

COMMITTEE ON NATURAL RESOURCES
114th Congress Disclosure Form
As required by and provided for in House Rule XI, clause 2(g)(5)

Subcommittee on Water, Power and Oceans
Oversight Hearing

April 13, 2016

For Individuals:

Name: Reed D. Benson

Address: UNM School of Law, [REDACTED]

Email Address: [REDACTED]

Phone Number: [REDACTED]

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For Witnesses Representing Organizations:

Name:

Name of Organization(s) You are Representing at the Hearing:

Business Address:

Business Email Address:

Business Phone Number:

* * * * *

For Nongovernment Witnesses ONLY:

1. Please attach/include current curriculum vitae or resume.

See the following pages.

2. Please list any federal grants or contracts (including subgrants or subcontracts) related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the source and amount of each grant or contract.

None.

3. Please list any contracts or payments originating with a foreign government related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the amount and country of origin of each contract or payment.

I was chosen as a Fulbright Scholar in 2015, serving as Visiting Chair in Water and the Environment at the University of Lethbridge in Alberta, Canada. My research project related to water project operations in Alberta; this research was separate from, but related to, my ongoing research on federal water projects in the United States. Fulbright Canada awarded me a stipend of US \$25,000 to support my four month position.

REED D. BENSON
Professor
University of New Mexico School of Law
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benson@law.unm.edu

ACADEMIC EXPERIENCE:

University of New Mexico School of Law, Albuquerque, NM, 2008-present. *Professor*. Hired as full professor with tenure. Teach Water Law, Natural Resources Law, Administrative Law, Federal Law of Water Resources, and Introduction to Natural Resources and Environmental Law. Serve on various School of Law committees (Curriculum co-chair, 2009-10; Natural Resources chair, 2010-present). Served as faculty advisor to the Natural Resources Journal (NRJ), 2008-14. Voted “coolest professor” by Class of 2010. Named Keleher & McLeod Professor for 2011-13; Weihofen Professor for 2014-15.

University of Lethbridge, Lethbridge, AB, Canada, August-December 2015. *Visiting Chair in Water and the Environment*. Served as a Fulbright Scholar (Visiting Research Chair) at a university in western Canada that emphasizes water-related research. Engaged in research on dam operations in southern Alberta, focusing on the laws, policies, and institutions that determine how dams are operated. Collaborated with Dr. Stewart Rood (U. of Lethbridge Biology Dept.) on a paper recommending that the Alberta provincial government officially review the long-term operating plans for its water projects.

Lewis & Clark Law School, Portland, OR, *Adjunct Professor*. June 2015: taught Federal Water Law as a two-week course in the law school’s summer program of environmental law offerings. January – May 2000: taught water law to a class of 50 second- and third-year students.

University of Wyoming College of Law, Laramie, WY, 2002 – 2005, *Assistant Professor*; 2005 – 2008, *Associate Professor*; 2008, *Professor*. Taught Administrative Law, Legislation, Water Law, Environmental Law, and Federal Law of Water Resources. Researched and wrote scholarly materials, emphasizing environmental aspects of water resources law and policy. Served on various College of Law committees and on the School of Environment & Natural Resources Faculty Advisory Committee. Advised the Wyoming Law Review, Natural Resources and Environmental Law Club, and the environmental moot court competition. Named Winston S. Howard Distinguished Professor in 2006.

OTHER PROFESSIONAL EXPERIENCE:

WaterWatch of Oregon, Portland, OR.

August 1997 – June 2002, *Executive Director*. Duties: Raised funds, oversaw programs, managed personnel, and provided strategic direction for a nonprofit river conservation group with a budget of approximately \$500,000 and a full-time staff of seven people. Served as primary spokesperson for WaterWatch in working with the media and legislature. Coordinated the Western Water Project, a joint venture of WaterWatch and Trout Unlimited that sought to protect instream flows throughout the West by working at the state and federal levels. Served on several state-level task forces.

October 1993 – July 1997, *Reclamation Issues Director*. Duties: Sought improved streamflows in the Umatilla River by working with state and federal officials, irrigators and Indian Tribes. Advocated agency action at the local, regional and national levels to correct the unauthorized use of water from federal irrigation projects. Pursued opportunities for environmental gains through changes in the use of federal project water, working with other conservationists and with federal and state agencies.

Land and Water Fund of the Rockies, Boulder, CO, June 1992 - September 1993. *Staff attorney*. Duties: Represented Idaho conservation groups in adjudication of rights to use water in the Snake River Basin. Sought resolution of toxic pollution issues on behalf of low-income Latino groups in Questa and Albuquerque, New Mexico. Coordinated program of free legal assistance for conservation groups in Utah and Arizona. Advised conservation groups in seven states on a broad range of matters involving state and federal environmental laws.

U.S. Environmental Protection Agency, Washington, DC, January 1990 - May 1992. *Attorney Advisor*. Duties: Served as Congressional liaison for Assistant Administrator for Pesticides and Toxic Substances. Worked with federal officials, congressional staff and interest groups on legislative and oversight matters involving pesticides and commercial chemicals. Represented EPA in international trade negotiations under the General Agreement on Tariffs and Trade (GATT) and North American Free Trade Agreement (NAFTA). Received EPA Gold Medal (for work on NAFTA), 1992; Assistant Administrator's Award (for pesticides program funding bill), 1991; Silver Medal (for 1990 Farm Bill), 1990.

Hutchinson, Black, Hill & Cook, Boulder, CO, June 1988 - December 1989. *Associate attorney*. Duties: Represented a Denver-area municipality in water matters including new water rights, transfers, exchanges, and river administration. Represented other clients in various other civil matters.

ADMITTED TO PRACTICE LAW in Colorado, 1988; Oregon, 1994 (currently on inactive status in Colorado; resigned from Oregon bar in 2014).

EDUCATION:

University of Michigan Law School, J.D. *magna cum laude*, 1988. Cumulative GPA: 3.73 (of 4.0), 20th in class of 380. Order of the Coif. Course work emphasized environmental and natural resources law and policy. Full-time externship with U.S. Department of Justice, Lands & Natural Resources Division, Fall 1987.

Iowa State University, B.S. with honors, Economics with Environmental Studies Program, 1985. Cumulative GPA: 3.97 (of 4.0). Highest-ranking 1985 graduate in Economics Department. Course work emphasized environmental and natural resource matters. Major papers analyzed options for achieving sustainable use of High Plains groundwater. Awarded national Phi Kappa Phi Graduate Fellowship.

SIGNIFICANT ARTICLES:

Protecting River Flows for Fun and Profit: Colorado's Unique Water Rights for Whitewater Parks, forthcoming in ECOLOGY LAW QUARTERLY (2016).

The Greenback, the Humpback, and the Silverback: How a Third Wave of Federal Water Policy Could Benefit the West, 93 OREGON LAW REVIEW 685 (2015).

Environmental Issues in the Allocation and Management of Western Interstate Rivers, 24 INDIANA INTERNATIONAL & COMPARATIVE LAW REVIEW 183 (2014) (symposium issue).

Avoiding Jeopardy, Without the Questions: Recovery Implementation Programs for Endangered Species in Western River Basins, 2 MICHIGAN JOURNAL OF ENVIRONMENTAL AND ADMINISTRATIVE LAW 473 (2013).

Federal Water Law and the "Double Whammy": How the Bureau of Reclamation Can Help the West Adapt to Drought and Climate Change, 39 ECOLOGY LAW QUARTERLY 1049 (2012).

Alive but Irrelevant: The Prior Appropriation Doctrine in Today's Western Water Law, 83 UNIVERSITY OF COLORADO LAW REVIEW 675 (2012).

Public Funding Programs for Environmental Water Acquisitions: Origins, Purposes, and Revenue Streams, 42 ENVIRONMENTAL LAW 265 (2012).

Environmental Review of Western Water Project Operations: Where NEPA Has Not Applied, Will It Now Protect Farmers from Fish?, 29 UCLA JOURNAL OF ENVIRONMENTAL LAW AND POLICY 269 (2011).

Public on Paper: The Failure of Law to Protect Public Water Uses in the Western United States, 1 INTERNATIONAL JOURNAL OF RURAL LAW & POLICY (2011) (peer-reviewed online journal published at University of New England law school, Armidale, NSW Australia).

New Adventures of the Old Bureau: Modern-Day Reclamation Statutes and Congress' Unfinished Environmental Business, 48 HARVARD JOURNAL ON LEGISLATION 137 (2011).

A Bright Idea from the Black Canyon: Federal Judicial Review of Reserved Water Right Settlements, 13 UNIVERSITY OF DENVER WATER LAW REVIEW 229 (2010).

Dams, Duties, and Discretion: Bureau of Reclamation Water Project Operations and the Endangered Species Act, 33 COLUMBIA JOURNAL OF ENVIRONMENTAL LAW 1 (2008).

Rivers to Live By: Can western water law help communities embrace their streams? 27 JOURNAL OF LAND, RESOURCES & ENVIRONMENTAL LAW 1 (2007).

"Adequate Progress," or Rivers Left Behind? Developments in Colorado and Wyoming instream flow laws since 2000, 36 ENVIRONMENTAL LAW 1283 (2006).

Deflating the Deference Myth: National interests vs. state authority under federal laws affecting water use, 2006 UTAH LAW REVIEW 242 (2006).

A Few Ironies of Western Water Law, 6 WYOMING LAW REVIEW 331 (2006).

Pollution Without Solution: Flow impairment problems under Clean Water Act section 303, 24 STANFORD ENVIRONMENTAL LAW JOURNAL 199 (2005).

"The Supreme Court of Science" Speaks on Water Rights: The National Academy of Sciences' Columbia River report and its water policy implications, 35 ENVIRONMENTAL LAW 85 (2005).

So Much Conflict, Yet So Much in Common: Considering the similarities between western water law and the Endangered Species Act, 44 NATURAL RESOURCES JOURNAL 29 (2004).

The Interior Department's Water 2025: Blueprint for balance, or just better business as usual? 33 ENVIRONMENTAL LAW REPORTER 10837 (2003).

Giving Suckers (and Salmon) an Even Break: Klamath Basin water and the Endangered Species Act, 15 TULANE ENVIRONMENTAL LAW JOURNAL 197 (2002).

Can't Get No Satisfaction: Securing water for federal and tribal lands in the West, 30 ENVIRONMENTAL LAW REPORTER 11056 (2000).

Maintaining the Status Quo: Protecting established water uses in the Pacific Northwest, despite the rules of prior appropriation, 28 ENVIRONMENTAL LAW 881 (1998).

Recommendations for an Environmentally Sound Federal Policy on Western Water, 17 STANFORD ENVIRONMENTAL LAW JOURNAL 247 (1998).

Saying the Right Thing at the Wrong Time: A conservationist considers Water in the West, 6 RIVERS 281 (1998).

Whose Water Is It? Private rights and public authority over reclamation project water, 16 VIRGINIA ENVIRONMENTAL LAW JOURNAL 363 (1997).

A Watershed Issue: The role of streamflow protection in Northwest river basin management, 26 ENVIRONMENTAL LAW 175 (1996).

Making a Wrong Thing Right: Ending the "spread" of reclamation project water, with Kimberley J. Priestley, 9 JOURNAL OF ENVIRONMENTAL LAW & LITIGATION 89 (1994), reprinted in WATER LAW--TRENDS, POLICIES, AND PRACTICE, (Kathleen Marion Carr and James D. Crammond eds., 1995).

Clean Water Act Citizen Suits after Gwaltney: Applying mootness principles in private enforcement actions, 4 JOURNAL OF LAND USE & ENVIRONMENTAL LAW 143 (1988).

BOOK PROJECTS:

2 WATERS & WATER RIGHTS Chapter 41, Federal Reclamation Law (Robert E. Beck and Amy K. Kelley eds., 3rd ed., LexisNexis/Matthew Bender 2009) (co-author with Amy K. Kelley).

WATER RESOURCE MANAGEMENT: A CASEBOOK IN LAW AND PUBLIC POLICY, 7th Ed. (with A. Dan Tarlock, James N. Corbridge, David H. Getches and Sarah Bates) (2014).

A New Deal for a 1933 Water Right: The Black Canyon of the Gunnison Instream Flow Controversy, in THE FUTURE OF INDIAN AND FEDERAL RESERVED WATER RIGHTS: THE WINTERS CENTENNIAL (Barbara Cosens and Judith V. Royster eds., 2012).

SELECTED PRESENTATIONS AND SPEECHES:

Alberta Irrigation Projects Association annual conference, Lethbridge, AB: spoke on water allocation and management issues in the Colorado River Basin (November, 2015).

University of Lethbridge Water Seminar Series, Lethbridge, AB: spoke on legal and policy issues relating to environmental flows in Alberta and the western United States (November, 2015).

Water and Natural Resources Interim Committee of the New Mexico Legislature, Santa Fe, NM: gave invited presentation to the full committee on basics of water law and management in New Mexico (June, 2015).

Bren School of Environmental Science and Management, UCSB, Santa Barbara, CA: spoke as part of a series on water markets, addressing public funding programs for environmental water acquisitions (April, 2015).

New Mexico Water Law Seminar, Albuquerque, NM: spoke to New Mexico's water judges on issues relating to water and the Endangered Species Act (November, 2014).

New Mexico Water Law CLE, Santa Fe, NM: spoke on recent federal regulatory and legislative developments regarding water resources (September, 2014).

Rocky Mountain Mineral Law Foundation Annual Institute, Natural Resources Law Teachers Lunch, Vail, CO: spoke on Colorado's water rights for recreational whitewater parks (July, 2014).

American Bar Association Annual Water Law Conference, Las Vegas, NV: spoke on the need for a strong federal role in managing water in interstate river basins (June, 2014).

Albuquerque Bar Association monthly luncheon, Albuquerque, NM: spoke on water supply, demand, and policy uncertainties facing New Mexico (March, 2014).

New Mexico Land Use Law CLE program, Albuquerque, NM: spoke on various uncertainties facing water users and managers in New Mexico (October, 2013).

Transformational Solutions for Water in the West (workshop sponsored by the Atlantic Council and Sandia National Laboratories), Albuquerque, NM: spoke on the federal role in western water law, policy and management (September, 2013).

Natural Resources Law Teachers Institute, Flagstaff, AZ: spoke on the Bureau of Reclamation's climate change authority and program in the western U.S. (May, 2013).

Water and Power Subcommittee, U.S. House Natural Resources Committee, Washington, DC: testified at oversight hearing on federal water policy, emphasizing the importance of the Endangered Species Act to water management in the West (April, 2013).

Great Lakes Natural Resource Governance Symposium, Indianapolis, IN: spoke on environmental issues in the allocation and management of water in western rivers (March, 2013).

New Mexico Water Law Seminar, Albuquerque, NM: spoke to New Mexico's water judges on issues relating to application of the prior appropriation doctrine in the state (November, 2012).

New Mexico Administrative Law biennial CLE program, Albuquerque, NM: spoke on New Mexico administrative law developments over the past two years (October, 2012).

Western Economic Association International annual conference, San Francisco, CA; spoke on public funding programs for environmental water acquisition (July, 2012)..

National Association of Environmental Law Societies 25th annual conference, Ann Arbor, MI: spoke on western water law issues relevant to the Great Lakes (March, 2012).

Legal briefing for New Mexico State Legislators, Albuquerque, NM: spoke on current water law issues in New Mexico (November, 2011).

21st Century Water Law Conference, Portland, OR: spoke on public funding programs for environmental water acquisitions (October, 2011).

U.S. Bureau of Reclamation River Restoration Conference, Albuquerque, NM: spoke on the effect of law and policy on Reclamation's river restoration efforts (September, 2011).

ABA 40th Annual Environmental Law Conference, Salt Lake City, UT: spoke on application of the Public Trust Doctrine to water resources in the interior West (March, 2011).

Implementing the Human Right to Water in the West conference, Salem, OR: spoke on questions regarding the relevance to the western U.S. of the emerging human right to water (February, 2011).

Water Law Through the Lens of Conflict conference, Armidale, NSW, Australia: spoke on failure of western U.S. water law to protect public values and uses (January, 2011).

New Mexico NREEL Section 2010 CLE conference, dealing with the Endangered Species Act in New Mexico: provided introduction and overview of the ESA (December, 2010).

New Mexico Water Law CLE, Santa Fe, NM: spoke on legal issues relating to the forthcoming Endangered Species Act consultation on the operation of federal water projects in the Middle Rio Grande (August, 2010).

Water Scarcity & Conflict Conference, Connecticut College, New London, Connecticut: spoke on water allocation and management issues facing the western U.S. (April, 2009).

First annual Northwest Water Law Conference, Portland, Oregon: spoke on the application of public interest criteria in water resources decision-making by state agencies (January, 2009).

Natural Resources Law Center Annual Summer Conference, Boulder, Colorado: spoke on legal and practical obstacles to protection of instream flows in the western states (June, 2008).

Conference on Klamath Basin water issues, Eugene, Oregon: spoke on the 2006 water settlement in the San Joaquin River Basin and its potential significance for the Klamath (January, 2007).

Western Instream Flow conference, Portland, Oregon: spoke on Colorado and Wyoming laws relating to instream flow protection and restoration (April 2006).

University of Utah College of Law, Stegner Center Young Scholars Program, Salt Lake City, UT: gave lecture titled "Rivers to Live By: Can water law help western cities embrace their streams?" (April 2006).

Dividing the Waters IX conference, Jackson, WY: moderated panel of four federal judges regarding issues relating to the control of water from U.S. Bureau of Reclamation projects (June 2005).

Thirteenth Natural Resources Law Teachers' Institute, Santa Fe, NM: spoke on the *Tulare Lake* case regarding "takings" in the context of water rights and the Endangered Species Act (June 2005).

American Bar Association 23rd Annual Water Law Conference, San Diego, CA: spoke on the interaction of the water rights laws and the Endangered Species Act, particularly the "take" prohibition of ESA § 9 (February 2005).

Washington Department of Ecology Water Program annual retreat, Wenatchee, WA: delivered keynote address regarding Ecology's leadership role in shaping water policy for Washington and the West (November 2004).

Annual "Western Water Law" program presented by CLE International, Denver, CO: spoke on the interaction of the water rights laws and the Endangered Species Act (September 2004).

Northwest Tribal Water Rights conference, sponsored by the Center for Tribal Water Advocacy, the Indian Law Section of the Oregon Bar Association, and the University of Oregon School of Law, Eugene, OR: spoke on the interaction of the water rights laws and the Endangered Species Act (October 2004).

U.S. Bureau of Reclamation Pacific Northwest regional forum on the Interior Department's *Water 2025* plan: spoke on environmental issues relating to federal water management in the Pacific Northwest (July 2003).

American Bar Association 21st Annual Water Law Conference, San Diego, CA: spoke on issues relating to drought preparation and response in the West, especially in regard to environmental concerns (February 2003).

Tulane University Law School, 2002 Environmental Law Symposium: spoke on environmental and water rights issues arising from the Klamath Basin water crisis of 2001 (March 2002).

City Club of Portland, weekly lunch speaker (broadcast statewide on Oregon Public Radio): spoke on the need for reform of Oregon water law to meet the challenges of growth and environmental conservation (November 2001).

ADDITIONAL ACTIVITIES:

Colorado Water Working Group (organized by the University of Colorado's Getches-Wilkinson Center to develop and submit comments on the draft of Colorado's first statewide water plan (2015).

Creator and author of blog (launched in 2013) on western water law and policy issues, www.westernriverlaw.com.

Rocky Mountain Mineral Law Foundation Trustee (At large, 2014-present; representing UNM School of Law, 2009-2013); University of Wyoming alternate, 2005-07).

Water Program co-chair for the 58th Annual Institute (2012), Rocky Mountain Mineral Law Foundation. (Co-chair with Hap Dunning, retired from UC Davis law school).

Editor, Rocky Mineral Law Foundation's Natural Resources Law Teachers Newsletter (2009-present).

Taught 3-day training course for U.S. Bureau of Reclamation employees, focusing on law, history and institutions affecting Reclamation's activities (Albuquerque Area Office, January and April 2011; Denver Office, May 2013).

Planning Committee, 29th Annual ABA Water Law Conference, San Diego, CA (2011).

University of Wyoming Athletic Planning Committee (2006 – 08); chair of the Equity Subcommittee (2007 - 08), which dealt primarily with Title IX compliance matters.

Planning Committee, Dividing The Waters, an educational project by and for judges and special masters involved in water right adjudications in the western states (2004-5).

State of Oregon Joint Task Force on Water Supply and Conservation, created by 1999 Oregon Legislature; I was one of eleven members, appointed jointly by the legislative leadership and Governor John Kitzhaber (1999-2002).