

Statement of Gerald R. Zimmerman
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on

“H.R. 5180, Lower Colorado River Multi-Species Conservation Program Act”

before the

U.S. House of Representatives
Subcommittee on Water and Power Resources
Committee on Resources

Scottsdale, Arizona
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Mr. Chairman and Members of the Committee, thank you for this opportunity to appear before you today. I will briefly discuss the need for enactment of H.R. 5180, the Lower Colorado River Multi-Species Conservation Program Act (Act) and the importance of the Lower Colorado River Multi-Species Conservation Program to California and entities within California that use and enjoy the resources provided by the Colorado River.

The Colorado River Board of California appreciates the opportunity to submit this written testimony in support of H.R. 5180 and its companion legislation in the United States Senate (S. 3841). This Act, if passed and signed into law, will provide the necessary long-term certainty for users of Colorado River mainstream water in the Lower Basin States of Arizona, California, and Nevada, while ensuring continued protection for endangered species and habitats, pursuant to the Endangered Species Act (ESA) along the Lower Colorado River corridor within the United States.

Initiated in 1995, the Lower Colorado River Multi-Species Conservation Program (LCR MSCP) is a cooperative effort among federal and non-federal entities in Arizona, California, and Nevada to protect endangered, threatened, and sensitive species on the Lower Colorado River while providing assurances to the affected water and power agencies of the three states that their operations may continue based upon compliance with Program requirements. Development of the LCR MSCP was initiated with the designation of critical habitat for the four endangered “big river” fishes of the Colorado River Basin by the United States Fish and Wildlife Service (USFWS) in 1994 and the listing of the southwestern willow flycatcher as an endangered species in 1995. With these two ESA-related actions, the United States Bureau of Reclamation (Reclamation) initiated formal consultation with the USFWS pursuant to Section 7 of the ESA. Based upon this consultation, a final biological opinion was released by the USFWS in 1997. That biological opinion included a requirement that Reclamation continue to support and participate in the development of a long-term endangered species management program with the States of Arizona, California, and Nevada.

Over a nearly ten-year period the three states, several Native American tribes, and federal agencies worked in a cooperative atmosphere to develop a long-term endangered species conservation and habitat restoration program that could be implemented along the Lower Colorado River corridor from Lake Mead to the Southerly International Boundary with Mexico. Based upon this diligent effort, including nearly \$50 million in Program funding, development of the LCR MSCP was completed in early 2005. On April 2, 2005, then Secretary of the Interior Gale A. Norton executed the primary LCR MSCP implementation documents, including the following: (1) LCR MSCP Implementation Agreement; (2) LCR MSCP Funding and Management Agreement; and (3) the Record of Decision for the LCR MSCP Final Programmatic Environmental Impact Statement and Environmental Impact Report. These documents were then executed by all of the remaining federal and non-federal participants at a signing ceremony held at Reclamation’s Hoover Dam facility on April 5, 2005.

The LCR MSCP is a fifty-year program; and over the implementation period, will provide for the creation of 8,132 acres of riparian, marsh and backwater habitat for the species covered by the Program; and includes plans for the rearing and stocking of over 1.2 million endangered fish to augment existing populations of two endangered fish covered by the Program. The LCR MSCP

also provides for the maintenance of existing, high-quality habitat, and a comprehensive research, monitoring, and adaptive management effort to ensure that important LCR MSCP program elements are effective in supporting the 26 covered species.

As agreed upon in the LCR MSCP implementation documents and agreements, the Program provides for a total of \$626 million in funding, indexed for inflation over the fifty-year period, for species conservation and habitat restoration efforts that will be implemented under the Program. These costs are divided 50-50 between the state and federal entities covered by the Program. Furthermore, the State of California is heavily vested in this important Program; not only by virtue of the amount of time spent in developing the Program, but in the amount of funding to be provided by California participants for long-term Program implementation. The State of California through the California Department of Fish and Game and the Colorado River Board of California and the 10 California agencies participating in the Program have committed to provide fifty-percent (50%) of the non-federal share of Program implementation funding, or \$156.5 million, indexed for inflation over the fifty-year period. Finally, the fifty-year implementation of the Program, pursuant to the Program documents and agreements, is an integral part of California's management and use of its 4.4 million acre-foot basic mainstream apportionment of Colorado River water.

It is important to note that all of the California entities that have water and power contracts from the mainstream of the Colorado River are financially participating in the implementation of the LCR MSCP. Within Southern California, the Colorado River supports a service area economy in excess of \$700 billion. The Colorado River provides about 50 percent of the water consumptively used in Southern California and it serves as the sole or supplemental water supply for over 18 million California residents and about 900,000 acres of irrigated cropland. Hydroelectric power plants at the major reservoirs on the Colorado River generate about 3.5 billion kilowatts hours of energy used in Southern California.

From California's perspective, H.R. 5180 provides several key elements that are important in ensuring the long-term effective implementation of the LCR MSCP. First H.R. 5180 provides an authorization of appropriations for the federal share of Program costs and directs the Secretary of the Interior to manage and implement the Program in accordance with the executed Program Documents and Agreements. These documents and agreements, executed by all of the federal and non-federal parties reflect the long-term commitment to implement this important Program through 2055. California believes that, through this legislation, it is important that the Congress formally recognize the value of the Program to the citizens of the United States and the overarching responsibilities that the Secretary of the Interior and Reclamation have toward long-term Program implementation.

Second, H.R. 5180 establishes a process for the Secretary of the Interior and Reclamation to acquire and provide adequate water supplies associated with the restoration and maintenance of habitats created pursuant to the Program documents. In these times of limited water supplies in the Lower Basin States, this process will allow for the creation and maintenance of the 8,132 acres of aquatic, wetland, and riparian habitats within the Program planning area along the Lower Colorado River, and yet ensure that lawful entitlement holders in the three states can continue to manage and effectively utilize their important Colorado River apportionments over

the fifty-year period. Specifically, H.R. 5180 provides legislative authorization for an agreement among the Secretary and the three Lower Basin states that will govern the water use accounting for MSCP habitat creation and maintenance in accordance with the Program documents. In our view, that agreement is essential to ensure that Colorado River water may be used for a variety of Program-related purposes within the “Law of the River.”

Finally, H.R. 5180 acknowledges that a long-term cooperative effort, involving the federal and non-federal Program participants, will be required in order to successfully implement this Program over the fifty-year implementation period. This will be accomplished through periodic meetings of the LCR MSCP Steering Committee and Reclamation’s LCR MSCP Office staff. These meetings, several of which have occurred since inception of Program implementation in April 2005, are the primary focal point for decision-making regarding the preparation and adoption of annual work plans, budgets, and Program implementation status reports. It is in the Steering Committee where consensus-based decisions will be made associated with the results of on-going monitoring and research activities and the utilization of adaptive management in suggesting modifications to implementation activities based upon the best available science. This Steering Committee is composed of the following seven participant groups: 1) Federal Participant Group; 2) Arizona Participant Group; 3) California Participant Group; 4) Nevada Participant Group; 5) Native American Participant Group; 6) Conservation Participant Group; and 7) Other Interested Parties Participant Group. Each of these participant groups has an equal voice in the decisions that will guide Program implementation.

In summary, California is fully committed to carrying out its responsibilities toward long-term implementation of the LCR MSCP over the fifty-year period, and looks forward to working with representatives and agencies within the States of Arizona and Nevada, as well as the participating federal agencies in carrying out those goals and meeting our collective obligations. Toward this end, California believes that H.R. 5180 is of vital importance to all of the LCR MSCP participants committed to the Program’s success. The Colorado River Board of California urges the Committee, as well as the full House to enact this important legislation.

Thank-you for providing me the opportunity to testify before this Subcommittee. Enactment of H.R. 5180 will make a difference.
