

Statement of Jack Garner
Acting Deputy Commissioner and Deputy Director of Operations
Bureau of Reclamation

Before the
Subcommittee on Water and Power,
Committee on Resources
U.S. House of Representatives

On

H.R. 2873

To Clear Title to Certain Real Property in New Mexico
With the Middle Rio Grande Project, and for Other Purposes

September 27, 2005

My name is Jack Garner and I am Deputy Commissioner of the Bureau of Reclamation. I am pleased to be here today to present the views of the Department of the Interior on H.R. 2873, which would clear title to real property in New Mexico associated with the Middle Rio Grande Project and for other purposes. Given ongoing litigation, the Department feels that this legislation is premature.

The Department has been a defendant in litigation that sought to quiet title to properties associated with the Middle Rio Grande Project. While the litigation did not specifically name the properties associated with Tingley Beach or San Gabriel Biological Park, the U.S. District Court for the District of New Mexico found in July 2005 that title to all Middle Rio Grande project properties is vested in the United States.

In light of the litigation and the uncertainty that surrounded the title question before the District court's recent decision, the City of Albuquerque initiated improvements on this property under a License Agreement with Reclamation. The City of Albuquerque developed the Park and associated properties for public uses that benefit Albuquerque's citizens. The manner in which the City of Albuquerque obtained the property from the Middle Rio Grande Conservancy District was inconsistent with established procedures for conveying title to federal property to another party. Nevertheless, the Department does not believe this was the result of carelessness or neglect on the part of the City of Albuquerque, nor does the Department believe this was an intentional encumbrance of federal property.

The Department is reluctant to support transfers of title to federal property when those transfers circumvent existing procedures provided by generally applicable legislation. Federal policy generally requires that adequate consideration be paid to the United States before title is transferred. If this legislation is enacted, however, the Department will take the necessary steps to implement it in a timely manner.

Mister Chairman, that concludes my remarks and I would be happy to respond to any questions the Committee may have.