

S. 625, H.R. 2831 AND H.R. 3210

LEGISLATIVE HEARING
BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTH CONGRESS
FIRST SESSION

Wednesday, October 15, 2003

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S. 625, A BILL TO AUTHORIZE THE BUREAU OF RECLAMATION TO CONDUCT CERTAIN FEASIBILITY STUDIES IN THE TUALATIN RIVER BASIN IN OREGON, AND FOR OTHER PURPOSES (“TUALATIN RIVER BASIN WATER SUPPLY ENHANCEMENT ACT OF 2003”); H.R. 2831, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY THE NEWLANDS PROJECT HEADQUARTERS AND MAINTENANCE YARD FACILITY TO THE TRUCKEE-CARSON IRRIGATION DISTRICT (“NEWLANDS PROJECT HEADQUARTERS AND MAINTENANCE YARD FACILITY TRANSFER ACT”); AND H.R. 3210, TO AUTHORIZE THE SECRETARY OF THE INTERIOR, ACTING THROUGH THE BUREAU OF RECLAMATION, TO CONDUCT A WATER RESOURCE FEASIBILITY STUDY FOR THE LITTLE BUTTE/BEAR CREEK SUBBASINS IN OREGON (“LITTLE BUTTE/BEAR CREEK SUBBASINS WATER FEASIBILITY ACT”).

**Wednesday, October 15, 2003
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
Washington, DC**

The Subcommittee met, pursuant to call, at 2 p.m., in Room 1324, Longworth House Office Building, Hon. Tom Osborne presiding.

STATEMENT OF THE HON. TOM OSBORNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. OSBORNE. The legislative hearing on the Subcommittee on Water and Power will come to order. The Subcommittee is meeting

today to hear testimony on Senate 625, a bill to authorize the Bureau of Reclamation to conduct certain feasibility studies on the Tualatin River Basin in Oregon and for other purposes; H.R. 2831, to authorize the Secretary of the Interior to convey the Newlands Project headquarters and maintenance yard facility to the Truckee-Carson Irrigation District; and H.R. 3210, to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek subbasins in Oregon.

Mr. OSBORNE. I ask unanimous consent that Mr. Gibbons, Representative of the Second District of Nevada, and Mr. Wu, Representative of the First District of Oregon, have permission to sit on the dais after their testimony and participate in the hearing. So ordered.

Our Subcommittee continues to seek balance in integrated water management approaches that ensure water and power available for communities in the West. Today we will focus our attention on three bills that improve the dependability and security of the water infrastructure for long-term use, recognize collaborative efforts on protecting endangered species habitat, and stress the importance of local leadership in resolving resource management issues.

H.R. 3210, introduced by our distinguished Oregon colleague Mr. Greg Walden, authorizes a water management study of water supply sources and water control features of existing Federal and local water systems near Medford, Oregon. I look forward to hearing about how communities in the watershed are already working together to implement water use efficiency improvements and respond to Federal questions over cooperative study partnerships and funding sources.

H.R. 2831, introduced by our distinguished colleague Mr. Jim Gibbons, authorizes the transfer of federally withdrawn land to the Truckee-Carson Irrigation District in Nevada. Presently the district leases the land for a minimal fee from the Bureau of Reclamation and uses the site for administrative offices and a maintenance yard for the Newlands Project. This legislation responds to the district's request for a full title to this parcel of land, and the transfer and future use would be in compliance with the memorandum of agreement between the district and Reclamation.

Senate 625, introduced by the distinguished Senator from Oregon, Senator Gordon Smith, authorizes the Bureau of Reclamation to participate in a water supply feasibility study in the Tualatin River Basin in northwestern Oregon. I am interested in hearing about what cooperative efforts are underway to resolve water supply problems in the watershed and if any preliminary strategies have been thought out that include the development of new water supplies for long-term growth.

These bills attempt to find a common solution to water problems and land management issues. These bills also emphasize the need for active local participation and a strong willingness to work together if success is to be realized.

I thank our witnesses for coming here today and look forward to hearing from them on these important bills.

[The prepared statement of Mr. Osborne follows:]

**Statement of The Honorable Tom Osborne, a Representative in Congress
from the State of Nebraska, on S. 625, H.R. 2831 and H.R. 3210**

Our Subcommittee continues to seek balanced and integrated water management approaches that ensure water and power are available for communities in the west. Today, we will focus our attention on three bills that improve the dependability and security of the water infrastructure for long-term use, recognize collaborative efforts on protecting endangered species habitat, and stress the importance of local leadership in resolving resource management issues.

H.R. 3210, introduced by our distinguished Oregon colleague, Mr. Greg Walden, authorizes a water management study of water supply sources and water control features of existing federal and local water systems near Medford, Oregon. I look forward to hearing about how communities in the watershed are already working together to implement water use efficiency improvements and responses to federal questions over cooperative study partnerships and funding sources.

H.R. 2831, introduced by our distinguished colleague, Mr. Jim Gibbons, authorizes the transfer of federally withdrawn land to the Truckee-Carson Irrigation District in Nevada. Presently, the District leases this land for a minimal fee from the Bureau of Reclamation and uses the site for an administrative office and a maintenance yard for the Newlands Project. This legislation responds to the District's request for full title to this parcel of land and the transfer and future use would be in compliance with a memorandum of agreement between the District and Reclamation.

S. 625, introduced by our distinguished Senator from Oregon, Senator Gordon Smith, authorizes the Bureau of Reclamation to participate in a water supply feasibility study of the Tualatin River Basin in northwestern Oregon. I am interested in hearing about what cooperative efforts are underway to resolve water supply problems in the watershed and if any preliminary strategies have been thought out that include the development of new water supplies for long-term growth.

These bills attempt to find commonsense solutions to water problems and land management issues. These bills also emphasize the need for active local participation and a strong willingness to work together if success is to be realized. I thank our witnesses for coming here today, and look forward to hearing from them on these important bills.

Mr. OSBORNE. I now recognize Mrs. Napolitano, the Ranking Democrat Member, for any statement she may have.

**STATEMENT OF THE HON. GRACE F. NAPOLITANO, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF
CALIFORNIA**

Mrs. NAPOLITANO. Thank you, Mr. Chairman, and I will be very brief. I look forward to hearing from both the witnesses that are here, and I certainly welcome Congressman Wu, my colleague, and look forward to their testimony.

With regard to Congressman Gibbons' bill, H.R. 2831, it is going to be especially telling for me because it raises questions that we have talked about and discussed regarding policies on transferring Federal property to local water districts. And while that is very laudable, because sometimes the locals can do a better job of handling some of the issues, I think we need to look at how we transfer the land without reimbursement for the taxpayer. So that is one of the things that I look forward to hearing and am very interested in listening to the testimony.

I may have to step out because I am on the floor managing—comanaging some of the day's business, and look forward to hearing the witnesses, and yield back the balance of my time.

Mr. OSBORNE. Thank you.

Mr. OSBORNE. At this time we will hear from Mr. Gibbons, who will be testifying on H.R. 2831.

**STATEMENT OF THE HON. JIM GIBBONS, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEVADA**

Mr. GIBBONS. Thank you very much, Chairman Osborne, and to the members of the Committee. I want to thank each of you for holding this hearing today to discuss H.R. 2831, the Newlands Project Headquarters and Maintenance Yard Facility Transfer Act. And as you know, this legislation requires the Secretary of Interior to convey to the Truckee-Carson Irrigation District, or TCID as it is commonly known, all right, title and interest of the Newlands Project.

The Bureau of Reclamation and the TCID signed a memorandum of agreement on June 9 of this year specifying the details of that transfer. This transfer is of approximately 35 acres and will allow TCID to make permanent improvements on this land for the continued operation and maintenance of the Newlands Reclamation Project. The transfer is necessary so that financing can be obtained for those proposed improvements.

This is important to note that in 1986, the Bureau of Reclamation certified that the TCID had repaid—let me say that once again, the Bureau of Reclamation has already certified in 1996 that the Truckee-Carson Irrigation District has repaid to the United States the original construction charges that were designated for repayment. Included in the original construction charges was the cost of land on which the original headquarters and facilities were located. By 1975, the TCID had outgrown its original facilities and moved to the current site on which we are hoping to transfer in this legislation. And although the TCID had clearly paid for the land of the original facilities, they were never compensated or repaid for the transfer back to the Bureau of Reclamation when they were moved to their new location. And, in fact, a United States post office now sits where the original headquarters were located that TCID had already bought and purchased, but was never compensated for prior to this legislation.

By asking the TCID to pay for their land, headquarters—where their headquarters is currently located would be, in effect, asking them to pay for it twice. Yet some critics of this bill still maintain that it unfairly favors TCID and that the land is a taxpayer asset and should be treated accordingly. But as I have said, Mr. Chairman, the TCID has already paid for the land on which a headquarters facility sits, and to say that H.R. 2831 is a, quote, giveaway, end quote, is simply misleading and incorrect and misrepresents my legislative intent.

Mr. Chairman, this legislation is of utmost importance to the Second District of Nevada. The Governor of Nevada, Kenny Guinn, sent me a letter expressing his support for this transfer along with the Churchill County commissioners and the Mayor of Fallon, the State Representatives Grady and Goicoechea, and State Senator Mike McGinness, who all represent this portion of Nevada. And I would ask unanimous consent to be able to submit those documents with my testimony for the record.

Mr. Chairman, I want to thank you again for holding this important hearing today, and I look forward to answering any questions that any of the members of the Committee may have. And at this point in time, I yield back the balance of my time.

Mr. OSBORNE. Thank you, Mr. Gibbons.
[The prepared statement of Mr. Gibbons follows:]

**Statement of The Honorable Jim Gibbons, a Representative in Congress
from the State of Nevada**

Chairman Calvert, thank you for holding this hearing today to discuss H.R. 2831, The Newlands Project Headquarters and Maintenance Yard Facility Transfer Act.

As you know, this legislation requires the Secretary of the Interior to convey to the Truckee-Carson Irrigation District or TCID all right, title and interest of the Newlands Project.

The Bureau of Reclamation and the TCID signed a Memorandum of Agreement on June 9th of this year specifying the details of the transfer.

This transfer of approximately 35 acres will allow the TCID to make permanent improvements on this land for the continued operation and maintenance of the Newlands Reclamation Project.

The transfer is necessary so that financing can be obtained for the improvements. It is important to note that, in 1996, the Bureau of Reclamation certified that the TCID had repaid to the United States the original construction charges that were designated for repayment.

Included in the original construction charges was the cost of land on which the original headquarter facilities were located.

By 1975, the TCID had outgrown its original facilities and moved to the current site in which we are hoping to transfer in this legislation.

Although the TCID had clearly paid for the land of the original facilities they were never compensated when they vacated the lots.

In fact, a post office now sits where the original headquarters were located.

By asking the TCID to pay for the land where their headquarters is currently located would be, in effect, asking them to pay for it twice.

Yet, some critics of this bill still maintain that this bill "unfairly favors the TCID" and the land is a "taxpayer asset and should be treated accordingly."

But, as I said, the TCID has already paid for the land on which a headquarters facility sits, and to say that H.R. 2831 is a "give-away" is simply incorrect and misrepresents my legislative intent.

Mr. Chairman, this legislation is of utmost importance to the 2nd District of Nevada.

The Governor of Nevada, Kenny Guinn, sent me a letter expressing his support for this transfer along with the Churchill County Commissioners, the Mayor of Fallon, the State Representatives Grady and Goicoechea, and State Senator McGinness.

Thank you again for holding this important hearing today and I look forward to hearing from our witnesses.

Mr. OSBORNE. At this time, Mr. Wu will be testifying on Senate 625.

**STATEMENT OF THE HON. DAVID WU, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF OREGON**

Mr. WU. Thank you, Chairman Osborne and Ranking Member Napolitano, for holding this hearing on legislation which is absolutely crucial to the heart of the Congressional district which I represent. S. 625, the Tualatin River Basin Water Supply Act of 2003, authorizes the Bureau of Reclamation to conduct a crucial study to evaluating reliable, safe and cost-effective water supply options to meet the long-term needs of the Tualatin Water Basin.

Washington County, Oregon, and the Tualatin Water Basin have a population exceeding 470,000 people. It is the fastest-growing county in Oregon and is playing a leading role in driving the region and State's economic growth. Since 1987, the number of jobs in Washington County has doubled to approximately 220,000. Demand for water in Washington County and the Tualatin Basin is

expected to double by the year 2050, which means there is a need for an additional 50,000 acre-feet of water per year.

The economy, environment and quality of life for the area are dependent upon successfully meeting the growing municipal, industrial, agricultural and environmental water demands. The feasibility study proposed centers on identifying and acquiring the additional 50,000 acre-feet of water. Major employers in the First Congressional District of Oregon, like INTEL, Nike and Techtronics, rely heavily on this water.

Additionally, there are two fish species in the Tualatin drainage, spring chinook and steelhead, which are listed as threatened under the Endangered Species Act. Restoration of fish habitat will require more water as a cooling agent.

Hagg Lake, which is formed by Scoggins Dam on Scoggins Creek, a Tualatin River tributary, was created in 1975 and is a Bureau of Reclamation facility. Water from Hagg Lake is currently used for municipal water supply, agricultural irrigation and river flow restoration needs in the Tualatin River watershed.

This feasibility study will examine several different options for augmenting the water supply for Washington County. Such options include expansion of Hagg Lake by raising Scoggins Dam either 40 or 20 feet, transferring Willamette water to the area for irrigation purposes, expanding aquifer storage systems, increasing conservation and expanding reuse of clean wastewater for irrigation.

S. 625 passed the Senate by unanimous consent on June 16 of this year. It is clear that this legislation enjoys broad bipartisan support, and I am confident that local agencies, in conjunction with the Bureau of Reclamation, will be exceptional stewards for this project. It is time that this House helps the study move forward so this community can make informed decisions about the future of its water supply.

To speak to the extensive local support and financial contributions of the county and the region, Washington County Chair Tom Brian will be speaking momentarily. Thank you for making the trip, Tom, and again my thanks to the Committee for holding this hearing, and I look forward to working with you all to ensure the successful passage of this legislation.

Thank you, Mr. Chairman.

Mr. OSBORNE. Thank you, Mr. Wu.

[The prepared statement of Mr. Wu follows:]

Statement by The Honorable David Wu, a Representative in Congress from the State of Oregon, on S. 625

Mr. Chairman, I would like to start by thanking you for holding a hearing on this important legislation.

S. 625, the Tualatin River Basin Water Supply Act of 2003 authorizes the Bureau of Reclamation to conduct a crucial study to evaluate reliable, safe, and cost-effective water supply options to meet the long-term water needs of the Tualatin Basin.

Washington County, Oregon, and the Tualatin Basin have a population exceeding 470,000 people. It is the fastest-growing county in Oregon and plays a leading role in driving the region and state's economic growth. Since 1987, the number of jobs in the County has doubled to approximately 220,000.

Demand for water in Washington County/Tualatin Basin is expected to double by the year 2050, which means there is a need for an additional 50,000 acre-feet of water per year.

The economy, environment and quality of life of the area are dependent upon successfully meeting the growing municipal, industrial, agricultural and environmental

water demands. The feasibility study centers on identifying and acquiring this additional 50,000 acre-feet of water. Major employers in my district like Intel, Nike and Tektronix rely heavily on such water.

Additionally, there are two fish species on the Tualatin River, Spring Chinook and steelhead that are listed as threatened under the ESA. Restoration of fish habitat will require more water as a cooling agent.

Hagg Lake, which is formed by Scoggins Dam on Scoggins Creek (Tualatin River tributary), was created in 1975 and is a Bureau of Reclamation facility. Water from Hagg Lake is currently used for municipal water supply, agricultural irrigation, and river flow restoration needs in the Tualatin River watershed.

This feasibility study will examine several different options for augmenting the water supply for Washington County. Such options include expansion of Hagg Lake by raising Scoggins Dam either 40 or 20 feet; transferring Willamette River water to the area for the purpose of irrigation; expanding aquifer storage systems; increasing conservation; and, expanding reuse of cleaned wastewater for irrigation.

S. 625 passed the Senate by unanimous consent on June 16, 2003. It is clear that this legislation enjoys broad support, and I am confident that local agencies in conjunction with the Bureau of Reclamation will be exceptional stewards of this project. It is time that the House helps this study move forward so that our community can make informed decisions about the future of its water supply.

To speak to the extensive local support and financial contributions, Chairman Tom Brian of the Washington County Board of Commissioners is here. Thank you for making the trip Tom. Again, my thanks to the Committee for holding this hearing and I look forward to working with you all to insure the project's success.

[NOTE: Letters submitted for the record by Mr. Wu have been retained in the Committee's official files.]

Mr. OSBORNE. Anyone who wants to submit anything for the record can do so for up to 10 days after this hearing.

Mr. OSBORNE. And at this time, Mr. Wu and Mr. Gibbons are invited to join the dais if they would care to do so.

Mr. GIBBONS. Thank you, Mr. Chairman, and before I do leave the table here, I do want to introduce Mr. Ernie Schank, President of the Board of Directors from the Truckee-Carson Irrigation District, and Fallon who is here to testify, one of my constituents, I want to welcome him here to this Committee as well. Thank you, Mr. Chairman.

Mr. OSBORNE. Thank you for your testimony.

Mr. WU. Mr. Chairman, I thank you also. I accept your invitation to join the dais, but as so often happens, we will be leaving for the Rules Committee where we have a few items pressing before us this week and ask your forbearance and the forbearance of the witnesses who have traveled from Nevada and Oregon respectively.

Mr. OSBORNE. We know that you will construct a very tight rule that will limit debate so we will get out of here early this week. So thank you for being here, and we will carry on without you. Thank you.

Mr. OSBORNE. At this time, I would like to recognize the first panel of witnesses. Mr. Mark Limbaugh, Deputy Commissioner, External and Intergovernmental Affairs, Bureau of Reclamation. I now recognize Mr. Limbaugh to testify for 5 minutes. Timing lights on the table will indicate when your time is concluded. All witnesses' statements will be submitted for the hearing record.

**STATEMENT OF MARK A. LIMBAUGH, DEPUTY COMMISSIONER,
EXTERNAL AND INTERGOVERNMENTAL AFFAIRS, BUREAU
OF RECLAMATION**

Mr. LIMBAUGH. Thank you, Mr. Chairman. Before I begin, I would like to request that my written statement on these bills be submitted for the record.

Mr. OSBORNE. Without objection, so ordered.

Mr. LIMBAUGH. Mr. Chairman, members of the Subcommittee, distinguished Members of the House, I am Mark Limbaugh, Deputy Commissioner for the Bureau of Reclamation in Washington. I am pleased to be here today to present the Department's views on S. 625, Tualatin River Basin Water Supply Enhancement Act of 2003; H.R. 2831, the Newlands Project Headquarters and Maintenance Yard Facility Transfer Act; and H.R. 3210, to authorize the Secretary of the Interior acting for the Bureau of Reclamation to conduct a water resource feasibility study for the Little Butte/Bear Creek subbasins in Oregon. While my written statements contain more detail, I would like to use this time to summarize our remarks.

Let me begin with S. 625. S. 625 authorizes the Secretary of Interior in cooperation with affected local entities to complete a study feasibility of various methods to meet future water supplies for agriculture, municipal and industrial uses. Reclamation has been working closely with the regional wastewater entity, Clean Water Services, several municipalities in Washington County, Oregon, and the Tualatin Valley Irrigation District and others to develop a plan that will increase available storage for local use and preserve the important environmental benefits so valued by the local residents.

A tremendous amount of local effort has been expended to develop useful information upon which the feasibility study for Reclamation may be based. Study partners have also invested considerable effort to begin the planning process at the local level with the assistance of Reclamation.

A full range of potential approaches to meeting future water supply needs will be considered, including market-based and other economic incentives. As such, the merits of the proposed feasibility study are sound and reasonable, and therefore the administration can support S. 625. However, it is important to note that this study is not included in the administration's Fiscal Year 2004 budget request.

[The prepared statement of Mr. Limbaugh on S. 625 follows:]

**Statement of Mark Limbaugh, Deputy Commissioner, Bureau of
Reclamation, U.S. Department of the Interior, on S. 625**

Mr. Chairman, I am Mark Limbaugh, Deputy Commissioner of the Bureau of Reclamation (Reclamation). Thank you for the opportunity to testify on S. 625, the Tualatin River Basin Water Supply Enhancement Act of 2003. The legislation authorizes the Secretary of the Interior, in cooperation with affected local entities, to complete a study of the feasibility of various methods to meet future water supplies for agriculture, and for municipal and industrial uses.

Reclamation has been working closely with the regional wastewater entity Clean Water Services, several municipalities in Washington County, Oregon, the Tualatin Valley Irrigation District and others, to develop a plan that will increase available storage for local use and preserve the important environmental benefits so valued by the local residents. A tremendous amount of local effort has been expended to

develop useful information upon which a feasibility study by Reclamation may be based. The study partners have also invested considerable effort to begin the planning process at the local level, with the assistance of Reclamation. A full range of potential approaches to meeting future water supply needs will be considered, including market-based incentives and other economic incentives. As such, the merits of the proposed feasibility study are sound and reasonable and therefore the Administration can support S.625. However, it is important to note that this study was not included in the Administration's Fiscal Year 2004 budget request.

This concludes my statement. I will be glad to answer any questions.

Mr. LIMBAUGH. Let me now turn my attention to H.R. 2831. Mr. Chairman, over the past several months, Reclamation has been working closely with the Truckee-Carson Irrigation District to work through issues on the title transfer of their headquarters property. And with several changes to the legislation, the Department would support H.R. 2831.

In June 2003, Reclamation and the President of the District's Board of Directors signed an extensive memorandum of agreement governing the process for completing the proposed title transfer. However, the Department does have three issues of concern with H.R. 2831 as introduced.

First, H.R. 2831 proposes to convey the Newlands Project Headquarters and maintenance yard facility, which includes 37 acres of land that was withdrawn from the public domain for the development of the Newlands Project. However, Reclamation and the district has not attempted to negotiate the cost of the lands in the MOA. Therefore, we believe the legislation needs to address this issue. If lands were acquired for a project through fee title when the project was developed, in other words acquired land, then the cost of that acquisition would have been included in the repayment obligation of the district. These lands, however, were withdrawn from the public domain, and their fair value was never included in the district's repayment obligation. Therefore, in order to protect the financial interest of the United States and taxpayers, we recommend that the legislation be modified to ensure that the district be required to pay fair market value for those lands as a condition of the transfer.

Second, H.R. 2831 directs the Secretary to convey the lands to the district. As a matter of principle, we normally object to mandatory transfer language that overrides the Secretary's discretionary authority in such matters. And while we support this transfer, we would recommend that the language in section 2(a) of the bill be changed from "shall" to "may."

Finally in the past, in title transfer bills, the Secretary was allowed to complete various public processes as soon as practicable and subject to all applicable laws. Virtually all the transfers that have moved through Congress have included this language, particularly those where compliance under the National Environmental Policy Act has not been completed prior to the legislation being introduced. In order for it to be internally consistent, and since section 2(c) requires that environmental reviews and remediation be completed, section 2(a) should be modified as suggested in my written statement.

While we have listed some concerns with the language of H.R. 2831 as drafted, we support the transfer of this land and be-

lieve the issues raised in my statement can be resolved. I would like to take this opportunity to compliment the District President Ernest Schank and the District's Board of Directors for their diligence and commitment in working with us on the issues surrounding this transfer. I would like to thank Congressman Gibbons and his staff for their cooperation. I look forward to working together to resolve these issues and to move forward with this transfer.

[The prepared statement of Mr. Limbaugh on H.R. 2831 follows:]

Statement of Mark Limbaugh, Deputy Commissioner, Bureau of Reclamation, U.S. Department of the Interior, on H.R. 2831

My name is Mark Limbaugh and I am the Deputy Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to appear before this Subcommittee to provide the Administration's views on H.R. 2831. We have worked closely with the District on this transfer, and, with certain changes to the legislation as discussed more fully below, the Department would support H.R. 2831.

H.R. 2831 directs the Secretary of Interior to convey the Newlands Project Headquarters and maintenance yard facility to the Truckee-Carson Irrigation District. The facilities cover about 37 acres of Reclamation withdrawn property in Fallon, Nevada.

Mr. Chairman, over the past several months, we have been working closely with the District to work through the issues associated with the title transfer of the headquarters property. In June 2003, Reclamation and the President of the District's Board of Directors signed an extensive Memorandum of Agreement (MOA) governing the process for completing the proposed title transfer. In general, Reclamation supports transferring title to state and local entities when it is in the mutual interest of affected parties. However, there are three issues of concern to the Department with H.R. 2831 as introduced.

First, in its discussions with the District concerning the MOA, Reclamation did not attempt to negotiate the cost of the lands in the MOA. We believe the legislation needs to address this issue. If lands were acquired for a project through fee title when the project was developed, then the costs of the acquisition would have been included in the repayment obligation of the District. These lands, however, were withdrawn from the public domain; thus, their value was never included in the District's repayment obligation. Generally, withdrawn lands that are no longer needed for a Reclamation project are either transferred back to the Bureau of Land Management to be administered as public domain lands, or offered to the General Services Administration for disposal. In order to protect the financial interests of the United States and the taxpayers, we recommend that the legislation be modified to ensure that the District, as a condition of transfer, be required to pay the fair market value for those lands.

Second, H.R. 2831 directs the Secretary to convey the Newlands project headquarters and maintenance yard facility. As a matter of principle, we have historically objected to mandatory transfer language because it overrides the Secretary's discretionary authority in such matters. While we support the transfer in this case, we recommend that the language in Section 2(a) be amended to state that the Secretary "may" convey these lands, in order to preserve her discretionary authority in such matters.

Third, we recommend that the language in Section 2(a) be further amended to read as follows: "The Secretary may, as soon as practicable after the date of enactment and in accordance with all applicable law, convey to the Truckee Carson Irrigation District pursuant to the terms of the memorandum of agreement..." Virtually all of the transfers that have moved through Congress have included this language, particularly those where compliance under the National Environmental Policy Act has not been completed prior to the legislation being introduced. This amendment would strengthen the bill by making it internally consistent with language in Section 2(c), which conditions title transfer on the completion of environmental reviews, remediation, and cultural clearances, and would have the added benefit of addressing any other reviews or processes not covered by the language in Section 2(c).

In conclusion, Mr. Chairman, while we have some concerns with the language of H.R. 2831 as noted above, we support the transfer of this land and believe the issues raised in my statement can be resolved. I would like to take this opportunity to compliment District Board President Ernest Schank and the District's Board of Directors for their diligence and commitment in working with us on the issues sur-

rounding this transfer. I would also like to thank Congressman Gibbons and his staff for their cooperation. I look forward to working together to resolve these issues and to moving forward with this transfer.

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

Mr. LIMBAUGH. The final bill I am testifying on today is H.R. 3210, which would authorize the Bureau of Reclamation to conduct a water resource feasibility study in the Bear Creek/Little Butte Creek subbasins of the Rogue River in southwestern Oregon, as well as prepare the associated environmental impact statement.

It is Reclamation's understanding that a broad range of stakeholders have come together to achieve consensus on project goals and gain community support. The primary goals are to increase instream flows in Little Butte Creek and Bear Creek for threatened coho salmon and improve irrigation efficiencies within the three irrigation districts. The project would also improve the long-term viability of the three irrigation districts. The total estimated cost of this study has not yet been determined by Reclamation.

Reclamation supports the study's goals and applauds the local collaborative effort to proactively address water resource issues that could become contentious in the future. However, the administration cannot support this legislation as drafted. Section 1(c) appears to be vague and does not appear to authorize funding for Reclamation to accomplish the other work contemplated under section 1(b) of the legislation.

It is our understanding that some Congressionally earmarked funding has been obtained by the City of Medford via a grant administered by the U.S. Environmental Protection Agency. Reclamation understands that the grant is to fund a contract to the plan and complete the environmental impact statement on effluent reuse and other water conservation measures. We understand that the City of Medford will apply for the grant by March, 2004. Upon approval of the plan, grant funds will be released to complete the technical studies.

Reclamation feasibility study authority is not needed for this work to continue. Section 1(c) of H.R. 3210 references report language which was included in conference report 108-10 accompanying the Omnibus Appropriations Act for Fiscal Year 2003. In reading the report, it is our understanding that this funding is for studies on effluent reuse, which is only one of the multiple needs identified in the bill. We would be pleased to work with Congressman Walden and his staff and the sponsors to help clarify Reclamation's role as well as the scope of the legislation in light of that role.

Mr. Chairman, this concludes my testimony on these three bills, and I would be happy to answer any questions that you may have.

[The prepared statement of Mr. Limbaugh on H.R. 3210 follows:]

Statement of Mark Limbaugh, Deputy Commissioner, Bureau of Reclamation, U.S. Department of the Interior, on H.R. 3210

Mr. Chairman and Members of the Subcommittee, I am Mark Limbaugh, Deputy Commissioner of the Bureau of Reclamation. Thank you for the opportunity to testify on H.R. 3210, a bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon.

This legislation would authorize the Bureau of Reclamation to conduct a water resource feasibility study in the Bear Creek/Little Butte Creek subbasins of the Rogue River in southwestern Oregon, as well as prepare the associated environmental impact statement. The study would investigate opportunities to implement water conservation measures within the three irrigation districts served by Reclamation's Rogue River Project and to increase water supplies, including use of reclaimed water from the City of Medford or potentially modifications to existing storage facilities.

It is Reclamation's understanding that a broad range of stakeholders have come together to achieve consensus on project goals and gain community support. The primary goals are to increase instream flows in Little Butte Creek and Bear Creek for threatened coho salmon and to improve irrigation efficiency within the three irrigation districts. The project would improve the long-term viability of the three irrigation districts. The total estimated cost of the study has not been determined by Reclamation.

The Bureau of Reclamation supports the study goals and applauds this local collaborative effort to proactively address water resource issues that could become contentious in the future. However, the Administration cannot support this legislation as drafted. Section 1(c) is vague and does not appear to authorize funding for Reclamation to accomplish the other work contemplated in Section 1(b) of the legislation.

It is our understanding that some Congressionally earmarked funding has been obtained by the City of Medford via a grant administered by the U.S. Environmental Protection Agency. Reclamation understands that the grant is to fund a contractor to plan and complete the environmental impact statement on effluent reuse and other water conservation measures. We understand that the City of Medford will apply for the grant by March 2004. Upon approval of the plan, grant funds will be released to complete the technical studies. Reclamation feasibility study authority is not needed for this work to continue.

H.R. 3210 would authorize Reclamation to conduct a feasibility study and environmental impact statement analyzing a variety of water needs and measures in the basin. However, funding for such activities is not included in Reclamation's FY 2004 budget request. Our initial review of the proposed scope of work associated with a feasibility study and NEPA compliance of this size has shown that these costs could be substantial. Given the report language, which was included in Conference Report 108-10, accompanying the Omnibus Appropriations Act for Fiscal Year 2003 and referenced in Section 1(c) of the bill, it is our understanding that this funding is for studies limited to effluent reuse, which is only one of the five needs identified in the bill. In our opinion, H.R. 3210, as drafted, is vague as to funding authorization in Section 1(c), and does not authorize funding for Reclamation to accomplish the other work contemplated in Section 1(b) of the legislation.

We would be pleased to work with the sponsors to clarify Reclamation's role as well as the scope of the legislation in light of that role.

This concludes my statement. I will be glad to answer any questions.

Mr. OSBORNE. Thank you very much, Mr. Limbaugh, and remind the Members that the Committee Rule imposes a 5-minute limit on questions. And the Chairman will now begin with questions from himself.

First of all, Mr. Limbaugh, what is the status of all project title transfers between Reclamation and water districts? How many have been completed? How many are pending? Have all those involved a cash settlement?

Mr. LIMBAUGH. Mr. Chairman, I am not prepared today to enumerate on how many have been completed or pending, but there are many that have been completed and several that are pending currently. We can get back to you on those exact numbers.

As far as the cash settlement goes, each transfer is unique, each transfer has a different circumstance of the other, and we can get back to you on how many are requiring a cash payment at that time.

Mr. OSBORNE. Thank you.

Is there decision criteria that Reclamation uses to decide when cash settlements are necessary?

Mr. LIMBAUGH. Mr. Chairman, the single criteria normally would be applied when there are either streams of income to the United States that are being derived from the lands prior to transfer, or if the lands were withdrawn lands and never paid for to begin with. Then we would go through the proper procedures to identify a net present value of that income stream so the United States is made whole, or an appraised value of the land to come up with a fair market value for the transfer to occur.

Mr. OSBORNE. And last, the agreement between the TCID and Reclamation does not include a cash settlement for the land transfer. Is this unusual?

Mr. LIMBAUGH. Mr. Chairman, no. Most of these MOAs are simply a procedural instrument that allows for the process of the transfer to occur without any discrepancies or misunderstandings. These larger substantive issues are either handled in a separate agreement or through the legislative process.

Mr. OSBORNE. Thank you. And at this time, I would yield to the gentlelady from California Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

I am very interested in your response for the Agency's look at two of the bills, that is the ones that are more in the area of research or studies. And I am wondering if the Agency can let this Subcommittee know some of the answers that were being asked by the Chairman in terms of what is being considered, what is—how much funding is there to cover what you have, and how do these not qualify.

And I heard your answer in regard to Mr. Walden's 3210, that it is vague, and I can understand your wanting to go and get more solidification in terms of finding out who is responsible for what. I laud what they have done in terms of going finding money in other agencies that would make it easier for your Agency not to bear the whole burden.

And in regard to Senate bill 625, we have considerable problems with water throughout the United States, and I am afraid the Agency is not looking at working to try to address them in terms of funding. I know you want to help, but the funding isn't there to be able to stretch the help that is needed by all the Members' districts that need water assistance to be able to make them viable communities.

So I am wondering how the Department then is considering looking at this legislation plus other legislation in terms of being able to say, we agree we need to do it, and let us fund it, and come to this body requesting the increase in funding to be able to meet the demands on your Agency.

Mr. LIMBAUGH. Well, Mr. Chairman and Mrs. Napolitano, those are very good questions. We certainly, in the case of the Tualatin, have partners that are coming to the table with substantial funding. This obviously allows us to leverage non-Federal funding in a cost share or a partnership arrangement. And this certainly helps to meet—in a lot of areas meet the needs of these critical water-short areas. And we certainly look to those opportunities first in

trying to get the most out of the Federal taxpayers' dollars when we look at studying water needs.

As far as our priorities and what we are trying to accomplish through the Secretary's Water 2025 Initiative, we have identified many areas around the West that we think are going to be plagued with these types of problems very soon. And we are certainly looking at trying to prioritize in those areas studies and partnerships that will allow us to leverage the limited funds that we do have in meeting the needs in those areas.

Mrs. NAPOLITANO. But you didn't answer the question about the funding, coming to this body to request the funding to be able to help meet those needs.

Mr. LIMBAUGH. And we certainly believe that in the Fiscal Year 2004 budget, we have requested \$11 million for the Western Water Initiative that has made it through the House and partially through the Senate, now is in conference, that will begin that effort of looking at these priority areas, especially through Water 2025, as the Fiscal Year 2004 budget comes around to look at those things. So we are trying to address these issues with the limited funds.

Mrs. NAPOLITANO. But, Mr. Limbaugh, 11 million is a drop in the bucket for the need throughout the United States.

Mr. LIMBAUGH. Mrs. Napolitano, in our opinion, the 11 million is just the start.

Mrs. NAPOLITANO. Correct. It is seed money.

Mr. LIMBAUGH. We are trying to look at this from this perspective, that as we begin that process, that we start looking at funding for these efforts, realizing the limitations that we do have on funding for all of our projects and all of our priorities.

Mrs. NAPOLITANO. Thank you.

And one of the questions that I had that might not be answered thoroughly is you have heard the statement from Mr. Gibbons in regard to the fact that this was already in 2831, H.R. 2831—that this land was already paid for. Could you tell us how it is repaid? I understand what you are saying as to the withdrawn public lands, but can you tell us, has there been an appraisal after 1986 that might indicate the value of the land now? And I understand that, U.S. retains title of the projects even after they are repaid—how that would change this.

Mr. LIMBAUGH. Mr. Chairman, Mrs. Napolitano, the appraisal of the property to date is not current, and it would have to be appraised. It is not a recent appraisal that would give us a good value for the land, and that would have to be done.

I am sorry, what was the last part of your question?

Mrs. NAPOLITANO. That the United States retains title of the project even after the project completion.

Mr. LIMBAUGH. Well, Mr. Chairman, Mrs. Napolitano, in the 1902 Reclamation Act, it allows that once the repayment is made, the transfer of the operation and maintenance of the project to the project beneficiaries, but it still requires Congress to move to transfer the actual title of the facilities.

Mrs. NAPOLITANO. Mr. Chairman, there is no more time, so I will wait for the next round. Thank you.

Mr. OSBORNE. Thank you, Mrs. Napolitano.

At this time the Chair would like to yield to the gentleman from Nevada Mr. Gibbons.

Mr. GIBBONS. Thank you very much, Mr. Chairman, and I appreciate you yielding me time to ask questions.

Mr. Limbaugh, I think it is important for us to truly understand what has happened here. And accordingly, let me say over 100 years ago, that the 40-acre site, which was the site of the current office and maintenance for the TCID, was withdrawn for Reclamation purposes as part of the Newlands Project, as you have stated. And all of the improvements of this property have been paid for by TCID, and the U.S. Government did not contribute to these improvements; is that correct?

Mr. LIMBAUGH. Mr. Chairman, Mr. Gibbons, that is correct.

Mr. GIBBONS. Now, in 1996, TCID had repaid the original construction charges designated for repayment—or by 1996, which took them 92 years to pay off. The Newlands Project is considered to be a paid out project; is that not considered?

Mr. LIMBAUGH. As far as I know, yes, sir.

Mr. GIBBONS. This 40 acres has actually been part of the Newlands Project from the beginning; is that correct? Now the original site that the property was on, the maintenance facility and the operations site, that was taken over by the Federal Government after they moved to this new 40-acre site, was it not, or retained by the U.S. Government?

Mr. LIMBAUGH. Mr. Chairman and Mr. Gibbons, that is correct, it was never transferred to the district.

Mr. GIBBONS. And would you agree that there ought to be consideration for a fair market accounting of the costs that are involved? When you say, let us deal with the value of the property, of the 40 acres, we are not talking 40 acres, we are talking 35, because 5 of those acres are still occupied by your Department, Bureau of Reclamation. You have buildings on there that you have tied into this 40-acre parcel that belongs to this Newlands Reclamation Project. So we are only talking about 35 acres; are we not?

Mr. LIMBAUGH. Mr. Gibbons, 37 to be exact.

Mr. GIBBONS. But you still have part with your buildings on that?

Mr. LIMBAUGH. Mr. Gibbons, we are planning on keeping the park under Federal control, Federal ownership for the buildings that we have on this site.

Mr. GIBBONS. You would say it would be fair to deal with a fair market accounting of the dollars and costs that TCID has put into each of these properties, one of which was taken—remained in your custody, now used by the U.S. Government as a post office. There should be an accounting for those dollars, because these are taxpayers that have paid into the system that have not gotten a fair accounting of that money when they moved over to this other 40-acre parcel which is still part of the project, still part of the paid-out project. The Federal Government has never accounted for that money either they lost by moving to this other and yielding the property back to you.

Mr. LIMBAUGH. Mr. Chairman and Mr. Gibbons, we would consider an accounting of the property issues that you describe, and

we believe, however, that the withdrawn land still must have a fair value on them as well.

Mr. GIBBONS. I don't have a problem with assigning fair value, but I do want the Federal Government to account for the losses TCID has incurred to the Federal Government through changes with your concurrence that they have put into this property that went to the Federal Government that they have already paid for. So all I am asking for is a fair accounting. So those principles take part of this whole transaction.

Now, I don't have a problem with must comply with all applicable laws. I think that part we can adjust in there. But I do also have in this brief time I have left a concern when you say change the language from "shall" to "may," or "must" to "shall," or some change which gives you discretion, the problem I see there is discretion oftentimes takes so long on your part that it never comes about. As a result, the TCID people can't get the financing because you have delayed because whatever reason you want to come up with the actual transfer—it is just one bureaucratic hurdle after another that actually delays this. I am not being critical of you, but I am being critical in general of the process and the time it takes the Federal Government to do something.

But I want to urge that we complete this process quickly, and that is why we put in the language that the Bureau of Reclamation shall transfer this, and it is just to move the project along.

So with that, I will yield for any comments, but my time is up and thank you, Mr. Chairman, for this time.

Mr. OSBORNE. Thank you, Mr. Gibbons.

Mr. Pearce, do you have a question at this time?

Mr. PEARCE. I have no questions, but Mr. Limbaugh brought up the 2025, but I did want to ask questions about how the field hearings are going on that and what the feedback is and what the status is of the actual implementation of 2025. Where do we stand on that?

Mr. LIMBAUGH. Mr. Chairman, Mr. Pearce, thanks for asking. The field hearings were held—there was eight hearings held across the West. They were conference-like meetings, and we literally had thousands of people attend those across the West. We are currently evaluating the results of those meetings for a report to the Secretary, and we look forward to trying to encapsulate what we have heard and any changes, updates, notifications or improvements to Water 2025 that we will eventually decide upon.

As far as future meetings, we have a science conference that is sponsored by the USGS and Reclamation coming up November 4 in Denver, and we will be looking to the Science Committee for their comments and critique of Water 2025 as they see it.

So we are still in the process. We are moving forward rapidly in coming up with a final plan that we will move forward with and hopefully get back with you and Congress about where we are going from there.

Mr. PEARCE. And do you anticipate doing any hearings with Congressional people? In other words, are you going to come in and explain to the Congressional Representatives, because the word that the people in New Mexico who listen to the hearings said that really they seem to have a predetermined course of the process, and

that actually there is great concern that 2025 is actually going to result in Federal takings of State waters and more Federal ownership or control of waters. And those tend to fly in the face of the Constitution, and water should be a private property right, number one. Number two, it should be a State right. There aren't many provisions in the Constitution where it becomes a Federal issue, and yet the great concern was that 2025 is moving a long way toward Federal ownership of waters, at least in the western part of the country there in New Mexico.

So do you all envision bringing your anticipated programs in front of the Congressional Representatives in addition to the science communities and whichever communities you spoke with there in the previous round of hearings?

Mr. LIMBAUGH. Well, Mr. Chairman, Mr. Pearce, we certainly could offer Congressional briefings or however—whatever method you would prefer to talk about Water 2025. And I am sorry that that is the message that is getting out to your constituents, because that is certainly not the intent of Water 2025. In fact, the 1902 Act limits Reclamation to act within State water laws and not abrogate the States' rights to appropriate their own water. So our authorities only exist through the States' laws. And we certainly want to use Water 2025 to uphold that and work within that context and not outside of that realm, and certainly not to promote more Federal ownership or responsibility, but actually promote less or a partnership with the local entities in trying to resolve issues at the local level before they become huge conflicts and crises that we have to deal with on a much grander scale.

Mr. PEARCE. I suspect there is a lot of subjectivity to that desire. I suspect, Mr. Limbaugh, that the desire to have less Federal ownership would depend on at what level projected Federal ownership was. And again, I have mentioned to your Department that it was in New Mexico that you brought the first suit to take ownership because you had provided money to a State, to an irrigation district, even though it was the only district that had paid off the obligation to the Federal Government, the only one—and that where is where you brought suit to take title and ownership and direct use of the water.

I suspect when you say the Department's objective is to have less Federal ownership, it has to have some starting point and base point to really evaluate the intention. But my concern is that if the Federal Government is taking water from the States, it is going to be inappropriate. So I have vendored legislation with regard that the Federal Government cannot ever take water to accomplish any of its objectives because in the end it is not a Federal Government issue. So I suspect we will visit more on that. And if we can get that bill through this Committee and on to the floor, I think we can have a fairly energetic discussion about these things.

Thank you.

Mr. OSBORNE. Thank you Mr. Pearce.

Mrs. NAPOLITANO.

Mrs. NAPOLITANO. Thank you, Mr. Chairman.

Mr. Limbaugh you mentioned the hot spots in the West with regard to water issues. Do those areas that your Agency is looking

at include geographically the two bills that have study components in them?

Mr. LIMBAUGH. Mr. Chairman, Mrs. Napolitano, at this time I don't recall exactly. I think they are in the hot spots, but they are not red or orange. There are three levels, red, orange and yellow, and I believe they are in the yellow. Maybe the one would be in the orange category, but I did not research that before I came.

Mrs. NAPOLITANO. Does the Water 2025 specifically address water recycling and water reuse?

Mr. LIMBAUGH. Mr. Chairman, Mrs. Napolitano, it addresses four tools that we believe can be used currently and soon to help bring about a complete meeting of the needs in these areas to prevent conflict and crisis.

Mrs. NAPOLITANO. The answer is no.

Mr. LIMBAUGH. No. The four tools are conservation, efficiencies in markets; the use of collaborative efforts, collaboration such as in the bills that we discussed today; the research into desalination, improving water treatment technologies, and bringing the cost down; and also, fourth, removing institutional barriers and creating opportunities for cooperation between the agencies to help streamline the Federal efforts to help prevent conflict and crises in these areas of the West.

Mrs. NAPOLITANO. Which in essence does not include them. You include them in a roundabout way, but you do not include the direct effect this could have in the other areas of desalination and other such measures.

Do you have any idea whether your field hearings are bringing the issue that it should be part of the 2025 plan?

Mr. LIMBAUGH. We certainly have had a lot of comments about Water 2025 in our meetings and our meetings out in the West. We have had several comments about reuse and recycling that we are certainly going to consider as we look at how Water 2025 continues to be improved. So, Mrs. Napolitano, they are—we are hearing from the people out in the West in these areas that utilize this methodology.

Mrs. NAPOLITANO. Well, unfortunately, as you well know, in California we are facing 2016 reduction out of the Colorado, which means that we—not just talking about Colorado, but most of the Western States are going to have to have help in being more proactive in maintaining or reducing their current allocation of the Colorado River. Without assistance from your Agency and other Federal agencies, this is not going to happen. This is not going to be a reality, and there are going to be some very harsh methods that are going to have to be employed.

And I certainly would like to continue to stress the fact that recycling and reuse for—how many people refer to it, it should be a major portion of that thrust in allowing Western States—not only Western States, but a lot of States are beginning to understand—Texas, for instance—how important it is for them to be able to recycle and reuse their water because of the farming and droughts. I would hope that the Agency and my colleagues urge the administration to understand that it should be part of the inclusion, part of the tools that help in 2025 water—how would I say—vision.

And on the 2831, is there a precedent for this kind of request for land transfer?

Mr. LIMBAUGH. Mr. Chairman, Mrs. Napolitano, again, I am unsure whether other title transfers have included withdrawn lands that were never originally in the repayment obligation. I am aware of several that have actually left the withdrawn lands out of the transfer, but I am unaware of any, and we can certainly get back to you as to whether or not there have been other transfers that have transferred withdrawn lands to project beneficiaries.

Mrs. NAPOLITANO. Thank you. And I will wait for the next round because I do have another one. Thank you, sir.

Mr. OSBORNE. Any further questions, Mr. Gibbons, Mr. Pearce? Mrs. Napolitano?

Mrs. NAPOLITANO. I would like to make mention that apparently back in 1996, the Bureau issued guidance to managers on how the Agency should address withdrawn lands when conveying title of Bureau of Reclamation projects. These documents have not been revised or rescinded. Among other things, the framework and policy guidance say that, number one, the Federal Treasury and thereby the taxpayers' financial interests must be protected. And second, the Federal Government will be compensated for any fee, title interest in withdrawn lands which are transferred. And I thought I would add that to the record.

There is also an area of—section of withdrawing the lands, which refers to 13.4 acres of land in the Minidoka Irrigation District boundaries, also had several problems that were identified. They were withdrawn from public domain. And for all this and all the Reclamation projects, the value was never included in the allocation of costs to be repaid by the beneficiaries. Consequently the irrigation district has not made any repayment or financial contribution to the Federal Government for these lands. Indeed, these withdrawn lands are jointly used as gravel resource for BID and MID.

And third, these withdrawn lands provide access to the Snake River, et cetera.

So I am wanting you to make a comment, please.

Mr. LIMBAUGH. Well, as far as the policy goes, I think we are consistent with the policy in our testimony. As far as the Burley Irrigation District, I don't think those lands were—were they transferred by Congress?

Mrs. NAPOLITANO. I have just been presented with this. I really hadn't had a chance to read this. Yes. They were transferred, and they did pay for the withdrawn lands.

Mr. LIMBAUGH. That seems to be consistent with the policy.

Mrs. NAPOLITANO. This is the Senate bill 537.

Mr. LIMBAUGH. Your comments are correct. I have a copy of the policy guidance, and I don't think our testimony deviates from that.

Mrs. NAPOLITANO. I did want to enter it into the record. Thank you.

Mr. OSBORNE. I thank you, Mr. Limbaugh, for your testimony and Members for their questions. And members of the Subcommittee may have some additional questions for the witness, and we will ask you to respond to these in writing.

Mr. OSBORNE. And at this time I would like to now recognize the second panel of witnesses.

Mr. LIMBAUGH. Thank you, Mr. Chairman.

Mr. OSBORNE. I would like to thank the members of the second panel. I would like to introduce the Honorable Tom Brian, Chairman of the Washington County Board of Commissioners and Chairman of the Clean Water Services Board of Directors, testifying on Senate 625; Mr. Ernest Schank, President of the Board of Directors, Truckee-Carson Irrigation District, testifying on behalf H.R. 2831; Ms. Aileen Roder, Program Director, Taxpayers for Common Sense, testifying for H.R. 2831; and Mr. Jim Hill, Water Reclamation Manager, City of Medford, Oregon, testifying on H.R. 3210.

**STATEMENT OF THE HONORABLE TOM BRIAN, CHAIRMAN,
WASHINGTON COUNTY BOARD OF COMMISSIONERS AND
CLEAN WATER SERVICES BOARD OF DIRECTORS**

Mr. OSBORNE. I now recognize Mr. Brian to testify for 5 minutes. The timing lights indicate when your time is concluded. All witness statements will be submitted for the hearing record.

Mr. BRIAN. Thank you, Chairman Osborne and members of the Subcommittee. I appreciate this opportunity to testify on behalf of S. 625, a bill to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Washington County, Oregon.

My name is Tom Brian. I am Chairman of the Washington County Board of Commissioners, and Chairman of the Clean Water Services Board of Directors. This testimony is submitted on behalf of all of the members of the Tualatin Basin Water Supply Partnership, a list of whom is provided in my written testimony.

I would first like to thank our Congressman, David Wu, for his leadership in this matter; and I would also like to thank my friend and former colleague in the State Legislature, Mr. Walden, for his assistance on this and other matters important to us. Together, we are attempting to prevent a serious water shortage that could become critical in just a few years.

The Tualatin Basin has increasing demands for municipal and industrial water, agricultural water, and water for environmental applications. With Mr. Walden's and Mr. Wu's efforts and your support, we can avoid the unfortunate shortages impacting other basins in the Northwest.

Washington County, Oregon, has a population exceeding 480,000. As Mr. Wu mentioned, it is growing rapidly. We have over 220,000 jobs. We are the home of Intel's largest research and most advanced research center, as well as NEC, Tektronix, Lattice, and many other businesses. Washington County is considered by many to be the economic engine of our State, with these high tech industries, and we worked very cooperatively to help them get situated there; but they moved to Oregon, in part, because of the clean and reliable and plentiful water because that is what they need to do their business. And, of course, along with them coming to Oregon, the population growth has followed.

Washington County is also very proud of its agricultural community. The Tualatin River watershed has a large agricultural industry, over 27,000 acres of irrigated farmland; and also a rapidly

growing nursery stock and specialty crop industry continues to expand.

Efforts must also be made to improve the environmental health of the watershed to ensure its compliance with the Clean Water Act. Two fish species in the Tualatin River, the spring chinook and the winter steelhead, are listed as threatened under the Endangered Species Act. The restoration of fish habitat and maintenance of a healthy river will require more water. Expanding the Westside water source is also critical to the reliability and security of the Portland metropolitan region water supply system.

With all of these competing needs, it is no wonder there is not enough water to go around. As municipal, industrial, agricultural, and environmental water demands grow, water suppliers will be unable to meet public water supply needs. It is estimated that the demand for water in the Tualatin Basin, after factoring for a strong conservation effort, is in excess of 50,000 acre-feet per year.

The water resource agencies in the cities in Washington County and the Bureau of Reclamation have been working together collaboratively to meet the long-term water resource needs for all of these competing interests. In fact, the partnership has developed an integrated water resource management strategy that has resulted in the Tualatin Basin Water Supply Feasibility Study. The study will examine impacts and benefits of a range of source options for 50,000 acre-feet of needed water and select a preferred alternative as part of the EIS process.

It is estimated the EIS and planning report for the Tualatin Basin Water Supply Project will cost \$6.87 million. Local partners are funding the majority, \$3.8 million. We are requesting \$2.9 million from the Bureau of Reclamation. The EIS and study will allow the partners to determine a final best course of action to meet the needs of the basin. As you have heard, options include any combination of expanding the face of the Scoggins Dam and therefore enlarging Hagg Lake, transfer of river water from Willamette River for irrigation, and freeing up current impounded water and so forth.

The EIS and study include an extensive public involvement process involving property owners, user groups, environmental advocate groups and others.

To keep this important project moving forward, authorization for the Bureau of Reclamation and Federal funding in the amount of \$2.9 million in Fiscal Year 2004 is critical, and we seek the Committee's approval of S. 625.

Mr. Chairman, we thank you for this opportunity to submit our testimony on this matter. We have provided additional written testimony. We have provided numerous letters of support, both from the partners of this study as well as the City of Portland, a number of individual businesses and a number of business organizations. So again, we thank you for this opportunity to submit testimony on this very important matter to the Tualatin Basin of Oregon and the Portland region.

I am available to the Committee for questioning.
[The prepared statement of Mr. Brian follows:]

**Statement of Tom Brian, Chairman, Board of Directors,
Clean Water Services**

Chairman Calvert, thank you for the opportunity to provide you with testimony in support of S. 625, a bill to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Washington County, Oregon. My name is Tom Brian, Chairman of the Washington County Board of Commissioners and Chairman of Clean Water Services' Board of Directors. This testimony is submitted on behalf of Washington County, Clean Water Services, the Cities of Banks, Beaverton, Cornelius, Forest Grove, Hillsboro, North Plains, Sherwood, Tigard and Tualatin, as well as the Tualatin Valley Water District. All these are collectively known as the Tualatin Basin Water Supply Partnership.

I would first like to take this opportunity to thank our Congressman, David Wu, for his leadership in this matter and on other matters of importance to Washington County and our citizens. I would like to also thank my friend and former colleague in our State Legislature, Mr. Greg Walden, a Subcommittee Member, for his assistance with this legislation and for his continuing service to all of Oregon. Together, we are attempting to prevent serious water shortages that could become critical in just a few years. The Tualatin Basin has an increasing demand for Municipal and Industrial water, Agricultural water and water for Environmental applications. With Mr. Walden's and Mr. Wu's efforts and your support, we can avoid the unfortunate shortages impacting other basins in the northwest.

Washington County, Oregon, has a population exceeding 480,000 people. Since 1987, the number of jobs in the County has doubled to over 220,000. We are the fastest-growing county in Oregon and considered by many the economic engine that drives the rest of the State. Washington County is home to the "Silicon Forest," where companies such as Intel, NEC, Tektronix and Lattice have a major presence. These high-tech industries and other businesses need clean, reliable and plentiful water; that is one of the reasons they came to Oregon and why the population growth has followed.

Washington County and the Tualatin River Watershed also have a large agriculture industry (approximately 27,000 acres of irrigated farmland) and a rapidly growing nursery stock, and the specialty crop industry continues to expand. With \$214 million in gross farm sales, Washington County recently moved from being ranked fifth to third in the State. The nursery industry has become Oregon's number one agricultural commodity, located in large part in Washington County. This industry, too, is a large user of water.

Investments in advanced wastewater treatment during the past three decades have resulted in the Tualatin River being healthier than it has been in generations. However, it still remains identified as "water quality limited" according to the Clean Water Act. Efforts must be made now to improve the environmental health of the watershed to ensure its compliance with Clean Water Act standards and its future economic vitality. Two fish species on the Tualatin River, Spring Chinook and winter steelhead are listed as threatened under the Endangered Species Act. Restoration of fish habitat will require more water. Expanding the Westside water source will provide critical stream flow augmentation and significantly, it is also critical to the reliability and security of the Portland Metropolitan Region water supply system.

The Tualatin River, fed by a network of creeks that drain over 700 square miles, is Washington County's only river. Nearly 80 miles in length, the Tualatin River begins in the Coast Range and meanders through forest, farm and city to its confluence with the Willamette River at the City of West Linn, Oregon. The watershed does not have a snow pack to sustain summer river flows.

With all these competing needs for water, it is no wonder that there is not enough to go around. As municipal, industrial, agricultural and environmental water demands grow, water suppliers will be unable to meet public water supply needs unless additional sources are available by 2012. A solution must be found. The Tualatin Basin Water Supply Partnership has developed an Integrated Water Resources Management strategy as a framework to address water resources management within the watershed. It is estimated that the demand for water in the Tualatin Basin, after factoring for a strong conservation effort, will double by the year 2050. This means there is the need for an additional 50,000 acre feet of water per year.

Scoggins Dam is located on Scoggins Creek, a Tualatin River tributary. It was created in 1975 by the Bureau of Reclamation and the dam creates Hagg Lake, an impoundment. Washington County, in partnership with the Bureau of Reclamation, operates a County park at the lake. Water from Hagg Lake is currently used for

river flow augmentation, municipal/industrial water supply, and agricultural irrigation needs in the Tualatin River watershed.

The water resource agencies in Washington County and the Bureau of Reclamation have been working collaboratively to meet the long-term water resource needs for all the competing interests. In fact, the partnership has developed an integrated water resource management strategy that has resulted in the Tualatin Basin Water Supply Feasibility Study (WSFS) and the partners and the Bureau of Reclamation signed a Memorandum of Agreement on March 12, 2002, defining the roles and commitments of the parties in conducting the study. The WSFS will study the impacts and benefits of a range of source options for 50,000 acre feet of needed water and select a preferred alternative as part of an Environmental Impact Study (EIS).

It is estimated that the EIS/Planning Report for the Tualatin Basin Water Supply Project will cost \$6.87 million. Local partners are funding the majority, \$3.8 million. We are requesting \$2.9 million from the Bureau of Reclamation. The Bureau has sought small amounts of federal funds for the past number of years, but we are at the stage that requires more substantial investment. The EIS and Study will allow the partners to determine a final best course of action to meet the needs of the Basin. Options include, for example, any combination of: expansion of Hagg Lake by raising Scoggins Dam 20 to 40 feet; transfer of Willamette River water for irrigation freeing up current impounded water; expanded aquifer storage systems; increased conservation; and, expanded reuse of cleaned wastewater for irrigation. The EIS and Study includes an extensive public involvement process involving property owners, user groups, environmental advocate groups and others.

It is important to the region to continue the timetable and work schedule set forth by the project partners. This includes completion of the Study by December 2004. Based on the Study's findings, we anticipate beginning the permitting requirements in January 2005, with final design in January 2006 and construction in January 2007. We hope to complete construction of the selected alternative in June 2010. While this is an ambitious schedule, it is achievable and is necessary to meet the projected water needs of this diverse and rapidly growing community.

Authorization for the Bureau of Reclamation and federal funding in the amount of \$2.9 million in Fiscal Year 2004 is critical, and we seek your Committee's approval of S. 625.

The Tualatin Basin Water Supply Feasibility Study enjoys strong support from a wide range of municipal, industrial, business and agricultural stakeholders who understand the important role that meeting the long-term water needs of Washington County plays in maintaining the continued health of our environment and economy in the region. Key supporters of this project include:

- Clean Water Services;
- City of Beaverton;
- City of Hillsboro;
- City of Tigard;
- City of Tualatin;
- City of Forest Grove;
- City of North Plains;
- Tualatin Valley Water District;
- Tualatin Valley Irrigation District;
- Intel Corporation;
- Westside Economic Alliance;
- Portland Business Alliance;
- City of Portland; and
- Greater Hillsboro Chamber of Commerce.

Thank you again for this opportunity to submit testimony on this important matter that is so important to the Tualatin Basin of Oregon. We have enjoyed a great working relationship with our partners at Scoggins Dam, the Bureau of Reclamation, and we expect this relationship to continue as we move forward. We at Clean Water Services are available at anytime if you, your staff or Committee members would like further information.

Mr. OSBORNE. Mr. Schank.

STATEMENT OF ERNEST C. SCHANK, PRESIDENT, BOARD OF DIRECTORS, TRUCKEE-CARSON IRRIGATION DISTRICT

Mr. SCHANK. Mr. Chairman, members of the Subcommittee, I am Ernest Schank, President of the Board of Directors of the Truckee-

Carson Irrigation District, located in Fallon, Nevada. My day job is the owner and operator of the Newlands Project Farm, which has been in the family for four generations. I am here to testify in support of H.R. 2831.

I would like to express my appreciation to Congressman Jim Gibbons of the Second Congressional District of Nevada in helping draft and introduce this proposed legislation and also for his testimony today, urging the support of this Subcommittee—his help is greatly appreciated—and also Commissioner Keys and his staff from the Bureau of Reclamation, who have been extremely cooperative and helpful in developing and implementing the memorandum of agreement between the Department of Interior and the district for the conveyance of the Newlands Project Headquarters and Maintenance Yards land.

I have submitted written testimony to the Committee and ask it be included in the record. I will cover some specific points for the Committee in justifying the transfer of this land to the Truckee-Carson Irrigation District.

This title transfer proposal is narrowly tailored to include 35.6 acres of a 40-acre parcel, which currently houses the office and maintenance yard of the TCID, and should not be viewed as a project title transfer. In 1902, after the Reclamation Act was passed and before the Newlands Project was authorized in 1903, this 40-acre parcel was withdrawn from the public domain for reclamation purposes in the Newlands Project. That was well over 100 years ago.

Homesteaders to the project to those days would choose a parcel of withdrawn land, purchase a water right by contract from the U.S. Government, build improvements and develop the land, and then were issued a patent by the U.S. lands office.

In 1918, TCID was organized as a not-for-profit, as a local governmental agency organized under the laws of the State of Nevada. Its purpose was to bond and build a drainage system which the reclamation system declined to construct.

In 1926, the TCID entered into a repayment contract with the U.S. Government to take over operation and maintenance of the Newlands Project. At that time, the TCID moved into an office and maintenance yard on property acquired by the reclamation service for that purpose. Those properties are now within the city limits of Fallon. The cost of these properties was included as a project cost that has since been repaid by the TCID. Currently, the Fallon freight yard and the Fallon post office occupy these two properties.

By 1972, the TCID had outgrown these original facilities, and in 1975 moved to the 40-acre parcel that is the subject of this title transfer proposal. The land was available because it was not suitable for growing crops and was, therefore, never homesteaded and patented, as were the acres that were irrigable.

All of the improvements to this property have been made by TCID. The U.S. Government did not contribute to these improvements.

In the early 1990s, the Bureau installed the field office tying into our improvements. It occupies 4.4 of the 40 acres and would remain with the U.S. Government for continued Bureau field office operations.

By 1996, the TCID had repaid the original construction charges designated for repayment. Thus, the Newlands Project is considered to be a paid-out project under reclamation law.

In 1996, the TCID entered into an operation and maintenance contract with Interior. Because of new mandates regarding water measurements and water control, TCID needs to expand our facilities. For every 20 measuring devices, we have to add the equivalent of one employee to take care of the added operation and maintenance involved. This transfer is necessary so that TCID can obtain financing for the necessary improvements, the first of which will be a new office building.

There has been much discussion about the fair market value. As Mr. Limbaugh mentioned, each transfer is unique; ours is unique, given the history. As Mr. Gibbons has stated, we do not believe we should have to pay for this property twice. We believe the 35.6 acres should be transferred without further cost to the district.

Over the course of history of the project, a number of land transactions have resulted in losses to TCID, including, in the 1980s, a 64-acre tract of property, acquired by the U.S. to construct a dam at Lake Tahoe and to control the level of the lake, which was repaid by TCID, was taken and transferred to the Forest Service.

The original office and maintenance yard also acquired property which were fully paid for by TCID. One property has been transferred to the United States Postal Service, the other is in the process of being transferred to the City of Fallon.

The 1990 Settlement Act, Public Law 101-618, took 28,000 acres of grazing land known as the Carson Lake Community Pasture from TCID's control and management and authorized transfer to the State of Nevada. That transfer is currently in the process of being implemented without compensation to the United States.

In 1999, AB-380, a Nevada law implementing a water settlement among Federal, State and local agencies, was enacted to retire Newlands water rights for the benefit of Pyramid Lake. TCID was supposed to receive compensation for operation and maintenance to make TCID whole. TCID has suffered losses as a result of the retirement of these water rights, and has not yet received the benefits that they were promised.

Since 1926, TCID has provided a service for the public by maintaining and operating the Newlands Project and delivering water in accordance with existing contracts at a minimal cost to the U.S. Government. It is important to emphasize that this land, this withdrawn land, will continue to be used for a particular public purpose, that is, the operation and maintenance of a Federal water project.

In conclusion, the Governor of the State of Nevada has written a letter and, as Congressman Gibbons indicated, we have some other letters from some important elected officials that we would like to be included in the record.



OFFICE OF THE GOVERNOR

KENNY C. GUINN
Governor

July 11, 2003

Congressman Jim Gibbons
100 Cannon House Office Building
Washington, DC 20515

Dear Congressman Gibbons:

I understand that the Truckee-Carson Irrigation District (TCID) is seeking to obtain title to land in Fallon presently occupied by the TCID's headquarters and maintenance yard. Transfer from federal ownership would allow the TCID to make future investments in facilities already owned and maintained by the TCID.

The Bureau of Reclamation has been supportive of TCID's request to convey this property. TCID has my wholehearted support in its efforts to secure transfer of this land. I would therefore appreciate any assistance you can give TCID in facilitating this transfer through federal legislation.

Sincerely,

A handwritten signature in cursive script that reads "Kenny C. Guinn".

KENNY C. GUINN
GOVERNOR



Office of the Churchill County Manager

October 10, 2003

The Honorable Ken Calvert, Chairman
 Subcommittee on Water and Power
 U.S. House of Representatives
 Committee on Resources
 Washington, D.C. 20515

Dear Congressman Calvert:

Congressman Gibbons recently introduced H. R. 2831, the Newlands Project Headquarters and Maintenance Yard Facility Transfer Act. This bill authorizes the conveyance of the Newlands Project Headquarters and Maintenance Yard Facility from the Bureau of Reclamation to the Truckee-Carson Irrigation District with offices located in Churchill County, Nevada.

It is our understanding that this bill is to be heard before your Committee on Wednesday, October 15, 2003. By way of this letter we wish to express our support for the Truckee-Carson Irrigation District in its effort to secure transfer of this land at no cost to the District. The land was set aside for the Newlands Project by the United States upon a determination that it was not good land for growing crops. Eventually this parcel of land was provided to the District for use as a Headquarters and Maintenance Yard Facility. The District has made significant improvements on the land and the transfer of the land would allow the District to add needed office space.

The District is an important local government agency and provides many benefits to the community in addition to providing a service to water users and employing a local workforce. Therefore, we encourage you to render assistance to the District in facilitating this transfer through your Committee. Your efforts on behalf of the District and our community are greatly appreciated.

Sincerely,



BURTON P. SELINDER
 County Manager

BPS:wm
 cc: Truckee-Carson Irrigation District
 Board of Churchill County Commissioners

CITY OF FALLON
OFFICE OF THE
MAYOR

KEN TEDFORD, JR
MAYOR

October 9, 2003

Honorable Ken Calvert, Chairman
Subcommittee on Water and Power
U.S. House of Representatives
Committee on Resources
Washington, D.C. 20515

Dear Congressman Calvert:

Congressman Gibbons introduced H.R. 2831, the Newlands Project Headquarters and Maintenance Yard Facility Transfer Act. This bill would authorize the conveyance of the Newlands Projects Headquarters and Maintenance Yard Facility from the Bureau of Reclamation to the Truckee-Carson Irrigation District.

It is my understanding that this bill is to be heard before your Committee on Wednesday, October 15, 2003. The Truckee-Carson Irrigation District has my wholehearted support in its effort to secure transfer of this land at no cost to the District. The land was set aside by the United States for the Newlands Project and was not good land for growing crops. It eventually was provided to the District for use as a Headquarters and Maintenance Yard Facility. All improvements on the land have been made by the District and the transfer of the land would allow the District to add needed office space.

The District is an important local government agency and provides many benefits to the community in addition to providing a service to water users and employing a local work force. Therefore, any assistance you can render to the District in facilitating this transfer through your Committee is greatly appreciated.

Regards,



Ken Tedford, Jr.
Mayor

KT/bas

MIKE MCGINNESS
SENATOR
General Solicitor



COMMITTEES
Children
Education
Health
Industry
Natural Resources

Nevada Senate
Carson City

DISTRICT OFFICE:
779 W. Main Road
Fallon, Nevada 89405-7943
(775) 423-3869

LEGISLATIVE BUILDING:
405 S. Carson Street
Carson City, Nevada 89601-4707
Office: (775) 684-1482 or 684-1489
Fax: (775) 684-0122

October 10, 2003

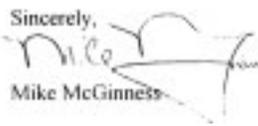
Honorable Ken Calvert, Chairman
Subcommittee on Water and Power
U.S. House of Representatives
Committee on Resources
Washington, D.C. 20515

Dear Congressman Calvert:

May this letter serve as support for H.R. 2831, the bill introduced by Congressman Gibbons to authorize the conveyance of the Newlands Project Headquarters and Maintenance Yard Facility from the Bureau of Reclamation to the Truckee-Carson Irrigation District in Fallon, Nevada.

The Truckee-Carson Irrigation District has my support in the effort to secure transfer of this land at no cost to the district. The property in question was set aside by the United States for the Newlands Project and has been used as the Headquarters and Maintenance Facility. All improvements on the land have been made by the Truckee-Carson Irrigation District. The ultimate transfer of the land would allow the district to add needed office space.

The Truckee-Carson Irrigation District is an important local government agency and provides many benefits to the community in addition to providing a service to water users and employs a local work force. Any assistance from your office and through committee action would be greatly appreciated.

Sincerely,

Mike McGinness

T.J. "TOM" GRADY
ASSEMBLYMAN
District No. 38

COMMITTEES:
Member
Elections, Pensions, and Ethics
Government Affairs
Tourism



State of Nevada
Assembly

Twenty-Second Session

October 8, 2003

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Honorable Ken Calvert, Chairman
Subcommittee on Water and Power
U. S. House of Representatives
Committee on Resources
Washington, D. C. 20515

Dear Congressman Calvert:

As you know, Congressman Gibbons introduced H. R. 2831, the Newlands Project Headquarters and Maintenance Yard Facility Transfer Act. This bill would authorize the conveyance of the Newlands Project Headquarters and Maintenance Yard Facility from the Bureau of Reclamation to the Truckee-Carson Irrigation District.

It is my understanding that this bill is to be heard before your Committee on Wednesday, October 15, 2003. The Truckee-Carson Irrigation District has my wholehearted support in its effort to secure transfer of this land at no cost to the District. The land was set aside by the United States for the Newlands Project and was not good land for growing crops. It eventually was provided to the District for use as a Headquarters and Maintenance Yard Facility. All improvements on the land have been made by the District and the transfer of the land would allow the District to add needed office space.

The District is an important local government agency and provides many benefits to the community in addition to providing a service to water users and employing a local work force. Therefore, any assistance you can render to the District in facilitating this transfer through your Committee, is greatly appreciated.

Sincerely,

Mr. SCHANK. I thank you for allowing me to testify and to appear before your Committee today.

Mr. Chairman, TCID will commit to address any issues that might be raised in the legislative process, and I would be pleased to answer any questions that the panel may have of me.

Mr. OSBORNE. Thank you, Mr. Schank.

[The prepared statement of Mr. Schank follows:]

**Testimony of Ernest C. Schank, President of the Board of Directors,
Truckee-Carson Irrigation District, on H.R. 2831**

Mr. Chairman, Members of the Subcommittee, I am Ernest C. Schank, President of the Board of Directors of the Truckee-Carson Irrigation District (TCID) in Nevada. I am here to testify in support of H.R. 2831.

This legislation would require the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the TCID. This title transfer is narrowly tailored to only transfer ownership of federal land currently being used by the TCID for an office and maintenance yard facility.

We would like to thank Congressman Gibbons for introducing this legislation to make this title transfer possible. We also would like to thank Commissioner Keys and the Bureau of Reclamation (BOR) for working cooperatively with us on this proposal.

The Newlands Project, one of the first five Reclamation projects, was authorized on March 14, 1903, and provides for irrigation and other purposes in the lower Carson River Basin near Fallon, in western Nevada. Construction began in 1903 on the first project works, the Derby Diversion Dam and the Truckee Canal. The TCID was created under the laws of the State of Nevada in 1918 as a non-profit governmental agency to undertake the building of a drainage system and begin operating and maintaining the project works beginning in 1926 under contract with the United States.

In 1926, the TCID entered into a repayment contract with the United States Government. The TCID moved into the office and maintenance yard previously occupied by the BOR. These properties were held in fee title, and the cost of those assets was repaid by the water rights owners of the TCID although a title was never transferred from the U.S.

By 1975, the TCID had outgrown those original facilities, so we moved to a 40-acre parcel of land withdrawn for the TCID purposes in 1903. The TCID built the office and maintenance shop facility on this land. The land was not irrigable because of the high clay and alkaline content of the soil. It was, however, suitable for an office and maintenance yard at one location whereas the previous facilities were at two separate locations. The lot where the office had been was eventually transferred by the Department of the Interior (DOI) to the United States Postal Service.

This parcel and all of the improvements make up the hub of operation and maintenance of the Newlands Reclamation Project. The TCID has rented the 40 acres for a nominal fee from the BOR. The value of the land was increased significantly by the improvements made by the TCID.

In 1996, the TCID entered into an operation and maintenance contract with the DOI. A part of that contract requires an aggressive water measurement program. This modernization in water measurement at each turnout and the increased automation of water control in the many canals and laterals require more employees, more computer and electronics space, and more storage space for records.

In 1996, the BOR certified that the TCID had repaid the U.S. Government the original construction charges designated for repayment. At this time, the Newlands Project is considered to be a "paid out project" under Reclamation law. Although the original construction charges and other costs to the U.S. have been repaid, no title to any of the Newlands Project facilities have been transferred to the TCID.

Although the U.S. Government has leased the land to the TCID for a nominal value, the lease will eventually expire and the TCID would like to own the land to make permanent improvements to existing facilities that have become outdated. The transfer of approximately 35 acres of a 40-acre parcel of federal land is to allow the TCID to make permanent improvements on the land for continued operation and maintenance of the Newlands Project. The remaining approximately five acres will be reserved for a local Bureau of Reclamation field office. The transfer is necessary so that financing can be obtained for the improvements—the first of which will be a new office building. The TCID has made all previous improvements to this land. In order to secure the necessary financing to make the improvements we need to own the ground upon which the improvements will stand. The TCID has outgrown its office and shop and needs to expand.

The legislation would direct the transfer pursuant to a memorandum of agreement we have entered into with the Bureau. The conveyance would not occur until the National Environmental Policy Act has been fully complied with. Moreover, any necessary environmental site assessments, remediation or removal would have to be completed.

The Governor of Nevada supports this title transfer. I would like to ask that the Subcommittee include the attached letter from Governor Guinn, dated July 11, 2002, in the record of this hearing.

In closing, I want to emphasize that the TCID provides a service to the public by maintaining and operating the Newlands Reclamation Project and delivering water in accordance with contracts previously entered into between the United States and the water rights owners of the Project. We provide jobs and those employed thus provide assistance to the Counties, the State of Nevada and the U.S. Government as taxpayers.

I am not aware of any opposition from any interested entity within the State of Nevada to this title transfer. Nevertheless, we will commit to addressing any issues that are raised as this legislation moves forward.

This concludes my remarks. Thank you for allowing me to appear before your Subcommittee today. I would be pleased to answer any questions you might have.

Mr. OSBORNE. Ms. Roder.

**STATEMENT OF AILEEN RODER, PROGRAM DIRECTOR,
TAXPAYERS FOR COMMON SENSE**

Ms. RODER. Good afternoon, Chairman Osborne and other distinguished members of the Subcommittee.

I am Aileen Roder, Program Director at Taxpayers for Common Sense (TCS), a national, nonpartisan budget watchdog group. Thank you for inviting me to testify today regarding H.R. 2831, which would authorize the Secretary of the Interior to transfer the Newlands Project headquarters and maintenance yard facility to the Truckee-Carson Irrigation District.

Taxpayers for Common Sense strongly opposes H.R. 2831 as written. This bill would transfer title to approximately 35.6 acres of withdrawn public land with no compensation to Federal taxpayers. These lands were withdrawn from the public domain for use in the Newlands Project. As such, their value was never included in the allocation of cost to be repaid by project beneficiaries.

Under fair terms and conditions, both U.S. taxpayers and local interests can benefit from privatizing certain Federal assets. However, TCS opposes giving away Federal assets to narrow local interests at the expense of the American people.

In its 1997 testimony regarding similar legislation which conveyed certain facilities in the Minidoka Project to the Burley Irrigation District, then-Bureau of Reclamation Commissioner Martinez stated that in land transfer negotiations, the Federal Treasury and, thereby, the taxpayers' financial interests must be protected. As part of that bill, 13.4 acres of withdrawn lands were to be given to the Burley Irrigation District without compensation. As a result, Commissioner Martinez urged, "Reclamation opposes these provisions. These assets should be accounted for in the valuation process in order to appropriately protect the financial interests of the Treasury."

Taxpayers for Common Sense has been concerned with these types of land transfers for years. In 1998, we testified on the Minidoka Project transfer. Then, as now, TCS urged that taxpayers deserve a fair return on the public's investment.

Regrettably, the Federal land and transfer exchange system is rife with problems and controversy. In June 2000, the General Accounting Office documented numerous cases in which the Federal Government did not ensure that the land being exchanged was appropriately valued or that exchanges served the public interest or met other exchange requirements. H.R. 2831 expands the problems associated with the Federal land exchange and transfer system by

failing to require any payment whatsoever for the public lands being transferred to the Truckee-Carson Irrigation District.

When selling public assets, the Federal Government should follow two guiding principles:

One, make sure it is in the taxpayers' best interests to sell the projects. There may be cases where the best Federal action is to hold on to assets; for example, it may be appropriate for the Federal Government to maintain assets that are important for or play a role in relationships between States or treaties with other nations.

And, two, get the best value for the asset. If the Federal Government does decide to transfer water projects to non-Federal ownership, taxpayers deserve a fair price for those projects.

In conclusion, H.R. 2831 is important not just for the assets it would transfer, but also for the example it would set for the hundreds of other Federal water projects that might be transferred to non-Federal ownership in the future. When considering this and other asset transfers, we urge Congress to be cognizant of its fiduciary responsibility to American taxpayers. Upon the sale of public assets, the United States should be in no worse a financial position than if the project continues to be under the control of the U.S.

Some may regard this land transfer as too small to be worthy of debate. However, as the Federal Government faces a deficit of nearly \$500 billion in Fiscal Year 2004, everything counts. If Truckee-Carson Irrigation District wants to complete a land transfer, it should pay the fair market value of this land as determined by an independent appraisal.

Thank you again for the opportunity to testify today. I will be happy to answer any questions you might have.

Mr. OSBORNE. Thank you, Ms. Roder.

[The prepared statement of Ms. Roder follows:]

**Statement of Aileen Roder, Program Director,
Taxpayers for Common Sense, on H.R. 2831**

Good afternoon, Chairman Calvert, Congresswoman Napolitano, and other distinguished members of the Subcommittee. I am Aileen Roder, Program Director at Taxpayers for Common Sense (TCS), a national, nonpartisan budget watchdog group. I would like to thank you for inviting me to testify at this hearing regarding H.R. 2831, which would authorize the Secretary of the Interior to transfer the Newlands Project headquarters and maintenance yard facility to the Truckee-Carson Irrigation District.

Taxpayers for Common Sense strongly opposes H.R. 2831 as written. This bill, introduced in July by Congressman Jim Gibbons (R-NV), would transfer title to approximately 35.6 acres of withdrawn public land in the Newlands Project, a federal water project, to the Truckee-Carson Irrigation District with no compensation to federal taxpayers.

According to the United States Code:

The term "withdrawal" means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472) from one department, bureau or agency to another department, bureau or agency.¹

The lands that H.R. 2831 would transfer to Truckee-Carson Irrigation District were withdrawn from the public domain for use in the Newlands Project and, as

¹ 43 U.S.C. 1702(j).

such, the value of these lands was never included in the allocation of costs to be repaid by project beneficiaries.

Instead, H.R. 2831 unfairly favors the Truckee-Carson Irrigation District, which seeks to obtain title to lands in the Bureau of Reclamation's Newlands Project free-of-charge. TCS believes that the water project in question is a taxpayer asset and should be treated accordingly.

Taxpayers for Common Sense favors privatizing or devolving certain federal assets to state or local government in appropriate circumstances. Under fair terms and conditions, both U.S. taxpayers and local interests can benefit from such transfers. However, TCS opposes giving away federal assets to narrow local interests at the expense of the people of the United States. Furthermore, there are some circumstances where transfer of an asset does not make sense.

Transfers Should Provide a Fair Return to the Taxpayers' Investment

Since the release of its 1995 Framework for the Transfer of Title Bureau of Reclamation Projects, the Bureau of Reclamation has undertaken "a program to transfer title of facilities that could be efficiently and effectively managed by non-Federal entities and that are not identified as having national importance."²

In his 1997 testimony regarding S. 538, legislation to convey certain facilities of the Minidoka Project to the Burley Irrigation District, former Bureau of Reclamation Commissioner Eluid Martinez stated that in land transfer negotiations, "The Federal Treasury and thereby the taxpayers" financial interest, must be protected ... "³ As part of S. 538, 13.4 acres of withdrawn lands were to be given to the Burley Irrigation District without compensation. As a result, Commissioner Martinez urged, "Reclamation opposes these provisions. These assets should be accounted for in the valuation process in order to appropriately protect the financial interests of the Treasury."⁴ I have attached Commissioner Martinez's testimony for the record.⁵

In fact, Ralph DeGennaro testified on behalf of Taxpayers for Common Sense before this Subcommittee in 1998 regarding H.R. 1282, the House version of S. 538. In his testimony, Mr. DeGennaro urged this Subcommittee that taxpayers deserve a fair return on the public's investment and should receive a fair price for projects.

Regrettably, the federal land exchange and transfer system is rife with problems and controversy. The General Accounting Office (GAO) has documented numerous cases in which the federal government "did not ensure that the land being exchanged was appropriately valued or that exchanges served the public interest or met other exchange requirements."⁶ This GAO report has been attached to my testimony.

H.R. 2831 takes the problems associated with the federal land exchange and transfer system a step further by failing to require any payment whatsoever for the public lands being transferred to the Truckee-Carson Irrigation District. This bill is yet another example of a land transfer that is fundamentally unfair to taxpayers. As in S. 538, the Truckee-Carson Irrigation District would pay nothing for title to public lands that rightfully belong to federal taxpayers.

Underlying these kind of asset-transfer bills is the faulty logic that irrigation districts are entitled to own federal assets if they pay out their repayment obligations. However, paid out does not mean paid for. Only where explicitly spelled out in the authorizing law do water users have a claim to the title of these federal projects. Throughout the West, irrigators have been paying for the costs of supplying the water, not for ownership of the project. In many instances, they have not even been paying for the full cost of the water.

According to the U.S. General Accounting Office⁷, since 1902 irrigators have managed to pay off less than one-third of the \$3.4 billion they owe for Reclamation

²Framework for the Transfer of Title Bureau of Reclamation Projects, Bureau of Reclamation, August 7, 1995.

³Testimony of Eluid Martinez, Commissioner, U.S. Bureau of Reclamation, regarding S. 538, May 15, 1997.

⁴Ibid.

⁵Commissioner Martinez's testimony is attached as part of the Energy and Natural Resources Committee Report 105-131, November 3, 1997.

⁶Land Exchanges Need to Reflect Appropriate Value and Serve the Public Interest (GAO/RCED-00-73).

⁷In 1996, the GAO released a report (Information on Allocation and Repayment of Costs of Constructing Water Projects GAO/RCED-96-109) that gave these figures for the Reclamation program as a whole from 1902 to 1994:

- \$21.8 billion has been invested in Reclamation
- \$16.9 of that total is reimbursable by irrigation, power and municipal and industrial users;
- \$7.1 billion of that total was allocated to irrigation. Of this:

47% (\$3.4 billion) was shifted to electric power users under Irrigation Assistance;

projects. Billions more in costs have been shifted to taxpayers and other users. Even where irrigation districts have paid out the heavily subsidized payment obligations they were assessed, they still have not paid for all the other costs associated with the project. Irrigators have not even paid the full costs of capital of their portion of the projects, benefitting from huge interest subsidies. The lands to be transferred under H.R. 2831 were withdrawn from the public domain without payment and therefore the value of the lands was never included in the allocation of costs to be repaid by project beneficiaries.

Unless otherwise stated in the law, irrigation districts have not paid for these federal assets. They can purchase them, but they are not entitled to a new taxpayer handout.

TCS wants the federal government to follow these principles when selling public assets:

1. Make sure it is in the taxpayers' best interest to sell the project. This means that there may be cases where the best government action is to hold on to its assets. For example, it may be appropriate for the federal government to maintain assets that are important for or have a role in relationships between states or in treaties with other nations.
2. Get the best value for the asset. If the federal government does decide to transfer water projects to non-federal ownership, taxpayers deserve a fair return on their investment and should receive a fair price for those projects. We strongly urge the use of the market to determine a fair price where other obligations allow it.

Conclusion

H.R. 2831 is important not just for the assets it would transfer, but also for the example it would set for the hundreds of other federal water projects that might be transferred to non-federal ownership in the future. When considering these and other asset transfers, we urge Congress to be cognizant of its fiduciary responsibility to American taxpayers. Upon the sale of public assets, the United States should be in no worse of a financial position than if the project continued to be held by the United States.

Taxpayer lands should not be transferred to non-federal entities without taxpayers receiving a return on the investment. This legislation would give the land away to the Truckee-Carson Irrigation District free-of-charge. If Truckee-Carson Irrigation District wants to complete a land transfer, then it should pay the fair market value of this land as determined by an independent appraisal.

Thank you again for opportunity to testify today and I would be happy to answer any questions you might have.

Mr. OSBORNE. Mr. Hill.

STATEMENT OF JIM HILL, WATER RECLAMATION MANAGER, CITY OF MEDFORD, OREGON

Mr. HILL. Mr. Chairman, my name is Jim Hill, and I am the Water Reclamation Division Administrator for the Medford Regional Water Reclamation Facility, which provides wastewater treatment for over 120,000 customers in the Bear Creek Valley in southern Oregon. I am also the Chair of the Water for Streams, Irrigation, and Economy, (WISE) Project Advisory Committee.

I want to thank you for the opportunity to come before this Subcommittee and testify on behalf of H.R. 3210, which would authorize the Bureau of Reclamation to be the lead agency on a water resource management feasibility study for the Little Butte and Bear Creek subbasins, also known as the WISE project.

I also thank Congressman Walden, who took time out of his busy schedule last December to visit our reclamation facility and become better acquainted with the WISE project. His sponsorship of this legislation is greatly appreciated.

5% was written off by Congress;
47% (\$3.4 billion) was to be paid by irrigators at no interest.

Water is the lifeblood of the Rogue River Basin, which extends 135 miles from the pristine beauty of Crater Lake westward to the Pacific Ocean. It is essential for fisheries, outdoor recreation, and agriculture in the Bear Creek Valley, all of which are key components of the economy of southern Oregon. In light of the Federal listing of the coho salmon as endangered and increasingly stringent water quality requirements affecting both municipalities and agriculture, a coalition of agricultural, municipal and environmental interests, working in conjunction with the Bureau of Reclamation, formed the WISE project. The goals of the WISE project, which also embody the study goals of the Bureau's February 2001 Bear Creek/Little Butte Creek Water Management Study Appraisal Report are to:

One, improve the effectiveness and efficiencies of the three irrigation districts in the Bear Creek Valley by improving existing canal systems, and increasing irrigation water supplies by reusing reclaimed effluent for irrigation; and

Two, increase stream flows and improve the habitat for salmonids in Bear Creek and Little Butte Creek, which are both coho-producing tributaries to the Rogue River.

The WISE project is a collaboration of virtually all parties in the Bear Creek and Little Butte Creek Subbasin with an interest in water resource management. Over 25 agencies and groups signed on in support of the WISE project. These groups include the Farm Bureau, cities through the valley, the irrigation districts, Oregon Water Trust, Headwaters, and the Sierra Club, to name a few. Irrigators, environmentalists, and municipalities all stand to benefit from the WISE project, and are active participants.

The participants also signed a memorandum of understanding and formed the WISE Project Advisory Committee. Even with this local support, there is need for Bureau authorization to oversee the project.

In another show of collaboration, a group of 25 growers, marketers, agency representatives and regulators from the Bear Creek Valley and also from the State of Oregon toured the Salinas Valley of California to look at their agricultural reuse project, which uses reclaimed effluent to grow the majority of the lettuce and artichokes consumed in the United States. These people are now firm supporters of the use of reclaimed effluent for agricultural irrigation and will be working with the WISE PAC.

The WISE Project Advisory Committee, working with the Bureau, has identified several possible project alternatives for further consideration. At this time we need to begin the NEPA process. Due to the complexity of the project and the history of Bureau involvement in the Rogue Basin Project, the Bureau needs to be designated as the lead agency.

Before the NEPA process can start, there needs to be filed a notice of intent by the lead agency. Therefore, it is necessary to authorize the Bureau at this time to work on the project. Local and state funding will be used to hire a contractor to clearly define the project scope and provide a detailed estimate of the cost to complete the feasibility study.

The City of Medford has secured a Congressionally earmarked grant, administered by EPA, to hire a contractor to work on the

feasibility study. Additional funds, if needed to complete the feasibility study, will come from a combination of additional grant funds and local support.

On behalf of the City of Medford and the WISE PAC, I want to again thank you for the opportunity to speak on behalf of this legislation.

[The prepared statement of Mr. Hill follows:]

**Statement of Jim Hill, Water Reclamation Division Administrator,
City of Medford, Oregon**

INTRODUCTION

Ladies and gentlemen, my name is Jim Hill, and I am the Water Reclamation Division (WRD) Administrator for the Medford Regional Water Reclamation Facility (RWRP), which provides wastewater treatment and disposal for a majority of the Bear Creek Valley in southern Oregon. I am also Chair of the Water for Streams, Irrigation and the Economy (WISE) Project Advisory Committee.

I want to thank you for the opportunity to speak before the Subcommittee on Water and Power of the Committee on Resources in support of H.R. 3210 (Walden), which would authorize the Secretary of the Interior, acting through the Bureau of Reclamation (BOR), to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasin in Oregon. This project has become known as the Water for Streams, Irrigation and the Economy (WISE) project. My testimony today will address the need for BOR authorization as lead agency to provide project review and oversight, a background of the WISE project to date, how local communities are collaborating to resolve water management issues, the impact of reuse on downstream water users, and the proposed funding mechanisms for the Feasibility Study and Environmental Impact Statement (FS/EIS).

NEED FOR BOR AUTHORIZATION

The BOR was the architect for the Talent Project, which provides irrigation water for the growers in the Bear Creek Valley utilizing flows from Bear Creek and Little Butte Creek, the reservoir system connected to the two streams, as well as over 200 miles of canals. To address impending water supply and regulatory issues, the WISE project proposes to modify and supplement the Talent Project system to improve stream flows and water quality, improve irrigation system efficiencies, and utilize reclaimed effluent as an additional irrigation water source. Due to the complexity of the project and history of BOR involvement in the Talent Project, the BOR needs to be authorized to act as lead agency at the very beginning of the WISE project. Their role will be to provide technical review of the FS/EIS process, and assure that NEPA compliance is achieved. Medford, in conjunction with the WISE project partners, will hire a consultant to prepare the FS/EIS in accordance with BOR oversight.

BACKGROUND

In September of 2000 the Medford Water Commission (MWC) prepared a scoping report for what was then called the Irrigation Point of Diversion (IPOD) project. The MWC withdraws water from the Rogue River just downstream from the confluence of Little Butte Creek. Little Butte Creek is prime coho salmon spawning habitat, but warms up during the summer because of withdrawals. The MWC is the regional provider of domestic water for the Bear Creek Valley. The intent of the IPOD project was to move the irrigation points of diversion from Little Butte Creek to the Rogue River downstream of the MWC treatment plant, thereby improving the water quality and quantity in Little Butte Creek for the salmon, while at the same time improving the water quality at the MWC treatment plant intake. The issue at hand was the cost of pumping the water back up into the irrigation system from the new point of diversion.

At the same time the IPOD project scoping report was being prepared, the Bureau of Reclamation (BOR) was completing the Bear Creek/Little Butte Creek Water Management Study Appraisal Report, which came out in February of 2001. The purpose of the study was to analyze water conservation measures that would reduce losses in the irrigation delivery systems in the Bear Creek subbasin. The saved water would then be redistributed to (1) improve irrigation deliveries, and (2) enhance streams flows and improve water quality and fish habitat in Bear Creek and Little Butte Creek. One of the recommended options involved piping the Hopkins Canal, which serves the Rogue River Valley Irrigation District (RRVID), and putting in a pumping station to pump both stream water and reclaimed effluent from the

Medford Regional Water Reclamation Facility (RWRF) into the pipeline. The RWRF reclaimed effluent was seen as an additional valuable source of irrigation water.

The IPOD Steering Committee (Committee) that had been formed earlier was then expanded to include the RWRF, irrigation districts, environmental groups, and any other concerned interests. At this time the Committee recognized that additional outside funding assistance would be required for the project to go ahead, and asked BOR if funding assistance would be possible. The BOR pointed out that a Feasibility Study and Environmental Impact Statement (FS/EIS) would be required for the entire BOR Talent Project before the BOR could provide funding assistance.

At this time it was noted that the IPOD scoping document and the BOR appraisal had very similar objectives. It was then decided to join forces, and letters of support for BOR participation in the IPOD project, signed by over thirty municipal, agricultural, and environmental interests, were sent to our Congressional delegation. The Committee then began identifying possible project alternatives to serve the entire BOR Talent Project area. Several preliminary alternatives were developed, all of which included the use of reclaimed effluent as a source of irrigation water. It was at this time that the IPOD project was first renamed the Little Butte/Bear Creek Water Management Project (LB/BC WMP), and then renamed again as the WISE project.

In the fall of 2001 the Medford City Council set as one of its goals support of agricultural reuse as a beneficial use of summer effluent from the RWRF. Due to impending temperature standards on the Rogue River, the RWRF will be faced with expensive effluent cooling or discontinued river discharge during the summer months. With the letter of support for the IPOD project, Medford was fortunate enough to obtain a VA/HUD Congressional earmark of \$894,000 for the project. The earmarked money will be administered as a grant by the EPA.

LOCAL COLLABORATION

The WISE project is a collaboration of virtually all parties in the Bear Creek and Little Butte subbasins with an interest in water resources management. As a follow up to the IPOD Congressional letter of support, a Memorandum of Support was circulated for signature. Over 40 agencies and groups signed on in support of the WISE project. These groups include the Farm Bureau, cities throughout the valley, the irrigation districts, Oregon Water Trust, Headwaters, the Cattleman's Association, and the Sierra Club, to name a few. Irrigators, environmentalists and municipalities all stand to benefit from the WISE project, and are active participants. The IPOD Steering Committee members also signed a Memorandum of Understanding and formed the WISE Project Advisory Committee (PAC). Even with this local support, though, there is a need for BOR authorization to oversee the project.

In another show of collaboration, a group of 24 key growers, marketers, agency representatives and regulators toured the Salinas Valley agricultural reuse project, which uses reclaimed effluent to grow a majority of the lettuce and artichokes consumed in the United States. They are now firm supporters of the use of reclaimed effluent for agricultural irrigation, and will be working with the WISE PAC.

REUSE IMPACT ON DOWNSTREAM USERS

The discharge from the RWRF constitutes approximately 1.5% of the total flow in the Rogue River. Withdrawal of the RWRF flow from the Rogue River with no replacement, therefore, will have a negligible impact on downstream users. It's also very important to note that the WISE project will use the reclaimed effluent to replace waters currently taken from Bear Creek and Little Butte Creek for agricultural irrigation. By improving system efficiencies and using reclaimed effluent for irrigation, the flows and water quality in both streams should be improved significantly. Since both streams are tributaries to the Rogue River, there will be a net benefit to the Rogue River.

FUNDING MECHANISMS

The first phase of the WISE FS/EIS will be funded with a grant from the Oregon Watershed Enhancement Board (OWEB). The first phase will clearly define the project scope and provide a detailed estimate of the funding and time that will be required to complete the FS/EIS. The second phase of the FS/EIS will be funded with the EPA grant, supplemented by matching funds from Medford and other WISE partners. It is anticipated that additional funds will be required to complete the FS/EIS. Once the first phase defines those needs, Medford and the WISE partners will seek additional grant funding. It is the intent of Medford to work with the WISE partners to provide matching funds, if needed, to complete the FS/EIS.

Mr. OSBORNE. Thank you, Mr. Hill.

I would like to remind members of the Committee rule, 3(C), that imposes a 5-minute limit on questions. The Chair will now recognize members for any questions they may wish to ask the witnesses.

I would like to begin the questioning by asking Mr. Brian this question. It seems that the efforts of all of the study partners to get the study to where it is today is very commendable. You have a lot of diverse interests. And when you try to get metropolitan users' and agricultural users' and fisheries' interests together, it is a daunting task.

My question is, what did your efforts consist of to get everybody on board with the need for a study and a need to participate?

Mr. BRIAN. Mr. Chairman, I guess I would call it enlightened self-interest. Everyone has a stake in the health of that basin and additional supply, whether they happen to be environmental advocates, fishery folks, Oregon trout, or our largest industrial user, such as Intel.

The City of Portland has something at stake because our basin buys about 50 percent of its water from the Portland watershed. It is a different watershed. Theirs is snow-pack driven and ours is rain driven. There are years when just over the hill—and part of Portland is in Washington County, but just over the hill they may have a drought condition, and we are OK. Or the opposite has been true. Both conditions have occurred in the last 5 years. We are able to ship water back and forth.

As we develop this new additional Westside resource, we will not have to buy water from them, which leaves them with more of their own water and solves their problem. So we have been able to bring together the Portland business alliance in the City of Portland, as well as all the Westside businesses. The irrigators are at the table with us.

I guess we all share the understanding that this is an important project. It is a big project, and it requires all of us working together to accomplish it.

Mr. OSBORNE. Thank you very much.

Ms. Roder, is it possible that the cost of infrastructure improvements be considered and offset to the settlement costs of transferring the project to a non-Federal entity?

Ms. RODER. Thank you, Mr. Chairman.

I would say that there needs to be a negotiation process in which we can see what the fair market value is after an independent appraisal of the properties to be transferred; and then we can have the Bureau of Reclamation sit down with Truckee-Carson and discuss what lands have been transferred and paid for.

But as the legislation is currently drafted, we are not seeing that. Instead, we are just supposed to assume that the Federal taxpayer and the Federal Government are going to be made whole. I think we should not rush the process, but really look at what the value of these lands are and ensure that the Federal taxpayer is getting a fair return on their investment.

Mr. OSBORNE. Who would you have do this fair market appraisal?

Ms. RODER. Mr. Chairman, I know there are independent appraisals outside of the Bureau of Reclamation. I know there is an

appraisal system within the Federal Government. We believe that one needs to be done so we can really assess what the Federal assets that are being transferred here with these withdrawn lands are.

Mr. OSBORNE. You are advocating just one agency or several agencies do the appraisal, and if so, how would you decide on which appraisal you would accept?

Ms. RODER. I think that probably the best process would be to go outside the agencies. I know there are independent appraisals on the market and that we could go forward with that. But certainly the Bureau of Reclamation needs to be involved in the process, since it is Bureau lands which are going to be transferred.

Mr. OSBORNE. Thank you.

I yield to the gentleman from California, Mr. Baca.

Mr. BACA. Thank you, Mr. Chairman.

My first question is to Mr. Schank. I am quite familiar with Truckee and Carson because, as a State legislator, I used to go down there and participate in the Highway Patrol Truckee Tournament, which is a golf tournament for charity in that area. Every September I would spend time in that area raising money for charity.

My question is, how much does the irrigation district presently pay to lease the land from the Bureau of Reclamation?

Mr. SCHANK. I believe it is \$10 annually.

Mr. BACA. What is it, \$100 every 10 years?

Mr. SCHANK. Something like that. That is what sticks in my mind. I would have to get back on the exact number.

Mr. BACA. Ms. Roder's question in terms of Federal assets: If there is a transfer and you are not paying, then what are the actual assets that you would be gaining, because you are spending very little right now, as it is, on the lease agreement? Would the revenues then increase tremendously if it was transferred to you and you, in turn, sold those reclamation or water rights?

Mr. SCHANK. There are no water rights on this particular property. That is one of the reasons that we situated the office there in the early 1970s. It was not suitable for irrigation; therefore, it was not homesteaded, as were most of the irrigable grounds in the area.

The answer to your question is, we are actually crazy to ask for the transfer when we are paying only \$10 a year, but we need to build a new office and in order to get the financing available, you cannot get it when you have leased property.

Mr. BACA. But we do not know what the fair market value is at this point, do we, for the transfer of the land?

Mr. SCHANK. I am not sure what your question is.

Mr. BACA. The Federal assets in terms of, if we did transfer it, what would be the Federal assets, we do not know what the fair market value would be, because I believe the last one was done about 6 years ago.

Mr. SCHANK. The land is being used, as I stated, for the office and maintenance facility to operate a Federal reclamation project, and that is what it will continue to be used as.

Mr. BACA. It seems like we still have a lot of questions to answer. Of the surrounding entities, what impact would it have? If

we do transfer it, what other entities could be impacted that are close by?

Mr. SCHANK. There are no other entities that I am aware of.

Mr. BACA. Mr. Hill, there is no dollar amount authorized for reclamation to conduct the feasibility studies, and since 2003, the omnibus appropriation bill provided \$900,000 for this study through the VA-HUD and EPA grants.

What is a ballpark estimate for completion of this study?

Mr. HILL. Mr. Chairman and Mr. Baca, what we are doing right now, we are retaining a consultant to look at the projects and more clearly define what we see as the estimated cost to complete the feasibility study. We do not know for sure, and I would only be able to offer a ballpark estimate, but we anticipate it will be greater than the \$900,000.

I could give you something. A very preliminary estimate would be in the range of \$2 million to \$2.1 million.

Mr. BACA. Is there anyone else interested in this particular land? You are asking for a land exchange; is there anyone else interested other than wanting to build a facility there?

Mr. SCHANK. There is no one else that I am aware of. We have local government support.

Ms. RODER. Not that I am aware of, Mr. Baca.

Mr. BACA. Thank you. No further questions.

Mr. OSBORNE. Thank you, Mr. Baca.

I yield to Mr. Pearce.

Mr. PEARCE. Thank you, Mr. Chairman.

Mr. Schank, if you had some rough value of the 64 acres used at Lake Tahoe for the dam and for the 28,000 acres of grazing rights you referred to and for the water that was retired, do you have any rough estimate of how much has been taken?

Mr. SCHANK. The 64 acres at Lake Tahoe, I believe at the time it was transferred, it was conservatively valued at \$8 million. It is lakefront property.

As far as the grazing area, all I can do on this area is tell you that prior to the settlement act that Truckee-Carson Irrigation District used, that withdrawn ground which was part of our original contract, we were allowed to use it for grazing purposes to offset district expenses, operation and maintenance expenses. We grazed 6,000 head of cattle.

We continue in a limited way to graze under the State of Nevada—in a cooperative agreement with the State of Nevada and the Bureau of Reclamation, we currently graze less than 2,500 head of cattle, and when that ground is transferred to the State, which is in the process of happening at the present time, it may be that we will not graze at all.

Mr. PEARCE. Ms. Roder, you said negotiations are not complete. As a watchdog group, would you all support the allocation of certain values to these properties that were previously taken? In other words, fairness exists from both directions. Would you all approve, if we added in the language of this bill, that the irrigation district would get the values of the previous properties that were taken from them without compensation?

Ms. RODER. I think, Congressman, we need to look at what values have been assigned in terms of what has actually been paid by the irrigation district.

I would also say I would love to have a 92-year loan from the Federal Government as well. I believe that they have received a lot of value from Federal taxpayers. I think that for most of us, living and paying high rents in D.C., we would like to have a \$10-a-year rent as well.

Some of the lands—and I do not know the situation with all of these lands associated with Lake Tahoe; I believe that may serve the needs of Truckee-Carson Irrigation District as well. I think we need to not rush to judgment in this instance and to look at withdrawn lands and see how much that needs to be repaid to the Federal taxpayer, as opposed to setting a precedent in which hundreds of other transfers throughout the West can occur.

Mr. PEARCE. I appreciate that, and I think it does not deal with the fact that there are hundreds of thousands of transactions daily that benefit people with no investment of their own, either private individuals or nonprivate. I think if you look at the FEMA rebuilding of areas that are flooded and areas hit by tornadoes, you see very low-interest loans for a variety of reasons. Very few of those have any public benefit; and it seems like your answer—I did not quite hear it, but I think your answer is that fairness does not exist both ways.

If the Federal Government wants to take property, it can do just that, and it does not have to be accountable; but you, as a watchdog group, would hold them accountable if they do not exact from certain people some value.

It is curious that we are going to hold an irrigation district, that is trying to actually operate a Federal facility to a standard that we are not holding people to. Almost all of the lakes that the Bureau of Reclamation owns, they lease property to individuals around that lake for very small sums, probably exactly \$10 a year, maybe less, and they built personal residences to no benefit of an area, the economy of an area.

So if we are going to apply your standards, we should apply them much more broadly than what you seem to be willing to do.

Ms. RODER. I agree with you completely, Congressman. Certainly, when we are rebuilding with flood insurance, which is one thing you brought up, we agree completely that we should not keep rebuilding, year after year, flooded-out folks. I think we would agree with you and would be willing to talk about some of the valuations of other lands that we are leasing; and certainly throughout the West we have similar issues.

Today the topic that I have been called upon to testify on is this particular land transfer, but we are more than eager to work with you on other things of this nature.

Mr. PEARCE. Thank you.

My final comment is that when watchdog groups watch directions, both the heavy-handed Federal Government and the lack of getting value, it tends to have a little more zip to it.

Thank you, Mr. Chairman.

Mr. OSBORNE. Thank you, Mr. Pearce.

Mr. Hill, when you say you want reclamation assistance to get through the beginning parts of this study, what do you mean?

Mr. HILL. Mr. Chairman, what we are looking for is a couple of things.

We use the Bureau to assist us in developing the scope for the feasibility study, and we also need to have them start us off preparing the notice of intent so they can be involved in the project from the very beginning. We have been working with them on a short, sort of a limited basis, and we need to continue doing so; but they need to be authorized before we can proceed ahead with the NEPA process. It is a formality that we have to have.

Mr. OSBORNE. Do you have any specific dollar amount that you are looking for?

Mr. HILL. I do not have a dollar amount that I am looking for. I was not really looking for a significant amount of funding. I have spoken with the local Bureau people who have been working on the project, and for this very first initial part of it, we would be talking probably in the range of tens of thousands of dollars, a limited amount of money. But I don't have a specific request.

Mr. OSBORNE. Thank you, Mr. Hill. I imagine the more specificity we have the better, but we appreciate your testimony.

Mr. Pearce, did you have any further questions?

Mr. PEARCE. No, Mr. Chairman.

Mr. OSBORNE. I thank the witnesses for their valuable testimony and members for their questions. Members of the Subcommittee may have some additional questions for the witnesses, and we will ask you to respond to those in writing. The hearing record will be held open for 10 days for these responses.

If there is no further business before the Subcommittee, I again thank the members of the Subcommittee and the witnesses, and the Subcommittee stands adjourned.

[Whereupon, at 3:40 p.m., the Subcommittee was adjourned.]

[A statement submitted for the record by U.S. Senator Gordon Smith follows:]

**Statement of The Honorable Gordon Smith, a U.S. Senator
from the State of Oregon**

Mr. Chairman, I appreciate your convening this legislative hearing today to receive testimony on S. 625, a bill to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon. As you know, this bill—which I sponsored and is cosponsored by my colleague Senator Wyden—passed the Senate on June 16, 2003.

There is an existing federal Reclamation project in the Tualatin River Basin, which is a rapidly growing area west of Portland. Developed in 1975, Hagg Lake—the impoundment behind Scoggins Dam—provides water for river flow restoration, municipal water supplies, and agricultural irrigation throughout the Tualatin River watershed. The lake also provides recreational opportunities, with park and recreational facilities operated by Washington County.

The Tualatin River watershed contains the urbanized portion of Washington County, which includes the cities of Beaverton, Banks, Cornelius, Forest Grove, Hillsboro, North Plains, Sherwood, Tigard and Tualatin. This area, home to approximately 450,000 people, almost doubled its population in the last 20 years, and this trend is expected to continue.

To better manage the existing resources of the Tualatin River Basin and to meet future water needs, several cities and districts partnered in 1997 to develop an Integrated Water Resources Management Strategy. This work identified the following areas of challenge in meeting future water supply needs: municipal and industrial demands that are expected to exceed supplies by 2011; maintaining existing

irrigated agriculture; providing water for Spring Chinook salmon and steelhead populations recently listed under the Endangered Species Act; and providing additional flows to restore river flow and improve water quality, since the Tualatin River and its tributaries are considered water quality-limited under the Clean Water Act.

This bill is an important first step in helping these communities meet these future water supply challenges. It would authorize the Bureau of Reclamation to conduct feasibility studies in the Basin, in cooperation with the local communities which are already contributing significant financial resources to addressing these needs.

It is imperative that these studies move forward expeditiously, since water supplies in the basin will be strained within 10 years. The Bureau of Reclamation actually sought funding for this study in its Fiscal Year 2002 and 2003 budget requests. Since that time, it has determined that it lacks sufficient authority to conduct these studies, which is why this bill is needed at this time.

Mr. Chairman, I appreciate your willingness to conduct this legislative hearing on this issue of importance to so many of my constituents, and to the businesses that employ them.

