

115TH CONGRESS
2D SESSION

H. R. 5347

To facilitate resolution of environmental remediation and reclamation, resolve potential liability of the United States, and promote economic development in Lyon County, Nevada, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2018

Mr. AMODEI introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To facilitate resolution of environmental remediation and reclamation, resolve potential liability of the United States, and promote economic development in Lyon County, Nevada, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Lyon County Economic Development and Environmental
6 Remediation Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Findings.
Sec. 4. Conveyance of land; resolution of Federal liability.
Sec. 5. General provisions relating to the conveyance.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ATLANTIC RICHFIELD.—The term “Atlantic
4 Richfield” means the Atlantic Richfield Company, a
5 Delaware corporation, or its successors or assigns.

6 (2) BLM.—The term “BLM” means the Bu-
7 reau of Land Management.

8 (3) CERCLA.—The term “CERCLA” means
9 the Comprehensive Environmental Response, Com-
10 pensation, and Liability Act of 1980 (42 U.S.C.
11 9601 et seq.).

12 (4) COUNTY.—The term “County” means Lyon
13 County, Nevada.

14 (5) FEDERAL SELECTED LANDS.—The term
15 “Federal selected lands” means the approximately
16 2,062 acres of land managed by the BLM, located
17 in five distinct parcels in Lyon County, Nevada, and
18 generally depicted on the map entitled “Anaconda
19 Copper Mine Site—Federal Parcels Proposed to be
20 Acquired” and dated September 7, 2017.

21 (6) INDIAN TRIBE.—The term “Indian Tribe”
22 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 5304).

3 (7) MAP.—The term “Map” means the map en-
4 titled “Anaconda Copper Mine Site—Federal Par-
5 cels Proposed to be Acquired” and dated September
6 7, 2017.

7 (8) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior.

9 (9) SITE.—The term “Site” means the Ana-
10 conda Copper Mine Site located in Lyon County,
11 Nevada.

12 (10) STATE.—The term “State” means the
13 State of Nevada.

14 **SEC. 3. FINDINGS.**

15 Congress finds that—

16 (1) Atlantic Richfield is performing environ-
17 mental response actions under CERCLA at the Site
18 with the State’s Division of Environmental Protec-
19 tion in the lead oversight role;

20 (2) to comprehensively and efficiently facilitate
21 the environmental remediation and reclamation at
22 the Site, Atlantic Richfield requires access to land
23 that is owned by the Federal Government;

24 (3) more than half of the acreage located within
25 the Site’s boundaries is owned by the Federal Gov-

1 ernment and managed by the BLM, and, therefore,
2 attempting to implement a CERCLA remedy on
3 BLM-managed lands requires extensive coordination
4 and can involve substantial delays and increased
5 costs;

6 (4) because the historic releases and elements
7 of the remedy do not follow existing property bound-
8 aries, reducing any inconsistent treatment based on
9 land ownership will benefit cost management, effi-
10 ciency of operations and maintenance, and long-term
11 protectiveness;

12 (5) the United States may be designated as a
13 potentially responsible party under CERCLA and
14 accordingly could be assigned a significant liability
15 share for CERCLA response costs;

16 (6) at the time of conveyance, the Federal se-
17 lected lands will be unburdened by mining claims;

18 (7) the conveyance of the Federal selected lands
19 will promote economic development within the Coun-
20 ty by consolidating private land for future mining
21 activities;

22 (8) the BLM has routinely conveyed lands to
23 potentially responsible parties to facilitate remedial
24 actions;

1 (9) a legislated land conveyance is necessary to
2 meet the remediation goals of the Site, promote eco-
3 nomic development in the County, and for BLM and
4 the United States to receive a covenant not to sue
5 and indemnity for certain potential liabilities relat-
6 ing to the Site;

7 (10) the Federal selected lands contain con-
8 tamination and hazardous waste, and therefore the
9 fair market value of such lands is minimal;

10 (11) the United States potential CERCLA li-
11 ability at the Site is substantially greater than the
12 fair market value of the Federal selected lands; and

13 (12) the BLM and Atlantic Richfield have con-
14 cluded that conveyance of the Federal selected lands
15 to Atlantic Richfield in exchange for resolution of
16 certain United States liabilities is reasonable, logical,
17 advisable, and in the public interest.

18 **SEC. 4. CONVEYANCE OF LAND; RESOLUTION OF FEDERAL**

19 **LIABILITY.**

20 (a) FEDERAL SELECTED LANDS.—Notwithstanding
21 section 120(h) of CERCLA (42 U.S.C. 9620(h)), not later
22 than 90 days after the date of the enactment of this Act,
23 the Secretary shall convey all right, title, and interest (in-
24 cluding mineral rights) of the United States in and to the
25 Federal selected lands to Atlantic Richfield.

1 (b) COVENANT NOT TO SUE AND INDEMNITY.—
2 Upon conveyance of the Federal selected lands under sub-
3 section (a), and for full and complete compensation for
4 those lands, Atlantic Richfield shall—

5 (1) covenant not to sue and agree not to assert
6 any claims or causes of action against the BLM or
7 its contractors or employees with respect to
8 CERCLA response costs that Atlantic Richfield has
9 incurred or will incur at or relating to the Site; and

10 (2) indemnify the United States against future
11 liabilities that result from Atlantic Richfield’s activi-
12 ties on the Federal selected lands after the convey-
13 ance.

14 (c) EQUAL VALUE.—The value of the Federal se-
15 lected lands is deemed to be equal to or less than the
16 United States portion of the CERCLA response costs at
17 the Site and no further valuation is required for the pur-
18 poses of this Act or the conveyance of the Federal selected
19 lands under this Act.

20 **SEC. 5. GENERAL PROVISIONS RELATING TO THE CONVEY-**
21 **ANCE.**

22 (a) IN GENERAL.—The conveyance authorized by
23 this Act shall be subject to the following terms and condi-
24 tions:

1 (1) EXISTING ENCUMBRANCES.—In the United
2 States patent to be issued pursuant to this Act, the
3 Secretary shall describe any existing known encum-
4 brances in the patent. The terms of such encum-
5 brances shall be prescribed by the Secretary not
6 later than 30 days after the date of the enactment
7 of this Act.

8 (2) RIGHT OF RESCISSION.—This Act shall not
9 be binding on either the United States or Atlantic
10 Richfield if, not later than 45 days after the date of
11 the enactment of this Act, Atlantic Richfield submits
12 to the Secretary a duly authorized and executed res-
13 olution of the Company stating its intention not to
14 enter into the conveyance authorized by this Act.

15 (b) WITHDRAWAL.—Subject to valid existing rights,
16 effective on the date of the enactment of this Act, the Fed-
17 eral selected lands are hereby withdrawn from all forms
18 of appropriation under the public land laws (including the
19 mining laws) and from disposition under all laws per-
20 taining to mineral leasing.

21 (c) PATENT.—The conveyance of the Federal selected
22 lands under this Act shall be by United States patent ac-
23 ceptable to the Secretary and in conformity with applica-
24 ble title standards of the Attorney General.

1 (d) TRIBAL RIGHTS.—Not later than 30 days after
2 the date of enactment of this Act, the Secretary shall ini-
3 tiate in government-to-government consultation with any
4 Indian Tribe affected by the conveyance of the Federal
5 selected lands regarding issues of concern to the affected
6 Indian Tribe related to the land conveyance. Such con-
7 sultation shall conclude within 90 days of its initiation.
8 After the consultation under this subsection, the Secretary
9 shall consult with Atlantic Richfield and seek to find mu-
10 tually acceptable measures to address any identified con-
11 cerns of the affected Indian Tribe.

12 (e) TRIBAL RIGHTS UNAFFECTED.—Nothing in this
13 Act alters or diminishes the treaty rights of any Indian
14 Tribe.

15 (f) STATE LAW UNAFFECTED.—Nothing in this Act
16 modifies, expands, diminishes, amends, or otherwise af-
17 fects any State law relating to the imposition, application,
18 timing, or collection of a State tax.

19 (g) COMPLIANCE WITH APPLICABLE LAWS.—The
20 land transfer directed by this Act, and all determinations,
21 authorizations, and actions taken by the Secretary pursu-
22 ant to this Act, are deemed to be non-discretionary actions
23 authorized and directed by Congress, and to comply with
24 all applicable procedural and other requirements of the
25 laws of the United States.

1 (h) USE OF FEDERAL SELECTED LANDS.—Notwith-
2 standing the former ownership of the Federal selected
3 lands by the United States, such land shall be treated as
4 non-Federal land after the conveyance of such lands to
5 Atlantic Richfield.

6 (i) ENVIRONMENTAL COMPLIANCE.—After the con-
7 veyance, Atlantic Richfield shall perform all response ac-
8 tions determined by the State Division of Environmental
9 Protection to be necessary to protect human health and
10 the environment with respect to any hazardous substance
11 stored, released, or disposed of on the Federal selected
12 lands. Response actions on the Federal selected lands shall
13 be conducted in accordance with applicable Federal, State,
14 and local laws pertaining to response, mining, and related
15 activities on land in private ownership.

16 (j) AVAILABILITY OF MAP.—The Map shall be on file
17 and available for public inspection in the appropriate of-
18 fices of the BLM.

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