

TESTIMONY OF ROBERT S. LYNCH, ROBERT S. LYNCH & ASSOCIATES,
TO THE WATER AND POWER SUBCOMMITTEE OF THE
HOUSE NATURAL RESOURCES COMMITTEE ON H.R. 678,
TO AUTHORIZE ALL BUREAU OF RECLAMATION CONDUIT FACILITIES FOR
HYDROPOWER DEVELOPMENT

MARCH 5, 2013

Chairman McClintock, Ranking Member Napolitano, Members of the Subcommittee, thank you for having this early hearing on H.R. 678. One of our clients is the Irrigation & Electrical Districts' Association of Arizona (IEDA), a voluntary association organized in 1962 to represent the interests of irrigation, electrical and other special districts, rural communities and other public entities in the acquisition and use of federal hydropower and water from Reclamation projects. The Association marked its 50th anniversary on December 14, 2012. Its 25 members and associate members manage water systems and supply electricity, much of both originating from or on the Colorado River. I am pleased to present this Testimony supporting H.R. 678, which will authorize hydropower development at all Bureau of Reclamation conduit facilities and streamline the process for development of such hydropower generators throughout the Reclamation West. We supported and testified in favor of the bill's predecessor, H.R. 2842, in the last Congress and are pleased to offer you our views on this excellent bill for your consideration.

Over the last century and more, Arizona has a long history of developing irrigated agriculture, both in central Arizona and along the Colorado River. We have developed systems of canals and laterals which now serve both irrigated agriculture and municipal and industrial water users. Much of these canal systems are Reclamation project systems built over the years as successive projects were authorized by Congress. The water that flows in these systems contains energy. Indeed, the water would not flow if it did not. That energy is largely unused as the water courses through these systems until it reaches its ultimate destination and stops moving. The energy is dissipated at that point. Lost.

Recent improvements and innovations in the development of small hydropower generating turbines have made the idea of installing multiple small turbines in these systems a potentially attractive source of electric energy. This technical advance comes at a time when our electricity providers are scrambling to find alternatives to fossil fuel generation, developing conservation and demand side management programs and otherwise trying to make existing electric resources go farther.

Our members would very much like to be part of that effort and participate in a new widespread small hydropower installation program that could be implemented throughout the West.

One key to making this happen is to reduce bureaucratic process, and its associated costs, to make small hydropower installation economically attractive in the same fashion as it has become technically attractive. Since the Bureau of Reclamation holds title to so many of these facilities in the West, we and others in the Western Reclamation states have been working with the Bureau

of Reclamation to try to reduce costs and paperwork toward that end. Some of the hurdles we identified along the way needed to be addressed by Congress; hence, H.R. 678.

H.R. 678 provides a simplified path for the development of small hydropower facilities in Reclamation managed federal conduit. It recognizes the primacy of water delivery as a Reclamation mission. It recognizes the position that Reclamation law has always historically given to irrigation districts and water users' associations. It answers questions that Reclamation officials have been debating and it gives those of us in the Reclamation West a clear incentive to begin working aggressively toward using flowing water in these conduits for electric generation instead of having to let that energy go to waste.

At the same time, we have been working with Reclamation to develop environmental and permitting guidelines that would complement the direction Congress, we hope, will give the agency on this subject. However, Reclamation's reaction to this legislation has not been as helpful as we would have hoped for. Indeed, the Directives and Standards document that Reclamation produced last fall appears to us to complicate rather than simplify the process. We are attaching the comments that we made on the Interim Directives and Standards to give you an idea of the problems we have identified in them. These comments include a two-page timeline we tried to piece together because the Interim Directives and Standards addressed who does what rather than giving us a path and a timeline. That has not changed. Just as importantly, the final Directives and Standards still leave us with a plethora of questions.

Now, Reclamation has established a website, perhaps in reaction to our and others' comments. Its 5-page summary is accompanied by 73 pages of attachments and three pages of flow charts illustrating the various paths this process can follow. I have attached the flowcharts. As we lawyers say, "*Res ipsa loquitur*" (the things speak for themselves).

In sum, we strongly support H.R. 678. We hope the Committee will mark and report it as soon as possible. There is an enormous amount of energy being wasted every day as water flows through these conduits to their ultimate destinations. We now have the technology to capture a great deal of that energy in small increments which collectively can provide an enormous resource for the West. This clean, renewable hydropower is waiting for us to use it. We need your help. H.R. 678 is a big step forward toward that end.

Thank you for the opportunity to present this Testimony to the Subcommittee. We would be happy to answer any questions or provide any additional information that the Subcommittee or Committee might desire as it deliberates over this important and very much needed legislation.