

**Statement of Gene Shawcroft**

**General Manager of the Central Utah Water Conservancy District**

**Before the House Natural Resources Subcommittee on Water, Power and Oceans**

**In support of**

**H.R. 6583—Big Sand Wash Project Title Transfer Act**

**September 5, 2018**

Chairman Lamborn, Ranking Member Huffman, and members of the subcommittee, I serve as General Manager of the Central Utah Water Conservancy District (District), which is the State agency responsible for the construction, repayment and maintenance of the Central Utah Project. I wish to express my gratitude to Chairman Rob Bishop for his leadership on this legislation. I am pleased to support **H.R. 6583** which transfers title to the Big Sand Wash Reservoir and related features of the Uinta Basin Replacement Project (UBRP) to the District and ultimately the local water users. With funding support from the Interior Department, we built UBRP to provide additional water for agriculture and M&I use in Duchesne County, Utah. The project helped to solve problems of access and needed repair of small, high mountain lakes located in the High Uintas Wilderness Area upon which the farmers rely.

The features of UBRP were constructed by the District to enlarge Big Sand Wash Reservoir, which is owned by the Moon Lake Water Users Association, so we could move their water rights out of the wilderness area and provide a firmer supplemental supply of water in the County. The enlarged reservoir also provides new municipal water to Roosevelt City and other entities through the Duchesne County Water Conservancy District. The total cost of the project

was \$90 million, with funding provided through a 65% federal/35% District cost-share arrangement.

UBRP includes the enlargement of the Big Sand Wash Dam and Reservoir, which provides an additional 2,500 acre-feet for irrigation and 3,000 acre-feet for M&I of federal water that is delivered to the Duchesne County Water Conservancy District for use by its M&I and agricultural customers. The enlargement-inundated lands were acquired by the District at a cost of \$5.4 million with both federal and local funds. The land acquisition process was very lengthy, and although construction of the project was completed in 2007, the final arrangements for land transfer were not in place until 2016.

The solution of a title transfer of the Big Sand Wash Dam is to resolve a dispute over language contained in a warranty deed of easement on appurtenant lands that was given to the United States by the Moon Lake Water Users Association. This deed included the following language: *“In the event of termination of the Operating Agreement, all easements granted herein shall automatically terminate.”* This created an expectation by Moon Lake Water Users Association that at some point the dam would once again become their property. Although the warranty deed with this original sentence was approved by the Solicitor’s Office, the Department of Interior’s current position is that this language is illegal and unenforceable and can no longer be honored.

The District initially suggested one solution to resolve the issue and that was to transfer the land that was purchased by the District with federal funding to Moon Lake Water Users Association with a permanent easement in the name of the United States. The District even prepared the transfer documents; however, Moon Lake Water Users Association insisted that the easement provision violated the original agreement. The Department of Interior’s Solicitors

Office insists that the original language in the deed would result in a defeasible interest in land of the United States, which is illegal and unenforceable, and could leave the United States without the ability to store supplemental federal water after a \$90 million investment in the project.

Over the past three years, under direction from Chairman Rob Bishop's office, all of the parties including the Utah offices of the Bureau of Reclamation and CUPCA officials, have been working a legislative solution. The bill as drafted today is the result of these negotiations. The District joined Moon Lake Water Users Association and Duchesne County Water Conservancy District and signed a Memorandum of Agreement (attached for the record), which is reflected in legislative text of **H.R. 6583**. The bill is very straightforward. It authorizes the District to prepay all of our federal partners' investment and that will enable the District to obtain title to these lands for the ultimate purpose of transferring the properties at Big Sand Wash Reservoir to Moon Lake Water Users Association. Other features of the project that include the delivery pipelines to Duchesne County for its municipal and irrigation customers will be transferred to those specific users through the agreements as specified in the bill. All of these customers will continue to pay the District for the water we sell them until we recoup our costs. The UBRP facilities are stand alone, meaning they only serve the water users involved. This makes it ideal for title transfer.

I believe **H.R. 6583** represents the best solution to resolve this legal dilemma. It returns the federal government's money, allows those who maintain and operate these facilities to obtain title to them, and resolves a legal conflict between the District and the Department of Interior. On behalf of the District, I want to again thank Chairman Bishop for his support throughout this process and the vitally important suggestions and contributions of the Interior Department officials in Utah who helped us develop this solution.