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Testimony on “Questionable Fish Science and Environmental Lawsuits: Job and Water Supplies at Risk in The Inland Empire”

House Natural Resources Subcommittee on Water and Power
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Mr. Chairman, Members of the Subcommittee, thank you for inviting me to testify today regarding the critical habitat designation for the Santa Ana Sucker (Sucker). To lead with my conclusion, the 2010 critical habitat designation for the Sucker would cause massive economic hardship in a region already besieged by the recent economic downturn, threatens the already-fragile California Bay-Delta system, and fails to provide any benefit to the species. The US Fish and Wildlife Service (Service) should vacate the ruling and revert to their 2005 critical habitat designation.

Western Municipal Water District is a regional wholesale water agency and a member of the Metropolitan Water District of Southern California. We provide wholesale and retail water and wastewater services to a 527 square mile service area with a population of over 800,000 people. Our region is still growing in spite of taking a massive hit from the economic downturn. Current growth projections require us to plan for huge increases in water demand over the coming years.

Even while we plan for this growth, imported water supplies are facing deep and sustained cuts. For instance, the State Water Project currently accounts for about 60 percent of the water needs of Riverside County. But federal court rulings on the Delta Smelt left us facing as much as a 40 percent cutback in recent years. Due to drought and water quality concerns, the Colorado River is also an uncertain source of water.

Rather than simply praying for rain, we have undertaken a number of projects to grow in-basin water supplies. One of the most important projects is the Seven Oaks Dam Stormwater Management Project, (Seven Oaks Project), a joint effort between my District and the San Bernardino Valley Municipal Water District. It would be the largest new water project developed in the Inland Empire since the State Water Project. It will enable us to capture up to 200,000 acre-feet of additional stormwater each year from the local mountains and use it for groundwater recharge and water banking.

New water supplies created by the Seven Oaks Project would replace imported water from the California State Water Project and the Colorado River in times of drought or other shortages.

By better managing our precious imported water supplies, it supports the Secretary of the Interior’s role as Watermaster of the Lower Colorado River. We believe the project is

integral to the State of California's effort to implement the Quantification Settlement Agreement, a key foundation for future Lower Colorado River management by the Secretary.

Further, the project will be integral to the implementation of the "Seven States Agreement" in the Colorado River Basin. We are all very pleased that this accord has been signed and we now build projects which help address shortages on the Colorado River.

We spent many years and millions of dollars developing the Seven Oaks Project. We also undertook a 18 year process to secure rights to some of the water stored behind the Seven Oaks Dam. Throughout that time, we worked very closely with the California Department of Fish and Game as well as the United States Forest Service. As a result of these discussions, we reached an agreement with both agencies to protect natural resources, including Santa Ana Sucker habitat. Oddly, the US Fish and Wildlife Service declined to participate in that process.

During the water rights process, the State Water Resources Control Board (Board) found that the project would not harm the Sucker since the water we would store came from areas where the Sucker never existed and because natural water and cobble-moving flows below the dam were sufficient to satisfy the Sucker's needs.

The Board's findings were very much in line with the Service's 2005 critical habitat designation for the Sucker. That critical habitat designation did not include the dry upper Santa Ana River areas as critical habitat, finding that these areas were, and I quote from the 2005 designation, "not essential to the conservation of the species." The 2005 designation also found that the enormous costs to the Inland Empire's economy far outweighed any benefits to the species.

We believe the 2005 critical habitat designation struck the proper balance between species protection and infrastructure development. The Service's 2010 critical habitat designation, however, fails to strike that balance. It ignores the best available science, including findings by the State Water Resources Control Board that the Sucker would not be impacted by our project. It also fails to account for the dire economic that could result from their ruling. Let me flesh these issues out a bit.

There is no clear evidence that any of the newly designated areas have ever supported a population of Suckers. Many of these areas are bone dry for up to eleven months out of the year and others are prone to flooding otherwise do not have the proper substrates, water temperatures or other environmental conditions needed for the Sucker. Simply put, this decision will do nothing to help the Sucker.

But the consequences of the critical habitat designation could be enormous. The critical habitat designation threatens our rights to water behind the dam and could spell the end of our Seven Oaks Dam Stormwater Management Project. The impact of that cannot be understated.

You will hear testimony from others on the potential for economic damage, so I will not dwell on that other than to say that imported water is far more expensive than local supplies. We could lose up to 125,800 acre feet of water a year to the Inland Empire. Importing this amount of water each year for 25 years would cost nearly \$3 billion.

And that assumes that imported water is even available. In March 2011, with California's snow pack at 165% of normal, the State Water Project estimated that it will only be able to supply its regional water agencies with 70% of their current water allocations. In recent years those shares were 50% in 2010, 40% in 2009, 35% in 2008 and 60% in 2007. If we need more water from the State Water Project, we will very likely not be able to get it. Therefore this local supply is critical to our region.

The 2010 ruling, couched as environmentally sensitive, is actually an environmental loser. The Sucker's critical habitat designation will force us to curtail water conservation, recycling, and conjunctive use projects. Instead we will have little choice but to rely on whatever imported water is available, including water from the already fragile Bay-Delta system.

Finally, the Service fails to provide scientific evidence to justify the critical habitat designation and ignored key environmental data. The agency's key argument that high water flows are beneficial to the species is belied by studies that show such flows actually harm Sucker habitat. The Service also ignored the species conservation efforts undertaken by the water agencies, efforts that included monitoring surveys, invasive species removal, and enhanced project management.

Again, the 2010 critical habitat for the Sucker could void innovative local water supply projects thus causing massive economic hardship, threatens the Bay-Delta system, provides no benefit to the species, and is not supported by the best science. We urge the Service to rescind their ruling and revert to their more defensible 2005 decision.