

Union Calendar No. 99

113TH CONGRESS
1ST SESSION

H. R. 697

[Report No. 113-137]

To provide for the conveyance of certain Federal land in Clark County, Nevada, for the environmental remediation and reclamation of the Three Kids Mine Project Site, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2013

Mr. HECK of Nevada (for himself, Mr. AMODEI, Mr. HORSFORD, and Ms. TITUS) introduced the following bill; which was referred to the Committee on Natural Resources

JULY 8, 2013

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on February 14, 2013]

A BILL

To provide for the conveyance of certain Federal land in Clark County, Nevada, for the environmental remediation and reclamation of the Three Kids Mine Project Site, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Three Kids Mine Reme-*
5 *diation and Reclamation Act”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *FEDERAL LAND.*—*The term “Federal land”*
9 *means the approximately 948 acres of Bureau of Rec-*
10 *lamation and Bureau of Land Management land*
11 *within the Three Kids Mine Project Site, as depicted*
12 *on the map.*

13 (2) *HAZARDOUS SUBSTANCE; POLLUTANT OR*
14 *CONTAMINANT; REMEDY.*—*The terms “hazardous sub-*
15 *stance”, “pollutant or contaminant”, and “remedy”*
16 *have the meanings given those terms in section 101 of*
17 *the Comprehensive Environmental Response, Com-*
18 *ensation, and Liability Act of 1980 (42 U.S.C.*
19 *9601).*

20 (3) *HENDERSON REDEVELOPMENT AGENCY.*—*The*
21 *term “Henderson Redevelopment Agency” means the*
22 *redevelopment agency of the City of Henderson, Ne-*
23 *vada, established and authorized to transact business*
24 *and exercise the powers of the agency in accordance*

1 *with the Nevada Community Redevelopment Law*
2 *(Nev. Rev. Stat. 279.382 to 279.685).*

3 (4) *MAP.*—*The term “map” means the map enti-*
4 *tled “Three Kids Mine Project Area” and dated Feb-*
5 *ruary 6, 2012.*

6 (5) *RESPONSIBLE PARTY.*—*The term “Respon-*
7 *sible Party” means the private sector entity des-*
8 *ignated by the Henderson Redevelopment Agency, and*
9 *approved by the State of Nevada, to complete the as-*
10 *essment, remediation, reclamation and redevelopment*
11 *of the Three Kids Mine Project Site).*

12 (6) *SECRETARY.*—*The term “Secretary” means*
13 *the Secretary of the Interior.*

14 (7) *STATE.*—*The term “State” means the State*
15 *of Nevada.*

16 (8) *THREE KIDS MINE PROJECT SITE.*—*The term*
17 *“Three Kids Mine Project Site” means the approxi-*
18 *mately 1,262 acres of land that is—*

19 (A) *comprised of—*

20 (i) *the Federal land; and*

21 (ii) *the approximately 314 acres of ad-*
22 *jacent non-Federal land; and*

23 (B) *depicted as the “Three Kids Mine*
24 *Project Site” on the map.*

1 **SEC. 3. LAND CONVEYANCE.**

2 (a) *IN GENERAL.*—Notwithstanding sections 202 and
3 203 of the Federal Land Policy and Management Act of
4 1976 (43 U.S.C. 1712, 1713), not later than 90 days after
5 the date on which the Secretary determines that the condi-
6 tions described in subsection (b) have been met, and subject
7 to valid existing rights and applicable law, the Secretary
8 shall convey to the Henderson Redevelopment Agency all
9 right, title, and interest of the United States in and to the
10 Federal land.

11 (b) *CONDITIONS.*—

12 (1) *APPRAISAL; FAIR MARKET VALUE.*—

13 (A) *IN GENERAL.*—As consideration for the
14 conveyance under subsection (a), the Henderson
15 Redevelopment Agency shall pay the fair market
16 value of the Federal land, if any, as determined
17 under subparagraph (B) and as adjusted under
18 subparagraph (F).

19 (B) *APPRAISAL.*—The Secretary shall deter-
20 mine the fair market value of the Federal land
21 based on an appraisal—

22 (i) that is conducted in accordance
23 with nationally recognized appraisal stand-
24 ards, including—

1 (I) *the Uniform Appraisal Stand-*
2 *ards for Federal Land Acquisitions;*
3 *and*

4 (II) *the Uniform Standards of*
5 *Professional Appraisal Practice; and*

6 (ii) *that does not take into account*
7 *any existing contamination associated with*
8 *historical mining on the Federal land.*

9 (C) *REMEDICATION AND RECLAMATION*
10 *COSTS.—*

11 (i) *IN GENERAL.—The Secretary shall*
12 *prepare a reasonable estimate of the costs to*
13 *assess, remediate, and reclaim the Three*
14 *Kids Mine Project Site.*

15 (ii) *CONSIDERATIONS.—The estimate*
16 *prepared under clause (i) shall be—*

17 (I) *based on the results of a com-*
18 *prehensive Phase II environmental site*
19 *assessment of the Three Kids Mine*
20 *Project Site prepared by the Henderson*
21 *Redevelopment Agency or a Respon-*
22 *sible Party that has been approved by*
23 *the State; and*

24 (II) *prepared in accordance with*
25 *the current version of the ASTM Inter-*

1 *national Standard E-2137-06 (2011)*
2 *entitled “Standard Guide for Esti-*
3 *inating Monetary Costs and Liabilities*
4 *for Environmental Matters”.*

5 *(iii) ASSESSMENT REQUIREMENTS.—*

6 *The Phase II environmental site assessment*
7 *prepared under clause (ii)(I) shall, without*
8 *limiting any additional requirements that*
9 *may be required by the State, be conducted*
10 *in accordance with the procedures of—*

11 *(I) the most recent version of*
12 *ASTM International Standard E-*
13 *1527-05 entitled “Standard Practice*
14 *for Environmental Site Assessments:*
15 *Phase I Environmental Site Assess-*
16 *ment Process”;* and

17 *(II) the most recent version of*
18 *ASTM International Standard E-*
19 *1903-11 entitled “Standard Guide for*
20 *Environmental Site Assessments: Phase*
21 *II Environmental Site Assessment*
22 *Process”.*

23 *(iv) REVIEW OF CERTAIN INFORMA-*
24 *TION.—*

1 (I) *IN GENERAL.*—*The Secretary*
2 *shall review and consider cost informa-*
3 *tion proffered by the Henderson Rede-*
4 *velopment Agency, the Responsible*
5 *Party, and the State in the prepara-*
6 *tion of the estimate under this sub-*
7 *paragraph.*

8 (II) *FINAL DETERMINATION.*—*If*
9 *there is a disagreement among the Sec-*
10 *retary, Henderson Redevelopment*
11 *Agency, and the State over the reason-*
12 *able estimate of costs under this sub-*
13 *paragraph, the parties shall jointly se-*
14 *lect 1 or more experts to assist the Sec-*
15 *retary in making the final estimate of*
16 *the costs.*

17 (D) *DEADLINE.*—*Not later than 30 days*
18 *after the date of enactment of this Act, the Sec-*
19 *retary shall begin the appraisal and cost esti-*
20 *mates under subparagraphs (B) and (C), respec-*
21 *tively.*

22 (E) *APPRAISAL COSTS.*—*The Henderson Re-*
23 *development Agency or the Responsible Party*
24 *shall reimburse the Secretary for the costs in-*

1 *curring in performing the appraisal under sub-*
2 *paragraph (B).*

3 *(F) ADJUSTMENT.—The Secretary shall ad-*
4 *ministratively adjust the fair market value of the*
5 *Federal land, as determined under subparagraph*
6 *(B), based on the estimate of remediation, and*
7 *reclamation costs, as determined under subpara-*
8 *graph (C).*

9 (2) *MINE REMEDIATION AND RECLAMATION*
10 *AGREEMENT EXECUTED.—*

11 *(A) IN GENERAL.—The conveyance under*
12 *subsection (a) shall be contingent on—*

13 *(i) the Secretary receiving from the*
14 *State written notification that a mine reme-*
15 *diation and reclamation agreement has been*
16 *executed in accordance with subparagraph*
17 *(B); and*

18 *(ii) the Secretary concurring, not later*
19 *than 30 days after the date of receipt of the*
20 *written notification under clause (i), that*
21 *the requirements under subparagraph (B)*
22 *have been met.*

23 *(B) REQUIREMENTS.—The mine remedi-*
24 *ation and reclamation agreement required under*
25 *subparagraph (A) shall be an enforceable consent*

1 *order or agreement between the State and the Re-*
2 *sponsible Party who will be obligated to perform*
3 *under the consent order or agreement adminis-*
4 *tered by the State that—*

5 *(i) obligates the Responsible Party to*
6 *perform, after the conveyance of the Federal*
7 *land under this Act, the remediation and*
8 *reclamation work at the Three Kids Mine*
9 *Project Site necessary to ensure all remedial*
10 *actions necessary to protect human health*
11 *and the environment with respect to any*
12 *hazardous substances, pollutant, or con-*
13 *taminant will be taken, in accordance with*
14 *all Federal, State, and local requirements;*
15 *and*

16 *(ii) contains provisions determined to*
17 *be necessary by the State and the Hender-*
18 *son Redevelopment Agency, including finan-*
19 *cial assurance provisions to ensure the com-*
20 *pletion of the remedy.*

21 (3) *NOTIFICATION FROM AGENCY.—As a condi-*
22 *tion of the conveyance under subsection (a), not later*
23 *than 90 days after the date of execution of the mine*
24 *remediation and reclamation agreement required*
25 *under paragraph (2), the Secretary shall accept writ-*

1 *ten notification from the Henderson Redevelopment*
2 *Agency that the Henderson Redevelopment Agency is*
3 *prepared to accept conveyance of the Federal land*
4 *under subsection (a).*

5 **SEC. 4. WITHDRAWAL.**

6 *(a) IN GENERAL.—Subject to valid existing rights, for*
7 *the 10-year period beginning on the earlier of the date of*
8 *enactment of this Act or the date of the conveyance required*
9 *by this Act, the Federal land is withdrawn from all forms*
10 *of—*

11 *(1) entry, appropriation, operation, or disposal*
12 *under the public land laws;*

13 *(2) location, entry, and patent under the mining*
14 *laws; and*

15 *(3) disposition under the mineral leasing, min-*
16 *eral materials, and the geothermal leasing laws.*

17 *(b) EXISTING RECLAMATION WITHDRAWALS.—Subject*
18 *to valid existing rights, any withdrawal under the public*
19 *land laws that includes all or any portion of the Federal*
20 *land for which the Bureau of Reclamation has determined*
21 *that the Bureau of Reclamation has no further need under*
22 *applicable law is relinquished and revoked solely to the ex-*
23 *tent necessary—*

24 *(1) to exclude from the withdrawal the property*
25 *that is no longer needed; and*

1 (2) to allow for the immediate conveyance of the
2 *Federal land as required under this Act.*

3 (c) *EXISTING RECLAMATION PROJECT AND PER-*
4 *MITTED FACILITIES.—Except as provided in subsection (a),*
5 *nothing in this Act diminishes, hinders, or interferes with*
6 *the exclusive and perpetual use by the existing rights holders*
7 *for the operation, maintenance, and improvement of water*
8 *conveyance infrastructure and facilities, including all nec-*
9 *essary ingress and egress, situated on the Federal land that*
10 *were constructed or permitted by the Bureau of Reclama-*
11 *tion before the effective date of this Act.*

12 **SEC. 5. ACEC BOUNDARY ADJUSTMENT.**

13 *Notwithstanding section 203 of the Federal Land Pol-*
14 *icy and Management Act of 1976 (43 U.S.C. 1713), the*
15 *boundary of the River Mountains Area of Critical Environ-*
16 *mental Concern (NVN 76884) is adjusted to exclude any*
17 *portion of the Three Kids Mine Project Site consistent with*
18 *the map.*

19 **SEC. 6. RESPONSIBILITIES OF THE PARTIES.**

20 (a) *RESPONSIBILITY OF PARTIES TO MINE REMEDI-*
21 *ATION AND RECLAMATION AGREEMENT.—On completion of*
22 *the conveyance under section 3, the responsibility for com-*
23 *plying with the mine remediation and reclamation agree-*
24 *ment executed under section 3(b)(2) shall apply to the Re-*
25 *sponsible Party and the State of Nevada.*

1 (b) *SAVINGS PROVISION.*—*If the conveyance under this*
2 *Act has occurred, but the terms of the agreement executed*
3 *under section 3(b)(2) have not been met, nothing in this*
4 *Act—*

5 (1) *affects the responsibility of the Secretary to*
6 *take any additional response action necessary to pro-*
7 *tect public health and the environment from a release*
8 *or the threat of a release of a hazardous substance,*
9 *pollutant, or contaminant; or*

10 (2) *unless otherwise expressly provided, modifies,*
11 *limits, or otherwise affects—*

12 (A) *the application of, or obligation to com-*
13 *ply with, any law, including any environmental*
14 *or public health law; or*

15 (B) *the authority of the United States to en-*
16 *force compliance with the requirements of any*
17 *law or the agreement executed under section*
18 *3(b)(2).*

19 **SEC. 7. SOUTHERN NEVADA PUBLIC LANDS MANAGEMENT**
20 **ACT.**

21 *Southern Nevada Public Land Management Act of*
22 *1998 (31 U.S.C. 6901 note; Public Law 105–263) shall not*
23 *apply to land conveyed under this Act.*

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