



“Voice of the Western Slope since 1953”
A coalition of counties, communities, businesses & individuals

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October 8, 2013

The Honorable Scott Tipton
218 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Tipton:

CLUB 20 strongly urges Congressional support and passage of H. R. 3189, known as the “Water Rights Protection Act.”

CLUB 20 is a 60 year old coalition of businesses, individuals and local governments with members representing 22 counties west of the Continental Divide in Colorado. Our members have been coming together over the past six decades to discuss matters of common concern to Western Colorado communities and citizens. Water has often been a focal point for CLUB 20 members as there are far reaching implications to many of the industries, communities and residents on the West Slope regarding privately held water rights in the region.

Water rights are considered private property under Colorado water law and are managed under a strict system that has served the state over time. For many years, CLUB 20 policy has opposed, “... any Federal requirement that permittees assign water rights to the United States in order to obtain, renew or modify federal permits.” CLUB 20 understands that the McCarran Amendment requires the federal government, when requested, to adjudicate any water rights it requires under the substantive and procedural elements of state water law within the state of the desired rights.

Our members have openly opposed and continue to oppose the efforts of the U. S. Forest Service (USFS) to unilaterally require ski areas or agriculture producers to turn over their privately held water rights to the USFS as a condition of obtaining, modifying or renewing a permit to conduct ski area activities or maintain infrastructures to convey water on USFS lands. We further oppose any such provision or ruling that may apply to other private water rights with regard to, natural resource development interests or other domestic water interests.

The explanation offered by the USFS for the “taking” of these privately held water rights, often developed at great expense to the owner, is that they wish to maintain the designated use of the water for the permit. We find that explanation disingenuous for the following reasons:

1. Requiring that the USFS be named the owner of valid, existing water rights is taking a private property right without compensation and appears to be a violation of the Fifth Amendment to the U. S. Constitution.

2. It would appear that federal ownership of these water rights could be used to disallow future use of the area as a ski area or other designated enterprise because the agency that holds title to the water rights could deny permits based on their withholding of those same water rights.
3. Once promulgated by the USFS regarding ski area and agriculture water rights, similar decisions could be made regarding grazing rights, mining rights, milling rights, energy rights even municipal water rights.
4. This effort by the federal government seeks to undermine states' rights with regard to water management, which our members find unacceptable.

Ski area and agriculture operators invest significant amounts of capital to develop their operations; in order to attract the investment capital necessary, they must show that they have adequate ability to construct and operate the facility. Without demonstrating that they have adequate water rights, attracting capital will be difficult if not impossible. Further, it has been shown time after time that federal regulations can be, and are, routinely modified for one reason or another creating uncertainty for developers of all sorts on public lands. Once held in the name of the USFS, there is no guarantee that these water rights won't be redirected, withheld or otherwise made unavailable to those who made significant investments in developing those rights.

We support the protections inherent in H.R. 3186 and urge passage of this or similar legislation which accomplishes the same purpose. Thank you for addressing this critical issue through the legislative process; we look forward to working with you to see this bill through the process.

Best Regards,



Bonnie Petersen
Executive Director

Copies to: Congressman Jared Polis
Congressman Bishop
Congressman McClintock
Colorado Congressional Delegation