

LAND IN FRANNIE, WYOMING; EDWARD H. McDANIEL
AMERICAN LEGION POST NO. 22; LAND IN WASHOE
CO., NEVADA; LAND TO THE UNIVERSITY OF NEVADA
AT LAS VEGAS; PARCEL OF PROPERTY TO BEAVER
CO., UTAH; AND AMEND THE RAILROAD RIGHT-OF-WAY
CONVEYANCE VALIDATION ACT

HEARING
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS
SECOND SESSION
ON

S. 155	S. 2085
S. 1521	S. 2285
S. 1826	H.R. 1658

MAY 5, 2004



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WEDNESDAY, MAY 5, 2004

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:32 p.m., in room SD-366, Dirksen Senate Office Building, Hon. Larry Craig presiding.

**OPENING STATEMENT OF HON. LARRY E. CRAIG,
U.S. SENATOR FROM IDAHO**

Senator CRAIG. Good afternoon everyone. The Subcommittee on Public Lands and Forests of the full Committee of Energy and Natural Resources will come to order.

This is a legislative hearing on S. 155, S. 1521, S. 1826, S. 2085, S. 2285, and H.R. 1658.

And in wishing you a good afternoon, let me also suggest a happy Cinco de Mayo. I would like to thank all of you for coming today. I would especially like to recognize Senator Hatch who is here to make a statement about S. 2285 and Senator Harry Reid who is here to make a statement on three bills affecting the State of Nevada. And they will introduce other witnesses from their States.

Before I turn to our primary witnesses, I will also yield Senator Craig Thomas. But I want to welcome to the committee Bob Anderson, Deputy Assistant Director of the Bureau of Land Management, and finally I want to thank our witnesses for taking time to come to Washington to testify. I know that you have traveled a long distance and your effort will help us better understand the need for the legislation that is before us.

We will be hearing the six bills that I mentioned today dealing with the conveyance issues. S. 155, introduced by Senator Enzi, to convey to the town of Frannie, Wyoming certain land withdrawn by

the Commissioner of Reclamation. That is the issue you will talk about, Senator. Is that correct?

Senator THOMAS. Yes, sir.

Senator CRAIG. We have three bills introduced by Senator Reid, as I mentioned. Senator, you are going to have to not only correctly pronounce the name of the town in Nevada. I think it is Pahrump, is it?

Senator REID. Perfect.

Senator CRAIG. How about that. I guess it is because I live in close proximity to the State of Nevada.

Then I am going to offer you a much larger challenge. You are going to have to tell me the origin of the community of Pahrump.

S. 1826 would convey land in Washoe County, Nevada, to the Board of Regents of the State University System.

And your third bill, S. 2085, would modify the requirements concerning land already conveyed to the Research Foundation at the University of Nevada, Las Vegas.

Senator Hatch has a bill on the agenda, S. 2285, which would convey a parcel of property in Beaver County, Utah.

And the final bill today, H.R. 1658, would validate and clear title to existing conveyances of certain lands in the State of California.

So with that, first of all, let me turn to my colleague, a member of the committee, Senator Thomas.

**STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR
FROM WYOMING**

Senator THOMAS. Thank you, Mr. Chairman.

Just very briefly, S. 155 is a bill that has been out here for almost 2 years or a year and a half. I do not think there is controversy, but I did just want to mention that it directs the Secretary to convey to the town of Frannie, Wyoming certain lands, reserving oil rights and so on.

Interestingly, Frannie is a town of 209 people. It wishes to gain ownership of the land described here. It is about an acre I think and they have been using it as a park, and for some reason or other, it seems to be difficult to get ownership changed. So the main concern, of course, the citizens of this town want to ensure that they continue to have the use of this park.

I have a letter to submit for the record. 80 out of 209 citizens have signed the letter. So there is a good deal of interest there.

[The letter follows:]

TOWN OF FRANNIE
Frannie, WY, August 4, 2003.

Hon. CRAIG THOMAS,
100 East B Street, Suite 2201, Casper, WY.

Re: S. 155

DEAR SENATOR THOMAS: Senator Mike Enzi has been assisting the Town of Frannie with Senate File 155, a bill to convey to the Town of Frannie certain land withdrawn by the Commissioner of Reclamation. The bill has been in the Committee on Energy and Natural Resources since January 14th, 2003.

We understand you serve as a member of the Energy and Natural Resources committee, and are writing to ask your help in getting the bill out of committee and passed.

As you know, Frannie is a small town (as most Wyoming towns are!) of 200 citizens. Passage of this bill will give the Town of Frannie ownership of land adjacent to property the town owns and on which sits our town hall, town park, and library.

Assurance of ownership will enhance the town's ability to store and protect public property and equipment. Part of the land included in this bill is now leased to us and used for a Centennial Park, which we want to continue as a public park. Additionally, the Frannie Elementary borders the north side of this block, and transfer of ownership will protect these public sites from commercial development.

Attached is a signature page of townspeople who support this bill.*

Our town clerk and council have been working on this transfer since April 1999; we would greatly appreciate your assistance in helping make this project a reality.

Sincerely,

DARREN WAGNER, *Mayor*,
DAVID TABOR, *Council Member*,
JOHN ELLIS, *Council Member*,
MURIAM A. ROBERTS, *Council Member*,
JERRY DART, *Council Member*.

Senator THOMAS. I appreciate your putting it on the list. My friend, Senator Enzi, has introduced this bill and I certainly urge us to move it forward. Thank you.

Senator CRAIG. Thank you very much.

Let me first turn to our colleague from Utah, Senator Hatch.

**STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR
FROM UTAH**

Senator HATCH. Well, thank you, Senator, and I appreciate the work that you do on this committee. It means a lot to us in Utah and elsewhere throughout the West. So I want to thank you for holding this hearing today on important lands-related bills and for allowing the consideration of my bill to convey a parcel of land to Beaver County, Utah for its administration as a county park.

Today it is my distinct pleasure to introduce to the committee two Beaver County Commissioners, Mark Whitney and Pat Yardley. They are sitting right back here. I appreciate Mark and Pat for traveling to attend this hearing. Commissioner Mark Whitney will provide testimony regarding the importance of this bill. Mark Whitney has served as a commissioner for 5 years now. He lives in Willford, Utah and has used the Minersville recreation area all of his life. He is an avid outdoorsman and has worked on this issue from the beginning. So, Mark, I welcome you and thank you for making the trip to testify before this committee regarding the importance of this bill.

I know Commissioner Whitney will do a good job explaining why this bill is so important and necessary, but I would just like to make a few brief points if I may.

I introduced S. 2285, the Beaver County Land Conveyance Act, because it is necessary. This bill is necessary to help Beaver County to be able to afford to administer the land as a park, and I would point out that the State of Utah administered the area as a State park for more than 40 years. Just as importantly, this bill is necessary to solve the dilemma that the Bureau of Land Management finds itself in today with regard to this land.

Very simply, this bill would allow Beaver County to obtain and maintain, without restrictions, the former Minersville State Park. In sum, this bill is required to allow county officials to sell a small portion of this land, if necessary, in order to offset funding needed to maintain and operate the park.

* Retained in committee files.

I will leave it to Commissioner Whitney to give the testimony about the history of the park. I just want to point out that as county officials stated during their negotiations, in order for Beaver County to afford the management of day-to-day operations of the would-be county park, they might need to be able to sell a small portion of the property to pay for park operations. However, after park management responsibility was transferred to the county, the BLM pointed out that the property had not yet been acquired through the Recreation and Public Purposes Act process, which would restrict the county's plan.

I do not believe that letting management of the park revert to the BLM is a viable option either. This park now features more than \$1 million worth of park facilities constructed by the State. The intensive day-to-day management of this park can be best accomplished by our local officials. If Beaver County acquires the property, it will continue to make this park an excellent recreational refuge, a superb fishery, and a great place to visit. Beaver County will be able to provide a clean and safe park enjoyed by all who visit.

Now, Mr. Chairman, that is why I introduced this legislation that would convey the Minersville park land to Beaver County. And I appreciate having my fellow Utah Commissioner, Mark Whitney, testify about this bill and I thank the committee for the opportunity to address this issue today. And I urge you and the rest of my colleagues to support this legislation. It would be very much appreciated by all of us in Utah.

Senator CRAIG. Well, Mr. Chairman, thank you very much, and we will look forward to the testimony of Commissioner Whitney.

Now let me turn to Senator Reid.

**STATEMENT OF HON. HARRY REID, U.S. SENATOR
FROM NEVADA**

Senator REID. Thank you very much, Mr. Chairman.

I would say to Senator Hatch, before he leaves, I went to school, as he knows, for a couple of years in southern Utah at Cedar City. I have never been to Minersville that I remember, but I remember fighting somebody from Minersville.

[Laughter.]

Senator REID. But I only remember the names of the people I beat, and so I do not remember his name but I know he was from Minersville. That is the first time I heard that name since that fight.

Mr. Chairman, thank you very much for holding this hearing. These three bills are all important for Nevada. Senator Ensign co-sponsors all three of these.

As we know, 87 percent of the land in Nevada is federally controlled and so we need most anything we do in Nevada to get the Federal Government's approval before we can do it, even simple community actions as indicated with the town in Wyoming getting an acre of land transferred. As the chair knows, we have had trouble getting areas that have been used for decades for cemeteries. We have to come to the Federal Government to get help on that. So we need your help on these three items. They are very important.

Pahrump, Nevada. The bill will make it possible for the American Legion to build a very, very nice center there, a veterans center and memorial garden. It will benefit the whole community. We have a very, very rapidly growing veterans population. Pahrump is about 55 miles from Las Vegas. It has become one of the bedroom communities for Las Vegas. They are talking about getting a new VA clinic there and lots of things, lots of veterans there, and this would be a tremendous help for us.

The other two bills make small changes that will help Nevada develop and support world-class research institutions. I am not going to read in detail the testimony, but if there are any questions the committee has, I and my staff would be happy to respond.

I would ask the full content of my statement be made part of the record.

Senator CRAIG. Without objection, that is what will happen, Senator.

Senator REID. I would say to the chair that Dr. John Gallagher, vice president for development at the University of Nevada, Las Vegas, and executive director of the Foundation, will testify on behalf of the bill that we spoke about earlier.

Dr. Stephen Wells, president of the Desert Research Institute, will also testify. We are very proud of the work that UNLV does. They have developed tremendous programs, as some of you may know. UNLV now is ranked No. 1 in the country for the hotel management school. It has just passed Cornell. It is a wonderful institution, and we are doing so much better in so many different areas. The bill that we need help with at UNLV will allow us to become an even better scientific institution.

The Desert Research Institute is a unique institution. It has numerous Ph.D.'s. Only 10 percent of their resources come from the State of Nevada. All the rest are Federal grants based on their academic excellence. There is no better example of that than the President of the university who is a renowned scientist in his own right.

So thank you very much for listening to me and giving the opportunity to Dr. Wells and Dr. Gallagher to testify.

[The prepared statements of Senator Reid follows:]

PREPARED STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA

ON S. 1826

Thank you, Mr. Chairman, for holding this hearing to discuss the conveyance of an important tract of land in Washoe County, Nevada, from the Bureau of Land Management to the University and Community College System of Nevada.

The University of Nevada owns 467 acres of public land located north of downtown Reno. In the early 1970s, the land was patented to the university pursuant to the Recreation and Public Purposes Act. Now known as the Dandini Research Park, it is the home of the Truckee Meadows Community College and the Desert Research Institute's Northern Nevada Science Center.

In just over 25 years, the Desert Research Institute has earned a well-deserved reputation as a world leader in atmospheric, hydrologic, geologic, and ecosystem sciences. Its researchers take a unique interdisciplinary approach to natural resource management, economic diversification, and science-based education. As we in the West continue to grapple with extended drought, it is especially vital that the Desert Research Institute continue to provide policy makers with the essential scientific information they need to manage scarce water resources in arid lands.

Having grown out of its original facility, the Desert Research Institute needs to expand its Northern Nevada Science Center. A private developer has agreed to build and finance the expansion and then lease it back to DRI.

There is only one obstacle to this innovative approach to financing the expansion: The terms of the patents and the restrictions imposed by the Recreation and Public Purposes Act do not allow for such an arrangement.

To rectify this problem, this bill directs the Secretary of the Interior to convey this property from the Bureau of Land Management to the University and Community College System of Nevada. Because of the significant public benefit provided by the Center, we ask that the land be conveyed for free, but that the University cover the costs of the transaction.

The Northern Nevada Science Center is an exceptional asset to the scientific and educational community in the Truckee Meadows. The Center serves not only the citizens of Washoe County, but the needs of all Nevadans and the western United States as well. It deserves the opportunity to grow and prosper with the northern Nevada community—one of the fastest-growing regions in the Nation.

Again, Mr. Chairman, I wish to express my appreciation for this hearing to examine this important bill for the people of Nevada.

ON S. 2085

Thank you, Mr. Chairman, for holding this hearing on my bill to promote development of the University of Nevada at Las Vegas Research and Technology Park. I am pleased to note that my friend from Nevada, Senator Ensign, is a cosponsor of this bill.

Mr. Chairman, we in Nevada have been working hard to establish the UNLV Research Foundation's Research and Technology Park in the greater Las Vegas area. When completed, the Park will provide a focus for high-tech education and research, and create entrepreneurial opportunities for cutting-edge companies. It will fuel UNLV research endeavors in public/private collaborations and drive much-needed diversification of the Southern Nevada economy.

Only one obstacle is blocking the fulfillment of this vision.

To complete build-out, the Research Foundation must be able to secure mortgages on the fair market value of the property. And to attract private financing to develop a successful research park, the Foundation needs a revenue stream to invest in UNLV supported research, and to provide resources for sustaining the park. Current law prohibits the Foundation from reinvesting the revenues generated from the proceeds of leases of the property.

The Southern Nevada Public Land Management Act of 1998 conveyed federal land to the Clark County Department of Aviation. Subsequently, through provisions in the Clark County Conservation of Public Land and Natural Resources Act of 2002, Congress transferred 115 acres of this land to the UNLV Research Foundation for construction of the research and technology park.

The bill you are considering today simply amends the Clark County Conservation of Public Land and Natural Resources Act of 2002 to allow the proceeds of the Foundation's research park leases to be used to pursue the Foundation's research mission.

Having the ability to invest the full proceeds of any lease of the land would provide funds for park infrastructure development, Research Foundation buildings and incubators, and a long-term revenue source to further enhance research at UNLV.

Thank you, Mr. Chairman, for holding this hearing. I look forward to working with you to enact this important legislation, and I appreciate your time.

ON S. 1521

Mr. Chairman, thank you for holding this hearing to discuss the conveyance of a small parcel of land to American Legion Post #22 in Pahrump, Nevada.

This bill is a simple one.

It would transfer approximately five acres of land managed by the Bureau of Land Management to the American Legion for the construction of a new community center.

The American Legion in Pahrump—where the veterans population has tripled in the last decade—has tried for over seven years to acquire a suitable tract of land for a new veterans facility.

Many years ago the Legion started a pledge campaign and raised money for the acquisition of a suitable property.

After this effort began, the parcel of land they sought to buy was removed from consideration for disposal by the BLM.

Unfortunately, other tracts of land that might represent alternative sites in Pahrump are not suitable.

So today I come before you to speak on behalf of this legislation that would provide the land needed by American Legion Post #22 to move forward with their planned construction of a post building, a veterans garden, and a memorial park.

In this time of war and constant vigilance, Mr. Chairman, I can't think of a more fitting thing for this body to do.

Through this legislation we can enable our brave veterans in their quest to build a space for remembering those who have given, as President Lincoln once called it, "the last full measure of devotion," to our nation.

The new American Legion hall in Pahrump will also be a place where other community organizations from Nye County—including the Veterans of Foreign Wars and a wide range of youth groups—can hold celebrations, convene meetings, and host other important community activities at no cost.

And to diminish any strain that this conveyance might put on our federal agencies, the American Legion will pay for all costs associated with this land transfer.

Mr. Chairman and distinguished committee members, thank you for your time and attention.

I hope that we can work together to move forward with this land conveyance that will benefit the people of Nevada.

Senator CRAIG. Senator Reid, thank you very much, and we will look forward to their testimony. But before you leave, you have not withstood the test of the chairman. Let us see how good your staff research is.

Senator REID. Always when you have the "pah," that is water. So we know it is water. And the "rump" is rock. So it is "water rock." Pahrump is a place where—

Senator CRAIG. Is it Indian?

Senator REID. Yes.

Pahrump is a place where we for 40 years grew cotton there, lots and lots of water, but we ran into a problem with endangered species and that slowed down the cotton farming. Now there is still some ranching there, but it is mainly a community that serves Las Vegas. It is in a different county than Las Vegas, but even the community college system in Clark County, Las Vegas is going to build a community college there.

So I appreciate very much attention and interest.

Senator CRAIG. Thank you. You have withstood the test, and we do appreciate it.

Senator REID. We have lot of towns named "pah" in Nevada.

Senator CRAIG. And that is Indian for rock.

Senator REID. Water, and "rump" is the rock.

Now, I do know what the water is but sometimes I get the other part of it mixed up because there are so many towns in Nevada with water in them, even though we do not have much water.

[Laughter.]

Senator CRAIG. I know that.

Well, now let me call Bob Anderson, Deputy Assistant Director for Minerals, Realty and Resource Protection, Bureau of Land Management, forward. Bob, welcome before the committee, and I know you are going to testify on a variety of the bills that are before us. Please proceed.

STATEMENT OF BOB ANDERSON, DEPUTY ASSISTANT DIRECTOR, MINERALS, REALTY AND RESOURCE PROTECTION, BUREAU OF LAND MANAGEMENT

Mr. ANDERSON. Thank you, Mr. Chairman, and thanks for inviting me to testify regarding a number of land conveyance bills of in-

terest to the Bureau of Land Management, BLM. I will briefly summarize my written statement as follows.

H.R. 1658 is a private bill which amends the Railroad Right-of-Way Conveyance Validation Act of 1994, Public Law 103-2. That act validated the conveyances of 50 small tracts of land in Nevada and San Joaquin Counties, California.

The bill before us today amends that act by adding two additional small parcels in San Joaquin County at the northern end of the city of Stockton. We see no conflict in clearing title for these lands through this legislation and, therefore, have no objection to H.R. 1658.

S. 2285 proposes to convey approximately 200 acres surrounding the Minersville Reservoir to Beaver County, Utah. The administration supports the conveyance, but would suggest a few modifications to the legislation.

The legislation authorizes Beaver County to sell at fair market value portions of the property. Those proceeds may be used only for the maintenance and further development of the public recreation facilities on the site.

We support this proposal as a creative solution to a difficult problem. However, we recommend the elimination of the reversionary clause in section 1(c) to avert a situation where the BLM would be responsible for managing a small local park or to abandon its use as a park, either of which it is ill-prepared to do. We believe the requirements of section 1(b), limiting the use of sale proceeds specifically for the operation and maintenance of the park, are adequate to protect the interests of the public.

We would also like the opportunity to work with the committee on an appropriate map of the area to be conveyed.

The administration has a few comments with S. 1521 that we would like to work with you on. The main concern is that the tract identified for conveyance in S. 1521 has not been identified for disposal by BLM. The BLM would like to work with the committee and the American Legion Post No. 22 to identify an alternate site within the over 9,300 acres of public lands in the area currently identified as suitable for disposal.

The legislation directs the Secretary of the Interior to transfer the lands identified within 120 days. This requirement results in time concerns relative to BLM's ability to fulfill certain requirements associated with the land conveyance, as well as our responsibility under the National Environmental Policy Act and other required clearances.

So we would like to take this opportunity to work with you and American Legion Post No. 22 on these concerns.

The BLM originally patented the lands referenced in S. 1826 to the Board of Regents of the University and Community College System of Nevada in 1972 and 1974. Subsequent legislation, Public Law 99-358, in 1986 provided for the development of a research park on these lands. S. 1826 would transfer the remaining right, title, and interest of the United States in these lands to the Board of Regents without further restrictions.

The administration supports S. 1826 but would like to clarify what constitutes "net proceeds" in section 2(c)(2) of the bill.

The administration does not support S. 2085, which would amend the Clark County Conservation of Public Land and Natural Resources Act of 2002. The Clark County Act gives the Department of Aviation the discretion to convey, without consideration, 115 acres identified for use by the University of Nevada at the Las Vegas Research Foundation. Currently if the foundation chooses to sell or lease portions of the 115 acres that it does not use for the research park, any proceeds are deposited into accounts following the general guidelines established in the Clark County Act. That is, 85 percent would go to the special account established for the Southern Nevada Public Lands Management Act and 5 percent would go to the State of Nevada for general education. The remaining 10 percent would be available for use by the foundation.

S. 2085 amends the Clark County Act by allowing 100 percent of the proceeds from the sale or lease of lands by the foundation to go directly to the foundation. We believe that proceeds from any sale or lease of lands by the foundation under the Clark County Act should be distributed as established in current law, which I just mentioned a few seconds ago.

Finally, the Bureau of Reclamation has submitted a statement for the record on S. 155, a bill to convey to the town of Frannie, Wyoming certain lands withdrawn by the Commissioner of the Bureau of Reclamation. We ask that this statement be included in the hearing record.

Senator CRAIG. Without objection.

[The prepared statement of the Bureau of Reclamation follows:]

PREPARED STATEMENT OF THE BUREAU OF RECLAMATION, DEPARTMENT OF THE
INTERIOR, ON S. 155

This statement presents the views of the Department of the Interior on S. 155, a bill to require the Secretary of the Interior to convey certain land withdrawn by the Commissioner of Reclamation consisting of approximately 37,500 square feet located in the N½ of block 26, T.58 N., R.97 W., to the Town of Frannie, Wyoming. This land was originally withdrawn from the public domain on April 19, 1920, for reclamation purposes and is managed by the Bureau of Reclamation. Reclamation has concluded that it does not have any continuing project need for the land or any vested interest in or ownership of any appurtenances on the land. The Bureau of Land Management (BLM) conducted a survey of the land and determined that the land is no longer suitable for return to the public domain and management under the public land and mining laws.

The Town of Frannie has title to the S½ of Block 26, the adjacent parcel, which is where the Town Hall is located. In addition, pursuant to a Special Use Permit issued by the Bureau of Reclamation in 1990, the Town uses the NE¼ of Block 26 for the Wyoming Centennial Garden." The Deaver Irrigation District ("Deaver") managed this land for the Bureau of Reclamation. Previously, Deaver authorized the relocation of a building on the NW¼ of the Block, which was subsequently conveyed to the Town of Frannie and is now being used as a meeting hall by the Town.

S. 155 would direct the Secretary of the Interior to convey, without consideration, all right, title, and interest of the United States in and to the parcel of land to the Town of Frannie. The bill would also revoke the Special Use Permit with the Town of Frannie for the Centennial Garden City Park and Secretarial Orders issued by the Commissioner of Reclamation which withdrew the land for the Shoshone Project in 1913 and the Frannie Townsite Reservation in 1920.

It is customary for the Department to seek fair market value for land proposed for transfer. However, in this case, given that the parcel is less than one acre, its value is minimal as compared to the costs associated with the process of selling it, and the Town currently uses the land for the benefit of the public, the Department has determined that it can support S. 155, provided that the bill is modified to include language that more clearly describes the means by which the Secretary would convey this property. Similar legislation was passed in 1994 by Title VI of P.L. 103-434, directing the Secretary to convey certain lands which are adjacent to the lands

proposed for transfer under S. 155, by quitclaim deed, to the Big Horn County School District. The Department recommends that the words "by quitclaim deed" be added in subsection (a) after "the Secretary of the Interior shall convey," which would then read "the Secretary of the Interior shall convey, by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Town of Frannie, Wyoming."

Thank you for the opportunity to detail the position of the Department of the Interior on S. 155.

Mr. ANDERSON. Thank you for the opportunity to present this testimony today, and I will be happy to answer your questions.

[The prepared statement of Mr. Anderson follows:]

PREPARED STATEMENT OF BOB ANDERSON, DEPUTY ASSISTANT DIRECTOR, MINERALS, REALTY AND RESOURCE PROTECTION, BUREAU OF LAND MANAGEMENT, ON H.R. 1658, S. 2285, S. 1521, S. 1826, AND S. 2085

Thank you for inviting me to testify regarding a number of land conveyance bills of interest to the Bureau of Land Management (BLM).

H.R. 1658

H.R. 1658 is a private bill which amends the Railroad Right-of-Way Conveyance Validation Act. The administration has no objection to H.R. 1658.

In 1994, the Congress passed H.R. 1183, Private Law 103-2. The Act validated the conveyances of 50 small tracts of land in Nevada County and San Joaquin County, California. The lands involved were originally part of the right-of-way grant of the United States to the Central Pacific Railroad by an 1862 Act of Congress. The Southern Pacific Railroad (the successor to Central Pacific) appears to have made conveyances of small tracts of land in some of these cases, and in others, adjacent landowners have made inadvertent encroachments. Under the original Act of 1862, a Federal reversionary interest existed if these rights-of-way were abandoned by the railroad. The 1994 Act was necessary to remove any cloud on the title of these small landowners.

The bill before us today amends the underlying 1994 Act by adding two additional small parcels in San Joaquin County, California. The parcels in question are at the northern end of the city of Stockton, California. According to the master title plat, maintained by the BLM, these parcels have been in private ownership for nearly a century. We see no conflict in clearing title for these lands through this legislation. As with the underlying Act, the mineral estate of these lands will continue to be reserved to the Federal government, and the lands will continue to be unavailable to all forms of mineral entry.

S. 2285

S. 2285 proposes to convey approximately 200 acres surrounding the Minersville Reservoir to Beaver County, Utah. The Administration supports the conveyance, but would like to recommend a few modifications to the legislation.

In 1963, the BLM first granted a patent to Beaver County, Utah, for the lands that are now part of Minersville State Park pursuant to the Recreation & Public Purposes Act (R&PP) (43 U.S.C. 869 *et seq.*). In 1964, title was transferred to the State of Utah Division of Parks and Recreation. Over the years the State made substantial investments in the park facilities including campgrounds, restrooms, and an entrance station. In 2002, the State of Utah moved to transfer title to Beaver County as part of cost cutting efforts.

However, because the State did not have authority under the R&PP Act to transfer title, such an action was not possible. Beaver County has indicated that it will not accept a transfer of the lands because of the restrictions associated with the R&PP Act. Specifically, the reversionary clause prevents the re-sale of lands transferred under the R&PP Act.

Beaver County, however, is willing to take over the park if it has an opportunity to create a funding source. The County proposes to sell some of the undeveloped lands within the park for cabin sites and use the revenue generated from the sales to operate and maintain the park for the benefit of the people of Beaver County and visitors. Under the provisions of the R&PP Act such sales would result in a reversion to the BLM. The BLM does not object to this proposal because this type of small, local park is most appropriately operated and maintained by a local government.

S. 2285 proposes to transfer all right, title and interest of the United States for the approximately 200 acres to Beaver County. Beaver County would then be authorized by the legislation to sell, at fair market value, portions of that property. The legislation further directs that those proceeds may be used only for the maintenance and further development of the public recreation facilities on the site.

Normally we would require payment of fair market value for any interest in lands conveyed without the requirement that they be used for a public purpose. However, we recognize the unique circumstances here, including the historical use of the area as a park, and support this proposal as a creative solution to a difficult problem. However, we recommend the elimination of the reversionary clause in section 1(c), which provides for the reversion of the site to the United States if the provisions of the Act are not complied with, and the elimination of a subsequent requirement that Beaver County repay to the United States any payments received from sales of land. We recommend the elimination of the reversionary clause to avert a situation where the BLM would be responsible for managing a small local park, or abandoning its use as a park, either of which we are ill prepared to do. We believe the requirements of section 1(b), limiting the use of sale proceeds specifically for the operation and maintenance of the park, are adequate to protect the interests of the Federal government.

Finally, we would like the opportunity to work with the Committee on an appropriate map of the area to be conveyed.

NEVADA LANDS BILLS

Let me now turn to three Nevada lands bills, S. 1521, the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act;" S. 1826, the "Dandini Research Park Conveyance Act;" and S. 2085, the "University of Nevada at Las Vegas Research Foundation Reinvestment Act." These bills provide for the conveyance of public lands to various entities. The Administration supports the goals of S. 1521 and S. 1826, but would like to work with the Committee to address certain concerns and clarify technical issues discussed more fully below. The Administration does not support S. 2085.

S. 1521

The Administration has a number of concerns with S. 1521 as introduced. First, the tract to be conveyed under S. 1521 has not been identified for disposal under the current land use plan, which was adopted in 1998. The BLM would like to work with the Committee and the American Legion Post No. 22 to identify an alternate site within the over 9,300 acres of public lands in the area currently identified as suitable for disposal in the current land use plan.

Second, the legislation directs the Secretary of the Interior to transfer the lands identified within 120 days. This requirement results in time concerns relative to the BLM's ability to fulfill certain requirements associated with the land conveyance, which include, among others, conducting a cadastral survey and performing hazardous substances and cultural resources clearances. This is in addition to the ability to fulfill requirements under the National Environmental Policy Act (NEPA). Selection of alternate lands that are currently identified for disposal in the land use plan could help alleviate the conflict created between the time limitation and the requirement to comply with applicable Federal laws, although more time may still be needed.

Third, the Administration requests an addition to the reversionary clause to provide for the sale of these lands by the transferee, with the sale proceeds going to the Federal government, as an alternative to reversion. This would protect taxpayers from assuming potential liabilities that might arise by giving the Federal government discretion regarding the reversion.

Finally, the BLM, as a matter of practice, receives fair market value for land being transferred out of public ownership. For conveyances to non-governmental entities that qualify under the Recreation and Public Purposes Act, the United States receives 50 percent of fair market value. We would like to work with the Committee to address these concerns so that the necessary work can be completed and public notice and participation can occur.

S. 1826

The BLM originally patented the lands referenced in S. 1826 to the Board of Regents of the University and Community College System of Nevada in 1972 and 1974. Subsequent legislation, Public Law 99-358, provided for the development of a research park on the conveyed lands. P.L. 99-358 restricts the Board of Regents'

use of the patented lands to research and development activities. S. 1826 would provide the remaining right, title and interest of the United States in these lands to the Board of Regents, which would allow the University full discretion in the use or sale of these lands, with proceeds returned to the Secretary of the Interior.

The Administration supports S. 1826, but requests technical corrections to add specificity to the conveyance, clarify "market value," and modify the disposition of "net proceeds" in Section 2(c)(2) of the bill as introduced.

S. 2085

The Administration opposes S. 2085, which would amend Section 702(b)(2) of Public Law 107-282, the "Clark County Conservation of Public Land and Natural Resources Act of 2002". Under the Clark County Act, 115 acres of land in Clark County, Nevada, that were conveyed to the Clark County Department of Aviation in the Southern Nevada Public Lands Management Act (SNPLMA), are identified as suitable for use by the University of Nevada at Las Vegas Research Foundation for the construction of a research park and technology center. The Clark County Act gives the Department of Aviation the discretion to convey without consideration the 115 acres identified for use by the Foundation. If the Foundation chooses to sell or lease portions of the 115 acres that it does not use for the research park, any proceeds follow the framework of Section 702(b)(2) of the Clark County Act, in that 85 percent of these proceeds are to be deposited into a special account for conservation purposes, 5 percent of these proceeds are to be provided to the State of Nevada for education programs, and the remaining 10 percent of the proceeds are to be available for use by the Foundation. This framework was developed based on SNPLMA.

S. 2085 amends the Clark County Act by allowing all proceeds from the sale or lease of lands conveyed to the Foundation to go directly to the Foundation. The Administration's decision to support the original Foundation provision in the Clark County Act was premised on the assumption that the Foundation would develop research facilities on the land, and that land not utilized by the Foundation for development of these facilities would be sold and the proceeds dispersed under the framework described above. SNPLMA and the Clark County Act were both carefully crafted to assure that land sales and the disbursement of the proceeds would meet the demand for community expansion, economic development, and the conservation of environmentally sensitive land.

Under S. 2085, the lands conveyed to the Foundation would be available to be sold or leased by the Foundation for any purpose, whereas the original intent of the conveyance was to provide these lands for research purposes.

In order to assure that the public interest is met, and to be consistent with the provisions in SNPLMA and the Clark County Act, we believe that the proceeds from any sale or lease of lands conveyed to the Foundation under the Clark County Act should be distributed as established in current law.

We look forward to working with the Committee and local interests to address the concerns we have identified in S. 1521 and S. 1826. We hope the Committee will reconsider S. 2085 in light of the concerns we have raised in this testimony.

Thank you for the opportunity to testify. I'll be happy to answer any questions

Senator CRAIG. Well, Bob, we have just had a vote start, and I am going to try to get these other folks before us, because we have several votes in a row. I have a series of questions here, and I will submit them to you in writing. If you would respond to them specific to your concerns and the bureau's concerns. Of course, we will work with you and with the Senators involved to try to work out these differences prior to moving the legislation out of the committee. Thank you very much for your testimony. Appreciate it.

With that, let me call forward our second panel, Commissioner Mark Whitney, Dr. John Gallagher, and Dr. Stephen Wells. I thank all of you for being here. Your full testimony will become a part of the record. We hope you can stay to our 5-minute request.

Commissioner, we will start with you. You have already been appropriately introduced by your senior Senator, and we appreciate that. But you are one of the commissioners from Beaver County, Utah. Welcome. Please proceed.

**STATEMENT OF MARK WHITNEY, COUNTY COMMISSIONER,
BEAVER COUNTY, UT**

Mr. WHITNEY. Well, thank you, Mr. Chairman, a very good afternoon. As you have said, I am Mark Whitney. I am a member of the Beaver County Commission and I am here to provide special comments on Minersville Reservoir conveyance, S. 2285.

S. 2285 would convey approximately 200 acres of Bureau of Land Management property to Beaver County. These 200 acres are located in rural Utah on the shore of Minersville Reservoir between the communities of Beaver and Minersville.

From 1963 to 2002, this property was managed by the State of Utah as the Minersville State Park under a lease with the BLM through the Recreation and Public Purposes Act. During this time, the State constructed campground facilities, a boat launch ramp, a park, a pavilion, an entrance station, and a maintenance building on the property.

In April 2002, Beaver County was informed that the State of Utah would be closing the Minersville Park due to budget cuts. We were told the Minersville State Park was losing approximately \$90,000 annually.

Shortly thereafter, we convened discussions with the local BLM office to determine the options for the future of the property. The local BLM office staff told us that the existing facilities would be removed from the property and the property would have to be reclaimed back to its native condition unless another governmental entity took over the lease with the BLM. There are no other governmental entities other than Beaver County interested in managing the park.

The park is very important to the residents of Beaver County. We do not want to see the park demolished. However, as with State, Beaver County with its limited resources and small tax base does not have the funds to subsidize the park indefinitely. We feel that in order for the county to be able to increase the usage of the park, to the point that it can generate its own revenue, we need more than a lease. We need to own the property. As we move forward with the park, we need the flexibility to develop the park in a manner that will increase its usage. S. 2285 would allow us this flexibility.

For example, under S. 2285, the county would be allowed to develop certain lots in harmony with the surrounding environment which could be sold for vacation homes, a lodge, rental vacation cabins, et cetera. This would increase the usage of the park and also provide revenues that could only be used for maintenance and improvements at the park.

I am confident that with S. 2285, the Minersville Reservoir will become successful without becoming a burden on the taxpayers of our county. I also feel that the reversion clause in the bill does an excellent job of assuring the United States the property will always be taken care of properly.

I look forward to working with you further on this bill and would be happy to answer any questions at this point.

Senator CRAIG. Commissioner, thank you very much. We will go to our other witnesses before we come back for questioning. Now

let me turn to—well, we will stay in order—Dr. Wells, Stephen Wells, president, Desert Research Institute, Reno, Nevada.
Dr. Wells.

**STATEMENT OF DR. STEPHEN G. WELLS, PRESIDENT, DESERT
RESEARCH INSTITUTE, RENO, NV**

Dr. WELLS. Good afternoon. For the record, my name is Steve Wells. I am president of the Desert Research Institute, which is the Nevada System of Higher Education's environmental research campus.

Mr. Chairman and members of the subcommittee, I want to thank you for the opportunity to submit this testimony regarding S. 1826. As you know, S. 1826 was introduced on November 5, 2003 and directs the Secretary of the Interior to convey land in Washoe County, Nevada to the Board of Regents of the University and Community College System of Nevada.

The University and Community College System of Nevada, which I will here refer to as the "university," is the holder of two patents from the BLM for land located north of downtown Reno. A total of 467.3 acres was patented to the university pursuant to the Recreation and Public Purposes Act in 1972 and in 1974.

The lands, known as the Dandini Research Park, are home to DRI's Northern Nevada campus and the campus of the Truckee Meadows Community College.

The lands serve three primary purposes: housing scientific, academic, and research and development programs, all supporting economic and work force development within Nevada.

Unfortunately, the university is limited by the terms of the patents in regards to the uses that are allowed on the property. First, the university may not use the lands as security in development transactions, and second, the land is subject to BLM's definition of research activities and services.

Restrictions attached to the patents act as significant barriers to the university's ability to develop these lands in the best interests of the Nevada public and to operate a research park that provides a site for technology transfer, science-based economic development, and partnering among academic, governmental, and industrial sectors.

In 1986, the university was successful in having legislation passed that allowed the university to lease property and buildings to the research park tenants.

Yet, in 1999, the Department of the Interior's regional solicitor told the Nevada congressional delegation that while legislation is set aside, certain restrictions on the use of the patented lands mandated in the R&PP Act, the ability of the university to develop the research park is not unqualified. The solicitor indicated that any attempt to use the land as security or collateral for private financing of building construction would be considered a violation of the act because such an action would convey a potential ownership interest in the patented lands to a third party.

This interpretation is seen by potential partners as a risk that significantly decreases the attractiveness of participating in a research park. Development of the research park and all of the public

benefits that would result from its development are hindered by this constraint.

DRI has two primary goals with respect to these lands: to expand its existing Northern Nevada Science Campus and to promote the development of the research park. However, these two goals are inhibited since both private developers and the university's legal council view the R&PP Act as an impediment to financing such development.

In November 2003, Senators Reid and Ensign introduced S. 1826, the legislation that directs the Secretary of the Interior to convey the 467.3 acres from BLM to the university system. It is important to note that the university would cover the costs of these transactions.

On behalf of the institution, the research park's board, the DRI Research Foundation, and local economic development agencies, I strongly endorse this bill. It would allow DRI to realize the development of a research park. This is important to the citizens of Nevada who stand to benefit economically and socially by an expansion of the research enterprise. For this reason, I am here today to underscore how significant it is that this legislation be passed.

Thank you again for this opportunity, and I will answer any questions.

[The prepared statement of Dr. Wells follows:]

PREPARED STATEMENT OF DR. STEPHEN G. WELLS, ON BEHALF OF THE DESERT
RESEARCH INSTITUTE (DRI)

Mr. Chairman and members of the Subcommittee, I thank you for the opportunity to submit this testimony regarding S. 1826. S. 1826 was introduced on November 5, 2003 and directs the Secretary of the Interior to convey land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada.

The University and Community College System of Nevada ("the University") is the holder of two patents from the Department of Interior's Bureau of Land Management (BLM) for public land located north of downtown Reno. The land was patented to the University pursuant to the Recreation and Public Purposes Act ("R&PP Act"), with 158.22 acres patented on July 17, 1972, and 309.11 acres patented on August 29, 1974 for a total of 467.33 acres. The lands, which are now known as the Dandini Research Park, are currently being used by the Desert Research Institute ("DRI") and by Truckee Meadows Community College. They house DRI's Northern Nevada Science Campus and they are the site of DRI's research park.

The University is limited by the terms of the patents as to the uses to which it can put the property. Specifically, the patents, and the R&PP Act, require that the property be used only for "public purposes," and state that the University may not "transfer control" of the property. Moreover, the patents require the University to file and follow a plan of development that must be approved by the BLM. The conditions that adhere to the patents are now acting as a significant barrier to the University's ability to manage and develop these lands in the best interests of the Nevada public, specifically to operate a University-sponsored research park that provides a site for technology transfer, science-based economic development, and partnering among the academic, governmental and industrial sectors.

For example, the BLM initially disapproved of the development of the research park because it believed that leasing portions of the property to other entities would have constituted a transfer of control. However, in 1988, the University was successful in having legislation passed (P.L. 99-358) that allowed the University to lease property and buildings to research park tenants.

Nonetheless, in 1999 the Department of the Interior's Regional Solicitor told the Nevada Congressional delegation that while P.L. 99-358 set aside certain restrictions on the use of the patented lands mandated by the R&PP Act, the ability of the University to develop the research park is not unqualified. Specifically, the Solicitor indicated that "any attempt to use the land as security or collateral for private financing of building construction . . ." would be considered a violation of the

Act because such an action would convey a potential ownership interest in the patented lands to a third party. This interpretation is seen by potential partners as a risk that significantly decreases the attractiveness of participating in a research park. Development of the research park and all of the public benefits that would accrue from its development are hindered by this constraint.

DRI also wishes to expand its existing Northern Nevada Science Campus and is considering the use of an innovative means of financing the expansion by which a private developer would build and finance the expansion and lease it back to DRI. However the private developers with whom DRI has discussed the matter as well as DRI's counsel view the R&PP Act as an impediment to such an arrangement.

In order to address these concerns, in November of 2003, Senators Reid and Ensign introduced S. 1826. This legislation directs that the Secretary of Interior convey the 467.33 acres from the BLM to the UCCSN. The University would cover the costs of the transaction. Obviously, I strongly endorse this bill, as it would allow DRI to begin to pursue its research park and to expand its own research facilities. These projects are important to the citizens of Nevada who stand to benefit economically and socially by an expansion of the research enterprise. For this reason, I am here today to underscore how critical it is that this legislation be passed.

Once again, I appreciate the opportunity to appear before you today. Thank you for your consideration of this request. I would be happy to answer any questions you might have.

Senator CRAIG. Doctor, thank you very much.

Now let me turn to our last panelist, Dr. John Gallagher, vice president for development, executive director of UNLV's Foundation, University of Nevada, Las Vegas.

Doctor, welcome to the committee.

**STATEMENT OF JOHN F. GALLAGHER, Ph.D., VICE PRESIDENT
FOR DEVELOPMENT, UNIVERSITY OF NEVADA, AND EXECUTIVE
DIRECTOR, UNLV FOUNDATION, LAS VEGAS, NV**

Dr. GALLAGHER. Thank you, Mr. Chairman. My name is John Gallagher. I am the vice president for development at the University of Nevada, Las Vegas, and in that capacity I am also the executive director of the UNLV Foundation. The UNLV Foundation is a nonprofit organization that raises and manages private funds, undertakes certain construction activity, undertakes some real estate activity, and provides a number of other services to the university. I am also today joined by my colleague, Tom Williams, who is here in the audience with us.

I am here today to ask the committee to support the passage of S. 2085, the University of Nevada at Las Vegas Research Foundation Reinvestment Act.

The University of Nevada, Las Vegas is a major research institution. In 2001, the university established the UNLV Research Foundation under the general organizational umbrella of the UNLV Foundation as a nonprofit affiliate of the university. The purpose of the research foundation is to encourage and support research activities at UNLV, to facilitate the creation of intellectual property, facilitate the commercialization of the products of research activity by UNLV faculty members, and support economic diversification in southern Nevada through research activities at UNLV.

As a result of the enactment of the Clark County Conservation of Public Land and Natural Resources Act of 2002, 115 acres of formerly public land in the Las Vegas Valley in the possession of Clark County's McCarran Airport was authorized to be conveyed to the UNLV Research Foundation for the creation of a research and technology park. The park, when completed, will be a location for basic and applied research, as well as a location for science and

technology-based companies whose work supports the university's mission.

The UNLV Research Foundation must attract private funding in order to develop the research park over time. It is not any kind of a misstatement to say that public money in Nevada is not going to be available for that kind of activity. In order to so, that is, in order to attract private funding, it must have the ability to secure mortgages in the commercial markets and return and utilize any proceeds from the lease of the property. In other words, the ability to lease the property to secure action through those leases with private commercial ventures provides the funding to build out the research park. This is a standard finance mechanism in the private sector. Such leases and related conveyances are the only available sources for the funds to accomplish the goals associated with the research park both for the university and for the community.

The statute, as currently enacted, requires that the proceeds of any lease or sale or conveyance of this property go to entities unrelated to the purposes of the research park or of the university, and so it would defeat the entire intention of the original research park concept.

Neither the university nor the research foundation envisions a time when we will sell this property. We understand that this property is an immensely valuable resource for the people of the State of Nevada. We do, however, need the ability to utilize the underlying value of the ground through the form of lease activity in order to finance the development of the research park.

University-affiliated research parks are not new. There are well over 300 of them around the country. Parks located at major universities in California, for example, or the famous Research Triangle in North Carolina, or many others around the country provide examples of the way science and technology research parks can enhance the capabilities of a university and provide many benefits to communities. We believe that the UNLV research park will do all of these things. It will strengthen the economy in southern Nevada, lead to further economic diversification, particularly of high value jobs in the region, and provide for general business growth and expansion.

Once again, we strongly urge the subcommittee to support the enactment of S. 2085 to allow the University of Nevada, Las Vegas to gain the full economic use of this land in order to develop the research park.

Thank you for this opportunity to be here, and I too will be happy to answer questions.

[The prepared statement of Dr. Gallagher follows:]

PREPARED STATEMENT OF JOHN F. GALLAGHER, PH.D., VICE PRESIDENT FOR
DEVELOPMENT, UNIVERSITY OF NEVADA, LAS VEGAS

Mr. Chairman, members of the Committee, my name is John F. Gallagher, Vice President for Development at the University of Nevada, Las Vegas and the Executive Director of the UNLV Foundation. The UNLV Foundation is a nonprofit organization that raises and manages private funds, and undertakes certain construction and other projects, for the benefit of the University (UNLV). This work enhances the quality of the University and strengthens its mission of teaching, research, and public service. I am also joined today by my colleague, Thomas F. Williams, who serves as the Executive Director of the UNLV Research Foundation.

I am here today to ask that the Committee support the passage of S. 2085, the "University of Nevada at Las Vegas Research Foundation Reinvestment Act".

The University of Nevada, Las Vegas is a major research institution, the only university-level educational and research entity in Southern Nevada. In 2001 the University established the UNLV Research Foundation under the general organizational umbrella of the UNLV Foundation as a nonprofit affiliate of the University of Nevada, Las Vegas.

The purposes of the Research Foundation are to encourage and support research activities at UNLV; facilitate the creation of intellectual property; facilitate the commercialization of the products of research activity by UNLV faculty members, laboratories and programs; and support economic diversification in Southern Nevada through research at UNLV.

As a result of the enactment of Clark County Conservation of Public Land and Natural Resources Act of 2002, (Public Law 107-282), 115 acres of formerly public land in the Las Vegas Valley, in the possession of Clark County's McCarran International Airport, was authorized to be conveyed to the UNLV Research Foundation for the creation of a research and technology Park. The Park, when completed, will be a location for basic and applied research, as well as a location for science and technology based companies whose work supports the University's mission.

The Park will support additional UNLV research; enable public/private collaborations; create technology jobs; and encourage economic diversification in Nevada. The businesses and organizations that locate in the Park will employ University students and provide internship opportunities. Park tenants may use University facilities, while University faculty and researchers likewise will join in the Park tenants' research and technology work.

The UNLV Research Foundation must attract private funding in order to develop the Research Park over time, and must also provide an ongoing revenue stream to operate the Park. In order to do so, it must have the ability to secure mortgages in the commercial markets, and to retain and utilize any proceeds from the lease or conveyance of any of the property. Such leases and related conveyances are the only available sources for the funds to accomplish the University and community goals associated with the Park.

The statute as currently enacted requires that 90% of the proceeds of any lease, sale or conveyance of this property go to entities unrelated to the purposes of the UNLV Research Foundation or the University. This provision makes it impossible for the Research Foundation or the University to raise the funds needed to develop the Park, provide funds to operate the Park, or return any of the long-term benefits of this activity back to the University and community.

Neither the University nor the Research Foundation envision a time when the land will be sold. However, the ability to reinvest the full proceeds of any lease of the land will provide the funds to build the Park's infrastructure, science and technology buildings, and research incubators. This ability will also allow the University to structure a long-term revenue stream to support the activities at the Park.

University Affiliated Research Parks are not a new phenomenon. Parks located adjacent to major universities in California, the famous Research Triangle in North Carolina, as well as Parks in many other parts of the country, provide examples of science and technology Parks that have contributed to major economic changes to the regions in which they are located. We believe a UNLV Park will also strengthen the economy of Southern Nevada and lead to further economic diversification in the region. The benefits to the community will include the creation of high-value jobs, business growth and expansion, improved opportunities for Nevada's workers, and less dependence on the region's primary tourist based industry.

Once again, we strongly urge the Committee to support the enactment of S. 2085 to allow the University of Nevada, Las Vegas to gain the full economic use of this land to the benefit of the Las Vegas valley and the entire State of Nevada.

Thank you for this opportunity. I would be happy to answer any questions the Committee may have.

Senator CRAIG. Well, I thank you. I am going to set the committee in recess for a few moments, run over and vote and return.

Bob, if you would stay. There may be some questions of you. I wanted to make sure that all of our witnesses who have traveled the distance you have are treated appropriately and properly before the committee, and there are several questions we will want to engage you in. So if you will stay for a few moments. There are two votes that I need to make. I am catching the tail end of one and

the beginning of another, and I should be back in the next 5 to 10 minutes. Thank you.

The subcommittee will stand in recess.

[Recess.]

Senator CRAIG. The subcommittee will reconvene. If we could ask the commissioner, the two doctors, and Bob to come to the table, we have got a few questions of you. It will be merciful and limited in character.

Bob, let me talk, if I could, about Minersville State Park in Utah. You testified the BLM recommends eliminating the reversionary clause and the requirement for Beaver County to repay the United States for sales of land.

Can you explain why and how this bill differs from other conveyances?

Mr. ANDERSON. In S. 2285, we are doing away with the reversionary clause, as we would for Beaver County. Also, we testified here some weeks back about another site in Nevada. It was an R&PP, Recreation and Public Purpose Act, conveyance of a cemetery called Maiden's Grave. We recommended that the reversionary clause be deleted at that time because BLM did not want to be managing a cemetery if it reverted back to the United States. So there are a couple of examples.

So every case is different, I think, in terms of R&PP conveyances, in looking at the reversionary clause and how it might impact us and the public. If it is in the interest of the public, we are going to take a hard look at it.

Senator CRAIG. In S. 1521, has BLM had any discussions with the American Legion Post about its proposal to identify an alternate site? That would be the first question specific to that.

Mr. ANDERSON. I understand that there have been discussions and I think the American Legion is pretty set on that particular tract of land. But we would like to continue to work with them to see if we cannot find something that might expedite this disposal on another piece of land that we have already designated as suitable for disposal.

Senator CRAIG. If the post were to receive the land specified in the bill, would it result in a land pattern that is less manageable for BLM? Other than designated for disposal, is there any other objection to this piece of land?

Mr. ANDERSON. No. It would not cause any disruption in management because the tract is bounded on one side by a highway. But we have had people on-site and our appraiser has characterized the site as having very high commercial value. Very high. So this is another reason that we might think another site might be more suitable.

Senator CRAIG. We will take a look at that. If it is close to Nevada and it is available land or land that could be made available, my guess there is a high value to it based on the character of what is going on out there.

Both S. 1826 and S. 2085 provide Nevada universities authority to sell certain lands previously conveyed. One of the bills you support and one of the bills you oppose. Can you explain why?

Mr. ANDERSON. Well, S. 1826, of course you heard the testimony there. There the regents may dispose or lease the lands, but those proceeds would come back to the Secretary.

In the other case, S. 2085, they would not. They would stay with the foundation. Right now, if the lands are conveyed by the county board for aviation to the foundation, the foundation would, in fact, be able to keep 10 percent of the proceeds. Under this bill, they would be able to keep 100 percent, and those lands have very high values.

Senator CRAIG. Well, I have several other questions that we will send to you and ask for your response in writing. But thank you. I appreciate that.

Let me turn to you, Mark. Can you briefly describe how you see the county managing the site if the bill passes?

Mr. WHITNEY. Well, currently at this point, Beaver County does not manage any recreational sites. It is kind of a vision and it is a small area. Recreation has become very important and growing out there, especially desert type of recreation, trails, for example, and it is kind of the vision of the current county commission to take a lead on that to enhance because we realize we have got a special niche on that and we feel like we can do a good job at doing that.

Senator CRAIG. I am looking at those properties right now, the aerial view that you provided us.

Does Beaver County operate other parks? This would be a new venture.

Mr. WHITNEY. As I said, no, it is a new venture that we feel like we need to get involved in for the citizens of our county.

Senator CRAIG. And how would it affect the county's approach if the reversionary clause were removed as proposed by BLM?

Mr. WHITNEY. And that is an important component to that because we need to be able to sell portions of that ground off to concessionaires, for example. The State of Utah does not allow concessionaires on their State parks, and we feel like that that park right there demands the need for certain concessionaires to draw people into it, and by doing so, that is what we plan on doing.

Senator CRAIG. Well, thank you very much for your testimony.

Mr. WHITNEY. Thank you.

Senator CRAIG. Dr. Wells, in your testimony you spoke to the fact that the university has already had a piece of legislation passed, with the intent of solving the problem. Are you confident that we now have legislation that will provide the university with what it needs to manage and develop these lands?

Dr. WELLS. Yes, Chairman Craig, but I do need to clarify one point based on the administrator's testimony that our reference of net proceeds refers to the sale of the land and not the lease of the land. So I wanted that clarified. The leasing, just as it is with UNLV, is critical to us to be able to have that for an opportunity for reinvestment. It was the sales of the land that we were talking about in the act.

Senator CRAIG. And, Bob, is that understood with BLM?

Mr. ANDERSON. Let me take a look at that. OK, yes, that is true. It is the sale.

Senator CRAIG. Dr. Wells, the administration testified it would like to clarify market value and modify the disposition of the net proceeds. Does the university see any problem with the changes proposed by BLM?

Dr. WELLS. No. I think we could answer those very clearly.

Senator CRAIG. Dr. Gallagher, the administration testified that it opposed this concept when it was proposed in the Clark County bill passed in 2002. Why was this not resolved in 2002 and why do you feel it can be now?

Dr. GALLAGHER. The language in the 2002 bill, Mr. Chairman, was something of a surprise to us. The limitations on the property had not been discussed with us or with the staff in Washington that we were dealing with. Had they been apparent to us at that time, we would have made every effort to resolve them at that time. But because they are in the form that they are in, we have been working approximately the last year and a half to bring forward an alternative that would allow us to do at the park what we thought we were being allowed to do initially.

Senator CRAIG. I think Bob referred a moment ago to values. The BLM now estimates the value of this 115 acres to be about \$26 million, which would be quite a windfall for the research foundation. Although you indicate the foundation has no plan to sell the land, how would the foundation use the land to raise funds?

Dr. GALLAGHER. A standard mechanism in the commercial markets is to ask a developer to bring what amounts to a down payment to the table. Often, for commercial developers, that down payment is the underlying value of the land. That land needs to be available for lease in order for that mechanism to work. Under a circumstance like this, we would lease that ground to a third party, who would be one of our partners on the park. That third party would then bring to the table the rest of the funding to allow on-site development, off-site development, and the construction of facilities. Without the ability to lease that underlying ground, that mechanism does not work.

This is particularly attractive to the university because as the owner of the underlying ground, as soon as the facility is completed, under Nevada law, it becomes our facility, and the tenant then continues to occupy the facility that, after all, they have built with their own money as our tenant. But after the end of that lease, not just the land reverts to us, but the facility also reverts to us. So it is, from our point of view, a terrific mechanism by which to develop a park such as this.

Senator CRAIG. And you cannot leverage at this time based on the current law. That is the problem.

Dr. GALLAGHER. Correct. That is the problem.

Senator CRAIG. Are there significant guarantees to ensure these lands only support research and funds would not be siphoned for other purposes?

Dr. GALLAGHER. We would certainly not be opposed to language of that sort in the statute. It is clearly our intention, everything that we have ever written about this, every conversation we have ever had, and in fact, the entire purpose of the creation of the research park was to develop that entire 115 acres as a research entity and not to sell any of the property for other purposes. So every-

thing that would happen out there, by the very conception of the enterprise, is to make it a research focused activity.

Senator CRAIG. Do you know of any other university research parks where public lands was used for these purposes, or were they all private properties?

Dr. GALLAGHER. Several of the pieces in the University of North Carolina Research Triangle activities in that State were public/private partnerships. I do not know the specific manner in which those lands were assembled, however. I know that at any number of research parks around the country, State-owned property, not necessarily federally owned property, was used for these kind of purposes. It would not surprise me, quite frankly, sir, to know that they have been utilized in that fashion. I simply do not know of any cases.

Senator CRAIG. Well, gentlemen, thank you very much for being willing to stay and respond to those questions. I do appreciate it. We will move as expeditiously as we can on these pieces of legislation, working cooperatively with all of you and, of course, BLM as we try to resolve some of these differences. I view them as relatively minor. At the same time, we are dealing with some high-value properties here and recognize that value as it relates to properties of the United States.

I am from a landlocked State myself and I also appreciate the frustrations that we go to in States like Idaho and Utah and Nevada when we are surrounded by Federal properties that limit our ability to do certain things.

Thank you all very much, and the subcommittee will stand adjourned.

[Whereupon, at 3:37 p.m., the hearing was adjourned.]

APPENDIX
RESPONSES TO ADDITIONAL QUESTIONS

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, July 26, 2004.

Hon. LARRY E. CRAIG,
*Chairman, Subcommittee on Public Lands and Forests, Committee on Energy and
Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: Enclosed are responses prepared by the Bureau of Land
Management to questions submitted following the May 5, 2004, hearing on H.R.
1658, S. 2285, S. 1521, S. 1826, and S. 2085.

Thank you for the opportunity to provide this material for the record.

Sincerely,

JANE M. LYDER,
*Legislative Counsel,
Office of Congressional and Legislative Affairs.*

[Enclosure.]

QUESTIONS FROM SENATOR CRAIG

Question 1. Can you give us estimated land values for the various bills being dis-
cussed today?

Answer.

ESTIMATED LAND VALUES FOR PROPOSED CONVEYANCES

Bill	Location	Acres	Estimated Cost/Acre	Total Esti- mated Cost
S. 2285—Beaver County.	Beaver County, UT	¹ 200	\$500	\$100,000
S. 1521—American Legion Post No. 22.	Pahrump, NV	4.5	\$174,000– \$260,000	\$766,656– \$1,149,984
S. 1826—Dandini Research Park.	Washoe County, NV	467	\$100,000	\$46,700,000
S. 2085—UNLV Re- search Foundation.	Clark County, NV ...	115	\$230,000	\$26,450,000

¹ Land not in Federal ownership

Question 2. Concerning the Minersville State Park in Utah, you testified that
BLM recommends eliminating the reversionary clause and the requirement for Bea-
ver County to repay the United States from sales of the land. Can you explain why
and how this bill differs from other conveyances?

Answer. The lands we are discussing were conveyed by patent to the county and
subsequently the state over 40 years ago. The BLM does not own these lands and
its only interest is in the current reversionary clause and subsurface estate (there
is no mineral potential in this area). Our best estimate for land values in this area
is less than \$500 an acre. Given these facts and the continuing use of this area as
a state park, it seems reasonable to work cooperatively with the local community
to find a creative solution to managing the future of this local park. By allowing
Beaver County to maintain proceeds from sales, there is the possibility of a revenue
flow, albeit small, which would allow the county to maintain the park. A rever-
sionary clause could reduce the incentive for the county to take possession of the

park, and BLM is ill prepared to take responsibility for managing a small local park such as this should the land revert to federal ownership.

Question 3. On S. 1521, has BLM had any discussion with the American Legion Post about its proposal to identify an alternate site? If the Post were to receive the land proposed, would it result in a land pattern that is less manageable for the BLM?

Answer. The BLM Las Vegas Field Office has had several meetings with the American Legion Post to discuss possible alternatives to their proposal. The BLM would prefer to convey land identified for disposal in its land use plan, and we have worked closely with the American Legion in identifying an alternative site. We do not believe that the proposed conveyance will result in a land pattern that is less manageable for the BLM since the proposed property is an isolated tract of public land bordered on two sides by private land and by state route 160 on a third side. However, to complete the proposed conveyance, the BLM would require additional time to complete appropriate surveys, NEPA analysis, and clearances under other pertinent laws. We look forward to continuing to work with the American Legion Post to identify a suitable alternative site.

Question 4. Both S. 1826 and S. 2085 provide the Nevada University's authority to sell certain lands previously conveyed. One bill you support and one bill you oppose. Can you explain?

Answer. S. 1826 maintains previous provisions that if the Board of Regents for the University sells any portion of the land that has been conveyed, the net proceeds will be paid to the Secretary of the Interior for use by the BLM in Nevada. The provision related to the sale of the conveyed land is distinctly different than the provision in S. 2085, which would provide the University Research Foundation with all proceeds from the sale of the federal lands in question. The lands considered in S. 2085 also fall within the larger framework of the Southern Nevada Public Lands Management Act, which established public policy comprehensively on the distribution of funds from public land sales in Clark County. The Southern Nevada Lands Management Act and the Clark County Act were carefully crafted to assure that land sales and the disbursement of the proceeds would meet the demands for community growth, economic development and the conservation of environmentally sensitive lands in Clark County and elsewhere in Nevada.

Question 5. In S. 1826, you stated BLM would like to make "technical corrections" to clarify the "market value" and modify the disposition of "net proceeds." Can you explain what is needed to clarify this language?

Answer. The BLM suggests that the following technical corrections be made to S. 1826 to add specificity to the conveyance and to ensure that the Federal government is appropriately compensated for any public lands conveyed by the Board of Regents. The technical corrections are in *italic*:

Sec. 2(a)(1) "The Secretary shall convey to the Board of Regents, without consideration all *remaining* right, title and interest of the United States in and to the approximately 467 acres of land located in Washoe County, Nevada, *formerly* patented to the *Board of Regents*"

Sec. 2(c)(1) "the amount of consideration for the sale shall reflect fair market value, *at the time of sale*, as determined by an appraisal; and

Sec. 2(c)(2) "the Board of Regents shall pay to the Secretary an amount equal to the net proceeds, *remaining after reimbursement of associated conveyance costs of the sale, to be deposited in a special account in the Treasury of the United States to be made available* for use by the Director of the Bureau of Land Management in the State of Nevada, without further appropriation."

Question 6. You testified the Administration opposes S. 2085. Doesn't this bill in essence provide additional lands to what has already been provided for land grant schools in Nevada?

Answer. No. S. 2085 does not provide additional lands to what has already been provided for land grant schools in Nevada. These lands were conveyed to the Department of Aviation under the Southern Nevada Public Lands Management Act. The Clark County Act subsequently provided for the conveyance of 115 acres of these lands from the Department of Aviation to the University of Nevada at Las Vegas Research Foundation. S. 2085 amends the Clark County Act by allowing all proceeds from the sale or lease of lands conveyed to the UNLV Research Foundation to go directly to the Foundation, rather than distributed under the framework established in the Clark County Act.

Question 7. Do you see a workable alternative to the approach proposed in the bill?

Answer. The Administration opposes S. 2085. Both the Southern Nevada Lands Management Act and the Clark County Act were carefully crafted to assure that

land sales and the disbursement of the proceeds would meet the demands of community growth, economic development and the conservation of environmentally sensitive lands in Clark County and elsewhere in Nevada. The decisions concerning the expenditure of the proceeds realized from sales of land under those laws are developed through a process that includes considerable public involvement. S. 2085 instead earmarks a significant portion of these receipts for a single entity. This is contrary to the public process provided for in SNPLMA, which allows for a balancing of priorities among many competing interests.

Question 8. My colleagues from Alaska have tried for several years to have BLM lands conveyed to expand Alaska's land grant school land base. I'm sure I can find lands in Idaho that well serve the same purpose. Why has this administration and previous administrations been unwilling to support expanding land grants?

Answer. The BLM is not categorically unwilling to support expanding land grants. Individual proposals are weighed on their own merits and determinations are made on associated benefits to local communities, residents and a multitude of other factors. The BLM will continue to work closely with local communities and the Congress on future proposals.

DESERT RESEARCH INSTITUTE,
OFFICE OF THE PRESIDENT,
Reno, NV, July 28, 2004.

Hon. LARRY E. CRAIG,
Subcommittee Chairman, Committee on Energy and Natural Resources, U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: We are pleased to offer the following responses to the list of questions regarding S. 1826 forwarded in your correspondence dated June 25, 2004.

Question 1. In your testimony you spoke to the fact that the University has already had one piece of legislation passed with the intent of solving this problem. Are you confident that now we have legislation that will provide the University what it needs to manage and develop these lands?

Answer. We are confident that the legislation, as introduced, will allow the University to manage, develop and lease the subject land parcels.

Question 2. The Administration testified it would like to clarify "market value" and modify the disposition of the "net proceeds". Does the University see any problems with the changes proposed by the BLM?

Answer. We see no problem in concept, although we have not seen the language proposed by the Administration. Our understanding of "market value" is the appraised value at the time of sale. We understand that the disposition of the "net proceeds" means the return of the net proceeds from the sale of the land to the BLM for use in the State of Nevada.

Thank you very much for this opportunity to comment and respond to these questions.

Sincerely,

STEPHEN G. WELLS,
President.