

**Statement of  
Edwin Roberson, Assistant Director  
Bureau of Land Management  
Department of the Interior  
Senate Energy and Natural Resources Committee  
Subcommittee on Public Lands and Forests  
H.R. 762, Final Patent & Land Configuration, Clark and Lincoln Counties, Nevada  
December 17, 2009**

Thank you for the opportunity to testify on H.R. 762, a bill which affirms a land patent and an associated land reconfiguration completed in 2005. These land transactions protect habitat for desert tortoise and other Mojave Desert wildlife species while providing for economic development in rural south-central Nevada. The BLM supports this bill, which passed the House of Representatives without amendment on July 15, 2009.

**Background**

The Nevada-Florida Land Exchange Authorization Act of 1988 (NFLEA, P.L.100-275) authorized the exchange of approximately 29,055 acres (“fee” lands) of BLM-administered lands in Coyote Springs Valley, Clark and Lincoln Counties, Nevada, for approximately 5,000 acres of private land in the Florida Everglades owned by Aerojet-General Corporation (Aerojet). The purpose of the land exchange was to protect habitat in Florida needed for the recovery of wildlife species listed under the Endangered Species Act (ESA). The NFLEA also entitled Aerojet to lease an additional 13,767 acres (“leased” lands) of BLM-administered land in Coyote Spring Valley for 99 years, with an automatic 99-year lease renewal term unless terminated by the lessee.

Aerojet initially intended to use the fee lands for the construction of rocket manufacturing facilities. The Federal leased lands were to remain substantially undeveloped and serve as a conservation area and buffer for the rocket facilities. Aerojet never built the manufacturing facilities and the fee lands changed ownership in 1996 and 1998. In accordance with the NFLEA, the Secretary of the Interior approved the assignment of the leased lands from Aerojet to Harrich Investments LLC, and then from Harrich Investments to Coyote Springs Investment LLC (CSI), respectively.

CSI proposed to develop a planned community on the original Aerojet fee lands. Because the proposed development would affect critical habitat for the desert tortoise, an ESA listed species, the U.S. Fish and Wildlife Service (FWS) asked the BLM in 2001 to consider reconfiguring the boundary of the leased lands to benefit desert tortoise habitat. Reconfiguration of the leased lands was undertaken pursuant to the NFLEA.

Under the original configuration, the leased land was an island surrounded by the fee lands acquired by Aerojet. This configuration was designed to meet the needs of the planned Aerojet manufacturing facilities, but it provided limited habitat conservation benefits. Reconfiguring the lands would enhance conservation by consolidating the fee lands in a single parcel adjacent to U.S. Highway 93, and by placing the leased lands contiguous to protected habitat on BLM-

managed public lands. This configuration would increase habitat connectivity and provide more effective conservation for desert tortoise and other Mojave Desert species.

In 2005 the Bureau of Land Management (BLM) issued a corrective patent to CSI for the reconfigured lands in Clark County. The Western Lands Project and the Nevada Outdoor Recreation Association (plaintiffs), who claimed that the BLM should have prepared an analysis of the corrective patent under the National Environmental Policy Act (NEPA) and the Federal Land Policy and Management Act (FLPMA), subsequently brought suit in the U.S. District Court in Nevada. The action has been stayed and has not yet been briefed on the merits.

Continuing with its project proposal, CSI then prepared a Multiple Species Habitat Conservation Plan (MSHCP) to protect tortoise habitat and, consistent with the ESA, applied to the U.S. Fish and Wildlife (FWS) for an “incidental take” permit necessary for project approval. The FWS, with the BLM as a cooperating agency, assessed the CSI proposal in an Environmental Impact Statement completed in July 2008. In October 2008, the FWS issued a Record of Decision authorizing an incidental take permit to CSI with numerous conservation stipulations to protect desert tortoise habitat. A key conservation stipulation is the land reconfiguration authorized by the BLM’s corrective patent.

In November 2008, the plaintiffs stipulated with the BLM to a stay of the lawsuit for one year pending action by Congress on legislation affirming the corrective patent.

### **H.R. 762**

H.R. 762 affirms and validates the corrective patent issued by the BLM in 2005 and its associated land reconfiguration. The bill enables implementation of the land reconfiguration stipulated in the Coyote Spring MSHCP, which will protect critical habitat while allowing economic development in south-central Nevada. The BLM supports the bill, which passed by the House of Representatives without amendment on July 15, 2009.

Thank you for the opportunity to testify. I would be happy to answer any questions that you may have.