



It's our water, our land, our heritage!

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Testimony of Heritage Waters Coalition

**Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining**

Hearing on

**S. 3670, MH Dutch Salmon Greater Gila Wild and Scenic
River Act**

September 16, 2020

Chairman Lee, on behalf of the Heritage Waters Coalition, please accept for the official record the testimony of the Heritage Waters Coalition Board Members in opposition to S. 3670, the MH Dutch Salmon Greater Gila Wild and Scenic River Act. We stand ready to provide additional information or answer any questions as the Committee desires and urge the Committee to oppose S. 3670 for the future of southwest New Mexico.

For over a 134 years, New Mexicans have ranched, farmed, and lived along the banks of the Gila River caring for the land and rivers that make this area as special and majestic today, as it was then. These same New Mexicans have been neighbors to America's oldest wilderness area, working the land in the shadows of the Aldo Leopold and Gila Wilderness areas. This treasured area is our home and S. 3670 endangers the historical heritage and cultural significance of our people that has been built by generations of families and a community that values the balance of preservation and the survival of our livelihood.

Our coalition consists of over 3500 citizens, businesses and organizations from southwest New Mexico who live, work, ranch, farm and raise families along the banks of the Gila River and its tributaries. S. 3670 is opposed by four local County Commissions, five local governmental entities, and 41 New Mexico Conservation Districts. Motivated by protecting their heritage, water and land, Coalition members oppose Wild and Scenic River designations where private property, water improvements, and resource development are not compatible with proposed legislation, such is the case with S. 3670. Heritage Waters Coalition does not oppose designations on river segments within the Gila Wilderness that comply with the intent of the original Wild and Scenic River Act.

Unfortunately, S, 3670, the legislation you are hearing today, attempts to designate river segments where private lands and water developments lie within, above, and below designations. Water diversions, wells, crossings, rights of way, livestock use, and other utilizations of these river segments makes them inherently incompatible with the Wild and Scenic Rivers Act. Moreover, all historic uses are put in jeopardy by these designations and the Secretary of Agriculture will suddenly be responsible of all permitting above and below W&SR designations under the mandates of the act.

In December of 2019, the Gila National Forest published a Draft Revised Forest Plan which includes draft recommendations for Wild and Scenic designations. This plan revision would update the 2002 inventory which recommended nine river segments for designation, all within currently designated Wilderness areas. Included in the Draft are identified 224+ miles of river segments to be managed for wild, scenic, or recreational river eligibility, The primary reason for the increased inventory over the 2002 plan is, in part, a reference to the introduction of the Gila Trout into these river segments and avoidance of heavily used and populated river segments in the 2002 inventory. However, these segments are now being considered in the 2019 Draft. S. 3670 would designate over 450 river miles without any consideration of the National Environmental Policy Act (NEPA), the US Forest Service planning process, or public input. S. 3670 ignores any evaluation of economic impacts, ignores public comments of those people who live and work in southwest New Mexico, and tramples on existing land, water, and permit rights.

The Dutch Salmon legislation attempts to designate river segments that dry up annually, are not free flowing and are not primitive in nature. The San Francisco River naturally dries up annually and several very short designations are a result of interspersed private lands. For example, Mineral Creek designations are divided up in as small as .02, .03, and .1-mile segments. A .02-mile segment is 105 feet in length – 1/3 of a football field. Madam Chair, as you are well aware, this is not the spirit nor the intent of the Wild & Scenic Rivers Act. In fact, these small river segments are NOT eligible under the Wild & Scenic Rivers Act. The Dutch Salmon legislation attempts to designate multiple additional river segments as short as .4 miles on Taylor Creek, .6 miles on the San Francisco River, and 1.1 miles on Whitewater Creek. These short sections are clear evidence that these rivers are not eligible under the intent of the Act. It appears these proposed designations are designed to regulate private lands, water, and uses on these heavily utilized rivers. The proposed designations in the Wilderness areas likely qualify for designations because of their free flowing and primitive nature.

Mr. Chairman, as you are aware, Section 7 of the Wild and Scenic Rivers Act gives full authority to the Federal Government to regulate activities both upstream and downstream of Wild and Scenic designations. “Sec 7. (a) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and *no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and*

adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of designation of a river as a component of the National Wild and Scenic Rivers System. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established....” Given the myriad of ties to Federal agencies that farmers, ranchers, landowners, and industrial user have with multiple Federal permits and programs, the Federal Government becomes the owner of the river. These programs include: the Conservation Reserve Program (USDA), Soil Conservation Service and various habitat and landscape programs administered through the Natural Resources Conservation Service, Bureau of Reclamation, US Geologic Survey, Bureau of Land Management, Land and Water Conservation Fund, US Forest Service restoration programs, invasive species programs, wildfire management, and fuels controls programs and more will all be subject to analysis that begins with whether or not the activity “*would have a direct and adverse effect on the values for which such river was established.*” The language in S. 3670 does not change this standard. Given the hopscotch pattern of proposed designations included in S. 3670, it is abundantly clear that the effort here is simply to stop all activity on these river segments, regardless of existing rights.

S. 3670 gives the impression that the Gila River and its tributaries are somehow threatened. This simply is not the case. There is no immediate or perceived threat to these rivers. The people who work the land and utilize the water understand the need to ensure these rivers continue to provide precious water to communities and people. New Mexico's care and management of these rivers is why they continue to be special places today. The people of southwest New Mexico do not need the US Forest Service to manage these resources. New Mexicans have preserved these resources for decades and will continue to do so in the future. This area is our home. It has and will continue to be for many generations to come. It is in our best interest and the best interest of these rivers to be managed by the surrounding community to achieve the proper balance of preservation and heritage. Decisions about the Gila should be made in coordination with New Mexicans who live along these rivers, not solely by bureaucrats in Washington or outside interest groups over 2,000 miles away. We ask you to oppose S. 3670 in its current form.

Thank you for the opportunity to provide testimony and the Committee's consideration of this legislation. The members of Heritage Waters Coalition look forward to working with you and the Committee to craft a Wild and Scenic proposal for the Gila watershed that complies with the Wild and Scenic Rivers Act, respects the property and water rights of New Mexicans, and has broad support of the people who live and work on these rivers. Accompanying our testimony is a map which demonstrates the private land conflicts with S. 3670. We stand ready to provide any further information which might be helpful to the Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Haydn Forward". The signature is written in a cursive style with a large, sweeping flourish at the end.

Heritage Waters Coalition Board Members:
Hazel Donaldson, Charlotte Griffin, Gen Lopez,
Haydn Forward, Buddy Eby, Kathy Davis, Sam Morales