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*Drew Peternell, Director and Counsel, Colorado Water Project*

May 29, 2007

United States House of Representatives  
Committee on Natural Resources  
Subcommittee on Water and Power  
1324 Longworth House Office Building  
Washington, D.C. 20515

Re: Fryingpan-Arkansas Project Field Hearing

Dear Representatives:

Please accept this letter as my written testimony in connection with the June 1, 2007 House Natural Resources Committee, Subcommittee on Water and Power field hearing regarding the Bureau of Reclamation's ("Reclamation's") Fryingpan-Arkansas ("Fry-Ark") Project.

Trout Unlimited ("TU") is a national, non-profit fisheries conservation organization with approximately 160,000 members nationwide and approximately 10,000 in Colorado. TU's mission is to conserve, protect and restore coldwater fisheries and their habitats. TU's Colorado Water Project works to maintain and restore stream flows for healthy coldwater fisheries and to increase meaningful public participation in decisions regarding water allocation. The Colorado Water Project and TU's Colorado membership are interested in the conservation and protection of the rivers and streams affected by the Fry-Ark Project.

The Fry-Ark Project is a Reclamation project that diverts water from the Fryingpan River and Hunter Creek in the Colorado River basin for delivery to the Arkansas River basin. The project consists of a series of dams, reservoirs, diversion structures, pumps, pipelines and other infrastructure. Water is delivered initially to Turquoise Lake, near the top of the Arkansas River basin, and the terminal reservoir in the Fry-Ark system is Pueblo Reservoir, near the City of Pueblo. The project came on-line in 1975 and since that time has delivered an average of 55,000 acre-feet of water annually from the Colorado River basin to the Arkansas River basin for agricultural and municipal use.

TU is not opposed to water resources development. We recognize that water development is necessary to sustain Colorado's agricultural heritage and growing population. As outlined, however, in our 2005 report, *Facing our Future: A Balanced Water Solution for Colorado*, our support for new water development projects is contingent on the project being "smart." Principles that undergird smart water supply include: making full, efficient use of existing supplies before increasing transbasin diversions; integrating conservation, reuse, water sharing arrangements and demand management into water supply planning; rehabilitating or enhancing existing infrastructure before building new projects; and adopting water supply

solutions that minimize harm to, or create benefits for, the environment, the economy and local communities.

Water providers on Colorado's Front Range and eastern slope currently are planning for or recently have undertaken four new water development projects that rely on Reclamation's Fry-Ark Project facilities. The four projects are:

- Reclamation recently issued a record of decision approving a 40-year contract with the City of Aurora for exchange and storage of non-project water using Fry-Ark facilities. This contract facilitates the delivery of Aurora's Arkansas River water rights to Aurora's service area in the South Platte River basin. Many of Aurora's Arkansas River water rights were obtained through retirement of irrigated lands in the lower Arkansas Valley.
- Colorado Springs is pursuing a project, known as the Southern Delivery System ("SDS"), that would transport water through a pipeline from Pueblo Reservoir to Colorado Springs. The project could enable additional diversions of water from the Colorado basin to the Arkansas basin and could deplete the Arkansas River between the outlet of Pueblo Reservoir and the confluence with Fountain Creek – a reach the City of Pueblo and the U.S. Army Corps of Engineers recently spent millions of dollars to restore. Colorado Springs would exchange SDS wastewater effluent down Fountain Creek, potentially exacerbating the water quality and flooding problems on the Fountain which already are the subject of a lawsuit between Pueblo and Colorado Springs.
- Working with the Southeastern Colorado Water Conservancy District ("SCWCD"), communities in the lower Arkansas Valley are pursuing the Arkansas Valley Conduit project. The conduit would deliver water from Pueblo Reservoir through a pipeline to cities and towns downstream in the Arkansas Valley.
- The SCWCD is promoting a plan, known as the Preferred Storage Options Plan ("PSOP"), to enlarge Pueblo and Turquoise Reservoirs for the benefit of a number of eastern Colorado water providers. Depending on the operational details, PSOP could dramatically alter the environment in both the Colorado and Arkansas River basins.

TU's position on these and other water supply projects depends on the degree to which they are developed in a manner that is smart.

As a precursor to expanding Fry-Ark facilities as contemplated in PSOP, two separate bills pending before the House Committee on Natural Resources – Representative Salazar's H.R. 1833 and Representative Lamborn's H.R. 2277 – would authorize the Secretary of Interior to conduct a study of "the most feasible method of meeting the present and future water supply and related storage requirements within the area served by the Fryingpan-Arkansas Project . . ." An analysis such as this is a first-step towards planning for smart water supply. To ensure that the analysis results in smart water supply choices, however, the legislation should require that the study consider a variety of methods or combinations of methods of addressing water demand, specifically including water conservation, efficiency improvements, water sharing agreements and other non-structural approaches to supplying water and lessening water demand. The

implementation of non-structural approaches could reduce or eliminate the need for new or renovated water diversion or storage facilities, which often are expensive, environmentally-damaging and culturally-disruptive. Any legislation authorizing a study of the feasibility of methods of meeting demands also should direct that the analysis account for demands for stream flows for environmental and recreational purposes and should require that Reclamation perform the study according to a process that allows for public involvement.

Smart water resources planning depends not only on evaluating the feasibility of a variety of methods of satisfying demands, but also on assessing the impacts of various water supply arrangements. Individually, PSOP and the other water supply projects being pursued could impact fishery and ecological resources. Collectively, the raft of projects could have broad impacts on the environment, especially when considered in light of other alterations to natural flow regimes in the Colorado and Arkansas River basins, including on-going Fry-Ark operations. Projects that transfer water from one location or use to another also can have significant economic, social and cultural impacts. Assessing these impacts and implementing measures to avoid them is a cornerstone of smart water supply. Together with the feasibility study called for in Representative Salazar's and Representative Lamborn's legislation, an analysis of the impacts of Fry-Ark operations would serve as the basis for smart water resources planning in the Arkansas basin.

Pursuant to NEPA, Reclamation prepared an environmental assessment to address the impacts of the excess capacity contract with Aurora. Reclamation also is in the process of preparing a NEPA environmental impact statement on Colorado Springs' Southern Delivery System. But, neither Reclamation nor anyone else has prepared an in-depth analysis of the cumulative environmental, recreational, economic, social and cultural impacts of current and future Fry-Ark Project operations. Before agreeing to any of the pending water supply proposals that would rely on Fry-Ark Project facilities, and before committing federal dollars to expanding Fry-Ark facilities, it is important that the cumulative impacts of Fry-Ark operations be evaluated. Section 3 of Representative Salazar's bill calls for the State of Colorado to conduct such an impact evaluation. Because Representative Lamborn's bill does not include a similar provision, TU supports H.R. 1833 over H.R. 2277.

One set of impacts of the Fry-Ark Project results from the diversion of water from the Colorado basin to the Arkansas basin. As currently written, H.R. 1833 creates some confusion as to whether the analysis contemplated in Section 3 would address these impacts. Section 3(a) of H.R. 1833 provides that the impact study is to evaluate the effects of water transfers from the Arkansas and Colorado basins to communities outside of those two basins. Section 3(b) is broader than Section 3(a), calling for evaluation of certain activities, such as exchanges and expansion of Fry-Ark facilities, that do not necessarily involve the transfer of water to areas outside the Colorado and Arkansas basins. The language of Section 3(a) should be expanded to be more consistent with Section 3(b) and to specify that the study is to address impacts in the Colorado basin of diversions to the Arkansas basin.

H.R. 1833 should also require that the State of Colorado conduct the Section 3 impacts study using a public participation process modeled after NEPA. In particular, TU is concerned that the public process include an opportunity to comment on the scope of the impacts study and

on draft and final versions of the study document. Further, while the legislation should require that the state conduct the impacts analysis with the benefit of public involvement, H.R. 1833 should provide that the Section 3 impacts study is not intended to satisfy the requirements of NEPA as applied to any individual federal action related to the Fry-Ark Project. In fact, depending on the timing of the various proposed federal actions relative to the timing of the Section 3 impacts analysis, and depending on the scope of the Section 3 analysis, it may be necessary for the Bureau of Reclamation to supplement the H.R. 1833 impacts analysis with a NEPA programmatic environmental impact statement addressing Fry-Ark Project effects on the Colorado and Arkansas River basins.

Thank you for the invitation to provide this testimony. I look forward to the dialogue at the field hearing on June 1. Trout Unlimited also is anxious to participate in more detailed discussions regarding PSOP, H.R. 1833 or any other similar legislation.

Sincerely,

Drew Peternell