

**Statement of Robert Quint, Senior Advisor
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U.S. Department of the Interior**

**Before the
Natural Resources Committee
Subcommittee on Water and Power
United States House of Representatives**

**H.R. 255 - Clarifications to the Provo River Project Transfer Act
May 23, 2013**

Chairman McClintock and Members of the Subcommittee, I am Bob Quint, Senior Advisor at the Bureau of Reclamation (Reclamation). I am pleased to present the views of the Department of the Interior (Department) regarding H.R. 255, an amendment to the Provo River Project Transfer Act (Act) authorizing the Secretary of the Interior (Secretary) to convey the recently-enclosed Provo Reservoir Canal to the Provo River Water Users Association (Association). The Department supports H.R. 255.

The Provo Reservoir Canal (canal or PRC) is a principal feature of Reclamation's Provo River Project. It extends 22 miles from the mouth of Provo Canyon to Salt Lake County. Once it meandered through pastures and fields. By the late 1990s, suburban development had surrounded it. During this time, the Association concluded that owning the canal and associated project features would facilitate its ability to obtain financing for its eventual enclosure of the canal. Enclosing the canal into pipe offered significant potential new benefits in terms of water conservation, water quality, in stream flows, public safety and recreation.

In 2004, Congress agreed that transfer of the Provo River Project was in the public interest. The Provo River Project Transfer Act (Public Law 108-382) was enacted, authorizing the transfer by Reclamation to the Association of the Provo Reservoir Canal and the site of the Association's office. It further authorized the transfer of the Salt Lake Aqueduct to the Metropolitan Water District of Salt Lake and Sandy. The Department supports transferring ownership of certain Reclamation project facilities to non-Federal entities in cases where transfers create benefits for those who take title as well as for other stakeholders and the public and where repayment of the federal investment has occurred or is provided for. For this reason, the Department supported passage of the Act in 2004.

In the years since enactment of the Act, Reclamation has conveyed the Salt Lake Aqueduct to the Metropolitan Water District of Salt Lake and Sandy. One of the requirements of the Act was that all of the water user parties – including the Association, the Central Utah Water Conservancy District, the Metropolitan District of Salt Lake and Sandy and the Jordan Valley Water Conservancy District – needed to develop a comprehensive agreement to govern the “operation, ownership, financing, and improvement of the PRC” (Section 3.a.1B of the Act). Consequently, following its enactment, the parties began meeting regularly to discuss and negotiate the Master Agreement. From late 2004 through mid-2009, all of the parties acted on the belief that, after they reached agreement as required in the Act, Reclamation would transfer title and, after transfer, the Association would begin the piping of the PRC. However, in May of 2009, the

Association determined that the approach being considered for title transfer, funding, and enclosure placed the Association's tax-exempt status in jeopardy and threatened the entire project.

In response, the parties developed an alternative strategy for the canal portion of the transfer, whereby the Association, the parties and Reclamation would proceed with piping the canal under Reclamation's operation, maintenance, and replacement authority beginning in 2009. Today, the piping of the canal is largely complete. On the surface of the ground (over the buried pipe), crews are putting the final touches on a recreation trail. Below the surface, a 10.5-foot-diameter pipe conveys Provo River Project water.

Unfortunately, the parties, including Reclamation, moved forward with the title-transfer-after-piping option without realizing that this sequence was out of compliance with the original statutory authority to transfer the Provo Reservoir Canal to the Association "as in existence on the date of enactment". In retrospect, we all should have more carefully considered the potential effects of this change in the title transfer/construction sequence on title transfer as provided for in the Act. This brings us to the need for the technical amendment provided by H.R. 255. This technical amendment alters the definition of the Provo Reservoir Canal to authorize the transfer of the pipeline as well as to eliminate any confusion about the facilities to be transferred. The amendment authorizes transfer of the newly constructed pipeline by removing the term "canal" in the definition and replacing it with "water conveyance facility historically known as the Provo Reservoir Canal", and by eliminating the phrase "as in existence on the date of enactment of this Act." The bill also directs the transfer of "all associated bridges, fixtures, structures, facilities, lands, interests in land, and rights-of-way held", which Reclamation also supports since appurtenant facilities are currently used by the Association.

The majority of the \$150 million cost of piping the canal was born by the Association, the Central Utah Water Conservancy District, the Jordan Valley Water Conservancy District, and the Provo Reservoir Water Users Company. Federal funding applied to the project was \$39 million provided by the Department's Central Utah Project Completion Act Office. This amount, provided under the water conservation provisions of the Central Utah Project Completion Act, ensured that 8,000 acre-feet of conserved water would be made available to the Secretary to provide in-stream flows on the lower Provo River. These flows benefit fish and wildlife including the endangered June sucker, a species native only to Utah Lake and its tributary streams. Reclamation provided no funding to the piping project.

As a condition of title transfer, the Act requires the Association to remit to the United States its repayment obligation associated with the canal—the amount it continues to owe Reclamation for reimbursement of the original costs of construction. This obligation does not change under the technical amendment proposed by H.R. 255.

Reclamation sees the issue being addressed by H.R. 255 as purely technical and constructive. Concurrent to consideration of H.R. 255, Reclamation, the Association and the other parties continue to complete all the other steps necessary to transfer title and believe that with passage of this bill, we will be able to move forward expeditiously to finalize this title transfer. We support the title transfer and the excellent work that has gone on with the enclosure of the canal.

This concludes my written statement. I would be pleased to answer questions at the appropriate time.