

Statement of Jack Garner
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Before the

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

On

H.R. 3443

To Convey Certain Water Distribution Facilities to
The Northern Colorado Water Conservancy District
September 27, 2005

Good morning, I am Jack Garner, Acting Deputy Commissioner and Deputy Director of Operations for the Bureau of Reclamation. I am pleased to appear before this Subcommittee to provide Reclamation's views on H.R. 3443, legislation to transfer title to certain water distribution facilities of the Colorado-Big Thompson Project (C-BT) located in Colorado, to the Northern Colorado Water Conservancy District. Mr. Chairman, we are working diligently with the District to accomplish this title transfer because we are convinced it has the potential to provide operations efficiencies and other benefits. However, we are concerned that the legislation may be premature because we have not yet worked out the details of the title transfer with the District.

To date, our most successful transfers have relied on a simple plan -- identify issues and obstacles at the local level and address them prior to the introduction of legislation authorizing the title transfer. Toward this end, Reclamation has a clear and collaborative process for title transfers. Not only has the preferred approach helped entities identify and address concerns of other interested parties early on in the process, but it has also enabled Reclamation and the districts to accurately predict and assign costs, and resolve other issues during the more flexible period preceding legislation. This process has been quite successful and we strongly encourage the District to continue to work through it with us before legislation advances.

The transfer contemplated by H.R. 3443 has only just begun. On January 24 of this year, Reclamation wrote to the District, acknowledging its interest in title transfer and urging it to follow the title transfer process described above. On July 26, 2005, H.R. 3443 was introduced in the House. On September 7, 2005, the District wrote Reclamation requesting that an MOU be entered into by October 7, 2005. We have begun working with the District on that MOU, and will continue to work expeditiously towards execution. Subsequent to the completion of that MOU, Reclamation and the District need to thoroughly discuss the remaining issues associated with the transfer of these facilities.

One of the most significant concerns is the long-standing issue regarding ownership of the South Platte Supply Canal, one of the features proposed for transfer. Resolving ownership is key to determining Federal obligations in this case. Another concern is related to the provision in section 2(b)(2) of H.R. 3443. Under Reclamation law, certain irrigation costs are assigned to power customers for repayment. These costs, determined to be "beyond the ability of irrigators to repay" are called "aid to irrigation." It is our understanding that section 2 of this bill is addressing the need for power customers via the Western Area Power Administration (WAPA) to provide repayment to the Secretary for their aid-to-irrigation obligation for the facilities to be transferred. Reclamation has just begun discussing this obligation with WAPA in this case. We note that the intent of section 2(b)(2) as currently drafted is unclear and that this section requires clarification of both the amount and of the accounting mechanism to be used to accomplish the repayment.

Reclamation and the District need an opportunity to work together with other interested parties to identify, analyze, and develop solutions to these and other issues that have yet to be identified. Once that is completed, we will be happy to provide any appropriate suggestions for legislative language.

Mr. Chairman, we look forward to working with you and the District to complete this title transfer in the most efficient and cost-effective manner possible.

That concludes my statement. I would be pleased to answer any questions.

