

Statement for the Record
Bureau of Land Management
Department of the Interior
House Natural Resources Committee
Subcommittee on Public Lands & Environmental Regulation
H.R. 1167, Restoring Storey County Act
October 3, 2013

Thank you for inviting the Department of the Interior to provide testimony on H.R. 1167, the Restoring Storey County Act. This bill would direct the Bureau of Land Management (BLM) to convey approximately 890 acres of Federal surface estate in and around Virginia City, Nevada, to Storey County. The Department supports the goals of H.R. 1167, but opposes the bill's exemptions from existing laws, and suggests other modifications described below.

Background

Virginia City is a community of about 855 people in Storey County, Nevada, approximately 25 miles southeast of Reno. Virginia City and Storey County contain major portions of the historic Comstock Lode, one of the largest gold and silver discoveries in the world. Virginia City once boasted 15,000 residents and was one of the richest cities in North America in the early 1870s. Due to its economic wealth and importance for the development of the United States, including its association with notable people such as Mark Twain, as well as the preservation of many of its historic buildings and structures, Virginia City was designated a National Historic Landmark on July 4, 1961. Today, cultural heritage tourism contributes significantly to the local economy.

Over 140 years ago, when thousands of people rushed to the area in search of gold and silver, title transactions on the part of Storey County occurred very quickly, often before proper surveying and identification of public land versus properly located and surveyed town site lots had been completed. This unique situation resulted in residential and commercial structures being constructed in whole, or in part, on lands that BLM records identify as public lands and county title documents indicate as privately owned. It also resulted in similar discrepancies with regard to undeveloped land.

H.R. 1167, Restoring Storey County Act

H.R. 1167 would direct the BLM to convey approximately 890 acres of Federal surface estate in and around Virginia City to Storey County. Under the bill, the BLM would be responsible for all costs associated with the conveyance. Since the Federal government owns both the surface estate and mineral estate of most of these lands, the mineral estate would remain in Federal ownership under H.R. 1167.

Due to the specific set of historical circumstances surrounding the residential and commercial development of Virginia City and Storey County, the Department supports the primary goal of H.R. 1167 to resolve the title inconsistencies described above. While the Department generally supports the conveyance of these lands to Storey County, we have several concerns with the bill.

As written, H.R. 1167 would exempt the conveyance from the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). The Department opposes

exemption from these laws, which provide opportunities for consideration of environmental impacts, public engagement, identification of mitigation, an informed decision maker, and identification of unknown or unforeseen issues. Given that much of this land lies within a National Historic Landmark, there is a high potential for cultural resources in the area that require careful attention under NEPA and NHPA. Failure to comport with NEPA, alone, can result in a failure to provide relevant and useful information to the public and the BLM decision maker.

H.R. 1167 also would require the BLM to cover all costs and convey the identified lands to Storey County within 60 days of enactment. The Department believes that conveyance costs should be paid by the county, consistent with past legislation that has supported local community development. Additionally, we recommend more flexibility in timing to satisfy the requirements of the Federal Land Policy and Management Act (FLPMA) and other applicable laws.

Similarly, H.R. 1167 does not specify the payment of fair market value for the public lands that would be conveyed. It is our understanding that the sponsor intends for the conveyance under the bill to be made without the payment of fair market value. The Department recommends that H.R. 1167 be amended to provide payment for the fair market value of any lands that would be conveyed.

Furthermore, the Department would like to work with the sponsor and the Subcommittee on some technical modifications to the bill, including protection of valid existing rights; the addition of a direct reference to monetary consideration; amendment of the map reference; and minor boundary changes. H.R. 1167 does not include language that makes the conveyance under the bill subject to valid existing rights. There are at least 12 existing land use authorizations on these lands, including rights-of-way for power lines, Federal highways, pipelines, and railroads, as well as Recreation and Public Purposes Act leases. There are also approximately 149 mining claims and two grazing allotments on these lands. Because the bill does not address grazing, the reduction in the existing grazing permits and removal of any authorized range improvements on these lands ordinarily would be carried out in accordance with FLPMA and the BLM's grazing regulations (43 C.F.R. Part 4100). However, the bill's 60-day timeframe for conveyance conflicts with FLPMA and the operation of the grazing regulations.

The bill also currently references a legislative map entitled "Restoring Storey County Act," and dated July 24, 2012. It is our understanding that the sponsor intends to change the reference to a map dated November 20, 2012. The more recent map informs the Department's position on the legislation. In addition, the Department recommends some minor changes to align the conveyance boundaries with existing lots that already have been surveyed. We would be happy to work with the sponsor and the Subcommittee on these changes and other, more minor, technical corrections.

Lastly, the Department of Justice recommends that the bill be revised to make absolutely clear that the County would have to agree to the proposed conveyance, as requiring the County to accept the land without consent might raise constitutional concerns. This change might be accomplished by adding ", and subject to the agreement of the County" before "the Secretary shall convey to the County" in section 4(a) of the bill.

Conclusion

Thank you again for the opportunity to testify on H.R. 1167. The bill is important to the people of Virginia City and Storey County, and the Department looks forward to working with the sponsor and the Subcommittee on modifications so we can fully support the bill.