

Calendar No. 353

113TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 113-147

THREE KIDS MINE REMEDIATION AND RECLAMATION ACT

APRIL 8, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 697]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 697) to provide for the conveyance of certain Federal land in Clark County, Nevada, for the environmental remediation and reclamation of the Three Kids Mine Project Site, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 697 is to provide for the conveyance of certain Federal land in Clark County, Nevada, for the environmental remediation and reclamation of the Three Kids Mine Project Site.

BACKGROUND AND NEED

The Three Kids Mine site is a 1,262-acre abandoned manganese mine and mill site located in Henderson, Nevada. The mine operated from 1917 until 1961, and was originally developed during World War I for steel production for U.S. military use. At one time the Three Kids Mine was the largest manganese mine in Nevada. It was effectively abandoned in 1961, but did continue to serve as a storage site for U.S. manganese reserves until 2003. Approximately 314 acres of private land and 948 acres of land managed by the Bureau of Land Management (BLM) and the Bureau of Reclamation (BOR) comprise the site. The site is a public health and safety hazard, with three massive open mine pits, ruins from the milling facility, and toxic manganese tailings containing arsenic,

lead, and diesel fuel. Because of the complicated pattern of land ownership and the large cost of cleaning up the site, the Federal government has been unable to initiate remediation and reclamation of the Three Kids Mine site.

H.R. 697 would address this situation by requiring the Federal government to convey its portions of the site to the Henderson Redevelopment Agency for fair market value, after taking into consideration the costs of clean-up for the entire site. Upon conveyance, the United States would be released from liability for the contamination at the site. Conveyance of the land is contingent on the Secretary of the Interior receiving notification from the State of Nevada that a mine remediation and reclamation agreement has been executed by the State and the party to undertake the remediation and reclamation, including financial assurances to ensure completion of the remediation and reclamation. The legislation anticipates that a private developer will finance and complete the remediation of the site, subject to an agreement administered by the State of Nevada.

LEGISLATIVE HISTORY

H.R. 697, sponsored by Representative Heck, passed the House of Representatives by voice vote on July 22, 2013. Senators Reid and Heller introduced similar legislation, S. 343, on February 14, 2013. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 343 on July 30, 2013 (S. Hrg. 113–85). The Committee on Energy and Natural Resources ordered H.R. 697 favorably reported at its business meeting on November 21, 2013.

In the 112th Congress, Senators Reid and Heller introduced similar legislation, S. 1492, on August 2, 2011. The Subcommittee on Public Lands and Forests held a hearing on S. 1492 on March 22, 2012 (S. Hrg. 112–642).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 21, 2013, by a voice vote of a quorum present, recommended that the Senate pass H.R. 697.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, “Three Kids Mine Remediation and Reclamation Act.”

Section 2 provides key terms used in the bill and provides the location and scope of the Three Kids Mine Project Site.

Section 3 (a) authorizes the Secretary of the Interior to convey all right, title, and interest of the approximately 948 acres at the Three Kids Mine Project Site that are held by the United States government to the Henderson Redevelopment Agency.

Subsection (b) sets the conditions of the conveyance between the U.S. government and the Henderson Redevelopment Agency.

Paragraph (1) requires the Henderson Redevelopment Agency to pay fair market value for the Federal land and requires the BLM to determine this value by appraising the land and then reducing the appraised value by a reasonable estimate of remediation costs. Remediation costs are expected to exceed the appraised fair market value.

Paragraph (2) requires the Secretary to receive notification that the State of Nevada has entered into an agreement with a private entity, and that agreement obligates the entity to complete the remediation and reclamation work necessary at the Three Kids Mine Project Site.

Paragraph (3) establishes a 90-day window, after the State of Nevada enters into its remediation agreement, for the Henderson Redevelopment Agency to notify the Secretary of the Interior that it is prepared to accept the conveyance of the Federal land.

Section 4 withdraws the Federal land from mining, leasing, and disposal upon the date of enactment of the Act.

Section 5 adjusts the boundary of the River Mountains Area of Critical Environmental Concern to exclude the Three Kids Mine Project Site.

Section 6 preserves the responsibilities for the remediation of the Three Kids Mine Project Site with the Secretary of the Interior—upon conveyance, and authorizes the Secretary of the Interior to enforce the remediation agreement between the State of Nevada and its contractor.

Section 7 excludes the conveyance of the Federal land at the Three Kids Mine Project Site from the revenue distribution and sale procedures required under the Southern Nevada Public Land Management Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

H.R. 697—Three Kids Mine Remediation and Reclamation Act

H.R. 697 would require the Bureau of Land Management (BLM) to sell 950 acres of federal land, some of which are contaminated by hazardous waste, to the city of Henderson, Nevada. Under the act, the agency would determine the sale price by estimating the fair market value of the land and reducing that amount by the estimated cost of any necessary environmental remediation and mining reclamation activities at the site. The city of Henderson would be responsible for those costs following the sale. Based on information from BLM, CBO estimates that implementing the legislation would have no significant impact on the federal budget. Enacting H.R. 697 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Roughly 15 percent of the lands that would be sold under the act are contaminated and will require mine reclamation and environmental remediation. Based on information provided by BLM and the city of Henderson, CBO estimates that the agency is unlikely to receive any financial compensation for any of the land because remediation and reclamation costs would exceed the land's fair market value. Because CBO expects that the affected lands would not generate any receipts under current law over the next 10 years, we estimate that conveying the lands under the act would have no significant impact on the federal budget.

H.R. 697 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On June 20, 2013, CBO transmitted a cost estimate for H.R. 697 as ordered reported by the House Committee on Natural Resources on June 12, 2013. The two versions of the legislation are similar, and the CBO cost estimates are the same.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 697.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 697, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 697, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior, on behalf of the Bureau of Land Management, on S. 343, the Senate companion measure to H.R. 697, at the July 30, 2013, Subcommittee on Public Lands, Forests, and Mining hearing follows:

STATEMENT OF NED FARQUHAR, DEPUTY ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on S. 343, the Three Kids Mine Remediation and Reclamation Act. Over the past several years, the Bureau of Land Management (BLM) has worked with the City of Henderson, Nevada, and other Nevada governmental entities in search of administrative remedies to redevelopment challenges at the abandoned Three Kids Mine. The Department of the Interior (Department) supports the goals of S. 343, which aims to provide legislated solutions to the issues surrounding the Three Kids Mine area and clears the way for its eventual redevelopment. However, the BLM would prefer that the Committee consider H.R. 697 as introduced, which the Department supported in testimony on March 21, 2013.

BACKGROUND

The Three Kids Mine is an abandoned manganese mine and mill site on 314 acres of private land located along the south side of Lake Mead Drive, across the highway from Lake Las Vegas, in Henderson, Nevada. The mine and mill

operated from 1917 through 1961, in part providing steel-strengthening manganese to the defense industry and contributing to the United States' efforts in World War I and II. Federal manganese reserves were stored in the area from the late 1950s through 2003. Approximately five years ago, the City of Henderson and Lakemoor Canyon, LLC, approached the BLM with a plan for redevelopment of the area if the site could be remediated.

S. 343 directs that 948 acres of public lands adjacent to the private site be conveyed to the Henderson Redevelopment Agency, bringing the total size of the redevelopment project area to 1,262 acres. Of the 948 acres of public lands, 146 acres are contaminated and will require mine reclamation and environmental remediation. The most severe contamination appears to be on the 314 private acres where the mine and mill were located. No viable former operator or responsible party has been identified to remediate and reclaim the abandoned mine and mill site. Today, the site's deep open pits, large volumes of mine overburden and tailings, mill facility ruins, and solid waste disposal areas pose risks to public safety and to human health and the environment. The Nevada Division of Environmental Protection (NDEP) identified the Three Kids Mine site as a high priority for the implementation of a comprehensive environmental investigation, remediation, and reclamation program. Representatives of the BLM, the Bureau of Reclamation, and the Department of the Interior Solicitor's Office have worked with the City of Henderson and representatives of developer Lakemoor Canyon to find solutions to the complex challenges of remediating this site.

S. 343

S. 343 designates the combined 314 acres of private land and 948 acres of public land as the 1,262-acre "Three Kids Mine Project Site" and provides for the conveyance of the public lands to the Henderson Redevelopment Agency. The legislation provides that fair market value for the Federal lands to be conveyed should be determined through standard appraisal practices, and that, subsequent to the determination, the Secretary of the Interior (Secretary) should determine the "reasonable approximate estimation of the costs to assess, remediate, and reclaim the Three Kids Mine Project Site." The fair market value would be adjusted by deducting the cost estimate prepared by the Secretary. The Henderson Redevelopment Agency would pay the adjusted fair market value of the conveyed land to the United States, if any.

The bill makes the conveyance of the land conditional upon the State of Nevada executing a mine remediation and reclamation agreement that obligates a party to perform the cleanup and which must be backed up by financial assurances. While the BLM has not established a range for the cost of cleanup, a proponent of the transaction estimated the cost of remediating the public and

private lands at between \$300 million and \$1.3 billion. While it is possible that the cost of remediating and reclaiming the entire project area might exceed the fair market value of the Federal land to be conveyed, the cost of the transaction will be known only after the Secretary completes the appraisal and remediation cost estimate process as outlined in the legislation.

The Department supports innovative proposals to address the cleanup of the Three Kids Mine. We support the goals of S. 343, and prefer that the Committee consider H.R. 697 as introduced, which the Department supported in testimony on March 21, 2013.

CONCLUSION

Thank you for the opportunity to present testimony on S. 343.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by H.R. 697, as ordered reported.

