

**Statement of
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Bureau of Land Management
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands and Forests
Hearing on H.R. 1658, S. 2285, S. 1521 S. 1826, S. 2085**

May 5, 2004

Thank you for inviting me to testify regarding a number of land conveyance bills of interest to the Bureau of Land Management (BLM).

H.R. 1658

H.R. 1658 is a private bill which amends the Railroad Right-of-Way Conveyance Validation Act. The administration has no objection to H.R. 1658.

In 1994, the Congress passed H.R. 1183, Private Law 103-2. The Act validated the conveyances of 50 small tracts of land in Nevada County and San Joaquin County, California. The lands involved were originally part of the right-of-way grant of the United States to the Central Pacific Railroad by an 1862 Act of Congress. The Southern Pacific Railroad (the successor to Central Pacific) appears to have made conveyances of small tracts of land in some of these cases, and in others, adjacent landowners have made inadvertent encroachments. Under the original Act of 1862, a Federal reversionary interest existed if these rights-of-way were abandoned by the railroad. The 1994 Act was necessary to remove any cloud on the title of these small landowners.

The bill before us today amends the underlying 1994 Act by adding two additional small parcels in San Joaquin County, California. The parcels in question are at the northern end of the city of Stockton, California. According to the master title plat, maintained by the BLM, these parcels have been in private ownership for nearly a century. We see no conflict in clearing title for these lands through this legislation. As with the underlying Act, the mineral estate of these lands will continue to be reserved to the Federal government, and the lands will continue to be unavailable to all forms of mineral entry.

S. 2285

S. 2285 proposes to convey approximately 200 acres surrounding the Minersville Reservoir to Beaver County, Utah. The Administration supports the conveyance, but would like to recommend a few modifications to the legislation.

In 1963, the BLM first granted a patent to Beaver County, Utah, for the lands that are now part of Minersville State Park pursuant to the Recreation & Public Purposes Act (R&PP) (43 U.S.C. 869 *et seq.*). In 1964, title was transferred to the State of Utah Division of Parks and Recreation. Over the years the State made substantial investments in the park facilities including campgrounds, restrooms, and an entrance station. In 2002, the State of Utah moved to transfer title to Beaver County as part of cost cutting efforts. However, because the State did not have authority under the R&PP Act to transfer title, such an action was not possible. Beaver County has indicated that it will not accept a transfer of the lands because of the restrictions associated with the R&PP Act. Specifically, the reversionary clause prevents the re-sale of lands transferred under the R&PP Act.

Beaver County, however, is willing to take over the park if it has an opportunity to create a funding source. The County proposes to sell some of the undeveloped lands within the park for cabin sites and use the revenue generated from the sales to operate and maintain the park for the benefit of the people of Beaver County and visitors. Under the provisions of the R&PP Act such sales would result in a reversion to the BLM. The BLM does not object to this proposal because this type of small, local park is most appropriately operated and maintained by a local government.

S. 2285 proposes to transfer all right, title and interest of the United States for the approximately 200 acres to Beaver County. Beaver County would then be authorized by the legislation to sell, at fair market value, portions of that property. The legislation further directs that those proceeds may be used only for the maintenance and further development of the public recreation facilities on the site.

Normally we would require payment of fair market value for any interest in lands conveyed without the requirement that they be used for a public purpose. However, we recognize the unique circumstances here, including the historical use of the area as a park, and support this proposal as a creative solution to a difficult problem. However, we recommend the elimination of the reversionary clause in section 1(c), which provides for the reversion of the site to the United States if the provisions of the Act are not complied with, and the elimination of a subsequent requirement that Beaver County repay to the United States any payments received from sales of land. We recommend the elimination of the reversionary clause to avert a situation where the BLM would be responsible for managing a small local park, or abandoning its use as a park, either of which we are ill-prepared to do. We believe the requirements of section 1(b), limiting the use of sale proceeds specifically for the operation and maintenance of the park, are adequate to protect the interests of the Federal government.

Finally, we would like the opportunity to work with the Committee on an appropriate map of the area to be conveyed.

Nevada Lands Bills

Let me now turn to three Nevada lands bills, S. 1521, the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act;" S. 1826, the "Dandini Research Park Conveyance Act;" and S. 2085, the "University of Nevada at Las Vegas Research Foundation Reinvestment Act." These bills provide for the conveyance of public lands to various entities. The Administration supports the goals of S. 1521 and S. 1826, but would like to work with the Committee to address certain concerns and clarify technical issues discussed more fully below. The Administration does not support S. 2085.

S. 1521

The Administration has a number of concerns with S. 1521 as introduced. First, the tract to be conveyed under S. 1521 has not been identified for disposal under the current land use plan, which was adopted in 1998. The BLM would like to work with the Committee and the American Legion Post No. 22 to identify an alternate site within the over 9,300 acres of public lands in the area currently identified as suitable for disposal in the current land use plan.

Second, the legislation directs the Secretary of the Interior to transfer the lands identified within 120 days. This requirement results in time concerns relative to the BLM's ability to fulfill certain requirements associated with the land conveyance, which include, among others, conducting a cadastral survey and performing hazardous substances and cultural resources clearances. This is in addition to the ability to fulfill requirements under the National Environmental Policy Act (NEPA). Selection of alternate lands that are currently identified for disposal in the land use plan could help alleviate the conflict created between the time limitation and the requirement to comply with applicable Federal laws, although more time may still be needed.

Third, the Administration requests an addition to the reversionary clause to provide for the sale of these lands by the transferee, with the sale proceeds going to the Federal government, as an alternative to reversion. This would protect taxpayers from assuming potential liabilities that might arise by giving the Federal government discretion regarding the reversion.

Finally, the BLM, as a matter of practice, receives fair market value for land being transferred out of public ownership. For conveyances to non-governmental entities that qualify under the Recreation and Public Purposes Act, the United States receives 50 percent of fair market value. We would like to work with the Committee to address these concerns so that the necessary work can be completed and public notice and participation can occur.

S. 1826

The BLM originally patented the lands referenced in S. 1826 to the Board of Regents of the University and Community College System of Nevada in 1972 and 1974. Subsequent legislation, Public Law 99-358, provided for the development of a research park on the conveyed lands. P.L. 99-358 restricts the Board of Regents' use of the patented lands to research and development activities. S. 1826 would provide the remaining right, title and interest of the United States in these lands to the Board of Regents, which would allow the University full discretion in the use or sale of these lands, with proceeds returned to the Secretary of the Interior.

The Administration supports S. 1826, but requests technical corrections to add specificity to the conveyance, clarify "market value," and modify the disposition of "net proceeds" in Section 2(c)(2) of the bill as introduced.

S. 2085

The Administration opposes S. 2085, which would amend Section 702(b)(2) of Public Law 107-282, the "Clark County Conservation of Public Land and Natural Resources Act of 2002". Under the Clark County Act, 115 acres of land in Clark County, Nevada, that were conveyed to the Clark County Department of Aviation in the Southern Nevada Public Lands Management Act (SNPLMA), are identified as suitable for use by the University of Nevada at Las Vegas Research Foundation for the construction of a research park and technology center. The Clark County Act gives the Department of Aviation the discretion to convey without consideration the 115 acres identified for use by the Foundation. If the Foundation chooses to sell or lease portions of the 115 acres that it does not use for the research park, any proceeds follow the framework of Section 702(b)(2) of the Clark County Act, in that 85 percent of these proceeds are to be deposited into a special account for conservation purposes, 5 percent of these proceeds are to be provided to the State of Nevada for education programs, and the remaining 10 percent of the proceeds are to be available for use by the Foundation. This framework was developed based on SNPLMA.

S. 2085 amends the Clark County Act by allowing all proceeds from the sale or lease of lands conveyed to the Foundation to go directly to the Foundation. The Administration's decision to support the original Foundation provision in the Clark County Act was premised on the assumption that the Foundation would develop research facilities on the land, and that land not utilized by the Foundation for development of these facilities would be sold and the proceeds dispersed under the framework described above. SNPLMA and the Clark County Act were both carefully crafted to assure that land sales and the disbursement of the proceeds would meet the demand for community expansion, economic development, and the conservation of environmentally sensitive land.

Under S. 2085, the lands conveyed to the Foundation would be available to be sold or leased by the Foundation for any purpose, whereas the original intent of the conveyance was to provide these lands for research purposes.

In order to assure that the public interest is met, and to be consistent with the provisions in SNPLMA and the Clark County Act, we believe that the proceeds from any sale or lease of lands conveyed to the Foundation under the Clark County Act should be distributed as established in current law.

We look forward to working with the Committee and local interests to address the concerns we have identified in S. 1521 and S. 1826. We hope the Committee will reconsider S. 2085 in light of the concerns we have raised in this testimony.

Thank you for the opportunity to testify. I'll be happy to answer any questions.