

Committee on Resources

Subcommittee on Forests & Forest Health

Witness Testimony

Statement of
Jerome Yesavage
Cal Trout
Before the
Committee on Resources
Subcommittee on Forests and Forest Health
Hearing on
H.R. 359 The Emigrant Wilderness Protection Act of 1999
February 23, 1999

Madam Chairman:

I am testifying for California Trout (CalTrout) to provide our support for **H.R. 359 "The Emigrant Wilderness Preservation Act of 1999"** from Mr. Doolittle to preserve streamflow dams in the Emigrant Wilderness." CalTrout represents over 5,000 California citizens who fish in the state as well as 60 affiliated fishing organizations and clubs.

We feel this important measure deserves your support. The measure is designed to maintain a group of streamflow dams in the Emigrant Wilderness. These dams were built many years ago- over seventy in some cases- to keep flow in streams, especially Cherry Creek, so that fish may spawn in dry fall months. They represent a heritage that is hard to find in California currently- the handicraft of the old trappers and woodsmen. If these dams are allowed to deteriorate they will leave ugly "bathtub rings" around a number of lakes, but most importantly they will remove a unique fishing resource. People come from far and wide to fish the runs of fish in these streams. Losing another fishing resources in California will just concentrate the anglers of what few lakes and streams that are left with enhanced environmental degradation. We believe this modest measure deserves your strongest support.

We regret that it is necessary to take legislative action in this case, however, there appears to be no alternative. We, along with the California Department of Fish and Game, are appealing the decision of the USFS to disable every dam in the wilderness. Despite a sincere effort on the part of CalTrout and CDFG to provide relevant information about the importance of this fishery and alternative schemes that would allow a compromise allowing some dams to naturally deteriorate, these efforts have fallen on deaf ears. The USFS introduces a novel concept in their decision: to maintain dams some of the 18 dams in question, apparently as historic monuments, but not to allow streamflow regulation except in the case of two dams. Furthermore, in those two cases streamflow regulation will only be allowed after "sustained low streamflow" which they define to be the second successive consecutive summer/fall periods when flow is lower than a specified rate for more than a number of days." The implication of this plan is that the streams in question can go dry one year, and then if they go dry a second time, one might consider increased flow. The final result of this plan will simply be the likely annihilation of the fish and amphibians in the streams below these dams. Clearly presenting such a plan which is obviously inadequate on its face, suggests that USFS has no intention of maintaining a necessary flow in Cherry Creek.

We expect that the USFS will argue that even in the driest of years there would be adequate flow in Cherry Creek. We

and CDFG disagree with the USFS position. The historical records of the horsemen who built these dams show that the Creek can go flat out dry. If this were not the case, would people have spent all the effort to build the structures in the first place.

We expect that the USFS will argue that they have made adequate plans for maintaining streamflow with allowing that possibility by two dams. These dams, however, represent only 11% of impounded water in the Cherry Creek drainage. One of them (Leighton) only represents 100 acre feet and the other Bigelow (320 acre feet) must drain through another lake (Huckleberry) where there will be no maintenance of streamflow. So assuming the later lake is low as in a drought, water released from the upper lake will do no good any further below the lower lake. Thus there is essentially no plan to water the lower parts of Cherry Creek in a drought. The USFS may argue that in such cases they might open other dams, but if these are not maintained, they will be silted up, or rusted and will never work. The end result of this plan is the guaranteed destruction of fish and amphibians in Cherry Creek during the next dry year we experience.

We anticipate that the USFS will argue that they have made adequate plans for spawning fish within the Wilderness. The problem, however, is that the major runs of fish about which we are concerned arise from a lake outside the Wilderness, Cherry Lake (Reservoir). These spawning runs reach into the Wilderness and are the major source of angling interest. The USFS plan, -, essentially stop their concerns at the borders of the Wilderness, even though this major lake is less than a quarter mile from the Wilderness border. This Lake and its fish are, nonetheless a major concern of California citizens and the CDFG. We argue that the USFS cannot operate this Wilderness as an island unto its own and ignore the ramifications of plan a quarter mile downstream.

We expect that the USFS will ultimately argue that it is their mandate to manage the wilderness in the most pristine manner possible. We agree with this noble goal, however, it is very clear that certain activities have been "grandfathered" into the relevant law. It is not clear why the USFS picked these small dams as an issue, when they could address others "grandfathered" activities such as cattle grazing in the wilderness under such a mandate, but they choose not to. I have seen this conflict between USFS and CDFG in many other wilderness areas, ultimately when the turf battles clear and the law is carefully interpreted, CDFG retains its mandate to manage the fisheries. The CDFG position is often supported en masse by anglers since, depending upon the statistic cited, some 25% of wilderness users, in California fish there.

Finally, we feel it is important not to confuse these small 3' to 10' dams with huge structures on major rivers that may be an impediment to the return of spawning steelhead or salmon. CalTrout in many cases recommends the removal rather than the preservation of such structures. We believe each dam must be carefully reviewed on a case by case basis.

We appreciate your scheduling hearings on this important matter this year -- as you know the bill passed the house overwhelmingly last year and is improved with further additions this year. In the future, if you need any additional input do not hesitate to be in contact.

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