

Mancos Water Conservancy District, Testimony for H.R. 1963,
Bureau of Reclamation Conduit Hydropower Development Equity and Jobs Act.
Gary Kennedy, Superintendent - May 23, 2013

Chairman McClintock, Members and Staff,

I am Gary Kennedy, Superintendent of the Mancos Water Conservancy District, Colorado. The District operates and maintains the Mancos Project authorized under the Water Conservation and Utilization Act of 1939.

I want to thank you for inviting me to testify for HR 1963 that would amend the Water Conservation and Utilization Act (WCUA) to give authorization to pursue non-federal development of hydro power on those projects.

The Water Conservation and Utilization Act came about in the late 1930's during the Great Depression. The Act was a multi-purpose act bringing the Department of Agriculture together with the Bureau of Reclamation to stabilize water supply and provide opportunity for permanent settlements of farm families. From this Act came 12 projects; 11 of those projects are still operating under this Act. I refer to this Act as a step child to the B.O.R.

The wording of this Act did not follow the established Reclamation laws, making it a unique law of its time. Today this Act has been identified with the Bureau of Reclamation yet lacks the authority that comes with Reclamation laws. In our experience, Reclamation and its solicitors have trouble identifying the differences between Reclamation law and the Water Conservation and Utilization Act. My district is under this Act project and has experienced this issue first hand resulting in the Solicitor's Opinion of 1993. In that Opinion, the Solicitor found that Section 9 of the Water Conservation and Utilization Act which governs surplus power, prohibits Reclamation from offering leases of power privileges for non-federal hydropower development at Water Conservation and Utilization Act projects, and requires all revenues derived from hydropower development at those projects to remain with the federal government. After that Opinion, the District obtained legislation (PL103-434) authorizing a Lease of Power Privilege for the construction of the first hydro power plant on a Water Conservation and Utilization Act project. The Solicitor has given a new opinion that this law does not authorize hydropower development at all locations of the Mancos project suitable for such development. As a result, H.R. 1963 is needed to make this possible.

Many of the projects under the Act have the ability to produce hydro power as reported in the Bureau of Reclamation's Hydro Resource Assessment at Existing Reclamation Facilities of March 2011 and the Site Inventory and Hydropower Energy

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Assessment of March 2012. However, the Act does not give Reclamation the authority to permit Lease of Power Privilege on these projects. The energy assessment identified two of these projects producing 593 kilowatt hour (Kwh) (148 homes or 1,318 barrels of oil per day). My district chose to pursue hydro power as an additional source of revenue that did not involve increasing taxes or water rates. We have the ability for more power generation but are being held back due - AGAIN - to those same differences as cited in the 1993 Solicitors opinion. This bill will allow authority for these 11 projects to benefit from the advancement in hydro power generation.

I view this bill as a housekeeping effort to clarify what policies should be for hydro power development. This bill will correct that issue, it is a responsible step to take for the environment at no cost to the federal government. This bill will companion with HR 678 passed earlier this year.