

# Committee on Resources

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## Witness Testimony

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Testimony of

**MAT MILLENBACH**

Deputy Director, Bureau of Land Management

On

H.R. 3147

Merced Irrigation District Land Exchange

H.R. 2711

Elkhorn Ridge Timber Sale

H.R. 2135

Boundaries in Clark County, Nevada,

Before

House Committee on Resources

Subcommittee on National Parks, Forests and Lands

May 30, 1996

Thank you for the opportunity to testify on the bills before us today.

### **H.R. 3147**

We support H.R. 3147, which provides for the exchange of lands with the Merced Irrigation District. Under the legislation, 179.4 acres of scattered BLM-managed public lands located within the irrigation district's water project area in Mariposa County, California would be transferred to the Merced Irrigation District. These lands are generally not accessible and some are inundated with water from the project. In return, 160 acres of land currently owned by the Merced Irrigation District within the Merced Wild and Scenic River boundary would be transferred to the Federal Government and would be managed by the BLM. These lands will provide additional river access and offer significant recreation and wildlife values. The BLM fully supports this land exchange, which is one of the highest priorities for the Bureau in California.

The public lands to be transferred are currently encumbered by several withdrawals for power purposes which prevent the BLM from conveying the property. H.R. 3147 revokes those withdrawals. The BLM has already begun administrative procedures to revoke these withdrawals thus making the lands available for exchange. The Federal Energy Regulatory Commission (FERC) has responded to our request for revocation of the withdrawals subject to certain conditions. A Public Land Order has been drafted to effect the revocation action. The BLM will be conveying that document to the Assistant Secretary, Land and Minerals Management, for signature within the next few days. We will continue to move toward administrative resolution of this matter while awaiting final Congressional action.

### **H.R. 2711**

We also strongly support H.R. 2711 which would implement a settlement agreement reached between Eel River Sawmills Inc., and the Department of the Interior regarding the Elkhorn Ridge timber sale.

The BLM sold and awarded the Elkhorn Ridge timber sale to Eel River Sawmills, Inc. in November of 1987. Shortly after logging began, litigation blocked further harvest. In May 1994, after extensive study and based on newly available information, the BLM concluded that logging Elkhorn Ridge timber would inflict irreparable environmental damage and canceled the sale. As a result, in August 1994, Eel River Sawmills, Inc. submitted a damage claim against the BLM.

In October of 1995, the BLM-California State Office proposed to settle the damage claim by offering substitute timber. The Acting Regional Solicitor, Pacific Southwest Region, noted that the "BLM had made a reasonable and good faith

effort to develop a settlement package that would avoid future litigation," and concluded that "it would be in the best interests of the government and the taxpayers to offer Eel River the proposed substitute sale package in exchange for dismissal of its claim including any interest and attorney fees." The Department concurred with this decision and a settlement was reached between the Department of the Interior and Eel River Sawmills, Inc., on March 4, 1996. This legislation, H.R. 2711, is necessary to implement that agreement.

The agreement identifies substitute timber which is of substantially equal value to the current appraised value of the Elkhorn timber sale. These substitute sales (Powerline, Deadwood, and Sheridan/Carr Creek) have also been cleared for environmental and NEPA concerns and have been agreed to by both the BLM and Eel River contingent on this legislation being signed into law.

The bill also achieves two of the Secretary's and the President's specific goals in this region. Namely, it provides protection of critical environmental areas such as the Elkhorn Ridge as part of the President's Northwest Forest Plan and provides suitable Federal timber for mills in an area impacted economically by reduced timber harvests. We are happy to support this bill and urge its rapid consideration by the Committee.

## **H.R. 2135**

Like Congresswoman Vucanovich, we believe that the problems related to erroneous private surveys of land along Decatur Boulevard in Las Vegas need to be resolved. We support resolving this long-standing boundary dispute and believe it can be done in a rational and fair manner. If amended to reflect our concerns, we would support the bill.

H.R. 2135 seeks to eliminate encroachments on approximately 30 acres of public land which parallels Decatur Boulevard near downtown Las Vegas, Nevada. The private land adjacent to the public land was sold by the City of Las Vegas to developers. The developers identified the legal land descriptions on the ground based on erroneous private surveys. Using the erroneous private surveys, the developers then sold lots which resulted in the encroachment problem on public lands that H.R. 2135 attempts to resolve. In the early 1980s, the survey errors along Decatur Boulevard were brought to BLM's attention. In 1990, BLM conducted a resurvey to restore the original survey corners on the ground. Attached is a map of the area.

H. R. 2135 does not require payment of fair market value to the United States for the transfer of public lands into private ownership. Since the United States is not responsible for the survey errors which led to the occupancy trespasses, we oppose the transfer of title to public lands free of cost. There have been many similar instances of occupancy trespass which have been resolved by sale of the public lands at fair market value. We would be happy to work with the Committee to arrive at a value that is fair and equitable to both the claimants and the taxpayers.

Section 2 of the bill implies that the United States has deprived the claimants of title to the property. These references mischaracterize the problem. The claimants are not being deprived of the property by any action of the United States. Rather, they are attempting to obtain title to public lands that they thought they owned by virtue of relying on erroneous private surveys. We suggest that the references to the claimants being "deprived by the United States of title" be deleted.

We also believe that the bill should be amended to clarify that the United States Government is not at fault for the survey errors. As we have noted, the original survey and current resurvey boundaries are correct and done according to the official rectangular system of survey, which is applicable to the public lands.

We recognize that section 2(d) is intended to allow the City of Las Vegas to act as an agent for the claimants and accept title to the lands on their behalf. This process would allow the Secretary to convey the entire parcel to the City without the need for costly and time consuming surveys to identify each individual claim. This process will only work if all of the claimants are represented. If only some of the claimants agree to be represented by the City, then surveys would still be needed to identify those remaining parcels. We would be happy to work with the Committee to develop the appropriate language to accomplish the purpose of this section.

Finally, we note a number of concerns of a technical nature relating to timeframes, procedures and the like that should be modified to allow us to carry out the purposes of the bill in a fair and timely manner. We would be happy to work

with the Committee to develop language to address these concerns. If these amendments were adopted, we would be happy to support H.R. 2135.

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