

**Statement of
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H.R. 3342, Ownership of Certain Land in Louisiana
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The Department of the Interior appreciates the opportunity to present testimony on H.R. 3342, which seeks to address potential conflicts in land ownership around Lake Bistineau in Louisiana, including Peggys and Hog Islands. H.R. 3342 would void the existing Federal survey approved in 1969 for these lands, and nullify the legal effect of any future survey or resurvey as to the title and boundaries of the affected lands. The Department of the Interior supports the goal of resolving potential land ownership conflicts, but opposes the nullification of any past or future Federal surveys. We look forward to working with the Sponsor and Members of the Committee on this issue.

Federal Survey Authority

The Public Land Ordinance of 1785 provided original authority for public land surveys and the mechanism for the sale and transfer of public domain lands. The Bureau of Land Management (BLM) has the authority to examine the correctness of public surveys and to execute supplemental surveys of areas which were omitted from an original survey. The BLM also has the authority to correct surveys of public lands when appropriate. In the past there have been cases where considerable areas of land bordering surveyed bodies of water have been left out of the original survey.

Lake Bistineau Boundary

Lake Bistineau is located in Bienville, Bossier, and Webster Parishes in Louisiana. It is one of several “raft lakes” formed when the Red River became blocked by an accumulation of trees and other debris, called “the Great Raft,” prior to Louisiana statehood in 1812. The debris was removed in 1845, causing Lake Bistineau to drain. Shortly thereafter, a dam was built which recreated an artificial lake over much of the original lake bed. This lake is in place today.

Boundaries along water bodies are called riparian boundaries, which typically extend to the actual water and change with the water level. However, in the case of Lake Bistineau, the boundary line does not move with the water, because many of the changes that occurred over time occurred unnaturally, such as the physical removal of raft material in 1845.

In 1838, the General Land Office (GLO) conducted the original subdivision survey of the township which includes a portion of the boundary of Lake Bistineau. This survey was officially approved in 1842. In 1967, the BLM received a Color-of-Title Application (process described in further detail below) for lands located outside of the original 1838 survey line in section 30. As a result, the BLM issued special instructions calling for the examination and survey of lands bordering Lake Bistineau. After this review, the BLM determined that a considerable area of

land had been erroneously omitted from the original survey in 1838. These “omitted lands,” which accounted for nearly 230 acres, were identified, surveyed, and platted as public lands, pending completion of a public comment period and official approval of the changes. The BLM estimates that mineral resource value for portions of the omitted lands exceeds \$10 million.

On February 26, 1969, the BLM provided an opportunity for public engagement by publishing a notice of the plat filing in the *Federal Register*. The BLM also sent notice letters to several local and State entities and to individuals, including the original claimant. The BLM did not receive any protests or comments during the public notification period. On March 31, 1969, the resurvey and extension to the 1838 survey line was officially filed.

Under the U.S. Constitution’s Equal Footing Doctrine, states receive title to the submerged lands under navigable water bodies at statehood. The Supreme Court has ruled that navigable bodies of water are those that are “used in their natural and ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of travel and travel on water.” Lake Bistineau is considered a navigable water body, and therefore the boundary between state lands and the upland owners is fixed at a specific elevation line determined by official federal surveys.

In 1901, the state of Louisiana conveyed the omitted lands to Bossier Levee District, and the levee district subsequently conveyed the lands to private individuals. Since the state did not own these lands when it issued the deed to the levee district, a title conflict between those who hold title through the State and the United States was created. In recent years, private land holders have raised concerns about this situation, which is further complicated by active oil and gas production in and around the area.

In 2013, the BLM responded to a request for information regarding the status of the lands in this area from several of the individuals holding a title derived from the 1901 deed from the State. The BLM responded with an informational letter containing a brief summary of general laws and information contained in the BLM records. Three land holders filed an appeal with the Interior Board of Land Appeals (IBLA) based on the letter. On September 9, 2014, the IBLA dismissed the appeal on the basis that the letter was not a formal decision but rather a summary of the information contained in the BLM records. The appellants filed for reconsideration, and the IBLA issued an order upholding the dismissal on February 4, 2015.

Public Land Disposal Authority

A variety of statutes provide the BLM the authorities necessary to address issues and disputes in land ownership. Under the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM is authorized to transfer or dispose of lands that have been identified as potentially suitable for disposal in an approved land use plan or through an amendment to an existing plan. Through these authorities, the BLM has been able to effectively manage and resolve many land use conflicts.

The Color-of-Title Act provides a unique mechanism to resolve certain private party claims on public land which may be applicable to issues in the Lake Bistineau area. Any individual, group, or corporation who presents evidence of having title, such as a deed derived from a non-Federal source, to public lands may file a color-of-title claim with the BLM. Accepted filings grant the applicant a patent conveying clear title to the lands upon payment of a fair and reasonable sale price which reflects the current market value of the lands, but may be discounted to account for improvements made on the land or previous property taxes paid. The obligation to establish a valid color-of-title claim is upon the claimant and the BLM has worked with private land holders in the Lake Bistineau area to pursue color-of-title opportunities. The BLM is interested in further discussions with those who hold title through the State to identify ways to streamline the color-of-title process wherever possible to minimize time and cost.

H.R. 3342

H.R. 3342 would void the 1969 Federal survey of certain lands in and around Lake Bistineau. The bill would also nullify the legal effect of any future survey or resurvey related to the title and boundaries of the affected lands.

The Department shares the goal of providing legal certainty to those who hold title through the State in the approximately 230 acres covered by the bill. However, the Department strongly opposes the voiding or nullification of any past or future Federal surveys. We cannot support H.R. 3342 as currently written because the bill divests the BLM of its responsibilities as the surveyor of record in this area, potentially calling into question the validity of other Federal decisions that are based on pre-existing surveys, including color-of-title patents, mineral rights, and the associated prior rights established by these decisions.

The Department is also concerned that the bill could transfer Federal lands and mineral estate out of Federal ownership without adequate demonstration of private ownership or appropriate compensation to U.S. taxpayers. The Department and the BLM recognize the importance of identifying the status of the lands bordering Lake Bistineau, as well as Peggys and Hog Islands, and would like to have further discussions with the Sponsor and Committee on ways to facilitate the resolution of this title conflict.

Conclusion

Thank you for the opportunity to testify on H.R. 3342. I will be glad to answer any questions.