

**Testimony of
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Bureau of Land Management, Department of the Interior**

**House Natural Resources
Subcommittee on National Parks, Forests and Public Lands**

H.R. 4039, Yerington Land Conveyance and Sustainable Development Act

April 17, 2012

Thank you for the opportunity to testify today on H.R. 4039, the Yerington Land Conveyance and Sustainable Development Act, which presents economic and other development opportunities for the small west Nevada city of Yerington. This bill would allow the city to purchase, at fair market value, about 11,500 acres of surface land and the subsurface mineral estate managed by the Bureau of Land Management (BLM) that surround a copper mine development located on approximately 1,500 acres of private land. The BLM has concerns with the legislation and proposes a number of modifications and amendments, including provisions that would ensure that the Federal government receives full value for the lands and associated mineral interests.

Background

Yerington is a city of about 3,000 people located southeast of Carson City in Lyon County, Nevada. Historically, mining and agriculture have been significant contributors to the local economy, but today, Yerington has an unemployment rate of 16 to 17 percent. The BLM manages approximately 850,000 acres of public land in Lyon County. The land in the conveyance area has not been identified for disposal in the BLM's Carson City Resource Management Plan. A revision of the plan is underway.

In February 2012, Nevada Copper Corp. broke ground on an exploratory operation at its Pumpkin Hollow mine site on private lands that are at the center of the proposed conveyance area. The city plans to annex the mine as well as the conveyance area, which will increase the tax base of both the city and Lyon County. Nevada Copper will fund the land acquisition costs for the city as well as land surveys, appraisals and cultural and natural resource evaluations required for the conveyance. In return, the city will either lease or sell certain lands that Nevada Copper requires for the development of its mine complex. Nevada Copper will also work with the city to extend water and sewer services beyond those needed for the Pumpkin Hollow mine. The city's plans envision an area where transportation, power, and water infrastructure installed for the mine will benefit other industrial and commercial users and facilitate the development of cultural and recreational areas for the benefit of Yerington.

H.R. 4039

H.R. 4039 requires the Secretary of the Interior to convey approximately 11,500 acres of BLM land and the underlying mineral estate located southeast of Yerington to the city for fair market value. The Secretary would establish the value of the land and the mineral estate in accordance

with the Federal Land Policy and Management Act and uniform appraisal standards. A map of the transfer area would be made available for public inspection, and the city will be responsible for the costs of the transfer.

The BLM would like to work with the sponsors and the committee on possible changes and amendments to improve the bill. To begin with, the Department of Justice recommends that the bill be revised to make absolutely clear that the city would have to agree to the proposed conveyance, as requiring the city to accept the land without consent might raise constitutional concerns. This change might be accomplished by adding “, subject to the City’s agreement and” after “shall convey to the City” in section 4(a) of the bill.

In addition, the bill’s 90-day time period for conveyance does not allow time to perform complete reviews under the National Environmental Policy Act and the National Historic Preservation Act. These reviews are valuable for many reasons, not the least of which is that the NEPA process allows for public participation and comment. To its credit, the city has moved ahead and already sought and been granted permission to perform cultural survey work on the area. The preliminary findings of this survey indicate that there may be up to 10 sites in the conveyance area that may be eligible for inclusion in the National Register of Historic Properties. These include old mine complexes and sites attributable to the early development of Yerington. Resolution of adverse effects, or an agreement for the resolution or preservation, would need to be addressed before the sites pass from Federal ownership.

Additionally, the bill’s 90-day time period for conveyance does not allow sufficient time to conduct appraisals to establish the fair market value of the surface and mineral estates. A mineral report would need to be completed for the area before an appraisal of the mineral estate could be conducted.

The area’s longstanding relationship to mining poses two other challenges not taken into account in the bill. The area includes numerous other mining claims, besides those of Nevada Copper, and those claims may represent valid existing rights. For this reason, the BLM generally does not convey lands with mining claims. H.R. 4039 leaves open the question of who would administer these other mining claims, which by default leaves the responsibility to the BLM to conduct validity exams and resolve other issues. According to the city, one of the stated goals of this bill is to “expedite near term and long term development of mining facilities.” If the BLM manages these claims but not the surrounding surface rights, conflicts may occur that would hobble this goal of expedited development.

The area’s mining legacy poses a second and potentially dangerous situation. The Nevada Division of Minerals has identified 147 abandoned mine hazards on the public lands to be conveyed. The BLM has concerns about attracting the public to the area with recreational and economic development without these sites being secured. At a minimum, the United States government should be indemnified from any future liabilities arising from these sites. In

addition, there are a few technical changes the BLM suggests for the bill, including changes that would address such matters as boundary irregularities and references to a utility right of way.

Conclusion

Thank you again for the opportunity to testify on H.R. 4039. This legislation holds potential for this area, and the BLM looks forward to working with the bill's sponsor and the committee on the bill. I would be glad to answer your questions.

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H.R. 4222, Tucson, Arizona, Area Land Conveyance Act

April 17, 2012

Thank you for the opportunity to present the views of the Department of the Interior (Department) on H.R. 4222, which provides for the conveyance of 73 acres of lands in the Tucson, Arizona, area, to the Federally-recognized Pascua Yaqui Tribe (Tribe) and the Tucson Unified School District (TUSD). The Department supports the goals of H.R. 4222, but would like to work with the bill's sponsor on various improvements, including ensuring that the conveyances are subject to full public review and participation.

Background

The Tribe's lands are located in Pima County, near Tucson, Arizona, and are a combination of lands held in trust by the Department and lands purchased and held in fee by the Tribe. Some of these fee lands are the subject of pending "fee-land-to-trust-land" applications with the Department. The TUSD operates the Hohokam School on private lands that are adjacent to the tribal lands.

The Tribe is interested in acquiring three parcels of land totaling approximately 60 acres. The first parcel, described in Sec. 3 of H.R. 4222, is an undeveloped, isolated 10-acre tract of Bureau of Land Management (BLM) managed land. The second and third parcels, described in Sec. 4(a) and Sec. 4(b) of H.R. 4222, respectively, are approximately 50 acres that were patented under the Recreation and Public Purposes Act (R&PP) to TUSD in 1981 and in 1963 for school construction purposes. The TUSD has never developed this land.

A fourth tract of land, described in Sec. 2 of H.R. 4222, is a 13¼-acre undeveloped and "L"-shaped BLM-managed parcel that would be conveyed from the BLM to the TUSD.

H.R. 4222

H.R. 4222 would direct the Secretary of the Interior to convey four tracts totaling 73 acres of BLM-managed public lands and lands patented to the TUSC under the R&PP in the Tucson area to the Tribe and to the TUSD. The BLM supports the goal of conveying these four isolated tracts of land to the Tribe and the TUSD, but would like to work with the bill's sponsor on necessary amendments described below.

H.R. 4222 requires the BLM to convey the first 10-acre parcel of public land to the Tribe, and the 13¼-acre "L"-shaped parcel to the TUSD, without cost to the Tribe or to TUSD, subject to any existing encumbrances or rights-of-ways. The bill requires that, when the TUSD relinquishes its possessory interest in the second and third parcels that were patented to the TUSD under R&PP, the BLM shall immediately convey these parcels to the Tribe without cost to the Tribe, subject to any existing encumbrances or rights-of-way. Under the bill, the BLM would retain two unconnected public land inholdings – a 75-foot wide strip of land on the western edge, and a 50-foot wide strip of

land. These narrow strips of land would be difficult and inefficient for the BLM to manage. The BLM recommends that the legislation address the disposition of these two parcels.

By requiring immediate conveyance of the parcels identified in H.R. 4222 there is insufficient time to complete, review, and verify environmental analyses, reports, appraisals, and surveys, or to prepare title documents. The BLM is concerned that an immediate conveyance of these parcels will not ensure the public interest through a National Environmental Policy Act (NEPA) review and will fail to comply with the National Historic Preservation Act. The BLM would like to work with the bill's sponsor to ensure full public participation and review of the bill's conveyances.

The Department is interested in working with the bill's sponsor on a number of amendments to the legislation. On many occasions, Congress has directed the Secretary of the Interior to acquire certain lands in trust for tribes. H.R. 4222 directs the Secretary to accept title to the lands identified in the bill that are encumbered by R&PP patents and then convey these parcels as well as a third parcel from BLM to the Pascua Yaqui Tribe in fee simple. Rather than conveying the land through BLM to the Tribe, and, potentially, back to the Department in trust status, the Department recommends that H.R. 4222 be amended to provide that, subject to valid existing rights, and once TUSD relinquishes its interest in the lands subject to the R&PP patent, all right, title, and interest of the United States in and to the identified lands is declared to be held in trust by the United States for the benefit of the Pascua Yaqui Tribe. This would simplify the process for both the Tribe and the United States, address some of the BLM's concerns related to the conveyances discussed above, as well as finalize and clarify the status of those lands. If the bill's provisions conveying the parcels to the Tribe in fee remain unchanged, the Department recommends that the legislation be amended to direct the Tribe to pay fair market value for the parcels. With respect to the conveyances to the Tribe, the Department of Justice recommends that the bill be revised to make clear that the Tribe would have to agree to the proposed conveyances. This change might be accomplished by adding “, subject to the Tribe's agreement” after “to the Tribe” in sections 3(b), 4(a)(2), and 4(b)(2) of the bill.

For the conveyance to the TUSD, the BLM recommends that legislation provide for an equitable distribution of the costs of the conveyances, and include a reversionary clause consistent with the R&PP that would protect, at the discretion of the Secretary of the Interior, an interest in the lands conveyed to the TUSD if it ceases to be used for the public purposes intended under H.R. 4222. Furthermore, the Department of Justice recommends that the bill be revised to make absolutely clear that TUSD would have to agree to the proposed conveyance, as requiring the TUSD to accept the land without consent might raise constitutional concerns. This change might be accomplished by adding “, subject to the District's agreement” after “to the District” in section 2(b) of the bill.

Finally, the BLM would like to work with the bill's sponsor to ensure the legislation protects any valid existing rights and interests; resolve the remaining public land inholdings under the bill; and develop a map depicting the various parcels referenced to enhance the clarity of the bill.

Conclusion

H.R. 4222 represents an opportunity to resolve land use issues on four isolated tracts of public land. We would like to work with the sponsors of the bill, the Tribe, and the community partners to ensure that public involvement and participation under NEPA is fulfilled and to ensure that all costs for conveyance of the lands are equitably distributed. Thank you for the opportunity to testify. I will be glad to answer any questions.