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BEFORE THE SUBCOMMITTEE ON WATER AND POWER OF THE HOUSE COMMITTEE ON NATURAL RESOURCES
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Chairwoman Napolitano and members of the Subcommittee, I would like to thank you today for the opportunity to present Colorado's views on H.R. 5511, The Leadville Mine Drainage Tunnel Remediation Act of 2008. This bill makes clear that the Secretary of the Interior, through the Bureau of Reclamation, has both the authority and the responsibility to repair and maintain the structural integrity of the Leadville Mine Drainage Tunnel (LMDT), and this bill requires the Bureau of Reclamation to participate in the implementation of the remedy for the California Gulch Superfund Site in accordance with the Record of Decision agreed to by the Environmental Protection Agency and the State of Colorado. Colorado has long urged the Bureau of Reclamation to take on the responsibilities outlined in H.R. 5511, therefore Colorado supports this bill.

The LMDT is located in Lake County, just outside the City of Leadville. Located at an elevation of 10,152 feet, Leadville is the highest incorporated city in the United States. Leadville's history centers around mining. During World War II, miners in Leadville were given exemptions from the draft in order to support the war effort by producing strategic metals. To facilitate the mining of these metals, the U.S. Bureau of Mines began construction of the LMDT in 1943 to provide continuous drainage of the mines in the surrounding Leadville Mining District. The LMDT was completed in 1952 to a length of approximately 12,000 feet. In 1959 the Bureau of Mines declared the LMDT excess real property, and the Bureau of Reclamation acquired ownership of the LMDT hoping to obtain water rights to the mine drainage. Following the passage of the Clean Water Act in 1972, the EPA issued the first National Pollutant Discharge Elimination System (NPDES) permit for the LMDT in 1975. After several years of attempting to meet the limitations in this permit, the Bureau of Reclamation eventually constructed a water treatment plant at the mouth of the LMDT and began to treat the mine drainage in 1979.

An unfortunate legacy of the intense mining in the Leadville Mining District is its impact on another valuable resource, the Arkansas River. The headwaters of the Arkansas River are located near Leadville. As it flows through the high mountain valleys and down through the eastern plains of Colorado, the Arkansas River supports a wide variety of uses. Throughout its length it serves as a precious resource to sustain a diversity of aquatic life and wildlife. It is a valuable source of drinking water for a number of communities, and is a critical source of water for agriculture uses. Notably, it is one of the more popular rivers for rafting and recreational uses. Protecting the Arkansas River and its ecosystem is of paramount importance to the local residents of Lake County and to all the people of Colorado.

The significance of protecting the Arkansas River was highlighted in the early 1980s when another mine drainage tunnel near Leadville, the Yak Tunnel, had what was called a "surge event" discharging enough tainted water to turn the Arkansas River red for 20 miles. In response to this event the site was added to the National Priorities List in 1983. The listed elements of the Superfund site were the Yak Tunnel, mine waste piles in California Gulch and its tributaries, the waters in California Gulch that empty into the Arkansas River, and 11 miles of the Arkansas River directly below the confluence with California Gulch. EPA specifically excluded the Leadville Mine Drainage Tunnel from the Superfund site based on the Bureau of Reclamation's then existing responsibilities to treat the LMDT discharge under the Clean Water Act.

Even though the LMDT is not part of the California Gulch Superfund site, EPA and Colorado selected a remedy that would require both the use of the LMDT and the commitment by the Bureau of Reclamation to treat contaminated surface water from the Stray Horse Gulch area of the Superfund site before its discharge into the Arkansas River. The Stray Horse Gulch area of the site (called Operable Unit 6) includes many mine waste piles. Surface water flowing over these waste piles, unless diverted, contributes contaminated surface runoff into California Gulch. EPA and Colorado identified different remedies to handle this surface runoff, and ultimately selected the remedy that would collect contaminated water from the area and direct it down a mine shaft connected to the LMDT. Because the Bureau of Reclamation is not required under the Superfund law to treat this contaminated water at its treatment plant, EPA and Colorado have attempted for several years to negotiate with the Bureau to obtain its cooperation to fully implement this remedy.

In an effort to gain this cooperation, EPA incorporated the following design aspects into the remedy to minimize the additional impact on the Bureau of Reclamation caused by treating this additional contaminated surface water:

- Construction of a bulkhead in the LMDT to isolate the contaminated mine water naturally draining into the LMDT from clean alluvial groundwater;
- Installation of wells behind the bulkhead and construction of a pipeline to convey the contaminated water to the Bureau of Reclamation's treatment plant;
- Backfilling the LMDT's lower portions to prevent clean ground water from entering and flowing to the treatment plant, and to protect against collapse and failure (since the Bureau of Reclamation currently treats water that is significantly diluted by clean groundwater, this would decrease the volume of water to be treated and therefore decrease the Bureau of Reclamation's overall treatment costs); and,
- Routing contaminated surface water from the Stray Horse Gulch area during spring runoff into the mine workings connected to the upper reaches LMDT where it would be conveyed through the pipeline to the Bureau of Reclamation's treatment plant.

Ultimately this remedy would treat contaminated mine pool water including spring run-off (thereby protecting the Arkansas River), reduce the amount of water treated by the

Bureau of Reclamation (thereby decreasing its operating costs), and provide protection against structural failure of the LMDT.

Despite many attempts by Colorado and EPA to convince the Bureau of Reclamation to participate in this proposed remedy for Operable Unit 6, the Bureau contends that it lacks the statutory authority or mandate to treat this additional contaminated surface water from the Stray Horse Gulch area. This long-standing position of the Bureau of Reclamation has stymied Colorado's and EPA's efforts to implement the selected remedy for Operable Unit 6. H.R. 5511 would break this log-jam by directing the Bureau of Reclamation to take responsibility for the LMDT, and to participate in the selected remedy for Operable Unit 6.

Congressional action has become more critical now than ever before. Since the Bureau of Reclamation assumed ownership of the LMDT in 1959, there have been many concerns regarding tunnel safety and potential environmental threats. Due to a lack of maintenance, the condition of the LMDT has deteriorated over time. There have been many collapses within the LMDT beginning in the 1960's. Although the Bureau of Reclamation took some steps in response to these early collapses, the Bureau has continued to assert that it is not responsible for the maintenance or repair of the LMDT. Most recently, the mine pool that feeds into the LMDT has increased to a level never before seen, resulting in many new seeps and springs in the area, likely due to a recent collapse within the LMDT. In November, 2007 EPA sent a letter expressing its concerns regarding the potential for a catastrophic blowout of the LMDT to the Bureau of Reclamation, and on February 13, 2008 the Lake County Commissioners declared a state of emergency. Colorado Governor Bill Ritter sent a letter to President Bush asking him to request Secretary Kempthorne to direct the Bureau of Reclamation to treat the water accumulating behind the blockage in the LMDT at its water treatment plant to help reduce the build up of water draining into the LMDT. Governor Ritter made the same request directly to Secretary Kempthorne.

Fortunately, to address the immediate concerns of the high levels of the mine pool and the pressure within the LMDT, EPA has begun pumping water from the Gaw shaft located near the LMDT, and in June EPA is scheduled to commence drilling directly into the LMDT to pump water from the upper reaches of the LMDT and to transfer the water through a pipeline to the Bureau of Reclamation's treatment facility where the Bureau has agreed to treat this water before it is discharged into the Arkansas. While this action responds to the immediate concerns of a LMDT blowout, it will not address the long-term need for LMDT maintenance and repair, and the commitment to reduce the mine pool and to treat contaminated mine and surface water discharging from the LMDT in perpetuity. Unfortunately, the Bureau of Reclamation is continuing to stall, and is refusing to take necessary action to address the condition of the LMDT, preferring to take the time to study the risks associated with the increasing severity of the tunnel failures, and declining now to affirmatively accept any responsibility to repair or maintain the LMDT, or to treat the contaminated water, regardless of the outcome of the study. Ultimately the Bureau of Reclamation must take responsibility for the LMDT regardless of the study conclusions. H.R. 5511 would make it clear that the Bureau of Reclamation

is responsible for the repair and maintenance of the LMDT and must participate in the Operable Unit 6 remedy. Congressional action is needed now for the long-term protection of the local residents of Lake County, and for the long-term protection of the Arkansas River ecosystem.

Thank you for the opportunity to testify before this Subcommittee today. I would be happy to answer any questions you might have.