

Water Review

A Perspective On Western Water Issues Prepared By The Family Farm Alliance

▪ IDAHO, NEVADA

Two Project Title Transfer Proposals Before Congress

BACKGROUND

For many years throughout the 17 Western states served with Reclamation projects there has been interest in transferring Bureau projects to local ownership and control.

The Family Farm Alliance responded to these desires in 1998 by establishing the Project Transfer Council. The program since its inception has been under the direction of Joe Findaro, an Alliance Washington representative. The Alliance has worked with many districts seeking to overcome the not insignificant hurdles posed by the need to obtain title transfer legislation. In each case, every effort has been made to establish good precedents for title transfers that follow. Significant progress has been achieved on both the Fremont-Madison (IDAHO) Irrigation District and the Pershing County (NEVADA) Water Conservation District (in the Humboldt Project) title transfers this summer.

“It is important to note that extensive outreach has been conducted at the federal, state and local levels by both districts prior to Congressional consideration,” Findaro said. “The Bush Administration is supportive of title transfer legislation for these districts.”

FREMONT-MADISON

The Fremont-Madison Irrigation District was created under Idaho law in 1935 to enter into a repayment contract with the U.S. Bureau of Reclamation. The project involved construction of Island Park Dam, Grassy Lake Dam, and the Cross Cut Diversion Dam and Canal as well as Teton exchange wells. In testimony before the Senate

Subcommittee on Water and Power Resources, Fremont-Madison Chairman Jeff Raybould said the 40-year contract was paid out in 1979. Fremont-Madison provides a supplemental water supply to some 1,500 water users irrigating approximately 200,000 acres associated with the original Island Park and Grassy Lake projects as well as the failed Teton Dam project. Forty canal companies existed prior to FMID’s creation and supply natural flow water, the primary supply, to their stockholders. Most lands served by FMID are also lands of the canal company. The canals are used for delivery of stored water. The district is known for its involvement in the Henry’s Fork Watershed Council, a grassroots community forum that for the past nine years has used a non-adversarial, consensus-based approach to problem solving and conflict resolution.

FMID originally requested the Bureau for transfer of title from Reclamation to FMID of Island Park Dam, Grassy Lake Dam, and the Teton wells, Cross Cut Dam and Canal. The district worked closely with its partner in the Watershed Council, the Henry’s Fork Foundation, to develop a consensus on how a title transfer could come about. At a meeting in June 2000, Raybould said in his presentation, it became apparent that there was no opposition to transferring the title of the Cross Cut Dam and Canal, and the Teton wells.

The decision was made to only seek transfer of title to those facilities. Cross Cut Dam is a 475-foot concrete gravity weir, built in 1938, that diverts water from Henry’s Fork into the seven-mile long Cross Cut Canal, which FMID has operated and maintained since it was built. Five Teton exchange wells were developed by the Bureau three decades ago. They were to have provided groundwater in exchange

(Continued on Page 2)

PROJECT TITLE TRANSFERS BEING CONSIDERED BY CONGRESS

(Continued from Page 1)

for Teton Reservoir storage water but the 1976 Teton Dam failure made the wells the only supplemental water source to irrigate lands affected by the Teton Dam failure, Raybould said.

HUMBOLDT PROJECT

Lands served by Nevada's Pershing County Water Conservation District are located in a high desert valley at an elevation of 3,900 feet, 90 miles east of Reno and just upstream from the Humboldt Sink, terminus of the Humboldt River.

Irrigation development began early in the 20th century when the Pitt Taylor Reservoirs, upstream from Lovelock (Nevada), were built. They proved to be too small and served only a portion of what is now the PCWCD, said Bennie Hodges, PCWCD manager, in testimony before the House Water and Power Subcommittee. He said that as settlement progressed, water availability decreased, particularly for lower river basin users.

In 1931, after eight years of deliberations, Humboldt River water rights were established through adjudication. Litigation followed. The decisions in these cases are known collectively as the Humboldt River Decree. The Humboldt River adjudication was ratified by the Nevada Supreme Court in 1938.

This set the stage for the Humboldt Project. The PCWCD, formed in the 1930s, began negotiating with the Bureau of Reclamation during the early 1930s. Funding was approved in 1933 and the project was authorized in 1935. Upstream water rights were acquired and the project's Rye Patch Dam construction began in 1935 after the district transferred its supplemental water rights to the United States and signed a 40-year repayment contract

with the Bureau. The completed reservoir had a capacity of 170,000 acre-feet. The district took over project operation and maintenance in the early 1940s. Hodges testified that the Bureau completed Rye Patch Dam modifications as part of a 1996 safety project, increasing the reservoir capacity to 213,000 acre-feet. All costs have been repaid by the district, he said.

LEGISLATION AND STATUS

On July 11, the Water and Power Subcommittee of the House Resources Committee held a hearing on both H.R. 4708, the *Fremont-Madison Conveyance Act*, and H.R. 5039, the *Humboldt Project Conveyance Act*. On July 24, the full House Resources Committee favorably reported H.R. 4708 and H.R. 5039, paving the way for early House action on both bills this fall.

On the Senate side, a hearing was held in the Water and Power Subcommittee of the Senate Energy and Natural Resources Committee on July 31 on S. 2556, the Senate companion bill to H.R. 4708 (Fremont-Madison). The full committee is likely to favorably approve this legislation soon. Although the *Humboldt Project Conveyance Act* has not yet been introduced in the Senate, it is anticipated that the bill will be introduced in the Senate in September.

H.R. 4708 (S. 2556) would require the Secretary of the Interior to convey the Cross Cut Diversion Dam, the Cross Cut Canal and the Teton exchange wells to the Fremont-Madison Irrigation District.

H.R. 5039 would require the Secretary of the Interior to convey facilities and land to the Pershing County Water Conservation District, the State of Nevada, Lander County and Pershing County.

Previous Title Transfers

The Family Farm Alliance has previously assisted other districts that obtained Congressional approval of their title transfers::

IDAHO

- Nampa and Meridian.
- Burley.

ARIZONA

- Wellton-Mohawk.

NEW MEXICO

- Carlsbad.

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