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Testimony
Before the U.S. Senate Committee on Energy and Natural Resources

Oversight Hearing on
Draft Regional Recommendation for the Columbia River Treaty

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Introduction

Chairman Wyden and members of the Committee, my name is Norm Semanko. I am the Executive Director and General Counsel for the Idaho Water Users Association (IWUA). I appreciate the opportunity to submit this testimony on behalf of IWUA regarding the Draft Regional Recommendation for the Columbia River Treaty.

IWUA is a non-profit corporation representing more than 300 irrigation districts, canal companies, water districts, ground water districts, public and municipal water providers, hydroelectric companies, aquaculture facilities, agribusinesses, professional firms and individuals, dedicated to the wise and efficient use of our water resources. Our members deliver irrigation water to more than two and a half million acres. Many of our members also deliver water for municipal and domestic uses throughout the State.

IWUA is affiliated with the National Water Resources Association, of which I am a Past President and currently serve as Federal Affairs Committee Chairman. I am also a past member of the Western States Water Council, which advises the Western Governors' Association on water-related matters, and a member of the Advisory Committee for the Family Farm Alliance, a grass-roots organization representing farmers and ranchers that receive water from Bureau of Reclamation projects in the West.

IWUA works closely with its sister organizations in the States of Oregon and Washington – the Oregon Water Resources Congress and the Washington State Water Resources Association-- on Columbia Basin issues, including the Columbia River Treaty review. They have authorized me to submit a copy of their recent comments on the Draft Regional Recommendation with my written statement. I request that those comments be included in the official hearing record, along with the comments submitted by Idaho Water Users, which I have also submitted with my written statement.

Treaty Review Process

IWUA appreciates the efforts of the U.S. Entity – the Bonneville Power Administration and the U.S. Army Corps of Engineers -- to provide an opportunity for review and comment on the Draft Regional Recommendation, as well as the Working Draft earlier this year. We also appreciate the role that the U.S. Bureau of Reclamation has played in this process, as well as the State of Idaho. It has been important for water users to have those voices at the table in the Sovereign Review Team process.

IWUA has attended and participated in listening sessions, open houses, webinars, and hearings on the Columbia River Treaty review in Spokane, Grand Coulee Dam, Pasco,

Portland and Boise. We have submitted comments throughout the process, including general comments on the Working Draft and very specific comments and suggested language changes for the Draft Regional Recommendation. Those specific language changes are included in the additional materials that I have submitted for the record. Last week, we met with the U.S. Entity in Boise to discuss our comments on the Draft Regional Recommendation.

IWUA urges the U.S. Entity and Department of State to continue the dialogue with Columbia River Basin stakeholders, including IWUA, as the process moves forward.

Idaho Water Users Comments

IWUA submitted joint comments on the Draft Regional Recommendation with the Committee of Nine, which is the official advisory committee for Water District 1, the largest water district in Idaho. A copy of these comments has been submitted for the record with my written statement. I will provide you with a brief overview of our concerns and suggestions below, grouped by topic.

Idaho, as part of the arid-West, has always faced water supply challenges. In the past, we have worked with the Bureau of Reclamation to build great irrigation water storage and delivery projects including the Minidoka and Palisades Projects of eastern Idaho, the Boise Project on the Boise and Payette Rivers in the southwest part of the State, the Owyhee Project, which we share with eastern Oregon, and the Lewiston Orchards and Rathdrum Prairie Projects in North Idaho, along with several others. This has allowed our part of the world to be irrigated and bloom, providing food and fiber for the nation, and also providing water for ranches and domestic users throughout the State. It is critical that these supplies be protected as part of the Columbia River Treaty review process.

Regional Goals for the Columbia River Treaty

The purpose of the Columbia River Treaty is to reduce impacts from flooding and to increase power production. The U.S. has proposed “modernizing” the Treaty to include ecosystem-based function as a third primary purpose of the Treaty, while recognizing other additional elements such as future water supply, recreation and navigation needs. Irrigation is another important, authorized purpose, which should be expressly recognized in the final Regional Recommendation to the U.S. Department of State.

The obvious lack of any regional consensus regarding the inclusion of ecosystem-based function as a third primary purpose of the Treaty suggests strongly that flood control and power production should remain the primary purposes of the Treaty. At the same time, it is appropriate to recognize ecosystem-based function as one of the “important elements

of a modernized Treaty”, or additional purposes authorized in the Columbia River Basin, as evidenced by the ongoing implementation of the Endangered Species Act and other environmental laws. However, ecosystem-based function should not receive greater recognition or stature under the Treaty than, or adversely impact, the other long-authorized purposes in the basin, including irrigation, water supply, recreation and navigation.

As noted in the Draft Regional Recommendation, the United States has been able to cooperate with Canada to provide ecosystem-based function benefits under the current Treaty without formally elevating this purpose above the other authorized purposes in the basin. We see no need to make the dramatic change proposed in the Draft Regional Recommendation and elevate ecosystem-based function above all of the other authorized purposes in the basin. There is certainly no regional consensus on that point.

Ecosystem-based Function

While ecosystem-based function is a recognized purpose in the Columbia River Basin, pursuant to implementation of the Endangered Species Act and other environmental laws, the Treaty should not be used as an independent mechanism to provide for additional environmental regulations or requirements. Flow augmentation and other forms of ecosystem-based function are currently provided for pursuant to very specific and rigorous adherence to environmental and conservation laws, including extensive federal court litigation. The Treaty should not frustrate or contradict those efforts, but it also should not be used to expand current requirements. Such an “end-run” would be inappropriate and unfair to those in the basin who are impacted by and pay the costs of those efforts.

The Treaty should not place any additional burdens on U.S. water and storage projects. U.S. environmental laws, including the Endangered Species Act, have been implemented extensively in the Columbia River Basin as the result of numerous listing of salmon and other species. Various biological opinions issued by the National Marine Fisheries Service have placed considerable constraints on federal water project operations, including spill and flow augmentation. Agreements have been entered into between various parties in the region, including States, Tribes and those who operate or benefits directly from the federal water projects. The Treaty should not be used as a vehicle to place additional restrictions or limitations on these U.S. projects., including any proposed reintroduction of listed species.

In particular, Idaho Water Users, the Nez Perce Tribe, the State of Idaho and the federal government are all parties to the historic Nez Perce Water Rights Agreement of 2004, also referred to as the Snake River Water Rights Settlement Agreement. The Agreement

was approved by Congress in 2004, as well as the State of Idaho and the Nez Perce Tribe during 2005. The Agreement, which has since been the basis for the proposed actions of the federal agencies in the Upper Snake River Basin above Brownlee Reservoir, provides the amount and method for obtaining water for flow augmentation from federal water storage projects in the area.

The Agreement has specifically been approved by Congress and must be adhered to by the United States. There is no basis for adding to, changing or adversely impacting the Agreement as part of the Treaty or the review process. Any modification of Upper Snake River operations may jeopardize the delicate balance struck between the parties in 2004, as part of a 30-year agreement, which includes an option to renew for an additional 30 years. We urge the U.S. Entity to affirmatively recognize the Agreement and its provisions in the final Regional Recommendation to the U.S. Department of State.

Flood Risk Management

The Canadian Entity has taken the position that, beginning in 2024, all U.S. storage projects in the Columbia River Basin must be utilized for system-wide flood control to demonstrate “effective use”, before Canadian reservoirs can be “called upon” to provide flood control space.

The U.S. Entity previously prepared a white paper, identifying storage that would be available for system-wide flood control in the event of a “called upon” scenario post-2024. As part of this analysis, appropriate consideration was given to the Congressionally authorized purposes of the respective storage projects.

In particular, storage projects in the Upper Snake River Basin above Brownlee Reservoir are not authorized for system-wide flood control. They are authorized almost exclusively for irrigation, with some hydroelectric, local flood control and other considerations included in the various Congressional authorizations, as documented in the U.S. Entity’s white paper.

The U.S. Entity is correct to limit system-wide flood control activities to those eight identified projects within the Columbia River Basin that are specifically authorized for such purposes. On this point, we believe there is a strong regional consensus. This limitation should be expressly recognized and included in the U.S. Entity’s final recommendation to the Department of State.

Irrigation, Water Supply and State Water Law

While it is appropriate to recognize Water Supply as an authorized purpose in the basin, irrigation should be specifically included, as well. Irrigation for crop production and other purposes has a long history throughout the basin, supported by federal laws and water storage projects.

In addition, the final recommendation should include additional detail to make clear that water allocation is a matter of state, not federal or international, law. The federal government has a long and purposeful history of deferring to the states on water allocation and management. This should be specifically recognized and adhered to in the final recommendation.

Conclusion

The water user community in Idaho is committed to seeing this process through to the end. The potential consequences are too important to leave to chance. We urge the U.S. Entity and the U.S. Department of State to incorporate our suggestions into their future work on the Treaty.

Chairman Wyden and members of the Committee, thank you once again for the opportunity to provide this testimony regarding the Draft Regional Recommendation for the Columbia River Treaty.