**Statement of**
**Luke Johnson, Deputy Director**
**Bureau of Land Management**
**Before the Senate Energy & Natural Resources Committee**
**Subcommittee on Public Lands and Forests**
**H.R. 838, Park City, Utah Land Conveyance**
**February 27, 2008**

Thank you for the opportunity to testify on H.R. 838 which provides for the disposal of four parcels of Bureau of Land Management (BLM) managed lands in Park City, Utah. As a matter of policy, we support working with states and local governments to resolve land tenure and land transfer issues that advance worthwhile public policy objectives, and we have no objection to the transfer of these specific lands out of Federal ownership. The Department of the Interior is mindful that legislated land transfers often promote varied public interest considerations; part of our role is to help inform Congress and the public about the tradeoffs associated with such transfers. In general, we support the goals of the legislation, but would be able to support the bill only if amended to address a number of issues raised in this testimony, particularly the proposed transfer of high-value land without compensation to taxpayers.

## Background

Originally founded as a silver mining town in the 1860s, the last of Park City's mines closed in the early 1970s. Today, Park City is recognized as one of the premier ski destinations in the country. Many of the events for the 2002 Winter Olympics were held in Park City which is home to three elite resorts: Park City Mountain Resort, Deer Valley Resort and the Canyons Resort. Growth in Park City and Summit County has been monumental over the last few decades, and housing and land prices are among the highest in Utah.

The BLM manages four parcels of Federal land within Park City, in the Deer Valley area. They range in size from a half acre to just over 91 acres. These parcels are interspersed with high end housing and have encumbrances on them including old unpatented mining claims, rights-of-way, and old mining houses in trespass. Additionally, the BLM has a Recreation & Public Purposes (R&PP) lease with the city on the largest of the parcels (Parcel 16, the Gambel Oak Parcel). This lease was first issued to the city in 1985 for the purpose of the planned development of recreational facilities. That lease is currently a source of contention between the BLM and Park City because the City's R&PP development plans have not been completed, and there is no legal public access to the parcel. The BLM understands that Park City has reconsidered its plans and wishes to maintain the land for open space, not public recreation. Open space that does not provide any additional public value, such as recreational facilities, is not an allowed use under the R&PP Act.

## H.R. 838

Section 1 of H.R. 838 proposes to convey to Park City, Utah all right, title and interest of the United States to two parcels of land in the Deer Valley area. These parcels are generally known as the White Acre Parcel (Parcel 8) and the Gambel Oak Parcel (Parcel 16); together, they comprise just over 112 acres. The White Acre Parcel is public land currently identified for disposal through BLM's land use planning process, while the Gambel Oak Parcel is currently

under an R&PP lease to the city. The bill directs that the lands be maintained by the city as "open space and used solely for public recreation purposes . . .". Finally, this section requires Park City to pay the Secretary of the Interior an amount consistent with recreational pricing under the R&PP Act. Under the R&PP Act, a conveyance to governmental entities for recreational purposes is without cost.

We should note that if the lands were to be administratively patented to Park City under the R&PP Act, "open space" would not be an acceptable use of the lands unless qualifying recreational facilities were part of the proposal. It should be noted that these are high value lands. If these lands were sold to Park City for open space under authority other than the R&PP Act, the Federal government would be compensated at fair market value.

Furthermore, the legislation appropriately provides for the transfer of the lands subject to valid existing rights. The Gambel Oak Parcel has 11 unpatented mining claims held by three different claimants. No validity exams have been undertaken on these claims under a previous agreement with Park City. The BLM rarely conveys land with these types of substantial, valid existing rights, but it is not unprecedented. We note that the parcel also contains a number of rights-of-way. BLM regularly conveys land subject to rights-of-way.

Furthermore, we recommend the addition of a reversionary clause at the discretion of the Secretary. Such a clause would ensure that the Federal government retains a reversionary interest in these lands if they are not used for the specific purposes for which they are transferred.

Section 2 of the bill directs the sale of two additional parcels, Parcel 17 (0.5 acres) and Parcel 18 (3.09 acres) at auction and requires that the sale follow the Federal Land Policy and Management Act, except for planning provisions in sections 202 and 203. There are a number of encumbrances on these parcels. Specifically, Parcel 18 includes a portion of one mining claim as well as several late 19$^{th}$ century buildings that are listed on the National Register of Historic Places. Ownership status of these buildings remains unresolved. Several of these houses are currently occupied in trespass, and one is the subject of an outstanding color-of-title ruling by the Interior Board of Land Appeals (IBLA). Last fall an additional color-of-title claim was filed against the remaining three buildings. Additionally, the parcels contain a number of existing rights-of-way. The legislation provides for the auction subject to valid existing rights.

It is important to note that the existing mining claims, trespass actions, title disputes, and related activities on these lands may significantly complicate a conveyance. In particular we recommend removing from the auction the piece of land in Parcel 18 on which IBLA has determined a color-of-title action.

Section 3 provides for the deposit of the receipts from the sales under section 2 into a special account in the Treasury. These funds would then be available for reimbursement of costs associated with the sales and environmental restoration projects on public lands in the general area. We are concerned that disposition of receipts in this manner would circumvent BLM's normal budget process which takes into account the resource needs of BLM offices in each state. We suggest that any receipts from this land transfer either be directed to the Federal Treasury or be deposited in the land sale account already established under the Federal Land Transaction

Facilitation Act (FLTFA), where the proceeds could be directed to priority acquisitions of inholdings, primarily within the State of Utah.

In addition, the Administration does not support section 3(b), which allows any amounts deposited in the special account to earn interest. The Department of the Treasury strongly opposes such provisions, which effectively require the Treasury to borrow more funds to pay this interest.

Thank you for the opportunity to testify, I will be happy to answer any questions.