be. We meet with them regularly and I have not seen a recent paper from them, but we get regular reports from them and we're working very closely with both of those agencies.

Mr. INSLEE. Could you share with me what information, at least in summary form, the Bureau may have "ginned up" in that regard? Would that be too difficult? Or could you ask your people to do that?

Mr. KEYS. Mr. Chairman, Mr. Inslee, we haven't ginned up any information. We go to those agencies and they tell us what's going on.

I will tell you that there are no short-term results from those things. There is nothing that we can take and say we need to operate a project or a storage facility this year to accommodate global warming. Certainly those are long-range projections, and we're still trying to take a look and see.

I would certainly poll my people to see if we have any reports from those two agencies that we could share with you.

Mr. INSLEE. I would be very appreciative. Thank you very much.

Mr. KEYS. You're welcome.

Mr. CALVERT. Get some of that global warming over here, will you? I'm tired of this weather.

[Laughter.]

Mr. Renzi.

Mr. RENZI. Thank you, Mr. Chairman.

Mr. Keys, during your testimony you made reference to the Hoover Dam that connects the great State of Arizona with Nevada. I just want to clarify for you an issue as it relates to the Hoover Dam and the security issues revolving around the transportation across that dam. I'm sure you're aware that we did not close the Hoover

Dam to passenger traffic. We have rerouted some of the cargo trucks.

In addition, for the last several year, as my good friend from Arizona, Mr. Grijalva, knows better than I do, we tried to connect Canada with Mexico through the new Cana-American-Mexican highway, and Mr. Grijalva has worked for years to help us blend and be involved in commerce between the three nations.

Given all that, after September 11th, the Hoover Dam was restricted to some traffic. We did not close the Hoover Dam. I see you want to say something.

Mr. KEYS. Mr. Chairman, Mr. Renzi, we did close Hoover Dam for a short period of time, and certainly it was recognized, the interruption of traffic on a Federal highway. It was opened fairly shortly, I think like 3 days afterwards to passenger car traffic. And then, as time went along, it was impacting the commerce on each side of the reservoir there. We implemented a special permit program with those trucks that needed to do business across the bridge and we currently have that in place.

We also have at Hoover—

Mr. RENZI. I'm aware of the transportation, and I appreciate that. Let me just get to my point.

Mr. KEYS. Sure.

Mr. RENZI. You may have closed the bridge or the dam for 3 days, but what we really did was we accelerated the building of a bridge just downstream, called the Willow Beach Bridge. As you know, Arizona and Nevada for years had been hoping and planning for that bridge, and we were very much bogged down in environmental studies, which were accelerated themselves. In that acceleration that was caused by the security concerns of September 11th, the Federal Government will now pick up more of the lion's share as it relates to the building of that bridge, since Arizona and Nevada have not been able to set aside the moneys in the same time fashion that the Federal Government would now like us to build that bridge. That's just a matter of record and fact, sir.

Mr. RENZI. Miss Rosier, thank you for your testimony on my bill and on the Zuni legislation.

One of the issues that you spoke about in your testimony was that the United States can avoid the costly litigation by approving this settlement, and that we also have a trust responsibility to Native Americans in this country, a trust responsibility that included in 1984 creating Zuni Heaven. The Zunis move out of New Mexico into Arizona, and their birthplace is recognized, from my colleague, Mr. Pearce's district in New Mexico, and a place where they pass into eternity is recognized in Arizona. So it's a migratory type of history, as well as two reservations, two areas, that typically was connected by their own lands.

In 1984, when we created Zuni Heaven and recognized a small piece of their original lands, we did not give them the water that goes with the land. We just gave them dry Arizona dirt. So I want to thank you for pointing out that we had a trust responsibility in your testimony today.

I recommend to my colleagues that we move forward in providing not just the land but also the water. Thank you.

Ms. ROSIER. Thank you.

Mr. CALVERT. Mr. Pearce.

Mr. PEARCE. Thank you, Mr. Chairman.

Commissioner Keys, is it possible to get a copy of your Western Water Initiative, and where did that originate and what was the approval process of that?

Mr. KEYS. Mr. Chairman, Mr. Pearce, we can certainly share with you the Western Water Initiative. It was part of the Fiscal Year 2004 budget presentation to Congress. It is based upon existing authorities. We have authority to do water conservation work under a number of different Acts.

The desalinization portions have been authorized several times. We could certainly share with you a copy of that and those authorizations.

Mr. PEARCE. Thank you, Mr. Chairman.

Mr. Keys, were you with the Bureau of Reclamation when they filed suit against the State of New Mexico over the Elephant Butte Irrigation District?

Mr. KEYS. Mr. Chairman, Mr. Pearce, I don't know what year that was.

Mr. PEARCE. Mr. Chairman, I would suspect it would be 5 years ago, 4 years ago. Commissioner Martinez was there at the time.

Mr. KEYS. Mr. Chairman, Mr. Pearce, I worked with Reclamation through 1998, and I came back as Commissioner in July of 2001. I have worked closely with Elephant Butte while I've been there on a number of issues.

Mr. PEARCE. Mr. Chairman, without being a lawyer, if I were to try to remember the circumstances, it was that the Bureau felt that, since they had built the dam and the structures, that they should own the water in the dam and should appropriate those waters instead of the State of New Mexico or the Elephant Butte Irrigation District.

Mr. Chairman, I would ask if that's an ongoing practice of the Department.

Mr. CALVERT. Are you asking me that question, or are you asking the Commissioner?

Mr. PEARCE. Mr. Keys, yes.

Mr. KEYS. Mr. Chairman, Mr. Pearce, I am not familiar with the case that you're talking about. I will tell you that every project we have ever built has a State water right, and we operate those projects within the State water rights. We have worked very closely with Elephant Butte on property issues. I am not familiar with a case where we have told the Elephant Butte folks that we own the water there.

I would certainly get myself up to speed and come and talk with you, if you would like me to do that.

Mr. PEARCE. Mr. Chairman, I would appreciate that. It would be meaningful. Because as I read the comments of the text, I see that the initiative is to expand and focus Reclamation's existing efforts, and then further down, developing solutions that will meet the increased demands for limited water resources in the West.

Those things begin to really concern me when the Federal Government begins to consider taking water rights away from State governments for possibly developing solutions for a limited resource. Again, I approach this from the perspective of a State

that's lacking in political power and lacking economic horsepower in the courts. So I'm curious about exactly how you intend to expand your capabilities and by what authority. That's the reason I would like to look at the report.

Mr. KEYS. Mr. Chairman, Mr. Pearce, not being argumentative, but I know of no case where Reclamation has taken water rights from a State. Certainly every piece of that Western Water Initiative would be implemented in close partnerships with all 17 of the Western States, to try to address future issues. From Reclamation's and Interior's viewpoint, the States are sovereign on water rights, and certainly every effort we would do would be to work with them in trying to stretch those water supplies further.

Mr. PEARCE. Mr. Chairman, I would also point out that the Commissioner's testimony mentioned the voluntary purchases of water rights, or the purchase of water rights from willing sellers, but the effect of that, Mr. Chairman, is to decrease the economy in an area, to decrease the economic base in an area. I'm in one of the States that is 60 percent owned by Federal or State governments, who have retired land out of productive use. It's causing extreme havoc in our county budgets and in our State budgets.

Then, according to your own testimony, I refer the Commissioner to his own testimony, that they were not so concerned about the economic impacts at Folsom, but they are concerned about the economic impacts somewhere else. So it is that different value system that concerns me somewhat as I look at the West and possible actions by the Bureau of Reclamation.

I will let the gentleman respond and will yield back.

Mr. CALVERT. I thank the gentleman. I'm sure Commissioner Keys will be more than pleased to come by your office and discuss these issues.

We're going to try to get a couple of quick questions off before we have to go on recess. Mr. Rodriguez, do you have a question?

Mr. RODRIGUEZ. Mr. Chairman, let me apologize and thank you for having me at my first Subcommittee meeting of this Committee.

Mr. CALVERT. Welcome.

Mr. RODRIGUEZ. Thank you very much. I apologize. I just wanted to maybe get some guidance.

We have had some real serious problems on the Mexican border with the treaty that we've had with Mexico, especially the State of Chihuahua on the other side. It is supposed to relinquish about 350,000 acre-feet of water per year and they haven't been doing that for some time now. They're always about 1.7 million acre-feet. They released a certain amount recently, but we've had some problems, where the Rio Grande no longer flows into the Gulf.

I was wondering, in terms of some guidance in that area might be helpful, and what you might suggest we do to be able to help some of the people in the lower part of the Rio Grande, especially on the Texas border.

Mr. KEYS. Mr. Chairman, Mr. Rodriguez, that problem is being handled by the State Department and the International Boundary Waters Commission. We are working very closely with them to provide them the information that they need. But the State Department is the lead on that at the current time. I have no advice for you on how to handle that right now.

Mr. RODRIGUEZ. OK. Because we've had some difficulty in trying to come to grips with that. And two-thirds of that is owed to people downstream on the Mexican side, so they are also hurting. Thank you very much.

Mr. CALVERT. I thank the gentleman for that question.

Mr. Nunes.

Mr. NUNES. Thank you, Mr. Chairman. Mr. Keys, it's good to see you again.

In your testimony in opposition to H.R. 1284, you talked about the funding ceiling provided by title XVI and that there was additional funding up to—I think it is $25 million remaining under the ceiling on the restoration fund. Can you clarify the difference between title XVI and its origination, and also the difference between the restoration fund and its origination?

Mr. KEYS. Title XVI was part of Public Law 102-575, passed in 1992. Every project that is authorized under title XVI has its own limits and fundings and authorizations that go along with it.

When San Gabriel was authorized, we were authorized about $40 million there, and certainly we still have about $8.5 million of that cost ceiling left. The restoration fund was authorized at $80 million, of which $70 million was dedicated to the San Gabriel restoration work. There is currently $25 million of that ceiling left.

Mr. NUNES. When was the restoration fund authorized? What restoration fund is this, and what authorized it?

Mr. CALVERT. If the gentleman will yield, I believe that legislation was offered by Mr. Drier—

Mrs. NAPOLITANO. 910.

Mr. CALVERT. —910, and it authorized the amount of money to put forward for the restoration of the San Gabriel Basin. It was a separate restoration fund, I believe.

Mr. KEYS. Mr. Chairman, it was authorized in the year 2000. Congress created the San Gabriel Basin restoration fund and it provided a 65 percent Federal cost share. It was authorized at $85 million, 75 of which was dedicated to the San Gabriel Basin.

Mr. NUNES. Commissioner, thank you. As you know, "restoration fund" is a term that is used for many other issues.

Mr. KEYS. Yes.

Mr. NUNES. So I wanted to clarify that it wasn't the same restoration fund that I've asked about, I think on four separate occasions. I still have not received, as of this date, anything in regards to the CVPIA restoration fund, as to its current account balance, nor any other issues as to what the money has been spent on in the last 10 years. I'm still waiting very patiently for that information, Mr. Keys, and I find it a little bit disconcerting that I haven't heard back from the Bureau yet.

Mr. KEYS. Mr. Chairman, Mr. Nunes, I will get that to you as soon as I can.

Mr. NUNES. OK. Thank you. I would appreciate it.

Mr. CALVERT. And I know from experience, Commissioner, he's not all that patient.

[Laughter.]

Mr. KEYS. Thank you.

Mr. CALVERT. Mr. Ose, if you'll be patient, we have a series of three votes, and if this panel would please stay with us, we're going

to go vote, come right back, and we will finish with Mr. Ose's questions. Then we have a panel here from the community of Folsom. So thank you very much.

We are recessed until after the last vote.

[Recess.]

Mr. CALVERT. While we're waiting for Mr. Ose, I thought I would ask the Commissioner a question on the qualification settlement agreement. As you know, the State of California, the primary folks in this agreement, have come to a tentative agreement. Is there any new news you would like to pass on to the Committee?

Mr. KEYS. Mr. Chairman, I don't have any news right now, other than to say there is a negotiating committee, or there is a group of people from Interior in California, yesterday and today, talking with those folks about the QSA and the settlement. So negotiations are underway.

Mr. CALVERT. Well, we certainly are looking to a positive resolution as soon as possible.

Mr. Renzi, did you have any further questions for the Commissioner?

Mr. RENZI. Yes, thank you.

I just wanted to clarify the point that I made earlier when we were talking about the Hoover Dam. I appreciate your knowledge of the transportation that goes over it. I just don't want to make the fact of the impact as it relates to these local communities is something that the Federal Government in my State is willing to bear. I think it's probably relevant to the argument as it relates to Mr. Ose.

I realize you have a tough job to do. We're looking at communities that are now being drastically impacted on the way they travel, and economically being greatly impacted. But I do believe it is reasonable that we consider particularly the funding mechanism that Mr. Ose is talking about putting together.

Thank you for your testimony on the Zuni situation. It's a long time coming. Senator Kyl did a great job of pulling this together, and Congressman J.D. Hayworth worked on it before I was able to take over. I know we've got representatives here from Arizona, from the Zuni Tribe, who have for years persevered and have come a long way to make sure that we provide adequate resources along with the land to allow Zuni Heaven to become a reality.

I had an opportunity, Mr. Chairman, to see a copy of the master plan of what Zuni Heaven will eventually look like. It's a beautiful garden spot that our nation will be able to be respectful of and also to be sure the trust responsibilities have been significantly discharged to the good people of the Zuni Tribe. So thank you for your leadership, too, and for your years of making sure we get to this point today.

Thank you, Mr. Chairman.

Mr. CALVERT. Thank you.

Mrs. Napolitano.

Mrs. NAPOLITANO. Commissioner Keys, one last question.

The Bureau of Reclamation had a toilet exchange program. Where is that at?

Mr. KEYS. Mr. Chairman, Mrs. Napolitano, I did not hear the whole question.

Mrs. NAPOLITANO. There was as toilet exchange program funded by the Bureau of Reclamation, up to maybe about a year ago, whereby I think it was the Met was charging nonprofits or schools to go out and exchange them for the high volume of water, two gallons or whatever it is, versus the low flush toilet. That was being funded out of the Bureau of Reclamation.

I'm wondering whether the program is going to be refunded?

Mr. KEYS. Mr. Chairman, Mrs. Napolitano, I have to confess I don't know anything about it. I will certainly find out and get back to you.

Mrs. NAPOLITANO. I would appreciate it.

Mr. Chair, I don't know if my witness who flew in to give testimony on the Puente Valley operating unit—I guess they told him we would be back a little longer than it was thought, and he must be outside waiting. So I have sent somebody to look. So, if I may, I would like to bring him in when he comes.

Mr. CALVERT. Without objection.

Mr. Ose.

Mr. OSE. Mr. Chairman, thank you.

Mr. Keys, first of all I want to commend you on your presentation today. I know we don't agree on this issue, and we've had that conversation.

When DTRA did its analysis of Folsom, what was the basis under which they looked at it, why that one and not others?

Mr. KEYS. Mr. Chairman, Mr. Ose, starting in September of 2001, we started an evaluation of every structure that Reclamation operates, all of our dams, 346 of them, 58 power plants, and some other critical infrastructures. The DTRA analysis has been used on all of those, in addition to some RAM-D analyses that were developed by the Corps of Engineers. So that DTRA analysis is the same methodology that we've used on all of our facilities.

Mr. OSE. In the context of homeland security, did the Folsom Dam issue rate high, medium or low?

Mr. KEYS. Mr. Chairman, I would prefer not to answer that outside of a secure briefing. We would certainly offer that to you and Mr. Ose and other members of your Subcommittee.

Mr. OSE. I'm agreeable to that, Mr. Chairman.

Mr. CALVERT. We'll arrange for that to happen soon, with the Commissioner, Mr. Ose and myself, and any other interested members.

Mr. OSE. Mr. Keys, if I may, I want to make sure I understood your earlier testimony; that is, that the Bureau has, in fact, built bridges?

Mr. KEYS. Mr. Chairman, Mr. Ose, that's correct.

Mr. OSE. Was Reclamation responsible for their design?

Mr. KEYS. Mr. Chairman, Mr. Ose, each one of those was authorized as part of a water resources project, and we were responsible for the design and construction of those facilities.

Mr. OSE. So like the one in Glen Canyon, that was done by the Bureau in its entirety?

Mr. KEYS. That's correct.

Mr. OSE. Now, I'm told that, in fact, the Bureau's bridge designers in Denver have conceptual drawings on Folsom Dam. I'm only told that anecdotally.

Mr. KEYS. Mr. Chairman, Mr. Ose, we have looked at a number of options at Folsom, as we do at a lot of our facilities. There was an appraisal level report that was done at the field level on a bridge for taking the traffic off of the dam earlier.

Mr. OSE. And the property where the new bridge would be proposed to be built, is that Reclamation land?

Mr. KEYS. Mr. Chairman, Mr. Ose, that's correct.

Mr. OSE. OK.

Mr. Chairman, I want to again thank you for having this hearing. I appreciate the opportunity to interact with Commissioner Keys. He and I disagree on this issue, as you have noted.

I yield back.

Mr. CALVERT. I thank the gentleman for bringing this legislation forward. We will be marking up the legislation on Thursday, along with the Zuni Indian legislation, the San Gabriel legislation, and the Linder commission legislation, Thursday at 10 o'clock in the morning. So hopefully we can move this along to the full Committee as soon as possible.

With that, if there are no further questions for this—Mr. Nunes.

Mr. NUNES. Commissioner Keys, I apologize, but I just want to kind of go on farther from where we left off regarding the restoration fund.

I realize that it's different than H.R. 1284. It's a different restoration fund than the CVPIA restoration fund. But I am a bit concerned that myself and other members have made requests in writing for an account of the CVPIA restoration fund money, and now, during our brief recess, when I went to vote, luckily another member's office was in here and they actually had, as of November 30th, 2002, the exact information that I have been requesting for 85 days, roughly.

I realize that the information is hard to get and we don't have it. But obviously, at one point or another, the Bureau did get the information to another Member of Congress. So I find it a little disconcerting, Commissioner—and I know this is probably not your doing. But I want to kind of get to the bottom as to why I can't get some very simple numbers that greatly impact my district and the entire San Joaquin Valley to the tune of probably close to $100 million a year, I would guess.

Mr. KEYS. Mr. Chairman, Mr. Nunes, your concerns are my concerns. I did not understand that we had those figures together. I will certainly find out and have them to you as quick as possible.

Mr. NUNES. OK. And I can get this information to you, if that would help you get to the bottom of who actually has the numbers, at least as of 5 months ago.

Mr. KEYS. Mr. Chairman, Mr. Nunes, I will get them myself from our agency, and if I cannot find them, I will come back to you and do that.

Mr. NUNES. Thank you very much, Mr. Keys.

Thank you, Mr. Chairman.

Mr. CALVERT. I thank the gentleman. Again, I want to thank this panel.

One last comment. Today is April 1st. It's not April Fools necessarily. But we understand from Interior—and maybe this is coming out of a different part of the shop over at Interior. But the

crosscut budget for the Cal-Fed project was required to be brought in front of this Committee on April 1st. So if you could pass that along to our friends, I would appreciate it. We hope to get that this week because we need that in the formulation of our Cal-Fed legislation.

Mr. KEYS. Mr. Chairman, I will certainly take that back. I was not aware of that deadline, but we will take it back and be sure that that happens.

Mr. CALVERT. I would appreciate that.

I want to thank you, Commissioner, as I always do, for your courtesy and for coming to this Committee and putting up with us for a little while. I appreciate that.

Ms. Rosier, thank you very much. You both have a good day. You're excused. Thank you.

Mr. KEYS. Thank you, Mr. Chairman.

Mr. CALVERT. Our next panel is Mr. Jeff Starsky, councilman, city of Folsom; Ms. Aileen Roder, Taxpayers for Common Sense; and Mr. Roger Niello, Sacramento County Supervisor. I ask unanimous consent to submit the statement of the Honorable Steve Miklos, the Mayor of the City of Folsom, California, for his statement. Without objection, so ordered.

[The prepared statement of Mayor Miklos follows:]

Statement of The Honorable Steve Miklos, Mayor, City of Folsom, California, on H.R. 901

Mr. Chairman and distinguished members of the Committee, my name is Steve Miklos, and I am the Mayor of the City of Folsom, California. I appear today in support of H.R. 901, a bill to authorize the Secretary of the Interior to construct a bridge on Federal land west of and adjacent to Folsom Dam in California. I appreciate the opportunity to speak today regarding this legislation.

I thank this Committee for holding this hearing today. While this is one of the first steps for this bill in the legislative process, many pieces of legislation never even receive a hearing. I believe this hearing serves as evidence that the Chairman of this Committee, Mr. Calvert, and the Members of this Committee take very seriously the problems and concerns facing the people of my City and of our entire region. On behalf of the citizens I represent, thank you for taking up the matter of H.R. 901 and demonstrating your desire to help us find a way to cope with the disruption caused by the closure of Folsom Dam Road earlier this year.

I also wish to thank both Congressman Doug Ose and Congressman John Doolittle for their ongoing support for our City and our region. Our City appreciates deeply Congressman Ose's commitment to improving the lives of the citizens of Folsom, and we specifically commend him for introducing H.R. 901 very early in the First Session of the 108th Congress. Congressman John Doolittle has been a friend and strong advocate on behalf of Folsom for over a decade, and we look forward to continuing our work with him on behalf of our entire region.

My colleague on the Folsom City Council, Councilmember Jeff Starsky, has testified regarding many of the specific problems associated with the decision to permanently close Folsom Dam Road. He has also drawn an accurate picture of severe problems caused by the road closure. I take this opportunity to expand several of the points covered in his testimony and extend the discussion further into public policy so the Committee Members can understand why we believe H.R. 901 is the best legislative approach to achieve our goals.

H.R. 901 is important legislation on several levels. Locally and regionally, the legislation will help relieve impacts of circumstances and decisions beyond our local control. Although our City and our local economy are relatively strong, we live in uncertain economic times. Our City continues to cultivate our strong economic base while simultaneously working to develop new business opportunities benefitting our City as well as our region. The closure of Folsom Dam Road has a significant negative impact on local and regional businesses of all sizes—from local "Mom and Pop" stores to our larger corporate citizens. We need Federal assistance to replace the closed crossing with a four-lane bridge as rapidly as possible—we cannot do it alone.

The State of California is, as the Committee is aware, in difficult financial straits. The State of California is not in a position to provide significant assistance in our efforts to restore what was a major regional artery. We will continue to press our State government to help us solve our regional traffic congestion caused directly by the Bureau closing Folsom Dam Road, but we have slim hopes of actually securing the level of assistance necessary to mitigate the closure.

On the Federal level, H.R. 901 is important legislation for at least two reasons. First, the legislation acknowledges the role of the Federal Government to assist local and state governments achieve important objectives that are not within the scope of non-Federal resources.

Second, and more specifically relevant in the current situation facing Folsom, H.R. 901 correctly answers the question of responsibility for mitigating the impacts of the decision to close Folsom Dam Road. Those of us in local government know very well that responsibility for our actions rest with local government. If we condemn property under the law of eminent domain, we are responsible for making the property owner whole. When we temporarily close a road, we hear quite clearly from our constituents that we are responsible for getting that road open quickly. We understand that there are consequences to our decisions and that we in local government have a responsibility to mitigate negative consequences.

Similarly, I emphatically believe it is the duty of a Federal agency with the authority to make a decision with such negative local and regional impacts to bear the responsibility to help mitigate those impacts. Without this kind of certainty of responsibility, local governments can be shuffled between Federal agencies for years without ever securing the assistance needed to resolve problems created by the decisions of Federal agencies. There are several public agencies which could, in theory, be responsible for funding the new bridge, including the Department of Homeland Security, the Department of Transportation, and the Department of Defense via the Army Corps of Engineers. I would argue that none of these agencies are in any better or worse position to take charge of the new bridge. But the distinction between the other agencies and the Bureau of Reclamation is, in my mind, quite clear: the Bureau of Reclamation had the authority to close the road and it exercised that authority. Good public policy requires the Bureau of Reclamation to bear responsibility for replacing the river crossing closed by its decision.

I have testified why I believe H.R. 901 makes sense and why I am urging the Committee to report the bill favorably as expeditiously as possible. I do not want to leave the Committee with the impression that I believe the Bureau of Reclamation is wrong to attempt to protect the dam from terrorist attack. Those of us testifying on behalf of H.R. 901 recognize the real risks associated with allowing public traffic on Folsom Dam Road. Last year, I outlined for this Committee the devastating impacts of a breach of the dam and focused on impacts to our region's transportation infrastructure. I testified how providing the new bridge for traffic would protect our freeways, our light rail, our local streets and regional transportation corridors, our rolling stock, and our other transportation assets from loss and damage due to a massive flood. And I pointed out the inextricable link between transportation infrastructure and our local, regional, and national economy. Thus, a decision taken to protect our transportation infrastructure from flooding is a good decision, and we argued that traffic should be removed from the road and the dam should be closed to the public.

But I also testified that Folsom Dam Road should have remained open—if at all possible and with proper controls in place—until the new bridge was in place. Folsom Dam Road was the easternmost river crossing downstream from the major river forks. It serves businesses and residents traveling between major employment centers in El Dorado County, eastern Sacramento County, and Placer County. Approximately 18,000 vehicles a day cross the dam. The dam crossing is a major regional traffic connector providing access between jobs and housing in the three different counties. Some of our region's largest industrial and commercial employers used Folsom Dam Road, including Intel, Hewlett–Packard, and Blue Cross. And especially during the summer months, Folsom Dam Road was an indispensable crossing for visitors to Folsom Lake—the most visited state park in the State of California—and the region's parks and recreation facilities.

The crossing at Folsom Dam needed to be moved off the dam, but the impact of doing so without a replacement bridge in place is and will continue to be devastating to the local and regional economy. Folsom Dam Road was an inadequate, but essential, transportation artery between the three counties. It was extraordinarily important for local circulation. Just as there is a balance between airport security measures and moving people efficiently onto departing flights, so too there must be a reasonable security system put in place to protect the dam while allowing the public to cross the dam until the new bridge is completed.

I understand and appreciate the difficulty faced by Commissioner Keys and the Bureau of Reclamation generally. They understand the importance of the road to local and regional transportation and air quality, but they also understand their responsibility to safeguard Folsom Dam. However, now that the road is closed and the dam is secure from possible vehicular attack, the Bureau cannot avoid the consequences of its decision to close the dam. I do believe the Bureau has a limited budget and I encourage Congress to provide adequate funding to the Bureau so it can discharge its other responsibilities while making the City of Folsom and our region whole again. If the Bureau of Reclamation is not responsible for its decisions, then I fear we will suffer intolerable traffic, air quality, and negative economic consequences of the road closure for many, many years to come.

Mr. Chairman, I appreciate the opportunity to testify on behalf of the City of Folsom in support of H.R. 901. We understand that there are many new priorities in our nation now. We are mindful of the cost of the war in Iraq—both the human toll as well as the financial cost. But we do believe that we as a nation must not neglect significant internal matters, and for those of us in the Sacramento Metropolitan region, the new bridge at Folsom Dam is a significant matter. We need the new bridge to remain economically vital both locally and regionally. We need the new bridge to alleviate traffic directly resulting from the closure of Folsom Dam Road. We need the new bridge to help lessen pollution locally and regionally caused by cars idling while waiting to squeeze through new choke points. We urge you and your Subcommittee to support H.R. 901 and work towards its speedy passage.

I would be happy to answer any questions you may have, and I thank you for the opportunity to testify today.

Mr. CALVERT. First I would like to recognize Mr. Jeff Starsky for his opening statement.

Please try to keep the opening statements within the 5-minute time line. Any additional information will be entered into the record. So, with that, Mr. Starsky, you are recognized for 5 minutes.

STATEMENTS OF JEFFREY STARSKY, COUNCILMAN, CITY OF FOLSOM, CALIFORNIA

Mr. STARSKY. Thank you, Mr. Chairman, distinguished members of the Committee. My name is Jeffrey Starsky. I am a representative on the city of Folsom's City Council, here on behalf of the 50,000 taxpayers which reside in my city. I want to express my appreciation for the opportunity to appear myself on behalf of my constituents and, in addition, on behalf of the three million users of the roadway that traverses the Folsom Dam, and the opportunity to have our voices heard at this very, very important hearing.

I would first also like to thank Congressman Ose, our Representative and champion, for those of us in the city of Folsom. Congressman Ose's efforts and vision has helped us accomplish what has been a tremendously disruptive impact from the closing. In addition, we would like to thank Congressman Doolittle for his tremendous support. He has been a long time friend of our region.

I think it is important to note that these two gentlemen have worked and, with the introduction of H.R. 901, are working on something that will not simply benefit the people they represent. This is going to benefit a region. As I said, three million people will traverse this roadway, or had until a month ago, traversed this roadway. These men are looking beyond the bounds of politics and are looking to help our region survive what will be a devastating economic impact.

I would ask, Mr. Chairman, that my written comments be submitted, and I do not intend to read those. I just wanted to highlight a few of the salient points.

Mr. CALVERT. Without objection, your full statement will be entered into the record.

Mr. STARSKY. Thank you, sir.

Briefly, just some history of this area. When this facility was constructed in the 1950's—it is important to remember that there were three crossings across the American River prior to the construction of this dam: the Mormon Island Bridge, the Rattlesnake Suspension Bridge, and the Salmon Falls Bridge. When the dam was constructed, the Salmon Falls Bridge was the only bridge that was relocated and reestablished across the river. The other two were never replaced.

The two lanes across the Folsom Dam did help to address some of the transportation issues that were addressed by this facility. Of course, at the time the city was small, the region was very small. But now, as the region has continued to grow, this transportation link has been absolutely vital to the economic success of the area.

Quickly, to talk about the impact itself on the city of Folsom, I can speak directly to those. Within the first week of the dam road closure, the city expended $38,000 just in additional security and additional law enforcement. We have seen a 40 percent increase in traffic accidents within our city, and we expect this could amount to as much as $15,000 per week in additional police and fire protection services.

The loss of businesses in our city we are unable to measure at this time. It has simply been too early. I know I have spoken to several business owners that are along the immediate affected corridors. They have seen a 50 percent drop in their floor traffic. That, of course, has a tremendous impact on the sales tax, which is a direct benefit to the city of Folsom, as you are aware. California, as most of you know, is suffering a very serious financial crisis, and cities are at risk for funds through property taxes, and we're very, very concerned that an impact on sales taxes is our last bastion that will be impacted.

By way of example, when the facility experienced the failure of a gate in 1995, 38 businesses within the city of Folsom closed as a result of that short-term closure. We are very, very concerned about the long-term impacts this time of a permanent closure.

Most importantly, the impact is going to be in our redevelopment area. Our redevelopment is an area that we have tried to remove the blight. It is an old area. Many of you may not have the history of Folsom, but it dates back to the Pony Express. We have preserved our historic district in that setting, and we use it as a retail area. We try to attract businesses and tourism, which is being choked off by the 18,000 additional vehicles that are traveling through and directly impacting that area.

My last comment would be that I view this a little bit like when we, as a city, act and we take something. We have a transportation route here that has existed for over 50 years. It has been that region's transportation route. The Federal Government, by the actions of the Bureau, have taken that from us. When those of us that are on city councils act to take property or rights, we have to

pay for those rights. We are asking that the Federal Government do the same.

We do not dispute the contentions of the Bureau, that this is a national security issue. It absolutely is. All we're asking is that we be given mitigation rights, as the Federal Government has done in the past.

Thank you very much.

[The prepared statement of Mr. Starsky follows:]

Statement of Jeffrey Starsky, Councilmember, City of Folsom, California, on H.R. 901

Mr. Chairman and distinguished members of the Committee, my name is Jeffrey Starsky and I serve on the City Council of the City of Folsom, California. I appreciate the opportunity to speak today regarding H.R. 901, a bill to authorize the Secretary of the Interior to construct a bridge on Federal land west of and adjacent to Folsom Dam in California.

I wish to begin by thanking you and the members of the Subcommittee on Water and Power for holding this hearing this afternoon. The citizens of the City of Folsom, Sacramento County, El Dorado County, and Placer County need your assistance in helping us adjust to the recent closure of Folsom Dam Road, a major regional connector and lifeline for many local and regional businesses and families. This hearing today is a critical step in the life of H.R. 901, and demonstrates your concern and commitment to our city and our region.

On behalf of the City of Folsom, I also wish to thank Congressman Doug Ose for his leadership and for introducing H.R. 901. Congressman Ose has served his constituents and the nation well since first being elected in 1999. Folsom is proud to have Congressman Ose represent us in the United States Congress, and we appreciate his commitment to our City, our region, and the State of California.

In addition, we wish to thank Congressman John Doolittle for cosponsoring H.R. 901. Congressman Doolittle has served the City of Folsom in the House of Representatives for over a decade with distinction and honor, and our City values deeply his hard work, dedication, and commitment to our City and Northern California.

By way of background, The Flood Control Act of 1944 authorized the U.S. Army Corps of Engineers to build a dam on the lower American River. The U.S. Army Corps of Engineers completed construction on Folsom Dam in 1956. The U.S. Bureau of Reclamation now operates the dam. The reservoir holds just under one million acre feet of water when filled to operational capacity. The dam's power plant has three penstocks delivering 6900 cubic feet per second to turbines producing approximately 10% of the power used in Sacramento each year.

Three river crossings were inundated and lost in the 1950's when the reservoir filled up: Mormon Island Bridge, Rattlesnake Suspension Bridge, and Salmon Falls Bridge. While the Salmon Falls Bridge was located upstream and is accessible today, the other two crossings were never replaced. Each crossing included two lanes, thus four lanes were lost as a direct result of dam construction.

The Federal Government and others recognized security risks posed by traffic on Folsom Dam Road, but the matter never seemed urgent until September 11th changed America's way of thinking about security within the United States. In one morning, the issue of traffic atop the dam was transformed into a distinct and critical issue of national significance.

The new bridge at Folsom probably would never have been the subject of its own congressional hearing without the tragedy of September 11th. It is likely the project would have continued to play a minor role in Sacramento's flood control debate. I believe this is an important point to remember—the need for the new bridge transcends flood control and is, in fact, a security issue.

Even prior to September 11th, Congressman Ose and Congressman Doolittle recognized the need to move traffic off the dam to a new bridge. H.R. 2301, introduced in the last Congress, would have achieved that goal. Now, H.R. 901, introduced by Congressman Ose and cosponsored by Congressman Doolittle, carries forward the effort to provide a bridge to replace Folsom Dam Road which, by the Bureau of Reclamation's own admission, was a major transportation artery for the City of Folsom as well as Placer County and El Dorado County.

Almost one year ago I testified before this same Committee in strong support of legislation authorizing construction of a bridge to replace Folsom Dam Road. During that hearing, my regional colleagues and I emphasized the need to ensure the secu-

rity of Folsom Dam and Folsom Reservoir. We pointed out that removing automobile traffic from Folsom Dam would help prevent a catastrophic failure and flood caused by a terrorist act. We testified that a major breach caused by a terrorist act would result in a titanic flood—hundreds of thousands of lives would be at immediate risk, as would the capitol of the fifth largest economy in the world.

We insisted that a new bridge replacing Folsom Dam Road would be essential for the physical safety and economic stability of our City and the entire Sacramento metropolitan region. We also outlined the costs and heavy burdens our City and our region would bear if the Bureau of Reclamation closed Folsom Dam Road prior to having a new bridge in place.

As the Committee is aware, the Federal Government drew the same conclusions regarding the security of the dam. The Federal Government took action and the U.S. Bureau of Reclamation closed Folsom Dam Road on February 28, 2003. I am here today to tell you that our prognosis of closure offered to you one year ago was, unfortunately, quite correct. The City of Folsom and the citizens of our region now bear the heavy burdens of the Bureau's sudden and complete closure of Folsom Dam Road.

I am not suggesting that the Bureau's decision was unjustified or hasty. But, in fact, the closure did occur suddenly, with little warning, and with no plan in place for assisting the region in handling the disruption of traffic patterns established over decades.

Last year, I testified that closing Folsom Dam Road without providing a replacement bridge would do significant and lasting damage to our local and regional economy and environment. Only a short time has passed since closure, but I can report that closure has, in fact, done significant damage to our local and regional economy and environment. For example, closure without replacement costs the City $15,000 a month in traffic control costs alone. These direct and quantifiable costs may seem insignificant viewed on the Federal level, but I can testify without reservation that the costs are enormous locally and regionally.

Public safety has also been compromised by the closure. Specifically, our police and fire departments have lost a primary access which severely impacts response times. Also, the routes emergency vehicles must use are now are heavily impacted by traffic which has been re-routed from the now closed Folsom Dam Road.

We are gathering additional facts regarding other direct costs to the City. As a procedural matter, I would request that the Committee leave the record open temporarily so the City can provide additional impact information as it becomes available. But the real costs to our economy and environment are widespread, enormous, and can neither be easily nor accurately quantified. We see these costs being borne by the people of Folsom and our region every day. We see 18,000 additional vehicles each day now clogging the streets of our City. We miss meetings and we are late to pick up our children from school. We burn expensive gasoline and pollute our air while waiting for traffic to cycle through intersections designed to carry a fraction of the traffic now imposed on the City.

I can report to the Committee that businesses located along impacted roadways have suffered immediate and significant negative impacts. Negative impacts on businesses are not only felt near the closed road entrances, but also all along the newly heavily congested alternative routes. Customers are finding it very difficult to enter and exit parking lots, and traffic congestion has driven shoppers away from local business. It is important to note in particular that the impacted routes run through the heart of the City's redevelopment area, putting the City's significant redevelopment efforts and opportunities at risk.

Last year, we framed the twin issues quite clearly: ensuring the physical security of Folsom Dam, and ensuring the economic security of the City of Folsom and our region. The Bureau's decision to close the road without a plan to replace the road addressed the first issue while simultaneously and immediately undermining the second. H.R. 901 addresses the significant local and regional negative impacts of a Federal response to a grave national security risk. The Federal Government needs to take responsibility for these impacts and mitigate closure by way of providing a bridge.

We who live in the Sacramento region are quite familiar with the negative impacts of the closure of Federal facilities due to national security concerns. In the past decade we have endured the costs of the closure of three major military facilities: Mather Air Force Base, McClellan Air Force Base, and the Sacramento Army Depot. In each case, the Federal Government's decision to close its facilities had significant, immediate, and lasting negative impacts locally and regionally.

However, in the case of base closure, the Department of Defense worked with our region to mitigate the impacts of its decision to close the facility. The Air Force and the Army spent significant amounts of money to help our region during and after

the closure of each facility. The Department of Defense assisted our region—through funding and technical assistance—in adjusting to the loss of the Federal facility. In short, the Department of Defense did not merely pull up stakes and put a lock on the gate.

The positive results of the efforts of the Department of Defense are real and measurable. The facilities have transformed into important and positive economic engines for our region. The Federal Government's acknowledgement of responsibility for assisting local and regional government respond to base closure should serve as a model in the case of the Bureau of Reclamation's decision to close Folsom Dam Road. Without the same high level of Federal assistance, the impacts of Folsom Dam Road's closure on national security grounds will be borne entirely by the City of Folsom and the citizens of Placer and El Dorado Counties. Furthermore, the negative effects of closure will be felt throughout the entire Sacramento Metropolitan region.

There are distinctions to be drawn between base closure and our current situation. While military bases do come with significant negative characteristics—for example, the costs associated with environmental clean up at closed bases are real and significant—military facilities also come with significant positive features and facilities. In the case of Mather Air Force Base—renamed Mather Field—the facility is now a major hub for freight movement thanks to its excellent runway and access to major surface transportation corridors. McClellan's superior facilities and transportation access have drawn important businesses to headquarter there. However, Sacramento would have been unable to take advantage of the positive attributes of these facilities without direct and active assistance—technical and funding—from the Department of Defense.

In the case of Folsom Dam Road, there are neither direct nor indirect benefits to closure beyond ensuring dam security. While this is a critical objective, we cannot view this matter in the vacuum of national security. There are real and negative impacts as a direct result of closure without replacement. Borrowing from the Department of Defense model once again, national security needs are linked with economic needs. That is why DOD put so much effort and funding into base reuse. DOD recognized the shortcomings of trading military readiness for regional economic security without mitigation, and DOD took responsibility and action to help ensure a safe transition for the local and regional economy. We ask the Federal Government—specifically, the Bureau of Reclamation—to do the same in the case of Folsom Dam Road.

As I testified last year, the new bridge would provide extremely important and direct benefits to our region. Our City and our region have attempted to address traffic congestion and air pollution for years. In fact, Folsom recently completed a new bridge across the American River at a total project cost of $75 million. This new bridge, which was built without Federal funds, dramatically improved automobile circulation in our city and regionally. However, the benefits of the new bridge have been severely undercut by the loss of the Folsom Dam Road as virtually all traffic formerly using the dam road now uses the new bridge or the old bridge nearby.

There are other positive outcomes of going forward with the new bridge that are unrelated to security and are also critically important to our City and our region. A new four-lane bridge at Folsom Dam is an indispensable component of the six-county Sacramento Region's Metropolitan Transportation Plan, the area's Federally-mandated regional transportation plan for the next twenty years. But H.R. 901 cannot be viewed as a congestion mitigation bill. The bill represents recognition by the Federal Government that it must help our region deal with its decision to close its facility.

It was vitally important to get traffic off the dam as quickly as possible. However, we must also ensure that our goal is achieved in a responsible manner. We must work together to ensure that local and regional economic stability is maintained and traffic flow is managed as best as possible while the new bridge is under construction.

Prior to the February 28th closure, approximately 18,000 vehicles a day crossed the dam. The road served as a major regional traffic connector providing access between jobs and housing in three different counties. Some of the larger industrial and commercial enterprises that benefit from this connection include Intel, Hewlett–Packard, Blue Cross and a number of other major employment centers.

The people who used the dam road were traveling to and from work and school. They were conducting business and going shopping. They were enjoying the Folsom Lake Recreation Area, one of the most popular state recreational facilities in the nation with over one and a half million visitors annually. While the overriding concern

is one of security, it is also clear that closing Folsom Dam Road without a replacement will be devastating to the local and regional economy.

We learned the impact of temporary closure several years ago when repair work required lengthy Folsom Dam Road closures. Several businesses were forced to close and others were deeply hurt economically. Traffic was horrible, police, fire, and medical response times increased, and the situation aggravated an already dire air quality situation locally and regionally. In fact, Congress recognized the cost of limited closures and authorized up to $100,000 in reimbursement to the City of Folsom for its costs.

Now the situation is much worse as we have experienced significant population increases locally and regionally and the closure is permanent rather than temporary. We must recognize the economic, traffic circulation, and air quality needs and realities in our region. It is important to note that these three matters are points of national significance and Federal involvement. The Committee should be aware of the remarkable growth of communities adjacent to Folsom Lake over the past decade. The City of Folsom's population grew from 15,000 to our current 56,000 in a few short years. Eastern Sacramento County, the City of Roseville and southern portions of Placer County, and El Dorado County can also report exponential growth levels. The recent permanent closure has been a terrible shock to our system.

We are aware that the U.S. Army Corps of Engineers previously recommended the construction of a temporary bridge to handle redirected traffic while the dam is modified pursuant to prior congressional authorization. While the Corps' interest in minimizing the impact of closure is well-placed, it still does not make fiscal sense to put $20 million into a temporary structure when that amount covers almost one third the cost of a permanent, full-service structure. Congressman Ose's legislation recognizes the importance of spending our limited Federal resources prudently as well as the value of doing something right the first time around. Simple math demonstrates the fiscally responsible approach of foregoing the temporary fix and applying those funds to a permanent, four-lane replacement bridge.

We would like the Subcommittee to know that we have endeavored to meet with other local interests regarding H.R. 901. Through those efforts, we feel we have covered enough bases to feel comfortable in fully supporting Congressman Ose's legislation. We met with the Bureau of Reclamation, our other regional congressional representatives, and our representatives in the Senate. We have talked with other local and regional governments as well as state officials. We believe that H.R. 901 is the best approach to achieve our goals.

Some continue to ask whether the Bureau of Reclamation should be authorized to construct the bridge. There are really three questions here: whether the Bureau has the capability to build the bridge, whether the Bureau should build the bridge, and whether the Bureau has adequate funding to build the bridge.

Regarding capability, we direct the Subcommittee to a letter to the Sacramento Bee from Bureau Commissioner John Keys, wherein he wrote, in part:

> "the reference to the Bureau of Reclamation not having bridge building capabilities is simply not correct. Reclamation has designed and built many large bridges throughout the West. The beautiful arch bridge that spans the depths of Glen Canyon in Arizona is one example" Reclamation designed and built the Foresthill Bridge that spans the American River at Auburn—The property where the new bridge would be located is Reclamation land, and Reclamation is quite capable of building the bridge we'll design.

The Bureau has as much capability to design and build the new bridge as other Federal agencies. It has built bridges in the past. In fact, it built the large bridge standing only a few miles upstream from the proposed location of the new bridge.

Second, the Bureau should build the bridge. This project replaces a Federal facility operated by the Bureau of Reclamation and recently closed at the direction of the Commissioner of the Bureau of Reclamation. It is a Bureau facility and a Bureau responsibility. It is incorrect to suggest, as some have, that H.R. 901 "throws the Bureau's mission out the window." The Bureau's mission to protect water and related resources led it to the decision to close Folsom Dam Road. It is not, as some would suggest, unreasonable for the Bureau to replace the crossing it closed in order to protect the dam. However, the City stands ready to assist the bureau and is willing to take on whatever tasks are appropriate to construct the project efficiently and effectively.

Third, we do understand that the Bureau's current budget does not include funding for the new bridge. We support adding funding to the Bureau of Reclamation's budget for this project if additional funding is needed to build the bridge and allow the Bureau to carry out its other responsibilities. Congress and the Administration set Federal fiscal priorities, and Congress and the Administration can decide whether to provide funding to the Bureau of Reclamation to build the new bridge in light

of the Bureau's decision to close Folsom Dam Road. Whether the Bureau or some other Federal agency builds the bridge, a decision to provide Federal funding of some flavor will need to be taken.

Mr. Chairman, in closing I would once again like to thank you and your colleagues for holding this hearing today. We understand that your Committee is extraordinarily busy, and the fact that this hearing has occurred underscores both your commitment to ensuring the safety and security of Americans as well as the clearly established need for the passage of H.R. 901. We also again wish to thank Congressman Ose and Congressman Doolittle for all their work on this legislation and on behalf of the City of Folsom.

The City of Folsom urges the Subcommittee on Water and Power to report favorably on H.R. 901 as soon as possible. I appreciate the opportunity to appear before you today, and this concludes my formal statement. I would be happy to answer any questions you may have.

Again, thank you.

Mr. CALVERT. I thank the gentleman.

Miss Aileen Roder. You're recognized for 5 minutes.

STATEMENT OF AILEEN RODER, PROGRAM DIRECTOR, TAXPAYERS FOR COMMON SENSE

Ms. RODER. Thank you, Mr. Chairman. Good afternoon, Chairman Calvert, Congresswoman Napolitano, and other distinguished members of the Subcommittee.

I am Aileen Roder, program director at Taxpayers for Common Sense, a national, nonpartisan budget watchdog group. Thank you for inviting me to testify regarding H.R. 901, legislation introduced by Representatives Doolittle and Ose, to authorize the Secretary of Interior to construct a bridge on Federal land west of and adjacent to Folsom Dam in California.

Taxpayers for Common Sense strongly opposes H.R. 901. This bill ignores other, more appropriate approaches to replacing the bridge over Folsom Dam. It contains no local cost sharing for an enhanced bridge, circumvents the normal authorization process for bridge building, and tries to rewrite the Bureau of Reclamation's mission by making it into a highway construction agency.

In February, 2002, the Army Corps of Engineers released a final environmental impact statement calling for a seven-foot raise of Folsom Dam in order to reduce Sacramento's flood risk to a 1 in 213 chance in any given year. The Corps plan includes the building of a temporary bridge southeast of Folsom Dam at a cost of $20-30 million. H.R. 901 ignores this and other additional proposals for a bridge to be built with appropriate local and Federal cost sharing by the Department of Transportation.

H.R. 901 tries to circumvent the normal highway authorization process and local cost-sharing requirements for road building improvements. Instead of involving the Department of Transportation, the city of Folsom, the California Department of Transportation, or the Army Corps of Engineers, H.R. 901 drags the Bureau of Reclamation, a completely unrelated agency, into the process.

The Bureau is in the water supply business, not the bridge building business. At a time when Federal deficits are the highest in history, H.R. 901 will crowd out legitimate Bureau of Reclamation funding for projects.

California Members of Congress, including the two co-sponsors of H.R. 901, have previously opposed diverting Bureau funding. On January 8th, 2003, the entire California congressional delegation

sent a letter to Secretary Norton and Attorney General Ashcroft requesting that settlement funds for Sumner Peck Ranch versus Bureau of Reclamation not come from the Bureau of Reclamation's budget. The delegation pointed out that Bureau funding should not be used for non-Bureau projects. We wholeheartedly agree and therefore believe it to be completely inappropriate to utilize Bureau funds to pay for projects outside its core missions, such as those anticipated by H.R. 901.

This bill represents the second attempt by Congressman Doolittle to replace the bridge over Folsom Dam. In his June 26th, 2001 press release regarding his original bill, H.R. 2301, Congressman Doolittle stated, "It is clear that a permanent, full-service bridge is needed to ensure greater transportation efficiency and commuter convenience."

We believe that the Federal taxpayer should not be picking up the whole $66.5 million tab for commuter convenience resulting from a bridge upgrade. Unfortunately, despite a debate on that bill, H.R. 901 fails to include any non-Federal cost sharing provisions.

In closing, the Bureau of Reclamation should not be forced to deviate from its core mission by becoming a highway construction agency. Any bill authorizing construction of an improved Folsom bridge should strictly define Federal and non-Federal cost sharing. Such a bill should go through the normal highway authorization process, taking into account that the Corps is already contemplating construction of a two-lane bridge. Congress should not raid the coffers of agencies dependent on energy and water appropriations to pay for the traffic conveniences of a few local beneficiaries.

Thank you again for the opportunity to testify today. I would ask that my full written statement be submitted for the record, Mr. Chairman.

Mr. CALVERT. Without objection, the full statement will be entered into the record.

[The prepared statement of Ms. Roder follows:]

Statement of Aileen Roder, Program Director, Taxpayers for Common Sense, on H.R. 901

Good afternoon, Chairman Calvert, Congresswoman Napolitano, and other distinguished members of the Subcommittee. I am Aileen Roder, Program Director at Taxpayers for Common Sense (TCS), a national, non-partisan budget watchdog group. I would like to thank you for inviting me to testify at this hearing regarding H.R. 901 which would authorize the Secretary of the Interior to construct a bridge on Federal land west of and adjacent to Folsom Dam in California. The bridge that formerly traversed Folsom Dam was closed to public use in February 2003.

Taxpayers for Common Sense strongly opposes H.R. 901, introduced by Representatives John Doolittle (R–CA) and Doug Ose (R–CA). This legislation overlooks other more appropriate approaches to replace the bridge that formerly traversed Folsom Dam. The most prominent proposal that H.R. 901 ignores is the current U.S. Army Corps of Engineers (Corps) plan to build a temporary bridge southeast of Folsom Dam in conjunction with their overall plan to raise the Folsom Dam seven feet in order to provide much needed flood control to the City of Sacramento. This bridge could be turned over to the City of Folsom and would resolve the security concerns that caused the Bureau of Reclamation to close the bridge over Folsom Dam to public use. H.R. 901 also ignores additional proposals for a bridge to be built with appropriate local and Federal cost sharing by the U.S. Department of Transportation (USDOT).

In February 2002, the Corps of Engineers released a Final Supplemental Plan Formulation Report/Environmental Impact Statement/Environmental Impact Report (FEIS). This FEIS called for a 7-foot raise of Folsom Dam in order to reduce the City of Sacramento's flood risk to a 1-in–213 chance in any given year. Recognizing

the obvious impact of the raise on the dam bridge traffic, the Corps proposed a temporary bridge southeast of Folsom Dam. The bridge would be similarly sized to the bridge that formerly traversed Folsom Dam. The Corps stated that the bridge could be left in place if a local sponsor is identified to assume the operation and maintenance responsibilities. The Corps plan for the 7-foot raise received a favorable Chief of Engineer's report in November 2003. I have attached the applicable portions of the Corps FEIS to my testimony.

H.R. 901 ignores the Corps proposal, and instead tries to end run the normal process for highway improvements and local cost share requirements for road-building improvements. Instead of involving the USDOT, or other entities such as the City of Folsom, California Department of Transportation (Caltrans), or the Army Corps of Engineers, H.R. 901 drags the Bureau of Reclamation, a completely unrelated agency, into the process.

The Bureau of Reclamation's mission is to "manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public." The Bureau is in the water supply business not the bridge-building business. Legislation that foists responsibilities upon the Bureau that are outside of its core mission sets a terrible precedent by potentially reducing the agency's effectiveness in managing the West's water supply. At a time when Federal deficits are the highest in history, monies allocated under H.R. 901 will compete with legitimate Bureau of Reclamation funding in the Energy and Water Appropriations bill.

On January 8, 2003, the entire California congressional delegation sent a letter to Department of Interior Secretary Norton and Attorney General John Ashcroft expressing reservations regarding the misdirection of Bureau of Reclamation funds. This letter requested that settlement funds for Sumner Peck Ranch Inc. v. Bureau of Reclamation not come from the Bureau of Reclamation's budget. The California delegation pointed out that Bureau of Reclamation funding should not be used for non–Bureau projects. We agree that robbing the coffers of one agency to pay for projects that should legitimately be run through another agency sets up a system doomed to failure. Specifically, we oppose efforts to force the Bureau of Reclamation to fund and build a bridge when this is both outside its core mission and would compete with appropriate funding of Bureau projects. I have attached the January 8, 2003 letter to my testimony for submission to the record.

TCS recognizes that the construction of a new bridge is potentially necessary now that the bridge that traversed Folsom Dam has been closed due to security concerns. We also recognize that a wider bridge may be needed, however, H.R. 901 sidesteps the essential process that USDOT has in place to evaluate the need for such improvements.

H.R. 901 clearly envisions more than replacing the bridge that traversed Folsom Dam. This bill would likely upgrade the bridge from two lanes to four lanes. USDOT has a process and formula to identify when highway upgrades, such as improving a road from two lanes to four lanes, are justified. The City of Folsom and the State of California, in concert with the Highway Trust Fund, are the proper sources for bridge enhancement design and funding. Replacing or upgrading Folsom Dam Road is a transportation need and as such it is inappropriate to tap the general treasury or energy and water appropriations for funding.

Despite the debate on cost sharing that occurred during the hearing and markup of H.R. 2301, a virtually identical bill from the 107th Congress, H.R. 901 fails to include any non-Federal cost sharing and instead forces Federal taxpayers to pay the entire cost of the bridge. While we recognize that security concerns are potentially a legitimate reason for some level of Federal funding, bridge upgrade costs should be borne in the normal fashion by the local beneficiaries of bridge expansion.

H.R. 901 is the second attempt by Congressman Doolittle to pass a bill requiring the Bureau of Reclamation to build a bridge to replace the one on Folsom Dam. According to Congressman Doolittle's June 26, 2001 press release on his original bill H.R. 2301, "The region's heavy reliance on the Folsom Dam Road means that even temporary closures can snarl traffic through Folsom, inconveniencing drivers and harming the local retail-based economy." Representative Doolittle added, "It is clear that a permanent, full-service bridge is needed to ensure greater transportation efficiency and commuter convenience."

Building a bridge to replace Folsom Dam Road may be necessary, but building an enhanced, four-lane bridge cannot be attributed to security or safety. Instead, this upgrade from a two to four-lane bridge is tied to local economics and the convenience of the City of Folsom's citizens. Further, the bridge that traversed Folsom Dam was intended as a maintenance road rather than to be used for commuter traffic. The Federal taxpayer should not be picking up the whole $66.5 million tab for "commuter convenience." Further, recent articles in the Sacramento Bee (March 4,

2003), Folsom Telegraph (March 12, 2003), and Auburn Journal (March 14, 2003) found that the predicted post-dam road closure "traffic snarls" never materialized.

H.R. 901 demands that the Federal taxpayer shell out $66.5 million and then outrageously requires the government to turn the bridge over to a non-contributing, non-Federal entity. Taxpayers should not have to entirely fund an upgraded bridge and then be forced to turn that bridge over to local entities that refused to contribute a dime to design and construction of that bridge. Caltrans and the City of Folsom should be required to pay a fair share of bridge replacement costs.

In closing, H.R. 901 sets a dangerous precedence of derailing the Bureau of Reclamation from its core mission rather than staying true to the increasingly essential work of managing western water supplies. The Bureau of Reclamation is not now and never has been a highway construction agency. It is crucial that Federal and non-Federal cost sharing be strictly defined in any bill authorizing a replacement for Folsom Dam Road. H.R. 901 makes an end run of the normal highway authorization process, ignoring a common sense procedure set in place by the USDOT to evaluate the need for highway construction and upgrades. The replacement bridge planned by the Army Corps in their FEIS is estimated to cost $20 to $30 million compared to the $66.5 million price tag of H.R. 901. Other proposals exist to have the USDOT replace the bridge with local cost sharing. Congress should not raid the coffers of agencies dependent on energy and water appropriations to pay for the traffic convenience of a few local beneficiaries.

Thank you again for opportunity to testify today and I would be happy to answer any questions you may have.

[An attachment to Ms. Roder's statement follows:]

Congress of the United States
Washington, DC 20515

January 8, 2003

The Honorable John Ashcroft
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW #4400
Washington, DC 20530-0001

The Honorable Gale Norton
Secretary
U.S. Department of the Interior
1849 C St. NW
Washington, DC 20240

Dear Attorney General Ashcroft and Secretary Norton,

We are writing to urge that any federal funds disbursed for the settlement of the lawsuit *Sumner Peck Ranch Inc., v. Bureau of Reclamation*, No. CV-F-91-048 OWW (E.D. Cal.) come out of the Judgment Fund established at 31 U.S.C. 1304.

It is our understanding that the Department of Interior has negotiated a compromise settlement with individual landowners and the Westlands Water District that will commit the United States to compensation of about $100 million. The Judgment Fund statute was amended precisely to make the Fund available for such "compromise settlements." 31 U.S.C. 1304; 28 U.S.C. 2414.

The Bureau of Reclamation's duties to the plaintiffs in this litigation derive from the government's commitment to provide drainage for their lands under the San Luis Act, Public Law 86-488 (1960). We know of no appropriation, fund or other provision in the San Luis Act that could be used to compensate the plaintiffs in this litigation. Because "payment is not otherwise provided for," the Judgment Fund should be used to cover the government's debt in the *Sumner Peck* litigation.

We are also concerned that the settlement agreement mentions the Central Valley Project Improvement Act ("CVPIA") restoration fund, and that the President's budget re-programs money from other important California projects as possible funding sources for the government's commitment. We urge you to refrain from tapping authorized California water projects and funds to settle the dispute. Furthermore, the precedent being set to pay the settlement from non-affiliated projects within California is a policy that is politically unacceptable to any and all states.

If the Department of Justice continues to reject using the Judgment Fund for this settlement, we are prepared to introduce legislation that would direct the Department to do so. Furthermore, we are interested in having oversight hearings on the Department of Interior's decision in this case.

Thank you for your attention to this matter, and we look forward to your response.

Sincerely,

Diane Feinstein Ken Calvert David Dreier

George Miller John T. Doolittle Cal Dooley

Barbara Boxer Bill Thomas Mary Bono

Barbara Lee — Ellen Tauscher

Bob Filner — Lynn C. Woolsey

Jane Harman — Louise Slaughter

Jerry Lewis — Pete Stark

Darrell Issa — Gary G. Miller

Doris Matsui — Wally Herger

Henry A. Waxman — Howard L. Berman

Xavier Becerra — Sam Farr

Diane Watson — Adam B. Schiff

Lucille Roybal-Allard — Buck McKeon

Richard Pombo — Jerry Lewis

C.L. Otter — Carol Shea-Porter

Joe Baca — Hilda L. Solis

Eric Massa — Duncan Hunter

Edolphus Towns — Donna Christensen

Grace F. Napolitano Mike Honda

Susan A. Davis Bob Filner

Mike Thompson Jerry Lewis

Mike Doolittle Diane E. Watson

Nancy Pelosi Linda T. Sanchez

Tom Lantos Lois Capps

The Honorable Maxine Waters (Authorized) Howard L. Berman

Robert T. Matsui Lucille Roybal-Allard

Mr. CALVERT. Mr. Niello, Sacramento County Supervisor. Welcome. You're recognized for 5 minutes.

STATEMENT OF HON. ROGER NIELLO, SACRAMENTO COUNTY SUPERVISOR

Mr. NIELLO. Thank you very much, Mr. Chairman, and members of the Subcommittee. My name is Roger Niello. I am a member of the Sacramento County Board of Supervisors and, in that spot, I represent the communities in Sacramento County surrounding Folsom Lake, including the city of Folsom. I am here in support of H.R. 901.

I have previously transmitted written testimony, which I will abbreviate, and I ask that that be entered into the record.

Mr. CALVERT. Without objection, so ordered.

Mr. NIELLO. I do thank you very much for holding this hearing this afternoon. I want to stress that Sacramento County also recognizes the hard work and dedication exhibited by Congressman Doug Ose and by Congressman John Doolittle on this extremely important issue to our communities. We truly appreciate Congressman Ose's and Congressman Doolittle's commitment to securing this new bridge to mitigate against the consequences of a very important homeland security issue.

I am here to provide a regional perspective, if you will, on the impacts of closing the Folsom Dam road. I have been a businessman in the region for about 25 years, and I certainly know a lot about the power as well as the vulnerability of our regional economy. As a public official, I have learned about the importance to our public safety and our economy of a viable water supply, a reliable energy grid, and a functioning transportation system. I also serve on the Sacramento Area Flood Control Agency, so I am, I would say, painfully familiar with our vulnerability to flooding.

Knowing this, and consistent with the testimony I gave last year, I fully understand the decision to close Folsom Dam road. It is, indeed, necessary for homeland security reasons. That decision, however, does, indeed, have some real impacts. The traffic impacts of the dam road closure were very well explained by Councilmember Starsky.

It is just simply important, I think, to know that Folsom Lake presents a physical barrier to long-time established travel patterns needed by the citizens of the growing communities of El Dorado, Sacramento, and Placer Counties, for work, shopping, and recreational related travel between these socially and economically linked communities.

Now that the road over the dam no longer provides a means to cross that barrier, all of that traffic must invade, literally, Folsom neighborhood streets. The impact is not only to Folsom, as was explained, but also to the lives and pocketbooks of many more regional residents and businesses.

It is also important to stress that good planning requires that the new bridge be a full service, four-lane bridge. Congressman Ose's legislation properly requires that the bridge be designed and constructed with both current as well as future demands in mind, and this requires the allowance for four lanes.

Now, as my testimony before this Committee last year indicated, flood control is certainly always controversial in our region. It's again important to note, though, that this legislation has absolutely no prejudicial effect on that flood control debate. As I mentioned, I am a member of SAFCA, as we call the flood control agency, and as a member of that board, I'm on record as supporting both the Folsom "mini-raise" as well as the Auburn Dam. With the closure of the Folsom Dam road, a replacement of this vital transportation link needs to be provided, regardless of which project or combination of projects is approved or constructed. In fact, now that the dam road has been closed, the bridge becomes a need independent of the flood control project, and it is now not just contingently needed due to a desired flood control project, but it is unconditionally needed due to the actual permanent closure of the dam road.

There have been discussions about whether the Department of Interior is a bridge builder or not. The one thing that I want to stress on that is that the completion of this bridge is, indeed, the completion of the original Folsom Dam project which pledged to the local community whole with regard to impacts of the building of that dam. Of course, four traffic lanes were flooded, never retained other than by this bridge, which now has been permanently closed.

So, to sum up, I would say this is not about redefining missions of Federal agencies; it's not about rewriting legislative processes. This is directly related to homeland security and, thus, it is truly independent of any flood control project and it fulfills a 50-year-old obligation by the Bureau to hold our communities traffic lane harmless, if you will, and thus I urge this Subcommittee to report favorably on H.R. 901.

That concludes my testimony. Thank you again very much, and I would be prepared to take any questions that you have.

[The prepared statement of Mr. Niello follows:]

Statement of The Honorable Roger Niello,
Sacramento County Board of Supervisors, on H.R. 901

Mr. Chairman and distinguished members of the Sub-committee, my name is Roger Niello, and I am a member of the Sacramento County Board of Supervisors representing the communities in Sacramento County surrounding Folsom Lake. I am honored to be here in support of H.R. 901, a bill to authorize the Secretary of the Interior to construct a bridge on Federal land west of and adjacent to Folsom Dam in California.

I join my friends and colleagues invited to testify today in thanking you and the members of the Subcommittee on Water and Power for holding this hearing this afternoon. This is truly a critical project, and we cannot do what needs to be done without Federal involvement. Sacramento County also recognizes the hard work and dedication exhibited by Congressman Doug Ose and Congressman John Doolittle on this issue. We truly appreciate Congressman Ose's and Congressman Doolittle's commitment to securing the new bridge and doing so in a fiscally responsible manner. Their legislation recognizes the present day realities of the impact of the closure of Folsom Dam Road on regional transportation and air quality issues, and we appreciate their leadership in taking on this necessary project.

We urgently need the bridge authorized by H.R. 901 to mitigate the impact of closing Folsom Dam Road to ensure security at Folsom Dam and Folsom Reservoir. This new bridge is essential for the economic stability of our region. While the decision by the Federal Government to remove automobile traffic from Folsom Dam was driven by perfectly justifiable security issues, the impact of this decision has severely affected the region I live in. Mr. Chairman, I strongly support this legislation and I urge you and your colleagues to act speedily on H.R. 901 to make certain the bill is passed and signed into law as soon as possible.

I am here to provide a regional perspective on the impacts of closing Folsom Dam Road. As a local businessman, I know quite a bit about the power of our regional economy. As a public official I have learned the importance to our public safety and economy of a viable water supply, a reliable energy grid, and a functioning transportation system. I also serve on the Sacramento Area Flood Control Agency, so I am painfully familiar with our vulnerability to flooding and the devastating impact a major flood would have on Sacramento and on California. And I do not believe it is hyperbole to suggest that a major flood in Sacramento coupled with the immediate loss of a major water and power supply would have a significantly damaging impact on our national economy. Simply put, the triple whammy impact of a catastrophic failure of Folsom Dam would be beyond devastation. I fully understand the decision to close Folsom Dam Road, but that decision has some real and immediate impacts.

The communities surrounding Folsom Lake depended on the Folsom Dam Road to provide a vital transportation link for the movement of people, goods and services. Over 18,000 cars per day utilized Folsom Dam Road to cross Folsom Lake. Folsom Lake provides a physical barrier to travel for the surrounding communities. In particular, the communities in El Dorado County must, for the most part, leave El Dorado County for employment. In particular, the traffic pattern from El Dorado

County to South Placer County requires the crossing of Folsom Lake. The ability to utilize Folsom Dam Road enabled this traffic to skirt the community of Folsom. With the closure of Folsom Dam Road, all of that traffic is now forced to utilize surface streets in Folsom, directly impacting that local community. We have major traffic congestion and air pollution problems locally and regionally that are exacerbated by the closure of Folsom Dam Road. The bridge and linkages provided by H.R. 901 will provide significant congestion relief upon completion and also anticipate and address future growth in our region.

I also agree with my colleagues on the panel that good planning requires the new bridge to be a full-service, four-lane bridge. Congressman Ose's and Congressman Doolittle's legislation properly requires that the bridge be designed and constructed with appropriate sizing and linkages to support present and future traffic flow requirements for the City of Folsom and the adjacent Sacramento County, Placer County and El Dorado County communities.

As I stated in my testimony before this Committee on this issue last April, flood control is always controversial in our region. It is important to point out, though, that this legislation has absolutely no prejudicial effect on the flood control debate. The new bridge will provide transportation and air quality benefits, and will do so without biasing the flood control debate or outcome. As I mentioned, I am a member of the Sacramento Area Flood Control Agency. As a member of that Board, I am on record as supporting both the "mini-raise" as well as the Auburn Dam. With the closure of Folsom Dam Road, a replacement for this vital transportation link needs to be provided, regardless of which project or combination of projects is approved and constructed. In fact, now that the Dam Road has been closed the bridge becomes a need independent of the flood control project. It is now not just contingently needed due to a desired flood control project; it is unconditionally needed due to the actual permanent closure of the Dam Road.

One of the reasons cited in opposition to having the department of the Interior construct this bridge is that the Department of the Interior is not in the bridge building business unless it is a part of a project such as the "mini-raise." Setting aside that particular debate, it is my contention that the construction of the proposed bridge is the "completion" of the original Folsom Dam project. It is my understanding that the legislation that originally authorized Folsom Dam included a commitment to replace the bridge lanes that were flooded upon that project's completion. The utilization of Folsom Dam Road provided at least partial replacement for those lost cross-river access points. With the closure of the Folsom Dam Road, the replacement of that access has been removed. The bridge proposed in H.R. 901 would be a permanent replacement for this lost access. It is not only appropriate to have Interior build this bridge, but also it is a logical conclusion to the Folsom Dam project.

H.R. 901 is the right legislation at the right time. The Sacramento region is in desperate need of additional flood control improvements and it is making progress towards that goal. While I support moving forwarded on our regions flood control protection, I also recognize that that process is ongoing. Additionally, our region has adopted a balanced transportation plan that invests in the needed infrastructure of our roadways and transit systems. For this part of the Sacramento Region, those communities surrounding Folsom Lake, there is not another more vital single project. The construction of the bridge and the flood control improvements, with the closure of Folsom Dam Road, are now, independent of each other. What is not separate is the real physical barrier that Folsom Lake presents to local traffic circulation.

One final point on the impacts to local businesses by the closure of Folsom Dam Road. When one of the Dam's gates failed in 1996, Folsom Dam Road was closed for a period of several months. It has been reported to me by the Folsom Chamber of Commerce that 38 businesses failed in Folsom due to the impacts of that road closure. I am fearful that there could be a repeat given the impacts of the permanent closure in our current economic environment.

Mr. Chairman, thank you again for holding this hearing and giving my colleagues and me from the Sacramento Region the opportunity to appear before you today. We also again wish to thank Congressman Ose and Congressman Doolittle for all their work on this legislation and on behalf of our community. I urge the Subcommittee on Water and Power to report favorably on H.R. 901 as soon as possible. This concludes my formal statement, and I would be happy to answer any questions you may have.

Again, thank you.

Mr. CALVERT. I thank the gentleman.

Ms. Roder, I appreciate your coming out and your knowledge of the core mission of the Department of Reclamation. Some people around here have been trying to find out what that mission has been for some time.

[Laughter.]

So, since you know it, I'm going to ask you a couple of questions and see if we can't come to some kind of conclusion.

Is part of the core mission of the Bureau of Reclamation, as far as you know, homeland security?

Ms. RODER. No, Mr. Chairman, not that I'm aware of.

Mr. CALVERT. It isn't. But based upon that, they have made certain determinations. Would you agree the Bureau of Reclamation made the determination to close vehicle traffic on Folsom Dam?

Ms. RODER. My understanding is the traffic is closed, Mr. Chairman.

Mr. CALVERT. Based upon the testimony that you were here to listen to today, would you conclude, based upon what the Commissioner and others have said, that it was based upon the tragedy of 9/11 and the Department of Reclamation choosing to protect the people who live downstream of Folsom Dam?

Mr. RODER. Yes, Mr. Chairman.

Mr. CALVERT. So, based upon that, do you agree that there is a Federal impact based upon that decision, some Federal impact?

Ms. RODER. Certainly there is an impact, yes, Mr. Chairman.

Mr. CALVERT. Based upon the Federal Government?

Ms. RODER. Yes, sir.

Mr. CALVERT. So your disagreement is what the amount of that impact is, what percentage?

Ms. RODER. My disagreement, Mr. Chairman, is certainly that there should be a local-Federal cost share, and which agency should be responding to the needs of the community.

Mr. CALVERT. But you do agree that the Federal Government has a responsibility to some degree?

Ms. RODER. We do believe that the Federal Government has some responsibility.

Mr. CALVERT. OK. We agree on that.

This next question is for the Councilman for the city of Folsom, Mr. Starsky. I have a close friend there in your community, a good friend. I went from kindergarten through college with him, your chief of police, who has let me know that you have literally a disaster on your hands there in the community of Folsom, as far as traffic is concerned.

Can you describe the impact of that Federal decision upon the community of Folsom?

Mr. STARSKY. Absolutely, Mr. Chairman, yes. Our police chief, Sam Spiegel, was probably the person most responsible for the immediate response to the closure of the roadway. The impacts are clearly that roughly six million additional trips by the end of the next 11 months will have been directed immediately through streets in the city of Folsom that were simply not designed for that kind of a load.

By way of example—and again, I bring this down to the lowest level because that's where I talk to people, the people who can't turn out of parking lots because it takes eight light changes for

them to get through a light of a major intersection within our city. That is devastating to the businesses.

I have e-mails that have nearly crashed my system from responses from angry motorists, most of them not even within my city. They're outside my city.

Mr. CALVERT. That's the next question I was going to ask. Do you have an idea of what percentage of folks that are just passing through?

Mr. STARSKY. I would purely be speculating, but certainly, from my own anecdotal observations, I would say, of those 18,000 trips per day, that 75 percent or more of those are from the surrounding counties.

Mr. CALVERT. Any trucks?

Mr. STARSKY. Trucks were prohibited from using the dam road—again, I apologize for that term. I guess we mean it both ways.

Mr. CALVERT. D-a-m.

Mr. STARSKY. Yes. But trucks were prohibited after the 9/11 incident from using the roadway, so we've been dealing with that experience of those trucks coming through the city of the roadway and they've had serious impacts on our roadways.

Mr. CALVERT. It has a cumulative impact upon the other bridge that you have remaining; isn't that correct?

Mr. STARSKY. Absolutely. I think a key point for us was we designed and built, as was indicated earlier, the city of Folsom built a replacement bridge or an additional bridge to accommodate our growth plans. We spent—basically, we have effectively mortgaged our transportation future.

Mr. CALVERT. By the way, on that, how much Federal dollars went into that bridge?

Mr. STARSKY. None. That was—

Mr. CALVERT. None?

Mr. STARSKY. That was funded completely by the city of Folsom, $75 million. To give you some perspective, the city of Folsom's annual general fund budget is $38 million.

Mr. CALVERT. So no money went into the non-Federal bridge that is going through Folsom property at the present time.

Mr. STARSKY. That's correct.

Mr. CALVERT. And the so-called Federal bridge, that was shut down by the Department, is impacting the community and is what's causing this pain in your local area.

Mr. STARSKY. That's absolutely correct, Mr. Chairman.

Mr. CALVERT. Thank you.

Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chairman.

Mr. Starsky, you mentioned that there's an impact on the community, and as a former elected official at the local level, I understand what that can mean.

Is there any indication to show there has been an increase in customers for your business community?

Mr. STARSKY. That's a very good question, Madam Congresswoman. Again, before I answer that, let me just say I want to thank you for seeing our delegation that came here a month ago. They said you were very gracious in listening to their concerns.

Your question, in my opinion, is baited in marketing 101, and that is where I first took the assessment. How can you complain? You have 18,000 more customers coming past your businesses. The fact of the matter is that that's simply not true, and the reason why is, in speaking to the businesses who are directly in those routes, people refuse to pull into their establishments because they cannot get out. They cannot get out of the blocked parking lots. They can't afford to lose their place in line, so to speak. The majority of them that would normally, in speaking to most of the small businesses—coffee shops, retailers—they say that the people simply will not stop. One man, a coffee shop owner, told me he lost all of his regular customers because they were so frightened they could not get out of the parking lot once they got in. That has been the experience all the way throughout the entire city.

Mrs. NAPOLITANO. I would have thought at least there would be good news in some of the businesses that may have received customers after hours. You know what I'm talking about. It may have had some positive impacts on some of these businesses.

Mr. STARSKY. I was hoping for the same thing.

Mrs. NAPOLITANO. Miss Roder, you apparently have very good knowledge of some of the issues on the bridge building side of the Bureau. Do you have any idea of what the cost is of any of those bridges they have built? I understand there have been 17 built, according to my colleague. Do you know the cost of any of those particular bridges, individually? For instance, the last one.

Ms. RODER. No, Congresswoman Napolitano. Off the top of my head, I do not. I can answer that through written testimony.

Mrs. NAPOLITANO. Would you, please? I would be interested to learn if they're of the same size, of the same breadth and depth of what we're talking about at Folsom. I certainly congratulate Folsom for taking the initiative and building their own bridge at their own expense, to be able to provide access for their constituency.

Mr. Chair, that's all I have. Thank you.

Mr. CALVERT. I thank the gentlelady.

Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman.

Mr. Starsky, in terms of the bridge that Folsom built for $75 million, how long is it? Is it about a half mile?

Mr. STARSKY. That's correct.

Mr. OSE. So half a mile would be $30,000 a lineal foot? Is that right? I'm trying to get to your question. I mean, $75 million divided by half a mile, whatever that is. That should give you some indication of what the cost of the bridge would be on a relative scale.

Mrs. NAPOLITANO. If the gentleman would yield, I was talking about the bridge they built in '99. In other words, the cost of other bridges.

Mr. OSE. I understand.

Mrs. NAPOLITANO. OK. Thank you.

Mr. OSE. Mr. Chairman, I'm concerned about something. I listened to Ms. Roder's testimony, and I listened to Commissioner Keys, and I'm trying to reconcile the two of them. I asked Mr. Keys directly, has the Bureau ever built bridges, and he said yes. Miss

Roder is saying that's not part of their responsibility. I went on and asked have you ever designed bridges, and he said yes. I'm not sure we're getting the truth here. I'm wondering whether we ought to bring Commissioner Keys back under subpoena to testify under oath.

Mr. CALVERT. I would be happy to acknowledge the fact that the Bureau of Reclamation builds bridges. That's part of the testimony. But if you would like to have a letter made part of the record, we can make that happen.

Mr. OSE. I do have a letter here dated October 1st of 2001, printed in the Sacramento Bee. I would like to enter it into the record. It is signed by John Keys, III.

Mr. CALVERT. Without objection, so ordered.

[The Sacramento Bee letter submitted for the record follows:]

Monday, October 1, 2001 • The Sacramento Bee

Building bridges

Re "New bridge for Folsom," editorial, Sept. 26: We appreciate The Bee's interest in informing the public of the importance of building a new bridge below Folsom Dam to remove public access from the top of the dam. However, the reference to the Bureau of Reclamation not having bridge building capabilities is simply not correct.

Reclamation has designed and built many large bridges throughout the West. The beautiful arch bridge that spans the depths of Glen Canyon in Arizona is one example. In The Bee's own backyard, Reclamation designed and built the Foresthill Bridge that spans the American River at Auburn.

The conceptual drawings for the bridge at Folsom Dam that have twice been featured in The Bee came from our bridge designers in Denver.

The property where the new bridge would be located is Reclamation land, and Reclamation is quite capable of building the bridge we'll design. Rep. John Doolittle is quite right in authorizing Reclamation to build this much-needed bridge.

Let me add that as Reclamation celebrates our 100th Anniversary in 2002, our construction capabilities are as strong as ever.

— John W. Keys III, Washington, D.C.
Commissioner, Bureau of Reclamation

Mr. OSE. He is noted here as Washington, D.C. Commissioner of the Bureau of Reclamation. It's interesting. "Reclamation has designed and built many large bridges throughout the West. The beautiful Arch Bridge that spans the depths of Glen Canyon in Arizona is one example. Reclamation designed and built the Forest Hill Bridge that spans the American River at Auburn. The conceptual drawings for the bridge at Folsom Dam came from our bridge designers in Denver."

I'm just a little bit confused. I appreciate you allowing me to enter that into the record.

Mr. Niello, you and I grew up in Sacramento, so we know a little bit of the history. I want to make sure I've got it correct. In 1956, when Folsom opened, there were six lanes of crossings that were inundated with the filling of the Folsom Dam, is that correct?

Mr. NIELLO. That's correct, and two of them have since been raised above the water and relocated, I believe. But the other four, the other two structures, remain submerged and never replaced in any way.

Mr. OSE. So you had six lanes going across, two were moved, so you replaced two of them, so you're down four. Then the two atop the dam basically constitute a replacement of two more, so you're down two at that point. And then you close this and now you're down four. I mean, that's the math. You're the accountant. You tell me.

Mr. NIELLO. We appear not to be making much statistical progress.

Mr. OSE. OK. So we're down four lanes of crossings, is that correct?

Mr. NIELLO. That is correct.

Mr. OSE. Perhaps I should direct this to Ms. Roder.

Ms. Roder, is it Bureau policy to basically not replace crossings, or do you know if the Bureau has a policy for replacing the river crossings that are inundated in a construction project of this nature?

Ms. RODER. Congressman Ose, I'm not sure exactly what the Bureau policy would be on that. From our perspective, the city of Folsom has done very well because they receive flood control—

Mr. OSE. OK. Mr. Chairman, if I could reclaim my time, do you know the answer to that question, or does somebody on staff know the answer to that question?

Mr. CALVERT. I can speculate, but rather than do that, we will get you a written response to your question.

Mr. OSE. OK. I would appreciate that.

Now, the other question I have—and I was just thinking about this walking over for the votes—we have established the road atop Folsom Dam was closed in response to the Defense Threat Reduction Agency analysis that occurred subsequent to 9/11.

I would ask Miss Roder, relative to the occasion of 9/11, I could take your argument and suggest that perhaps the subway improvements in New York following the collapse of the World Trade Center should have a cost share figure and, in effect, the people of New York City should be punished for being victims. I don't understand the difference between that particular set of circumstances, where conceptually the people of New York City are held accountable for

the adverse impacts of such an act, and the people of Folsom, under your scenario, being asked to pay for replacing a bridge they had nothing to do with closing.

Can you reconcile those two things for me?

Ms. RODER. Respectfully, Congressman Ose, this is a plan that was in place prior to September 11th, 2001. This legislation was originally submitted in June of 2001 to build this bridge.

I would also submit that this bridge is looking at doing more than just replacing the existing or now closed bridge over Folsom Dam. It's looking to upgrade from two to four lanes.

Mr. OSE. Well, we are going to examine that question. Incidentally, I was a cosponsor of that June, '01 legislation, having identified the need to take traffic off the dam.

Mr. Chairman, I do appreciate the opportunity to come before the Committee and spend time on the dais. I have to scratch my head at the concepts that seem to be of popular distribution, when you blame the victim for circumstances that adversely affect their communities. I mean, I can't even imagine what it would have been like here had we blamed New York City for the consequences of the acts of those 19 individuals, any more than I can imagine the logic that burdens a community with replacing river crossings when, in fact, it was done at the behest of some other party.

I do appreciate being here. Thank you, Mr. Chairman.

Mr. CALVERT. I thank the gentleman.

One last comment. I want to thank the gentlelady. Ms. Roder, for mentioning the Sumner Peck letter, because I circulated that letter and was happy to see the judgment fund used instead of reclamation. I'm sure the gentleman from Sacramento really doesn't care who pays for it, as long as it comes from or is being picked up by the responsible parties at the end of the day.

With that, we want to thank this panel. You are excused. Have a great day.

Mr. STARSKY. Thank you, Mr. Chairman.

Mr. CALVERT. Next we have a number of people that are going to be introduced by some folks that represent them. First I would like to recognize Mrs. Napolitano to recognize some people from the San Gabriel Valley.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

I would like to ask both Mr. Michael Whitehead, Board Member of the San Gabriel Basin Water Quality Authority, and Mr. George Lujan, from Riando College, South El Monte, also in his capacity on the council. Both of them have come at our request to speak to H.R. 1284 and the need for the expansion to include South El Monte, El Monte, and the city of industry, or otherwise known as the Puente Valley operating unit.

As we had covered earlier, the three projects have been lumped into one, so that Congresswoman Solis is a cosponsor of this because two of her cities are El Monte and South El Monte. These are projects that were not readily available at the time the cap was placed on the project area, which, of course, is the Superfund list I talked about.

As some of my colleagues here said, this affects 1.3 million people because of the area it covers. So I look forward to hearing from both of them and I hope we will be able to shed some light on this.

Thank you, Mr. Chair.

Mr. CALVERT. I thank the gentlelady.

Mr. Hayworth would like to introduce a mutual friend of ours from the State of Arizona.

Mr. HAYWORTH. Mr. Chairman, I thank you. He is a good friend, and I see him back there preparing to "Enter and sign in, please." It's our friend Bob Lynch, who is not new to the Subcommittee. He has testified before this Committee on a number of occasions and has provided valuable expert testimony.

He is a long-time friend of mine, and I hope the Committee will not hold it against him. Despite the handicap of being a friend of mine, he is a well-respected attorney in Phoenix and well known across our country. He holds undergraduate law degrees from the University of Arizona, a masters degree in natural resources law from George Washington University. His law practice, Robert S. Lynch & Associates focuses on electricity, water, and environmental and public land issues—in short, everything this Committee has an interest in.

He is affiliated with the American Public Power Association, the National Water Resources Association, and the Central Arizona Project Association. He is an active participant in all the aforementioned organizations and he has served as President and Chairman of the Board of the Central Arizona Project Association.

My friend from the 1st District, Brother Renzi, joins me in welcoming our friend, Bob Lynch. Bob, welcome.

Mr. CALVERT. With that, I recognize Mr. Renzi to recognize a representative from the Zuni Indian Tribe. Mr. Renzi.

Mr. RENZI. Thank you, Mr. Chairman.

It is a pleasure of mine to introduce Mr. Wilfred Eriacho, Sr., who is the Chairperson of the Zuni Indian Tribe Water Rights team. He has been a critical part of the negotiation team that has allowed us to reach this point. It is through his hard work, along with my colleague, Mr. Hayworth and Senator John Kyl, that we have again reached this point of settlement.

I want to thank you all very much for allowing us to go down this path with you and for the compromise that you've shown, particularly the ability to allow the agreement to have a feature in it which allows the voluntary aspect of the water users in the upper region to flow to Zuni Heaven. I am grateful for your compassion, your consideration, and welcome you here today. Thank you.

Mr. CALVERT. I thank the gentleman.

I have the privilege of recognizing Dr. Peter Gleick, Director of the Pacific Institute for Studies in Development, Environment and Security. He is here to testify, along with Mr. Lynch, on H.R. 135, the Linder Commission Initiative.

With that, Mr. Gleick, I recognize you for 5 minutes. We try to keep our testimony, by the way, within 5 minutes. If there's any additional testimony or information, we will be happy to take it into the record. So, with that, Mr. Gleick, you're recognized for 5 minutes.

STATEMENT OF PETER H. GLEICK, PRESIDENT, PACIFIC INSTITUTE

Mr. GLEICK. Mr. Chairman, Ranking Member Napolitano, members, thank you for inviting me today to testify on the need for a National Water Commission for the 21st Century, and in particular, on the approach taken by H.R. 135.

I believe there is, indeed, a need for such a commission and, in fact, about 3 weeks ago the Pacific Institute, which I direct in Oakland, called for a national water commission in a letter to the President and to Congress. Copies of that letter were attached to my formal testimony and I expect they will be entered into the record.

Mr. CALVERT. Without objection, so ordered.

Mr. GLEICK. I will also abbreviate my testimony here today.

Mr. CALVERT. Thank you.

Mr. GLEICK. The United States has not had a national water commission for 30 years, since the 1968 National Water Commission reported to the President and Congress in 1973. Moreover, we have never had a national water commission with the authority and responsibility to review and recommend on the role of the U.S. in addressing international water issues. My comments today will address the idea of a national water commission with those responsibilities, and I will also provide some specific comments on H.R. 135.

In short, I believe the idea of a commission is an excellent one, but I believe that the findings and duties described in H.R. 135 need some important modifications. I will offer some specific suggestions.

As we enter the 21st century, pressure on the United States' water system and on international water resources is growing. Conflicts among users are worsening, international tensions are growing, and international attention to these issues is growing, as reflected by the recent meeting in Johannesburg at the Earth Summit, the World Water Forum that just ended about a week ago in Kyoto, with 10,000 participants from the international community, the fact that the year 2000 is the International Year of Fresh Water, as named by the United Nations, there is growing attention to the failure to meet basic needs for water, growing international tensions and conflicts over water resources, the issue of climate change—I'm sorry the other representative is not still here—the controversy of dams, a whole series of international issues.

In addition, here at home municipalities are facing billions of dollars of infrastructure upgrades and investments, growing disputes over the role of public and private participation in water resources, arguments over shared rivers between the U.S. and Mexico, concerns among our Canadian neighbors that perhaps the United States is going to take water from the Great Lakes in inappropriate ways. All of these issues are facing us, and they have received an enormous amount and are going to continue to receive a great deal of attention.

In many cases, the answer to those problems requires smart State and local action and not national efforts. But national policies and actions are also needed, as is leadership at the national level.

It is time, I think, for a new national water commission. The commission must be nonpartisan, it must include representation from across the many disciplines affected by water issues, including the sciences, economics, public policy law, pretty much anything you can think of is affected by water resource issues.

As an example of some of the goals, I would like to offer first to reevaluate national water science and policy and offer guidance on integrating efforts that are now scattered among many Federal agencies. The United Nations has 23 different pieces that work on water. I think in the Federal Government alone it's probably 20. So there is need for integration.

Recommend revisions or better enforcement of national water laws. We have national water laws on water quality, we have some national standards on water use efficiency. There are national laws related to water, but some of them need revision.

Develop recommendations for flood and drought management, including implementing overdue changes that have already been proposed by Federal surveys and studies.

Work to ensure the physical security of the nation's water. Obviously, in light of some of the discussion about Folsom recently, there is an urgent need to do that.

Develop recommendations for the U.S. in identifying and addressing global water problems, including how to significantly accelerate efforts to meet the large and devastating unmet basic needs for water in poorer countries. The U.S. plays a role in this, but could play a larger and more effective one.

Explore how to deal with the risks of climate change. Climate change is a real problem. The impacts on water resources in the United States will be real, but there is no significant comprehensive efforts in that area.

Make recommendations for reducing the risks of international tensions over shared water resources, including how to resolve concerns with our neighbors, Mexico and Canada, and that, I would point out, can be tremendously useful in other international basins, including the Middle East.

It is past time for an integrated and comprehensive national water strategy and for a stronger effort by this nation in solving water problems. In this context, H.R. 135 is a good idea, and I would like to commend Congressman Linder on proposing it. I offer some comments specifically in my written testimony.

I realize I'm short on time, so let me just say three quick things. The principal focus of that bill seems to be to offer recommendations on improving and enhancing the nation's water supply. That's not our problem. If you look at the two figures that are attached to my testimony, you can see, in fact, the demand for water in the United States is going down, not up. We use 20 percent less water per person today in the United States that we used 20 years ago. We are improving our efficiency. The problem is not demand but how we manage our water resources. I have made some specific recommendations for wording changes to make this bill reflect, in fact, what I think is our greatest need; that is, how to manage our water resources more efficiently rather than how to enhance supply.

Let me stop my comments there. I would be happy to take questions. Thank you.

[The prepared statement of Mr. Gleick follows:]

Statement of Dr. Peter H. Gleick,[1] President of the Pacific Institute, Oakland, California

Mr. Chairman, Representatives: thank you for inviting me to offer comments on the need for a National Water Commission for the 21st Century. I believe there is indeed need for such a Commission, and on March 10, 2003, the Pacific Institute called for its creation in a letter to the President and members of Congress. I have attached for the record a copy of that letter (Attachment 1).

The United States has not had a national water commission in place for 30 years, since the 1968 National Water Commission reported to the President and Congress in 1973. Moreover, we have never had a national water commission with the authority and responsibility to review and recommend on the role of the U.S. in addressing international water issues. My comments today will address the idea of a Commission generally, with some detailed recommendations. I will also provide specific comments on H.R. 135, a bill proposed to establish such a Commission. In short, the idea of such a Commission is an excellent one; but I believe the Findings and Duties as described in H.R. 135 need clarification and revision if the Commission is to adequately deal with the water challenges facing us.

International and Domestic Water Challenges

As we enter the 21st century, pressures on United States and international water resources are growing and conflicts among water users are worsening. International attention to these problems is growing, as shown by the focus on water at the Johannesburg Earth Summit and the Kyoto Third World Water Forum. Moreover, 2003 has been declared the International Year of Freshwater by the United Nations.

Globally, the realization is growing that the failure to meet basic human and environmental needs for water is the greatest development disaster of the 20th century. Millions of people, mostly young children, die annually from preventable water-related diseases. Climate change is increasingly threatening our own water systems and water resources abroad. Controversy is developing over the proper role of expensive dams and infrastructure, private corporations, and local communities in managing water. Yet the United States has not offered adequate leadership in providing resources, education, and our vast technological and financial experience to address these problems.

Here at home, municipalities are faced with billions of dollars of infrastructure needs and growing disputes over the role of public and private water management. Arguments among western states over allocations of shared rivers are rising, as are tensions between cities and farmers over water rights. The U.S. and Mexico have unresolved disagreements over the Colorado and Rio Grande/Rio Bravo rivers, and our Canadian neighbors are concerned about proposals to divert Great Lakes or Canadian water for U.S. use. Communities are facing new challenges in meeting water quality standards and ensuring that safe drinking water is available for all.

Responding to Water Challenges: A New Water Commission

In many cases, the resolution of these problems requires smart state and local action. But national policies and actions are also needed, as is leadership at the national level. Unfortunately, there is inadequate attention being given to national water issues, and what efforts are being made are often contradictory or counterproductive. Responsibility for water is spread out over many Federal agencies and departments, operating with no overall coordination.

It is time for a new national water commission. The Pacific Institute has called for the creation of a National Commission on Water for the 21st Century to provide guidance and direction on the appropriate role of the United States in addressing national and international water issues. The Commission must be non-partisan and include representation from across the many disciplines affected, including the sciences, economics, public policy, law, governments, public interest groups, and appropriate private sectors. While the duration of the Commission should be fixed, adequate financial resources should be provided to permit it to do a serious and effective job. The goals of the Commission should include:

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[1] Dr. Gleick is President of the Pacific Institute, Oakland, California; an Academician of the International Water Academy, Oslo, Norway; and a member of the Water Science and Technology Board of the U.S. National Academy of Science. His comments reflect his own opinion and the recommended position of the Pacific

- Re-evaluate national water science and policy and offer guidance on integrating efforts now scattered among disparate and uncoordinated Federal agencies and departments. National budget priorities should also be re-evaluated and restructured to ensure that the national objectives are more clearly supported.
- Recommend revisions or better enforcement of national laws related to water, including laws governing water quality, the protection of aquatic ecosystems, the financing of water infrastructure, and national standards for improving water-use efficiency and conservation.
- Develop recommendations for flood and drought management, including implementing overdue changes proposed by previous reviews.
- Work to ensure the physical security of the nation's water, by highlighting necessary steps that could be taken to reduce overlap and streamline responsibilities of the multiple Federal agencies working on water issues.
- Develop recommendations for the U.S. role in identifying and addressing global water problems, including how to significantly accelerate efforts to meet the large and devastating unmet basic human needs for water in poorer countries. These recommendations should address how best to apply the vast financial, educational, technological, and institutional expertise of the United States to these problems.
- Explore how to deal with the risks of climatic changes, including how to adapt to the growing and potentially severe impacts of global warming for water resources.
- Make recommendations for reducing the risks of international tensions over shared water resources, including how to resolve concerns with our own neighbors, Mexico and Canada, over shared water systems. These recommendations would be valuable in other international river basins where our experience, international stature, and expertise can be effective.

The Need for U.S. Leadership

It is past time for an integrated and comprehensive national water strategy and for a stronger effort by this nation in solving water problems abroad. While many water issues will remain local, to be resolved by community participation and efforts, our national government can no longer ignore the positive and effective role it can play both here and abroad.

The need for such integrated thinking was further made apparent at the global water conference in Kyoto, Japan, which ended just one week ago. The meeting involved 10,000 of the world's leading water experts as well as a Ministerial meeting involving senior diplomatic officials from more than 150 countries. It offered an opportunity to demonstrate the commitment of the international community, nations, and non-governmental organizations to resolve serious water problems. The United States, with its great technical, financial, and educational expertise, is perfectly positioned to be a world leader in addressing water problems, yet the U.S. delegation came without the comprehensive, integrated, and informed positions necessary to play a leadership role. Indeed, the United States is perceived to be a marginal player, making contributions well below our capability and stature as a world leader. And while money is not the only answer, the size of the U.S. financial contribution to meeting basic water needs around the world is paltry—actually only one-quarter the size of Japan's and even less than Germany's. Instead, world leadership on these issues is being played by the Netherlands, Japanese, French, British, Germans, and others.

It doesn't have to be this way. A more coordinated and considered set of positions on the size and form of U.S. contributions to global water problems, including financial, technological, and educational, could be developed by the National Water Commission for the 21st Century.

Comments on H.R. 135 "Twenty–First Century Water Commission"

Finally, I'd like to offer specific comments on H.R. 135. I commend Congressman Linder and his co-signers for proposing this bill. As my preceding testimony should make obvious, I strongly support the creation of a national commission. I believe, however, that this bill, as written, will not meet the needs of the nation. In particular, the "Findings" of this bill are somewhat misdirected and the "Duties," while well-intentioned, are too limited and occasionally inappropriate.

In particular, the Findings emphasize the need "to increase water supplies in every region of the country." Overall water supply is not a problem, with some regional exceptions. And even in these regions, increasing supplies does not appear to be the most efficient, cost-effective, and timely response. The greatest water problems facing the United States are not shortages, but inefficient use, inappropriate water allocations, water pollution, and ecological destruction. Indeed, water use in

the United States has decreased in the past 20 years, reducing pressure on overall supply. On a per-person basis, this decrease is substantial, as shown in Figure 1. Per-capita use in the U.S. has decreased 20 percent since 1980—a remarkable change. Figure 2 shows that total economic growth in the U.S. has continued, even as overall water use has leveled off and even declined. Moreover, where the problem is "shortage," the fastest, cheapest, and most environmentally acceptable solution will not be an increase in "supply" but a reallocation of existing uses and improvements in efficiency.

Most of the proposed "Duties" of the Commission are clear and well designed. But others could be strengthened and refocused:

Duty (2) should not be "directed at increasing water supplies" but "directed at improving water use and reliability."

Duty (3)(E) should not be aimed at "increasing water supply efficiently while safeguarding the environment" but at "improving water-use efficiency and reliability of water supplies while safeguarding the environment."

Duty (3)(F) should not recommend "means of capturing excess water and flood water" but should rather "means for managing floods using appropriate structural and non-structural approaches." This would be in line with recent Federal recommendations on comprehensive flood management.

Duty (3)(G) asks for recommendations on "financing options for public works projects." While this would be useful, given growing constraints on funding at the national and local levels, it should be broadened to make recommendations on "financing options for comprehensive water management projects."

Duty (3)(I) asks for recommendations on "other objectives related to water supply." Again, this should be broadened to make recommendations on "other objectives related to water management."

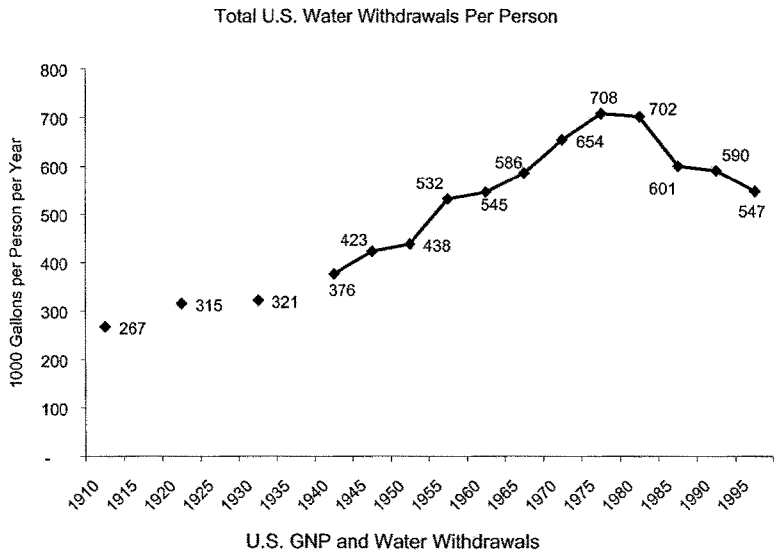
On a relatively minor point: I believe the number of Commissioners should be larger than 7, as proposed in Section 5, paragraph (a). Given the diverse nature of the nation's waters, and the complex set of issues that must be addressed, broader representation is necessary.

Finally, I reiterate the need to expand the scope of the Commission to address the role of the United States in solving international water problems.

I congratulate you for considering this vital issue and for helping to raise national attention on the need to re-evaluate and re-focus efforts on sustainably managing our precious freshwater resources.

Thank you for your attention.

Figure 1. Per-capita water withdrawals in the United States, from 1900 to the present. Total use is now below 550,000 gallons per person per year, down from over 700,000 in 1975. Data are from the U.S. Geological Survey.



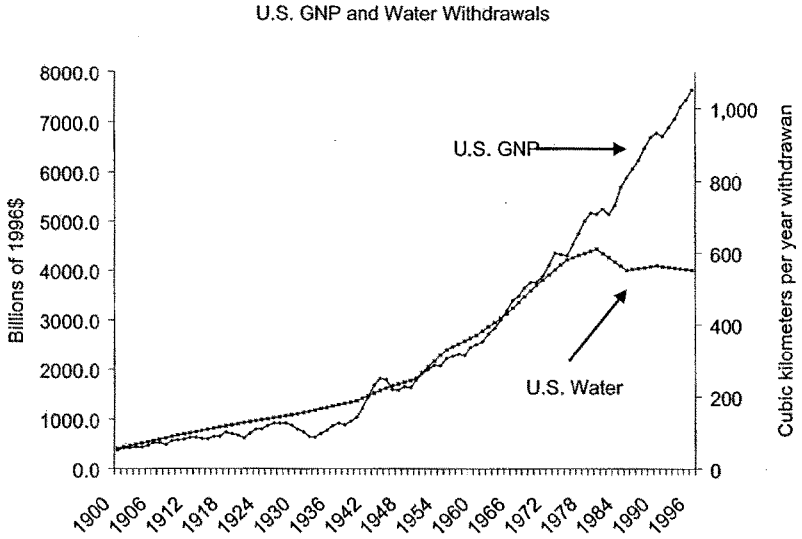


Figure 2. Total gross domestic product (GDP) of the United States and total water withdrawals: 1900 to present. Note that total economic growth has continued, but total water withdrawals (for all purposes) have leveled off, and even declined since 1980. Graph reproduced from Gleick, 2000 "The World's Water"(Island Press, Washington, D.C.)

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Research for People and the Planet

ATTACHMENT 1: Testimony of Dr. Peter H. Gleick
Legislative Hearing:
Committee on Resources; Subcommittee on Energy and Water
April 1, 2003

President George W. Bush
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

March 11, 2003

Dear President Bush,

The Pacific Institute is calling today for the creation of a **National Water Commission for the 21st Century** to direct an aggressive new effort to protect our national water resources and to advise the country on how to best to participate in addressing the global water crisis. The benefits of such an effort will include a stronger national economy, improved international security, and more sustainable water use around the world.

The United States has not had a national water commission in place for 30 years, since the 1968 National Water Commission reported to the President and Congress in 1973. Moreover, we have never had a national water commission with the authority and responsibility to review and advise on the role of the U.S. in addressing international water issues.

Yet, as we enter the 21st century, pressures on water resources here and abroad are growing and conflicts among water users are worsening. Millions of people, mostly young children, die annually in the poorest countries from preventable water-related diseases. Controversy is growing over the proper role of expensive dams and infrastructure, private corporations, and local communities in managing water. Climate change, development, and pollution are increasingly threatening our own water systems and water resources in other nations.

In the United States, municipalities are faced with billions of dollars of infrastructure needs and growing disputes over the role of public and private water management. Arguments among western states over allocations of shared rivers are rising, as are tensions between cities and farmers over water rights. The U.S. and Mexico have unresolved disagreements over the Colorado and Rio Grande/Rio Bravo rivers, and our Canadian neighbors are concerned about proposals to divert Great Lakes or Canadian

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water for U.S. use. Communities are facing new challenges in meeting water quality standards and ensuring safe drinking water is available for all.

Despite the range of threats to water resources across the world, the United States has not offered adequate leadership in providing resources, education, and its vast technological and financial experience to address these problems. And the United States has not been as effective as it could be in addressing global and national water problems. Our leadership is critical to any successful effort to seriously address the global water crisis. And leadership in this arena will bring a host of benefits to the United States and the world.

By protecting critical wetlands, aquifers, and water sources, as well as taking action to fight global warming, we can ensure our continued access to clean water. This has many obvious benefits to public health and the economy. By helping those without access to clean drinking water overseas, we will improve the lives of some of the world's poorest people, in turn helping them to become more productive and self-sufficient. This will improve global security and strengthen the world economy.

In many cases, the resolution of these problems requires smart state and local action. But national policies and actions are also needed, as is leadership at the national level. Unfortunately, there is inadequate attention being given to national water issues, and what efforts are being made are often contradictory or counterproductive. Responsibility for water is spread out over many federal agencies and departments, operating with no overall coordination.

It is time for a new national water commission. We therefore call for the creation of a **National Water Commission for the 21st Century** to provide guidance and direction on the appropriate role of the United States in addressing national and international water issues. The Commission must be non-partisan and include representation from across the many disciplines affected, including the sciences, economics, public policy, federal and local governments, public interest groups, and appropriate private sectors. While the duration of the Commission should be fixed, adequate financial resources should be provided to permit it to do a serious and effective job.

The goals of the Commission should include:

- Re-evaluate national water science and policy and offer guidance on integrating efforts now scattered among disparate and uncoordinated federal agencies and departments. National budget priorities should also be re-evaluated and restructured to ensure that the national objectives are more clearly supported.

- Recommend revisions or better enforcement of national laws related to water, including laws governing water quality, the protection of aquatic ecosystems, the financing of water infrastructure, and national standards for improving water-use efficiency and conservation.

Pacific Institute National Water Commission Proposal

- Develop recommendations for implementing overdue changes to national flood and drought management and the management of our groundwater resources.

- Work with appropriate agencies to identify necessary steps to ensure the physical security of the nation's water resources and water infrastructure.

- Develop recommendations for the U.S. role in identifying and addressing global water problems, including how to significantly accelerate efforts to meet the large and devastating unmet basic human needs for water in poorer countries. These recommendations should address how best to apply the vast financial, educational, technological, and institutional expertise of the United States to these problems.

- Explore how to deal with the growing and potential severe consequences of global climate change for both national and international water resources.

- Make recommendations for reducing the risks of international tensions over shared water resources. This includes addressing concerns with our own neighbors, Mexico and Canada, as well as in international rivers where our experience, international stature, and expertise can be effective.

It is past time for an integrated and comprehensive national water strategy and for a stronger effort by this nation in solving water problems abroad. While many water issues will remain local, to be resolved by community participation and actions, our national government can no longer ignore the positive and effective role it can play both here and abroad.

Sincerely yours,

Dr. Peter H. Gleick
President

Distribution List

Mr. CALVERT. I thank the gentleman.
Mr. Lynch.

STATEMENT OF ROBERT S. LYNCH, ESQ., MEMBER, WATER RIGHTS TASK FORCE, PHOENIX, ARIZONA

Mr. LYNCH. Thank you, Mr. Chairman, and members of the Subcommittee. I'm Bob Lynch, an attorney in Phoenix, Arizona. I would ask that my written testimony be submitted for the record.

Mr. CALVERT. Without objection, so ordered.

Mr. LYNCH. Since no one has talked about why this bill shouldn't pass, I don't think I should spend my time talking about what a wonderful bill it is. It's a good bill and I'm here to support it. I want to talk about why it needs to pass quickly.

On April 15th, Reclamation will convene a meeting in Boulder City, NV to talk about the shortages in the Colorado River and the coming impacts that we're already feeling. Glen Canyon Dam is holding 62 percent of Lake Powell's available supply. Lake Mead

is down a similar amount. I mean, this is real and it's immediate. Our Governor Napolitano has established a drought task force within the last 2 weeks.

I don't have to tell you, Mr. Chairman, about the problems in California. California has enough water problems that it could be its own country. But they're there, and we all know what they are. Colorado, the East Slope Reservoir, in spite of the blizzard, it will take another 4 years to fill, according to my friend Rod Caharich, who runs the Colorado River Water Board. It didn't help the Colorado River Basin at all. It was on the wrong side of the mountain. So we're still in deep trouble.

Governor Owens from Colorado is going to ask that antennas be removed from the river basins. We can't do that because of a bird that happens to like Arizona but doesn't like Colorado, and it's endangered. If Mr. Tancredo was here, he would probably remember that he signed a letter on March 14th to Secretary Veneman, saying the Forest Service is still doing this bypass flow thing that the task force I was on that reported to Congress in '97 said they didn't have authority to do, and they're still doing it, and asking them to stop, especially in a drought, especially when we're talking about people's drinking water.

In New Mexico, in February the Mexican section of the International Boundary and Water Commission toured Caballo and Elephant Butte. Elephant Butte was about 20 percent full and Caballo about 18. These are real problems. The litigation in New Mexico requiring intubation transfer from the San Juan that's on appeal to the 10th Circuit, Commissioner Keys has said publicly could destroy Reclamation's ability to manage their 248 reservoirs. These are real problems.

There are other suits, suits that involve the Central Valley Project in Idaho, where the Justice Department has expanded the concept of the Winter's Doctrine beyond all reason, as far as I'm concerned. All of this needs to get corralled in some fashion. This study commission has a huge task. There are immediate problems.

I know the Washington Post said that the East Coast drought is over. I'm glad they think so. I wouldn't take that to the bank if I were you, not when they were threatening to close the University of Virginia last fall when our daughter is graduating from there this year, wondering whether she was going to be able to.

These are real problems, and they are nationwide. Mr. Linder talked about the problems which have been ongoing for years. We need this bill and I urge your quick action on it.

Thank you.

[The prepared statement of Mr. Lynch follows:]

Statement of Robert S. Lynch, Appointed Member, Water Rights Task Force, on H.R. 135

Mr. Chairman and Members of the Subcommittee, my name is Bob Lynch. I am an attorney in Phoenix, Arizona. I have worked on water and water rights issues, beginning at the Justice Department here in Washington in the late 1960's and then in private practice in Phoenix for over 35 of the 38+ years I have been a member of the bar.

In June 1996, then Speaker of the House Newt Gingrich appointed me to the Water Rights Task Force, a Federal advisory committee that had been established by the Federal Agriculture Improvement and Reform Act, P.L. 104–127. This seven-member advisory committee was chaired by Colorado water attorney Bennett Raley,

now Assistant Secretary of the Interior for Water and Science. The Task Force met and conducted public hearings at a dozen locations, including one here in the Russell Senate Office Building. We received written documentation and heard testimony from interest groups and private citizens. At the Washington hearing, a Member of Congress addressed us.

Our Task Force was directed to examine more narrow issues than those presented in H.R. 135. Nevertheless, the issues related to the role of Federal agencies and conflicts that arose between agency desires and state water rights. Our report was submitted to Congress in August 1997.

You may remember that I appeared here last May to testify on Mr. Linder's prior bill, H.R. 3561. In my written and oral testimony, I questioned the structure of the entity that was to be tasked to acquire information about water supply issues in the twenty-first century. In sum, I recommended that an approach like the Water Rights Task Force be utilized, giving Congress a view from outside government as to the issues that lay before us in solving water supply problems.

While I could not support H.R. 3561 as introduced last year, I am pleased to be able to appear before you today to support H.R. 135 enthusiastically. I want to congratulate Mr. Linder both for his zeal in pursuing this subject and for his flexibility in listening to suggestions of others in crafting H.R. 135. Without putting too fine a point on it, I think this approach will work.

BARRIERS

This new commission will give the President and the Congress a fresh perspective on the complex subject of water supply and water rights. I am pleased that the bill calls for respect for state water rights and the primary role of the states that this country has historically recognized. Continued respect for the states is central to acceptance of any commission recommendations.

We all know that water flows downhill or toward money. However, beyond the mere application of principles of physics or finance, this commission needs to take a hard, independent look at the barriers our laws and institutions, both Federal and state, present to problem-solving.

To be of real value, this commission must be blunt, perhaps even brutally frank, in its assessment of how we manage water supply in this country and the extraordinary variability woven into that task in different regions.

Some of the barriers this commission must establish are statutory. Some of the barriers are institutional. Some of the barriers are social. To overcome these barriers and be able to suggest paths to solutions, this commission will need to find strategies that can provide benefits to multiple interests.

Virtually every problem related to water supply that I have encountered, at least in the last quarter century, whether environmental, municipal, or agricultural, could have been solved singly or in combination by more water. Yet we often do not engage in strategies to increase supply, or protect against floods and conserve flood flows, because others may gain an advantage or because we cannot necessarily quantify or increase our advantage.

To the extent that this commission will be confronted by historic patterns of applied self-interest, it will need to suggest methods for reorienting some of our past water attitudes. Hopefully the commission will be charged with thinking outside the box. H.R. 135 lists an impressive array of duties for the commission. I am not sure how all these can be accomplished in the time allotted but it is certainly a worthwhile list.

CONCLUSION

Being a water lawyer, I tend to gravitate to articles in the newspaper about water. This last several years, most of them have been about drought. I have been impressed by the extent to which the drought has impacted so many different areas of the country. We in the West are used to having this problem and reading about our neighbor states and their drought problems. I, frankly, was not prepared for articles on the drought problems in Charlottesville where our daughter goes to school or Roanoke, where my wife's family lives. I have been aware of the problems in the Atlanta area for some time because of legislation that has been introduced and work that has been done in that area. But I didn't realize until the Governor of Maryland declared a drought emergency in seven counties near here how bad it had gotten in this area or in Pennsylvania, New Jersey and elsewhere.

What Mother Nature has taught us recently is that not being prepared is not an option. Just last week, I read an article in our paper about a study that suggests that the Mayan culture of Mexico was driven out of existence by drought, not just over five years like the current drought in Arizona or seven or ten or thirty like

the Southwest drought of the late 1800's. This study talked about a drought lasting one hundred years.

We may already be behind the curve in looking at strategies for increasing our water supply. Whether we are or not, we are clearly at a point in our history where we must focus on this issue. H.R. 135 does just that. It is a good bill. It is a good idea. It is clearly an idea whose time has come.

Thank you Mr. Chairman and Members of the Subcommittee for the opportunity to testify on this extraordinarily important subject.

Mr. CALVERT. I thank the gentleman.

Mr. Renzi, do you have a special guest you want to introduce?

Mr. RENZI. Thank you, Mr. Chairman.

I was hesitant in my duties and I want to introduce to you the Governor of the Great Zuni Nation and Tribe, Arlen Quetawki, who I met in Phoenix not too long ago and who has been integral in helping us reach this settlement for Zuni Heaven. I know that you were involved in the negotiations, a newly elected Governor involved in the negotiations and the end game.

I particularly want to thank you for reaching out to the local communities, as I mentioned earlier, the upstream users, and allowing the voluntary portion of this agreement to be part of the settlement. I think that shows the magnanimous aspect of your character, Mr. Governor, and of the people that you represent. So, with that, I recognize you today and I appreciate your traveling here to Washington, and thank you so much for getting us to this point. I'm grateful.

Mr. CALVERT. I thank the gentleman.

With that, I recognize Mr. Eriacho for 5 minutes. Thank you.

STATEMENT OF WILFRED ERIACHO, SR., CHAIRPERSON, ZUNI INDIAN TRIBE WATER RIGHTS NEGOTIATION TEAM; ACCOMPANIED BY HON. ARLEN QUETAWKI, GOVERNOR OF THE ZUNI INDIAN NATION

Mr. ERIACHO. Thank you, Chairman Calvert.

"Ko' don laik'yadik'yanawe?" How are you to this time of day? My name is Wilfred Eriacho, Sr. I am the Chairman of the Zuni Water Rights Team. I thank Chairman Calvert and the rest of the Committee members for giving us the opportunity to testify before you on a very important topic for the Zuni Tribe. I especially thank Representative Renzi for sponsoring the bill, and for previous work done by Mr. Hayworth.

With me today to assist me in my presentation are our newly elected Governor, Arlen Quetawki, Sr., Councilman Edward Wemytewa, who is in the audience back there, and our tribal attorney, Jane Marx. Also, I believe the Salt River Project has some representatives here in support of this bill.

I have submitted a full written testimony, and I would like that to be included in the record.

Mr. CALVERT. Without objection, so ordered.

Mr. ERIACHO. I will do a synopsis of that written statement to inform you on the purposes of the settlement.

On behalf of past, present and future generations of Ashiwi, the Zuni people, we present our tribe's water needs for a most important and sacred ancient site. This most important and sacred place was created in very ancient times as the final resting place for all

Zuni people who have transitioned into their spirit form, to watch over and protect their Zuni children for as long as Koluwalawa, or Zuni Heaven, shall exist.

In 1984, Congress set aside the Zuni Heaven Reservation for the express purpose of protecting the Tribe's long-standing religious and sustenance activities on those lands. Even today, Zuni religious leaders make a pilgrimage to that Zuni Heaven area every 4 years. In drought condition years, this pilgrimage is made more often. That 1984 legislation addressed the lands to be protected but did not cover the Tribe's water needs. For that reason, the United States, on behalf of the Tribe, filed water rights claims in the Little Colorado River general adjudication.

Despite the strength of Zuni's litigation claims relating to its use and occupation of the area encompassing Zuni Heaven and its water since time immemorial, the Tribe was motivated by the desire to secure "wet" water and not just "paper" water rights. The proposed settlement before you today provides the Zuni a minimum of 5,500 acre-feet per year of water to develop and maintain its wetland restoration project. The Tribe will use both groundwater and surface water. Surface water will be acquired through voluntary transactions.

Importantly, the parties set out to provide water to the Tribe without disrupting, to the greatest extent possible, the existing uses and expectations of the parties.

In conclusion, this water rights settlement agreement will enable the Zuni people to restore their most sacred land area in the way it is described in ancient traditional historical accounts. It will enable them to develop wetlands for water plants, birds and other animals so important and necessary in carrying out the Zuni Kachina religion. Furthermore, it will ease the minds and hearts of the people, knowing that the spirits of their ancestors will once again be living in wetland conditions as were the land conditions at the very beginning.

Past and present Zuni Tribal Councils, water rights team members, and tribal religious leaders have worked closely and reasonably with all non-Zuni parties to keep whole their water rights and land interest, and at the same time secure our interest to water and land for our sacred lands.

The leaders of the civil government, religious leaders, the Zuni people, are satisfied with the terms of this settlement and respectfully ask that you approve it. Also, we have the agreement and support of the United States, the State of Arizona, and all local water users, including major groundwater pumpers.

Esteemed members of the House of Representatives, on behalf of our Zuni people, I humbly ask and urge you to support the ratification of this proposed legislation for the water rights of the Zuni people at their most sacred land. As a representative of the Zuni Tribe's religious leaders and the Zuni Tribal Council, I bequeath on each of you a long and valued life trail. "Don dek'ohanan yanitchiy adehy awonayadu. Elahkwa don yadon k'okshi'sunnahk'yanapdu." Thank you. May you spend the rest of the day in a good way to the evening time.

[The prepared statement of Mr. Eriacho follows:]

Statement of Wilfred Eriacho, Sr., Chairperson,
Zuni Indian Tribe Water Rights Negotiation Team

Introduction

Ko' don la:k'yadik'yana:we? (Literally speaking) How are all of you to this time of day?

By appointment from the Governor and Tribal Council, going back two terms, I have served on the Water Rights Team since 1994. I am especially grateful to have been given the task of presenting to you, members of the Committee. I am very humbled to be in your presence. With me today to assist me in my presentation and to support the Zuni Indian Tribe Water Rights Settlement Agreement are Zuni Governor Arlen Quetawki, Sr., Tribal Councilman Edward Wemytewa, and the Zuni tribe's attorney, Ms. Jane Marx.

We appreciate your consideration and ask for your support for H.R. 495 which is identical to S.222, which has passed the Senate.

Overview

On behalf of past, present and future generations of A:shiwi, the Zuni people, we present our tribe's water needs for a most important and sacred ancient site. This most important and sacred place was created in very ancient times, as the final resting place, for all Zuni people who had transitioned into their spirit form to watch over and protect their Zuni children for as long as Ko'uwala:wa, the Zuni Heaven shall exist. This settlement will satisfy our water needs and put finality on our tribe's many centuries of endeavors to restore its role as owners and stewards of our most sacred ancestral final resting place.

Honorable Congressmen, in our quest to re-establish our ownership and stewards of this most sacred place, we are all following in the footsteps of many great elected and traditional Zuni leaders. We are following in their footsteps to acquire lands and to continue to use Ko'uwala:wa, or referred to as Zuni Heaven, to practice our religion which was created for us in time immemorial. Today, we are here to ask for your support and advocacy to approve this settlement so that our Zuni people can achieve the peace of mind and emotional security so necessary to maintain a positive style and so that we can begin the important tasks of restoring the sacred land to its formal wetlands conditions.

Significance of the Zuni Heaven and the Importance of Water

The name Ko'uwala:wa is made from the words for Kokko (kachina) and "uwalanne (village). Therefore, the true translation of that sacred place name is Kachina Village. It is the ancient and sacred village occupied by the Kachinas who are the ancestor spirit beings of departed Zuni people. This is the village where the spirit beings of departed ancestors of the living Zuni people reside. These spirit beings have lived here from time immemorial and will live here to perpetuity. Countless generations of Zuni people have, with their individual and collective prayers, made sacred corn meal and food offerings to these spirit beings asking for good and long life trails, moisture for Earth Mother, plentiful crops, courage, strength and other good things in life.

In very ancient times when Zuni Heaven was created and established for the Zuni people, oral tradition describes the land area as being very wet with a waist high deep and swift flowing river running through it. In these oral tradition stories, this river is called K'yawa:na Ahonna or Reddish Brown River referring to a deep and swift flowing silt laden river. Since that very ancient beginning, past and present generations of Zuni people believe that the spirit beings, residing at Zuni Heaven, are responsible for the origin of clouds for rain, snow, hail and sleet that will bless Earth Mother with their moisture. The Zuni people believe that in order for the spirit beings to perform their responsibility of originating clouds that will deliver moisture to Earth Mother, they must reside in a land that is blessed with an abundant supply of both underground and surface water. That is, the land must be in the same wetlands conditions that existed when Zuni Heaven was first created and established. For this reason, the Zuni people have been very adamant about acquiring stable sources of and adequate quantities of water to be used to re-establish the wetland conditions that are needed by the spirit beings to bless Earth Mother with all forms of moisture.

The traditional Zuni religion has three major components. The first component is the Ancient Rain Priesthood. The second is the Kachinas and the third is the Medicine Orders. All of these different religious components cooperate and collaborate to pray for the continued physical, mental and emotional welfare of the Zuni people. In the overall scheme of the Zuni religion, the Kachinas component has a very direct relationship to Zuni Heaven as that is where the Kachina spirit beings reside in

perpetuity. The Kachinas component of the Zuni religion is supported, promoted, practiced and maintained by members of the six kivas in the tribe. The Kachinas component of the Zuni religion is the most active and visible throughout the calendar year. Through and with this religion component, all Zuni people, young and old, have continual connection with their departed ancestors and children through prayers, sacred prayer meal and food offerings, dances and other activities.

During the many years of pre-history and history of the Zuni people, the practice of making a pilgrimage to Zuni Heaven has been maintained. Leaders of the six kivas and other appointees make this pilgrimage every four years, during early summer and normal non-drought years. During drought condition years, these pilgrimages were made on second or third years. A major purpose for the pilgrimage is to beseech the spirit being residents for all forms of moisture so that Earth Mother can support all plant and animal life necessary to maintain the lives of her Zuni children. Other important purposes include the validation of the Zuni people's deep belief in the religion associated with the Zuni Heaven and the Kachina component of the Zuni religion. This pilgrimage is a very important and major religious event that involves practically all members of the tribe and many non-tribal friends. The pilgrimage to Zuni Heaven is made on the Sacred Moisture Trail of the Kachina Beings. This Sacred Moisture Trail is the entire length of the Zuni River which starts at the headwaters of the Zuni Mountains, to the east, and ends where it empties into the Little Colorado River. Along this Sacred Moisture Trail, many sacred springs and seeps are visited where prayers, sacred corn meal and food offerings are made. When at Zuni Heaven, the pilgrims harvest water, water plants and animals, and minerals to take back to Zuni to be used during the years' cycles of religious activities.

All forms and sources of water are most important and sacred to our Zuni people because from the dawn of their traditions and culture, farming has been a major life and culture sustaining occupation. Using the moisture absorbed by Earth Mother during the winter snows and the spring and summer rains, ancient Zuni farmers cultivated every available land to grow their precious corn along with other crops such as squash and beans. Traditional oral stories tell of ancient farmers cultivating fields irrigated by spreader dikes that controlled flood flows. To further validate the Zuni people as being skilled farmers, historical records show that during the early years of the American occupation of the current Zuni and Navajo land areas, Zuni farmers provided Fort Wingate and Fort Defiance Army Depots with enough corn and other crops to sustain their work efforts.

Because of the importance and sacredness of all forms and sources of water, all prayers and songs of the three major components of the Zuni religion contain language asking for rain and snow to ensure that all crops have enough water to finish their life paths to provide sustenance for their Zuni children. According to Zuni beliefs Zuni Heaven is the sacred place where all forms of moisture originate. Therefore in order for the Zuni people and their lands to be blessed with rain, snow, sleet and hail forever, we have worked very diligently with all non–Zuni parties, entities, townships and the State of Arizona to obtain what we hope will be a permanent and adequate source of water to restore our most sacred land. We will use this water to restore the land area to as close to original wetland conditions as is possible. Today, we are here to ask for your support and advocacy to approve this settlement so that our Zuni people can achieve peace of mind and emotional security that is so necessary to maintain our Zuni traditions and culture.

It is clear, therefore, why settlement rather than litigation is the preferable path for my people. As you know, in 1984 Congress set aside the Zuni Heaven Reservation for the express purpose of protecting the Tribe's long-standing religious and sustenance activities on those lands. As just described to you and testimony leading to passage of Pub. L. No. 98–498, 98 Stat. 1533 (August 28, 1984) revealed, water for riparian habitat and the Sacred Lake is essential to those activities, the very purpose for which Congress set aside the Reservation. That legislation, as amended by Pub. L. No. 101–486, 104 Stat. 1174 (October 31, 1990), addressed the lands to be protected but did not cover the Tribe's water needs. The United States on behalf of the Tribe, therefore, filed water rights claims in the Little Colorado River basin general adjudication which has been pending since 1979. The LCR adjudication involves thousands of parties, including five Indian tribes.

Despite the strength of Zuni's litigation claims relating to its use and occupation of the area encompassing Zuni Heaven and its waters since time immemorial, the Tribe was motivated by the desire to secure "wet" water and not just a "paper" water right. The settlement provides for real water to be acquired by the Tribe, in an area of the Little Colorado River basin where the surface water is already over appropriated and where there also exists significant groundwater demand. Equally important, the settlement also provides the resources to be able to restore the wet-

lands and riparian areas on our sacred lands, an outcome we would not obtain through litigation. This settlement, thus, restores the ecosystem necessary for our sacred practices and provides the parties, and Zuni in particular, the benefit of certainty and finality without spending numerous years and extensive resources in litigation. Moreover, this settlement resolves the Zuni Tribe's water rights claims with no adverse impacts on the water rights of any party in the LCR litigation.

Overview of The Settlement

This settlement is the culmination of the Tribe's attempts to protect and restore the sacred lands of Zuni Heaven. The Tribe's litigation claims are satisfied by providing water and resources to rehabilitate and restore to the Reservation a riparian habitat for the Tribe's religious and sustenance activities.

Description of the Restoration Project and Water Needs

Our restoration project will take a number of years to accomplish. Simply described, it involves acquisition of water rights, use of groundwater, aggradation of the LCR stream channel, removal of exotic plants that impede restoration of the wetlands, and planting and maintenance of native plant species. Although our goal is to restore the area to as close to natural, predevelopment conditions as possible, certain hydrologic conditions may have been permanently altered by upstream dams and surface water diversions as well as extensive groundwater pumping; significant engineering planning and design is needed, as well as the "artificial" maintenance of certain wetland and riparian areas. We will endeavor to create as natural an environment as is reasonably possible.

With regard to the water requirements, the settlement provides Zuni a minimum of 5,500 acre-feet per year (afy) of water to develop and maintain its wetland restoration project. The Tribe will use both groundwater and surface water. Importantly, the parties set out to provide water to the Tribe without disrupting, to the greatest extent possible, the existing uses and expectations of the parties. The mechanism to accomplish this goal includes the voluntary acquisition of surface water rights from willing sellers in an area where water uses are changing and irrigation is declining. In the long run, the Tribe needs to acquire a total of at least 3,600 afy of surface water. The remainder of the minimum 5,500 afy of water needs will be met through appropriation of floodtype flows, development and "harvesting" of water from Zuni lands upstream of the Reservation, and groundwater pumping. The settlement recognizes the right of the Tribe to withdraw 1,500 of groundwater free from objection by the parties. Notably, Zuni will need to acquire 2,350 afy of surface water rights over the next few years in order to effectuate the settlement and waive its claims.

The Tribe's project includes two phases: a core, initial wetland development area that includes restoration of Hadin K'yaya, the Tribe's Sacred Lake. This area will be developed immediately using groundwater, and will be maintained in perpetuity even in periods of drought. The secondary wetland area will be developed using surface water, after the Little Colorado River channel has been aggraded, or raised up, on the Reservation, through removal of sediment upstream and relocation of that sediment to Zuni Heaven. The extent of the secondary wetland area is expected to fluctuate depending on surface water availability in wetter or dryer years.

As noted above, the surface water rights will be acquired pursuant to state law. As such they will carry the associated state law priority dates. However, of great significance to the Tribe, once those rights have been acquired and severed and transferred to the reservation, the water takes on key attributes of a Federal right: the water rights shall be held in trust by the United States in perpetuity, the water rights cannot be lost by abandonment or forfeiture, state law does not apply to water uses on the Reservation, and the state has no authority to regulate or tax the use of the water. The settlement provides similar protection for the Tribe's use of 1,500 afy of groundwater on the Reservation.

Contributions; Development Fund

The settlement provides for a unique partnership among the Tribe, the United States, the State of Arizona, and certain individual parties to accomplish the goals of this settlement. First, in addition to the financial contribution of $19.25 million requested of the United States, the state parties, including the State of Arizona and other major groundwater pumpers, are contributing roughly $8 to $9 million dollars toward this settlement, and the Zuni Tribe itself has spent close to $5 million dollars to acquire certain key lands and water essential to the success of the project. The extent of shared funding is unprecedented in water rights settlements. Equally important, however, is the creative use of state programs to support the restoration and environmental goals of this settlement. In addition to contributions from its general funds, the State of Arizona is using two state programs aimed at

endangered species protection and habitat conservation to fund its contribution to this settlement. Through use of these state funds, the Tribe will receive water rights to be used for its wetland restoration project as well as dollars that will be spent for wetland restoration and maintenance purposes. Ultimately, these efforts along the Little Colorado River stream will create more habitats for threatened and endangered species. Through this partnership, Zuni restores its sacred lands, and environmental protection goals are met.

This agreement will establish the Zuni Indian Tribe Water Rights Development Fund managed by the Department of Interior into which the contributions from the State of Arizona and the United States will be deposited. From the Federal contribution of $19.25 million, $3.5 million dollars will be made available immediately to secure water rights so that the settlement agreement can become enforceable. The remaining funds will be made available after the enforcement date. The Zuni Indian Tribe has extensive working knowledge of trust funds management and investment by the U.S. Treasury Department and Department of Interior's Office of Trust Funds Management. Our tribe has prudently used funds from prior settlement of land claims. We have used the prescribed regulatory process for drawing down funds under Secretarial control. We have also exercised the option of withdrawing monies under the American Indian Trust Fund Management Reform Act of 1994. The Congressional route for withdrawing of funds has also been successfully used by our Tribe.

The Zuni Indian Tribe will use the settlement Development Fund in the manner prescribed by this proposed legislation and by the terms embodied in the agreement. Our trustees at the Southwest Regional office and the Office of Trust Funds Management are extremely aware of our adherence to Federal fiduciary standards, but more importantly, to the fiduciary standards of my people. We have met these standards in the past, and we will meet the standards contemplated in this legislation in furtherance of our restoration goals.

Rationale for Certain Waivers and Compromise

This settlement represents many hours of working with my people to develop a workable vision and concept for restoring our sacred Zuni Heaven given the present conditions at the Reservation. In addition, the settlement is the result of more than four years of extensive negotiations involving my water rights team and our water rights attorneys. As such, it contains negotiated compromises, some of which were arrived at only after a great deal of discussion and deliberation. Several provisions, described below, required a great deal of "soul-searching" and discussion by Zuni's water rights team and Council. We firmly believe, however, that this settlement, even with some difficult compromises, provides the best possible approach to securing an adequate amount of water of sufficient quality for our religious practices.

The first of the significant compromises relates to taking lands into trust. As mentioned above, the Tribe has acquired certain lands near the Reservation that are critical to our ability to gather and send water down the Little Colorado River channel to the Reservation. Other lands along the LCR are also important to the project. To further this settlement and the needs of some parties to have certainty about the status of these lands now and in the future, the Tribe identified a key corridor along the LCR that contains lands we now own or may acquire in the future that will be taken into trust as part of this settlement. One section of land adjacent to the Reservation will also be made part of the Reservation; it is the expected location of much of the Tribe's groundwater pumping. The legislation provides that only these lands in Arizona will be taken into trust, absent a subsequent act of Congress authorizing additional lands into trust for Zuni.

Before any lands may be taken into trust, the Tribe, the State of Arizona, and Apache County will enter into an intergovernmental agreement covering a number of water and land use issues that are identified in the settlement agreement. These issues include, for example, adoption of a tribal water code, jurisdiction by the Tribe over wildlife management, payments by the Tribe in lieu of state taxes, rights-of-way or easements for adjoining landowners, and protection of land remaining in fee status for the Tribe's religious practices. We support the intergovernmental agreement approach as a useful mechanism for sovereign governments to use to facilitate their relationship. After considering the nature of our land and water use in Arizona for sustaining our religion and culture, lands which are not the site of my people's homes or economic livelihood, we are also comfortable with the substantive agreements within the provisions to be covered by the intergovernmental agreement and believe they strike a reasonable balance of interests.

The next area of significant compromise relates to waiver of future water quality claims. We know that this waiver covers new ground in a water rights settlement. Again, after a great deal of deliberation and consideration of the specific

circumstances of this settlement, we are comfortable with the compromises contained in the approach to waiver of these future claims. Circumstances may differ in another case where, for example, a reservation is a homeland and is located in an area with more industrial or other development. Moreover, in our negotiations, we agreed to try to reach a settlement that would, as much as possible, maintain the status quo and the parties' existing water use expectations. This may not be a goal in another context. From the Tribe's perspective here, the location of the Reservation in a relatively undeveloped area of Arizona, combined with the state parties' agreement to provide water quality monitoring and data on an ongoing basis, along with the broad retention of regulatory authority by the United States to address water quality or environmental problems that may arise, provide us adequate assurance that a serious problem will not go unremedied, even if the Tribe is limited in the type of claims it can assert. On balance, Zuni believes that the overall benefits to us of this settlement outweigh the risks associated with the limited waiver of future water quality claims.

Finally, I want to discuss briefly the issue of the timing of the Tribe's waiver of litigation claims and the acquisition of water rights as a condition precedent to such a waiver. As I mentioned earlier, the Tribe needs to acquire 3,600 afy of surface water rights in order to develop its project. The Tribe will waive its claims, however, when 2,350 afy of the necessary 3,600 afy of surface water is acquired. This must be accomplished by the end of December 2006. Clearly, there is a risk to the Tribe of waiving its claims before it has acquired all of the necessary water rights. However, after significant thought, we felt it the wisest use of time and resources to structure the settlement in this fashion, for several reasons. First, under the settlement agreement and legislation, the Tribe has early access to $3.5 million dollars in order to secure the necessary 2,350 afy of water. Given the voluntary nature of the water acquisitions, we have attempted to strike an appropriate balance between a reasonably short time frame to determine whether the settlement will become finally enforceable, and a reasonable guess as to the amount of water at a reasonable price we expect could be acquired within the limited time frame. We did not want to be in a situation where we are forced to pay too much for any particular water right in order to satisfy the time deadlines, yet we need to know that we can reasonably expect to secure sufficient surface water to develop the project. The 2,350 afy amount is the parties' best estimate as to the amount of water at a reasonable price that we can anticipate acquiring with the initial funds by December 2006. We will then acquire the remainder of the water rights over time, with the State of Arizona expecting to contribute approximately 1,000 afy of water over the next fifteen years. We believe that this approach is fiscally sound and, in conjunction with our ability to use groundwater, provides us enough certainty about the ability to develop the entire wetland restoration project over time.

Conclusion

This water rights settlement agreement will enable the Zuni people to restore their most sacred land area to the way it was as described in ancient traditional historical accounts. It will enable them to develop wetlands for water plants, birds and other animals so important and necessary in carrying on the Zuni Kachina religion. Furthermore, it will ease the minds and hearts of the people knowing that the spirits of their ancestors will once again, be living in the wetland conditions as were the land conditions at the very beginning. Past and present Zuni Tribal Councils, it's Water Rights Team members, and tribal religious leaders have worked closely and reasonably with all non–Zuni parties to keep whole their water rights and land interests and at the same time, secure our interest to water and land for our sacred lands. The leaders of the tribal civil government, the religious leaders and the Zuni people are satisfied with the terms of this settlement and respectfully ask that you approve it. Initial work has already begun to re-establish the wetland conditions of the Sacred Lake area and adjacent Little Colorado River channel. The several sources of funds for wetland restoration work efforts will be sufficient to continue the work already started. We all know that it will take many years of sustained work efforts and funds to restore our sacred lands to the way that they were in the beginning. However, with this settlement, we have all made a good start and will continue the work efforts for as long as it will take.

We firmly believe that with this settlement, the Zuni people and our non–Zuni neighbors, townships, entities and the State of Arizona have gained benefits that are so much better than a lengthy and expensive litigation. Expensive and protracted litigations may still remain for the northern reaches of the Little Colorado River, however, at least one portion will be forever resolved with the approval of this settlement. We further believe that the United States, on behalf of the Zuni tribe, will have fulfilled it's trust obligations with the approval of this settlement.

Esteemed members of the House of Representatives, on behalf of our Zuni people, I humbly ask and urge you to support the ratification of this proposed legislation for the water rights of the Zuni people at their most sacred land. As a representative of the Zuni tribe's religious leaders and the Zuni Tribal Council, I bequeath on each of you a long and valued life trail. Don dek'ohanan yanitchiy a:dehy a:wona:ya:du. Elahkwa, don yadon k'okshi" sunnahk'yanapdu. Thank you, may you spend a good day to the evening time.

Mr. CALVERT. Thank you for your testimony.

Next, Mr. Michael Whitehead, San Gabriel Basin Water Quality Authority.

STATEMENT OF MICHAEL WHITEHEAD, DIRECTOR, SAN GABRIEL BASIN WATER QUALITY AUTHORITY

Mr. WHITEHEAD. Thank you, Mr. Chairman, Committee members. My name is Michael Whitehead. I am president of San Gabriel Valley Water Company, the utility that serves much of the San Gabriel Valley, but I come to you today as a member of the board of directors of the San Gabriel Basin Water Quality Authority.

First of all, Mr. Chairman, I would like to say that I have submitted written comments to the Committee, and I would, if it please the Committee, have those comments entered into the record and I would like to summarize that.

Mr. CALVERT. Without objection, so ordered.

Mr. WHITEHEAD. Also, Mr. Chairman, please also allow me to express my deepest appreciation to Congresswoman Grace Napolitano for introducing H.R. 1284, and to Congressman David Drier and Congresswoman Hilda Solis, who we heard from earlier this afternoon, for their support in cosponsoring this very important legislation.

Title XVI, the program that has been quite beneficial to the San Gabriel Valley and the San Gabriel Basin, has enabled groundwater producers in the San Gabriel Valley to provide much needed wellhead treatment and to stem the flow of contamination that is flowing underground, to stabilize water rates and, above all else, to assure a reliable and safe supply of water to over 1.5 million inhabitants in the San Gabriel Valley. The program under title XVI has been one of the fundamental cornerstones of allowing us to advance that progress in the San Gabriel Valley. For that, we are immensely grateful.

H.R. 1284 would extend that and lift that cap in an important way that would allow us to provide funding to additional programs. I mentioned earlier that it is one of the cornerstones. Others Commissioner Keys has mentioned, the other funding sources that the Bureau of Reclamation is also administering, all of those fit together and become very important funding sources. We have, in fact, through the Water Quality Authority, brought about agreements throughout the Valley, most notably recently in the Azusa Baldwin Park area, which has been plagued with a profound amount of groundwater contamination from volatile organic compounds, perchlorate and—I'm afraid to say a list too long to mention here today—of other contamination in the groundwater.

As Congresswoman Napolitano observed earlier, we have similar problems emerging in the South El Monte, El Monte and the

Puente Valley operable units, which are Superfund cleanup sites in the San Gabriel Valley. This legislation, as well as other funding we're seeking at the local, State and Federal level, will allow us to advance those projects.

Just for the Committee's information, I will tell you that under the auspices of title XVI already through the Bureau of Reclamation, the Water Quality Authority has allocated funding to 10 groundwater cleanup projects, to clean up the groundwater and restore drinking water in the San Gabriel Valley. Seven of those projects have been completed and have been built and are in operation. Three additional projects are under design and will be built in the near future, thanks again to title XVI.

I know the hour is late, and I know that others wish to speak, so I won't elaborate further. But I do, once again, want to thank Congresswoman Napolitano for your support. We could not have achieved the kind of success so far that we have in the San Gabriel Valley without that kind of support, and we certainly welcome it. For that reason, we urge this Committee and the Congress to approve H.R. 1284.

Thank you.

[The prepared statement of Mr. Whitehead follows:]

Statement of Michael Whitehead, Member of the Board of Directors, San Gabriel Basin Water Quality Authority

Good afternoon, Mr. Chairman, Committee members and staff. My name is Michael Whitehead and I am a member of the Board of Directors of the San Gabriel Basin Water Quality Authority. Let me express my appreciation to Congresswoman Grace Napolitano for introducing H.R. 1284 and Congressman David Dreier and Congresswoman Hilda Solis for co-sponsoring the legislation.

The Title XVI program has provided the San Gabriel Basin with the ability to provide much needed wellhead treatment, stem the flow of contaminants, stabilize water rates and most importantly deliver safe and reliable drinking water to the residents of the San Gabriel Basin.

By increasing the authorization for the San Gabriel Basin Demonstration Project, H.R. 1284 will allow us to continue the incredible progress that has been made over the last few years in cleaning up and utilizing the groundwater in the San Gabriel Basin. Title XVI has allowed us to maximize local dollars as we attempt to remediate groundwater contamination that threatens the drinking water supply of over 1 million residents of the San Gabriel Basin.

In the time period since the Title XVI program was made available to the San Gabriel Basin Water Quality Authority, 10 projects have been allocated funding. Seven projects have been built and another three will begin construction in the near future.

Without the funding for the treatment facilities local water producers would have been forced to shut down water wells due to migrating contamination. The closures would have forced local water purveyors to become reliant on Colorado River water at a time that the state's allotment is being cutback. This would have severely impaired our ability to provide water for users in the basin and forced us to rely on imported water.

It is vital that we restore the basin's aquifer. Once we are able to remediate the contamination it is our belief that the Valley will be able to use the aquifer to meet all of the basin's water needs. Removing harmful contaminants from our communities groundwater supply will allow local water producers to better meet the needs of local residents at affordable rates. Lifting the ceiling on Title XVI makes certain that the basin is able to meet the water supply needs of future generations.

We urge the Committee and their fellow members of Congress to lift the ceiling on the Title XVI program to allow us to carry out our mission of facilitating groundwater cleanup and providing a clean, reliable drinking water supply for the 1 million residents of the San Gabriel Basin.

Thank you for allowing me to testify for the Subcommittee today.

Mr. CALVERT. I thank the gentleman.

Mr. George Lujan.

STATEMENT OF GEORGE LUJAN, RESIDENT, EL MONTE, CALIFORNIA

Mr. LUJAN. Thank you. I have also submitted written testimony. I am going to summarize the last part of it. I would like to have this testimony submitted, and I am also going to submit a modified copy to take into account the additional remarks that I'm going to cover.

Mr. CALVERT. Without objection, your full testimony will be entered into the record.

Mr. LUJAN. Thank you.

Once again, I do want to thank all of you for having me here. With my appearance today, you will have heard from an all too frequently neglected stakeholder in this proceeding: the residents. I, as a disinterested party—interested in the resolution of this problem but disinterested in that I'm not a PRP, I'm no longer a city official, and I'm just concerned with the well-being of the people of El Monte, South El Monte, and the entire San Gabriel Basin.

There were three areas that I thought were important to emphasize. These points have not been made in previous testimony, which I find surprising. I'm going to make those three now and then I'm going to add a fourth. It is important to be able to see why it is essential that this bill pass, or if this bill doesn't pass, I'm going to argue for something related in just a moment.

First, let me point out that the cities of El Monte, Industry and South El Monte, have sought to have the 1996 funding cap of $38 million lifted from the moneys provided by the 1992 Reclamations Act, to include an additional $12.5 million. Because of the 1996 cap, these three cities were not able to benefit from the moneys provided.

We have heard testimony from Mr. Keys earlier, and I do want to make sure that my comments will also conform to the issues that he raised earlier.

The cities of El Monte and South El Monte are among the poorest of the various operable groups. Yet, for the sake of basic fairness, I would urge you to consider that the El Monte and South El Monte operables, the stakeholders, the PRPs, and now, I guess, the RPs, the responsible parties, almost alone among the people in the San Gabriel Basin stood up and tried to avoid the transaction costs which drive up cleanup efforts by not looking to attorneys but by trying to work with the EPA, the Federal Government, the local State agencies, the regional areas, in order to seek resolution.

While I know it's an anecdotal point that "no good deed goes unpunished", I think it violates a point of basic fairness that these people should not be able to achieve the 25 percent matching funds in order to get their projects funded, since they alone have stood up in order to work as closely as possible. Yes, the sword of Damocles was hanging over them, but these people stood up for what they felt they ought to do, and to the extent we want to make sure the polluter pays, we also want to make sure that there is some basic fairness in the process.

As a matter of public policy, it is not appropriate to have those people who are the most cooperative to suffer the most in this effort. Hence, H.R. 1284 ought to be passed in order to make sure that, as a principle of basic fairness, this is done.

Secondly, there is another consideration which has not been raised. Many of the PRPs in these operable units may not survive the remediation process without the sort of assistance provided by the bill.

Now, the reason I mentioned Mr. Keys' testimony is because he said he was talking to several people, and I understand there was some pressuring to find out who were these people. I could say that I contacted South El Monte in order to secure their support for my testimony here. Of course, if I only talked to a secretary, I nonetheless spoke to someone at city hall.

In point of fact, I spoke to Patricia Wallach, a councilmember of El Monte, yesterday. I talked to Larry Felix Friday and yesterday, and he provided a letter, which I would like to have entered into the record.

Mr. CALVERT. Without objection.

[The letter follows:]

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March 28, 2003

VIA FACSIMILE AND U.S. MAIL
The Honorable Ken Calvert
Chairman
Water and Power Subcommittee
Committee on Resources
United States House of Representatives
1324 Longworth House Office Building
Washington D.C. 20515

The Honorable Grace Napolitano
Water and Power Subcommittee
Committee on Resources
United States House of Representatives
1324 Longworth House Office Building
Washington D.C. 20515

The Honorable Hilda Solis
United States House of Representatives
1725 Longworth House Office Building
Washington, DC 20515

The Honorable David Dreier
United States House of Representatives
237 Cannon House Office Building
Washington, DC 20515

Re: HR 1284 – to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project ("HR 1284").

Dear Congressmen and Congresswomen,

This letter is on behalf of the thirteen businesses and property owners[1] who have cooperated to fund the cleanup of groundwater in the South El Monte Operable Unit ("SEMOU") of the San Gabriel Valley Superfund Site ("Site"). These Cooperating Parties write this letter in support of HR 1284 presently before the Subcommittee on Water and Power of the Committee on House Resources. As discussed in more detail below, the funding provided by HR 1284 is essential to bring to fruition the landmark cooperative effort to cleanup the groundwater of the SEMOU.

By way of background, HR 1284 will increase the Federal share of funding to the San Gabriel Basin demonstration project ("Project"). (42 U.S.C.S. Section 390h-12.) The Project is a comprehensive solution that addresses the water supply and groundwater contamination

[1] Andruss Family Trust, and 1987 Survivors Trust under terms of Trust; APW North America Inc., formerly known as Zero Corporation and Electronic Solutions; Artistic Polishing & Plating, Inc., and Art 1981 Revocable Living Marital Deduction Trust and Art 1981 Revocable Living Exemption Trust; Cardinal Industrial Finishes, and Cardco; Durham Transportation, Inc., Durham School Services Inc. and Durham Family Limited Partnership; Eemus Manufacturing Corp.; International Medication Systems, Ltd.; Norf James Jebbia Testamentary Trust; J.A.B. Holdings, Inc., formerly known as J.A. Bozung Company; Roc-Aire Corp.; Janneberg Trusts, formerly known as Servex Corp.; Smittybilt, Inc.; Southern California Edison Co. (collectively, the "Cooperating Parties")

problems of the Site and to thus adequately protect the groundwater resources of the San Gabriel Basin. The Project implements conjunctive use projects that will enhance both the groundwater quality and the local and regional water supply of the San Gabriel Basin. Such treatment projects will remove volatile organic compounds ("VOC") and other emerging contaminants such as perchlorate from the groundwater, and then deliver the water for beneficial use. Federal Project funds contribute twenty-five percent of the total capital cost of a project, but such funds cannot be used for the operation and maintenance of such projects. (42 U.S.C.S. Section 390h-12(b).) Additionally, the Federal funds contribution toward share of the funding of the Project cannot exceed the amount specified as the 'total Federal obligation' for the Project made by the Bureau of Reclamation for fiscal year 1997 as set forth in report of the March 27, 1996 hearing before the Subcommittee on Energy and Water Development. (43 U.S.C.S. Section 390h-14(d)(2).) Although the spending restrictions would remain in place, HR 1284 allows that the Federal share of the Project may be increased by an additional $12,500,000.

It is vitally important that HR 1284 become law. Perhaps the significance of HR 1284 can be emphasized by examination of the importance of the initial outlay of federal funds which HR 1284 seeks to increase. Approximately seventy private parties have been identified for the SEMOU; most have been identified since at least the early to mid-1990's. Organizing these parties into a cohesive responsive group has proved to be an impossible task. However, certain of these private parties chose to work with the United States Environmental Protection Agency ("EPA"), the San Gabriel Basin Water Quality Authority ("WQA"), and certain water purveyors to reach an agreement to clean the SEMOU groundwater resources. These parties sought to avoid litigation and transactions costs and instead focus on targeting resources upon the remediation of the SEMOU groundwater.

However, given the economic status of these parties, such an agreement was difficult to reach. That is, parties interested in contributing funding for the treatment projects could not gather enough money to fund these important projects. After years of negotiations, the logjam was broken as the private parties sought to access federal funds such as funds from the San Gabriel Basin Restoration Project (i.e., Restoration Fund) and the San Gabriel Basin Demonstration Project (i.e., Title XVI). Even then, only the thirteen Cooperating Parties entered into an agreement with the WQA and water purveyors to provide funding toward projects to implement the cleanup of the groundwater of the SEMOU ("Agreement").

There is no question that the Agreement would not have been reached but for the ability to include federal funds toward implementation of the cleanup. This is perhaps best evidenced by the fact that after years of negotiations, the Agreement was entered into after round the clock talks culminating on July 1, 2002. Not coincidentally, this was also the last day such an agreement could be reached in order to access certain federal funds. In a letter dated July 15, 2002, the EPA wrote the Cooperating Parties and informed them that it considered work described in or performed pursuant to this Agreement that supports the SEMOU Interim Record of Decision of the SEMOU RD/RA Statement of Work the equivalent of remedy implementation. In short, the access of federal funds allowed an agreement to be reached that focused resources on addressing the contamination of the SEMOU rather than litigation and transactional matters.

Our Congressional representatives should be heartily commended for their wisdom in providing funds that set the stage for remedy implementation to take place. Without such, it is likely that significant resources would not be devoted toward remedy implementation and instead would be squandered in litigation. Nonetheless, the SEMOU remedy does not remain fully implemented due in part to two factors; both of which could potentially be alleviated by HR 1284.

The first reason is the discovery of perchlorate and other "emerging chemicals" in the SEMOU. Although the Cooperating Parties are not responsible for the rocket fuel perchlorate groundwater contamination, the SEMOU remedy to address VOC's cannot be implemented unless the perchlorate is also addressed. HR 1284 can provide the funding to assist in addressing the perchlorate contamination and thus allow the full VOC remedy implementation to proceed.

The second reason is that besides the Cooperating Parties' best efforts, there remain numerous recalcitrant parties who have not contributed their resources toward remedy implementation. Several of these recalcitrants are presently embroiled in litigation with the WQA and water purveyors. Further, the Cooperating Parties believe that EPA will shortly be expending significant resources on enforcement against these recalcitrants. Several of these recalcitrants regret failing to exercise the initiative and foresight of the Cooperating Parties in entering into the Agreement that recognized the availability of federal funds. Based upon the Cooperating Parties' experiences, it is likely that HR 1284 could provide the incentive that allows these recalcitrants to enter into a similar agreement and thus devote their resources toward the Project implementation.

For these reasons, the Cooperating Parties urge that HR 1284 become law, and the funds authorized therein be devoted to addressing the perchlorate and emerging chemicals contamination in the SEMOU. This would allow the full VOC remedy implementation to proceed and would encourage further settlement from recalcitrants. In furtherance of these goals, if you or other Congressmen and/or Congresswomen have any questions regarding the Cooperating Parties' experiences, we would be happy to assist.

Very truly yours,

Lawrence C. Felix

Lawrence C. Felix,
Vice President, Cardinal Industrial Finishes

cc: Ms. Grace Burgess, Executive Director, San Gabriel Valley Basin Water Quality Authority
Ms. Elizabeth Adams, Branch Chief, Region IX of EPA

Mr. LUJAN. Thank you.

In which at the bottom of the second page and top of the third page he indicates no knowledge of any type of availability of Reclamation moneys for his effort.

Now, just as we have no rights unless we can defend them, similarly, we have no remedies unless we can take advantage of them. If this information is not made available to the PRPs and to the RPs, then it cannot be applied in order to defray some of the costs.

The second point I want to mention is this. The economic viability of the region is in question because some of these PRPs are not able to survive this process and stay in business. Why is this a matter of public policy as well as a matter of basic fairness? It's because we may end up having a large orphan's share, assumed entirely be the Federal Government, if these people cannot have the economic sustainability in order to make sure that they own up to their obligation and continue paying for the water remediation. It is better to partially supply the moneys to these people in terms of a 25-75 match, in order to make sure that they're still around to continue meeting their obligation, so that the taxpayers at large do not meet this.

Thirdly, it is in the public interest for this body to ensure every means to remediate this problem as soon as possible because the plumes are leaching into the Central Basin, and it is not simply a problem for the San Gabriel Basin PRPs but also for the residents and water users of the Central Basin.

It is important also—and this is my fourth and last point—to remember, the city of South El Monte and the city of El Monte are not among the PRPs. In order to make sure the Bureau of Reclamation money is available if Mr. Keys does have it available, it is to make sure that these people, the stakeholders, the PRPs and the RPs, are told about this money.

I'm certainly going to take this testimony back and share it with the PRPs of El Monte and South El Monte. But the city managers of El Monte and South El Monte have nothing to do with this because they are not responsible parties and they have no say in the allocation of the moneys or in the contribution of moneys to the water treatment.

As I said, the city of South El Monte has once provided a great amount of money in order to allow for cleanup and to do various experimental projects. I would hope, and surely expect, this body to achieve such greatness of spirit, as you all are surely capable.

If you don't pass this bill, H.R. 1284, then simply direct Mr. Keys to make sure that the $8 million that he says is left over from the cap, as well as $4.5 million to make the entire $12.5 million whole, is directed to Industry, South El Monte, and El Monte. Because remember, without the direct force of law, there is no reason that he has to do this. It really isn't a remedy. It's simply something on paper.

[The prepared statement of Mr. Lujan follows:]

Statement of George J. Lujan, Resident of South El Monte, California

Honorable representatives, members of the Committee:

I want to thank you for the opportunity to appear before you today. So far you have heard from various local and Federal elected representatives and from potentially responsible parties from the business community. With my appearance today, you will have heard from an all too frequently neglected stakeholder: the residents. I have spoken about this problem with Representatives Dreier, Napolitano and Solis, as well as members of their staff, in the past, and I want to thank them for their efforts in bringing some promise of relief to the heavily minority, economically distressed cities of El Monte and South El Monte.

Recognizing the long-term threat facing the various communities across the San Gabriel and Central basins, I have long sought to do what I could to apply what resources could be brought to bear on remediating the proximate source of that threat: the various plumes of contaminated groundwater drifting across the San Gabriel Basin aquifer toward the Central Basin. With plumes containing volatile organic compounds, perchlorate, trichloroethene and other "emerging" contaminants, there is a potentially serious health threat to everybody who lives and works in the various operable units in the San Gabriel Basin; with the health threat potentially affecting residents and workers, it is extremely difficult to attract and retain businesses in El Monte and South El Monte, especially with an unemployment rate of 9.3 percent and in which 26 percent of the residents live below the poverty level.

As a private resident, I studied CERCLA, the 1979 Superfund Act, it's 1986 reauthorization, the Torrez bill, the Smith bill, the Oxley bill and other relevant state and local legislation. I attended meetings of the Regional Water Quality Control Board and San Gabriel Basin Water Quality Authority, as well as local meetings held by business groups in the various operable units. I educated myself in issues relevant to my home and my city, and spoke with stakeholders affected by the problems and the attempts to remedy them.

When I was elected to the South El Monte City Council, I did my best to look for ways to build bridges of cooperation among the various stakeholders. Our city was instrumental in various efforts to test the groundwater, to develop and implement ways of treating the groundwater, to work with the various state water quality control entities and the USEPA, and to safeguard the public's health and well-being. Even though the Citry of South El Monte was not a potentially responsible party, we contributed $40,000 to a WQA project that blocked one plume so that the South El Monte PRPs could qualify for $400,000 in contributions and matching funds to complete the project that they would not have otherwise gotten.

The cities of El Monte, Industry and South El Monte, have sought to have the 1996 funding cap of $38 million dollars lifted from the monies provided by a 1993 reclamations act to include an additional 12.5 million dollars.. Because of the 1996 cap, these three cities were not able to benefit from the monies provided. The cities of El Monte and South El Monte are among the poorest of the various operable groups. For the sake of basic fairness, I would urge you to consider the merits of passing H.R. 1284, but there is more. Consider this: In the first place, the cities of El Monte and South El Monte have been among the most open and cooperative of any of the operable units. To allow the other operable units to benefit from the already allocated monies from the 1993 funding while ignoring the publicly minded efforts of the PRPs of the El Monte and South El Monte operable units is simply unsound as a matter of public policy. Secondly, there is another consideration: many of the PRPs of these operable units may not survive the remediation process without the sort of assistance provided by this bill. The economic viability of the region is in question. Also, in terms of cost-benefit analysis, it is surely better to allow PRPs to stay in business so as to defray the cost of what would otherwise be orphan share assumed by the government. In the third place, it is in the public interest for this body to ensure every means to remediate this problem as soon as possible, not only for the health of the residents of El Monte and South El Monte, but for the sake.: of those living in the Central Basin. The plume is a menace that must be stopped.

As I said, the City of South El Monte provided monies to facilitate actions contributing to the health and economic viability of our residential and business communities. I would hope and surely expect this body to achieve such greatness of spirit as it is capable of achieving.

Mr. CALVERT. I thank the gentleman, and I thank all of you for your testimony on the various legislative bills. It's been a busy day today. We have discussed four pieces of legislation that we intend to have a markup on Thursday, but we have a few other questions we need to ask.

Mr. CALVERT. Mr. Gleick, I listened to your testimony with interest. You made a comment that the per capita water use is down and that the issue of supply is not the problem.

You know, I've been Chairman of this Subcommittee for 3 years now, have been a member of the Committee for 10 years, and I can't remember anyone telling me that we don't have a supply problem in the United States. On the contrary, it seems that everywhere I go in the United States and have a water hearing, there is a problem with supply. There may be a dispute of where that supply should go, whether to the urban communities or the farming communities or the environmental community, whoever. But certainly there is a dispute. Certainly in California, in my experience with Cal-Fed and the Quantification Settlement Agreement, et cetera, et cetera, there is plenty of disputes. If we could make disputes water and water policy, we would have a flood. But, unfortunately we don't. So here we are today, I believe with a good bill that Mr. Linder has put forward, H.R. 135. As Mr. Lynch pointed out, I think there are very few people who object to the fact that we need to take another look at water in this country and what we're doing.

Now, on global warming, I used to chair the Energy and Environment Committee, too, so I've been to every global warming conference in the world, I think, and have always with great interest listened to the folks. I suspect that if, in fact, we do have climate change issues, we can argue whether it's because of human participation or just natural elements in the world. I know there's a controversy around that, too, another dispute. Nevertheless, if, in fact, we do have a climate change, there are some who would argue that we may need more supply and more ability to collect water because the ice pack or the snowfall, which has been, in effect, a reservoir for us throughout the West, would be less, and there would be more rainfall.

Do you have any comment about that?

Mr. GLEICK. Yes, Mr. Chairman. Those are all wonderful questions, and very astute.

Let me clarify my comments. In this bill, the findings emphasize "the need to increase water supplies in every region of the country." That is not the problem facing the United States. There are some regions and there are some times when supplies are short, absolutely. But even in these regions, increasing supplies is not the best solution. The best solution is rethinking the way we use water, reallocating water from one user to another, as you've heard some of the discussion here today. In fact, demand for water in the United States is going down, the total demand for water.

I'm sorry that nobody else has told you that in the last 10 or 15 years, but the reality is that the demand for water is going down. On a per capita basis, it's going down even more than that.

That's good news. It's not bad news, it's good news. It means we have the ability to rethink the way we're using what we have and to use it more effectively and more efficiently.

I am not disputing the need for such a commission. Such a commission can help us rethink the broad suite of water problems, and we certainly have very many water problems. But the focus of the findings and the focus of the duties I think are slightly misdirected, and that was the point of that set of comments.

Mr. CALVERT. Thank you.

Mr. Lynch, any comment about that?

Mr. LYNCH. Well, obviously I don't agree with Dr. Gleick. If per capita water use is going down, we're being overrun by capitas, because California is growing, Arizona is growing, the West is growing, and the very place where water supply is the biggest problem is the place where people are all moving. We can just stop them at the border and say "I'm sorry, we're out of water." Well, we're not out of water. But we can't just go up to people and say, "I'm sorry, you don't have any water rights any more." I mean, we do that under the guise of some processes now too much as it is. But this is a serious problem.

As I outlined in my testimony, the problem is right in front of us. We need to get after it and we need to focus on the problems that face us immediately. There may be problems in other countries, but we need to concentrate on the ones we've got right in front of us.

Mr. CALVERT. Speaking of water rights, I think the Federal Government tried to do that in Imperial County the other day, didn't they? It didn't work out too well.

Mr. LYNCH. Yeah, but it worked out better than the Central Valley Project, and they're suffering with 50 percent allocation.

Mr. CALVERT. That's right.

Mrs. Napolitano.

Mrs. NAPOLITANO. Dr. Gleick, the survey in your testimony indicates there is a reduction, although not quite as much as I would have liked to see. But there is a reduction of water usage.

I also know Metropolitan Water in Los Angeles has data that indicates California has remained constant for the last 10 years because of conservation, storage, et cetera, et cetera. So they're not using as much water. The fact that the Department of Interior is forcing California to go to 4.4 million acre-feet itself indicates that we may be able to get there, but we need all the help we can get to be able to get there. That means utilizing every available type of conservation, storage, recycling, desal, the whole bit.

Can you comment on that?

Mr. GLEICK. Yes. Metropolitan has done a wonderful job, as has much of Southern California, in reducing its per capita demand—that is, doing what we want to do with less water. And per capitas are growing, absolutely. Mr. Lynch is right. Population in the West especially, and in California, is growing.

Mrs. NAPOLITANO. Thirty percent.

Mr. GLEICK. But we use no more water in California today than we used 20 years ago, with a very much higher population. And that's to our credit. It shows that we are doing better.

If we focus this commission only on efforts to increase supplies, this commission will do nothing useful. I'm not saying in places we shouldn't discuss increasing supplies. I am, indeed, suggesting that we broaden the responsibilities of this commission to look at the entire suite of water management options that really face us, those that are most economically achievable, environmentally achievable, socially achievable. In some places, that's going to mean smart groundwater management and conjunctive use, and increases in groundwater supplies.

I'm certainly not opposed to that, but I am opposed to this bill if it limits our options of such a commission to look at what really is the broad suite of problems facing us.

Mrs. NAPOLITANO. Thank you, sir. I appreciate that.

Mr. Lynch, I know that Phoenix is facing a lot of hardships because of the cyclical, if you will, drought problem. Have there been many efforts in conservation? I know they've done it in California and Texas, and I'm sure they have done something in Arizona. Can you comment on what kind of conservation efforts have gone before you or that you're aware of in Arizona?

Mr. LYNCH. Mr. Chairman, Mrs. Napolitano, yes, there are a number of them. For instance, in order for agriculture to take Central Arizona Project water, all of their facilities had to become lined. They had to reduce their groundwater pumping. In fact, our Central Desert Basins are all in balance today because of that.

The municipalities have instituted a number of conservation efforts. The zoning laws have changed in terms of facilities, and we

are doing a relatively new program that we should have started when California did, of groundwater banking, which has been very successful.

Our problem in the Central Deserts, where the Central Arizona Project is, is the problem of the Colorado River, the continued supply and the 5-year drought that has stymied things in the Colorado River Basin. Our rural areas are really hurting. In fact, this afternoon as we speak, our Senate is amending a bill to allow some emergency groundwater transfers in our rural areas that aren't normally allowed under our 1980 Groundwater Act because of that. So yes, we're working as hard as we can at this. It's a major program, but this is a killer drought.

Mrs. NAPOLITANO. But wouldn't it then make sense to be able to address all the issues concerning water and its use throughout the United States, looking at every conceivable method of being able to address whether it's a drought, floods, et cetera?

Mr. LYNCH. Mr. Chairman, Miss Napolitano, yes. I think we're dealing with semantics here. Water reuse is increasing water supply. Vegetation management is increasing water supply. It can also help with flood control and flood management, and conserving flood flows to reduce damage as well as to increase water supply.

I am not sure that Dr. Gleick and I are on a different page here, so much as the words sound differently. But I think the focus is on increasing our ability to have the resource, and that includes conservation as well as other things that can increase the usability.

There is no more water. I mean, the water goes up in the sky, it floats around, it comes down again. It's all the same water, it's all the same molecules. It's where it's located at the time and the fact that it's not located where you need it at the time that is our problem. Helping with that management will be, I hope, the focus of this commission.

Mrs. NAPOLITANO. Thank you, sir.

Mr. CALVERT. I thank the gentlelady.

Mr. Hayworth.

Mr. HAYWORTH. Thank you, Mr. Chairman. Again, I would like to thank all the witnesses for their patience and diligence and the testimony here.

I would be remiss if I didn't offer a special word of welcome to my friends from the Zuni Tribe. Mr. Chairman and Governor, we thank you. I was honored to introduce the legislation in the 107th Congress that now bears the name of my good friend from Arizona's new 1st District, and I am pleased to be a cosponsor. I am pleased, also, to be a cosponsor of H.R. 135, and again to my friend, Bob Lynch, we thank you for your testimony as well on that.

One question. I can recall in the 107th Congress you offered some cautionary notes on John Linder's bill. I suppose working with Congressman Linder, those concerns you had have been minimized now and we can move forward on this policy. Obviously, as you reflected in your testimony, we need it.

I just wondered, from then until now, what has encouraged you along the lines of this bill?

Mr. LYNCH. Mr. Chairman, Mr. Hayworth, Mr. Linder has just done yeoman's service in working with the water community, with

me and others. I have been privileged to work with him on this, and I think the redesign of this bill gives it a manageable focus.

I remember in the Federal Water Rights Task Force how difficult it was for us just to coordinate schedules of seven people, just to be able to have the hearings and be around different parts of the country. So I think this bill is a focused attempt to address a major issue and I think it has a great chance of success. I support it 100 percent.

Mr. HAYWORTH. Thank you, Bob. Again, my thanks to all the witnesses for their testimony, and to you, Mr. Chairman, for the hearing.

Mr. CALVERT. I thank the gentleman.

Mr. Renzi.

Mr. RENZI. Thank you, Mr. Chairman. I also want to thank Congressman Hayworth and everyone who has taken the time to hang in with us today, particularly at this late hour.

I would be remiss if I didn't thank the original author of this, Congressman Hayworth, for a specific portion of this legislation that I want to talk about real quick, more of a statement than a question.

The idea that as more of our ranchers are moved off the public lands in Arizona, these ranchers have less and less income. Within this settlement agreement is a very insightful agreement that allows the ranchers to sell a part of their water to the Tribe. The Federal Government will participate and provide a percentage of that water that will go to Zuni Heaven. I think it's going to flow out of our apportionment that we have in Lyman Lake. But what's interesting is the concept that Congressman Hayworth developed, along with the Tribe, the idea that local water users, local ranchers, will now be able to sell their right rights.

I am hopeful, in the spirit of cooperation and working together as a community, that you're still finding that friendship and you're finding that opportunity to be available to you, if you would like to comment on that.

Thank you.

Mr. ERIACHO. Thank you, Mr. Renzi.

That is correct. We went into these negotiations with the idea that we wanted the share of water that rightfully belonged to the Zuni lands, but at the same time not take anything away from the residents in St. Jones and Springerville and up along that river. Like I said in the statement a while ago, any water that we purchase is going to be on a voluntary basis. Anybody that wants to sell water to the Zuni, we're ready to buy, using the money the United States is going to give to us, and also lands, if it's attached to lands. So I think this is a good settlement and I think we have the backing of all of the participants.

Mr. RENZI. Thank you.

It's unique, in a time when we're in such a litigious society, at a time when everyone is suing each other over water and land, it's wonderful to see from the original author and from the Tribe the idea that we're going to be able to settle, and with the idea we're also going to be able to share in the benefits of this. Again, thank you so very much.

Mr. ERIACHO. Thank you.

Mr. CALVERT. Thank you.

I have a few comments to make, and Mrs. Napolitano may have some additional question. But while waiting for her, I wanted to make a comment to Dr. Gleick.

I don't think you have anything really to worry about. I suspect that your views will be expressed and listened to and be a part of any future commission. In my experience with water, every element of water must be explored in order to have a balanced approach to this. Certainly conveyance, the issues of groundwater, reclamation, desalinization, the environment in general and how that water is shared within those various stakeholders is going to be necessary because NEPA is not going to go away. Maybe a few people would like to reform it a little bit, but I suspect it probably is not going to go away. So those various elements must be dealt with in a reasonable way in order to have a meaningful policy in the end, that is workable and we can deal with for the 21st century.

As I mentioned earlier—and I'm sure Mrs. Napolitano has some comments—I think you've got some great assistants, Mr. Whitehead and Mr. Lujan, on H.R. 1284. Mrs. Napolitano is very tough minded about getting this bill done, and she's got some great supporters, not excluding myself, and also the Chairman of the Rules Committee here. So I suspect you have a very great opportunity ahead of you to pass this legislation. We will work to do that.

As a matter of fact, Mr. Renzi is doing a great job in moving H.R. 495 and, in fact, we intend to mark up all three of these bills, along with another bill we heard earlier regarding the Folsom Dam, on Thursday, so we'll be moving those to the full Committee for final consideration, and with all haste.

With that, do you have any final comments, Mrs. Napolitano?

Mrs. NAPOLITANO. Thank you, Mr. Chair. I, too, want to thank all the witnesses for coming, especially my California friends, who are coming here during such cold weather and coming from the warm weather in California. I would like to thank you all for bringing us more information on how to deal with water.

I would like to comment that sometimes people don't think about water. They just turn the faucet on or flush the toilet and it comes and goes. We have no concept about the issues of water delivery and the quality and quantity of water.

I agree with Mr. Lynch, and I'm sure my tribal folks understand, that Mother Earth gave us the water to use and take care of and we need to be cognizant that we have a responsibility to take care of that water, and clean it, because it was given to us clean and we have polluted it. How we deliver it is going to be a challenge for all of us in the United States, to take a look at and understand and be cognizant of our own role in the solutions, not always government. I think the fact that we can work together, that we can bring it before this Committee, which has been very, very good about listening and acting upon those issues as they come before us, I think is very laudable.

Mr. Chairman, I thank you and the Committee members. We must move forward, and I certainly look forward to coming back for the markup, which is on Thursday. I thank you all for your testimony and we look forward to more work ahead.

Thank you.

Mr. CALVERT. I thank the gentlelady, and I thank this panel. I thank everyone for attending this hearing, and thank the members for sticking in there.

With that, we are adjourned.

[Whereupon, at 5:47 p.m., the Subcommittee adjourned.]

[The prepared statement of Mr. Hayworth submitted for the record follows:]

Statement of The Honorable J.D. Hayworth, a Representative in Congress from the State of Arizona, on H.R. 495

Mr. Chairman, Thank you for holding this hearing today. I am particularly grateful to see that H.R. 495, the Zuni Indian Tribe Water Rights Settlement Act of 2003 is on today's agenda. I introduced this legislation in the 107th Congress, and am proud to be a cosponsor of this bill in the 108th Congress, now introduced by my colleague from Arizona, Mr. Renzi.

This legislation ratifies the settlement agreement concerning the Zuni Indian Tribe's water rights on the Little Colorado River in Eastern Arizona. The bill will provide for a wetlands restoration at "Zuni Heaven," an area of land along the Little Colorado River that is sacred to the Zuni Tribe of New Mexico. Consistent with the principles of tribal sovereignty, Indian self-determination and religious freedom, this legislation will settle ancient water rights and ensure that those rights are preserved for all future generations of the Zuni people.

The Zuni tribe's water claim is no new development. In fact, litigation of the water rights on the Little Colorado River basin has been ongoing for nearly a quarter of a century. This legislation represents a culmination of this process in a way that will reduce expenses for all parties involved. Indeed, we should look at the settlement process demonstrated in this water settlement as a model for other settlements. The affected parties have recognized that final resolution of these water claims through litigation is counter-productive and hurtful to the Tribe, neighboring non–Indian water users, local towns, utility and irrigation companies, the State of Arizona, and to the United States. Therefore, negotiations have brought forward a settlement agreed to by all parties, and we now have the opportunity to codify this settlement by passing this legislation.

I commend my colleague, Mr. Renzi, for bringing this bill forward in such a quick manner and making it one of his top priorities. Again, thank you Chairman Calvert for scheduling this legislation for today's hearing and working with us to get this bill through the Resources Committee.

[A statement submitted for the record on H.R. 135 by the Association of California Water Agencies follows:]

Statement of the Association of California Water Agencies (ACWA) on H.R. 135

The Association of California Water Agencies (ACWA) appreciates the opportunity to submit comments to the Subcommittee on Representative John Linder's H.R. 135. ACWA represents 440 public water agencies in California, and our members supply over 90 percent of the water delivered in the state for residential, agricultural and industrial uses.

ACWA is pleased to support H.R. 135, legislation creating a "Twenty First Century Water Strategy Commission." This legislation represents an opportunity to come to grips with the complexity of modern water problems and assess the means to their resolution. These comments will spell out areas where California's water community believes the commission should devote special emphasis, and offer constructive input on its implementation.

Given the variety of climates and uses that make up the national water supply picture, a twenty-first century water policy commission must confront the fact that new strategies and investments are needed to avert a water crisis in the western United States. For arid states like California, the uneven distribution of precipitation over the state's geography is a central fact of its existence. The American population continues move toward and grow in the west, in areas faced with resource constraints and increasing environmental demands. Capturing the water available for human uses in an environmentally sound manner in these areas is essential.

Without significant reinvestment in aging agricultural and residential water infrastructure, the capacity currently available to do this will be overwhelmed. Among the first places this will happen is California.

ACWA and its members devote a significant amount of time promoting the federal partnership in new and proven technologies to meet the water needs of the west. Conservation, recycling, desalination, off-stream storage, conjunctive use and groundwater management are just a few of the areas where local, state and federal programs working together have created spectacular success. Water conservation and recycling today allow California's largest city to live on nearly the same amount of water it used in 1976. The state Department of Water Resources estimates that California water recycling has expanded by about 100,000 acre-feet per year since 1990. And today, a half-dozen seawater desalination projects are under consideration that together could produce more than 120,000 acre-feet of water each year in California, enough for nearly a million people.

Each of these examples illustrates the multi-faceted approach necessary to meet water needs in the west. ACWA is encouraged by specific language in the bill directing the commission's focus toward "assessments...necessary to project future water supply and demand." The commission's work will be most useful if it results first in a comprehensive assessment of needs, and not an immediate change in policy. The information presented to and by the commission can then effectively direct the federal investment that we already know is necessary toward the areas that will generate the greatest water yield for the money spent.

The commission's work should also focus on the economic activity generated by water facilities. A variety of statistics are used to illustrate the business activity and economic stimulus made possible through public works. Some have claimed that as many as 40,000 construction jobs are generated for every $1 billion allocated to new public water infrastructure. The commission's report should provide a clearer understanding of the economic contribution of water projects, both at the construction phase and in the long-term activity produced when the facilities come on line.

But new infrastructure alone is not the only avenue to resolve national water challenges. The regulatory constraints put in place by wildlife agencies can and should be dealt with in a more efficient way. Existing water infrastructure, designed and built before the enactment of most environmental laws, is frequently ill-suited to complying with new goals of environmental restoration. It is not easy to smoothly overlay a wildlife agency's objectives onto a facility designed to export water or keep a floodplain dry. For this reason, new regulatory approaches that seek out opportunities to merge environmental goals with reliably operated water systems are extremely important to optimizing our existing and planned water infrastructure into the twenty-first century. ACWA believes that California's CALFED Bay–Delta Program is a successful example of this type of coordination between regulatory agencies, environmental demands and the water needs of people.

A final area of concern for our members is in membership of the commission. ACWA appreciates the language calling for a broad cross section of government and geographic representatives, as well as the stipulation that these members bring "recognized standing and distinction in water policy issues" to the group. ACWA believes these members should acknowledge that increased water supplies, as well as the conservative use of existing water resources, will be essential to creating a meaningful and effective water policy for the United States.

In the years since California's construction of the Central Valley Project and the State Water Project, no equally large water projects have been completed in California. The few regional facilities built have often required years of public review and inevitable political controversy. In the last 30 years, only two regional reservoirs have been built in California, even though eight million people have come to the state during that time. Other western states have not fared much better. Meanwhile, new commitments to environmental goals and programs to protect salmon have further directed away several million acre-feet of water to meet new environmental mandates. This rededication of resources, coupled with rapid population growth, has vastly destabilized western states" water picture.

H.R. 135 will enable policymakers to fully ascertain these facts and plan a long-term means of addressing them. California's experience has shown that it is not a scarcity of fresh water that confronts us, but rather the inadequate reclamation and reuse of water available to us that threatens western communities with shortage. ACWA looks forward to assisting in the passage of H.R. 135 and in promoting a sound and well-informed twenty-first century water policy.

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