

NEVADA LANDS

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC
LANDS

OF THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

H.R. 449

A BILL TO PROVIDE FOR AN ORDERLY DISPOSAL OF CERTAIN FEDERAL LANDS IN CLARK COUNTY, NEVADA, AND TO PROVIDE FOR THE ACQUISITION OF ENVIRONMENTALLY SENSITIVE LANDS IN THE STATE OF NEVADA

MARCH 13, 1997—WASHINGTON, DC

Serial No. 105-5

Printed for the use of the Committee on Resources



U.S. GOVERNMENT PRINTING OFFICE

40-299 CC

WASHINGTON : 1997

COMMITTEE ON RESOURCES

DON YOUNG, Alaska, *Chairman*

W.J. (BILLY) TAUZIN, Louisiana	GEORGE MILLER, California
JAMES V. HANSEN, Utah	EDWARD J. MARKEY, Massachusetts
JIM SEXTON, New Jersey	NICK J. RAHALL II, West Virginia
ELTON GALLEGLY, California	BRUCE F. VENTO, Minnesota
JOHN J. DUNCAN, Jr., Tennessee	DALE E. KILDEE, Michigan
JOEL HEFLEY, Colorado	PETER A. DeFAZIO, Oregon
JOHN T. DOOLITTLE, California	ENI F.H. FALEOMAVAEGA, American Samoa
WAYNE T. GILCHREST, Maryland	NEIL ABERCROMBIE, Hawaii
KEN CALVERT, California	SOLOMON P. ORTIZ, Texas
RICHARD W. POMBO, California	OWEN B. PICKETT, Virginia
BARBARA CUBIN, Wyoming	FRANK PALLONE, Jr., New Jersey
HELEN CHENOWETH, Idaho	CALVIN M. DOOLEY, California
LINDA SMITH, Washington	CARLOS A. ROMERO-BARCELO, Puerto Rico
GEORGE P. RADANOVICH, California	MAURICE D. HINCHEY, New York
WALTER B. JONES, Jr., North Carolina	ROBERT A. UNDERWOOD, Guam
WILLIAM M. (MAC) THORNBERRY, Texas	SAM FARR, California
JOHN SHADEGG, Arizona	PATRICK J. KENNEDY, Rhode Island
JOHN E. ENSIGN, Nevada	ADAM SMITH, Washington
ROBERT F. SMITH, Oregon	WILLIAM D. DELAHUNT, Massachusetts
CHRIS CANNON, Utah	CHRIS JOHN, Louisiana
KEVIN BRADY, Texas	DONNA CHRISTIAN-GREEN, Virgin Islands
JOHN PETERSON, Pennsylvania	NICK LAMPSON, Texas
RICK HILL, Montana	RON KIND, Wisconsin
BOB SCHAFFER, Colorado	
JIM GIBBONS, Nevada	
MICHAEL D. CRAPO, Idaho	

LLOYD A. JONES, *Chief of Staff*

ELIZABETH MEGGINSON, *Chief Counsel*

CHRISTINE KENNEDY, *Chief Clerk/Administrator*

JOHN LAWRENCE, *Democratic Staff Director*

SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

JAMES V. HANSEN, Utah, *Chairman*

ELTON, GALLEGLY, California	ENI F.H. FALEOMAVAEGA, American Samoa
JOHN J. DUNCAN, Jr., Tennessee	EDWARD J. MARKEY, Massachusetts
JOEL HEFLEY, Colorado	NICK J. RAHALL II, West Virginia
WAYNE T. GILCHREST, Maryland	BRUCE F. VENTO, Minnesota
RICHARD W. POMBO, California	DALE E. KILDEE, Michigan
HELEN CHENOWETH, Idaho	FRANK PALLONE, Jr., New Jersey
LINDA SMITH, Washington	CARLOS A. ROMERO-BARCELO, Puerto Rico
GEORGE P. RADANOVICH, California	MAURICE D. HINCHEY, New York
WALTER B. JONES, Jr., North Carolina	ROBERT A. UNDERWOOD, Guam
JOHN B. SHADEGG, Arizona	PATRICK J. KENNEDY, Rhode Island
JOHN E. ENSIGN, Nevada	WILLIAM D. DELAHUNT, Massachusetts
ROBERT F. SMITH, Oregon	DONNA CHRISTIAN-GREEN, Virgin Islands
RICK HILL, Montana	RON KIND, Wisconsin
JIM GIBBONS, Nevada	

ALLEN FREEMYER, *Counsel*

STEVE HODAPP, *Professional Staff*

LIZ BIRNBAUM, *Democratic Counsel*

CONTENTS

	Page
Hearing held March 13, 1997	1
Text of H.R. 449	42
Statements of Members:	
Bryan, Hon. Richard, a U.S. Senator from Nevada	4
Duncan, Hon. John, a U.S. Representative from Tennessee	6
Ensign, Hon. John, a U.S. Representative from Nevada	1
Faleomavaega, Hon. Eni, a U.S. Delegate from American Samoa	6
Hansen, Hon. James V., a U.S. Representative from Utah	2
Reid, Hon. Harry, a U.S. Senator from Nevada	3
Statements of witnesses:	
Hobbs, Steve, Nevada State Director, The Nature Conservancy	29
Prepared statement	39
Malone, Lance, Clark County (Nevada) Commissioner	25
Prepared statement	34
Millenbach, Mat, Deputy Director, Bureau of Land Management	12
Prepared statement	32
Wimmer, Richard, Deputy General Manager, Southern Nevada Water	
Authority	27
Prepared statement	38

**DISPOSAL OF CERTAIN FEDERAL LANDS IN
CLARK COUNTY, NEVADA, AND TO PROVIDE
FOR THE ACQUISITION OF ENVIRON-
MENTALLY SENSITIVE LANDS IN THE
STATE OF NEVADA**

THURSDAY, MARCH 13, 1997

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NA-
TIONAL PARKS AND PUBLIC LANDS, COMMITTEE ON RE-
SOURCEs,

Washington, DC.

The Subcommittee met, pursuant to call, at 10:05 a.m., in room 1324, Longworth House Office Building, Hon. John Ensign presiding.

**STATEMENT OF HON. JOHN ENSIGN, A U.S. REPRESENTATIVE
FROM NEVADA**

Mr. ENSIGN. The Subcommittee will come to order. I would like to welcome my colleagues from the State of Nevada and the rest of the people who are going to be testifying today.

The Subcommittee on National Parks and Public Lands will commence this meeting. Chairman Hansen has a conflict this morning and has graciously asked me to chair the Subcommittee. Although he isn't here, I would like to extend my gratitude to him on behalf of the people of Nevada for his work in passing this bill. We came extremely close last year to sending this legislation to the President, and with his efforts I am very optimistic that we will ultimately be successful this year. He has submitted a statement and has asked that it be included as part of the record. And without objection, it will be so ordered.

Likewise, I understand that Nevada Governor Bob Miller has submitted a statement for the record. And I appreciate his continued support on this legislation. And it should be included in the record without objection.

This morning we are going to hear testimony on my legislation, H.R. 449, the Southern Nevada Public Land Management Act of 1997. I would like to welcome all who are going to testify today in taking time out of their busy schedule, especially those who have come from our home State. It is always a pleasure to see familiar faces from the State of Nevada on the east coast. And, Mat, also, it is good to see and have you here, now that you are a big television star.

We have come a long way since this bill's conception. Senator Bryan and I have worked very closely with our respective local

Public Lands Task Forces to craft legislation to address a variety of interests and concerns. After extensive negotiation, we have the support of local environmentalists, developers, recreationalists, the Clark County Commission, Governor Miller, local utility providers, and the Administration. I understand that there are some very minute issues that still need some tinkering, which I am sure Mr. Millenbach will explain, but I am extremely optimistic that we can reach an agreement that accommodates everyone involved.

As some may know, or may not know, Las Vegas, Nevada, is the fastest growing metropolitan city in the country. In addition, 87 percent of the State of Nevada is federally owned. This dueling combination puts enormous pressure on local elected officials, BLM officials, and, most importantly, the current residents who are forced to shoulder the price tag of this development. H.R. 449 provides the essential mechanisms to:

(1) allow this growth to occur in an orderly fashion by allowing local officials a seat at the table;

(2) ensure this growth occurs without neglecting the environment by funneling revenue for acquisition of environmentally sensitive lands and to our existing Federal facilities, such as Lake Tahoe, Red Rock and Lake Mead;

(3) provides money to offset a \$1.7 billion water delivery system for Las Vegas;

And finally, H.R. 449 helps future generations by providing some revenue for education.

Although the BLM has made dramatic improvements to the way they handle the land exchange process, as evidenced by the way the recent and current exchanges appear to have been handled, however, the process doesn't work to give the fairest value of the land in a fast-growing area like Las Vegas. Therefore, an open, fair market auction process will best serve the American people by ensuring the most revenue to purchase and improve our favorite environmental areas.

I believe very strongly that the Ensign/Bryan bill will be model legislation for other cities as they experience increased rates of growth. I am looking forward to hearing the comments of our two panels of witnesses and other members of the Subcommittee and look forward to working with my colleagues on its expeditious passage.

[Statement of Hon. Jim Hansen follows:]

STATEMENT OF HON. JAMES V. HANSEN, A U.S. REPRESENTATIVE FROM UTAH; AND
CHAIRMAN, SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

H.R. 449, the legislation before the Subcommittee today, is a critical component in providing for the orderly disposal of federal lands in Clark County, Nevada. It builds on the existing Santini-Burton Act and enhances the best elements of that Act.

As the witnesses and Mr. Ensign will testify, the Las Vegas valley has experienced unprecedented growth over the past decade. Driven by sustained employment growth, Clark County is among the fastest growing area in the United States. It is my understanding that in 1994 alone, local government issued 25,570 residential building permits.

As Clark County is surrounded by federal land, the phenomenal growth in the Las Vegas area has triggered the greatest demand for public land exchanges and other realty transactions in the BLM's history. In the last decade, the BLM has privatized approximately 17,380 acres of land in Clark County. The privatization of these fed-

eral lands has an enormous impact upon Clark County and the other units of local government.

As someone who got his start in politics as a city councilman, I understand the needs and concerns of local government. It does not take much thought to understand the many impacts caused by privatization of federal lands in such large amounts. The primary impacts include the need for installation of new infrastructure, alteration of natural growth patterns, increased pressure on shrinking water supplies, and additional demands placed upon all public service providers.

Additionally, the need for local governments to plan for growth is paramount. Without a mechanism to provide for the orderly disposal of federal lands in this valley, we will continue to face what amounts to a crisis. I applaud Congressman Ensign and the many people involved with the creation of this legislation. This bill will allow for the disposal of excess federal lands in a planned and careful manner.

At this time, I would also like to acknowledge the efforts of the Bureau of Land Management. I am amazed at the many compliments given to the local BLM in Las Vegas for their fine work. I realize that Mr. Millenbach and the BLM in Washington have concerns with portions of this bill, but I appreciate their willingness to try and work them out in a spirit of comity. We came very close to enacting this legislation last Congress and I am hopeful we will succeed during the 105th Congress.

I want to thank each of our distinguished witnesses today for their testimony and look forward to hearing from each of them.

Mr. ENSIGN. Again, I would like to welcome my two colleagues from the State of Nevada, our senior senator, Senator Harry Reid, and our junior senator, Dick Bryan. Let us start. Go ahead and start with our senior senator, Senator Reid.

STATEMENT OF HON. HARRY REID, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator REID. Thank you, Mr. Chairman, members of the committee, Las Vegas is part of Clark County. And as has been mentioned already, this county has seen phenomenal growth over the past couple of decades, especially the last ten years. And the last several years it has been the fastest growing county in the nation. This influx of new residents has put great pressure on the infrastructure of the entire region, and also the recreational assets we have.

While no one thing can solve all the problems associated with this burgeoning growth, we can take steps to control it. This legislation makes important steps in this direction by providing for the orderly disposal of public lands in Southern Nevada, providing for the acquisition of environmentally sensitive lands in the State and providing a mechanism for local governments to offset the costs associated with development of these disposed Federal lands.

The distribution of the proceeds from Federal land sales will give the Federal Government 85 percent for the acquisition of environmentally sensitive lands in Nevada. The State will use their five percent share for general educational programs, while the remaining ten percent will benefit the Las Vegas Valley water treatment programs, water infrastructure development, parks, and trails.

As we approach the 21st Century, we have to be cognizant of our future generations and the legacy that we will leave. Any growth that occurs in a community must have coordinated planning. And this legislation, will greatly assist with this process, providing for more local government involvement. It allows State, county and city governments to manage costs associated with the development of these lands by adding to the State's education fund, as well as assisting with future development of Southern Nevada water systems and even the airport infrastructure. It will also assist us in

determining and preserving the wild and scenic places for future generations, which are of value not just to the residents of Clark County but all taxpayers in all parts of our country.

This bill has the bipartisan support of Nevada's Congressional delegation. It enjoys broad-based support in Clark County and support throughout the State of Nevada. This bill has a long history and can trace its genesis back to Congressman Jim Santini, the author of the Burton-Santini Act. We have spent now about \$100 million of money from the Burton-Santini fund to buy, principally in the Lake Tahoe area, environmentally sensitive land. Former Congressman Jim Bilbray continued this legislative process when he established the public land forum which was the basis for this legislation that we have. After he left, we stepped in and developed this legislation. So it is from these efforts and those of the four members of the Congressional delegation here that this bill before us has evolved in the fashion that it has.

I encourage this committee to move this legislation forward as quickly as possible. We have recently received the assurance from Chairman Frank Murkowski in the Senate that he will work with us to move this legislation in the Senate in an expeditious manner. We have also been in contact with the Administration, and Senator Bryan and I feel we have their support and assurance that this legislation will move through the Senate quickly with their help. Thank you.

Mr. ENSIGN. Senator Bryan.

STATEMENT OF HON. RICHARD BRYAN, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator BRYAN. Thank you very much, Mr. Chairman. I look forward to working with you and Senator Reid and Congressman Gibbons and this committee in processing this legislation as we did in the previous Congress. Both you, Mr. Chairman, and my senior colleague, Senator Reid, have mentioned the growth. That is the operative word in Southern Nevada.

For those on the panel who may not be familiar with Southern Nevada, our growth has truly been extraordinary. It has been the fastest growing community in the country. 20,000 new homes alone were built in Las Vegas Valley in the last year. And in terms of school and educational needs, it is estimated that we will require a new elementary school every 30 days, every 30 days for the next five years, to keep pace with the 12,000 new students who are entering the Clark County school system each year. That school system today is among the top ten largest school systems in America.

Mr. Chairman and members of this committee, the legislation before us today, in my judgment, is a critical component of Southern Nevada's long-term plan to effectively manage the growth in the Las Vegas valley. Each time the BLM transfers land into private ownership, it has important consequences for the local government entity that must provide infrastructure and services to that land.

The Bureau of Land Management controls in excess of 20,000 acres of land throughout the Las Vegas Valley. Consequently, unlike most communities, land use planning decisions are not solely made at the local level. The BLM is an important player in the local use planning process. This legislation would strengthen the

partnership between the BLM and local government and improve upon the current land use planning process.

The BLM's primary method of disposing of land in the Las Vegas Valley is through land exchanges, and has been the subject of much attention over the past year. I happen to share the belief that land exchanges serve a valuable public purpose. The Federal Government disposes of land it no longer needs in exchange for land that is worthy of public ownership. The disagreements between the BLM and exchange proponents over appraisal methodology and value determinations are often the cause of protracted delays in the land exchange process. And that process itself has become extremely complex.

Because of the dynamic nature of the real estate market in the Las Vegas Valley, any delay in the exchange process itself can cause the appraisals to become outdated before the transaction is effectively closed. So as you know, Mr. Chairman, the legislation that we have all crafted that is before us today would make two significant improvements over the current land exchange process. Number one, it would allow local land managers to take a more proactive role in Federal land disposal decisions. That is the partnership to which I alluded earlier in my testimony. And secondly, it would institute a competitive bidding process to ensure that the disposal of BLM land yields the highest return or true fair market value for the American taxpayers.

There are currently over 25 land exchange proposals pending in the BLM's Las Vegas office. Some are clearly in the public interest. Others may not be. The vast majority of these proposals are intra-state exchanges, meaning the BLM has the authority to process them without Congressional action. This legislation would open the process to allow anyone who wishes to bid on BLM land to do so in a competitive sale, and it would eliminate the need to enter into the protracted appraisal negotiations over selected BLM lands that so often bogs down and becomes a cumbersome part of the exchange process.

This legislation stands for the same proposition as the current land exchange process, namely that the sale of Federal lands in the Las Vegas Valley should be used as a means of protecting environmentally sensitive land throughout the State of Nevada and enhancing the use of public land for recreational purposes, as this legislation indicates, primarily in Southern Nevada. The legislation also contains important provisions for local government. Most importantly, as Senator Reid has pointed out, it builds upon the successful framework adopted in 1980 with the Santini-Burton legislation, which has been very important in acquiring environmentally sensitive land in the Lake Tahoe Basin.

I would like to also highlight another important provision of this bill which relates to affordable housing. This legislation would make affordable housing an authorized use under the Recreation and Public Purposes Act. There is a tremendous need in both Las Vegas and in Reno for land to develop affordable housing projects. I am aware that the BLM has some concerns with how this provision is currently drafted, but it is my hope that a compromise can be reached to meet this need, because affordable housing increas-

ingly has become a critical concern for many of our fellow Nevadans.

Mr. Chairman, I believe this legislation will make great strides toward improving public land management policy in Southern Nevada, and I look forward to working with you and your committee in any way that we can to facilitate its passage. This is important legislation. And I thank you again for giving us the opportunity to appear before you and testify today.

Mr. ENSIGN. Before we open it up for questions, I would like to recognize the members and the ranking member in the order in which they appear and other members for opening statements. Mr. Faleomavaega.

**STATEMENT OF HON. ENI FALEOMAVAEGA, A U.S. DELEGATE
FROM AMERICAN SAMOA**

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I certainly would like to commend you for taking the leadership in introducing H.R. 449 and in calling Mr. Gibbons.

I certainly would like to also offer my personal welcome to our distinguished senators from the State of Nevada, Senator Reid and Senator Bryan, for their fine testimonies before the Subcommittee. I look forward to working with the members of the Nevada delegation and hopefully that we can resolve some of the concerns that have been raised by the Bureau of Land Management.

I believe there was a markup taking place in the last Congress before the Subcommittee, but we never proceeded to go forward because of some of the concerns raised by the Administration. I do hope that we will be able to resolve these, what I consider differences that can be resolved. And I certainly look forward in working with you, Mr. Chairman, and the members of this Subcommittee to see if we can get this legislation going.

Mr. ENSIGN. Well, thank you. And for those of you who don't know Mr. Faleomavaega, I experienced this morning he is quite the accomplished ukulele player. And some of you should experience that some day.

Mr. Duncan.

**STATEMENT OF HON. JOHN DUNCAN, A U.S. REPRESENTATIVE
FROM TENNESSEE**

Mr. DUNCAN. Well, Mr. Chairman, I would agree with you. I heard that also. I thought that was great this morning.

Let me just say I am from Tennessee and I can tell you that there are many people in other parts of the country that think it is just crazy that the Federal Government owns 87 percent of this State. I read recently that the Federal Government now owns 30 percent of the land in this country and that State and local and quasi-governmental units own another 20 percent. And unfortunately, I guess, that has been growing by leaps and bounds in recent years. I will tell you when you decrease the supplies of private land, in this case, it increases the price. And if we keep on—if we had kept on heading in the direction that we were headed, I think home ownership would have gotten out of reach for a lot of young families in this country.

So I hope that—frankly, I would like to see us sell a great deal of the land in your State and these other federally dominated States to private individuals so that lower income and middle income people can have a chance to buy a home. Senator Bryan mentioned that affordable housing is becoming a real problem in and around Las Vegas. I think we should sell some of these rural lands also, but I think and hope it sounds—this bill sounds like it is a step in the right direction. So thank you very much for coming here to show your support today. Thank you very much.

Mr. ENSIGN. Mr. Gibbons, opening statement.

Mr. GIBBONS. Thank you, Mr. Chairman. Senators, welcome. Again, thank you for your participation here today. There has been expressed concern by some of our Federal agents, in particular the Secretary of Interior, the BLM, over the role of local governments in the decision about the disposal of some of these lands. And I would just like to ask whether you feel that—

Mr. ENSIGN. Mr. Gibbons, before we get into questions we are just doing opening statements right now and then we will do—

Mr. GIBBONS. Sorry, Mr. Chairman.

Mr. ENSIGN. That is OK.

Mr. GIBBONS. I was leaping ahead of you.

Mr. ENSIGN. That is OK. Ms. Christian-Green, do you have an opening statement?

Ms. CHRISTIAN-GREEN. Good morning, Mr. Chairman. Thank you. I don't have an opening statement. I would just like to say welcome to Senator Reid and Senator Bryan.

Mr. ENSIGN. At this time we will open it up for questions.

Mr. FALCOMA. I don't have any specific questions for the two senators. Your statement is well taken that we should proceed. I would like to hear the Administration's point of view as to some of the problems that they think they might have by moving this piece of legislation. I really would like to again thank our two senators for being here this afternoon.

Senator REID. Mr. Chairman, if I could just respond to Congressman Duncan briefly. We really appreciate your attitude and support for this legislation, but in Nevada we have over the last couple of decades conveyed a lot of land from the Federal Government into the private sector. The third largest city in Nevada, Henderson, is now a city of about 150,000 people. And the reason is, because there were two large transfers of Federal land to the city of Henderson and then to the private sector. And they have been able to build many, many homes. It is part of a bedroom community. We recently transferred 200,000 acres to Boulder City?

Senator BRYAN. Yes.

Senator REID. Again, about 200,000 acres to the city of Boulder City, Nevada. Also Carlin, Mesquite, and in other places in Nevada, there have been transfers of public land into the private sector. And so it is not as if we haven't been doing anything. It is just that there is a lot more that needs to be done. And we appreciate your observations of some of the problems we have.

Mr. DUNCAN. Well, Senator Reid, I hope you didn't take what I said as criticism, because—

Senator REID. I certainly did not.

Mr. DUNCAN. I think that is great that you put those lands into the private sector and put them on the tax rolls and so forth. I think that is wonderful. What concerns me is there is still actually far too much of your land that is owned by the Federal Government for no good reason.

Senator REID. Most people in Nevada agree with you.

Mr. DUNCAN. And also the same thing that you've just mentioned is not happening nearly enough in other parts of the country. So thank you very much.

Mr. ENSIGN. Mr. Gibbons.

Mr. GIBBONS. Am I allowed to ask questions now, Mr. Chairman?

Mr. ENSIGN. Yes. You are recognized to ask questions.

Mr. GIBBONS. I appreciate that and apologize for overstepping the bounds of decorum by asking a question in my opening statement.

Senators, as I started out asking there has been some concern expressed earlier about the involved local communities, both county and city government, with regard to disposal of certain lands around this proposal. Can you help this committee understand better why that is necessary? You might want to touch a little bit on the Santini-Burton process which has a similar condition in it. Why in terms of infrastructure do these—

Senator REID. Senator Bryan.

Senator BRYAN. Yes, if I may, Congressman Gibbons, you are familiar with the Santini-Burton legislation. The Santini-Burton legislation actually confers a veto power, as you know, on local government. As we were processing this legislation in the last Congress, a concern was raised by the Secretary of Interior and others, and so the language that we crafted represents a compromise that we thought was acceptable. And I invite your attention to page 6, which defines the selection process.

And just very briefly without reading it, the Secretary and the unit of local government whose jurisdiction lands referred to in this section are located shall jointly select lands to be offered for sale or exchange under this section. It was our hope, Congressman, that that would be acceptable in this Congress. I know there have been some concerns raised. We do want to empower local governments to be a part of this decisionmaking process. This is an essential part of the long-term planning.

In your Congressional district in the outskirts of the metropolitan Las Vegas area, as you know, enormous growth has occurred. And every decision that is made affects those local entities, whether it is the city of Las Vegas or the County of Clark, the city of Henderson, or the city of North Las Vegas. Those have tremendous impacts, so we want that to be a process in which the local government entity is fully involved. And that is a very, very important part of this legislation. So I hope that we can assuage any concerns that they have.

I might just add parenthetically, I am not aware—and the legislation, I think, we enacted in 1980. I am not aware that there has ever been a problem in terms of the local government interface with the Federal Government on the Santini-Burton legislation.

Senator REID. Congressman Gibbons, I would just add to that the problem is very evident, what has happened in the last ten to 15

years. The Federal Government picks a piece of land that they are going to put into the private sector and then local government has to construct the infrastructure to that property. And it has been very, very debilitating to especially Clark County, even buying the rights-of-way to put in utilities. And that is one of the key parts of this legislation.

We hope that even legislation is not necessary. We have been meeting with the Secretary and we believe that he has the power to do that administratively, the Bureau has the power to do that administratively and it is not necessary in this legislation. But in case it is not done by the time we get this legislation passed, it is in this legislation, which will relieve a tremendous burden to the county and its subdivision, the water district, et cetera. So that if there is a piece of land put into the private sector, the local government is in effect cut some slack.

Mr. GIBBONS. Mr. Chairman, one final question, if I may, to the Senators. Thank you very much for that light response.

What is the status currently on the Senate side of this bill? Is it up for a hearing? Is it going to be marked up? If you could just help us know the timeframe.

Senator REID. We wrote a letter to Chairman Murkowski and said we would very much like him to move this legislation as quickly as possible. And he graciously responded in spite of all the battles we are having with nuclear waste. He responded by saying that he believed in the legislation. In the letter he set forth reasons why. And he said that he would move upon this just as quickly as possible. So we feel very good about this.

We also, in direct answer to your question that perhaps I didn't answer as clearly as I should—and you will hear the testimony from the Administration. We feel very good about the Administration. We believe that they also think this is necessary. As you know, there has been some land exchanges that have gone forward that have created bad publicity. And as a result of that, I think, the Secretary would also like to get this resolved. There are a few exchanges, as you know, in the pipeline now. And as Congressman Ensign indicated, it appears that all the I's are being dotted and the t's crossed on those. We need to move away from that and get a more deliberate process. I am confident the Secretary believes that also.

Mr. GIBBONS. Thank you, Mr. Chairman.

Mr. ENSIGN. Any other questions?

Mr. FALEOMAVAEGA. I do have a couple of questions to the two senators. Is this land exchange a problem only in Las Vegas in Clark County or is the State of Nevada encountering this whole State—

Senator REID. Congressman, the problem is that the most valuable land is in the Las Vegas Valley, or Las Vegas metropolitan area. So that is basically where the problem lies. People want the land in Southern Nevada. They don't want it other places. So that has created the problem.

Mr. FALEOMAVAEGA. What I am curious about is that—is there also a potential for further settlement in other areas of the State?

Senator REID. Well, not to the degree as in the south. We have, approximately, 90 percent of the people that live in the metropoli-

tan Reno and Las Vegas areas. People don't realize that Nevada is the most urban State in the union, more urban than New Jersey and New York and Texas. And we are very proud of the industry we have in rural Nevada. We produce huge amounts of gold, 7 million ounces last year. But even though it creates a lot of jobs, in comparison to the heavily populated areas of Reno and Las Vegas, there is not much in the way of demand for land.

Mr. FALEOMAVAEGA. My sense of curiosity is raised in the fact that Las Vegas was developed by—I think it was an entrepreneur, if I am correct in my history. It was out in the desert of nowhere.

Senator REID. Well, the entrepreneur was Brigham Young.

Mr. FALEOMAVAEGA. Oh, I thought it was a Jewish fellow that started the first casino and developed it. For whatever it was historically in terms of Las Vegas in the earlier settlements, I stand corrected, Senator. But what I am curious about is that it seems to me that we take our western States in a piecemeal fashion. And I am trying to develop a sense of why we didn't just give half of what is federally owned by the Federal Government to the State of Nevada and let them take care of it?

Senator REID. Well, there are many who feel that way. There are others who feel that we need a real orderly process to do that. This legislation is a step in that direction. Just to put all the land up to bid would not help us, as Congressman Duncan thinks it would—it would not allow the land to go to the moderate and low income people. It would go the highest bidder and all the pretty places would be taken. This legislation is really a step, I think, in the direction which you would like to go and what I have heard from the committee. It would really allow us to move forward, and auction land. And we would be able to, with the proceeds from that money, buy environmentally sensitive land in the Lake Tahoe area and other areas around the State of Nevada which are vitally important to bring into the public sector even though they are small in acreage.

Mr. FALEOMAVAEGA. So I suppose that 20 years from now we won't have to go through this exercise again. This is what I am concerned about.

Senator REID. Well, hopefully this legislation 20 years from now will still be in effect and we will be operating in the same manner.

Senator BRYAN. If I might just amplify the response, this is an extension of the concept of the Santini-Burton legislation that was enacted in 1980. And then, as now, although to a lesser extent, the metropolitan Las Vegas area was experiencing growth. And so there were parcels of BLM land that were in the immediately impacted growth area that it was decided that they ought to be disposed of. And those proceeds were used to acquire environmentally sensitive lands up at Lake Tahoe. So that is kind of the background of this in terms of how this concept evolved.

Now, of course, in the intervening period of years, the growth has been even more substantial. To put this in some context, in 1980 the State of Nevada's total population was 800,000. Today the entire State's population is slightly twice that, a million six. But of the 1,600,000, the metropolitan Las Vegas area has more than a million people. So, I mean, that is really, as Senator Reid pointed out, that is really where this growth and where the demand is oc-

curing and where the impacts that were expressed earlier about being able to provide affordable housing. It is in the urban areas where the real growth is occurring and we are having the difficulty. So this will facilitate that process, we hope.

Mr. FALCOMA. I am pleading ignorance here. I am just curious. We conducted several atmospheric tests of our nuclear testing program in Nevada. How many surrounding towns in that area where we conducted these tests—is it further south of Las Vegas?

Senator REID. Congressman, we conducted about almost a thousand nuclear tests at the Nevada test site. Most of them were underground. There were some that were atmospheric. And there are some towns that are close by, but not real close. Las Vegas is about 90 to 100 miles away from the nearest test that took place. What would you say, Beatty is about 40 miles?

Senator BRYAN. Yes, but these atmospheric tests also impacted those communities along the eastern part of Nevada and in western Utah. These are the regions which benefitted from the down-winder legislation Congress enacted several years ago.

Senator REID. With the above-ground tests.

Senator BRYAN. With the above ground during the atmospheric testing days. And that would probably be out in our part of the country, probably, Mesquite, Moapa Valley, that area, that would be—

Senator REID. Lincoln County.

Senator BRYAN. Lincoln County.

Senator REID. St. George.

Senator BRYAN. Pioche, Panaca, Alamo.

Mr. FALCOMA. I am sorry. I didn't mean to detract from the line of questions, Mr. Chairman, but I am very, very concerned about this in terms of the 1000 tests that were conducted underground in Nevada. There have been no geological surveys in terms of the aquifers being affected, some water streams or any of that. You see, Senator, we conducted about 66 nuclear tests in the Marshall Islands in the early '50's, and despite world protests we continued testing until we found out that there was strontium 90 found in the milk products coming out of Minnesota and Wisconsin. And that was the only reason why we stopped our atmospheric testing program, supposedly for scientific purposes. But, of course, being controlled by the military there is more coming out of this whole thing.

And I am just very curious how safe are the residents of Nevada of this mess that we have created there as far as nuclear testing is concerned.

Senator REID. There has been extensive tests conducted. It surprises most people, but a very small percentage of the 1350 square miles that is the test site—that is only about two percent of it is contaminated. Again, a very small area of the test site is contaminated. Once they stopped the above-ground nuclear tests, they were extremely careful. And out of the hundreds and hundreds of tests they had, I think they have only had venting at two or three tests over those years. And there have been ongoing and are presently studies as to what effect the underground tests have had with the aquifers. At this stage, they haven't determined any effect.

Mr. FALCOMA. So to your best opinion, Senator, the expansion and the land exchange with BLM in Clark County and Las Vegas, that the good residents of Nevada are going to be safe and healthy for the next 100 years as far as the nuclear dump site that—

Senator REID. As long as they keep nuclear waste out of Nevada, we will be in great shape.

Mr. FALCOMA. Thank you, Senator. Thank you, Mr. Chairman.

Mr. ENSIGN. I would like to thank both my colleagues from the Senate, and especially Senator Reid for your last comment. I think that it was very well timed, and the rest of the House and the Senate should pay very close attention to that comment.

I would like to call the next panel up, Mat Millenbach, Deputy Director for the Bureau of Land Management. We welcome your testimony, and proceed as you will.

**STATEMENT OF MAT MILLENBACH, DEPUTY DIRECTOR,
BUREAU OF LAND MANAGEMENT**

Mr. MILLENBACH. Good morning, Mr. Chairman. It was good seeing you on TV last night, too.

Thank you for the opportunity to testify on H.R. 449, the Southern Nevada Public Land Management Act of 1997, regarding land disposal in the Las Vegas Valley. The Department of the Interior supports the concept behind this bill. We believe that through continuing discussions with the bill's authors in the House and the Senate, a final bill can be produced that would receive the Administration's full endorsement.

I would like to summarize my statement and enter my entire statement for the record.

H.R. 449 and its companion Senate bill, S.94, specifically effect several thousand acres of public land in the Las Vegas Valley, which are managed by the BLM. In recent years, the Las Vegas Valley has become the fastest growing metropolitan region in the country, and development has been influenced by the presence of public lands in this area and vice versa. This bill seeks to resolve the future of these public lands by requiring BLM to sell, exchange or transfer public lands in the Las Vegas Valley.

The intent of H.R. 449 is to capture the best qualities of the BLM's land exchange goals, the Santini-Burton Act, and the partnerships that have been developed with local government. This bill provides for the disposal by sale or exchange of certain federally owned BLM-managed lands within a limited area of the Las Vegas Valley. Fifteen percent of the proceeds of these land disposals would be distributed to local entities. The balance of the funds would be used for the benefit of natural resource management within Nevada for Federal land acquisition, capital improvements, development of a multi-species habitat conservation plan in Clark County, and the development of recreation in natural areas within Clark County.

The bill also provides for the transfer of lands to Clark County at no cost within the airport management area for McCarran International Airport. Should those lands be sold or leased, the United States would be paid 85 percent of the fair market value received.

The bill also includes a provision allowing local government entities to select other lands needed under the Recreation and Public Purposes Act prior to their conveyance. Local and regional governmental entities may also apply for rights-of-way for flood control and water treatment purposes, which can be granted in perpetuity and at no cost. Additionally, the Secretary is authorized to transfer the Recreation and Public Purposes Act reversionary clause from one parcel of land to another upon request by the owner of those lands.

Nearly a year ago, the BLM acting Director, Mike Dombeck, testified in opposition to an earlier version of this bill. At that time Mr. Dombeck stated, "while we support the goal of disposing of certain lands within Las Vegas to accommodate the city's growth, the Department strongly opposes this bill." He pointed out that the earlier bill would divert huge amounts of Federal resources and funds to local interests, offering a windfall to a few at the expense of many. Since that hearing a year ago, the Nevada delegation staffs have worked to resolve many of the problems we identified with this bill as originally introduced in the 104th Congress.

Since H.R. 449 was introduced in the House, and its companion bill S.94, a number of technical issues have been discussed and resolved between BLM and Congressional staffs. Those details are unnecessary to pursue here, however there remain a few issues that are as yet unresolved that need to be remedied before the Administration can fully endorse the bill. Several of these areas are outlined in detail in my written statement, and they include the issue of consultation regarding selection of the lands to be sold rather than joint selection as specified in the bill, the conveyance of nearly 5000 acres near the airport at no cost to Clark County, the expansion of the Recreation and Public Purposes Act to allow for affordable housing anywhere within Nevada, the waiver of environmental laws for the conveyance of the youth activity facilities, and the need to discuss the location of the Red Rock National Conservation Area boundary modifications. The bill does not specify those areas.

Mr. Chairman, we all recognize that a population explosion is occurring in many western communities. Las Vegas has seen an increased migration of people from Southern California and large metropolitan areas in the East. Public lands can be part of the solution and an effective land disposal program can assist in orderly growth.

The BLM agrees that we need to move to dispose of much of the urban lands in the Las Vegas area when appropriate. These public lands should be disposed of in harmony with the needs of the local jurisdiction. We also believe that all land disposal must benefit both the American people and the local community as well. This legislation provides a good framework to allow for a fair approach to dealing with the situation in Las Vegas area. The bill deals with disposal of public land using a nearly identical boundary as developed in the BLM draft resource management plan. With some additional fine tuning, this bill will assist the BLM, local governments and the citizens of Nevada and the United States. We would be happy to work with the Nevada delegation to provide such a solution.

Mr. Chairman, I appreciate the opportunity to appear before the Subcommittee today and discuss this bill, and I would be glad to answer any questions you might have.

[Statement of Mat Millenbach may be found at end of hearing.]

Mr. ENSIGN. Thank you, Mat. I have a few questions for you before I open it up to other members. First I want to address the youth activities, the little league—the 38.5 acres that you have raised questions about, Sections 202 and 203 of FLPMA. First of all, this Administration has supported waivers where it suits their purposes. And in fact, the President last year signed in the omnibus parks bill several waivers, all of which were more serious than this and involved hundreds of thousands of acres. The transfer of lands for youth activity, the Little League Baseball, involves only 38.5 acres and has already been identified for disposal under the BLM's own RMP and are subject to the Recreation and Public Purposes Act.

I guess the question—does the Administration really object to 38.5 acres going to Little League?

Mr. MILLENBACH. No, sir. It is a standard objection of the Administration to exempt the lands from the provisions of, say, the Endangered Species Act and so forth—

Mr. ENSIGN. What does the BLM think?

Mr. MILLENBACH. We support the transfer of the lands. We would like to be able to do the required clearances and so forth before that is done.

Mr. ENSIGN. I also want to address the question of joint selection. First of all, we originally had veto power by the local government. And we have compromised to joint selection. And we know that BLM's position has been basically that the county has zoning ordinances. And just as the county has sometimes trouble saying no to zoning changes, the BLM has also had trouble saying no to developers. And don't you think that we need to be jointly working together here with the BLM and the local government to work out the problems here, especially dealing with some of these areas around the airport? It seems that just the Federal Government doing it by itself is not working. That is one of the reasons for the bill. It is one of the fundamental reasons for the bill. It is not working the way it is supposed to work, and that is the reason that we selected this joint selection.

Mr. MILLENBACH. We believe that a consultation requirement is entirely appropriate. My understanding is of this, and I think you can probably ask the people from Las Vegas who are going to testify in the next panel about this, but my understanding is that our relationship between the local governments in the Las Vegas Valley and our people in the Las Vegas district office is actually very good. The difficulty with the joint selection provision is that under our normal land sale and other land disposal authorities under Federal Land Policy and Management Act, what is envisioned there is a consultation requirement. And if this bill were modified to require that, we would be very comfortable with that.

Mr. ENSIGN. OK. Mr. Faleomavaega.

Mr. FALEOMAVEGA. Thank you, Mr. Chairman. Mr. Millenbach, if I am correct, in your statement you are saying that the Burton-

Santini version is your baseline. Do you—is the BLM still fully supportive of the Burton-Santini version?

Mr. MILLENBACH. The Burton-Santini? Yes, sir. The Burton-Santini Act has worked out very well for us. We have been able to sell lands in the Las Vegas area and buy environmentally sensitive lands in the Lake Tahoe area using the 85/15 income distribution. I think everybody has been very satisfied with that and feel like it has worked out both in the Federal aspect and the local aspect.

Mr. FALEOMAVAEGA. And it is your position that the Burton-Santini version can still be workable in working out the differences that you are——

Mr. MILLENBACH. Yes, sir.

Mr. FALEOMAVAEGA. [continuing]—the problem that you are having now with the officials of Nevada? Is this your position? My point here is that is there a different standard now that we are applying in doing the land exchange or are you using the Burton-Santini version as the basis of doing the land exchange?

Mr. MILLENBACH. We are using the Burton-Santini as the basis for the 85/15 split. I know there is a difference between the joint selection requirement of Burton-Santini and the consultation requirement of the Federal Land Policy and Management Act, which is our general land sale exchange.

Mr. FALEOMAVAEGA. So the proposed bill does not attempt to change any of the basic principles underlined in the Burton-Santini version?

Mr. MILLENBACH. It doesn't attempt to change the way that the money is raised. It is raised through the sale of the Federal lands through competitive sale. Those are both consistent. The money is put into a fund for specific purposes and then we are allowed to spend that money out of that fund for those purposes. This does the same and we concur with that.

Mr. FALEOMAVAEGA. So you are saying that the BLM is more than happy to work together with the Nevada delegation using the Burton-Santini version as the basis and then see what other——

Mr. MILLENBACH. Yes, sir.

Mr. FALEOMAVAEGA. [continuing]—sense of flexibility can be fleshed out on the other provisions of the proposed bill?

Mr. MILLENBACH. Yes, sir, absolutely.

Mr. FALEOMAVAEGA. I noticed that you have got about five areas of concern in your statement.

Mr. MILLENBACH. Yes, sir.

Mr. FALEOMAVAEGA. Can you point with any sense of priority or do you consider every one of the five points or concerns of equal weight? Are there some areas that perhaps it can be worked out quickly, or is it going to take us another 200 years to work these differences out?

Mr. MILLENBACH. Well, I hope not. The map of the Red Rock National Conservation Area boundary, I think, is just a matter of us sitting down and agreeing on the map. I saw your staff was showing you a copy. And we are pretty comfortable with that. We are much less comfortable with the use of the Recreation and Public Purposes Act for affordable housing. We think that is going to give us very substantial problems in the future in terms of administering those lands if the uses are changed after title is transferred.

And we end up in a position where we might have to revert title. Then what do we do with these houses that are on the lands?

Mr. FALEOMAVAEGA. What would be your best estimate in terms of a timeframe that perhaps we could get together and kind of iron these things out by way of moving this legislation forward?

Mr. MILLENBACH. We could start any time.

Mr. FALEOMAVAEGA. Fantastic. No, but my question is what kind of a timeframe are we looking at, maybe another five months or less or more or another two years till we—can this—in other words, the five areas that you have expressed concern, can it be workable, can it be solvable? Are there some areas here that it is totally impossible, or is it—each of these five areas of concern, can they be worked out?

Mr. MILLENBACH. I believe they can, yes, sir.

Mr. FALEOMAVAEGA. All right, thank you, Mr. Chairman. Thank you, Mr. Millenbach.

Mr. ENSIGN. Thank you. Just real quickly, how does the joint selection in this bill differ from the joint selection that is mentioned in Burton-Santini?

Mr. MILLENBACH. They are the same provision.

Mr. ENSIGN. They are the same provision, and because it was fine before, why isn't it fine now?

Mr. MILLENBACH. It is inconsistent with the normal way we sell lands and exchange lands. There is a consultation requirement in the Federal Land Policy and Management Act that requires us to coordinate our plans with local government.

Mr. ENSIGN. Right, but we have recognized that the normal way we do things is not working, and that is one of the reasons for this bill. And that is one of the reasons for joint selection under Burton-Santini and one of the reasons for joint selection under this current legislation. So it just puzzles me why the Administration would have objections—it worked under Burton-Santini, wouldn't you agree?

Mr. MILLENBACH. Yes, sir.

Mr. ENSIGN. OK, why wouldn't it work under this bill?

Mr. MILLENBACH. Well, it is a matter of consistency with the normal way we do business. If we had consultation but not joint selection, what that would require us to do is to work with the local governments just the same as we do now to try to come to some agreement on what that might be, but in the case of a substantial disagreement or where we needed a tie breaker, we still believe that it is the Federal Government's responsibility to make decisions about Federal lands.

Mr. ENSIGN. Even though it worked under Burton-Santini, with joint selection?

Mr. MILLENBACH. Yes, sir.

Mr. ENSIGN. You don't see any inconsistency in that?

Mr. MILLENBACH. I understand there is an inconsistency. I just think that we believe that it would be more in keeping with our Federal land disposal programs nationwide.

Mr. ENSIGN. In other words—let me change the way I asked the question. If it is a certain procedure, consistent with a certain procedure, but unless you can tell me why it didn't work under Burton-Santini, then why shouldn't we do it the same way under Bur-

ton-Santini, it doesn't seem to justify. Just because that is the way it is normally done, if it works, shouldn't we be about common sense government?

Mr. MILLENBACH. Yes, sir.

Mr. ENSIGN. This seems like common sense.

Mr. MILLENBACH. It has—well, let me try to—

Mr. ENSIGN. Let me ask you something first before you go—just to get your mind set. Have you ever lived in an area like what we are talking about? Have you ever dealt with local government, lived in an area that is growing like Las Vegas that has so much Federal land, that has these kinds of problems, so you could understand what local governments are telling you? I am not a local government person. I have never been involved in local government, but I know what my local government people are telling me and why they need this joint selection, why they think it is so important to have this joint selection and why Burton-Santini included it in their bill.

Mr. MILLENBACH. The first—no, I haven't lived in an area like Las Vegas. I have lived in mostly smaller towns, except for here. You know, the rationale is that the Federal Government has responsibility to dispose of the public lands. And I think for us to allow—give somebody else that responsibility would be inconsistent with what our overall legislation provides for. I will admit to you it has worked very well, Santini-Burton. There have not been glitches, and I attribute that to the efforts of the local government people in the Las Vegas area, Clark County people, city of Las Vegas and so forth, and our people in the district have been able to work very well with each other over the years. That is my understanding. And because of that, there has been no problems with this provision of the bill.

Mr. ENSIGN. And I think that we have outstanding people in the BLM currently. We are going to have them in the future. We are going to have outstanding people locally, and I would submit to you and I would implore the Administration to reconsider its position on this joint selection, that this will work just like it worked under Burton-Santini. So, you know, when we are negotiating over the next couple of weeks I would implore the Administration to rethink its position on this.

Mr. Gibbons.

Mr. GIBBONS. Thank you, Mr. Chairman. I would like to delve just a little deeper into these issues of joint consultation versus—urban consultation versus joint selection. Under consultation, is the county or local government planning ever taken into consideration before the government, the Federal Government, decides on which property they are going to release?

Mr. MILLENBACH. Yes, it is.

Mr. GIBBONS. Before you do that, or is it your decision to release this property and then you will talk to them?

Mr. MILLENBACH. It is kind of a two-step process. The local governments, they have their land use plans. And when we do our general resource management planning, which identifies the broader area that would be disposed of, the requirement of law is that we consult with the local jurisdictions to make sure that our resource management plans are consistent with their plans.

Mr. GIBBONS. Now if county or local government disagreed under your consultation plan to release Federal lands, for example, because of their infrastructure needs, would they have the ability to say no to your process and your plans, change it?

Mr. MILLENBACH. No, sir. The resource management planning is delegated down to the Secretary of the Interior, and he retains the authority to make the final decision.

Mr. GIBBONS. So only veto power under joint selection would allow county and local government participation in the decision for their planning purposes versus consultation?

Mr. MILLENBACH. They would still have the ability to consult and be consulted.

Mr. GIBBONS. Would they still have the veto power under consultation?

Mr. MILLENBACH. No, sir.

Mr. GIBBONS. Thank you.

Mr. ENSIGN. Ms. Christian-Green.

Ms. CHRISTIAN-GREEN. Thank you, Mr. Chairman. I have a question primarily for my information. There is an issue over the noise, airport noise abatement area.

Mr. MILLENBACH. Yes, ma'am.

Ms. CHRISTIAN-GREEN. And in your testimony you refer to a memorandum of agreement. In that memorandum of agreement, was the 4600 acres agreed to as what was needed by the State of Nevada for airport noise abatement?

Mr. MILLENBACH. Yes, ma'am. That is my understanding. There is an existing memorandum of agreement whereby we have agreed not to dispose of public lands that are within this defined area on the map. What this bill would do would transfer the lands within that boundary to the airport authority.

Ms. CHRISTIAN-GREEN. And I just want to reecho the sentiments of our Chairman and other colleagues on the issue of joint selection. As a delegate from one of the territories, that is an issue that we understand. And I want to support the Chairman's remarks on that.

Mr. ENSIGN. Any other members wish to inquire? Mr. Vento.

Mr. VENTO. Thank you, Mr. Chairman. The normal course of events for Burton-Santini has a dedicated purpose for the fund to buy forest land. So this obviously opens it up, the 85 percent at least, to multiple purposes. Now those purposes are all in the State of Nevada. And the issue here, of course, is that the sale of State lands is usually going back to the treasury, is that correct?

Mr. MILLENBACH. Yes, sir. All but four percent.

Mr. VENTO. All but four percent, which is kept for—

Mr. MILLENBACH. Well, I believe it goes back to local government.

Mr. VENTO. I didn't quite hear your answer.

Mr. MILLENBACH. It goes back to local government.

Mr. VENTO. It goes back to local government, so there is a small distribution here for administrative or other procedures. But in a land State like Nevada, because of the unusual public ownership with the deeds, you are actually taking the funds here on a non-appropriated basis and putting them back into a special fund for Nevada. Do you have any funds like that in other States that are

similar to this other than the Burton-Santini example, which we know is for a designated purpose?

Mr. MILLENBACH. Not that I can think of right now. I would have to follow up on that. I don't believe we do.

Mr. VENTO. Well, I think it is useful. I think it is an interesting concept and one that has worked for this particular purpose. I think that as you look at public land States, though this may be an answer in terms of trying to deal with and enhance some of the public lands, like it is your intention by repairing areas of Nevada. Many of the BLM lands do not have, as an example, the wetlands associated pieces of the ecosystem, is that right, Mr. Millenbach?

Mr. MILLENBACH. Yes, sir. We think that there is a big advantage to this idea of establishment of a fund. What it does is allows us to buy these environmentally sensitive lands near the recreational areas such as the Spring Hill Recreation Area near Las Vegas, repair areas near Clark—in Clark County and other areas throughout the State. It simplifies our process. And I think it will really make it a lot more efficient. The objectives of the bill that the Chairman stated this morning are very well taken, and we agree with them within the Department. Our difficulty has more to do with some of the details of the bill. And of course in the past it has been—we have not been able to get OMB agreement to set up a special fund, so we have been working very hard with the Office of Management and Budget to get an exception to the Budget Enforcement Act that would allow us to set up this fund and then—

Mr. VENTO. Which we have with Burton-Santini?

Mr. MILLENBACH. That is correct.

Mr. VENTO. Well, I expect that that is going to be a problem, at least with the appropriation issue.

Mr. MILLENBACH. Well, we are making pretty good progress with OMB.

Mr. VENTO. Well, I would be very interested to follow on. And obviously the purpose—I guess we would all like to review those purposes. This sort of represents the particular interests of Nevada. I don't think it is too bad. I think that it is within reason.

The joint selection issue is an interesting process. But I think that in cases where there is disagreement, one ought to have an opportunity, in my view, just for the benefit of the members, to go to resolve this in terms of being able to come up with a decision. You need to work with the local governments and the Clark County government in terms of where they are going to put in a water service, where they are going to have development. And so I understand that it is appropriate.

This gets back to this other question I had. And that is when I visited the area some years ago, as you recall—I don't know if you were along on that visit or not or who it was from BLM, but as I recall, there was, of course, a lot of this very desirable land. But there were also some small tracts of land. How does this deal with that particular problem? You have the mixed ownership of this land that is isolated. I just might comment to my colleagues that never have visited the site very often, these sites have things dumped on them. They are public. They are not surveyed. There are all sorts of problems with them.

Mr. Ensign, we haven't talked about it, Mr. Chairman at some point I would like to, because these small tracts are our responsibility. These small tracts of land that don't have water. They are generally surrounded by private land. I don't know what the actual situation would be. From a practical standpoint, it represents a problem.

Mr. MILLENBACH. Well, I think to the extent that this bill allows us to sell these smaller tracts of property, I think, is very advantageous.

Mr. VENTO. Are you barred from doing that? You are not barred from selling it right now, are you?

Mr. MILLENBACH. That is correct. We could sell any of it under our existing authority. We could exchange it under our existing authority. I think one of the problems with exchanging these smaller tracts, though, it is much more difficult for us to put together an exchange package that would be of interest to a subdivision developer or something like that with those small properties.

Mr. VENTO. Well I have a simple mind and I would like to see certain blocks of land cleared and clear up responsibility. I am sure you would, as well, because having responsibility for land and then having it turn into a sort of temporary dump—someone throws trash on it or whatever happens to it. It represents a serious problem with regards to where we are going. So I would try to look and see if there is some solution here that would facilitate the consolidation of these lands in that area and then deal with that. I know the survey costs greater than the value of some of this land because it doesn't have water and so forth associated. I am correct in that, am I not, Mr. Millenbach?

Mr. MILLENBACH. Yes, sir, it is—they are not very convenient for us to have to administer. And again, I think this bill would be very helpful in dealing with that, because it would allow us to sell off a small piece of property, put the proceeds into—

Mr. VENTO. Well, there is an incentive here. That is true, it seems to me that the easier things to sell are those that have immediate economic value. The value of some of these tracts might not be as significant.

Mr. ENSIGN. Mr. Vento, if I—

Mr. VENTO. I would be happy to yield.

Mr. ENSIGN. Just to address that problem, actually, almost every piece of land in Las Vegas Valley right now has value. If you are in the Las Vegas Valley, you understand. I don't care if it is a two-acre piece of property or a one-acre piece of property or whatever, if it is in the Las Vegas Valley right now, there is access or there will be access and within the boundaries on the map that is over there. What we have tried to do with this is to—if somebody could display—

Mr. VENTO. No, I know. I have already seen it.

Mr. ENSIGN. OK. If somebody could move the map into position over there. One of the things that we have tried to do, we are concerned about growing outside of a boundary. We wanted to establish kind of a boundary that this is what the Las Vegas Valley is going to be and it is not going to be outside this boundary. And so everything within that is developable, but outside it is not. So we are not going to be going out into these various areas. So even

those small tracts of land within that, small developers, people that maybe want to build a home on it, you know, they like that piece of land. The biggest problem now—the reason it is dumped on, that land, is because it is publicly owned. And private people have a tendency to look out for their land a little more than public ones.

Mr. VENTO. Try to understand that there is some of the public land that is very desirable that has construction material and so forth dumped on it. Unfortunately it persists there. What I am talking about are small tracts and homesteads that are to the, if I remember, the west and south, Mr. Millenbach.

And these sites don't have the water. They have wells but they don't have water rights. They don't have access. I think we have some maps that we had available a few years ago when I was there. And I would like to get into the small tracts issue and see what we can do. It is just that I would like to see it consolidated. I don't think they have quite the desirability because they are small tracts. Developers can't build the developments on them. And there are some practical problems with them, as I said. And, you know, it certainly may be that one of our goals—my time has expired.

I wanted to ask a little bit about the Recreation and Public Purposes Act. I agree with you on the policy issue. One of the problems with the policy is the fact that it is innovative use. And I work with policy issues in Congress a lot. I like to see something, but it is the oversight problem. And the oversight problem deals generally with the Recreation and Public Purposes Act. And I am aware that there are some controversies over the nature of some of the public purposes, even in BLM lands in the Las Vegas Valley. Isn't that correct, Mr. Millenbach?

Mr. MILLENBACH. Yes, sir.

Mr. VENTO. And so I think the issue is rather than take on these tasks, this is one that if you don't have now it's very difficult to dodge the requirement. So there may be a different way that this could be accomplished in terms of if this water policy was going to be in public ownership or other means, is that correct?

Mr. MILLENBACH. Yes, the difficulty comes with the reversionary clause that is a part of those patents, and then the requirement that if the title changes or there is a change in use of the property, then the title reverts back to the Federal Government. So then we end up being stuck with, you know, somebody's house on a piece of property that has reverted back to us. Then what do we do from there? So—

Mr. VENTO. It is an impossible situation. Monitoring it and then the legal process that you have to go through to deal with enforcement, so that for all practical purposes this is not—I mean, I can understand the social goal that is desirable, but I think that how this is structured, I think, is—you may correct me.

I was paying attention to the discussion with the Chairman with regards to the Little League Baseball. We are all in favor of Little League Baseball. I think the issue—the incidence of the environmental waivers that existed in the omnibus park bill, I would say was probably boilerplate language that dealt simply with the transfer of it, not necessarily with the ultimate use. And what you are dealing with here, I am sure that this bill will have in it NEPA

waivers, other waivers that will facilitate the transfer. But I think what you are asking for here is an exception to the absolute end use of what you are going to do with it. I don't know if that is reasonable or not. We may have done some of that in the omnibus bill.

Mr. ENSIGN. It is still subject to the Recreation and Public Purposes Act, the use.

Mr. VENTO. Oh, no, I understand the use issue, but I think that what you are seeking is waiver from the Endangered Species Act or a waiver from NEPA or a waiver of other things. If it is incident to the transfer, I don't know that there is an objection to that. Is that correct, Mr. Millenbach?

Mr. MILLENBACH. The——

Mr. VENTO. In other words, it shouldn't have to go through NEPA if you are—in terms of this legislation for you to transfer some of this land under this law.

Mr. MILLENBACH. The way the act is worded now is that it would exempt us from NEPA and the Endangered Species Act, and so forth.

Mr. VENTO. Well, this was a standard waiver. You know, that is a standard boilerplate waiver language—you are objecting to that. But, I think that this goes beyond that in terms of waivers for specific purpose.

Mr. MILLENBACH. Yes, except that this is already designated by the BLM for disposal. This land is designated already for disposal.

Mr. VENTO. Yes, but, you would not, if you were going to put a factory on it, you wouldn't necessarily exempt that factory from every environmental requirement——

Mr. ENSIGN. Right, but——

Mr. VENTO. [continuing]—that exists with regard to the Endangered Species Act.

Mr. ENSIGN. If it is already designated for disposal and it is subject to the Recreation and Public Purposes Act, I think that you have addressed those problems.

Mr. VENTO. Well, the Recreation and Public Purposes Act I don't know that the——

Mr. ENSIGN. You can't put a factory on that.

Mr. VENTO. No, you put the little league baseball on, but I don't know what their spikes might do to the desert tortoise. I mean, they well might be there. I know they are definitely where my brother is. But I think there is a difference. I don't know that, in this case that this is—I don't know what the owner's requirement would be—you have to obviously have a demonstration. If there is not a big problem, then they don't need the waiver from the Endangered Species Act and some of the other environmental laws. What you're saying is that you feel that under the Recreation and Public Purposes Act you have already gone through the environmental waiver process? They have satisfied those concerns, is that what you are saying?

Mr. ENSIGN. What we are saying is we are trying to save some of the bureaucratic process, so we can get the fields built. You know, you can take four years to do the environmental——

Mr. VENTO. I think you have to demonstrate that. Maybe the additional witnesses today can fill us in on some of the details. Unfortunately we all have to leave, but I appreciate the Administration's

work on this issue. And we will be paying close attention to this bill as it moves through. I tried to do so last time at the end of the session; I do have an interest in the area and it sounds like you are a long way down the road with regard to it. We look forward to working with you, especially on the small tracts issue that are quite essential. Thank you.

Mr. ENSIGN. Thank you. Just before I dismiss you, Mat, let me just address one last thing. And that has to do with the objection to the money being used like at Lake Mead. You know, we have a backlog for the repairs and maintenance of Lake Mead this year of \$203 million. Five wastewater treatment facilities violate county codes out there. And what is wrong with using some of this money to do that when the Administration really hasn't made it a top priority in the appropriations bills to do that? You know, we are just trying to come up with, here is a source of funds, maybe we can use it for this.

Mr. MILLENBACH. The rationale is two items. One is that we believe that the money from the sale of public lands should be put back into the purchase of public lands, and that using them for the construction and maintenance of administrative facilities and that kind of thing is really not appropriate. In fact, we have just put out a policy within the Bureau to stop doing land exchanges for the very same thing. You might remember in the IG report of 1996 we were criticized for buying—exchanging for a bowling alley up in Elko or Tonopah, I guess. And so we don't believe as a general matter that we should be selling out public lands to do those kind of things.

The other difficulty is that it gets to be hard to know when to stop doing that. At what point do you stop selling off public lands to buy capital improvements and do maintenance of existing facilities? So that is the rationale behind that.

Mr. ENSIGN. I guess let me address that. And this has to do with the affordable housing thing, as well. And that is at what point—some of this is common sense. Some of this is case by case. In other words, if you can justify it, if it is for the overall public good—I think this gets back into when you addressed the affordable housing and Mr. Vento talked about that it is an admirable goal and all of that. Well, maybe it doesn't fit into our pretty box that we think the regulations should be and all of that, but government—and we are all in the government. We are to be working for the people. And we should be able to figure these things out. If we all agree on the goal, and we all do.

If there is anybody who disagrees with the goal, maybe they need to reevaluate their thinking, but when you have these similar goals and it just happens to be that is not the normal way of doing things, we should be better stewards of our jobs and our responsibilities to the public to say yes, that may not be the normal way to do it, but let us figure out a way that we can guard against this being abused in the future and unintended consequences, but let us figure out a way to do it so that the public good is served by the government.

That is what I would implore, in the next couple weeks when we negotiate on some of these issues is if you object to the ways that we have it written or maybe you see some unintended con-

sequences down the road, let us try to come up with the same arguments—the same goals, maybe a little different way of getting around some of these things. Because the bottom line is that we are trying to make a system that is not working as well as it should, we are trying to make it work a little better than it is working currently.

Mr. MILLENBACH. I agree. I think between our staffs over the last six months or a year we have made a lot of progress on this, and we are quite happy and willing to try to work these things out and get this bill moved forward. We would like to see this get enacted.

Mr. ENSIGN. Thank you, Mr. Millenbach. Enjoyed having you with us in front of the committee.

I would like to call the next panel of witnesses.

Mr. SHADEGG. Mr. Chairman.

Mr. ENSIGN. Oh, I am sorry. Mr. Shadegg.

Mr. SHADEGG. I will be brief. Mr. Millenbach, first of all let me compliment the Chairman on the bill. I think it is appropriate and worth, perhaps, consideration for other locations. What I want to do is get a sense of timing. Maybe this has been brought up in testimony already. Perhaps you can already indicate—maybe you can answer the question for me, Mr. Millenbach, easily. What is your anticipation of when this legislation will be—assuming we can get it through fairly quickly, what point would you imagine implementing this process and to what portions—and we discussed when you were here last the ongoing transactions. Is it your anticipation that this would apply to any of those ongoing transactions or to those that have not been completed by the time this passes, or what do we do with the ongoing exchange?

Mr. MILLENBACH. You are talking about the ones that we already have agreements on? Yes, we have got, I believe, five of those underway. We are proceeding to move forward with those. We would have to go back and take a look at the agreements themselves, but my understanding is that they—the agreements do envision a land exchange with those existing people that we have the agreements with. I will have to get back with you after I take a look at each one of those agreements to see exactly what they say. Are you concerned about the idea that all of a sudden we would stop doing the existing exchanges?

Mr. SHADEGG. As you recall, last time you were here we had an extended discussion about when you change the rules if you have a process that is bad that you think needs to be corrected but people have been following. At what point is it fair to change the rules of the game?

And this may be a significant improvement in the process and it may be a beneficial way for assuring that the taxpayers are compensated and at the same time assuring that we have a process that gets land out of government ownership into other ownership and by the way, also doing some environmentally important goals.

The question is at what point do you decide, OK, you have a new set of rules, I will apply the new set of rules. Can you do that to people that have already begun the game? Can you do that at half time, or do you play that game out and then start?

Mr. MILLENBACH. That is a very good question. I—what we are going to have to do is take a look at those agreements, compare them with what we have got in bill and get back with you on that.

Mr. SHADEGG. When you say take a look at those agreements, do you mean as to whether or not they contemplate that they are completed agreements or whether or not they contemplate that these procedures might apply?

Mr. MILLENBACH. Yes, how would the provisions of this act affect those agreements. I wouldn't want to—I can't give you a complete answer on that today, because—

Mr. SHADEGG. Could you look at that and get back to me?

Mr. MILLENBACH. I sure can. Yes, sir.

Mr. SHADEGG. I appreciate it. Thank you, Mr. Chairman.

Mr. ENSIGN. Thank you. I would like to thank you again, Mat. And I would like to call the next panel of witnesses, Lance Malone, newly elected Clark County Commissioner; Richard Wimmer, Deputy General Manager, Southern Nevada Water Authority; and Steve Hobbs, Nevada State Director, Nature Conservancy. Commissioner Malone.

STATEMENT OF LANCE MALONE, CLARK COUNTY COMMISSIONER

Mr. MALONE. Mr. Chairman, thank you. Committee members, thank you for inviting me to testify in support of H.R. 449, the Southern Nevada Public Lands Management Act. I offer testimony today on behalf of the entire seven-member Board of County Commissioners from Clark County. In August of 1995, the Board of County Commissioners adopted a resolution calling upon Congress to introduce and enact the Southern Nevada Public Lands Management Act.

This bill is a product of extensive community discussion among local government, Federal agencies and all affected stakeholders through numerous public lands task force meetings organized and conducted by the members of the Nevada Congressional delegation. On behalf of the Board of County Commissioners, I would like to thank the leadership of our entire delegation for their efforts to achieve a consensus solution to an issue that has been controversial and troublesome, the disposal of Federal lands in the Las Vegas Valley.

There is a significant burden placed on local government of providing public services such as water, sewer, fire and police protection for the new neighborhoods, which have been built on vast tracts of Federal land opened up through BLM land exchanges. Dick Wimmer, from the Southern Nevada Water Authority, will discuss this further in his testimony.

Right now the BLM has pending applications for over 20 land exchanges that could privatize approximately 53,000 acres of land in Las Vegas Valley. Six of these proposed exchanges remain a priority with the BLM and total over 10,000 acres of land.

The County Commission believes that Federal land disposal policy should privatize land in accordance with local government's planning policies and zoning guidelines. This would ensure that growth would occur in areas of the valley where services are place

and/or planned. We must avoid the leapfrog development which drives up the cost of local services.

Clark County supports H.R. 449 for several reasons. We see three major benefits. We get to be more involved. Like the Santini-Burton Act, under this bill local government will have a say in the process of Federal land disposal. We get some of the financial benefit for water development and for our parks, recreation and open space. And third, the national treasures that are located here in Southern Nevada, such as Lake Mead, Red Rock and Mount Charleston, also get new facilities and financial help.

Mr. Chairman, I want to respond to several of the suggested changes being proposed to the bill by the Department of the Interior. First let me point out that most of the provisions which BLM wants to fix are already law in the Santini-Burton Act and are currently applied within the geographic boundaries of the Santini-Burton disposable area. H.R. 449 essentially extends these provisions to apply to a larger disposal area covering most of the developable land within the Las Vegas Valley.

Specifically the Interior Department testimony recommends eliminating requirement in H.R. 449 that BLM and local governments "jointly select lands to be offered" for disposal. The BLM apparently thinks it is just like a corporation or private homeowner and should be free to dispose of its property as it chooses only after consultation with local government. H.R. 449, however, requires that BLM land disposal activities be consistent with local land use planning and zoning requirements. These provisions were copied from the existing Santini-Burton law, which already apply in part of the valley. Why not make them apply throughout the entire valley?

Our experience under the current land exchange process is that without joint selection it is the BLM which in effect determines how, when and where local land use planning decisions are made. No corporation or private owner is the single largest landowner in Las Vegas Valley and has the power to drive growth the way that BLM does.

Mr. Chairman, the joint selection section is the heart of this legislation. It creates true Federal/local government partnerships by requiring both governments to work cooperatively to coordinate the needs, impact, size, scope and timing of BLM land sales and exchanges. When the Administration raised the same concerns last year, Clark County accepted a compromise which deleted a sentence copied from the Santini-Burton Act which gives local government an explicit veto over any sale or exchange of BLM land. If BLM desires to get the joint selection of H.R. 449, I would respectfully disagree and request that you keep it as originally passed in the Santini-Burton Act, including the local government veto language.

The bill being considered today reflects an agreement reached last year between the airport and local BLM with respect to lands in the clear zone at the western end of McCarran Airport runways. These lands are part of an existing cooperative management agreement, or otherwise known as CMA, between the BLM and the airport, which gives the airport a veto over the disposable lands which aircraft noise exceeds 60 LDN. This bill moves a step further and

transfers these lands to the airport for protection. Under the bill, the airport will manage the lands in conformity with the CMA agreement and the FAA regulations on land use capability—excuse me, compatibility.

Because most of the land is located within the original boundaries of the Santini-Burton Act, the county agrees that if any development is allowed to occur on these lands, that it is compatible with airport noise, 85 percent of the proceeds will be given to the Federal Government for this acquisition of environmentally sensitive land in the Tahoe Basin pursuant to the original terms of the Santini-Burton Act.

Finally, the Board of County Commissioners believes strongly that the 60 LDN level of noise protection upon the CMA boundary is based on the minimum level necessary to protect public health and safety. The 60 LDN protection level is based upon recommendations from the EPA, the Federal Interagency Committee on Noise, the National Resource Defense Council. Even the FAA's new policy guidance to local governments recommends we impose local land use planning protections at the 60 LDN level.

The Nevada Public Lands Management Act is a growth management tool that makes sense for Clark County and the State of Nevada. It creates a true partnership between the Federal, State and local government and helps lessen the cost of the infrastructure impacts associated with land exchanges. Management of local parks and national resources like the Lake Mead National Recreation Area, the Red Rock Canyon National Conservation Area and the Toiyabe National Forest will also benefit. Whether you think about economics, conservation, growth management or just plain and simple fairness, the Southern Nevada Public Lands Management Act makes sense.

[Statement of Lance Malone may be found at end of hearing.]

Mr. ENSIGN. Thank you. Richard Wimmer.

**STATEMENT OF RICHARD WIMMER, DEPUTY GENERAL
MANAGER, SOUTHERN NEVADA WATER AUTHORITY**

Mr. WIMMER. Thank you, Mr. Chairman and members of the committee. My name is Dick Wimmer. I am the Deputy General Manager of the Southern Nevada Water Authority. The Southern Nevada Water Authority is that regional entity that represents all of the water purveyors in Southern Nevada.

As many of you probably have heard many times by now, we do have significant water challenges in Southern Nevada. Our challenges aren't so much, though, the amount of water we have, at least in the short run, but they are how we go about building and, probably more importantly, paying for the facilities to be able to deliver that water to the growing parts of the valley. This bill, H.R. 449, will provide us with important tools that will help us to be able to deal with some of these issues, some of the issues which have been created by the release of 17,000 acres to developers in remote areas of the valley that are outside the reaches of our existing infrastructure.

The Southern Nevada Water System, which is the system that treats and delivers water to the Las Vegas Valley from the Colorado River, was constructed in the '60's and '70's. It is presently op-

erating at absolute peak capacity during the summer and does not have additional capacity to serve our future needs. A very aggressive capital improvement program is presently underway, the first phase of which needs to be on line this summer to prevent shortages. And the total cost of this phased capital improvement program is over \$1.7 billion. That is a fairly significant commitment for a community of just over a million people.

One of the reasons that this cost is so high is because BLM land exchanges have opened land that leapfrogged existing development and created the need for infrastructure way outside the reaches of our system. This has caused us to have to build significantly more facilities than otherwise would have to have been built.

To try to illustrate this, we had the Las Vegas Valley Water District do an analysis of four rapidly growing areas in land exchange areas on the outer reaches of the city and do a comparison assuming the same rate of growth as to what our infrastructure costs would have been had that growth occurred within the growing area of the community instead of leapfrogging out to the outer reaches. That analysis showed that the added costs of providing water service to these land exchanges, which was about 9700 acres, was \$136 million. That is an average added cost of about \$14,000 per acre for these exchanged lands.

This clearly illustrates that the Southern Nevada water purveyors are victims of third party impacts associated with the BLM land exchange policies within the Las Vegas Valley. We have looked at whether to follow the examples of the Central Utah Project, the Central Arizona Project, or the California Central Valley Project and come to Congress and ask for 65 percent Federal cost sharing, but we realize that there just isn't money available in Washington to do that today. We are therefore resolved to build the facilities without Federal assistance.

We do believe, however, that we are justified in asking for some Federal assistance, because the Federal Government is the single largest landowner who will benefit from the increased land values resulting from the provision of water to these desert areas. We are seeking a partnership with BLM in future sales and exchanges.

It has already been mentioned H.R. 449 borrows from both the Burton-Santini Act and the Apex Act by allowing local government to participate in the process of identifying lands to be disposed of and also in sharing in the increased land values brought by providing that infrastructure through the 85/15 split of the proceeds from the sales of Federal lands. It would only partially reimburse us for the water infrastructure that is providing the value to these Federal lands when they are sold.

H.R. 449 will reestablish a cooperative working partnership between the Federal Government and local government as we seek to provide water service to the growth which will occur in the next decade through the continued disposal of Federal land holdings within the Las Vegas Valley. We urge you to expedite the bill's enactment so the terms of this cooperative partnership can be immediately applied to the next block of Federal lands that are made—that are released for development.

Thank you very much.

[Statement of Richard Wimmer may be found at end of hearing.]

Mr. ENSIGN. Thank you. Mr. Hobbs.

**STATEMENT OF STEVE HOBBS, NEVADA STATE DIRECTOR,
NATURE CONSERVANCY**

Mr. HOBBS. Thank you, Mr. Chairman, members of the committee, for allowing me to come before you and talk about this bill. My name is Steve Hobbs. I have been the State Director for the Nature Conservancy in Nevada for three years now. As I am sure you know, the Nature Conservancy is an international, nonprofit organization whose mission is the conservation of plants, animals and natural communities that represent the diversity of life on Earth. To date, the Nature Conservancy and its more than 900,000 members have conserved more than ten million acres for future generations.

While in Nevada, I have been involved in several transactions involving land exchanges in the Las Vegas Valley. I see both the opportunity and challenge of the current system. As you know, the Las Vegas economy is booming as never before. Nearly 5000 new residents per month come to Las Vegas to share in this prosperity. And the challenge to local and Federal Government is daunting. Our natural resources and the attractive environment that draws both new residents and tourists is in jeopardy.

The Las Vegas Valley sits as an island in a sea of Federal land. To meet the demand for residential housing spurred by this phenomenal growth, developers must look to expand onto Federal lands that do not enhance the public land portfolio. The current Federal land exchange process has helped to facilitate this growth, but in a way that is largely unsatisfactory to all parties involved.

A recent report from the President's Council of Economic Advisors recognized that matching the desires and financial expectations of both parties in a Federal land exchange is very difficult. The report states "a land purchase fund that decouples buying and selling land assets is superior to direct swaps." The Nature Conservancy agrees. Besides solving the problem of finding lands that match in value, we believe that a system that sells government land at auction, keeps the receipts off-budget and then uses them to improve the public land portfolio has several advantages.

Number one, by auctioning the land we use the power of the free market to decide the value of the public lands. Too often the science of objective land appraisals becomes the art of speculation, especially in as volatile a market as exists in Las Vegas. This leads to endless debate over the validity of various appraisals for the same parcel of land, often without clear resolution.

Second, such a system would give much more flexibility to government agencies to acquire land and reduce the overall costs of acquisition. The current land exchange system is needlessly complicated and often takes more than a year, sometimes two, for a single transaction. This time lag leads to lost opportunities and increases the overall cost to taxpayers to acquire these lands.

Third, a system of competitive bidding maximizes financial return to the government. It is quite likely that in an expanding real estate market such as Las Vegas the winning bid for land will exceed the assumed fair market value that the Federal Government might derive through an appraisal.

And last, an auction system would make the Federal land acquisition and disposal process more transparent to the American people.

The Southern Nevada Public Land Management Act of 1997, H.R. 449, establishes a new land disposal system for Nevada that incorporates these ideas. Besides solving the problems of acquiring environmentally sensitive land through the exchange process, H.R. 449 provides funding for the nation's natural treasures in Southern Nevada that have become overrun by the burgeoning resident population and increased tourism.

H.R. 449 is sensitive to the needs of rural Nevada, as well. H.R. 449 provides for compensation to local governments through the payment in lieu of taxes program. This program ensures that local property tax revenues remain stable when government purchases convert private lands into public ownership.

H.R. 449 also requires that Federal agencies consult with local government before they acquire private lands to ensure that the proposed acquisition is compatible with the long-term goals of the local community. The Nature Conservancy feels very strongly that sustainable conservation is only possible when the social and economic needs of the local community are considered. And we wholeheartedly support this provision of H.R. 449.

The natural treasures of Nevada are the nation's treasures. Our scientists in 25 years of extensive ecological surveys have determined that Nevada is the sixth most ecologically important State in the nation.

H.R. 449 solves the myriad problems that exist with the current land exchange process while providing the funding necessary to ensure a lasting legacy of environmentally sensitive land. The Nature Conservancy fully supports H.R. 449.

[Statement of Steve Hobbs may be found at end of hearing.]

Mr. ENSIGN. Thank you, Mr. Hobbs. Let me ask a few questions of the panel. And we do have a vote on, so we are going to try to wrap the hearing up within the next, oh, probably seven or eight minutes, so we will try to be as brief as we possibly can. I want to ask—first of all, Dick, I would like to just address one quick question to you. You mentioned the \$14,000 an acre. Could you also talk about some of the impacts on land as far as paying for water, for rights-of-way and things like that, the impact that that can have on basically local rate payers?

Mr. WIMMER. Absolutely. At the present time we are in the position where we have to either buy private lands or we have to go through lengthy processes and pay for sites for reservoirs and other right-of-ways necessary for water facilities. That adds significantly to the cost to the public for those water facilities. And this would help in that tremendously.

Mr. ENSIGN. OK, thank you. Mr. Hobbs, under the current process versus what you foresee under H.R. 449, do you foresee that groups like the Nature Conservancy would have more or less input into what lands are then purchased?

Mr. HOBBS. Well, I think the benefit of H.R. 449 is that it provides more input from the entire environmental community, local governments, Federal Governments. I think it just makes the whole process more of a cooperative process than exists today.

Mr. ENSIGN. OK, and, Lance, welcome, by the way.

Mr. MALONE. Thank you.

Mr. ENSIGN. The comments—we had a discussion earlier about joint selection, and you mentioned that in your testimony. As a newly elected local commissioner, you have seen—one of the reasons you probably ran for office was—in our conversations was seeing some of the frustration out there at the local level. I guess I would just like you to discuss a little bit about that, how important and just kind of elaborate a little more of what the joint selection process—what that would mean to local government.

Mr. MALONE. Mr. Chairman, it is going to be imperative that Clark County Commissioners and the other municipalities that are surrounding the area have a say in what goes on when it comes to land exchanges. It has, of course, great importance to us when they are allowed to make the exchanges without—other than just consultation, without going with our use, our planning, our zoning decisions that are being made. We have what is called—and Mr. Hobbs eloquently stated it, leapfrogging effects, which is very costly, which the taxpayers have to pay. And that, of course, then increases the homes. And so it makes it a little bit more difficult for home buyers to come in and purchase a home because they will be financially impacted. So I can assure that the joint selection is really the heart of this legislation.

Mr. ENSIGN. Thank you. Ms. Christian-Green.

Ms. CHRISTIAN-GREEN. Just wanted to thank you for your testimony. And as a freshman here in Congress and on this committee, I thought we would be looking at having continuing conflicts between developmental concerns and environmental concerns. And it is very encouraging to come here this morning and to see your representatives in Congress on both sides of the fence, developmental interests and conservation interests coming together and working out an agreement on an issue of importance to the State.

Mr. ENSIGN. Thank you, Ms. Christian-Green. We in Nevada like to think that we are a little bold in our thinking that the—maybe we are a little also arrogant in that we think that the rest of the country can learn a lot from our State. But let me just conclude. Maybe each of you could make a brief statement on this from your perspective of identifying just the number one reason you think H.R. 449 should be—as brief, 30 seconds or less—why you think H.R. 449 should be moved forward as quickly as possible. We will start with you, Mr. Hobbs.

Mr. HOBBS. Thank you. I think that this really is the legacy for the State of Nevada. And I see this as a model for what can happen in other States. I think we have a unique situation in the State of Nevada. I think we can capitalize on that. This is a unique opportunity for us and we need to act now in order to really realize a dream for conservation and for the entire State.

Mr. MALONE. I think mostly the western parts of the United States is owned by the BLM, which is of course great concern to local government entities, being able to have a say. We have several environmentally sensitive areas such as Nellis Air Force Base, that is contiguous with private ownership, and their live munitions area. And we are trying to, of course, work out with our State senators and with our delegation in land exchanges to those extent.

But when it comes to land sensitivity, we have a lot of wonderful areas in the Las Vegas, Nevada, in general that needs to be conserved. And I think the only way we can do that is by pushing for H.R. 449.

Mr. WIMMER. It defines the outer boundaries of the disposed area of land so that we know what the size of the municipal area will be in terms of private landownership. This lets us plan for infrastructure and for other things. It also contributes a little bit back in terms of the costs that we are incurring that is actually creating the value in the Federal lands when they do sell.

Mr. ENSIGN. Well, I would like to thank the panel and everyone, our senators and Mr. Millenbach, for your testimony today, and especially for those from Nevada that you traveled out here. I appreciate your work. Just a final note. Lance, we will be meeting up in my office—my staff will be taking you up there—after I vote. This Subcommittee is adjourned.

[Whereupon, at 11:28 p.m., the Subcommittee was adjourned; and the following was submitted for the record:]

STATEMENT OF MAT MILLENBACH, DEPUTY DIRECTOR, BUREAU OF LAND
MANAGEMENT

Thank you for the opportunity to testify on H.R. 449, the Southern Nevada Public Land Management Act of 1997, regarding land disposal in the Las Vegas Valley. The Bureau of Land Management (BLM) supports the concept behind this bill. We believe that through continuing discussions with the bill's authors in the House and the Senate, a final bill can be produced that would receive the Administration's endorsement.

Let me provide some background and context for this legislation. In many parts of the West, the legacy of settlement has left us with a scattered ownership pattern. The Las Vegas area is a good example. As communities such as Las Vegas expand, the BLM works with local jurisdictions to make public lands available through sale or exchange and also provide lands for public purposes through Recreation and Public Purpose (R&PP) Act patents and leases. In the Las Vegas Valley, BLM is working with all jurisdictions and private interests to facilitate the disposal of public lands, mostly through exchange. Our program of land exchanges in the Las Vegas Valley is designed to dispose of land with high commercial value, which allows us to acquire resources significant to all Americans, including:

- prime recreation areas;
- riparian and wetland habitat;
- critical habitat for threatened, sensitive and endangered species, and
- significant historical, archaeological, and cultural sites.

H.R. 449 and its companion Senate bill, S. 94, specifically affect several thousand acres of public land in the Las Vegas Valley, which are managed by the BLM. In recent years, the Las Vegas Valley has become the fastest growing metropolitan region in the country, but development has been influenced by the presence of public lands in the area. The rapid expansion has also had an impact on the Las Vegas District of BLM, which has experienced an increase in applications for permits to use public lands. These requests have included rights-of-way for power lines and roads, R&PP leases for fire stations and schools, land exchange proposals, and other realty actions. This bill seeks to resolve the future of these public lands by requiring BLM to sell, exchange or transfer public land in the Las Vegas Valley.

Mr. Chairman, the BLM strongly believes that the land ownership pattern in the Las Vegas area needs to be addressed. In fact, our draft Resource Management Plan (RMP) for the area targets the vast majority of BLM-managed lands within the Las Vegas metropolitan area for disposal in order to meet the growth needs of the community. The lands specified in H.R. 449 are nearly identical to those identified for disposal in the RMP.

As part of its planning process, BLM's Las Vegas District works toward partnerships with local governments in southern Nevada. The BLM is a charter member of the Southern Nevada Public Lands Task Force, and BLM personnel meet regularly with the Clark County Planning Director at quarterly meetings. In January 1996, BLM initiated the Southern Nevada Land Exchange Strategy Project to improve the effectiveness of the land exchange program and other realty actions in the

Las Vegas District. Coordination and communication with local governments continue to be key to success of the project. In the area of land exchanges, our goal is to prioritize land exchange opportunities and move forward with timely completion of high priority land exchanges that meet the public interest and respond to local needs.

One of the best examples of sound legislation that addressed public land disposal is the Santini-Burton Act of 1980. The law gave the Department of the Interior the authority to sell land in the Las Vegas Valley and to use 85% of the revenue to purchase National Forest System Lands in the Lake Tahoe Basin. The Federal government shares a reasonable portion of the receipts (15%) with Clark County, the City of Las Vegas and the State of Nevada. In return, lands in the magnificent Lake Tahoe Basin have been protected and made available for the enjoyment of the public.

The intent of H.R. 449 is to capture the best qualities of the BLM's land exchange goals, the Burton-Santini Act and the partnerships that have been developed with local government. This bill provides for the disposal, by sale or exchange, of certain Federally-owned, BLM-managed lands within a limited area of the Las Vegas valley. Fifteen percent of the proceeds from these land disposals would be distributed to local entities. The balance of the funds would be used, for the benefit of natural resource management within Nevada for Federal land acquisition, capital improvements, development of a multi-species habitat conservation plan in Clark County and the development of recreation and natural areas within Clark County. The bill also provides for the transfer of lands to Clark County, at no cost, within the airport management area for McCarran International Airport. Should those lands be sold or leased, the United States would be paid 85% of the fair market value received. The bill also includes a provision allowing local governmental entities to select public lands needed under the R&PP Act prior to their conveyance. Local and regional governmental entities may also apply for rights of way for flood control and water treatment purposes which can be granted in perpetuity and at no cost. Additionally, the Secretary is authorized to transfer the R&PP reversionary clause from one parcel of land to another upon request by the owner of those lands.

Under existing BEA rules, this bill would have significant PAYGO costs. However, the Administration is planning to propose changes to the current rule that prohibits scoring asset sale proceeds as PAYGO savings. Such a change would mean that the lands sale proceeds could be counted as offsetting the land acquisition and other costs in this bill. We will continue to work with OMB and the sponsors of the bill to resolve these issues.

Nearly a year ago, the BLM acting Director, Mike Dombeck testified in opposition to an earlier version of this bill. At that time, Mr. Dombeck stated, "while we support the goal of disposing of certain public lands within Las Vegas to accommodate the city's growth, the Department strongly opposes this bill." He pointed out that the earlier bill would divert huge amounts of Federal resources and funds to local interests, offering a windfall to a few at the expense of many. Since that hearing a year ago the Nevada delegation staffs have worked to resolve many of the problems we identified with the bill, as originally introduced in the 104th Congress.

Since H.R. 449 was introduced in the House (and its companion bill S. 94), a number of technical issues have been discussed and resolved between BLM and Congressional staffs. Those details are unnecessary to pursue here. However, there remain a few issues that are as yet unresolved that need to be remedied before the administration can endorse the bill.

First, section 4(a) waives FLPMA sections 202 and 203 for land disposals and section (b)(3) waives environmental laws for construction of a youth activity facility. The Administration opposes waivers of environmental laws in legislation. Such waivers undercut the applicability of the laws, undermine enforcement, possibly lead to serious environmental problems and set a dangerous precedent. We urge that these waivers be removed from the bill.

Second, section 4(f) of the bill establishes a special account for 85% of the proceeds of land sales. Creating a special account that makes funds available without further appropriation is a significant departure from Administration policy. However, the Administration could support the establishment of such a fund if its uses were limited to land acquisition within Nevada and reimbursement of costs incurred by the local BLM offices in arranging sales or exchanges.

Third, Section 4(d) of the bill is entitled, "Joint Selection Required". This section appears to require the Secretary to obtain local government concurrence before any land disposal action. The Secretary, just like a corporation or a private homeowner, should have the discretion to dispose of lands without having to wait for the local government to approve that transaction. After all, local government has the ultimate control of land development through planning and zoning. We believe strongly

in consultation with local governments, but do not believe they should have veto power. We request that the term joint selection be changed to "consultation".

Fourth, Section 4(g) of the bill transfers 4,600 acres that are located within the Las Vegas Airport noise area to Clark County, at no cost. Specifically, the bill requires the Secretary of the Interior to transfer lands that are identified in a current Memorandum of Agreement (MOA) with the BLM to Clark County, at their request and at no cost. If the lands are later sold or leased, then the Airport Authority is required to pay the Federal government 85% of the value received. Although this approach is superior to the straight donation as designed in earlier versions of the bill, it still requires modification to assure that we are not conveying more lands than necessary for the airport's needs. I am sure the airport authority would like to keep this process as simple as possible without creating unnecessary long-term actions. Some additional modifications would also be necessary to insure that any conveyance (for example land exchanges) or use authorization upon the lands results in a sharing of receipts as intended in this section. We would be glad to work with the subcommittee staff and the airport authority on this issue.

Finally, the bill contains a provision which allows affordable housing to be an acceptable use of the R&PP authority anywhere within Nevada. The R&PP Act authorizes the sale or lease of public lands for recreational or public purposes to State and local governments and to qualified nonprofit organizations. Examples of typical uses under the act are historic monument sites, campgrounds, schools, fire houses, hospitals, parks and fairgrounds. These lands are conveyed at costs below market value, with the exact price dependent upon the type of use or the restrictions placed on the lands. Most sales under the R&PP Act are made at \$10 per acre or 50% of market value. The United States sells lands under this authority with a reversionary clause that requires the lands to remain in the ownership of the patentee and to be used for the purpose requested. Sales of these lands or changes of use result in a reversion of title to the United States known as a divestiture. Because of these requirements in the R&PP Act, this affordable housing provision causes potential problems should the property be conveyed or the use of the property change. The BLM could find itself in the position of having to divest title to hundreds of one-quarter acre tracts or a converted apartment house complex. We would suggest that this provision be removed. Taking back these types of properties is time consuming and offers no benefit to natural resource management in Nevada.

Finally, we need to continue discussions regarding the need and location of any Red Rock NCA boundary modifications as called for in the legislation. The bill as written does not specifically delineate which areas are included—we would like to work with staff to insure that this boundary modification is in the best public interest.

CONCLUSION

Mr. Chairman, we all recognize that a population explosion is occurring in many western communities. Las Vegas is seeing an increased migration of people from southern California and large metropolitan areas in the east. Public lands can be part of the solution, and an effective land disposal program can assist in orderly growth. The Bureau of Land Management agrees that we need to move to dispose of much of the urban lands in the Las Vegas area when appropriate. Of the 130,000 acres within the area affected by this legislation, about 20,000 of those acres are public lands. These public lands should be disposed of in harmony with the needs of the local or tribal jurisdictions. We also believe that all land disposals must benefit both the American people and the local community as well.

This legislation provides a framework to allow for a fair approach to dealing with the situation in the Las Vegas area. The bill deals with disposal of public land using a nearly identical boundary as developed within the BLM Draft Resource Management Plan. With changes to address the concerns outlined above as well as some possible changes of a more technical nature, the Administration could support the legislation. We would be happy to work with the Nevada delegation to provide such a solution.

Mr. Chairman, I appreciate this opportunity to appear before the Subcommittee and discuss this bill. I will be glad to answer any questions.

STATEMENT OF COMMISSIONER LANCE MALONE

Introduction

Thank you for inviting me to testify in support of H.R. 449, The Southern Nevada Public Lands Management Act. I offer testimony today on behalf of the entire seven member Board of County Commissioners from Clark County. In August of 1995, the

Board of County Commissioners adopted a resolution calling upon Congress to introduce and enact the Southern Nevada Public Lands Management Act.

This bill is the product of extensive community discussion among local government, federal agencies and all affected stakeholders through numerous public lands task force meetings organized and conducted by the members of the Nevada Congressional delegation. On behalf of the Board of County Commissioners, I would like to thank the leadership of our entire delegation for their efforts to achieve consensus solution to an issue that has been controversial and troublesome, the disposal of federal lands in the Las Vegas valley.

Infrastructure Costs and Local Government

Right now, local governments and Nevada's legislature are struggling to determine how best to pay for new infrastructure for water, sewer, roads, schools, fire and police protection for the new neighborhoods which have been built on vast tracts of federal land opened up through BLM land exchanges which proceeded despite local government opposition to many of the exchanges.

Right now, the BLM has pending applications for over 20 land exchanges that could privatize another 53,000 acres of land in the Las Vegas Valley. Six of these proposed exchanges remain a priority with the BLM, and total over 10,000 acres of land. The County Commission believes that federal land disposal policy should privatize land in accordance with local governments' planning policies and zoning guidelines. This would ensure that growth would occur in areas of the valley where services are in place or planned. We must avoid the leapfrog development which drives up the cost of local services.

Santini-Burton Act

In 1980, Congress adopted the Santini-Burton Act which created a federal-state partnership to the disposal of federal land in Clark County. Under the Santini-Burton Act, local government nominated the federal land to be sold at auction and participated in sharing fifteen percent of the revenue. To date, only 2,696 acres of land have been privatized under Santini-Burton land sales. Compare this to over 22,000 acres which have been privatized through land exchanges just in the last few years. The problem with Santini-Burton is that it applies to only a small area within the valley. Federal land outside that area is disposed of through a land exchange process where local governments have not always been listened to. The land exchange process has contributed to urban development occurring on the fringes of the valley, far from existing services costing us more to provide roads, water service, sewer, schools, police and fire protection.

Zoning Limitations

While we local officials have to make decisions about zoning and land use, increasingly, a local government's authority to deny zoning for land uses is becoming limited by court decisions. Some would say to us "just use your local authority to deny land use applications," however, the reality is that we often can't. Clark County does have community development zones which reflect where public infrastructure and services are available. The CD 1, 2, 3, etc. designations are used by the Board to approve or disapprove zoning applications. We cannot, however, succeed at our local efforts to manage growth without having a say in when, where, and how federal land within the valley is disposed of to private developers.

When local governments build infrastructure systems, the value of federal land is increased. It's our local residents, through taxes and fees, that contribute significantly to the value of the federal land. Under the land exchange process it's the federal government that gets the benefits from that local investment.

Clark County supports the proposed legislation for several reasons. We see three major benefits:

1. We get to be more involved. Like the Santini-Burton Act, under this bill, local government will have a say in the process of federal land disposal.

2. We get some of the financial benefit for our water development and for our parks, recreation and open space—the people who have made the investment that contributes to the value of federal land will be partially reimbursed for infrastructure costs.

3. The federal agencies that serve our local community (and our tourist population that comes from all over the world) would get some financial help for improving and maintaining the national treasures that are located here in Southern Nevada such as Lake Mead, Red Rock and Mount Charleston, and are impacted by the growth brought about when federal land is made available for private development.

Joint Selection

Mr. Chairman, I want to respond to several of the suggested changes being proposed to the bill by the Department of the Interior. First, let me point out that most of the provisions which BLM wants to fix are already law in the Santini-Burton Act and currently apply within the geographic boundaries of the Santini-Burton disposal area. H.R. 449 essentially extends these provisions to apply to a larger disposal area covering most of developable land within the Las Vegas valley. Specifically, the Interior Department testimony recommends eliminating the requirement that BLM and local governments "jointly select lands to be offered" for disposal. In addition, the BLM wants to eliminate provisions which require that BLM land disposal activities be "consistent with local land use planning and zoning requirements". Both these provisions are part of the existing Santini-Burton law.

Mr. Chairman, the joint selection section is the heart of this legislation. It creates a true federal/local government partnership by requiring that both governments work cooperatively to coordinate the needs, impacts, size, scope and timing of BLM land sales and exchanges. When the Administration raised these same concerns last year, Clark County accepted a compromise which deleted a sentence copied from the Santini-Burton Act which gives local government an explicit veto over any sale or exchange of BLM land. If BLM desires to gut the joint selection section of H.R. 449, I would respectfully disagree and request that you keep it as originally passed in Santini-Burton including the local government veto language.

Protecting McCarran International Airport

Mr. Chairman, the Administration's testimony recommends amending the section which transfers lands within the current The Clark County Department of Aviation (DOA)/BLM Cooperative Management Area which protects the clear zones at the end of McCarran International Airport's runways. Let me provide some background, the Clark County Department of Aviation, as the owner and operator of McCarran International Airport, has received more than 200 million dollars in federal grant assistance over the past ten years. Federal grant recipients are required to comply with grant assurances which specify airport policy on many issues. One of the most significant is maintaining compatible land use. The federal government does not want to provide financial assistance to an airport that does nothing to protect the public investment by enacting zoning and other preventive aircraft noise mitigation measures in high noise areas. If the airport or airport sponsor fails to maintain land use compatibility then the federal investment in the airport becomes worthless because aviation growth is often impeded nearby residents, who have moved close to the airport in places where there have been no land use controls. These new neighbors then vocally oppose airport expansion and advocate restrictions on aircraft takeoffs and landings.

To make things even worse for airport proprietors, the Airport Noise and Capacity Act of 1990 took away an airport's right to enact any type of operational restriction on large aircraft. The only control an airport has left is to utilize land use control measures to try to maintain compatibility.

History of McCarran Airport Land Use Compatibility Planning

In 1988, as part of the Airport & Airway Improvement Act, Congress authorized a program for conducting noise compatibility studies. These studies are commonly referred to as Part 150 Studies. The Part 150 Study consists of two products: (1) Noise Exposure Maps depicting equal areas of noise exposure for specific levels of aircraft noise and (2) a document containing plans for how to abate and mitigate aircraft noise at the subject airport. These two products are then submitted to the FAA for approval and evaluation. The FAA goes through a meticulous evaluation process for every proposed noise abatement and noise mitigation measure. They do this because if they approve a measure, it must be (1) lawful; (2) feasible; and (3) it legitimizes the measure as a valid and effective noise abatement or mitigation measure and thus makes it eligible for federal funding.

What is a compatible land use for an airport? According to the guidelines in Federal Aviation Regulation Part 150, the answer to this question is more easily expressed in terms of what is not a compatible land use. Essentially, non compatible uses include any residential land uses, schools, churches and hospitals. Most other land uses (commercial and industrial land uses) are compatible.

A newly promulgated policy by the FAA has put much more pressure on airports to maintain compatibility. Under the former version of FAR Part 150, if an airport had conducted a Part 150 study they could be eligible to use federal funds on areas in the 65 ldn and greater for noise purchases, even if they did nothing to prevent incompatible development from going in. This is no longer the case. If an airport wants to receive funds from the federal government for land in noise impact areas, it needs to have adequate land use protections in place for existing land.

The Inefficient Planning Past

During the 1980's the BLM, which owns most of the land to the west of the airport's departure runways allowed for the disposal of several parcels of land within the noise impact area. There are repeated efforts to dispose of land in the area through land exchanges with developers who want to exchange environmentally sensitive lands in other parts of the Nevada and the country for land in the Las Vegas valley. This has resulted in a planning nightmare for local BLM officials, and it has also jeopardized Clark County's land use compatibility plans for McCarran Airport.

Cooperative Management Area (CMA)

In response to this problem, the Department of Aviation and the BLM negotiated the Cooperative Management Agreement in 1991. Our two governmental entities were attempting to meet their respective mandates in a mutually beneficial, cooperative fashion. The Bureau of Land Management has the mandate of managing thousands of acres of land in southern Nevada and they do that with very limited resources. Clark County, as the owner and sponsor of McCarran International Airport, has the obligation of complying with a federal mandate which requires maintaining land use compatibility around the airport. Since a great deal of federal land underlies the primary departure flight tracks from McCarran Airport, and since most of the private land that is intermixed with the public land is undeveloped, the opportunity for some innovative compatible land use planning existed.

In exchange for giving the airport the opportunity to review and comment on the proposed disposal of federal land in the Cooperative Management Agreement (CMA) area, the Department of Aviation agreed to provide continual property patrol and management services of the land in the CMA. Under this agreement the BLM is assisted in the management of the land and Clark County has the opportunity to review and approve of any proposed sales or transfer of federal land. This helps to ensure future development of the area will be compatible with the high levels of aircraft noise produced in the area.

Clark County undertook a Part 150 study for MIA in June of 1987 and an update of the study in June of 1991. As part of the 1991 update, Clark County included the Cooperative Management Agreement with the BLM as a new preventive noise mitigation measure. The measure was subsequently approved by the FAA in March of 1994. Despite this agreement however there has still been incompatible development on the CMA through the release of federal lands. BLM says that it is simply unable legally to convey property with deed restrictions which will protect the airports noise impact area.

H.R. 449

The bill being considered today reflects a new agreement reached between the airport and the local BLM with respect to the CMA lands. The bill transfers the land to the airport. We will manage the lands in conformity with the CMA Agreement and the FAA regulations on land use compatibility. Because most of the land is located within the original boundaries of the Santini-Burton Act, the County agrees that if any development is allowed to occur on these lands that is compatible with airport noise, 85% of the proceeds will be given to the federal government for the acquisition of environmentally sensitive land in the Tahoe Basin pursuant to the original terms of the Santini-Burton Act.

The BLM now proposes to amend the area being protected and transferred to cover only areas where there is a 65 ldn noise level (because this is the level at which federal money is provided to buy residences) rather than the 60 ldn level provided for in the agreement. Once again, I am astounded that the BLM is recommending this change.

The federal government will receive 85% of the proceeds regardless of whether the 60 or 65 ldn level is used. Furthermore, Clark County will still exercise its rights under the existing Cooperative Management Agreement to prevent the BLM from disposing the land between the 60 and 65 ldn level because BLM cannot adequately insure airport compatibility. Finally, the BLM is simply wrong with respect to which noise level deserves protection. The Board of County Commissioners has selected a 60 ldn level of noise protection based upon information which is supported by recommendations from the Environmental Protection Agency, the Federal Interagency Committee on Noise, and the National Resources Defense Council. Even the FAA's new policy recommends land use planning protections at the 60 ldn level.

Public Housing

Lastly, I want to respond to the BLM's criticism of the section of H.R. 449 which allows local governments to acquire land for affordable housing projects under the provisions of the Recreation and Public Purposes Act. Every year Congress appro-

priates millions of dollars to the Department of Housing and Urban Development to assist local governments with affordable housing projects. The Clark County Public Housing Authority however is limited in its ability to acquire land for these projects because the federal land is largely unavailable and the private land is extremely expensive to purchase. I want to commend the Nevada delegation for recognizing the need to solve this problem.

Affordable housing is a growing need in today's cities. The problem of homelessness must be attacked by all agencies of federal government in cooperation with local government. Affordable housing is just as legitimate a public purpose as local parks or fire stations to merit free federal land under the Recreation and Public Purposes Act.

Conclusion

The Nevada Public Lands Management Act is a growth management tool that makes sense for Clark County and the State of Nevada. It creates a true partnership between the federal, state and local gonads. Management of national resources like the Lake Mead National Recreation Area, the Red Rock Canyon National Conservation Area and the Toiyabe National Forest will benefit from the privatization of public land in Clark County. Whether you think about economics, conservation, growth management or just plain and simple fairness, the Southern Nevada Public Lands Management Act makes sense.

STATEMENT OF RICHARD WIMMER, DEPUTY GENERAL MANAGER, SOUTHERN NEVADA WATER AUTHORITY

Introduction

Chairman Hansen, Rep. Ensign and other members of the Committee, my name is Dick Wimmer and I am the Deputy General Manager of the Southern Nevada Water Authority (SNWA). The SNWA is that unit of local government which represents all water purveyors in southern Nevada.

Growth and Water

As many of you have probably heard, we have significant water challenges in southern Nevada. Our biggest water challenge is not the amount of water Nevada has but rather, it is how do we handle the infrastructure costs needed to deliver our water to the growing parts of the valley.

This bill H.R. 449 will provide us with the tools necessary to cope with this significant growth which is resulting in part from the Interior Department land exchange policy which has released over 17,000 acres of land to developers in areas of the valley where our system has had no delivery capacity.

Leapfrog Development Caused by Land Exchanges Creates Third Party Impacts

The Southern Nevada Water System (SNWS) was constructed in the 1960's and 70's by the Bureau of Reclamation and was sized for a maximum delivery of water from Lake Mead of 380 million gallons per day. For the past two summers we have watched nervously as peak deliveries reached our system capacity. This summer will be the true test of our ability to manage the system so that everyone receives the water they need and expect. Recognizing this system problem, the SNWA agencies have embarked upon an accelerated plan to augment the treatment and delivery capacity of the existing system by 100 million gallons per day and to design and construct a new regional system to deliver future water supplies from Lake Mead. The total cost of this capital program will exceed \$1.7 billion. \$1.7 billion is a large commitment for a community of just over a million people.

One reason the cost is so high is that as we sat down to design our new water system we found that we were forced to engineer a whole new system to supply water to those areas of the valley that were far beyond the boundaries of our existing system. Because the BLM land exchanges opened land that leapfrogged past existing development and infrastructure, they created demand we could not meet by simply running another extension of pipe or extending our existing system to provide water service to these areas. Rather than grow like other cities, from the inside out, adding incrementally to our existing system similar to the expanding ripples in a pond, we have been forced to design a new stand alone system that surrounds our existing infrastructure.

To illustrate these added costs for you, the Las Vegas Valley Water District did an analysis of the facilities we have built and will build to the year 2000 which are needed to provide water to land exchange areas in the four major areas of growth

in the western part of our system which could have been avoided if the land exchanges had not occurred.

In our analysis we assumed the same rate of growth, however we located that growth in other areas of the system which had been previously approved for development and where capacity existed within the system. Our analysis showed that the added costs of providing water service to these land exchanges covering 9,700 acres was \$136 million. This is an average added cost of \$14,000 per acre for exchanged lands. The irony is that much of this land was originally appraised and exchanged for \$10,000 or less per acre. Southern Nevada water purveyors are the victims of third party impacts associated with the BLM land exchange policies within the Las Vegas Valley.

We have looked at whether we should follow the examples of the Central Utah Project, Central Arizona Project, and California's Central Valley Project and come to Congress and ask for 65 percent federal cost sharing to help us expand our water project. We have recognized however that there is no money to be found in Washington these days. We are therefore resolved to build the system without federal assistance.

We believe however that we are justified in asking for some federal assistance because the federal government is the single largest landowner who will benefit from increased land values resulting from the provision of water to these desert tracts. What we are seeking is a partnership with BLM in future land sales or exchanges.

Santini-Burton Act and the Apex Act

In discussing our problems with our Congressional delegation, we proposed to expand upon two federal statutes governing the disposal of public lands in Clark County previously approved by this Committee. These statutes are the Santini-Burton Act and the Apex bill, already referred to by Commissioner Malone. This federal legislation created funding partnership between the federal government and Clark County in developing federal desert land at Apex. The Apex Project Nevada Land Transfer Authorization Act of 1989 (Public Law 101-67) recognized that BLM desert has no value if it cannot be developed. That statute created a real partnership with BLM which reimbursed the County for the value of the improvements which were made to the land. Under the terms of this Act, Clark County provided the infrastructure to develop the Industrial Park and negotiated the sale of land parcels to private industries desiring to locate at the Apex Industrial Park. Both BLM and the County have shared in the profits equally.

H.R. 449 borrows from both the Santini-Burton Act and the Apex Act by allowing local government to participate in the process of identifying lands to be disposed of and also in sharing in the increased land values brought by providing infrastructure through a 85/15 split of the proceeds from the sales of federal lands. For the SNWA, this approach is critically important to defray the added costs of building a new water system to provide service to the expanded rings of BLM lands which surround the developed parts of Las Vegas. It will partially reimburse us for water infrastructure that is providing value to otherwise barren desert tracts of federal land.

Conclusion

H.R. 449 will reestablish a cooperative working partnership between the federal government and local government as we seek to provide water service to the growth which will occur in the next decade through the continued disposal of federal landholdings within the Las Vegas valley. We urge you to expedite the bill's enactment so that the terms of this cooperative partnership can be immediately applied to the next block of federal lands that are released for development. Thank You.

STATEMENT OF STEVE HOBBS, NEVADA STATE DIRECTOR, THE NATURE CONSERVANCY

The Nature Conservancy is a private, nonprofit corporation whose mission is the conservation of plants, animals and natural communities that represent the diversity of life on Earth. To date, the Conservancy, its nearly 900,000 members, and its like-minded partners have conserved more than ten million acres in 50 states and Canada. The Conservancy has helped conservation organizations in the Caribbean, Latin America, and the Pacific conserve millions of acres through innovative debt-for-nature exchanges and community-based solutions that enable sustainable economies. While some lands acquired by the Conservancy are sold to local, state, and federal government entities, the Conservancy owns 1,340 nature preserves—the largest private preserve system in the world.

The Nature Conservancy was incorporated in 1951 and has sought to establish state chapters in each state. The Nature Conservancy of Nevada is the newest chap-

ter in The Nature Conservancy having been established in 1995. However, the Conservancy has been very active in the past throughout Nevada from helping to acquire the largest oasis in the Mojave Desert at Ash Meadows to our effort to restore important wetlands while maintaining a strong agriculture-based economy in Fallon. We are currently working with Clark County officials, various federal agencies, and community leaders in crafting a Multiple Species Habitat Conservation Plan in an attempt to get ahead of the endangered species issues which confront this community. The Nature Conservancy is the largest conservation organization in Nevada with more than 4,200 members that provide financial support for our activities.

Nevada is a state of contrasts. From the mosaic of high mountain ranges to the stark beauty of the deserts, Nevada contains some of the most diverse landscapes in the West. This diversity led The Nature Conservancy to rank Nevada as the sixth most ecologically important state with more than 320 species being either rare or unique to Nevada.

However, the wide-open spaces of Nevada are undergoing a rapid transformation. The growth that Nevada has experienced over the last five years is unprecedented. The vibrant economy of Nevada has attracted workers from all around the country.

At a rate of 5,000 new residents per month, the Las Vegas Valley has exploded and maintaining the clear skies and beautiful surroundings that attract tourists, the basis of the Las Vegas economy, is challenged by this growth.

The Las Vegas Valley exists as an island in a sea of federal land. To meet the demand for residential housing spurred by this phenomenal growth, developers must look to federal lands. The federal land exchange process has helped to facilitate this growth, but in a manner that is largely unsatisfactory to all parties involved.

We need to explore alternatives to the current land exchange process. The Economic Report of the President, transmitted to the Congress last month, addresses this issue. The report includes the annual report of the President's Council of Economic Advisors (CEA). The CEA report includes the following statement (page 227):

"Achieving the most efficient mix of public land private lands may require reconfiguring the public land base, adding to it in some places and divesting in others . . . Reconfiguring could be accomplished directly through swaps of public for desired private lands, as is most common today, or public lands could be sold and the proceeds put into an account for land purchases elsewhere. Economists have long recognized that the swap option is limited by the "double coincidence of wants" problem. It is often hard to find a swap partner who both owns an asset the government wishes to acquire and places a similar value on an asset the government wishes to sell. For this reason, a land purchase fund that decouples buying and selling land assets is superior to direct swaps."

A system that sells lands at auction, keeps the receipts off-budget, and uses them to purchase other lands has major transactional advantages over traditional land exchanges, including:

1. No need to match properties. In a traditional land exchange, a private party trades a land tract to the Secretary for a piece of land under the Secretary's control. The two tracts must be of almost equal value. Finding such a pair of matched tracts can be difficult and time consuming, particularly since the private party seeking a government tract rarely owns another the government wants. Most often, the private party has to seek out and purchase such a tract before the process begins. Turning government lands into cash first avoids the need to find equally matched tracts.

2. Competitive bidding simplifies appraisals. Obtaining agreement from two parties on the appraised value of two pieces of property is probably the most difficult, time consuming, and frustration-inducing element of traditional land exchanges. Competitive bidding for the government property largely eliminates the need for one of the two appraisals. By definition, competitive bidding obtains a true market value for a property, and can greatly reduce the uncertainty, risks, controversy and delay that accompany having to set the value of a property through appraisal and negotiation.

3. Competitive bidding maximizes return to the government. Selling the government lands at auction provides competition between buyers that will maximize the value received by the government for its land. True competition is often totally absent from traditional exchanges.

4. The system accommodates sellers and reduces costs. Having cash on hand for acquisitions allows the Secretary to act quickly to take advantage of selling decisions by individual landowners. While negotiating an exchange is a complicated process that often takes more than a year, landowners' decisions to sell are often tied to an immediate need for cash. Being able to meet that need in a timely fashion

greatly enhances the Secretary's ability to acquire lands in these circumstances—and can reduce interest and transaction costs the Secretary now reimburses to third parties for purchasing and holding lands the Secretary wants to acquire before funding is appropriated by the Congress.

Land exchanges have long been scored as not affecting the federal budget in any way (except for transaction costs). But when government land is sold, the receipts become general receipts to the Treasury, and cannot be spent without further appropriation by the Congress—which puts them back into the budget process and its increasingly tightening limits.

Having an off-budget fund fueled by land sales, and using that fund to buy land, is no different in its net fiscal impact than a land exchange. The final effect is no expenditure of appropriated funds, and no net change in the value of government assets—just a change in where those assets are located.

The Southern Nevada Public Land Management Act of 1997 (H.R. 449) addresses these issues in a way that does not impact the Federal Budget. This concept has been proven to work with the Santini-Burton Act through which more than 11,000 acres of important natural areas surrounding Lake Tahoe have been conserved.

H.R. 449 also provides the federal agencies in Nevada the financial resources they need to accommodate the increased use of our public lands and safeguard those precious examples of our vanishing natural heritage. The explosive growth in Southern Nevada places a burden upon the management of our public lands. Not only has the hunger for land to develop caused pressure upon the Bureau of Land Management (BLM) to dispose of many of their lands through the cumbersome land exchange process, but this sudden increase in population has created difficulties for our federal agencies in maintaining the high quality recreational opportunities that can be found at nearby Lake Mead National Recreation Area, Spring Mountains National Recreation Area, and Red Rock Canyon National Conservation Area. The pressure on our irreplaceable natural resources in Southern Nevada, and elsewhere in the state, is beginning to show and unless steps are taken soon to provide the resources necessary to alleviate the problem.

H.R. 449 would also make the exchange process more transparent to the American public than it is now. There is the general public perception, be it real or imagined, that the land exchange process is driven by powerful development interests rather than the federal and local government agencies charged with acting on the public's behalf. It is also the case that the federal agencies do not have the level of control over when and how offered lands are acquired making it difficult to make informed management decisions. H.R. 449 gives us an opportunity to amend this situation by giving the federal agencies the opportunity to be more deliberate and thoughtful in their land acquisition process to ensure that the public is truly benefiting from the transaction.

H.R. 449 also provides for compensation to local governments through the Payment in Lieu of Taxes (PILT) Program administered by the Department of the Interior and the U.S. Forest Service. This program ensures that rural community's property tax revenues remain stable. H.R. 449 also requires that local governments be consulted before lands within their jurisdiction are purchased. In the state of Nevada, where more than 90% of the land base is owned by government, it is vitally important that our conservation acquisitions complement the goals of the local community while accomplishing the goals of conserving Nevada's unique natural heritage.

To that end, The Nature Conservancy feels that it is very important that the Public Lands Task Force in Nevada move forward with the establishment of objective criteria for evaluating potential projects to be funded by monies generated through the passage of H.R. 449. These funds represent Nevada's conservation legacy for future generations. It is our responsibility to establish clear guidelines as to how this money will be spent to ensure that this unique opportunity to protect our environment in Nevada and ensure a lasting high quality of life for Nevadans not be wasted. The Nature Conservancy is eager to lend assistance in this effort relying upon more than 40 years of experience in aiding government agencies establish conservation strategies.

The natural treasures of Nevada are the nation's treasures. We, as a nation, have a responsibility to future generations to pass on nature's legacy. The Southern Nevada Public Land Management Act of 1997 (H.R. 449) seeks to solve the myriad problems of traditional land exchanges thereby ensuring economic prosperity for the region while, at the same time, providing the financial resources necessary to ensure that this same economic prosperity does not result in the diminution of Nevada's natural environment. Prosperity is not truly prosperity unless it ensures a lasting quality of life for all. We have a unique opportunity in Nevada to provide for both economic growth and conservation of our natural resources. H.R. 449 is the legisla-

tion that will enable us to seize this opportunity. The Nature Conservancy urges the passage of H.R. 449.

105TH CONGRESS
1ST SESSION

H. R. 449

To provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 1997

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

A BILL

To provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

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 “Southern Nevada Pub-
5 lic Land Management Act of 1997”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) The Bureau of Land Management has ex-
2 tensive land ownership in small and large parcels
3 interspersed with or adjacent to private land in the
4 Las Vegas Valley, Nevada, making many of these
5 parcels difficult to manage and more appropriate for
6 disposal.

7 (2) In order to promote responsible and orderly
8 development in the Las Vegas Valley, certain of
9 those Federal lands should be sold by the Federal
10 Government based on recommendations made by
11 local government and the public.

12 (3) The value of Federal lands in the Las
13 Vegas Valley is enhanced by local infrastructure im-
14 provements which are paid for by local government.

15 (4) The Las Vegas metropolitan area is the
16 fastest growing urban area in the United States,
17 which is causing significant impacts upon the Lake
18 Mead National Recreation Area, the Red Rock Can-
19 yon National Conservation Area, and the Spring
20 Mountains National Recreation Area, which sur-
21 round the Las Vegas Valley.

22 (b) PURPOSE.—The purpose of this Act is to provide
23 for the orderly disposal of certain Federal lands in Clark
24 County, Nevada, and to provide for the acquisition of envi-
25 ronmentally sensitive lands in the State of Nevada.

1 **SEC. 3. DEFINITIONS.**

2 As used in this Act:

3 (1) The term “Secretary” means the Secretary
4 of the Interior.

5 (2) The term “Secretaries” means the Sec-
6 retary of the Interior and the Secretary of Agri-
7 culture.

8 (3) The term “unit of local government” means
9 Clark County, the City of Las Vegas, the City of
10 North Las Vegas, or the City of Henderson; all in
11 the State of Nevada.

12 (4) The term “Agreement” means the agree-
13 ment entitled “The Interim Cooperative Manage-
14 ment Agreement Between The United States De-
15 partment of the Interior—Bureau of Land Manage-
16 ment and Clark County”, dated November 4, 1992.

17 (5) The term “special account” means the ac-
18 count in the Treasury of the United States estab-
19 lished under section 4(e)(1)(C).

20 (6) The term “Recreation and Public Purposes
21 Act” means the Act entitled “An Act to authorize
22 acquisition or use of public lands by States, counties,
23 or municipalities for recreational purposes”, ap-
24 proved June 14, 1926 (43 U.S.C. 869 et seq.).

25 (7) The term “regional governmental entity”
26 means the Southern Nevada Water Authority, the

1 Regional Flood Control District, and the Clark
2 County Sanitation District.

3 **SEC. 4. DISPOSAL AND EXCHANGE.**

4 (a) DISPOSAL.—Notwithstanding the land use plan-
5 ning requirements contained in sections 202 and 203 of
6 the Federal Land Policy and Management Act of 1976
7 (43 U.S.C. 1711 and 1712), the Secretary, in accordance
8 with this Act, the Federal Land Policy and Management
9 Act of 1976, and other applicable law, is authorized to
10 dispose of lands within the boundary of the area under
11 the jurisdiction of the Direction of the Bureau of Land
12 Management in Clark County, Nevada, as generally de-
13 picted on the map entitled “Las Vegas Valley, Nevada,
14 Land Disposal Map”, numbered _____, and dated
15 _____. Such map shall be on file and available for pub-
16 lic inspection in the offices of the Director and the Las
17 Vegas District of the Bureau of Land Management.

18 (b) RESERVATION FOR LOCAL PUBLIC PURPOSES.—

19 (1) RECREATION AND PUBLIC PURPOSE ACT
20 CONVEYANCES.—Not less than 30 days before the
21 offering of lands for sale or exchange pursuant to
22 subsection (a), the State of Nevada or the unit of
23 local government in whose jurisdiction the lands are
24 located may elect to obtain any such lands for local
25 public purposes pursuant to the Recreation and

1 Public Purposes Act. Pursuant to any such election,
2 the Secretary shall segregate the elected lands in the
3 name of the State of Nevada or such unit of the
4 local government.

5 (2) RIGHTS-OF-WAY.—

6 (A) ISSUANCE.—Upon application, by a
7 unit of local government or regional govern-
8 mental entity, the Secretary, in accordance with
9 this Act and the Federal Land Policy and Man-
10 agement Act of 1976, shall issue right-of-way
11 grants on Federal lands in Clark County, Ne-
12 vada, for all reservoirs, canals, channels,
13 ditches, pipes, pipelines, tunnels and other fa-
14 cilities and systems needed for—

15 (i) the impoundment, storage, treat-
16 ment, transportation or distribution of
17 water (other than water from the Virgin
18 River) or wastewater; or

19 (ii) flood control management.

20 (B) DURATION.—Right-of-way grants is-
21 sued under this paragraph shall be valid in per-
22 petuity.

1 (C) WAIVER OF FEES.—Right-of-way
2 grants issued under this paragraph shall not re-
3 quire the payment of rental or cost recovery
4 fees.

5 (3) YOUTH ACTIVITY FACILITIES.—Notwith-
6 standing any other provision of law, the Secretary
7 shall make available to Clark County, Nevada, the
8 land depicted on the map entitled “Las Vegas Valley
9 Youth Facilities Map”, numbered _____ and
10 dated _____, in accordance with the Recreation
11 and Public Purposes Act for the construction of
12 youth activity facilities.

13 (e) WITHDRAWAL.—Subject to valid existing rights,
14 all Federal lands identified in subsection (a) for disposal
15 are withdrawn from location, entry, and patent under the
16 mining laws and from operation under the mineral leasing
17 and geothermal leasing laws.

18 (d) SELECTION.—

19 (1) JOINT SELECTION REQUIRED.—The Sec-
20 retary and the unit of local government in whose ju-
21 risdiction lands referred to in subsection (a) are lo-
22 cated shall jointly select lands to be offered for sale
23 or exchange under this section. The Secretary shall
24 coordinate land disposal activities with the unit of
25 local government in whose jurisdiction such lands

1 are located. Land disposal activities of the Secretary
2 shall be consistent with local land use planning and
3 zoning requirements and recommendations.

4 (2) OFFERING.—After land has been selected in
5 accordance with this subsection, the Secretary shall
6 make the first offering of land as soon as practicable
7 after the date of enactment of this Act.

8 (e) DISPOSITION OF PROCEEDS.—

9 (1) LAND SALES.—Of the gross proceeds of
10 sales of land under this subsection in a fiscal year—

11 (A) 5 percent shall be paid directly to the
12 State of Nevada for use in the general edu-
13 cation program of the State;

14 (B) 10 percent shall be paid directly to the
15 Southern Nevada Water Authority for water
16 treatment and transmission facility infrastruc-
17 ture in Clark County, Nevada; and

18 (C) the remainder shall be deposited in a
19 special account in the Treasury of the United
20 States for use pursuant to the provisions of
21 paragraph (3).

22 Amounts in the special account shall be available to
23 the Secretaries without further appropriation and
24 shall remain available until expended.

1 (2) LAND EXCHANGES.—In the case of a land
2 exchange under this section, the non-Federal party
3 shall provide direct payments to the State of Nevada
4 and the Southern Nevada Water Authority in ac-
5 cordance with paragraphs (1) (A) and (B). The pay-
6 ments shall be based on the appraised fair market
7 value of the Federal lands to be conveyed in the ex-
8 change and shall be considered a cost incurred by
9 the non-Federal party that may be compensated by
10 the Secretary pursuant to any agreement to initiate
11 exchange.

12 (3) AVAILABILITY OF SPECIAL ACCOUNT.—

13 (A) IN GENERAL.—Amounts deposited in
14 the special account may be expended by the
15 Secretaries, acting jointly, for—

16 (i) the acquisition of environmentally
17 sensitive land in the State of Nevada in ac-
18 cordance with subsection (h), with priority
19 given to lands located within Clark County;

20 (ii) capital improvements at the Lake
21 Mead National Recreation Area, the
22 Desert National Wildlife Refuge, the Red
23 Rock Canyon National Conservation Area

1 and other areas administered by the Bu-
2 reau of Land Management in Clark Coun-
3 ty, and the Spring Mountains National
4 Recreation Area;

5 (iii) development of a multispecies
6 habitat conservation plan in Clark County,
7 Nevada;

8 (iv) development of parks, trails, and
9 natural areas in Clark County, Nevada,
10 pursuant to a cooperative agreement with
11 a unit of local government; and

12 (v) reimbursement of costs incurred
13 by the local offices of the Bureau of Land
14 Management in arranging sales or ex-
15 changes under this Act.

16 (B) PROCEDURES.—The Secretaries shall
17 jointly develop procedures for the use of the
18 special account that ensure accountability and
19 demonstrated results.

20 (C) LIMITATION.—Not more than 50 per-
21 cent of the amounts available to the Secretaries
22 from the special account in any fiscal year (de-
23 termined without taking into account amounts
24 deposited under subsection (g)(4)) may be used

1 in any fiscal year for the purposes described in
2 subparagraph (A)(ii).

3 (f) INVESTMENT OF SPECIAL ACCOUNT.—All funds
4 deposited as principal in the special account shall earn in-
5 terest in the amount determined by the Secretary of the
6 Treasury on the basis of the current average market yield
7 on outstanding marketable obligations of the United
8 States of comparable maturities. Such interest shall be
9 added to the principal of the account and expended ac-
10 cording to the provisions of subsection (e)(3).

11 (g) AIRPORT ENVIRONS OVERLAY DISTRICT LAND
12 TRANSFER.—Upon request of Clark County, Nevada, the
13 Secretary shall transfer to Clark County, Nevada, without
14 consideration, all right, title, and interest of the United
15 States in and to the lands identified in the Agreement,
16 subject to the following:

17 (1) Valid existing rights.

18 (2) Clark County agrees to manage such lands
19 in accordance with the Agreement and with section
20 47504 of title 49, United States Code (relating to
21 airport noise compatibility planning), and regula-
22 tions promulgated pursuant to that section.

23 (3) Clark County agrees that if any of such
24 lands are sold or leased by Clark County, such sale
25 or lease shall contain a limitation which requires

1 uses compatible with the Agreement and such Air-
2 port Noise Compatibility Planning provisions.

3 (4) Clark County agrees that if any of such
4 lands are sold or leased by Clark County, such lands
5 shall be sold or leased for fair market value. Clark
6 County shall contribute 85 percent of the gross pro-
7 ceeds from the sale or lease of such lands directly
8 to the special account. If any of such lands sold or
9 leased by Clark County are identified on the map
10 referenced in section 2(a) of the Act entitled “An
11 Act to provide for the orderly disposal of certain
12 Federal lands in Nevada and for the acquisition of
13 certain other lands in the Lake Tahoe Basin, and
14 for other purposes”, approved December 23, 1980
15 (94 Stat. 3381; commonly known as the “Santini-
16 Burton Act”), the proceeds contributed to the spe-
17 cial account by Clark County from the sale or lease
18 of such lands shall be used by the Secretary of Agri-
19 culture to acquire environmentally sensitive land in
20 the Lake Tahoe Basin pursuant to section 3 of the
21 Santini-Burton Act. Clark County shall contribute 5
22 percent of the gross proceeds from the sale or lease
23 of such lands directly to the State of Nevada for use
24 in the general education program of the State, and
25 the remainder shall be available for use by the Clark

1 County Department of Aviation for the benefit of
2 airport development and the Noise Compatibility
3 Program.

4 (h) ACQUISITIONS.—

5 (1) DEFINITION.—For purposes of this sub-
6 section, the term “environmentally sensitive land”
7 means land or an interest in land, the acquisition of
8 which the United States would, in the judgment of
9 the Secretary of the Interior or the Secretary of Ag-
10 riculture—

11 (A) promote the preservation of natural,
12 scientific, aesthetic, historical, cultural, water-
13 shed, wildlife, and other values contributing to
14 public enjoyment and biological diversity;

15 (B) enhance recreational opportunities and
16 public access;

17 (C) provide the opportunity to achieve bet-
18 ter management of public land through consoli-
19 dation of Federal ownership; or

20 (D) otherwise serve the public interest.

21 (2) IN GENERAL.—After the consultation proce-
22 ss has been completed in accordance with para-
23 graph (3), the Secretaries may acquire by donation,
24 purchase with donated or appropriated funds, or ex-
25 change environmentally sensitive land and interests

1 in environmentally sensitive land. Lands may not be
2 acquired under this section without the consent of
3 the owner thereof.

4 (3) CONSULTATION.—Before initiating efforts
5 to acquire land under this subsection, the Secretary
6 of the Interior or the Secretary of Agriculture shall
7 consult with the State of Nevada and with local gov-
8 ernment within whose jurisdiction the lands are lo-
9 cated, including appropriate planning and regulatory
10 agencies, and with other interested persons, concern-
11 ing the necessity of making the acquisition, the po-
12 tential impacts on State and local government, and
13 other appropriate aspects of the acquisition. Con-
14 sultation under this paragraph is in addition to any
15 other consultation required by law.

16 (4) ADMINISTRATION.—On acceptance of title
17 by the United States, land and interests in land ac-
18 quired under this subsection that is within the
19 boundaries of a unit of the National Forest System,
20 National Park System, National Wildlife Refuge
21 System, National Wild and Scenic Rivers System,
22 National Trails System, National Wilderness Preser-
23 vation System, any other system established by Act
24 of Congress, or any national conservation or national
25 recreation area established by Act of Congress—

1 (A) shall become part of the unit or area
2 without further action by the Secretary of the
3 Interior or Secretary of Agriculture; and

4 (B) shall be managed in accordance with
5 all laws and regulations and land use plans ap-
6 plicable to the unit or area.

7 (5) DETERMINATION OF FAIR MARKET
8 VALUE.—The fair market value of land or an inter-
9 est in land to be acquired by the Secretary of the
10 Interior or the Secretary of Agriculture under this
11 subsection shall be determined pursuant to section
12 206 of the Federal Land Policy and Management
13 Act of 1976 and shall be consistent with other appli-
14 cable requirements and standards. Fair market
15 value shall be determined without regard to the pres-
16 ence of a species listed as threatened or endangered
17 under the Endangered Species Act of 1973 (16
18 U.S.C. 1531 et seq.).

19 (6) PAYMENTS IN LIEU OF TAXES.—Section
20 6901(1) of title 31, United States Code, is amend-
21 ed—

22 (A) by striking “or” at the end of subpara-
23 graph (F);

24 (B) by striking the period at the end of
25 subparagraph (G) and inserting “; or”; and

1 (C) by adding at the end the following:

2 “(H) acquired by the Secretary of the Inte-
3 rior or the Secretary of Agriculture under sec-
4 tion 5 of the Southern Nevada Public Land
5 Management Act of 1996 that is not otherwise
6 described in subparagraphs (A) through (G).”.

7 (i) REPORT.—The Secretary of the Interior, in co-
8 operation with the Secretary of Agriculture, shall submit
9 to the Committee on Energy and Natural Resources of
10 the Senate and the Committee on Resources of the House
11 of Representatives an annual report on all transactions
12 under this section.

13 (j) TRANSFER OF REVERSIONARY INTEREST.—

14 (1) IN GENERAL.—Upon request by a grantee
15 of lands within Clark County, Nevada, that are sub-
16 ject to a lease or patent issued under the Recreation
17 and Public Purposes Act, the Secretary may transfer
18 the reversionary interest in such lands to other non-
19 Federal lands. The transfer of the reversionary in-
20 terest shall only be made to lands of equal value, ex-
21 cept that with respect to the State of Nevada or a
22 unit of local government an amount equal to the ex-
23 cess (if any) of the fair market value of lands re-
24 ceived by the unit of local government over the fair
25 market value of lands transferred by the unit of

1 local government shall be paid to the Secretary and
2 shall be treated under subsection (e)(1) of this sec-
3 tion as proceeds from the sale of land. For purposes
4 of this subsection, the fair market value of lands to
5 be transferred by the State of Nevada or a unit of
6 local government may be based upon a statement of
7 value prepared by a qualified appraiser.

8 (2) TERMS AND CONDITIONS APPLICABLE TO
9 LANDS ACQUIRED.—Land selected under this sub-
10 section by a grantee described in paragraph (1) shall
11 be subject to the terms and conditions, uses, and
12 acreage limitations of the lease or patent to which
13 the lands transferred by the grantee were subject,
14 including the reverter provisions, under the Recre-
15 ation and Public Purposes Act.

16 (k) AFFORDABLE HOUSING.—The Secretary, in con-
17 sultation with the Secretary of Housing and Urban Devel-
18 opment, may make available land in the State of Nevada
19 in accordance with the Recreation and Public Purposes
20 Act for affordable housing purposes. Such lands shall be
21 made available only to State or local governmental enti-
22 ties, including local public housing authorities. For the
23 purposes of this subsection, housing shall be considered
24 to be affordable housing if the housing is assisted under

1 the United States Housing Act of 1937 (42 U.S.C. 1437
2 et seq.).

3 (l) BOUNDARY MODIFICATION OF RED ROCK CAN-
4 YON NATIONAL CONSERVATION AREA.—Section 3(a)(2)
5 of the Red Rock Canyon National Conservation Area Es-
6 tablishment Act of 1990 (16 U.S.C. 460ccc-1(a)(2)) is
7 amended to read as follows:

8 “(2) The conservation area shall consist of ap-
9 proximately _____ acres as generally depicted on
10 the map entitled ‘Red Rock Canyon National Con-
11 servation Area—Proposed Modification’, numbered
12 _____, and dated _____.”.

○