

**Testimony of Craig Cooper before the
Water and Power Subcommittee of the
U.S. House of Representatives
Committee on Natural Resources**

(Madam Chairperson) and members of the Committee:

It is an honor for me to appear here today. My name is Craig Cooper and I live in Riverton, Wyoming, about 150 miles upstream on the Big Horn River from where it enters Yellowtail Reservoir. I own and operate a farm that was purchased by my father after he came home from World War II under his access to the provisions of the GI Bill. We feel fortunate to be able to still be in the ownership of the property.

The average annual precipitation in our area, including both rain and winter snow, is just over 9 inches per year, so irrigation water from the rivers is essential for any agriculture production to be successful. Our farm is located within the boundaries of a private irrigation district that serves around 13,000 acres with water from the Big Wind River, a tributary of the Big Horn River. We hold a State of Wyoming water right with a 1906 priority date. There are two neighboring irrigation districts in our valley, one serving about 9000 acres, and a Bureau of Reclamation project district serving a little over 70,000 acres. In addition, there is a BIA project serving about 50,000 acres for the tribes of the Wind River Reservation, and a few smaller private ditches. Total irrigated acreage in our valley that is served by the waters of the Big Wind River, then, is around 150,000 acres. Shortly below the last of these irrigated lands, the Wind River becomes the Big Horn River. Historic gauging records show that on an average annual basis, we have around 880,000 acre feet of water available to our part of the river basin, with no way to get more. We do not have a Yellowtail Reservoir or an upstream State to look to for sending more water down the river—this is all Mother Nature gives us and that is all we get. I note that the outflow from Yellowtail Reservoir entering the Big Horn River on the Crow Reservation is around 2.5 million acre feet on a historic average annual basis. So there is already almost three times as much water entering the Crow Reservation in Montana as we have access to in our Wyoming portion of the Wind/Big Horn River system.

Downstream from the Wind River valley is a range of mountains, the Owl Creeks, through which the Wind/Big Horn River flows in a spectacular canyon, a section of river that is classified as a blue ribbon trout fishery. When it emerges from that canyon, the land flattens out and is once again suitable for irrigation, and both the land and the river in that area have been used for that purpose since around 1900. There are around 60,000 more acres in that area that depend on the Big Horn River for their supply of irrigation water. About another 30 miles downstream from the last of these irrigated lands, the Big Horn River enters Yellowtail Reservoir and, subsequently, the State of Montana.

I think it is important to understand that when we talk of rivers in Wyoming, we are not referring to rivers on the order of magnitude of the Columbia River, the Colorado River, the Missouri, Ohio, Mississippi, or Potomac. We are a headwaters state—the streams that come out of our high country start as trickles and grow in small increments as they combine with other small trickles. Eventually, they become streams with enough water for which appropriate water rights were secured in the late 1800s and early 1900s, and it is these small rivers that supply water for the bulk of inhabitation and development in Wyoming. Still, you can throw a rock completely across the Wind River where it goes through my home town, and you hardly have to shout to talk to someone on the other bank of the Big Horn River downstream from the Wind River Canyon.

Nonetheless, through wise use and re-use, the Wind/Big Horn River in Wyoming has been able to provide enough water on an annual basis to support the local customs, culture, and economy that have grown up around it. But that came through trial and error 100 years ago, on sort of a “carrying capacity” basis, as dictated by Mother Nature. If too many acres were broken out and attempted for irrigation, the excess acres with the latest priority water rights were starved for water, and soon went back to their natural state. Thus, a natural balance was reached—the local demand for water matched the amount of water Mother Nature made available in the river from snowmelt on an average annual basis. In the past 10 years of drought, with the exception of this year, we have, on our farm, had to let a number of acres go unirrigated, because of water shortages. Our neighbors all through the valley have done the same. But with this year’s welcome return to a more normal snowpack and resultant snowmelt water supply, there has been adequate water for all acres. Even so, if a town

along the Wind/Big Horn River in Wyoming needs additional water for its municipal service area growth today, it still must seek to acquire early priority date water rights from historic irrigation users rather than to hope to appropriate a new water right with a present-day demand on the river system. That water simply is not there on a firm basis.

I have read H.R. 845 and 3563, and am seriously concerned with its potential impact on Wyoming's historic use of the Wind/Big Horn River. In our area of 9 inches of precipitation, any new demand on the river that we rely on, could mean a one-for-one loss in water quantities that our communities and economy are built upon. Montana's subordination of its junior water rights to the Crow Tribe in this settlement raises the concern that water to fill the Crow Tribe's allocation might be expected to be taken from Wyoming citizens, and I find that very scary for the future of residents of our arid state. In my mind, the provisions of this settlement act could mean the exchange of new uses in Montana for legally established and historic uses in Wyoming, and I am unable to see that as wise or fair, not to mention legal in the context of the Yellowstone River Compact. Certainly, the Crow tribe has a most senior water right on the river system in Montana, but I do not believe it should ever be up to the State of Wyoming to disrupt its historic economy to provide water for Montana's commitment to this compact, particularly because Wyoming was not a party to the compact's negotiation. The water to accommodate the State of Montana/Crow Tribe settlement should rightfully be provided by the State of Montana, whose rivers and water supplies dwarf Wyoming's in volume and magnitude. I respectfully urge that you take these impacts on Wyoming's citizens into account as you deliberate this action, and hope that you will see it as proper to specifically exempt Wyoming from any impacts of the settlement, inasmuch as Wyoming was not a party to its negotiation. Thank you for this opportunity to testify here, and I would be happy to try to answer any questions you might have.