



United States Department of the Interior

BUREAU OF RECLAMATION
Washington, DC 20240



FEB 26 2007

IN REPLY REFER TO:
PXA0-1100
ADM-1.10

MEMORANDUM

To: Deputy Commissioner, External and Intergovernmental Affairs
Attn: 92-00000
Deputy Commissioner, Operations
Attn: 96-00000
Regional Directors
Attn: PN-1000, MP-1000, LC-1000, UC-100, GP-1000

From: Robert W. Johnson
Commissioner

Subject: Decision Related to Managing For Excellence Team 28--Final Recommendations

You are hereby directed to take the appropriate actions necessary to implement the recommendations contained in the attached document, *Managing for Excellence Team 28 Final Recommendations*. The Director, External and Intergovernmental Affairs, will lead the initiative, in consultation with the Deputy Commissioner Operations, and form an Implementation Team. The Regional Directors should carefully consider and make available appropriate staff to be a part of the Implementation Team.

Attachment

cc: 91-00000 (Collier), 91-10000, 92-00000 (Burman, Brown), 94-00000 (Todd), 94-30000 (Wolf, Smith), 96-00000 (Quint), 96-42000 (Hess)
84-27000 (Harrison, Moon), 84-21000 (Feuerstein, Wendling), 84-40000 (Achterberg, Rudd), 86-60000 (Bach, Medina), 86-68000 (Gabaldon, Weitkamp)
PN-1000 (McDonald), MP-100 (Rodgers, Schlueter), MP-400 (Tegelman, Stevenson), LC-1000, BCOO-4451 (Selig) UC-100 (Gold), UC-430 (Olsen), GP-1000 (Ryan, Blankenship), GP-2000 (Peterson)
(w/o att to each)

Title Transfer Program

Executive Sponsor

Kirk Rodgers, Regional Director, Mid-Pacific Region

Team Members

Randy Chandler, James Hess, Don Olsen, Roxanne Peterson, Margot Selig, Benjamin Simon, Richard Stevenson, Donna Tegelman,

Key Organizational Function Interfaces

Regional and Area Offices, Congressional Members & Staff

Action Item Statement from the Managing for Excellence Action Plan

Determine where opportunities exist for mutually beneficial transfer of title to project sponsors in order to eliminate Reclamation's responsibility and costs for those facilities, and encourage any that are appropriate.

Scope Statement from the Managing for Excellence Project Management Plan

In 2003, Reclamation undertook a comprehensive study of its title transfer activities to date. The objective of that effort was to "*determine if there are additional opportunities to encourage and facilitate the transfer of title to projects.*" That report was finalized and made numerous recommendations which were presented to the Assistant Secretary – PMB. While many of the recommendations have been, or are being implemented, several have not. This effort will re-evaluate the conclusions, up-date the data, identify gaps and make recommendations in order to identify where there may be opportunities for mutually beneficial title transfers to project sponsors in order to eliminate Reclamation's responsibility and costs for those facilities

Approach and Methodology

To accomplish the objectives, the Team: (1) Reviewed the 2003 report entitled *The Bureau of Reclamation's Title Transfer Program – Evaluation and Lessons Learned* (Simon Report) that was lead by Dr. Benjamin Simon of the Department of the Interior's Office of Policy Analysis to identify lessons learned from Reclamation's title transfer effort between 1980 and 2000; (2) Updated the Simon report to reflect transfers occurring since 2000; (3) Identified barriers and incentives in the current process and brainstormed ways to reduce the barriers and enhance/identify new incentives to encourage project beneficiaries to pursue title

transfer; (4) The Team Leader and Executive Sponsor made presentations on the concepts at two M4E stakeholder meetings (July and November 2006), which were incorporated into the Conceptual Framework.

Deliverables

The Team developed a Concept Paper for Programmatic Authorization for the establishment of a Title Transfer Program within the Bureau of Reclamation (Attached).

Recommendations

The Commissioner should convene an Implementation Team under the leadership of the Deputy Commissioner, External and Intergovernmental Affairs, in consultation with the Deputy Commissioner, Operations, and the Regional Directors to:

- Develop a legislative proposal based upon the conceptual framework to be submitted to Congress as an Administration proposal;
- Work with Congressional staff and members for introduction and passage of the legislation to establish the Title Transfer Program;
- Develop a programmatic structure to begin implementation of the Program, once enacted.

Submitted by:

	<u>1/5/07</u>
Randy N. Chandler, Team Leader	Date
	<u>1/9/07</u>
Kirk Rodgers, Executive Sponsor	Date
	<u>2/14/07</u>
Larry Todd, Deputy Commissioner, PAB	Date

Title Transfer Program

Concept Paper for Programmatic Authorization

A Title Transfer program is established within the Bureau of Reclamation, which shall include generic authority to transfer title to specific types of projects, facilities, and associated lands once a specified process is completed.

Under the proposed program, the Bureau of Reclamation is authorized to conduct investigations to analyze possible title transfers of projects, parts of projects, facilities, and associated lands. The investigation will include analysis of the financial, operational, environmental characteristics of the project, including the associated lands and facilities that are under consideration for title transfer. A Report of that investigation will provide a recommendation on how/if Reclamation and the non-Federal entity should proceed.

The Secretary would be required to develop a Categorical Exclusion for “Non-Complicated title transfers.”

Reclamation shall develop programmatic criteria to be used by Reclamation to identify projects, facilities, and associated lands whereby transfer is simple, non-controversial and in the public interest. The criteria shall include the following:

- Satisfies the Categorical Exclusion checklist requirements identified above.
- Conveyance includes only lands and facilities that are necessary to operate the project for the purposes for which it was authorized.
- No intended change from that which was authorized for the facilities and associated lands.
- No withdrawn lands except when these lands are so encumbered by project facilities as to be unsuitable for return to the public domain.
- No Native American Trust Assets.
- No International Treaties or Interstate compacts
- No endangered or threatened species.
- Facilities are authorized for Single purpose.

The Title Transfer Program includes three (3) Tracks for addressing title transfers:

Criteria Track

Reclamation shall prepare a report to Congress for each project that meets the above-mentioned set of criteria. Unless Congress acts in 30 days from receipt of the report, Reclamation has authority to convey the project, facilities and associated lands identified in the report pursuant to an agreement between the Secretary and the non-federal entity or entities without a further Act of Congress.

Non-Criteria Track

For projects, facilities and associated lands that the Secretary determines do not meet the requirements of the Criteria, and determines that Title transfer is in the public interest, the Secretary, in cooperation with the non-Federal entity/entities interested in taking title must complete an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA).

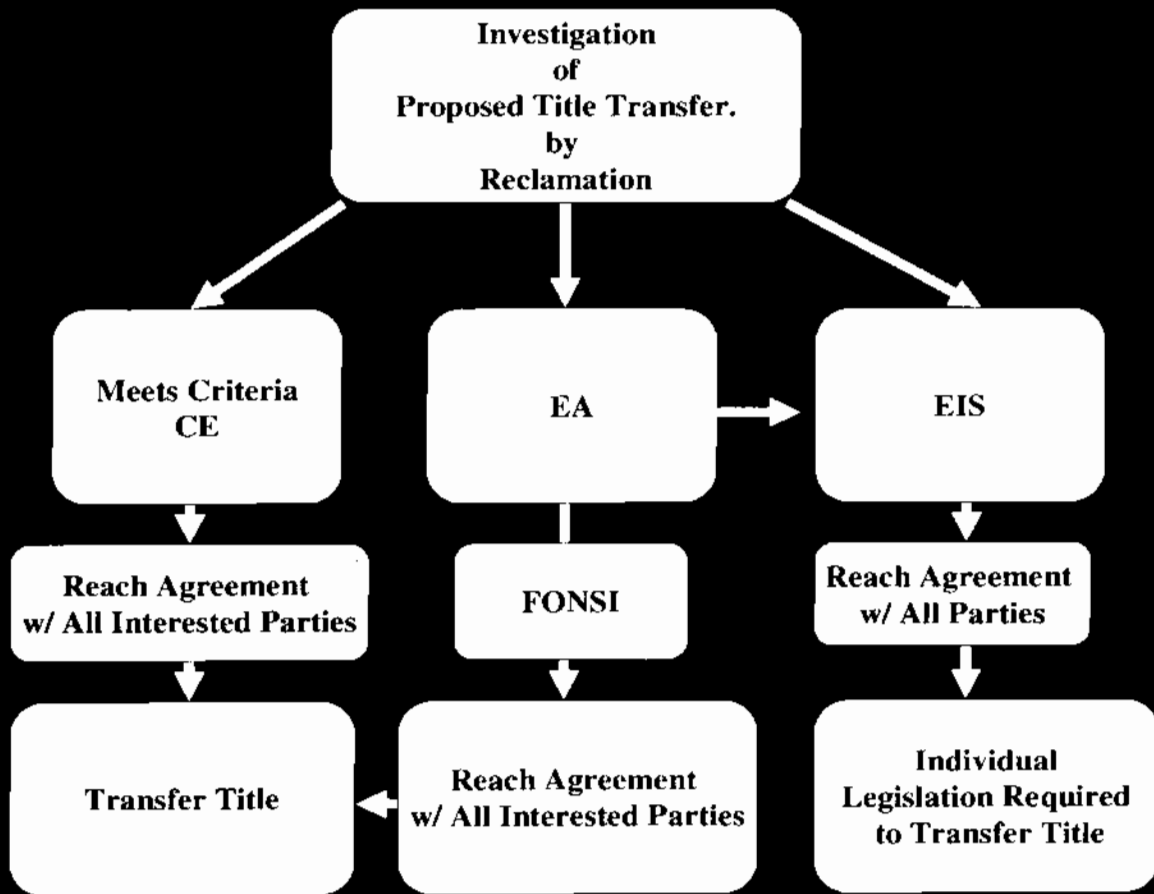
If the EA result in a Finding of No Significant Impacts (FONSI) and there are no controversies identified during the public process associated with development of the EA, Reclamation is authorized to enter into an agreement with the non-Federal entities and any other entities with an interest in that title transfer.

Once that agreement is reached, the Secretary shall prepare a report on the terms and conditions of the agreement and submit that report to Congress. Unless Congress acts in 30 days from receipt of the report, Reclamation has authority to convey the project, facilities and associated lands identified in the report without a further Act of Congress.

Complicated Track

For projects, facilities and associated lands that are considered complicated – as they do not qualify for a FONSI under the National Environmental Policy Act (NEPA), Reclamation, in cooperation with the non federal entity or entities interested in assuming title, must: (1) complete an EIS; (2) comply with all relevant Federal and state laws; and (3) reach an agreement on the terms and conditions of a transfer with the non-Federal entity or entities interested in taking title and with all other project beneficiaries and stakeholders with an interest in the management and operation of the project, facilities and associated lands. Once these requirements are completed, the Secretary must submit legislation to Congress to authorize the transfer of title.

The Secretary is authorized to receive an appropriation of up to \$4 million per year to carry out the program



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