

**COMMITTEE ON NATURAL RESOURCES**  
**Disclosure Form**  
**As required by and provided for in House Rule XI, clause 2(g) and**  
**the Rules of the Committee on Natural Resources**

**Subcommittee on Water and Power**  
**Legislative Hearing on H.R. 461, H.R. 795 and H.R. 2060**  
**June 23, 2011 10:00 AM**

For Individuals:

1. Name:
  
2. Address:
  
3. Email Address:
  
4. Phone Number:

\* \* \* \* \*

For Witnesses Representing Organizations:

1. Name: Steve Moyer
  
2. Name of Organization(s) You are Representing at the Hearing:  
Trout Unlimited
  
3. Business Address: 1300 North 17<sup>th</sup> Street, Arlington, VA 22209
  
4. Business Email Address: [Information redacted for privacy]
  
5. Business Phone Number: 703-284-9406

Name/Organization: Steve Moyer,  
Trout Unlimited

Title/Date of Hearing June 23, 2011 Legislative Hearing on **H.R. 2060 (Walden)** to amend the Wild and Scenic Rivers Act to adjust the Crooked River boundary, to provide water certainty for the City of Prineville, Oregon, and for other purposes.

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a. Any training or educational certificates, diplomas or degrees or other educational experiences that are relevant to your qualifications to testify on or knowledge of the subject matter of the hearing.

B.S. Wildlife Management, University of Maine

M.S. Fisheries Science, Virginia Tech

b. Any professional licenses, certifications, or affiliations held that are relevant to your qualifications to testify on or knowledge of the subject matter of the hearing.

no

c. Any employment, occupation, ownership in a firm or business, or work-related experiences that relate to your qualifications to testify on or knowledge of the subject matter of the hearing.

26 years as a fisheries conservation professional for fisheries conservation organizations

d. Any federal grants or contracts (including subgrants or subcontracts) from the *Department of the Interior (and /or other agencies invited)* that you have received in the current year and previous four years, including the source and the amount of each grant or contract.

Please see attached spreadsheet

e. A list of all lawsuits or petitions filed by you against the federal government in the current year and the previous four years, giving the name of the lawsuit or petition, the subject matter of the lawsuit or petition, and the federal statutes under which the lawsuits or petitions were filed.

Please see attached document

f. Any other information you wish to convey that might aid the Members of the Committee to better understand the context of your testimony. no

Name/Organization \_\_\_\_\_  
Title/Date of Hearing \_\_\_\_\_

In addition, for witnesses representing organizations:

g. Any offices, elected positions, or representational capacity held in the organization(s) on whose behalf you are testifying.

h. Any federal grants or contracts (including subgrants or subcontracts) from the Department of the Interior (and /or other agencies invited) that were received in the current year and previous four years by the organization(s) you represent at this hearing, including the source and amount of each grant or contract for each of the organization(s).

i. A list of all lawsuits or petitions filed by the organization(s) you represent at the hearing against the federal government in the current year and the previous four years, giving the name of the lawsuit or petition, the subject matter of the lawsuit or petition, and the federal statutes under which the lawsuits or petitions were filed for each of the organization(s).

j. A list of any countries from which the organization(s) you represent at the hearing have received foreign donations and the total amount of donations received from each country, for the current year and the previous four years, by each organization.

k. For tax-exempt organizations and non-profit organizations, copies of the three most recent public IRS Form 990s (including Form 990-PF, Form 990-N, and Form 990-EZ) for each of the organization(s) you represent at the hearing (not including any contributor names and addresses or any information withheld from public inspection by the Secretary of the Treasury under 26 U.S.C. 6104)).

AK Freshwater Invasive Species Outreach	AKFISO
RGCT ALAMITOS PROJECT-NM	ALMTOS
Tangasootack AMD Rehab	AMDTNG
Western Native Trout Habitat Restoration and Population Monitoring	BBNAT2
Utah BLM Culvert Inventory & Prioritization for Fish Passage	BLMPAS
Utah BLM Culvert Inventory & Prioritization for Fish Passage	BLMPAS
BLM Barrier Assessment	BLMWY1
Predicting Brook Trout Invasion Cutthroat Trout Habitat	BRKINV
Bear River Native Trout Restoration	BRNFWF
Bear River Trout Bring Back Natives	BRTBBN
Water and Wine Watershed Stewardship	CALFWS
Rainey Creek Fish Passage Project	CCFCCC
Cutthroat Trout Restoration & Monitoring	CCFCT2
BLM Conservation Framework/Native Trout Restoration	CCFCT3
Nash Stream Restoration Project	CCFFAF
Missouri Headwaters Watershed Restoration	CCFJEF
Cooperative Agreement with the National Park Service	CCFNPS
Cooperative Agreement with the National Park Service	CCFNPS
Rainey Creek Diversion - Griffel	CCFRCD
Rainey Creek Restoration	CCFRCR
Potomac Headwaters Home Rivers Initiative	CFAWVF
Middle Clark Fork River Restoration	CLKNFW
Colorado River Cutthroat Trout Conservation	COCRCT
Colorado River Cutthroat Trout Conservation	CORGCT
S. Fork Little Snake Project	COSFLS
Colorado River Basin Native Fish 1	CRBNF1
Middle Cub River Fish Screen - PFW	CUBPFW
Cub River Stimulus	CUBSTM
Driftless - Culvert Study	DACULV
Driftless Area Brook Trout Restoration	DAREBN
Driftless Area Restoration Effort	DAREFW
Midwest Drifless Area Fish Habitat Restoration Effort	DARESF
East Fork Western Native Initiative	EFWNTI
New/Greenbrier Riparian Project	FAFWVF
Potomac River Basin Riparian Restoration Project	FAFWVF
Little Kanawha River Basin Riparian Restoration Project	FAFWVF
Big Run Habitat Restoration Project	FAFWVF
Monongahela/West Fork Riparian Restoration Project	FAFWVF
Smith Creek Riparian Restoration Project	FAFWVF
Fish Haven Creek Fish Passage Restoration	FHCFPP
Francs Fork Culvert Crossing Replacement	FRANC1
Francs Fork Culvert Replacement	FRANC5
Coal Creek Fish Screens	FWCOAL
Grade Creek Project	FWSGRD
Georgia EBTJV Grant Pass Through	GABRKT

15.630.701819J038	\$ 20,000.00
15.632.201818J845	\$ 50,000.00
15.253.S09AP15511	\$ 15,000.00
15.231.PAA-08-0008	\$ 69,000.00
15.231.L08AC13786	\$ 35,000.00
15.231.L08AC13786	\$ 15,000.00
15.L10AC16442	\$ 15,000.00
15.231.2008-0087-000	\$ 79,000.00
15.608.2008-0046-002	\$ 150,000.00
15.231.2010-0055-009	\$ 45,000.00
15.608.813328J020	\$ 60,000.00
15.608.143307G081	\$ 15,000.00
15.DAK.2006-0088-011	\$ 30,000.00
15.231.2008-0046-009	\$ 75,000.00
15.631.FAF-5136	\$ 12,000.00
15.231.2008-0013-000	\$ 37,500.00
15.921.H4507040072	\$ 45,000.00
15.921.H4507040072	\$ 50,000.00
15.631.14220-9-J025	\$ 10,000.00
15.2003-0208-001	\$ 45,000.00
15.50181-6-J045	\$ 50,000.00
15.231.2007-0071-014	\$ 250,000.00
15.632.601817G240	\$ 350,000.00
15.632-601816J150	\$ 10,000.00
15.231.2010-0058-010	\$ 39,500.00
15.231.2009-0076-000	\$ 90,000.00
15.631.14420-9-J044	\$ 20,000.00
15.656.14330RG293	\$ 89,000.00
15.608.05407-001	\$ 9,176.04
15.608.2008-0046-003	\$ 25,000.00
15.608.301818J214	\$ 1,000.00
15.628.M-4-T-1	\$ 75,000.00
15.608.60181AJ401	\$ 20,000.00
15.608.FAF-7095	\$ 2,300.00
15.608.FAF-7096	\$ 4,500.00
15.608.FAF-7094	\$ 19,000.00
15.608.FAF-6069	\$ 28,000.00
15.608.FAF-7097	\$ 29,450.00
15.608.FAF-6070	\$ 30,000.00
15.608.143308G238	\$ 240,000.00
15.631.601818J300	\$ 75,000.00
15.608.2009-0020-006	\$ 6,160.00
15.608.601818J300	\$ 40,000.00
15.631.61820-7-C309A	\$ 24,000.00
15.631.401817J121	\$ 56,850.00

## **TU Litigation Update**

### Lawsuits with TU National Participation.

*National Wildlife Federation et. al. v. National Marine Fisheries Service*, CR-01-640-RE, (D.OR). Litigation filed by TU and others regarding biological opinions for the Columbia/Snake hydropower system. Judge issued order in May 2005 overturning 2004 Biological Opinion and in June 2005 ordering summer spills. Case is ongoing, with Judge requiring progress reports on spills and new biological opinion. NOAA Fisheries issued a revised Bi-Op in May 2008, and then issued a supplemental Bi-Op in May 2010.

*TU, et al. v. Lohn, et. al.*, C06-0483 (W.D. Wash.) [*Upper Col. Steelhead*]. Lawsuit filed by TU and others challenging downlisting of upper Columbia steelhead from endangered to threatened pursuant to NOAA hatchery policy. In June 2007 court ruled on summary judgment motions, struck down certain aspects of the hatchery policy, and set aside the downlisting. On March 16, 2009, the Ninth Circuit reversed in part and affirmed in part. Case is currently pending before the District Court on remand.

*Jayne, et al. v. Sherman, et al.*, Case No. 09-cv-015 (U.S. Dist. Ct., Dist. of ID). Lawsuit filed by conservation groups challenging federal government's adoption of the Idaho Roadless Rule, which was developed through a state-led, collaborative process in which TU participated. TU supported the Idaho Roadless Rule that emerged from the state process, and, along with Idaho Conservation League, has asked the court for leave to participate as amicus curiae on the side of the federal government and the other defendants/intervenors who seek to uphold the Idaho Roadless Rule. TU's motion to participate as amicus and memorandum in support of defendants' motion for summary judgment were filed in July, 2010.

*Modesto Irrigation District et al., v. Evans; and California State Grange v. NMFS*, 1:06-cv-00453 OWW DLB; 1:06-cv-00308 OWW DLB (*consolidated for purpose of ruling on pending summary judgment motions*). Irrigation and Grange brought separate cases, which were later combined, challenging the listings of all federally protected steelhead. The argument mirrors the one in Alsea Valley Alliance about the hatchery policy, plus adds an additional challenge to NOAA's decision to consider anadromous steelhead separately from their resident cousins - the rainbow trout. TU and a variety of groups have intervened to protect these steelhead listings. District Court ruled in favor of upholding the Central Valley steelhead listing. Irrigators appealed. On August 20, 2010, the Ninth Circuit affirmed the District Court's decision.

*NRDC v. Kirk Rodgers, BOR, Friant Irrigation Dist. et al.*, No. CIV-S-88-1658 KK/GGH (U.S. Dist. Court, E.D. CA). Long-pending lawsuit regarding flows on the San Joaquin River. The parties have recently reached a settlement agreement in this case, which has been approved by stipulated order, and is now being implemented pursuant to

federal legislation. Litigation remains pending solely for the purpose of letting the court supervise implementation of the settlement.

*Catskill Mountains Chapter of Trout Unlimited, et al. v. EPA et al.*, (Federal District Court, SDNY, and U.S. Court of Appeals for the 11th Circuit). Challenge to EPA rulemaking exempting discharges of polluted waters in connection with water transfers from NPDES permitting requirements. Cases were filed in district court and court of appeals to preserve jurisdiction. Court of appeals cases have been consolidated in the Eleventh Circuit. Cases were filed in June 2008, and are still pending before the 11<sup>th</sup> Circuit.

*Southern Four Wheel Drive Association v. U.S. Forest Service* (U.S. District Court, Western District of North Carolina). TU has intervened in this suit filed against the Forest Service by certain off-road vehicle groups. TU had engaged in a long campaign to convince the Forest Service to close certain trails in the Nantahala National Forest to off-road vehicles. Use of those trails was been causing significant erosion and pollution of headwater streams, particularly in the Tellico basin. The Forest Service, over the objections of the off-road groups, ultimately sided with TU and ordered certain trails closed. The groups sued to challenge this decision, and TU has intervened in support of the Forest Service.

*Lawsuits with TU Chapter or Council Participation.*

*Colorado Environmental Council, et al. v. Kempthorne, et al.*, Case No. 08-CV-01460 (D.Colo.). TU Colorado Council, along with several other conservation organizations, filed this case in July 2008 challenging BLM permitting and leasing of natural gas development on federal land on the Roan Plateau in Colorado. The judge is fully briefed, but has ordered all parties into settlement talks with Magistrate Judge Mix. No ruling will be made until Judge Mix reports to Judge Krieger that an impasse has been reached. In the meantime, no development activity will proceed on the Roan pending the outcomes of the settlement talks. Bill Barrett Corp. has purchased Vantage's leases from the top of the Roan and is now in the case in Vantage's place.

*Rock Creek Alliance v. U.S. Fish and Wildlife Service* (U.S. District Court, Montana). Challenge to biological opinion issued for Rock Creek Mine. The suit involves claims under NEPA and the ESA. The Idaho Council and a variety of other groups are plaintiffs. The U.S. District Court for Montana issued a ruling in May 2010. In that ruling, the court held that the Forest Service violated the National Environmental Policy Act in analyzing the project's impacts on water quality, but rejected all challenges to the Fish and Wildlife Service's analysis of impacts to bull trout and grizzly bears under the ESA. All parties have appealed the district court's decision to the Ninth Circuit Court of Appeals. Meanwhile, the district court in July 2010 granted the plaintiffs' motion to



certify a final judgment regarding the Endangered Species Act issues, which should secure the plaintiffs' right to bring those issues before the appellate court.