U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

Statement by the Honorable Tom McClintock
Ranking Republican
House Water and Power Subcommittee
before the
House Water and Power Subcommittee Legislative Hearing on
H.R. 3061 (Salazar), H.R. 5039 (Sanchez), H.R. 5413 (Baca), H.R. 6107 (Hastings)

Two glaring problems plague the Democrats' water and power policy. The first I have talked about on past occasions: that long ago it seems to have abandoned "abundance" as our central objective and replaced it with the rationing of shortages. In fact, we have vast water and hydropower resources that we have simply chosen to abandon.

I have raised a second major deficiency on many other occasions and raise it again today: the majority's abandonment of any attempt at rational cost-benefit analysis or sound financial principles.

The development of federal water and power projects was once clear and simple. Potential sources were identified through a forthright cost-benefit analysis. Once identified, the most cost-effective projects necessary to meet demand were then constructed by joint powers authorities established for that purpose. The federal government loaned the projects the funds necessary for construction, and these loans were then repaid by users through their water and power purchases. The communities and consumers that benefited from these projects entirely paid for them and taxpayers were held harmless. This process resulted in cheap and abundant water and power and in turn, unprecedented prosperity throughout the arid West.

One of the bills today seeks to restore this principle, HR 6107 by the Ranking Member of the Natural Resources Committee, Mr. Hastings of Washington. It is unfortunate that the Administration has refused to testify on this bill today.

The Western Area Power Administration markets and delivers around 10,000 megawatts of hydroelectricity produced at federal dams and paid for entirely by the users. But now, its administrator has expanded its mission to integrate wind and solar power. Since wind and solar power are entirely unreliable, they require a highly complex transmission system and a kilowatt-for-kilowatt backup system to maintain the electrical grid. These systems are extremely expensive and could not possibly survive a rational cost-benefit analysis.

To make matters worse, WAPA was granted new borrowing authority and stimulus funding that imposes enormous additional potential costs both on taxpayers and ratepayers who receive no additional benefit. The borrowing authority even provides for forgiveness of the loans to companies that cannot repay them – forcing taxpayers and ratepayers to bail out fiscally irresponsible projects.

HR 6107 attempts to restore accountability to the financing of this system by striking the bail-out provisions of current law and requiring that beneficiaries alone bear the cost of these projects – protecting both existing customers and taxpayers from being milked dry by these mandates and mission creep.

Two bills utterly ignore cost-benefit concerns and continue to squander our resources.

HR 3061 requires taxpayers to pay $4 million to study repairs on the Pine River Indian Irrigation Project – yet before that study is even begun, it authorizes a staggering $60 million to make those repairs. This is a prime example of abandoning any rational cost-benefit analysis and simply shoveling money at a problem that hasn't even been defined.

HR 5039 requires general taxpayers to underwrite and subsidize expansion of the Groundwater Replenishment System in Orange County, California. Once again, we see the majority abandon the principle that beneficiaries pay for water systems, and instead end up plundering one community for the support of another.

Finally, we have HR 5413 to settle legal claims by the Pechanga Indians for water rights and development funding under the Winters Doctrine. I fully support this doctrine that assures Indian reservations legal access to water, but I also believe that we have a fiduciary responsibility in deciding legal settlements to do so within the parameters of the Federal government's actual legal obligations.

That means the affected parties and the Department of Justice negotiate a settlement to the satisfaction of both sides. If both sides cannot reach agreement, the matter should be left to the courts. If both sides can reach an agreement, then it should be presented to Congress for ratification.

This bill doesn't do that. Instead, it ratifies a settlement before it has been agreed to by all parties. A board of directors acting in this manner would be guilty of malfeasance for breaching its fiduciary responsibility.

I sympathize with the Pechangas. The fault rests with the administration that has failed either to reach an agreement or declare an impasse. But Congress cannot act responsibly until those negotiations are concluded. The minority stands ready to join the majority in insisting that the Department of Justice give this matter its highest priority – but I do not believe we can responsibly ratify a settlement that only has the agreement of one side of the bargaining table.