

113TH CONGRESS  
1ST SESSION

# S. 343

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.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2013

Mr. REID (for himself and Mr. HELLER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

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

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Three Kids Mine Re-  
5       mediation and Reclamation Act”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) FEDERAL LAND.—The term “Federal land”  
2       means the approximately 948 acres of Bureau of  
3       Reclamation and Bureau of Land Management land  
4       within the Three Kids Mine Project Site, as depicted  
5       on the map.

6           (2) HAZARDOUS SUBSTANCE; POLLUTANT OR  
7       CONTAMINANT; REMEDY.—The terms “hazardous  
8       substance”, “pollutant or contaminant”, and “rem-  
9       edy” have the meanings given those terms in section  
10      101 of the Comprehensive Environmental Response,  
11      Compensation, and Liability Act of 1980 (42 U.S.C.  
12      9601).

13          (3) HENDERSON REDEVELOPMENT AGENCY.—  
14      The term “Henderson Redevelopment Agency”  
15      means the redevelopment agency of the City of Hen-  
16      derson, Nevada, established and authorized to trans-  
17      act business and exercise the powers of the agency  
18      in accordance with the Nevada Community Redevel-  
19      opment Law (Nev. Rev. Stat. 279.382 to 279.685).

20          (4) MAP.—The term “map” means the map en-  
21      titled “Three Kids Mine Project Area” and dated  
22      February 6, 2012.

23          (5) SECRETARY.—The term “Secretary” means  
24      the Secretary of the Interior.

1           (6) STATE.—The term “State” means the State  
2 of Nevada.

3           (7) THREE KIDS MINE PROJECT SITE.—The  
4 term “Three Kids Mine Project Site” means the ap-  
5 proximately 1,262 acres of land that is—

6                   (A) comprised of—

7                           (i) the Federal land; and

8                           (ii) the approximately 314 acres of  
9 adjacent non-Federal land; and

10                   (B) depicted as the “Three Kids Mine  
11 Project Site” on the map.

12 **SEC. 3. LAND CONVEYANCE.**

13           (a) IN GENERAL.—Notwithstanding sections 202 and  
14 203 of the Federal Land Policy and Management Act of  
15 1976 (43 U.S.C. 1712, 1713), not later than 90 days after  
16 the date on which the Secretary determines that the condi-  
17 tions described in subsection (b) have been met, and sub-  
18 ject to valid existing rights and applicable law, the Sec-  
19 retary shall convey to the Henderson Redevelopment  
20 Agency all right, title, and interest of the United States  
21 in and to the Federal land.

22           (b) CONDITIONS.—

23                   (1) APPRAISAL; FAIR MARKET VALUE.—

24                           (A) IN GENERAL.—As consideration for  
25 the conveyance under subsection (a), the Hen-

1           derson Redevelopment Agency shall pay the fair  
 2           market value of the Federal land, if any, as de-  
 3           termined under subparagraph (B) and as ad-  
 4           justed under subparagraph (F).

5           (B) APPRAISAL.—The Secretary shall de-  
 6           termine the fair market value of the Federal  
 7           land based on an appraisal—

8                   (i) that is conducted in accordance  
 9                   with nationally recognized appraisal stand-  
 10                  ards, including—

11                           (I) the Uniform Appraisal Stand-  
 12                           ards for Federal Land Acquisitions;  
 13                           and

14                           (II) the Uniform Standards of  
 15                           Professional Appraisal Practice; and

16                   (ii) that does not take into account  
 17                   any existing contamination associated with  
 18                   historical mining on the Federal land.

19           (C) REMEDIATION AND RECLAMATION  
 20           COSTS.—

21                   (i) IN GENERAL.—The Secretary shall  
 22                   prepare a reasonable estimate of the costs  
 23                   to assess, remediate, and reclaim the Three  
 24                   Kids Mine Project Site.

1 (ii) CONSIDERATIONS.—The estimate  
2 prepared under clause (i) shall be—

3 (I) based on the results of a com-  
4 prehensive Phase II environmental  
5 site assessment of the Three Kids  
6 Mine Project Site prepared by the  
7 Henderson Redevelopment Agency or  
8 a designee that has been approved by  
9 the State; and

10 (II) prepared in accordance with  
11 the current version of the ASTM  
12 International Standard E-2137-06  
13 entitled “Standard Guide for Esti-  
14 mating Monetary Costs and Liabilities  
15 for Environmental Matters”.

16 (iii) ASSESSMENT REQUIREMENTS.—  
17 The Phase II environmental site assess-  
18 ment prepared under clause (ii)(I) shall,  
19 without limiting any additional require-  
20 ments that may be required by the State,  
21 be conducted in accordance with the proce-  
22 dures of—

23 (I) the most recent version of  
24 ASTM International Standard E-  
25 1527-05 entitled “Standard Practice

for Environmental Site Assessments:  
Phase I Environmental Site Assessment Process”; and

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

(iv) REVIEW OF CERTAIN INFORMATION.—

(I) IN GENERAL.—The Secretary  
shall review and consider cost information  
proffered by the Henderson  
Redevelopment Agency and the State  
in the preparation of the estimate  
under this subparagraph.

(II) FINAL DETERMINATION.—If  
there is a disagreement among the  
Secretary, Henderson Redevelopment  
Agency, and the State over the reasonable  
estimate of costs under this  
subparagraph, the parties shall jointly  
select 1 or more experts to assist the

1 Secretary in making the final estimate  
2 of the costs.

3 (D) DEADLINE.—Not later than 30 days  
4 after the date of enactment of this Act, the Sec-  
5 retary shall begin the appraisal and cost esti-  
6 mates under subparagraphs (B) and (C), re-  
7 spectively.

8 (E) APPRAISAL COSTS.—The Henderson  
9 Redevelopment Agency shall reimburse the Sec-  
10 retary for the costs incurred in performing the  
11 appraisal under subparagraph (B).

12 (F) ADJUSTMENT.—The Secretary shall  
13 administratively adjust the fair market value of  
14 the Federal land, as determined under subpara-  
15 graph (B), based on the estimate of remedi-  
16 ation, and reclamation costs, as determined  
17 under subparagraph (C).

18 (2) MINE REMEDIATION AND RECLAMATION  
19 AGREEMENT EXECUTED.—

20 (A) IN GENERAL.—The conveyance under  
21 subsection (a) shall be contingent on—

22 (i) the Secretary receiving from the  
23 State written notification that a mine re-  
24 mediation and reclamation agreement has

1           been executed in accordance with subpara-  
2           graph (B); and

3           (ii) the Secretary concurring, by the  
4           date that is 30 days after the date of re-  
5           ceipt of the written notification under  
6           clause (i), that the requirements under  
7           subparagraph (B) have been met.

8           (B) REQUIREMENTS.—The mine remedi-  
9           ation and reclamation agreement required  
10          under subparagraph (A) shall be an enforceable  
11          consent order or agreement between the State  
12          and a party obligated to perform under the con-  
13          sent order or agreement administered by the  
14          State that—

15          (i) obligates a party to perform, after  
16          the conveyance of the Federal land under  
17          this Act, the remediation and reclamation  
18          work at the Three Kids Mine Project Site  
19          necessary to ensure all remedial actions  
20          necessary to protect human health and the  
21          environment with respect to any hazardous  
22          substances, pollutant, or contaminant will  
23          be taken, in accordance with all Federal,  
24          State, and local requirements; and

1 (ii) contains provisions determined to  
2 be necessary by the State, including finan-  
3 cial assurance provisions to ensure the  
4 completion of the remedy.

5 (3) NOTIFICATION FROM AGENCY.—As a condi-  
6 tion of the conveyance under subsection (a), not  
7 later than 90 days after the date of execution of the  
8 mine remediation and reclamation agreement re-  
9 quired under paragraph (2), the Henderson Redevel-  
10 opment Agency shall submit to the Secretary written  
11 notification that the Henderson Redevelopment  
12 Agency is prepared to accept conveyance of the Fed-  
13 eral land under subsection (a).

14 **SEC. 4. WITHDRAWAL.**

15 (a) IN GENERAL.—Subject to valid existing rights,  
16 for the 10-year period beginning on the earlier of the date  
17 of enactment of this Act or the date of the conveyance  
18 required by this Act, the Federal land is withdrawn from  
19 all forms of—

20 (1) entry, appropriation, operation, or disposal  
21 under the public land laws;

22 (2) location, entry, and patent under the mining  
23 laws; and

24 (3) disposition under the mineral leasing, min-  
25 eral materials, and the geothermal leasing laws.

1 (b) EXISTING RECLAMATION WITHDRAWALS.—Sub-  
 2 ject to valid existing rights, any withdrawal under the pub-  
 3 lic land laws that includes all or any portion of the Federal  
 4 land for which the Bureau of Reclamation has determined  
 5 that the Bureau of Reclamation has no further need under  
 6 applicable law is relinquished and revoked solely to the ex-  
 7 tent necessary—

8 (1) to exclude from the withdrawal the property  
 9 that is no longer needed; and

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

12 (c) EXISTING RECLAMATION PROJECT AND PER-  
 13 MITTED FACILITIES.—Except as provided in subsection  
 14 (a), nothing in this Act diminishes, hinders, or interferes  
 15 with the exclusive and perpetual use by the existing rights  
 16 holders for the operation, maintenance, and improvement  
 17 of water conveyance infrastructure and facilities, including  
 18 all necessary ingress and egress, situated on the Federal  
 19 land that were constructed or permitted by the Bureau  
 20 of Reclamation before the effective date of this Act.

21 **SEC. 5. ACEC BOUNDARY ADJUSTMENT.**

22 Notwithstanding section 203 of the Federal Land  
 23 Policy and Management Act of 1976 (43 U.S.C. 1713),  
 24 the boundary of the River Mountains Area of Critical En-  
 25 vironmental Concern (NVN 76884) is adjusted to exclude

1 any portion of the Three Kids Mine Project Site consistent  
 2 with the map.

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

4 (a) RESPONSIBILITY OF PARTIES TO MINE REMEDI-  
 5 ATION AND RECLAMATION AGREEMENT.—On completion  
 6 of the conveyance under section 3, the responsibility for  
 7 complying with the mine remediation and reclamation  
 8 agreement executed under section 3(b)(2) shall apply to  
 9 the parties to the agreement.

10 (b) SAVINGS PROVISION.—If the conveyance under  
 11 this Act has occurred, but the terms of the agreement exe-  
 12 cuted under section 3(b)(2) have not been met, nothing  
 13 in this Act—

14 (1) affects the responsibility of the Secretary to  
 15 take any additional response action necessary to pro-  
 16 tect public health and the environment from a re-  
 17 lease or the threat of a release of a hazardous sub-  
 18 stance, pollutant, or contaminant; or

19 (2) unless otherwise expressly provided, modi-  
 20 fies, limits, or otherwise affects—

21 (A) the application of, or obligation to  
 22 comply with, any law, including any environ-  
 23 mental or public health law; or

24 (B) the authority of the United States to  
 25 enforce compliance with the requirements of

- 1 any law or the agreement executed under sec-
- 2 tion 3(b)(2).

