

**TESTIMONY OF SUSAN BITTER SMITH, PRESIDENT,
BOARD OF DIRECTORS,
CENTRAL ARIZONA WATER CONSERVATION DISTRICT,
BEFORE THE HOUSE COMMITTEE ON NATURAL RESOURCES,
SUBCOMMITTEE ON WATER AND POWER,
ADDRESSING H.R. 2515,
THE LOWER COLORADO RIVER
MULTI-SPECIES CONSERVATION
PROGRAM ACT**

July 24, 2007

I am pleased to present testimony on behalf of the Central Arizona Water Conservation District (“CAWCD”) in support of H.R. 2515, the Lower Colorado River Multi-Species Conservation Program Act. H.R. 2515 protects and implements the Lower Colorado River Multi-Species Conservation Program (“MSCP”). The MSCP is a comprehensive, cooperative effort among 50 federal and non-federal entities in Arizona, California and Nevada to protect 26 endangered, threatened and sensitive species along the Lower Colorado River and to provide assurances to the non-federal entities involved that their essential water and power operations on the River may continue if they comply with the Program’s requirements. The participants in the Program include The Metropolitan Water District of Southern California, the Southern Nevada Water Authority and the Central Arizona Project.

CAWCD is the Arizona political subdivision responsible for operating the Central Arizona Project (“CAP”), and is the underwriter of Arizona’s share of the costs of the MSCP. The CAP is a massive water delivery project, constructed under the authority of the Colorado River Basin Project Act of 1968, to enable Arizona to make full use of its Colorado River entitlement. In a normal water supply year, the CAP will deliver about 1.5 million acre-feet of Colorado River water to the citizens of Arizona, at the rate of 3,000 cubic feet of water per second, almost two *billion* gallons per day. The CAP is the largest single source of renewable water supplies in the State of Arizona, serving 80 percent of the State’s water users and taxpayers, including the Phoenix and Tucson metropolitan areas.

CAWCD strongly supports H.R. 2515 because the bill assures continued compliance by the United States with the requirements of the MSCP. That, in turn, provides protection to the non-federal participants in the Program, who, like CAWCD, have agreed to provide substantial amounts of non-federal monies for the conservation of endangered species in return for receiving a permit under the Endangered Species Act for their water and power operations.

The Secretary of the Interior approved this 50-year conservation initiative on April 2, 2005. The overall Program costs, \$626 million, will be adjusted for inflation, with the three lower basin states paying 50 percent of the costs and the federal government paying 50 percent. Of the states’ share, Arizona and Nevada will each pay 25 percent, while California will pay 50 percent. In return for their funding commitments, the non-federal participants have received a 50-year permit, issued by the U.S. Fish and Wildlife Service under Section 10 of the Endangered

Species Act, which authorizes their existing and future water and power operations to continue. All of the Arizona participants have made a financial commitment to the MSCP, but CAWCD has agreed to guarantee payment of Arizona's share of the Program costs.

Although the MSCP is already in effect, this bipartisan legislation has been introduced by Congressman Dean Heller of Nevada to protect the substantial financial commitments that the non-federal parties are making to species protection. The bill specifically authorizes federal appropriations to cover the federal share of the Program costs, directs the Interior Secretary to manage and implement the Program in accordance with the underlying Program Documents, and provides a waiver of sovereign immunity to allow the non-federal parties to enforce the agreements they have entered into with the federal agencies, should that become necessary. The bill does not allow money damages.

The bill is co-sponsored by Congressmen Harry Mitchell, Trent Franks, John Shadegg and Rick Renzi of Arizona, Congressman Jon Porter and Congresswoman Shelley Berkley of Nevada, and Congressmen Ken Calvert and George Radanovich of California. A companion bill has been introduced in the Senate (S. 300) by Senators Jon Kyl of Arizona, Dianne Feinstein of California, and Harry Reid and John Ensign of Nevada. Since the time that similar legislation was introduced last year, two significant developments have occurred. First, subject to final review and approval within the Interior Department, the non-federal parties have reached agreement with the United States on an agreement to provide Colorado River water for MSCP purposes, as authorized by Section 3(b) of the bill. Second, Section 5(b) of the bill, which relates to the impact of future legislative actions on the MSCP, has been modified and narrowed significantly to meet the concerns of some members.

The MSCP is a worthy and important program for protection of endangered species. It provides for the creation of over 8,100 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 fish to augment populations of two endangered fish covered by the Program. The MSCP also provides for maintenance of existing, high-quality habitat, and a research, monitoring and adaptive management effort to ensure that Program elements are effective in helping covered species. At the White House Conference on Cooperative Conservation in August 2005, the MSCP was recognized as an "Exemplary Initiative." Implementation of the MSCP is critical to the long term needs of those of us in the southwest that depend on the Lower Colorado River for a major portion of their water and power. As the Secretary said in her Record of Decision approving the Program —

"The importance of the Colorado River to the southwestern portion of the United States cannot be overstated: the Colorado is the lifeblood of the southwest. The Colorado River provides water and power to over 20 million people (in such cities as Los Angeles, San Diego, Las Vegas, Phoenix and Tucson), irrigates over 2 million acres, and generates up to 10 billion kilowatt hours of electricity annually."

The MSCP represents a fifty-year commitment by all of the parties involved. It is essential that that commitment be fully and faithfully met. H.R. 2515 will help ensure that that occurs.