

**Statement of
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Bureau of Land Management
House Committee on Natural Resources
Subcommittee on National Parks, Forests and Public Lands
H.R. 2246, Reno, Nevada Land Conveyance Validations
October 23, 2007**

Thank you for inviting me to testify on H.R. 2246, a bill to validate certain conveyances made by the Union Pacific Railroad Company of lands located in Reno, Nevada. While we do not oppose a legislative solution to the questions surrounding the Federal government's interest in certain lands in downtown Reno, we believe that the goals of H.R. 2246 can be achieved using a simpler approach, and we would like to work with the sponsor and the subcommittee to reach a more appropriate solution.

Background

In the mid-19th century, the Congress sought to encourage the development of the West by providing incentives for transcontinental railroads. Among those incentives was the Act of July 1, 1862, authorizing a transcontinental railroad to be built by the Union Pacific Railroad and Telegraph Company. As part of that authorization, the railroad was granted a right-of-way across public lands. One small piece of that right-of-way is addressed in H.R. 2246.

The status of these rights-of-way has been an ongoing issue before Congress since the late 19th century. In a May 3, 2006, report entitled "Federal Railroad Rights of Way" prepared by the Congressional Research Service; the issue was described as follows:

Although the courts have struggled at times to articulate the *nature and scope* of the interest held by a railroad, the cases are clear that the right of way interest, whether limited fee or easement, is conditioned on the continued use of the right of way for railroad purposes, although that phrase may be broadly construed.

A portion of the Union Pacific rail line authorized under the 1862 Act runs through downtown Reno, Nevada. As an active rail line, there was increasing concern about safety and traffic flow issues. The city of Reno found a creative solution in the form of the ReTrac (Reno Transportation Rail Access Corridor) project, and in late 2005, the first trains began to run on a 2-mile long, 54-foot wide, 33-foot deep, train trench through downtown Reno. Unfortunately, there have been some questions raised about whether the right-of-way given to the railroad under the 1862 Act is affected by the subsurface nature of these two miles of line. In addition, it is unclear whether the Federal government retains a reversionary interest in the corridor. H.R. 2246 attempts to clarify this issue.

H.R. 2246

We believe H.R. 2246 is unnecessarily complex. In addition, the bill asks the Federal government to validate certain conveyances between non-federal parties. We believe that a far simpler approach would be to release any reversionary interest the Federal government may have

to the lands granted to Union Pacific under the Act of 1862 within the subsurface corridor. This would include portions of sections 10, 11 and 12 of T. 19 N., R. 19 E, in Reno Nevada. We would be happy to work with Congressman Heller and the subcommittee on language that would achieve this goal.

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