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National Water Resources Association
“Legislative Hearing on H.R. 2083 and Discussion Draft of Reclamation Title Transfer Act”
Subcommittee on Water, Power and Oceans
Committee on Natural Resources
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Chairman Lamborn, Ranking Member Huffman, and members of the Subcommittee on Water, Power and Oceans - thank you for inviting me to testify before you today. My name is Tom Knutson and I am a Director on the National Water Resources Association Board. I have served on the Board for over twenty years and I was Chairman of the Irrigation Caucus for over fifteen years, which represents the Irrigation Districts within NWRA.

As you may know NWRA is a nonpartisan, nonprofit federation of agricultural and municipal water providers, state water associations, and individuals dedicated to the conservation, enhancement and efficient management of our nation’s most important natural resource, water. The NWRA represents a diverse group of water providers throughout the western and southern United States. Our members provide water to approximately 50 million individuals, families, agricultural producers, and other businesses in a manner that supports communities, the economy and the environment.

In addition to my work with NWRA I am also the former general manager of the Loup Basin Reclamation District, and the Farwell and Sargent Irrigation Districts in Farwell, Nebraska. During my time as general manager I shepherded the district through the title transfer process. My testimony this morning will focus on my experience with the title transfer process and I thank the Subcommittee for holding this hearing on a topic of such great importance.

I believe that improving the Bureau of Reclamation’s title transfer process can benefit our nation. NWRA has long been involved in the title transfer debate and worked with the Bureau of Reclamation to develop the current process. The current process has benefited dozens of districts, but we think it can be improved in a manner that will encourage other districts to seek title transfers. We support the general effort to expand title transfer opportunities for other districts and look forward to working with members of the committee on the Draft Reclamation Title Transfer Act. We recognize that this is a draft bill and as such may be subject to modification; we would like to work with the Committee on several technical points in the draft bill but want to note for the record that we are supportive of the title transfer concept. We would also like to note that we greatly appreciate the Committee’s efforts.

Our nation is blessed to have one of the most comprehensive water infrastructure systems the world has ever seen. This infrastructure allows almost all Americans ready access to a reliable and affordable supply of water. It is truly a wonder of the modern world. Local water managers, like irrigation districts, and the Bureau of Reclamation partnered to develop much of this impressive infrastructure in the West. Historically, this partnership meant that the federal

government would help finance and construct projects with the expectation that project contractors would eventually repay the federal government and taxpayers for their investment.

The American people have seen an impressive return on their water infrastructure investment. Over its 115-year history Reclamation has invested around \$20 billion in original development costs for facilities. This initial investment, much of which has been repaid, contributes approximately \$48 billion in economic output annually.

The Bureau of Reclamation has done an impressive job developing water supply operations in the West. Today Reclamation delivers water to over 10 million acres of irrigation and provides water to more than 31 million people. This water has greatly benefit local and state economies. Numerous communities have seen their economies grow, prosper and create an environment where people want to live, work and play. That environment is one that people want to they take care of, protect, and preserve it for future generations.

Congress has long recognized the importance of local involvement in water management. In 1902, when the U.S. Congress passed the Reclamation Act to allow for the development of irrigation in the western states, Congress envisioned building these facilities and eventually turning management and potentially ownership back to the local irrigation districts that have maintained and operated these facilities for years.

Section 6 of the Reclamation Act of 1902 states that ``when the payments required by this act are made for the major portion of the lands irrigated from the waters of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby". The section goes on to say: ``Provided, That the title to and the management and operations of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress." The draft Reclamation Title Transfer Act builds on Reclamation's existing authority to pursue title transfer by giving full authorization to transfer title if certain conditions are met. This would improve the current process under which even the most simple title transfers require individual authorizing legislation.

Historically, Reclamation has transferred operation and maintenance duties to districts that have expressed an interest in taking over management and have the capability to assume the responsibility. Today, local water users manage two-thirds of all Reclamation projects as "transferred works". However, a transferred work does not mean that the title to a project has actually been transferred. Of Reclamation's approximately 4,000 unique assets only 27 have gone through the process of actually transferring title. A title transfer might not work on every project, but I believe it could work for many districts in a manner that benefits the federal government, the environment and the end water user.

I was fortunate to have been involved in one of those 27 title transfers and can attest to the fact that title transfer has equally benefited the district as well as well as the federal government. Our title transfer enjoyed bipartisan support from Congress and the Clinton administration, and I hope we can all work together on to improve on the current title transfer process. We were

blessed to have former Senator Bob Kerrey (D-NE) and former Congressman Bill Barrett (R-NE-3) on our side.

I helped the Farwell Irrigation District, Sargent Irrigation District, and the Loup Basin Reclamation District (District) through the title transfer process; a process that took 8 years to complete. Our decision to pursue the title transfer process was driven by a desire to ensure the districts had a reliable water supply, could access capital, and would be better positioned to address potential liability issues. It has been 15 years since the transfer was finalized and all involved parties are still pleased with the title transfer decision.

Mr. Chairman and members of the Committee, if those same people, who I represented, while I was working eight years to get their title, can manage and maintain their projects for 15 years on their own, why can't other local Districts do the same when they want to take on that responsibility and have shown the capability to manage operations for numerous years already. My suggestion, Mr. Chairman and members of the Committee is that if it title transfer worked for us, it certainly can work for others. Therefore, we support the effort behind this draft bill.

There are a number of benefits to title transfer for both the federal government and to water users. The federal government can divest itself of the costs and liabilities associated with owning infrastructure that has often times exceeded its design life. For a district benefits can include things like an improved ability to secure non-federal sources of funding and the ability to enforce easements.

In my experience the title transfer created opportunities for the districts to undertake projects that we could not do before. One of the best examples of this is work we did on the Milburn Diversion Dam. Reclamation built the Milburn Diversion Dam in 1958 as part of the Sargent unit of the Middle Loup Division of the Pick-Sloan Missouri Basin Program. After the dam was built, the district notified Reclamation that there were problems that needed to be fixed. Reclamation deferred action on these issues for years. Finally, in the 1970s, Reclamation encouraged Sargent Irrigation District to reach out to Congress to obtain appropriations for the repairs. Because the appropriations process can be uncertain nothing came out of that effort.

After the title was transferred, the district was able to make \$1.2 million in repairs. If the district had still been with Reclamation, the funding sources and grants we were able to capitalize may not have been available. It is also likely that those repair costs would have been higher if Reclamation were still involved.

Title transfer can also give local water managers the ability to defend against property encroachment in order to protect project operations and public safety. Unfortunately, numerous NWRA members have struggled to get the Department of the Interior to take actions against entities that encroach on critical water infrastructure. Numerous NWRA members have had to deal with individuals encroaching on infrastructure such as canal banks, access roads and other facilities in a manner that could damage the infrastructure and create a public health threat. Unfortunately, districts can find themselves in a place of legal limbo, potentially liable for any damages caused by encroachment but without holding title to the project their ability to enforce

easements or take other corrective actions is limited. For many NWRA members, the federal government, which holds title to Reclamation projects, has been slow, unwilling, or unable to weigh in. When a district acquires title to a project it gains additional legal standing and can work to take corrective action and better address encroachment issues.

Title transfer is a sound, commonsense concept that ensures the federal government is made whole for its initial investment by stipulating that a project be fully repaid before it can be transferred. It also allows the federal government to reduce its liability by divesting itself of an asset that, in many cases, has exceeded its design life. Title transfer can also empower irrigation districts by giving them more infrastructure financing options and asset management and control.

Thank you, Chairman Lamborn, Ranking Member Huffman, and Members of the Subcommittee for this opportunity to share my experience with the title transfer process. The NWRA greatly appreciates the Committee's interest in this important topic. We support this effort and look forward to working with the Committee to make technical modifications that we believe will improve the bill. I would be happy to take any questions.