

1 **Q. Please state your name, occupation, and business address.**

2 A. My name is James A. Esget. I am the Manager of the Yakima River Basin Water  
3 Enhancement Project for the United States Bureau of Reclamation (“Reclamation”).  
4 My address is 1917 Marsh Road, in Yakima, Washington, 98901.

5 **Q. Briefly describe your educational background, professional training and**  
6 **experience.**

7 A. I received a Bachelor’s Degree in mathematics, with a minor in economics from  
8 Humboldt State University. I have a Lifetime California Teaching Credential from  
9 the University of California in Riverside, California. I completed one year of  
10 graduate work in statistics and economics at the California State University in  
11 Hayward, California. I also completed one year of graduate work in hydrology and  
12 engineering at Humboldt State University.

13 **Q. What is your current responsibility?**

14 A. As the manager for the Yakima Basin Water Enhancement Project, I am responsible  
15 for implementing willing buyer, willing seller agreements to improve habitat for fish  
16 and wildlife in the Yakima Basin. These efforts include the purchase of water rights  
17 and water conservation programs to increase the amount of water that stays in streams  
18 and rivers for fish, and the purchase of habitat along rivers and streams.

19 **Q. What is the purpose of your testimony?**

20 A. My testimony explains why Reclamation is proposing to purchase from PacifiCorp  
21 the water rights and related assets of PacifiCorp’s Naches and Naches Drop hydro  
22 projects (the “Naches Project” or “Project”) located on the Naches River. I will also  
23 describe the environmental benefits to salmon, steelhead, and other fish in the Naches

1 River. Finally, I will explain the legislative authority for Reclamation’s proposed  
2 acquisition.

3 **Q. Please explain the background and reasons for Reclamation’s interest in**  
4 **purchasing these water rights and related assets from PacifiCorp.**

5 A. Reclamation is working to improve flows in the Naches River, a tributary of the  
6 Yakima River, to benefit steelhead stocks that are listed under the Endangered  
7 Species Act. Improved instream flows would also benefit spring chinook, coho and  
8 bull trout.

9 Reclamation has signed an agreement to purchase the Naches Project water  
10 rights and related assets from PacifiCorp to improve flows in an important reach of  
11 the river. PacifiCorp currently owns and operates a small hydroelectric project that  
12 diverts water from the Naches River and reduces flows in an important part of the  
13 river.

14 Reclamation is also working with the Washington State Department of  
15 Ecology, the Yakama Nation, the National Marine Fisheries Service, the U.S. Fish  
16 and Wildlife Service, the Environmental Protection Agency, the Washington  
17 Department of Fish and Wildlife, the irrigation interests, and American Rivers.

18 The purpose of the proposed transaction is to improve habitat for steelhead  
19 and other species of salmon in the Naches River—a tributary to the Yakima River—  
20 by increasing in-river flows. The National Marine Fisheries Service has listed  
21 Yakima Basin summer steelhead as “endangered” pursuant to the Endangered Species  
22 Act. An “endangered” designation is the most serious category under the Endangered  
23 Species Act and means that there is a high likelihood that the species will become

1 extinct. The Naches River is estimated to support approximately one-third of the  
2 Basin's steelhead. An important portion of the Naches River experiences very low  
3 flows every summer. The U.S. Fish and Wildlife Service has also listed bull trout  
4 under the Endangered Species Act. The bull trout are sensitive to changes in the  
5 water levels in Reclamation reservoirs that control the flows in the Naches River.  
6 This transaction will reduce pressure on listed bull trout in Reclamation reservoirs  
7 above the river reach.

8 According to the U.S. Fish and Wildlife Service it would take from 350 to  
9 400 cubic feet per second of additional flow in this reach of the Naches River to allow  
10 proper functioning habitat for salmon and steelhead. During most years, flows in the  
11 reach are only 50 to 75 cubic feet per second during portions of the summer, and  
12 125 cubic feet per second during portions of the winter.

13 **Q. How would the proposed transaction meet the biological needs of salmon and**  
14 **steelhead in the Naches River?**

15 A. The proposed purchase of the PacifiCorp water right would provide an additional  
16 200 cubic feet per second during low flow periods in the Naches River immediately.  
17 Reclamation will work to modify the Wapatox canal to reduce the carriage water  
18 needed to serve the water rights of irrigators that divert from the canal. When those  
19 modifications are completed, we estimate that we can increase flows by  
20 approximately 325 to 400 cubic feet per second in most water years. Therefore, it  
21 appears that purchasing the water rights and related assets will provide the needed  
22 flows identified by the Fish and Wildlife Service in most water years under current  
23 reservoir operations.

1           An added benefit of this proposal is that it would allow Reclamation to store  
2 additional water in very low years when reservoir space was available. This could  
3 allow us to maintain adequate flows in the reach even in very low water years, and as  
4 previously stated, would improve water levels for bull trout in the reservoirs in those  
5 water short years. As we gain experience with this operation, we expect to be able to  
6 significantly increase the time that water is provided to the side channel habitat in the  
7 Naches River.

8           The purchase of the PacifiCorp water rights and related assets is the only  
9 alternative available that would restore the flows necessary to meet the biological  
10 needs of the fish in the Naches River.

11 **Q. What is Reclamation’s authority to purchase water rights in the Naches River?**

12 A. Title XII of Public Law 103-434 authorizes the Yakima Basin Water Enhancement  
13 Program. One of the purposes of the section is “to protect, mitigate, and enhance fish  
14 and wildlife through improved water management; improved stream flows; improved  
15 water quality; protection, creation and enhancement of wetlands; and by other  
16 appropriate means of habitat improvement.”

17           Reclamation has used this authority since the mid-1990s to purchase water  
18 rights and improve habitat in the Yakima River Basin. Funding for these efforts was  
19 authorized in the legislation and comes through an annual appropriation from  
20 Congress.

21 **Q. What are the stream flow remediation alternatives to the purchase of the water**  
22 **rights from PacifiCorp?**

1 A. Reclamation has been working on solving the low stream flow problem in the Naches  
2 River for several years. During that time, we evaluated three alternatives to the  
3 purchase of the PacifiCorp water rights. We have not pursued the other alternatives  
4 because they either did not meet the biological needs of the salmon and steelhead in  
5 the Naches River or they were not consistent with the willing buyer, willing seller  
6 requirements for Reclamation to purchase water rights. After extensive analysis,  
7 Reclamation concluded that the purchase of the PacifiCorp water rights appears to be  
8 the best alternative to meet the biological needs of listed salmon and bull trout in the  
9 Naches River. It is the only alternative that could provide benefits in the next few  
10 years for steelhead that are at high risk of extinction, and it is the only alternative  
11 which provides winter flow benefits for the fishery. The alternatives evaluated by  
12 Reclamation are discussed below.

13 First, Reclamation explored the potential of obtaining water rights for  
14 125 cubic feet per second from the Naches Selah Irrigation District (“District”)  
15 through water conservation. The additional water would only be available during the  
16 summer under the water right. The District has since indicated that it is not  
17 interesting in selling part of its water right. Reclamation is only allowed to pursue  
18 water conservation with willing sellers, so we eliminated this proposal as an  
19 alternative. Even if the District were to change its mind and consider a project, this  
20 alternative would not meet the biological needs of the salmon and steelhead. It would  
21 not provide sufficient flows in the summer to keep water in the side channel habitat.  
22 This proposal would provide no fishery benefits during winter low flow periods.

1           The second alternative Reclamation explored was the potential for an  
2 exchange of Reclamation Project power with PacifiCorp under existing authority in  
3 Federal law. This would have been less expensive than a cash purchase. However,  
4 the Bonneville Power Administration (“Bonneville”) opposes a power exchange and  
5 has indicated that pursuing this alternative would be delayed as Bonneville appealed  
6 any such exchange through the Administration.

7           Finally, Reclamation explored the alternative of purchasing water rights  
8 during low flow periods in the summer and winter from other sources but did not find  
9 any willing sellers.

10 **Q. Please explain why Reclamation and the Washington Department of Ecology**  
11 **(“Ecology”) are contributing to the purchase of the water right.**

12 A. Reclamation and Ecology work together on a number of projects to improve habitat  
13 in the Yakima Basin. Both of our agencies have concluded that this project is a very  
14 high priority.

15 **Q. Are there stream flow changes that will take place regardless of the proposed**  
16 **purchase of the water right?**

17 A. The water right adjudication court ruled that PacifiCorp’s water right does not include  
18 any of the water stored in Reclamation reservoirs. In low water years that will mean  
19 that PacifiCorp will not have access to as much water as it has used in the past. There  
20 will be a requirement to maintain at least 225 cubic feet per second in the Naches  
21 River through the Wapatox reach. This change will reduce the amount of electricity  
22 that PacifiCorp can generate in many water years. The additional water that will be  
23 left in the river is not sufficient to meet the biological needs of salmon and steelhead.

1           The adjudication court has also ruled that under the Federal Government's  
2 Treaty of 1855, the Yakama Nation has a time-immemorial right to instream flows for  
3 anadromous fish in all mainstem reaches of the Yakima Basin. This Indian tribal  
4 right is for the maintenance of the existing fishery. A strong case can be made that  
5 225 cubic feet per second is not sufficient for properly functioning habitat in this  
6 reach. Given that Yakima Basin steelhead are already listed under the Endangered  
7 Species Act, it is clear that existing steelhead numbers are not being maintained. It  
8 would follow that more flows should be required for this reach of the Naches River  
9 under the time immemorial right. These flow levels are currently decided by  
10 Reclamation with input from a committee of biologists representing basin interest  
11 groups under the court's ruling. If flows were increased under the Yakama Nation's  
12 time-immemorial right, the result would be less water available for PacifiCorp  
13 diversion and for power production.

14 **Q. Please explain the obligations that Reclamation will assume with the purchase of**  
15 **the water right.**

16 A. Under the proposal, Reclamation would modify the Wapatox canal to ensure that  
17 irrigators would be able to continue to divert and receive water under their existing  
18 water rights. Once the modifications are completed, most of the PacifiCorp water  
19 right would be returned to the Naches River to improve migration of salmon and  
20 steelhead and to maintain adequate water levels in the side-channel habitat throughout  
21 the year. Reclamation would assume responsibility for the maintenance and  
22 operation of the Wapatox canal.

23 **Q. What will happen to the electrical generators and buildings?**

1 A. Generating capability at the plants will be removed. Reclamation will not generate  
2 electricity at these facilities, or sell the generating facilities to third parties for power  
3 production at these sites. We are currently developing our long-term plans to  
4 determine which of the buildings or other facilities will be needed to continue  
5 operation of the Wapatox canal to meet the water rights of irrigators that divert water  
6 from the canal.

7 **Q. How will Reclamation ownership affect irrigators that use the Wapatox canal?**

8 A. Reclamation will assume responsibility to operate and maintain the canal so that  
9 irrigators can continue to divert their water rights.

10 **Q. Please explain how this purchase is in the public interest.**

11 A. We believe we have designed the proposed water rights purchase to benefit fish  
12 species that are at risk of extinction while also protecting PacifiCorp's customers.

13           The Naches River has exceptional habitat for salmon and steelhead.  
14 Unfortunately, a critical portion of the river dries up during parts of almost every  
15 summer and winter. This problem blocks migration of salmon and steelhead and  
16 eliminates critical habitat that these fish need to survive. This proposal offers a  
17 unique opportunity to restore fish and wildlife in one of the most productive rivers in  
18 the Yakima Basin. It is our expectation that restoring the environmental conditions  
19 that steelhead need to survive will significantly reduce the chances that these fish will  
20 go extinct. Over time, we believe that restoring the flows that salmon and steelhead  
21 need in the Wapatox reach will result in a sustainable population of these fish in the  
22 Basin.



1                   Therefore, this proposal will help meet the goals of federal laws to protect and  
2 rebuild fish and wildlife, including the Endangered Species Act and the Northwest  
3 Power Act, and also address the Federal government's treaty obligations to the  
4 Yakama Nation under the Treaty of 1855.

5                   This proposal will also eliminate a number of costs and risks facing  
6 PacifiCorp customers as described in PacifiCorp's testimony. I have already  
7 discussed the likelihood that PacifiCorp's access to water during most years could be  
8 significantly reduced under the current water rights court opinions and problems  
9 being encountered with endangered fish stocks.

10                  Finally, the Naches Project may have to go through a hydroelectric licensing  
11 process under the jurisdiction of the Federal Energy Regulatory Commission. Such a  
12 process is likely to be expensive and could result in conditions that would further  
13 limit the amount of water available for power generation. Under Reclamation  
14 procurement procedures we have worked to establish a fair public value for the water  
15 rights and related assets that provides appropriate compensation for PacifiCorp  
16 customers.

17 **Q. Does this conclude your direct testimony?**

18 **A.** Yes, it does.