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## **The Fryingpan-Arkansas Project at 45: Sustainable Water for the 21st Century**

House Resources Committee, United States Congress  
Subcommittee on Water and Power  
Field Hearing  
Pueblo, Colorado  
June 1, 2007

I want to thank Chairwoman Napolitano for this opportunity to share the Colorado River Water Conservation District's concerns and recommendations regarding the Fryingpan-Arkansas Project and the important goal of a sustainable water future. I also want to extend my District's gratitude to the Chairwoman for her commitment to the subcommittee's field hearings and her personal travels throughout the West to see and hear first-hand the issues facing Western water users.

The Colorado River Water Conservation District is the principal policy body for the Colorado River within Colorado. We are an independent, political subdivision of the State of Colorado responsible for the conservation, use, and development of the water resources of the Colorado River basin to which the State of Colorado is entitled under the 1922 and 1948 Colorado River compacts. The Colorado River District includes all or part of 15 counties in western Colorado, including the Fryingpan and Roaring Fork Rivers which serve as the source waters for the Fryingpan-Arkansas Project. We offer the following testimony in a spirit of cooperation and partnership to ensure that adequate and safe water supplies are developed and maintained in a manner that is both timely and compatible with the competing values for water in the arid West.

I would like to further commend the chairwoman for the topic of today's hearing. The Fryingpan-Arkansas Project, or "Fry-Ark," is a fitting lens through which to view the challenges and opportunities inherent in the goal of sustainable water supplies. The Fry-Ark project, like so many throughout the arid West, faces competition for its water supplies. Competing values place stresses on the source waters, delivered waters, water quality, and management of the project's facilities. Agricultural beneficiaries struggle to maintain viable business operations in the face of lower commodity prices and increasing municipal demand for agriculture's water supplies. Other competing interests seek higher reservoir lake levels for recreation, while downstream interests compete for different water release schedules. White water enthusiasts favor higher flows during rafting season, while anglers seek more consistent flows that optimize trout habitat and are safe for wading. Accordingly, the Fry-Ark project, like other Western water projects, faces on-going challenges to sustainable and acceptable operations.

### **Ruedi Reservoir**

As a federal transmountain water diversion project with a Colorado water conservancy district sponsor, the Fry-Ark project is subject to unique conditions of Colorado water law. The

Colorado River basin, as the basin-of-origin for the project's water supply, enjoys certain protections in law not required of non-conservancy district water projects. Colorado law requires the conservancy district to ensure that present and future water uses in the Colorado River basin are not "impaired nor increased in cost at the expense of the water users within the natural basin." (*Colorado Revised Statutes 37-45-118(b)(II)*) To fulfill this provision of state law, a central feature of the Fry-Ark project is Ruedi Reservoir. Congressional authorization for the Fry-Ark, in fact, specified that Ruedi Reservoir be the first project feature constructed.

The Colorado River basin is not just the source water for the Fry-Ark project. Congressional authorizing legislation and related documents clearly establish Western Colorado as part of the project's service area. Today, Ruedi Reservoir provides supplemental water supplies to cities, towns, commercial interests and individual water users in Western Colorado. As a direct result of Ruedi's operations, Colorado's longest stretch of Gold Medal trout fishing extends from Ruedi dam to the Fryingpan River's confluence with the Roaring Fork River and onto its confluence with the Colorado River at Glenwood Springs.

Western Colorado will continue to advocate for fair and equitable treatment of the Fry-Ark project's western service area in existing operations and any future changes to operations or expansions.

### **Operating Principles**

Like many of today's water projects, the Fry-Ark was originally envisioned as a much larger water project. The original "Gunn-Ark Project" proposed nearly 500,000 acre-feet per year of diversions. Local opposition, however, resulted in project changes and assured operating conditions that ensured a viable project that provided a sustainable water supply without decimating the basin-of-origin. These conditions and the related operating principles were officially incorporated into the Fry-Ark's Congressional authorization in House Document 130. (*Operating Principles Fryingpan-Arkansas Project, 87<sup>th</sup> Congress, First Session. March 15, 1961.*) Interpretation and fulfillment of some of these permit conditions and project compromises, however, remain an area of contention.

The Operating Principles of the Fry-Ark Project were incorporated as §3 of the authorizing legislation. (*P.L. 87-590, 87<sup>th</sup> Congress, H.R. 2206. August 16, 1962.*) The opening paragraph of these Principles states:

"The project contemplates –

- (a) The maximum conservation and use of water;
- (b) The protection on Western Colorado water uses, both existing and potential, in accordance with the declared policy of the State of Colorado; and
- (c) The preservation of recreational values."

(*Operating Principles, Fryingpan-Arkansas Project. Page 1.*)

The Colorado River District calls for a rededication of the U.S. Bureau of Reclamation ("Reclamation"), along with the project's East Slope and West Slope beneficiaries, to these guiding principles.

To address the additional transmountain diversion of water by the private Twin Lakes Reservoir and Canal Company, the Operating Principles state, “in order to offset adverse streamflow (sic) conditions of the Roaring Fork River above the town of Aspen which might occur as a result of the project enlargement of the Twin Lake Reservoir, the Ashcroft Reservoir on Castle Creek, or some reservoir in lieu thereof, shall be constructed on the Roaring Fork drainage above Aspen . . . .” (*Operating Principles, Fryingpan-Arkansas Project*. §2; Page 2.) The Principles go on to acknowledge that any such mitigation reservoir for the upper Roaring Fork River had to first be found feasible by the Secretary of the Interior. No feasible project was, in fact, found, and the communities in the upper Roaring Fork basin continue to be concerned about project impacts to stream health and water quality.

Moreover, the Operating Principles include minimum monthly average in-stream flow thresholds for the Upper Roaring Fork River above the City of Aspen that were established by the U.S. Fish and Wildlife Service in cooperation with the (then) Colorado Department of Game and Fish. There are also “hard minimums” below which stream flows are not ever to be reduced by diversions. Both these recommended average and “hard” minimum flows are consistently not met. Proposed further development of East Slope water employing Fry-Ark facilities threatens to further aggravate this situation.

The Fry-Ark Operating Principles also provide for a 3,000 acre-foot exchange between the Twin Lakes Company and the Project as an obligation of the Project. The current agreement implementing this exchange expires in 2014. The Project yield from diversions on the Hunter Creek are dependent on a long-term or permanent Twin Lakes Exchange agreement, as does the health of the upper Roaring Fork River. Reclamation is a necessary party to a future extension of this agreement and must provide leadership to ensure the requirements of the Operating Principles are carried out for the long term benefit of both the East and West Slope portions of the project’s service area.

### **Project Repayment**

Ruedi Reservoir is a separately allocated feature of the Fry-Ark project for repayment purposes. Ruedi’s repayment was anticipated to come from West Slope water service contracts. There is no sponsoring water conservancy district with repayment responsibilities for Ruedi Reservoir. At the time of project authorization, Ruedi’s repayment was projected to predominantly derive from water service contracts with the then-anticipated oil shale industry. Since the anticipated oil shale industry and its attendant industrial water demands did not materialize, scheduled annual payments to the federal government have been delinquent. However, there is no sponsoring local agency responsible for these payments. As a consequence, negative amortization of the project is occurring. Congressional authorization requires that the project’s costs, including the original \$17.5 million reimbursable portion of Ruedi Reservoir’s construction costs, be repaid to the federal government by 2019. With negative amortization, this price is currently over \$30 million and growing geometrically. The result is an increasing project cost and a further reduction in water demand because of the resulting increased price for Ruedi water. While a new round of interest in oil shale development is present today, changing technologies and newly proposed project locations outside the Colorado mainstem largely preclude oil shale as Ruedi’s repayment solution. The Colorado River District anticipates

discussing this matter with this committee and the Secretary of the Interior in the next few years to address these repayment conditions and to ensure the perpetual benefits to Western Colorado of Ruedi Reservoir as an integral feature of the Fry-Ark Project.

Finally, it should be noted that Ruedi Reservoir today is a key source of water for the cooperative Recovery Program for the Four Endangered Fishes of the Upper Colorado River (“Recovery Program”). Over 21,000 acre-feet of water in Ruedi is dedicated to the preservation and recovery of four local fish species listed as endangered under the Endangered Species Act. Only half of that 21,000 acre-feet, however, is permanently dedicated to the Recovery Program. The long-term use of Ruedi water and the attendant repayment implications are uncertain but must be addressed.

### **Conclusion**

Western Colorado is an often overlooked project beneficiary of the Fryingpan-Arkansas Project. Ruedi Reservoir is an integral element of the project. In addition to fulfilling the mitigation requirements of Colorado water law, Ruedi provides vital water supplies to West Slope municipalities, industry and agriculture. Lingering issues of compliance with the project’s Operating Principles and emerging issues of repayment and future water allocations must be addressed to the mutual satisfaction of all project beneficiaries and the U.S. Bureau of Reclamation.