



Aug. 15, 2012

The Honorable Doc Hastings  
Chair, House Natural Resources Committee  
U.S. House of Representatives  
Washington, DC 20510

Re: Statement of Trout Unlimited (TU) on HR 6247, the "Saving Our Dams and New Hydropower Development and Jobs Act of 2012."

Dear Chairman Hastings:

TU appreciates the opportunity to submit this letter for the record of the hearing held on the above-referenced bill in Pasco, Washington on August 15, 2012. We are reviewing the bill with great care, and we are likely to have additional comments and suggestions in the coming weeks as the committee reviews the bill. TU is a national non-profit conservation organization with more than 147,000 anglers, hunters, and outdoor enthusiasts who fish, hunt, and recreate throughout the Columbia River Basin and in watersheds around the country that would be harmed by HR 6247. Our mission is to conserve, protect and restore North America's coldwater fisheries and their watersheds. TU is organized into 400 chapters from Maine to Alaska. TU chapters invest thousands of volunteer hours on their local streams and rivers to restore habitat for trout and salmon fisheries, and they invest considerable time in conducting youth conservation camps and taking kids fishing.

TU works with partners to fulfill our mission. TU staff and volunteers work with state and federal agencies to clean up pollution from abandoned mines, with farmers and ranchers to improve riparian habitat and restore stream channels, and with western irrigators to improve water management and restore stream flows. TU also works with sportsmen and -women who care about protecting great fishing and hunting places on public lands.

TU believes strongly in the principle of working cooperatively to achieve meaningful conservation results that provide benefits to a variety of stakeholders, including hydropower utilities and electric ratepayers. That is why we strongly oppose H.R. 6247, which would undercut such cooperative efforts. We urge the

committee to take a step back and look for new ways to improve hydropower production in the U.S. while balancing it appropriately with fisheries conservation.

The House and this committee have already taken more appropriate steps to enhance hydro, through measures such as the passage of HR 5982, The Hydropower Regulatory Efficiency Act, and TU stands ready to work with the hydropower industry and your committee on additional measures that properly balance power production with environmental protection.

HR 6247 – the “Saving Our Dams and New Hydropower Development and Jobs Act of 2012”, aims to promote hydropower at the expense of river health, fish and wildlife. It would disrupt the century-old standard in which power production and environmental health have been on equal footing and give power production supremacy. The bill would prohibit the use of federal funds to support hydropower reform or dam removal activities, even when they are community-driven, locally supported, cooperative efforts to improve rivers and streams. The bill would penalize organizations engaged in hydropower reform or other litigation activities that would impact power production at hydroelectric dams by prohibiting such groups from accessing federal restoration funds that are critical to implementing innovative, locally driven, multi-stakeholder watershed restoration activities.

### **The Right Way: Promote cooperation between river users and lower impact hydropower**

TU members live in – and use power in – the very same watersheds in which we conduct conservation work and in which we fish. To that end, TU recognizes the importance of hydropower as a key component of our nation’s overall energy portfolio – particularly in the Pacific Northwest, where hydropower currently constitutes more than 50% of the region’s energy production. TU supports hydropower projects that are properly sited and responsibly developed and operated to minimize impacts to coldwater fisheries and their habitats. In some cases, however, the harm caused by hydropower dams exceeds their power benefits.

TU has a long history of working with industry and others to find balanced solutions that support responsible hydropower development – including

negotiated operations agreements, regulatory reform or legislative solutions. We are working with the hydropower industry to find low-impact solutions, such as expanding use of water irrigation conduits for hydropower production in the western U.S., and adding additional generating capacity at existing dams. TU is pleased to be part of one of the best river restoration projects in the nation on the Penobscot River in Maine, where we are working with industry, the state, local communities, the Penobscot Indian Nation, and other conservationists to restore the Penobscot River.

Under the cooperatively developed plan, three dams on the Penobscot will be purchased and decommissioned. Combined with improved fish passage on the remaining dams, the project will improve access to over 1,000 miles of river habitat for 11 species of sea-run fish. As a member of the Penobscot Trust, TU currently is an owner and operator of the three dams that will soon be removed or decommissioned, while our partner Black Bear Hydro, LLC will replace **all** of the lost power through hydropower enhancements at other dams.

On the other side of the country, here in the State of Washington, the Elwha River dam removal and restoration effort is a regionally, nationally and internationally celebrated solution that enjoyed strong community support. This restoration effort will deliver significant economic and environmental benefits for the state of Washington and the Northwest region. Sportsmen will soon be able to access steelhead and salmon runs as these amazing fish re-colonize over 70 miles of mainstem and tributary habitat; the primary beneficiaries will be the local communities that will reap the benefit of the restored fishery and new recreation opportunities. The relatively small amount of hydropower generated by the two antiquated Elwha River dams was easily replaced by alternative energy sources. These are just two of many collaborative river restoration efforts TU has been engaged across the country that have involved changes in hydropower operations and hydropower dam removal that would not have happened had HR 6247 been enacted. Other efforts in the Pacific Northwest include removal of Portland General Electric's Marmot Dam on Oregon's Little Sandy River and the removal PacifiCorp's Condit hydroelectric dam on Washington's White Salmon River.

**The Wrong Way: set river users against each other and tilt the scales in favor of one interest**

Having worked in the hydropower arena for decades, TU knows that common-sense solutions that both increase hydropower production and improve river health are available. Unfortunately, HR 6247 largely ignores them. Instead the bill provides a disincentive for hydropower generators to find such solutions by tipping the regulatory scales in their favor, thus setting back efforts nationwide to find creative, collaborative solutions that balance water supply and dam operations with the needs of fisheries and wildlife.

Among other harmful provisions, the bill would:

- **Eliminate federal funding for ongoing habitat restoration projects where those projects contain any element related to dam removal or partial removal – including the study of such potential measures.**

The proposed bill prohibits use of federal funds to support studies, permits or other activities related to hydropower regulation or dam removal (including funds for associated mitigation projects) without specific approval from Congress. In so doing, this bill not only fails to recognize the history and the value of successful dam removals around the country, but actually creates a significant barrier to creative, locally driven solutions for watershed management. Industry has been involved in crafting a number of comprehensive restoration agreements that include removal of hydropower dams, and such efforts should not be hamstrung by overreaching federal laws or regulations. Congress should not be in the business of dictating to river communities how to manage their rivers regardless of local values. Indeed, Theodore Roosevelt emphasized this very point when the Federal Power Act was passed in the early 20<sup>th</sup> Century.

- **Eliminate federal funding or federally supported grants for habitat restoration work conducted by non-profit organizations, such as Trout Unlimited, where the organization has previously participated in legal challenges related to hydropower operations.**

Not only does this provision set a dangerous precedent—denying access to federal funds to groups that hold government accountable through litigation, even if those groups prevail in court—but it also would undermine the highly successful collaborative restoration work being done today around the country by Trout Unlimited, hydropower companies, irrigators, tribes, and other local

stakeholders. TU **rarely** litigates, and only as a last resort, to achieve its mission. TU **frequently** leverages federal funds to work with landowners to improve habitat. It makes no sense to stop broadly supported habitat restoration projects because of unrelated hydropower litigation: the baby should not be thrown out with the bath water.

- **Reduce the power of natural resource agencies to require needed protections at hydropower projects.**

During the Reagan Administration in 1986, Congress responded to the Federal Energy Regulatory Commission's poor record of protecting fish, wildlife, water quality, recreational opportunities and other non-power values by passing the Electric Consumers' Protection Act, which amended the Federal Power Act to require the agency to give "equal consideration" to those values and power when licensing hydroelectric projects. In 2005, in response to intense industry pressure, Congress made it more difficult for fish and wildlife agencies to require environmental protections by increasing their burden for establishing the need for such protections and by creating the opportunity for hydropower companies to challenge proposed protections through "trial-type" hearings.

Notwithstanding this recent policy change favoring the hydropower industry, HR 6247 would go much further and give the Federal Energy Regulatory Commission veto authority regarding natural resource conditions requested by agencies. Without the ability for agencies to insist on needed natural resource protections, there will be little incentive for hydropower companies to collaborate to find creative solutions.

- **Block proven measures needed to provide safe fish passage around hydropower turbines**

HR 6247 would preclude the proven practice of bypassing water around hydropower turbines (a practice known as "spilling" water) used to ensure that enough fish can safely migrate past hydropower dams if spill is shown to be harmful in any way to fish, even if such harm is heavily outweighed by the benefits of spill. Such is the case in the Columbia and Snake rivers, where recent research has shown that increasing the amount of water spilled at the hydropower dams significantly improves salmon and steelhead survival, even though some fish can be harmed by locally high total dissolved gas levels in

the immediate vicinity of the spill area. This prohibition would also apply during drought conditions – eliminating critical flows for fish at times they need it most.

**What we need right now is more collaboration, creativity and management flexibility to balance our nations' energy needs with the strong public desire for healthy rivers, thriving fish and wildlife, and the substantial economic benefits they provide.**

As demonstrated through examples discussed above, there are many ways to promote responsible hydropower production without sacrificing opportunities for watershed restoration and without eliminating federal support and involvement in dam removal and other important restoration projects. This fact is borne out by an analysis conducted by the Federal Energy Regulatory Commission itself of 246 hydropower projects that underwent relicensing between 1986 and 2001 and were required to make adjustments to protect non-power values, such as fisheries. That analysis shows that the environmental conditions imposed resulted in only a 1.6% average decrease in power generation, while added capacity and efficiency improvements resulted in a 4.1% average increase in power generation.

[http://ferc.gov/legal/maj-ord-reg/land-docs/ortc\\_final.pdf](http://ferc.gov/legal/maj-ord-reg/land-docs/ortc_final.pdf)

We strongly urge the Committee to sit down with stakeholders to discuss better ways than HR 6247 to approach reform, and how to take advantage of momentum in local communities to protect and enhance environmental health while at the same time providing sufficient hydropower and providing certainty for water users. Cooperation is an effective approach – we're seeing it play out in terms of innovative settlement agreements and long-term planning in places like the Klamath, Yakima, and other large river basins throughout the country where sustainable fisheries, recreation, agriculture, and industry are all important to local economies.

We look forward to working with the Committee to find better ways to promote responsible hydropower while maintaining the array of economic and quality of life benefits that healthy rivers provide, including vibrant trout and salmon fisheries that are at the heart of TU's conservation mission.

Thank you for your consideration.

A handwritten signature in blue ink, appearing to read "Robert J. Masonis". The signature is stylized with a large, sweeping initial "R" and a long, horizontal flourish extending to the right.

Robert J. Masonis  
Vice President for Western Conservation