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Testimony of
Henry Maddux (title) to
Water, Power and Oceans Subcommittee,
Committee on Natural Resources
regarding

H. R. 4465 “Endangered Fish Recovery Programs Extension Act of 2017”
December 6, 2017

Thank you Chairman Lamborn, Ranking Member Huffman and members of the Subcommittee for the opportunity to testify in support of H. R. 4465. I am Director, Recovery Programs, Utah Department of Natural Resources. I serve as Utah’s representative on the Management Committee, Upper Colorado River Endangered Species Recovery Program and I am chairman of that Committee.

H. R. 4465 amends Public Law 106-392 by extending the authorization through FY 2023 for use of hydroelectric power revenues from the Colorado River Storage Projects (CRSP) for annual funding of the Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program. The authorization extends the currently authorized levels of annual funding. A report by the Secretary of the Interior is required to be submitted to Congress in FY 2021 with recommendations for funding beyond FY 2023. Any funding beyond FY 2023 requires authorization by Congress.

Public Law 106-392 became law in 2000. The law authorizes federal cost-sharing for the two recovery programs for capital projects and use of CRSP power revenues for annual funding. The law recognizes substantial cost-sharing by states of Utah, Colorado, Wyoming, and New Mexico, power customers, and water users. In-kind contributions are also made by other participants in the recovery programs. These nonfederal cost sharing contributions will continue through 2023. Congress has extended the federal authority both in amount and time with amendments to P. L. 106-392 on three other occasions with strong bipartisan support. The authorization for expenditures on capital projects currently extends through 2023. Capital project expenditures are also cost shared.

CRSP hydropower revenues are a critical source of cost sharing funds for the recovery programs. Hydropower revenues fund operation and maintenance of capital facilities including fish passages, fish screens, hatcheries, bottomland habitat, research, and monitoring. These activities are critical to achieving the goals of the recovery programs – recovery of four endangered fish species while water development and management proceeds in compliance with state water and wildlife law, interstate compacts approved by Congress, authorizations for Bureau of Reclamation projects approved by Congress, and the Endangered Species Act.

Both the Upper Colorado and San Juan River basin recovery programs were established to eliminate potential conflicts among water development and management activities and protection and recovery of four endangered fish species – Colorado pikeminnow, humpback chub, razorback sucker, and bonytail. The species occupy the lower warm water reaches of the upper Colorado River basin.

The Upper Colorado River Recovery Program was established in 1988 by cooperative agreement among the Secretary the Interior, the governors of Colorado, Utah, and Wyoming, and Western Area Power Administration. Other participants include CRSP power customers, water users in Colorado, Utah, and Wyoming, and environmental organizations represented by The Nature Conservancy and Western Resource Advocates. Participating federal agencies include Bureau of Reclamation, Western Area Power Administration, National Park Service, and U.S. Fish and Wildlife Service.

The San Juan River Basin Recovery Implementation Program was established in 1992 By cooperative agreement among the Secretary the Interior, the governors of Colorado and New Mexico, the Navajo Nation, Southern Ute Tribe, Ute Mountain Ute Tribe, and Jicarilla Apache Nation. Other participants include water users in Colorado and New Mexico, and environmental organizations represented by The Nature Conservancy. Participating federal agencies include Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, and U.S. Fish and Wildlife Service.

Both programs have the objective of recovering and delisting the endangered fish. Program activities address all causes of the endangerment including flow management, habitat development, nonnative fish control, research and monitoring. Research and monitoring has resulted in the programs' recovery actions being driven by sound science.

In establishing these programs, it was agreed that there will be no taking of water from any water user or Reclamation contractor. In turn, water users, the states, and Reclamation agreed to find ways to provide water for endangered fish species consistent with state water law, interstate compacts, and Reclamation project authorizations. Water is provided for endangered fish through reoperation of Reclamation projects, improving efficiency of irrigation projects with saved water being made available to endangered fish habitat, coordinated reservoir operations to enhance spring peak flows without jeopardizing reservoir yields, and participation in the reservoir expansion with storage capacity dedicated to endangered fish. These efforts to cooperatively and voluntarily provide water for endangered fish would not happen without the recovery programs.

An example of the effectiveness of the cooperative approach to providing water is found on the Colorado River near Grand Junction. Historically, the 15-mile reach of the river was often dried up due to depletions by federal and nonfederal irrigation projects holding senior water rights. This reach of the river is in designated critical habitat for the endangered fish. Since 1997, more than one million acre-feet of water has been delivered to this reach to benefit endangered fish. There are many other examples of significant voluntary and cooperative provision of water to endangered fish throughout the basin. The dollar value of this water, which has not been estimated, in my opinion very likely exceeds the total cost of the two programs.

In evaluating impacts of existing and new water projects on the endangered fish as required by the Endangered Species Act, U.S. Fish and Wildlife Service reviews the actions taken by the recovery programs to protect and recover the species to determine if those actions offset project impacts. To date, the Service has found that program actions both at the impact approximately

2,500 water projects in the Upper Colorado and San Juan River Basins, including every Reclamation project upstream of Lake Powell. There have been no lawsuits filed regarding Endangered Species Act compliance under the recovery programs. Furthermore, compliance with the Endangered Species Act has been streamlined for federal agencies, water users, and the Fish and Wildlife Service.

The recovery programs have greatly improved the status of endangered fish species. Since the inception of the programs, populations of endangered fish have increased in the two river basins. The Service will prepare five year status reviews of three of the species in 2018. The status reviews may lead to downlisting of the species from endangered to threatened.

The programs have strong grassroots support among all participants including water users, the states, tribes, power customers, and environmental organizations. Many of these organizations have submitted letters of support to the Subcommittee for H. R. 4465.

Due to the success of the programs and strong grassroots support, the programs have had the support of five presidential administrations. P.L. 106-392 and subsequent amendments have had strong bipartisan support in Congress. I believe I can speak on behalf of all the non-federal program participants in requesting the support of the subcommittee for H. R. 4465. I would note that an identical bill (S. 2166) has been introduced by Senator Gardner with bipartisan support.

Once again, I thank the Chairman and Ranking Member for the opportunity to testify. I would be happy to answer any questions regarding my testimony.