

NICK J. RAHALL II, WV
CHAIRMAN
DALE E. KILDEE, MI
ENI F.H. FALCOMA-VAEGA, AS
NEIL ABERCROMBIE, HI
FRANK PALLONE, JR., NJ
GRACE F. NAPOLITANO, CA
RUSH D. HOLT, NJ
RAUL M. GRIJALVA, AZ
MADELEINE Z. BORDALLO, GU
JIM COSTA, CA
DAN BOREN, OK
GREGORIO SABLAN, MP
MARTIN HEINRICH, NM
GEORGE MILLER, CA
EDWARD J. MARKEY, MA
PETER A. DeFAZIO, OR
MAURICE D. HINCHEY, NY
DONNA M. CHRISTENSEN, VI
DIANA DeGETTE, CO
RON KIND, WI
LOIS CAPPS, CA
JAY INSLEE, WA
JOE BACA, CA
STEPHANIE HERSETH SANDLIN, SD
JOHN P. SARBANES, MD
CAROL SHEA-PORTER, NH
NIKI TSONGAS, MA
FRANK KRATOVIL, JR., MD
PEDRO R. PIERLUISI, PR

JAMES H. ZOIA
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

DOC HASTINGS, WA
RANKING REPUBLICAN MEMBER
DON YOUNG, AK
ELTON GALLEGLY, CA
JOHN J. DUNCAN, JR., TN
JEFF FLAKE, AZ
HENRY E. BROWN, JR., SC
CATHY McMORRIS RODGERS, WA
LOUIE GOHMERT, TX
ROB BISHOP, UT
BILL SHUSTER, PA
DOUG LAMBORN, CO
ADRIAN SMITH, NE
ROBERT J. WITTMAN, VA
PAUL C. BROWN, GA
JOHN FLEMING, LA
MIKE COFFMAN, CO
JASON CHAFFETZ, UT
CYNTHIA M. LUMMIS, WY
TOM McCLINTOCK, CA
BILL CASSIDY, LA

TODD YOUNG
REPUBLICAN CHIEF OF STAFF

Opening Statement
Ranking Member Tom McClintock
Subcommittee on Water and Power
Committee on Natural Resources
Legislative Hearing
2 p.m., September 22, 2009 1324 Longworth HOB

Madam Chairwoman:

The lion's share of the committee's attention today is focused on H.R. 3563, which settles competing claims to water rights from the Bighorn River and Yellowtail Dam, straddling the Montana/Wyoming State Line.

I find these disputes very uncomfortable because they place Congress, which is designed as a policy organ, in the position of acting as a legal arbiter instead, a role for which we are simply not designed.

For that reason, it seems to me that one of the most important criteria we should use in evaluating such settlements is that all interested parties are satisfied with the agreement, and I will be looking for those signals today.

Also, such settlements usually are accompanied by large federal outlays – in this case exceeding half a billion dollars. Congress is in great need of guidance from the administration as to whether these expenditures are in the interests of federal taxpayers – that is, if it is probable that litigation would end up costing us significantly more – and I will also be looking for guidance on this subject.

The second bill is H.R. 2288, another example of how the Endangered Species Act has put a gun to the head of the West. The utterly unreasonable effect of this law is now impoverishing millions of people in California communities, devastating the agricultural sector of our economy and threatening all of us with permanent water shortages, skyrocketing food prices and chronic unemployment.

This measure is a compromise that seeks to spend \$7 million per year through the year 2023 for research, management, operation and maintenance and other annual non-capital expenditures in order to keep ESA litigation at bay.

Since this bill contemplates spending nearly \$100 million over the next 14 years, I would like to know exactly what ratepayers and taxpayers will be getting for their money other than the right to

use the water they've already paid for. Since this bill extends what I understand was to be a finite project, I have to wonder how effective it is if it has to be extended 14 years into the future.

Moreover, I think it is high time that we considered major changes to the ESA in light of this and so many other disputes arising from its provisions.

Finally we have before us HR 2316 offered by my fellow Californian, Mr. Baca, to address infiltration of perchlorate into the groundwater of his community.

I hope that witnesses can address two fundamental concerns: First, why it is that a local groundwater issue justifies the use of federal funds, especially since the City of Rialto has already assessed its residents an additional fee to address perchlorate contamination; and second, why the U.S. Geological Survey cannot simply perform the study on its own without Congressional action.

The principal question with this bill is this: Does the U.S. Geological Survey already have authority to study this issue? If it does, and has decided that it is of low priority, why should Congress substitute its judgment for that of the agency involved over what appears to be an administrative decision?

All three bills are certainly supportable, but I would feel a great deal better if these issues could be resolved during testimony today.