

Committee on Natural Resources

Rob Bishop Chairman
Markup Memorandum

July 16, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff – Brandon Miller and Leah Baker
Subcommittee on Federal Lands (x6-7736)

Markup: **H.R. 5347 (Rep. Mark E. Amodei)**, To facilitate resolution of environmental remediation and reclamation, resolve potential liability of the United States, and promote economic development in Lyon County, Nevada, and for other purposes.
July 18, 2018, 10:45 AM; 1324 Longworth House Office Building

H.R. 5347, “Lyon County Economic Development and Environmental Remediation Act”

Summary of the Bill

H.R. 5347, introduced by Representative Mark E. Amodei (R-NV-02), transfers approximately 2,000 acres of federal lands managed by the Bureau of Land Management and located in Lyon County, Nevada, to the Atlantic Richfield company, or its successors. The land to be transferred underwent extensive historical copper mining and mineral processing, which included release of hazardous substances and groundwater contamination. The land has been designated as a Superfund site and is subject to cleanup orders from the State of Nevada Department of Environmental Protection. H.R. 5347 will expedite the transfer process and allow the environmental cleanup to be managed more efficiently.

Cosponsors

None.

Background

The Anaconda copper mine is located on approximately 3,500 acres of land in Lyon County, Nevada, immediately west of the city of Yerington. Copper was first discovered in the area in the 1800s and commercial development began in the mid-20th century. The mine site includes both private and public lands managed by the Bureau of Land Management (BLM). In the mid-1970s, the mine was purchased by the Atlantic Richfield Company, which is now a subsidiary of British Petroleum.¹

¹ *Anaconda Copper Mine, Lyon County, Nevada*, Nevada Division of Environmental Protection. <https://ndep.nv.gov/land/abandoned-mine-lands/anaconda-site> (last accessed July 13, 2018); *National Priorities List, Proposed Site: Anaconda Copper Mine*, Environmental Protection Agency, September 2016. <https://semspub.epa.gov/work/09/2400298.pdf> (last accessed July 13, 2018).

During its operations, the mine produced 1.7 billion pounds of copper and 360 million tons of mineral material, the majority of which remains onsite.² The site occupies approximately 6 square miles and contains a large open-pit mine, 400 acres of waste rock, five leach pads on 250 acres, 3,000 acres of contaminated mine tailings and 1,300 acres of disposal ponds. Because mining and processing occurred prior to many modern environmental regulations, the processes used to extract copper from the mineral ore resulted in heavy metal contamination of the site and nearby drinking water wells.³

In 2000, the Nevada Department of Environmental Protection (NDEP) began managing cleanup of the site. Due to a lack of financial resources needed, NDEP requested that the U.S. Environmental Protection Agency (EPA) exercise its superfund authority under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.).⁴ The Atlantic Richfield company is the responsible party for addressing environmental issues related to the mine and has paid \$19.5 million in damages awarded to nearby residents in a class action lawsuit.⁵ ⁶ In 2015, the EPA recommended placing the site on its National Priorities List to qualify for federal funding for long-term clean up. After that, the State of Nevada sought funding solutions from private entities and requested formally that the EPA defer listing. EPA deferred the placement on the National Priorities List in February of 2018.⁷ Cleanup costs for a portion of the site are estimated to exceed \$36 million⁸

As part of its land use planning process, the BLM designated these parcels as suitable for disposal. Transfer of these lands will ensure the availability of adequate fill and cover material for the environmental cleanup, provide area for access and temporary infrastructure and improve the viability of the site for future economically beneficial uses. As a former owner and operator of the Site, Atlantic Richfield Company is uniquely situated as the only entity legally qualified under CERCLA Section 120(h) to acquire this federal land in its current condition. The Atlantic Richfield Company does not intend to hold this land long-term but will transfer ownership to an unaffiliated entity that purchased most of the former mine site in the early 2000s and is currently investigating additional mining opportunities.

Both the Lyon County Commissioners and Yerington City Council recently signed resolutions in support of H.R. 5347⁹.

² *Anaconda Copper Mine, Lyon County, Nevada*, Nevada Division of Environmental Protection. <https://ndep.nv.gov/land/abandoned-mine-lands/anaconda-site> (last accessed July 13, 2018).

³ *National Priorities List, Proposed Site: Anaconda Copper Mine*, Environmental Protection Agency, September 2016. <https://semspub.epa.gov/work/09/2400298.pdf> (last accessed July 13, 2018).

⁴ *Ibid.*

⁵ *Anaconda Copper Mine, Lyon County, Nevada*, Nevada Division of Environmental Protection. <https://ndep.nv.gov/land/abandoned-mine-lands/anaconda-site> (last accessed July 13, 2018).

⁶ Associated Press (2015, December 26). EPA wants to declare abandoned Nevada copper mine a Superfund site. <http://www.latimes.com/nation/la-na-epa-nevada-mine-20151226-story.html> (last accessed July 13, 2018).

⁷ *National Priorities List, Proposed Site: Anaconda Copper Mine*, Environmental Protection Agency, September 2016. <https://semspub.epa.gov/work/09/2400298.pdf> (last accessed July 13, 2018).

⁸ *Anaconda Copper Mine, Lyon County, Nevada*, Nevada Division of Environmental Protection. <https://ndep.nv.gov/land/abandoned-mine-lands/anaconda-site> (last accessed July 13, 2018).

⁹ Yerington City Council Resolution No. 2018-03; Lyon County Resolution No. 18-09

The Subcommittee on Federal Lands will hold a legislative hearing on H.R. 5347 on July 17, 2018.

Major Provisions/Section-by-Section Analysis of H.R. 5347

Sections 1 through 3 provide the short title, definitions, and findings.

Section 4 requires that within 90-days of enactment, the Secretary of the Interior convey to Atlantic Richfield company (or its successors or assigns) all title, right, and interest (including mineral rights), approximately 2,062 acres of federal lands located in Lyon County, Nevada. It further requires that the Atlantic Richfield company must agree not to sue, assert claim, or make cause of action against BLM with respect to CERCLA response costs incurred by the company. It also requires that Atlantic Richfield indemnify the United States against future liabilities resulting from its activities on the conveyed lands. Finally, this section establishes that the federal lands to be transferred are valued equal to or less than the U.S. portion of related CERCLA response costs and no further valuation is required for the purposes of the land conveyance.

Section 5 establishes several requirements. Within 30 days of enactment, the Secretary of the Interior must describe any existing known encumbrances on the parcel to be conveyed. Within 45 days of enactment, the Atlantic Richfield company may decline in writing the land conveyance. Upon enactment and subject to valid existing rights, the lands in question are withdrawn from all forms of appropriation under the public laws and from disposition under all laws pertaining to mineral leasing. The lands must be conveyed via patent. Within 30 days of enactment, the Secretary of the Interior shall initiate government to government consultation with any federal Indian tribe affected by the conveyance and shall conclude consultation within 90 days. After consultation, the Secretary of the Interior will consult with Atlantic Richfield to address any concerns identified by the tribe(s). It asserts that tribal and State rights and laws remain unaffected and requires that the land conveyance comply with all applicable laws. Finally, this section requires that Atlantic Richfield perform all actions required by the State Division of Environmental Protection to protect human health and the environment.

Cost

A Congressional Budget Office cost estimate has not yet been completed for this bill.

Administration Position

The Administration's position is currently unknown.

Anticipated Amendments

Representative McClintock will offer an amendment to incorporate technical suggestions provided by the Bureau of Land Management.

Effect on Current Law (Ramseyer)

None.