

RECLAMATION

Managing Water in the West

**Managing for Excellence Sacramento
Public Meeting
Breakout Session: Title Transfer**

**Sacramento, CA
November 13-14, 2006**



U.S. Department of the Interior
Bureau of Reclamation

Action Item 28: Title Transfer

Objectives:

- Identify additional opportunities for mutually-beneficial Title Transfers
- Set clear Title Transfer goals
- Explore ways to reduce uncertainty and make the process easier for all parties

Projects Transferred (Since 1996)

20 Projects/Facilities Transferred

- Rio Grande (NM &TX) (1996)
- Vermejo (NM) (1996)
- Boulder City Pipeline (NV) ('96)
- San Diego Aqueduct (CA) ('97)
- Oroville Tonasket Unit (WA) ('98)
- Canadian River Project (TX) ('99)
- Burley (ID) (2000)
- Clear Creek CVP (CA) ('01)
- Palmetto Bend (TX) ('01)
- Griffith (NV) ('01)
- Nampa Meridian (ID) ('01)
- Carlsbad (NM) ('01)
- Colorado Big Thompson (CO) ('02)
- Middle Loup (PSMBP – NE) ('02)
- Sugar Pine (CVP- CA) ('03)
- Sly Park (CVP - CA)('03)
- Harquahala Valley (AZ)('04)
- Fremont Madison (ID) ('04)
- Carpentaria (CA) (108th)
- Provo River (UT) (108th)*

Authorized But Not Transferred (5)

- Wellton Mohawk (AZ) (106th)
- Humboldt (NV)(107th)
- Montecito (CA) (108th)
- Provo River (UT) (108th)*
- Colorado Big Thompson (CO) (109th)

Current Legislation (3)

- Yakima Tieton (WA)
- American Falls Res. District #2 (ID)
- McGee Creek (OK)

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2003 Evaluation of Title Transfer “Program”

In 2003, Department of the Interior Conducted Objective Evaluation of Reclamation’s Title Transfer Efforts with Recommendations for Improvements.

- Benjamin Simon of the Secretary’s Office of Policy Analysis) was Study Coordinator.
- Formal survey of Reclamation employees.
- Water user Brainstorming Forum.
- Interview Stakeholders (Local & National).

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2003 Study – Lessons Learned

- Projects are all different in scope and complexity
- “One-size-fits-all” approach is not practical
- “Up-front” work essential part of a successful legislative process
- Transaction Costs:
 - Can be significant,
 - Vary widely
 - Are a source of conflict (who pays for what?)
 - Disincentive for some
- No such thing as a “simple” project

Lesson Learned (cont.)

- Valuation process less controversial or complicated than anticipated.
- Ownership liability can be a disincentive.
- Cultural Resource & Real Property issues more costly & time consuming than expected to ensure compliance with National Historic Preservation Act (NHPA) – Section 106.
- Compliance with the Endangered Species Act (ESA) & National Environmental Policy Act (NEPA) an incentive & disincentive
- Limited cost savings to date
 - Few FTEs & limited expenditures associated with Transfer Candidates.
 - O&M already transferred.
 - Avoided “Administrative” costs were small.
 - Hard to quantify avoided liability.

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Lesson Learned (cont.)

- Early cooperation = Quicker & smoother transfer.
- Limited incentives for Reclamation (Regional and Field Staff) to pursue Title Transfer. Must use existing funds & staff from other activities to pay for Title Transfer transaction costs.
- Transfer of Project Lands significantly adds to complexity and cost.

Process Changes as a Result of 2003 Analysis

- Reclamation Policy revised to require preparation of detailed analysis and detailed cost estimates prior to each transfer, while improving communications with stakeholders .
- At the start of a Title Transfer, Reclamation:
 - Identifies who in the Agency is involved and responsible and creates a Transfer Team for each transfer
 - Clarifies the process for The District(s)
 - Provides a Transfer Process Checklist
 - Provides sample MOU, Transfer Agreements, Legislation, QCD's & other materials to interested entities.
 - Provides Transaction Cost Estimate and Initial Valuation Estimate

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What We've Heard Since that Study

- Feedback from Las Vegas Public Meeting, July 2006
 - Goals and Objectives need further clarification
 - Customers, staff & stakeholders say Title Transfer:
 - Takes too long
 - Requirements can be costly & burdensome (NEPA & NHPA)
 - Legislative Process “Out of Sync.” with on-the-ground negotiations’ process
 - Process needs to be field or locally driven
 - Process needs to be inclusive
- Still no incentives for Reclamation Field and Regional Managers.

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Team 28 – Draft Proposal

Programmatic Legislation With 3 Track

Approach:

1. Meets Criteria/Non-Complicated Track
2. Does Not Meet Criteria Track
3. Complicated Track

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Team 28 – Draft Proposal Initial Steps

1. Develop Programmatic Criteria to Identify Which Projects Qualify as “Non-Complicated.”

Criteria might include:

- Meets categorical exclusion requirements
- Convey only Lands & Facilities necessary to operate
- No intended Change of Use
- No Withdrawn Lands
- No Native American Trust assets
- No International Treaties or Interstate Compacts
- No Endangered or Threatened Species
- Facilities authorized for single purpose

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Team 28 – Draft Proposal Initial Steps

2. Reclamation investigates and analyzes potential Title Transfer of Specific Facilities or Projects – financial, hydrologic, environmental and socioeconomic implications. Investigation would determine appropriate track.
3. Appropriations would be authorized each year to carry out provisions of this Act.

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Meets Criteria - Non-Complicated Track

1. Reclamation and Non-Federal entity develop “Transfer Agreement”.
2. Reclamation prepares & submits a report to Congress.
3. Reclamation has authority to convey facilities pursuant to the Transfer Agreement.

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Does Not Meet Criteria Track

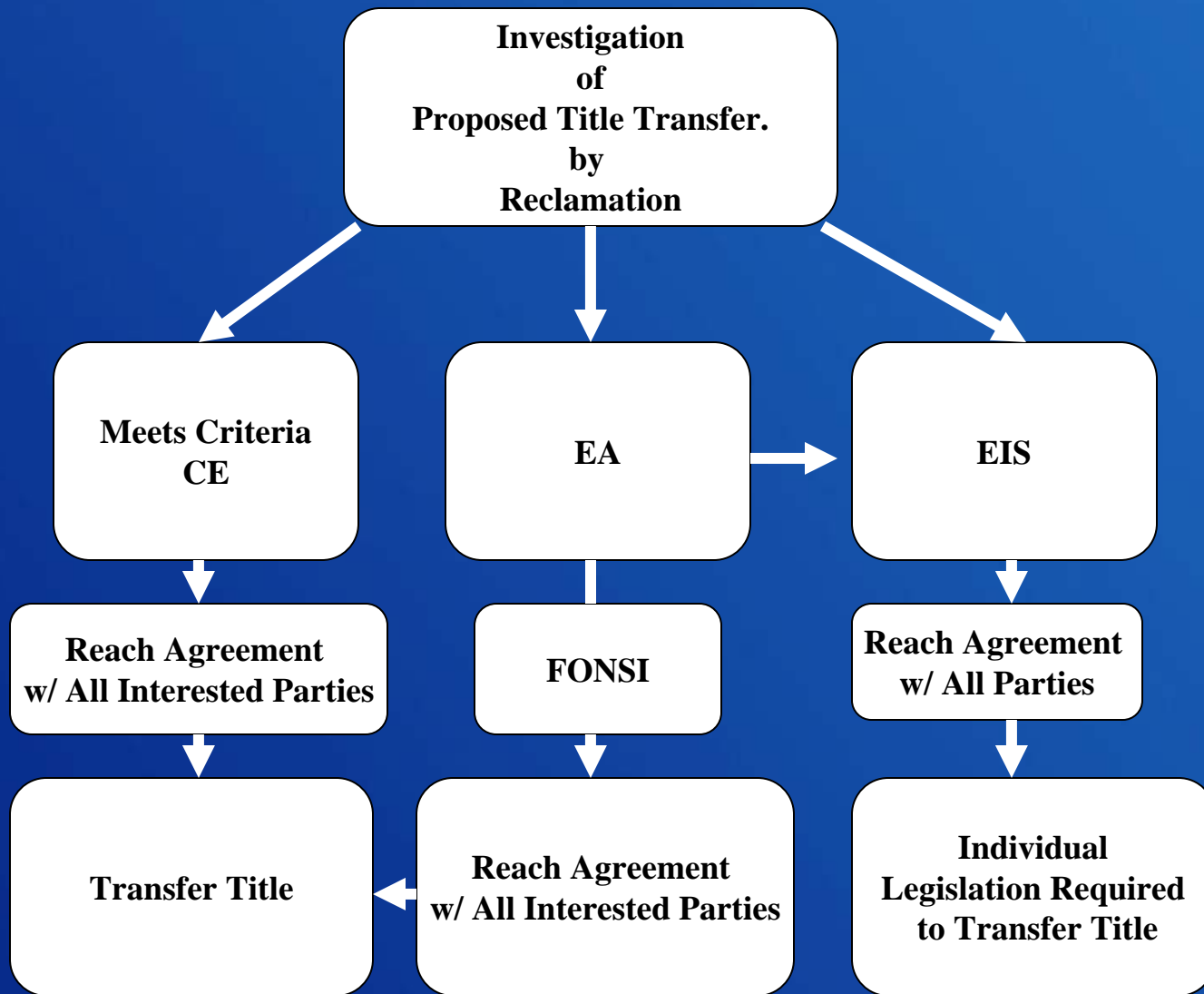
- For Transfers that Do Not Meet Criteria but are in Public Interest
 - Reclamation initiates Environmental Assessment (EA)
 - If EA results in Findings of No Significant Impact (FONSI)
 - If No “Controversies”
 - Reclamation & District enter into Transfer Agreement
 - Reclamation prepares & submits Report to Congress
 - Reclamation has authority to convey facilities pursuant to the Transfer Agreement.

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Complicated Track

- For “Complicated” Projects
 - Don’t Meet “Criteria”
 - Don’t Qualify for FONSI
 - Have Controversies/Complications
- Reclamation must complete Environmental Impact Statement
- Comply with all relevant Federal & State Laws
- Reach agreements on Terms and Conditions with all relevant contractors and stakeholders
- Secretary seeks individual authorization to Transfer Title

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