

Committee on Resources, Subcommittee on Forests & Forest Health

[forests](#) - - Rep. Scott McInnis, Chairman

U.S. House of Representatives, Washington, D.C. 20515-6205 - - (202) 225-0691

Witness Statement

TESTIMONY OF SARA DUNCAN
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SUBCOMMITTEE ON FORESTS AND FOREST HEALTH
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
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Mr. Chairman McGinnis and Members of the Committee:

I thank Chairman McGinnis for the opportunity to testify today. The Denver Water Board is a municipal corporation that supplies water to over one million people: that is one in four people who live in Colorado. Denver Water has important water collection infrastructure located in the James Peak Protection Area proposed in H.R. 1576 under discussion today. This testimony will describe these facilities, discuss their importance to the Denver Water system, and recommend treatment of these facilities in H.R. 1576. Denver Water does not object to the creation of a Protection Area, but needs assurance that its water infrastructure can continue to be accessed, maintained and improved.

A road built by Denver Water in 1936 and known as the "Water Board Road" transverses the Protection Area on both Forest Service and private lands on a north/south axis. [See map attached hereto as Exhibit "A".] Adjacent to and under the road are Denver Water pipes, siphons, canals and diversion structures that comprise a part of the "Ranch Creek" collection system that feeds into the west portal of the Moffat Tunnel. The Ranch Creek facilities are located 9400 to 9600 feet in elevation and collect water that is delivered to the north part of the Denver metropolitan area via the Moffat Tunnel that runs under the Continental Divide. There are 2.4 miles of canal and pipes in the proposed Protection Area.

There is another water system in the James Peak area. Denver operates Englewood's system that continues to the north of the Ranch Creek collection system. It appears some of Englewood's system and the Cabin Creek Reservoir site are included in the proposed James Peak Protection Area. Denver Water has not had sufficient time to ascertain Englewood's position on H.R. 1576, but there is understandable concern that the Protection Area designation not interfere with operation of Englewood's water system.

The Ranch Creek collection system is a critical component of Denver Water's base water supply for several reasons. First, it has a 1921 priority date. Second, the Ranch Creek dry year yield, that is the water supply during a drought, represents approximately 20% of the water deliverable through the Moffat Tunnel. Third, Ranch Creek provides water to the northern metro Denver contract water users of Westminster, Consolidated Mutual Water Company, North Table Mountain, Arvada, and others. Without the Ranch Creek water, supplies to the northern metropolitan Denver area would be significantly reduced. This is particularly true in dry years. Therefore, the significance of the Ranch Creek collection system cannot be

diminished.

Denver Water's ability to improve and maintain the Ranch Creek collection system is a high priority. Beginning in 1993, Denver Water has replaced about 7% of the Ranch Creek open canals with 84" pipe to carry water. This activity is ongoing and requires mechanized access off road to remove existing concrete structures and replace them with pipe, to cover and revegetate the ground surface above the pipe, and to maintain existing siphons and diversion structures. Maintenance, upgrades and water collection efficiency in the future will continue to require off road mechanical maintenance, including the use of bulldozers, loaders, cranes, dump trucks and numerous other pieces of equipment. Denver Water has worked well with the Arapaho-Roosevelt National Forest Service under the 1997 Forest Management Plan to maintain and improve the Ranch Creek Collection system. Denver water must be assured of continued flexibility in meeting current and future needs in order to access, construct, operate and maintain water infrastructure for uninterrupted beneficial water use.

Both Congressmen McGinnis' and Udall's staff have been helpful in discussing the James Peak Protection Area giving assurance that Denver's concerns will be addressed. For this I thank them. There are two problems that need to be specifically resolved. First, the Protection Area limits mechanized access to designated roads and trails. Denver Water has a longstanding practice of using machinery in a reasonable manner off road to keep its system working. In fact, that is occurring even this summer. The second problem is no one is quite certain of the scope and impact of the "protection area" concept. As a water supplier, Denver Water requires certainty and flexibility that its critical water supply and supporting infrastructure can operate without interruption in a protection area. Rep. McGinnis's excellent water right language in H.R. 1576 will protect Denver Water's 1921 rights and restrict the imposition of by-pass flows. There is, however, no corresponding protection of existing water infrastructure, its access, improvement, replacement and maintenance.

This goal can be easily accomplished by delineating the James Peak Protection Area so as to exclude Denver Water's roads and pipes. Denver Water would continue to operate with Forest Service supervision. As noted earlier, Denver Water and the Forest Service have worked well together to achieve Denver's goals at the same time being respectful of Forest Service needs and uses. Therefore, Denver Water's first request is that the sponsor consider excluding Denver Water's Ranch Creek collection system, including all access roads, from the Protection Area. Exhibit "A" shows those areas between 9,400 feet and 9,600 feet on Forest Service property that could be excluded from the Protection Area. The total acreage so excluded from the 14,000-acre James Peak Protection Area is only 280 acres.

Removal of Denver Water's property from this bill will maintain the status quo. Denver Water will operate under the Arapaho-Roosevelt Forest Management Plan. Water Board access will continue and the procedures for off-road access will remain in place. The certainty necessary to run a public water supply system will not be undercut by the uncertainty of an additional, untried land use designation. The Denver Water Ranch Creek collection exclusion does not create additional management or environmental problems for the Forest Service as it continues existing Forest Service oversight procedures. Further, the amount of acreage excluded is miniscule in comparison to the entire James Peak Protection Area. It should be noted that the justification for a protection area as stated by the Grand County Commissioners is to avoid further land exchanges in this area. This reason has no application to the Denver Water collection system or Water Board Road as these uses are firmly and historically settled. Finally, an exclusion based on elevation can be easily ascertained from topographical maps readily available to government officials and the public.

If exclusion from the James Peak Protection Area is not acceptable, then language must be crafted to

address the issues of water infrastructure protection, maintenance, improvement, access and procedural safeguards to assure continuous operation. It has been informally indicated by staff that this type of language could be drafted, but this has not been done. Due to the imprecision of language and incertitude of regulatory and judicial construction, I urge you to consider exclusion of Denver Water's considerable assets from the James Peak Protection Area. I look forward to working with you for quick resolution of these issues.

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