

**Statement of  
U.S. Department of the Interior  
House Committee on Natural Resources  
Subcommittee on Federal Lands  
H.R. 5347, Lyon County Economic Development and Environmental Remediation Act**

**July 17, 2018**

Thank you for inviting the Department of the Interior (Department) to present views on H.R. 5347, the Lyon County Economic Development and Environmental Remediation Act. This bill proposes to convey to the Atlantic Richfield Company (ARC) in Lyon County, Nevada, approximately 2,062 acres of public lands managed by the Bureau of Land Management (BLM) in and around the abandoned Anaconda Copper Mine. The Department shares the sponsor's goal of reducing costs and delays associated with ongoing environmental remediation activities.

The Department would like the opportunity to work with the sponsor and the Subcommittee on language to provide a mechanism for determining fair market value for the conveyance of contaminated lands while accounting for potential remediation costs. We are mindful, however, that legislated transfers of land and interests in land often promote varied public interest considerations that may not lend themselves readily to the standard appraisal process. In these instances, the balancing of important public policy considerations, including ensuring a fair return for the American taxpayer, ultimately rests with Congress.

The Department would also like to work with the sponsor on minor and technical amendments to the bill, including timeframes and language ensuring consistency with other laws.

**Background**

Lyon County, Nevada, is home to approximately 50,000 people. The BLM manages roughly 850,000 acres of public land out of approximately 1.3 million acres in Lyon County for a wide range of uses, including mineral development, livestock grazing, and recreation. The Department notes that there are about 5,388 mining claims and 28 abandoned mines on BLM-managed public lands within Lyon County.

The Anaconda Copper Mine is a 3,400-acre abandoned copper mine and extraction facility on mixed private and public lands in the Mason Valley, near the City of Yerington in Lyon County, Nevada, and about 65 miles southeast of Reno. The mine was operated by the Anaconda Copper Company from 1953 to 1978, which was acquired by Atlantic Richfield Company (ARC) in 1977. From 1988 until 2000, the Anaconda site was operated by Arimetco, Inc. During ARC's operations, site activities included open-pit ore extraction, metals extraction with sulfuric acid, and the disposal of tailings, process fluid, and waste rock. This 25-year period generated 189 million tons of tailings, much of it disposed on-site in both lined and unlined ponds. After Arimetco bought the mine property in 1988, it began operating a new copper extraction process that employed a sulfuric acid solution to leach metals from both the former Anaconda tailings and fresh ore from the nearby MacArthur Mine. The Arimetco fluid management system utilized several lined ponds. In 2000, Arimetco abandoned the Anaconda site without closing the heaps or the fluid management system as required by Nevada law. Thereafter, Nevada's

Division of Environmental Protection (NDEP) assumed the responsibility for emergency management of Arimetco's acidic heap leach fluid system.

The Anaconda Copper Mine is currently subject to a deferral agreement between the U.S. Environmental Protection Agency (EPA) and the Nevada Division of Environmental Protection (NDEP) for remediation under the Comprehensive Environmental Response and Liability Act of 1980 (CERCLA). Under this agreement, the EPA is deferring the final listing of the Anaconda site on the CERCLA National Priorities List provided that certain criteria are met, including CERCLA equivalency while the NDEP oversees ARC's completion of necessary investigations and cleanup under Nevada state law. An associated interim administrative settlement agreement between NDEP and ARC identifies ARC as a responsible party under section 107 of CERCLA for purposes of environmental remediation of the Anaconda site, which has been divided into eight operable unites (OUs). However, the EPA advises that there is currently only an agreement with ARC to cover a sitewide RI/FS and remediation of OU-8, but that agreement does not address remediation of other parts of the site. The BLM is the land management agency for lands that encompass approximately 50 percent of the total Anaconda Copper Mine site.

#### **H.R. 5347**

H.R. 5347 provides for the conveyance of approximately 2,062 acres of BLM-managed public lands, including the mineral estate, to ARC within 90 days. Upon conveyance of these lands, ARC would provide a covenant not to sue and agree not to assert any claims or causes of action against the BLM with respect to the costs that ARC has incurred or will incur related to cleanup of the Anaconda site. The bill also indemnifies the United States against future liabilities that result from ARC's activities on these lands after they are conveyed.

The Department of Justice advises there is no basis to confirm the accuracy of the findings in Section 3, which state that the United States could be assigned a significant share of the liability, and so does not support the inclusion of these findings in the bill.

In addition, section 4 of the bill deems the value of the public lands to be conveyed to be equal to or lesser than the United States' share of the total costs to remediate the site. This section also states that no further valuation is required for the lands to be conveyed. The Department of Justice advises these statements assume United States has liability at the site which has not yet been established, and does not support their inclusion in the bill. While it is possible that the cost of remediating and reclaiming this area might exceed the fair market value of the public lands to be conveyed, the cost of the transaction would be known only if an appraisal and remediation cost estimate process were included in the bill. The Department supports innovative proposals to address the cleanup of the Anaconda site, and we support the transfer of these public lands, including the mineral estate, if the bill is amended to include a mechanism for verifying that the American taxpayer is receiving a fair return. The sponsor and the Subcommittee may wish to consider an approach similar to the one used in section 3 of the Three Kids Mine Remediation and Reclamation Act (Public Law 113-135). However, the Department recognizes that there may be circumstances, as determined by Congress, in which the public benefits of a proposed transfer outweigh financial considerations.

Section 5 of H.R. 5347 establishes terms and conditions of the conveyance, which include a 30-day deadline for the Department to identify any encumbrances on the lands to be conveyed. This section also appears to streamline environmental and cultural review of the proposed conveyance. The Department notes that there are existing rights-of-way (ROWs) crossing the lands proposed for conveyance; ROW conversions cannot typically be completed within the time specified in the bill.

Section 5 also requires the Secretary to initiate consultation with any Tribe affected by the proposed conveyance within 30 days of enactment and complete such consultation within 90 days of initiation. This section further requires that the Secretary work with ARC after consultation to find mutually acceptable measures to address any identified concerns raised by affected Tribes. The Department notes that this section's timeframes may not be sufficient to address issues raised by Tribes during consultation.

The Department would like to work with the sponsor and the Subcommittee on amendments to this section ensuring that the BLM has the time necessary to convert existing ROWs and successfully complete Tribal consultation, and complete the conveyance. The EPA also notes that it could be responsible for cleanup of this site if the state is unable to provide adequate cleanup oversight. The BLM would welcome the opportunity to develop a formal legislative map for this bill.

### **Conclusion**

Thank you for this opportunity to present the views of the Department on H.R. 5347. We look forward to working with the sponsor and the Subcommittee to address this important issue.