

**Statement of Reed Murray
Program Director, Central Utah Project
Completion Act Office
U.S. Department of the Interior
Before the
House Energy and Natural Resources Committee
Subcommittee on Water and Power
on H.R. 2008
Bonneville Unit Clean Hydropower Facilitation Act
Utah County, Utah
May 14, 2009**

Mr. Chairman and members of the Committee, my name is Reed Murray. I serve as the Program Director for the Central Utah Project Completion Act Office in the Department of the Interior (Interior). I appreciate the opportunity to appear before you to testify on H.R. 2008, the Bonneville Unit Clean Hydropower Facilitation Act. The proposed legislation is associated with development of hydropower on the Diamond Fork System, Bonneville Unit, Central Utah Project.

The Central Utah Project Completion Act (CUPCA) provides for the completion of the construction of the Central Utah Project (CUP) by the Central Utah Water Conservancy District (CUWCD). CUPCA also authorizes programs for fish, wildlife, and recreation mitigation and conservation; establishes an account in the Treasury for deposit of appropriations and other contributions; establishes the Utah Reclamation Mitigation and Conservation Commission to coordinate mitigation and conservation activities; and provides for the Ute Indian Water Rights Settlement.

Hydropower development on CUP facilities was authorized as part of the Colorado River Storage Project Act (CRSPA) under which the Central Utah Project is a participating project. The development of hydropower on the Diamond Fork System has been contemplated since the early days of the CUP. The 1984 Environmental Impact Statement on the Diamond Fork System described the construction of five hydropower plants with a combined capacity of 166 MW of power.

However, these hydropower plants were never constructed and the 1999 Environmental Impact Statement on the Diamond Fork System presented a plan which specifically excluded the development of hydropower, stating "...there are no definite plans or designs, and it is not known if or by whom they may be developed."

Although hydropower development was not included, construction of pipelines and tunnels for the Diamond Fork System were completed and put into operation in July 2004. Under full operation the Diamond Fork System will annually convey 101,900 acre-feet of CUP Water and 61,500 acre-feet of Strawberry Valley Project Water.

In 2002 CUPCA was amended to authorize development of federal project power on CUP facilities. With this new amendment plans for hydropower development at Diamond Fork were included in the 2004 Utah Lake System Environmental Impact Statement and the 2004 Supplement to the Definite Plan Report for the Bonneville Unit (DPR). These documents describe the construction of two hydropower plants on the existing Diamond Fork System for a total generating capacity of 50 MW.

Section 208 of CUPCA included provisions that power on CUP features would be developed and operated in accordance with CRSPA and CUP water diverted out of the Colorado River Basin for power purposes would be incidental to other project purposes.

There are two options for hydropower development on the Diamond Fork System: 1) federal project development or 2) private development under a Lease of Power Privilege contract with the United States.

Under the first option the CUWCD would construct the Diamond Fork hydropower plants under contract with the United States and contribute an upfront local cost share of 35 percent of the construction costs. In addition to the hydropower construction costs, the costs associated with conveyance facilities upstream of the Diamond Fork would have to be repaid by the non-Federal project sponsors.

The DPR allocates costs of the CUP according to project purposes. The reimbursable costs allocated to power are \$161 million based upon the costs of developed features upstream of the Diamond Fork System. It is anticipated that under this option, these allocated costs would be repaid through an arrangement among Interior, CUWCD, and the Western Area Power Administration (WAPA).

Under the second option, private hydropower could be developed. Although the DPR and 1999 EIS describe federal hydropower development, they also provide the option for a Lease of Power Privilege arrangement with the United States. Under this arrangement Interior would implement a competitive process to select a lessee for private development of hydropower at Diamond Fork. The lease arrangement would require repayment of the \$161 million of upstream costs plus annual payments to the United States for the use of the federal facilities, amounting to at least a 3 mil rate paid by the lessee to the United States.

H.R. 2008 does not preclude federal development of hydropower, but it does increase the likelihood of private development. If enacted, this bill would indefinitely defer the \$161 million in costs allocated to power development in the Diamond Fork System under section 211 of CUPCA, thus reducing the cost of hydropower development at this site. This bill would increase the likelihood that a private developer would pursue a Lease of Power Privilege arrangement because the private developer would not, under this legislation, be required to repay the \$161 million of construction costs that were allocated to power as would be required under existing law. In essence, this would authorize a form of debt forgiveness.

While we understand and appreciate the goal of this legislation of facilitating the development of hydroelectric power on the Diamond Fork System, the Administration has serious concerns about losing our ability to recoup the Federal investment made in these facilities. The Federal government may benefit from the annual payments for the use of Federal facilities that would be paid if a lessee entered into a Lease of Power Privilege arrangement for production of hydroelectric power on the Diamond Fork System. However, because payment of \$161 million of allocated power costs would be postponed indefinitely, it is unclear what the long-term fiscal implications of enactment of this legislation would be and how the United States Treasury would be made whole. This legislation would potentially permanently postpone anticipated receipts to the U.S. Treasury at the expense of the Federal taxpayer.

This concludes my testimony. I am happy to answer any questions.