



The Honorable Jeff Flake, Chairman
The Honorable Catherine Cortez Masto, Ranking Member
Water and Power Subcommittee
U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Building
Washington, D.C. 20510

Re: Codify Water Supply Infrastructure and Drought Resilience Act

Dear Chairman Flake and Ranking Member Cortez Masto:

On behalf of the Colorado Water Congress, we are writing to express our support for the codification of the Water Supply Infrastructure and Drought Resilience Act. The Colorado Water Congress is the principal voice of Colorado's water community.

The Colorado Water Congress supports the codification of the legislation on three points of Title III: (1) Water Rights Protection Act, (2) treatment of water rights, and (3) the extension of authorization to use Upper Colorado River Basin Fund Revenues for Annual Base Funding of Fish Recovery Programs and removal of certain reporting requirements.

(1) Water Rights Protection Act

The Colorado Water Congress recognizes the supremacy of state water law. No water user should be required to acquire a water right in the name of the United States under state law. Neither should the United States place limits on a water user's right or ability to acquire or use any land use or occupancy agreement.

(2) Treatment of Water Rights

We wish to express our long-standing support for the Environmental Protection Agency's (EPA's) Water Transfers Rule (Rule), and request that this well-reasoned protection of water management by states be enacted into federal legislation as part of infrastructure legislation. The Rule clarifies the EPA's historic exclusion of water transfers from the requirements of the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act (CWA). The Rule represents a well-reasoned approach to water delivery while ensuring that the quality of the nation's waters will not be diminished. The effective management of our water is critical to the infrastructure needs of our nation and securing the future of these operations should be included in any infrastructure efforts of Congress. We ask that Congress protect our existing regulatory structure for the future by cementing the existing Rule into federal law.

The Colorado Water Congress also supports section 122.3(i) of Title 40 as it requires no water permit transfers on water rights. Requiring the issuance of NPDES permits for water transfers would severely interfere with water management across the nation, on the states' well-established authority over their water resources, and on private property rights in the use of water granted by the states.

(3) Upper Colorado River Basin Fund Revenues

We support Subtitle C – Endangered Fish Recovery Programs (S. 2166) to provide for continued use of Colorado River Storage Project for annual funding of the Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program through 2023 at the

current authorized levels. Substantial cost sharing and in-kind contributions are also provided by the States of Colorado, Wyoming, New Mexico, and Utah, water users, tribes, environmental organizations, and CRSP power customers.

These programs intend to recover four fish species listed as endangered under the federal Endangered Species Act (ESA) while water development proceeds in accordance with state water and wildlife law, U.S. Bureau of Reclamation water project authorizations, and interstate compacts approved by Congress.

The recovery programs take actions to recover the endangered fish species. Those actions provide ESA compliance for approximately 2,500 water projects in Utah, Colorado, Wyoming, and New Mexico in the Upper Colorado River basin upstream of Lake Powell. There have been no lawsuits on ESA compliance provided by the recovery programs. The programs have streamlined administration of the ESA for federal agencies, tribes, and water users.

Colorado River Storage Project revenues provide critical annual funding for the programs for operation and maintenance of facilities to recover the species, including fish screens, fish passages, bottomland habitat, and hatcheries, research and monitoring, and program management.

We appreciate the Subcommittee's past support for the programs and request your support for the codification of the Water Supply and Infrastructure Resilience Act.

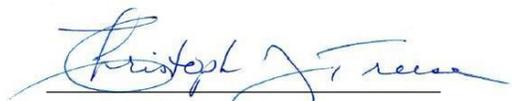
Sincerely,



Doug Kemper
Executive Director



Andy Colosimo
Federal Affairs Committee Chair
Vice Chair



Chris Freese
Federal Affairs Committee