



## **Why Congress Set and Adopted the Original Bureau of Reclamation Policy**

### **1. The Homestead Act and the Reclamation Act of 1902**

#### Congressional Direction of Westwide Settlement

The first reclamation law, the Reclamation Act of 1902, was enacted in the spirit of the great land settlement laws of the 19<sup>th</sup> Century such as the Homestead Act which parceled out federal land in 160 acre tracts as family farms. The approach of the Homestead Act worked extremely well in settling the country through the Midwest. However, when settlement reached the arid regions of the West, where farming and grazing could not occur in the absence of water, an expanded approach was needed. Thus, Congress enacted the Reclamation Act of 1902 to authorize the construction of dams and irrigation works to further existing and well-established federal policy.

#### Intention Behind the Reclamation “Subsidy”

The federal “subsidy” often pointed to in early Reclamation projects was really a forgiveness by the government of interest on the capital expenditure of these facilities. The local water users paid off the capital expenses after several decades, but the interest component was forgiven. An important social goal of the original 1902 Act was to distribute this reclamation “subsidy” widely and in such a fashion as to benefit the small family farmer. Like the Homestead Act, it envisioned 160 acre farms providing farming opportunities to as many families as possible. Like the Homestead Act, the Reclamation Act of 1902 was remarkably successful.

#### Changes in Farming Practices Lead to Changes in Reclamation Law

With the changing times of the 20<sup>th</sup> century, the bulk of the arable land in the country became settled and the country moved from an agrarian economy to an industrial one. As industrialization occurred, farming practices changed. One hundred sixty acre tracts were too small for farms operated with machinery and could no longer be operated so as to support a family.. Although Congress had no intention of abandoning the original goals of the Reclamation program, economic, social and environmental considerations that were highlighted by the move from an agrarian society to a highly industrialized nation made it apparent that certain fundamental changes in the legislation were necessary.

## **2. Reclamation Reform Act of 1982**

Congress over time recognized these fundamental changes in our national fabric and repealed the land settlement laws like the Homestead Act and modernized reclamation law in 1982 by enacting the Reclamation Reform Act (RRA). Congress, by enacting this legislation, was acting to foster the important social goals of the original 1902 Act, to distribute the reclamation subsidy widely and in such a fashion as to benefit as many farmers as possible. In the RRA, Congress revised the program in a manner which it believed would better effectuate the goals of the original Act.

With the increase in cost of farming operations, Congress determined that the previous ceiling of one hundred and sixty acres was no longer appropriate. In addition, in light of the scarcity of water in the West, Congress determined that price reforms were needed.

The RRA increased the ownership entitlement for those water districts and water users who elected to take advantage of it. Congress reconfigured how the ownership entitlement would be calculated, focusing on families and legal entities rather than individuals. To make the ownership limitations meaningful, Congress placed a limit on the number of leased acres that could receive subsidized water. Under prior law, leasing was a simple way to comply with the ownership limitations while still receiving the benefit of reclamation water to large tracts of land.

Congress through the RRA increased the acreage limitation from 160 acres to 960 acres. Concurrently, Congress required that those benefiting from the increased acreage limitations would pay a price for the water at least sufficient to cover the operation and maintenance costs of the project and that those costs were to be calculated annually. For those landholders leasing lands in excess of nine hundred and sixty acres, Congress specifically stated that they were entitled to receive project water but required that they pay full cost for all water provided to those lands so that no subsidy would be available.

In enacting the RRA, Congress was aware that the United States had many existing contracts with water districts that it did not wish to abrogate. Congress thus allowed water districts to choose the body of law that would apply to them. Those remaining under prior law, as amended by the RRA, would not benefit from the new ownership limitations of the RRA. So while not abrogating existing contracts, Congress encouraged all water districts to come under all the provisions of the RRA.

### Sources of Information:

1. Ralph W. Tarr, Solicitor, Department of the Interior, Bureau of Reclamation, 1988. Foreword to the Special Volume of the Reclamation "blue books" that addresses the RRA, as amended, and its implementation from 1982-1988.
2. "Findings of Fact, Conclusions of Law and Order" (Peter D. Peterson et al., v. United States Dep't of Interior): 1987