

Statement of John W. Keys, III
Commissioner, Bureau of Reclamation
U.S. Department of the Interior
on H.R. 706, Elephant Butte Lease Lot Conveyance
House Resources Subcommittee on Water and Power
Las Vegas, Nevada
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Mr. Chairman and members of the Subcommittee, I am John Keys. I am Commissioner of the U.S. Bureau of Reclamation (Reclamation). I appreciate the opportunity to appear today to present the Administration's views on H.R. 706, the Lease Lot Conveyance Act of 2001. H.R. 706 provides for the transfer and disposal of residential leased lots located on federal properties at Elephant Butte and Caballo Reservoirs near Truth or Consequences, New Mexico.

In the late 1940s, small quarter-acre and half-acre lots along the shoreline of Elephant Butte and Caballo Reservoirs were made available for the public to lease and occupy on a short-term basis. Individuals were permitted to place tents, campers, or construct temporary structures on the site for the duration of their stay. Although the original intent of the lease lot program was to provide lots for part-time recreational use, over the years permanent structures and other improvements have replaced initial recreational facilities with many of the structures now used as full-time residences.

H.R. 706, as introduced, would convey ownership of 403 lease lots at Elephant Butte and Caballo Reservoirs to the lessees for "fair market value." However, rather than appraise these lots at their actual value the legislation requires that the lease lots be appraised as unimproved land, as though they were vacant building lots, and the proceeds be deposited in the Reclamation Fund on behalf of the Rio Grande Project and made immediately available to the subject Irrigation Districts under subsection I of the Fact Finders Act.

The Administration supports the effort to convey certain lands and facilities to private entities -- in particular, those that are no longer necessary for managing either the dam or the recreation areas. However, we have concerns about a number of provisions in the bill, and cannot support it as currently written. We would appreciate the opportunity to work with the Committee to address the various technical provisions necessary to facilitate this land transfer..

Section 7 should be modified to direct proceeds from the sale of lots on acquired lands to the Reclamation Fund pursuant to existing laws and of lots on withdrawn lands to the general Treasury pursuant to existing law. Approximately 57 percent of the land in question is public land that was withdrawn from the public domain for the project by the Bureau of Reclamation from the Bureau of Land Management and as such, the districts have not paid anything toward acquisition costs. The remaining 43 percent of the lots are located on lands acquired by the Bureau of Reclamation for construction of the Project. However, in 1937 the Districts were relieved of their obligation to repay any portion of the costs of acquired lands or the cost of constructing Elephant Butte Dam and Reservoir and all payments made up to that time were returned to the

districts as credit. All costs of constructing Caballo Dam and Reservoir were charged to flood control. Also, in continuing litigation during the past 10 years, Reclamation has contended that these revenues, as well as other similar project revenues, are not one of the three types of revenues covered by subsection I. Since the proceeds of this sale would not be credited or subject to treatment under subsection I, the reference to this subsection is inappropriate and should be deleted. We believe the bill should be amended to clarify issues regarding the disposal of withdrawn (as distinct from acquired) lands, and would like to work with the Committee to develop legislative language.

Section (3)(1), as drafted requires that the lots be appraised as if they are unimproved lands. Since the existing lots are prime lakefront recreational home sites, are the only such properties in this area of southern New Mexico and have fully developed roads and access to all necessary utilities to sustain full-time residency, such an appraisal would seriously understate their value. This section should be modified to require that fair market value be established by an appraisal in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions and with currently accepted industry appraisals techniques.

Other issues that merit further consideration are the time limits contained in this act and the need to include administrative, survey and appraisal costs for conveyance of the lots from the government to the purchaser in Section (5)(a)(2), Administrative Costs. Surveys could take from 3 to 6 months to complete and appraisals requiring sufficient time for review and approval would take another 4 to 5 months, most likely exceeding the timing proposed in Section 5(d). These survey and appraisal costs should be borne by the beneficiaries.

In summary, while Reclamation generally supports legislation to privatize certain leased lots at Elephant Butte and Caballo Reservoirs, we have concerns about some provisions in H.R. 706, and the Administration cannot support it as written. We would appreciate the opportunity to work with the Committee to address these concerns.

Thank you again for the opportunity to comment on H.R. 706. I would be happy to answer any questions the Subcommittee may have.

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