

Committee on Resources

Witness Testimony

Subcommittee on National Parks & Public Lands

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H.R. 449, Southern Nevada Public Land Management Act of 1997

Thank you for the opportunity to testify on H.R. 449, the Southern Nevada Public Land Management Act of 1997, regarding land disposal in the Las Vegas Valley. The Bureau of Land Management (BLM) supports the concept behind this bill. We believe that through continuing discussions with the bill's authors in the House and the Senate, a final bill can be produced that would receive the Administration's endorsement.

Let me provide some background and context for this legislation. In many parts of the West, the legacy of settlement has left us with a scattered ownership pattern. The Las Vegas area is a good example. As communities such as Las Vegas expand, the BLM works with local jurisdictions to make public lands available through sale or exchange and also provide lands for public purposes through Recreation and Public Purpose (R&PP) Act patents and leases. In the Las Vegas Valley, BLM is working with all jurisdictions and private interests to facilitate the disposal of public lands, mostly through exchange. Our program of land exchanges in the Las Vegas Valley is designed to dispose of land with high commercial value, which allows us to acquire resources significant to all Americans, including:

prime recreation areas;

riparian and wetland habitat;

critical habitat for threatened, sensitive and endangered species, and

significant historical, archaeological, and cultural sites.

H.R. 449 and its companion Senate bill, S. 94, specifically affect several thousand acres of public land in the Las Vegas Valley, which are managed by the BLM. In recent years, the Las Vegas Valley has become the fastest growing metropolitan region in the country, but development has been influenced by the presence of public lands in the area. The rapid expansion has also had an impact on the Las Vegas District of BLM, which has experienced an increase in applications for permits to use public lands. These requests have included rights-of-way for power lines and roads, R&PP leases for fire stations and schools, land exchange proposals, and other realty actions. This bill seeks to resolve the future of these public lands by requiring BLM to sell, exchange or transfer public land in the Las Vegas Valley.

Mr. Chairman, the BLM strongly believes that the land ownership pattern in the Las Vegas area needs to be addressed. In fact, our draft Resource Management Plan (RMP) for the area targets the vast majority of BLM-managed lands within the Las Vegas metropolitan area for disposal in order to meet the growth needs of the community. The lands specified in H.R. 449 are nearly identical to those identified for disposal in the RMP.

As part of its planning process, BLM's Las Vegas District works toward partnerships with local governments in southern Nevada. The BLM is a charter member of the Southern Nevada Public Lands Task Force, and BLM personnel meet regularly with the Clark County Planning Director at quarterly meetings. In January 1996, BLM initiated the Southern Nevada Land Exchange Strategy Project to improve the effectiveness of the land exchange program and other realty actions in the Las Vegas District. Coordination and communication with local governments continue to be key to success of the project. In the area of land exchanges, our goal is to prioritize land exchange opportunities and move forward with timely completion of high priority land exchanges that meet the public interest and respond to local needs.

One of the best examples of sound legislation that addressed public land disposal is the Santini-Burton Act of 1980. The law gave the Department of the Interior the authority to sell land in the Las Vegas Valley and to use 85% of the revenue to purchase National Forest System Lands in the Lake Tahoe Basin. The Federal government shares a reasonable portion of the receipts (15%) with Clark County, the City of Las Vegas and the State of Nevada. In return, lands in the magnificent Lake Tahoe Basin have been protected and made available for the enjoyment of the public.

The intent of H.R. 449 is to capture the best qualities of the BLM's land exchange goals, the Burton-Santini Act and the partnerships that have been developed with local government. This bill provides for the disposal, by sale or exchange, of certain Federally-owned, BLM-managed lands within a limited area of the Las Vegas valley. Fifteen percent of the proceeds from these land disposals would be distributed to local entities. The balance of the funds would be used, for the benefit of natural resource management within Nevada for Federal land acquisition, capital improvements, development of a multi-species habitat conservation plan in Clark County and the development of recreation and natural areas within Clark County. The bill also provides for the transfer of lands to Clark County, at no cost, within the airport management area for McCarran International Airport. Should those lands be sold or leased, the United States would be paid 85% of the fair market value received. The bill also includes a provision allowing local governmental entities to select public lands needed under the R&PP Act prior to their conveyance. Local and regional governmental entities may also apply for rights of way for flood control and water treatment purposes which can be granted in perpetuity and at no cost. Additionally, the Secretary is authorized to transfer the R&PP reversionary clause from one parcel of land to another upon request by the owner of those lands.

Under existing BEA rules, this bill would have significant PAYGO costs. However, the Administration is planning to propose changes to the current rule that prohibits scoring asset sale proceeds as PAYGO savings. Such a change would mean that the lands sale proceeds could be counted as offsetting the land acquisition and other costs in this bill. We will continue to work

with OMB and the sponsors of the bill to resolve these issues.

Nearly a year ago, the BLM acting Director, Mike Dombeck testified in opposition to an earlier version of this bill. At that time, Mr. Dombeck stated, "while we support the goal of disposing of certain public lands within Las Vegas to accommodate the city's growth, the Department strongly opposes this bill." He pointed out that the earlier bill would divert huge amounts of Federal resources and funds to local interests, offering a windfall to a few at the expense of many. Since that hearing a year ago the Nevada delegation staffs have worked to resolve many of the problems we identified with the bill, as originally introduced in the 104th Congress.

Since H.R. 449 was introduced in the House (and its companion bill S. 94), a number of technical issues

have been discussed and resolved between BLM and Congressional staffs. Those details are unnecessary to pursue here. However, there remain a few issues that are as yet unresolved that need to be remedied before the administration can endorse the bill.

First, section 4(a) waives FLPMA sections 202 and 203 for land disposals and section (b)(3) waives environmental laws for construction of a youth activity facility. The Administration opposes waivers of environmental laws in legislation. Such waivers undercut the applicability of the laws, undermine enforcement, possibly lead to serious environmental problems and set a dangerous precedent. We urge that these waivers be removed from the bill.

Second, section 4(f) of the bill establishes a special account for 85% of the proceeds of land sales. Creating a special account that makes funds available without further appropriation is a significant departure from Administration policy. However, the Administration could support the establishment of such a fund if its uses were limited to land acquisition within Nevada and reimbursement of costs incurred by the local BLM offices in arranging sales or exchanges.

Third, Section 4(d) of the bill is entitled, "Joint Selection Required". This section appears to require the Secretary to obtain local government concurrence before any land disposal action. The Secretary, just like a corporation or a private homeowner, should have the discretion to dispose of lands without having to wait for the local government to approve that transaction. After all, local government has the ultimate control of land development through planning and zoning. We believe strongly in consultation with local governments, but do not believe they should have veto power. We request that the term joint selection be changed to "consultation".

Fourth, Section 4(g) of the bill transfers 4,600 acres that are located within the Las Vegas Airport noise area to Clark County, at no cost. Specifically, the bill requires the Secretary of the Interior to transfer lands that are identified in a current Memorandum of Agreement (MOA) with the BLM to Clark County, at their request and at no cost. If the lands are later sold or leased, then the Airport Authority is required to pay the Federal government 85% of the value received. Although this approach is superior to the straight donation as designed in earlier versions of the bill, it still requires modification to assure that we are not conveying more lands than necessary for the airports needs. I am sure the airport authority would like to keep this process as simple as possible without creating unnecessary long-term actions. Some additional modifications would also be necessary to insure that any conveyance (for example land exchanges) or use authorization upon the lands results in a sharing of receipts as intended in this section. We would be glad to work with the subcommittee staff and the airport authority on this issue.

Finally, the bill contains a provision which allows affordable housing to be an acceptable use of the R&PP authority anywhere within Nevada. The R&PP Act authorizes the sale or lease of public lands for recreational or public purposes to State and local governments and to qualified nonprofit organizations. Examples of typical uses under the act are historic monument sites, campgrounds, schools, fire houses, hospitals, parks and fairgrounds. These lands are conveyed at costs below market value, with the exact price dependent upon the type of use or the restrictions placed on the lands. Most sales under the R&PP Act are made at \$10 per acre or 50% of market value. The United States sells lands under this authority with a reversionary clause that requires the lands to remain in the ownership of the patentee and to be used for the purpose requested. Sales of these lands or changes of use result in a reversion of title to the United States known as a divestiture. Because of these requirements in the R&PP Act, this affordable housing provision causes potential problems should the property be conveyed or the use of the property change. The BLM could find itself in the position of having to divest title to hundreds of one-quarter acre tracts or a converted

apartment house complex. We would suggest that this provision be removed. Taking back these types of properties is time consuming and offers no benefit to natural resource management in Nevada.

Finally, we need to continue discussions regarding the need and location of any Red Rock NCA boundary modifications as called for in the legislation. The bill as written does not specifically delineate which areas are included--we would like to work with staff to insure that this boundary modification is in the best public interest.

CONCLUSION

Mr. Chairman, we all recognize that a population explosion is occurring in many western communities. Las Vegas is seeing an increased migration of people from southern California and large metropolitan areas in the east. Public lands can be part of the solution, and an effective land disposal program can assist in orderly growth. The Bureau of Land Management agrees that we need to move to dispose of much of the urban lands in the Las Vegas area when appropriate. Of the 130,000 acres within the area affected by this legislation, about 20,000 of those acres are public lands. These public lands should be disposed of in harmony with the needs of the local or tribal jurisdictions. We also believe that all land disposals must benefit both the American people and the local community as well.

This legislation provides a framework to allow for a fair approach to dealing with the situation in the Las Vegas area. The bill deals with disposal of public land using a nearly identical boundary as developed within the BLM Draft Resource Management Plan. With changes to address the concerns outlined above as well as some possible changes of a more technical nature, the Administration could support the legislation. We would be happy to work with the Nevada delegation to provide such a solution.

Mr. Chairman, I appreciate this opportunity to appear before the Subcommittee and discuss this bill. I will be glad to answer any questions.

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