

# **Committee on Resources,**

## **Subcommittee on Energy & Mineral Resources**

[energy](#) - - Rep. Barbara Cubin, Chairman

U.S. House of Representatives, Washington, D.C. 20515-6208 - - (202) 225-9297

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### **Witness Statement**

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**Statement of**  
**Neal McCaleb**  
**Assistant Secretary - Indian Affairs**  
**U.S. Department of the Interior**  
**Before the**  
**House Resources Subcommittee on Energy & Minerals**  
**H.R. 1913, Valuation & Exchange of Non-tribal Mineral Rights within the**  
**Acoma Indian Reservation in New Mexico**  
**September 13, 2001**

Madam Chairman and Members of the Committee, thank you for the opportunity to provide the Administration's views of H.R. 1913, a bill which directs the Secretary of the Interior to conduct a valuation and exchange of non-tribal subsurface rights within the boundaries of the Acoma Pueblo Indian Reservation.

The Department supports the goal of transferring the private mineral estate to the Acoma Pueblo. However, we suggest that the bill be amended to allow the Secretary to consider acquisition of the mineral estate through a direct purchase or by using transferable bidding credits (interest free), in addition to the land exchange option provided in the bill. We also recommend amendments to provide for a cost-sharing arrangement if either an exchange or purchase takes place; and to allow additional time to conduct an exchange.

### **Background**

When the United States created the Acoma Pueblo Reservation, minerals within the reservation lands were already in private ownership. They were never transferred to the Acoma Pueblo. The Acoma Pueblo has stated that any desire by the owners of the mineral estate to begin exploration for minerals on the reservation would disrupt its traditional way of life. Leaders of the Acoma Pueblo have long expressed their desire to have their land rights intact and that includes both the surface and mineral estate.

The owner of the mineral estate has informed the Acoma Pueblo that a trade for land of equal value would be acceptable. An official appraisal of the mineral estate does not currently exist, and we have no knowledge of any such production on the private mineral estate on the Acoma Pueblo lands. The Bureau of Land Management (BLM) was approached by the Acoma Pueblo about a year ago to use its exchange process to acquire the non-tribal mineral interests within the Acoma Pueblo Reservation land. The BLM has responded to these requests by suggesting that the Acoma Pueblo seek Congressional authority for such a transaction.

### **Current Estimated Value**

The non-tribal interest ownership of the mineral estate within the boundaries of the Acoma Pueblo Indian Reservation is approximately 68,000 acres. The BLM currently estimates that the mineral estate consists primarily of sand and gravel, but that there may be potential for oil and gas in the area. The private mineral owners have estimated costs of an outright purchase - in lieu of an exchange - of their mineral estate within the Reservation to be between \$1 million and \$1.7 million. It should be emphasized that no federally-approved appraisal has been completed for the mineral estate interests and it is possible that the actual value is less than this estimate.

### **BLM Land Exchange Process /Costs**

The valuation and exchange provided for in H.R. 1913 would result in a considerable workload and costs for the BLM. As with any land exchange, the BLM must follow the processing and public involvement procedures as required by the Federal Land Policy and Management Act, the National Environmental Policy Act and other statutory and regulatory requirements. Such steps would include, but would not be limited to, appraisals, environmental reviews and clearances, public notices, coordination with other landowners, and adjudication procedures. The typical BLM land exchange results in costs of approximately \$1 million - an amount close to the private mineral owners' estimate of value for a direct purchase of their mineral estate within the Reservation. At this time, it is also unclear whether or not an agreement on value can be reached between the mineral estate owner and the Secretary of the Interior.

### **Proposed Amendments to H.R. 1913**

The Department would like to work with the Committee to address the following concerns with the legislation as introduced.

- **Purchase Option** - Given that the anticipated cost to process this exchange may exceed the value of the property to be acquired, the Department recommends amending the bill to provide the Secretary with the option to acquire the interests in the property through a direct cash purchase or through the granting of future federal lease bidding credits (interest free) in the amount of the value of the acquired mineral estate. This option would be in addition to consideration of the exchange option already provided for in the legislation. Under an outright purchase, or through the future federal lease or permit bidding credits (interest free), an exchange would not be necessary and there would be no disposal of federal estate. This action would take less time and potentially result in considerable net savings to the Federal Government.
- **Cost-Share** - The BLM and a land exchange proponent typically share in the costs of processing a land exchange. Currently, the introduced legislation does not provide for such a cost-sharing arrangement if an exchange is the final transaction that takes place. Under the introduced bill, the Secretary is required to negotiate and complete the land exchange transaction and incur all of the costs for such a transaction. The Department recommends that the bill be amended to provide for such a cost-sharing arrangement with the exchange proponent, the New Mexico and Arizona Land Company. We also recommend that it include provisions for the sharing of costs for the appraisal of the mineral estate.
- **Timetable** - In addition, the introduced legislation does not provide a sufficient timetable for a land exchange transaction to take place. As land exchanges can sometimes take longer than two years to complete, the Department would recommend that the bill be amended to provide the Department with at least three years to complete any exchange.

### **Closing**

Thank you Madam Chairman. I would be happy to answer any questions that you or other committee members may have.

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