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Testimony

**Before the Subcommittee on Water and Power
Committee on Resources
United States House of Representatives**

Hearing on H.R. 3747 (Walden) to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes.

March 24, 2004

Mr. Chairman and Members of the Subcommittee:

This written testimony is submitted on behalf of both the members of our Association and the community of all agricultural families in the Wallowa Valley.

The Wallowa Valley Agricultural Water Users Association (the "Association") represents a diversity of sustainable agricultural enterprises in our valley. These vary from multi-thousand acre cattle, grain and alfalfa ranches to small and midsize chemical-free specialty grain farms. In all, the assured availability of water for irrigation is critical to the economic viability of these farm and ranch operations. Valley agriculture is primarily family agriculture. Generally, the people who work the land also own the land, in many instances for several generations. If ever there were a place in the rural West where a longterm dedication to and stewardship of the land has directly contributed to a bountiful flowering of that land, it is in the Wallowa Valley. Family-based, irrigated agriculture, which began in the early 1870's, has transformed the landscape into the now verdant valley which is our home. Sagebrush slopes and alkali flats have become fields of green, due to irrigation water. Where there were once only narrow ribbons of foliage along the five principal streams which course through the valley, there are now estimated to be several hundred miles of free-flowing irrigation ditches. These waterways are essentially small streams, each nourishing their own portion of the valley, much like capillaries carry lifeblood throughout the human body. In the valley, it is this capillary system which contributes water both to our irrigated fields and to the surrounding land through which the water flows. Due to porous, alluvial soils, these unlined waterways, like streams, share their water and contribute to life along and beyond their entire length. Water is used and re-used as it progresses on its inexorable downhill journey. All forms of valley life are its natural and rightful beneficiaries.

Recognizing the critical role of water in all of valley life, the Association's core mission is to work for the assured availability and responsible use of irrigation water under local control, for sustaining not only a diversified valley agriculture, but also, derivatively, the diversity of life and natural beauty which is present throughout our unique valley.

In Opposition - After almost eighteen months of continuing investigation into the content and promotion of the Wallowa Lake Dam Rehabilitation and Water Management Program, the project activity to be funded under H.R. 3747, the Association must register its strenuous opposition. Valley agriculture has been denied due process throughout the four years of this misguided enterprise. Funding this nearly forty-million-dollar program would be both a bad deal for US taxpayers and a harmful imposition on the entire valley. Disrupting the natural water nourishing system just described, is but one of its multiple shortcomings.

The Association's opposition is encapsulated in the following:

- 1) Inadequate wording of the Bill with regard to project activities and beneficiaries
- 2) Fundamental flaws in the underlying project
- 3) Intra-valley water transfer— a misplaced methodology
- 4) Damning particulars
- 5) Other myths and misconceptions
- 6) A subterfuge of a project
- 7) Harming our valley.

Inadequate Wording in the Bill - The preamble of H.R. 3747 does not mention the most significant project activity. Specific mention is made only of "dam rehabilitation". However, the far larger, more costly and significantly more troublesome water management portion of the project, which

includes an extensive pipeline system, is not mentioned. Whereas rehabilitation represents 17% of project costs, water management consumes almost 40%, according to available information.

In Definitions, the Associated Ditch Companies, Inc. is described as the entity which "operates" the dam. However, they are also the private owner of the dam and will be the primary beneficiaries of the dam's rehabilitation as well as other facilities. The Associated Ditch Co.s (ADC) is a collection of water companies concentrated in the upper valley which together irrigate about 15,000 acres. These acres comprise approximately 25% of the total irrigated farmland in the valley. It is the only land which directly depends upon the dam for irrigation water because ADC, alone among valley irrigators, has storage rights in the Wallowa Lake reservoir.

In Sec. 3, Authorization, the Bureau of Reclamation, effectively, is authorized "to cooperate with tribal, State and local governmental entities... to implement the Wallowa Valley Water Management Plan" [emphasis added]. However, based on information available, no such Plan exists, to be implemented. In Definitions, the description of the Plan, while of convoluted prose, rests on a Vision Statement. However, that document admits to being only a "brief project summary". In the dictionary, "to implement" means to build or construct according to a definite plan. Based upon available evidence, there is little which is definite about the entire project.

Fundamental Project Flaws - This project lacks credible substance. Most fundamentally, there is no coherent plan. A Vision Statement is not a plan. It is not just that important procedural detail is lacking on the implementation and operation of this project. We are unaware of a definitive conceptual plan, based on solid science and sound engineering, which addresses the needs, opportunities and limitations present in our local circumstances.

There are significant unanswered questions about the best way to rehabilitate the dam—structurally, hydrologically and economically. The entire project has a preponderant focus on fish; yet our valley and its people comprise much more than a fish story. There is the issue of introducing extinct, endangered or threatened species of fish into Wallowa Lake; a move which would have the most compromising of longterm consequences. Legal limits on reservoir storage capacity call into question numerous assumptions about subsequent water storage increases, water swaps for money and other water transfers. The same storage limitations have not been addressed in regard to the viable alternatives for flood control, rather than flood prevention. Our valley experiences water-short years; we had one just two years ago. Yet there is no evidence such water availability constraints have been factored into the basic thinking surrounding the project. The proposed implementation of an unresolved but extensive pipeline system would be harmful to the valley ecosystem. Not only would such a system degrade the natural capillary stream complex now in place; it also would result in a commingling of waters from separate drainages into potential fish-spawning habitat. A proposed \$9.5 million hydroelectric plant is to be owned privately by ADC. Water for the plant would only be available for a portion of the year, depending upon precipitation. What is the economic justification?

Finally, a substantial transfer of water is planned, from one valley drainage to another. This transfer, via pumps and pipelines, is for the benefit of fish in a drainage which is sometimes water-limited— as can be all of valley drainages in any given season. Yet, it is our understanding that fish counts have been improving dramatically in that drainage. So dramatically, as to obviate the need even to have such a costly and disruptive water transfer system in place. More fundamentally, the very nature of such a water transfer is a misplaced methodology given our valley's circumstances.

While space does not permit elaboration of the many deficient and troublesome aspects of this project, a closer look at one central feature — intra-valley water transfer, should illustrate the flawed thinking which is symptomatic of the entire project.

Intra-Valley Water Transfer: A Misplaced Methodology - Transfer of over 4,000 acre feet of water from the Wallowa Lake reservoir, in the upper valley, to the Lostine River drainage, in the middle valley, is to be part of the water management portion of the project. The State of Oregon permits such a transfer, known as a water exchange, for the purpose of augmenting an otherwise water-limited stream. In the only instance known to us, water from the Columbia River is used to augment Umatilla River water. Area irrigators agreed to leave their irrigation water in the stream, permanently, in return for receiving water pumped and piped to them from the Columbia. Since the amount of transfer water involved was small compared to the total volume flowing in the Columbia, assured availability of water justified the major cost, effort, and irrigator commitment.

Similar conditions do not exist in our valley. Not only is there not enough water to effect a permanent water exchange, there may not be enough water, in a given season, even to fulfill a short term exchange. Wallowa Lake reservoir is not at all like the Columbia River. In a water-short year, there would be no water in late season, the time contemplated by fish interests, to fill the pipeline to make the exchange. In August 2002, all irrigation water from Wallowa Lake ran out in the first week, before the time a water exchange would have occurred. If the water exchange commitment were already in place, would upper valley irrigators who depend upon stored water, namely ADC, have had their water turned off weeks earlier, essentially shorting them three inches of water on all of their 15,000 acres? This, in order to save the 4,000 acre feet for the subsequent water exchange in the Lostine. Ironically, in 2002, if that had been done it would have caused needless grief and economic loss. In that year, the Lostine drainage was less water-deprived than the Wallowa. Water was available for irrigation in the middle valley through mid-September.

Besides water-short seasons, there are other issues. The timing of the exchange appears to be at the discretion of fish interests. Their choice may not coincide with middle valley agriculture's need for irrigation water. This will be true, especially, if it were to occur in late season. Thus it is entirely likely that in those years when there is enough water available in the reservoir to satisfy the exchange, water would fill the pipeline complex at a time not useful to irrigators.

This intra-valley water transfer, the central feature of 40% of the total project, is a misplaced methodology. If implemented, it will create conflict and sow discord among different agricultural areas and between irrigators and fish interests. It has the potential to inflict unnecessary economic harm; and its highly episodic utilization hardly justifies the major cost, effort, and irrigator commitment required. Finally, it will significantly alter the existing hydrologic balance in the entire middle and lower valley ecosystem by replacing the capillary system of water delivery with a closed system of pipes. Given the valley's porous soil structure, there is high likelihood that the landscape will be degraded.

Damning Particulars - Much has been made of Wallowa Lake Dam's classification as a "high hazard" structure. Contrary to repeated inferences and outright statements that such classification confirms that the dam is unsafe and a significant risk to life and property, that is not the case. Even if the dam were entirely of new construction, it would still be classified as "high hazard" because such classification, according to Oregon Water Resources Department (WRD), is based on the likelihood of downstream loss of life in the event the dam were to fail. The classification is not, inherently, an indication of dam condition.

Wallowa Lake Dam is in need of some repair to correct ongoing deferred maintenance. It also needs longer-term upgrading. However, the exact nature of those longterm improvements are unknown until the proper independent engineering analyses are performed. These studies must investigate the dam's current structural condition and its ability to handle the relevant weather and seismic events. They also need to explore creative options for longterm improvements.

After careful study of available documentation on dam history and an on-site visit to the dam

last May, the Association believes that the current state of disrepair of the Wallowa Lake Dam is not due to an accident, major natural event or the unmanageable effects of age. ADC, as owner and operator of the dam, has demonstrated a pattern of neglect, carelessness and deferred maintenance over a considerable period of years. Only in response to a serious letter from Oregon WRD in 1996 were essentially emergency repairs undertaken on the most severe of the deferred maintenance. Owners were reminded then that an emergency action plan was (still) lacking for the dam. Historically, the lack of an emergency action procedure traces back at least to 1979, when the Corps of Engineers included it in their recommendations, "to be accomplished as soon as practicable." In the most recent dam inspection by Oregon WRD in May 2003, the lack of such a plan was again noted, among other deficiencies. In addition, another outlet tunnel had been permitted to deteriorate to the same condition as others which had required emergency repair in 1996. Remarkably, the overall integrity of the structure seems not yet to have been compromised, according to a limited core sampling of the concrete in 1996-97.

To expend federal funds on a private structure, whose owners have practiced deferred maintenance over many years and who have neglected other dam-related responsibilities, would be to reward such behavior. Further, it would signal that Uncle Sam can be importuned as the repairer-of-last-resort; even for private facilities. Far better, particularly in times of large and growing federal deficits, to encourage creative private initiative to undertake appropriate remedial action.

Other Myths and Misconceptions - Representations by proponents, including local political leaders, that valley agriculture has been included in and supports the project, and that the valley at large has been kept informed are simply untrue. After a year of detailed written requests, the Association has not yet received one piece of information from ADC, the lead local proponent. There have been only three public meetings in almost five years, and those have been mostly informercial affairs. ADC, in October 2002, published their lone article in the local paper. Among other inaccuracies, they stated that Oregon WRD "declared the dam a safety hazard in 1996." WRD did not so declare. A significant message in that article was that "ADC is trading approximately 4,462.5 ac. ft. of water for the funds to complete the project." If true, why is there no mention in the Bill's language of this important consideration? More troubling to valley agriculture, what will happen to its water if the federal government were to become the owners of over 4,000 acre feet of stored water in the Wallowa Lake reservoir, each year? Which water would it be and who would get to decide — especially in water-short years? These eventualities would be tragic for our valley.

Project support within the valley agricultural community is minimal. The Association has reviewed at least four years of annual meeting minutes of several agricultural water companies. In every instance, there was not one affirmative vote taken in support of the project. Included are the largest group of intended water transfer recipients in the Lostine drainage and at least one of the two largest owners of ADC, comprising at minimum, 25% of ADC's total stored water.

Claims that water stored behind the dam provides drinking water for a nearby city are untrue. While the city does get its drinking water from Wallowa Lake, its intake in the lake is upstream of the dam and below the bottom of the dam's outlet tunnels. The city's primary water right is not for stored water in the reservoir, but for surface water from the Wallowa River.

Project as a Subterfuge - This project, based upon available documentation and public statements by project proponents— including our twin US Senators, has all the features of a fish facilitation and valley water control project masquerading as a dam repair project. From inception, valley agriculture has been excluded, while 42 outside agencies and organizations representing non-agricultural interests, with a competing interest in valley water, have been invited to participate. The core project control group consists of ADC, Bureau of Reclamation, Tribal interests and a bi-county, fish-centric

NGO. Missing entirely is valley agriculture, yet it is irrigation water and agricultural activity which will be at risk if this project activity is funded. Language in the Bill further reinforces this reality in Sec. 3 Authorization when it designates "tribal, state and local government entities" as the ones with whom BOR may implement the (nonexistent) Wallowa Valley Water Management Plan. Local control of our water will be lost under the eventual plan, as was indicated by project proponents in testimony before this Subcommittee two years ago (H.R. 3480, March 7, 2002). They noted that "automated headgates and flow measurement devices" would be installed on all diversions. This project is not simply about fixing a dam. It is sadly, as Western water history repeatedly attests, about controlling our valley. And it is not right.

Harming Our Valley - Implementing the project underlying H.R. 3747 will be multiply-harmful to the Wallowa Valley. It will:

- ✘ Disrupt the natural environmental balance which has been established over the past 130 years through a system of free-flowing irrigation 'capillaries' which nourish the entire valley
- ✘ Introduce a federal presence in and control of our valley's irrigation water
- ✘ Facilitate the introduction of fish species into Wallowa Lake which will, subsequently, provide an ESA nexus and all the troublesome distortions which accrue thereto
- ✘ Construct a private hydro-power facility and pipeline complex for occasional use
- ✘ Establish a skewed set of water priorities which forever favor select fish species over all other species, including humans, which now live in balance within the valley
- ✘ Over-allocate stored water in the Wallowa Lake reservoir, thereby setting the stage for unending conflict
- ✘ Establish Tribal interests in a preferred position to control dam operation and ultimately much of valley water and valley agriculture
- ✘ Disadvantage and alienate the three-fourths of valley agriculture whose access to and control of their irrigation water will have been compromised by an ill-conceived project which substantially benefits ADC members financially
- ✘ Further divide a valley community already fractionated by a deceptive and threatening campaign led by a minority group to obtain free federal dollars.

In Summary - On behalf of all of valley agriculture and all of valley life, we ask you to honor the first principle in the medical profession's Hippocratic oath:

First, do no harm!

The current physical state of our valley — its verdant beauty and bountiful flowering— are the result of over 130 years of dedicated and responsible stewardship by those who have lived and worked the land. This is their home and evidence abounds that it has been well cared for.

Please consider carefully the harmful social, economic and environmental impacts this ill-conceived 'project' will have upon our home, the Wallowa Valley. Repair of the dam should and can be a private responsibility, handled within the valley.

Valley agriculture's four-year exclusion has been a fundamental denial of due process. We should be allowed opportunity to address what are, firstly, agriculturally-centric issues. Involvement of federal funds and federal initiatives, particularly in the realm of valley water, is certain to attract all number of outside 'interests', each with their own competing agenda and priorities. In that event, the most likely outcome will be that local experience and knowledge accrued over more than a century of care and stewardship of our valley's renewable resources, would be drowned out. Local control would be subsumed by outside, collectivist-minded interests. This need not happen. It must not happen, if the valley and all that it now manifests is to avoid becoming a prize to be divided among the victorious cultures.