

Union Calendar No. 783

115TH CONGRESS
2^D SESSION

H. R. 5347

[Report No. 115–1002]

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2018

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

NOVEMBER 2, 2018

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on March 20, 2018]

A BILL

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

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Findings.

Sec. 4. Conveyance of land; resolution of Federal liability.

Sec. 5. General provisions relating to the conveyance.

9 **SEC. 2. DEFINITIONS.**

10 *In this Act:*

11 (1) *ATLANTIC RICHFIELD.*—*The term “Atlantic*
 12 *Richfield” means the Atlantic Richfield Company, a*
 13 *Delaware corporation, or its successors or assigns.*

14 (2) *BLM.*—*The term “BLM” means the Bureau*
 15 *of Land Management.*

16 (3) *CERCLA.*—*The term “CERCLA” means the*
 17 *Comprehensive Environmental Response, Compensa-*
 18 *tion, and Liability Act of 1980 (42 U.S.C. 9601 et*
 19 *seq.).*

20 (4) *COUNTY.*—*The term “County” means Lyon*
 21 *County, Nevada.*

22 (5) *FEDERAL SELECTED LANDS.*—*The term*
 23 *“Federal selected lands” means the approximately*

1 2,062 acres of land managed by the BLM, located in
2 five distinct parcels in Lyon County, Nevada, and
3 generally depicted on the map entitled “Anaconda
4 Copper Mine Site—Federal Parcels Proposed to be
5 Acquired” and dated September 7, 2017.

6 (6) *INDIAN TRIBE*.—The term “Indian Tribe”
7 has the meaning given the term in section 4 of the In-
8 dian Self-Determination and Education Assistance
9 Act (25 U.S.C. 5304).

10 (7) *MAP*.—The term “Map” means the map enti-
11 tled “Anaconda Copper Mine Site—Federal Parcels
12 Proposed to be Acquired” and dated September 7,
13 2017.

14 (8) *SECRETARY*.—The term “Secretary” means
15 the Secretary of the Interior.

16 (9) *SITE*.—The term “Site” means the Anaconda
17 Copper Mine Site located in Lyon County, Nevada.

18 (10) *STATE*.—The term “State” means the State
19 of Nevada.

20 **SEC. 3. FINDINGS.**

21 Congress finds that—

22 (1) Atlantic Richfield is performing environ-
23 mental response actions under CERCLA at the Site
24 with the State’s Division of Environmental Protection
25 in the lead oversight role;

1 (2) *to comprehensively and efficiently facilitate*
2 *the environmental remediation and reclamation at*
3 *the Site, Atlantic Richfield requires access to land*
4 *that is owned by the Federal Government;*

5 (3) *more than half of the acreage located within*
6 *the Site's boundaries is owned by the Federal Govern-*
7 *ment and managed by the BLM, and, therefore, at-*
8 *tempting to implement a CERCLA remedy on BLM-*
9 *managed lands requires extensive coordination and*
10 *can involve substantial delays and increased costs;*

11 (4) *because the historic releases and elements of*
12 *the remedy do not follow existing property bound-*
13 *aries, reducing any inconsistent treatment based on*
14 *land ownership will benefit cost management, effi-*
15 *ciency of operations and maintenance, and long-term*
16 *protectiveness;*

17 (5) *the United States may be designated as a po-*
18 *tentially responsible party under CERCLA and ac-*
19 *cordingly could be assigned a significant liability*
20 *share for CERCLA response costs;*

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

23 (7) *the conveyance of the Federal selected lands*
24 *will promote economic development within the County*

1 *by consolidating private land for future mining ac-*
2 *tivities;*

3 *(8) the BLM has routinely conveyed lands to po-*
4 *tentially responsible parties to facilitate remedial ac-*
5 *tions;*

6 *(9) a legislated land conveyance is necessary to*
7 *meet the remediation goals of the Site, promote eco-*
8 *nommic development in the County, and for BLM and*
9 *the United States to receive a covenant not to sue and*
10 *indemnity for certain potential liabilities relating to*
11 *the Site;*

12 *(10) the Federal selected lands contain contami-*
13 *nation and hazardous waste, and therefore the fair*
14 *market value of such lands is minimal;*

15 *(11) the United States potential CERCLA liabil-*
16 *ity at the Site is substantially greater than the fair*
17 *market value of the Federal selected lands; and*

18 *(12) the BLM and Atlantic Richfield have con-*
19 *cluded that conveyance of the Federal selected lands to*
20 *Atlantic Richfield in exchange for resolution of cer-*
21 *tain United States liabilities is reasonable, logical,*
22 *advisable, and in the public interest.*

1 **SEC. 4. CONVEYANCE OF LAND; RESOLUTION OF FEDERAL**
2 **LIABILITY.**

3 (a) *FEDERAL SELECTED LANDS.*—Notwithstanding
4 *section 120(h) of CERCLA (42 U.S.C. 9620(h)), not later*
5 *than 120 days after the date of the enactment of this Act,*
6 *the Secretary shall convey all right, title, and interest (in-*
7 *cluding mineral rights) of the United States in and to the*
8 *Federal selected lands to Atlantic Richfield.*

9 (b) *COVENANT NOT TO SUE AND INDEMNITY.*—Upon
10 *conveyance of the Federal selected lands under subsection*
11 *(a), and for full and complete compensation for those lands,*
12 *Atlantic Richfield shall—*

13 (1) *covenant not to sue and agree not to assert*
14 *any claims or causes of action against the BLM or*
15 *its contractors or employees with respect to CERCLA*
16 *response costs that Atlantic Richfield has incurred or*
17 *will incur at or relating to the Site; and*

18 (2) *indemnify the United States against future*
19 *liabilities that result from Atlantic Richfield's activi-*
20 *ties on the Federal selected lands after the conveyance.*

21 (c) *EQUAL VALUE.*—*The value of the Federal selected*
22 *lands is deemed to be equal to or less than the United States*
23 *portion of the CERCLA response costs at the Site and no*
24 *further valuation is required for the purposes of this Act*
25 *or the conveyance of the Federal selected lands under this*
26 *Act.*

1 **SEC. 5. GENERAL PROVISIONS RELATING TO THE CONVEY-**
2 **ANCE.**

3 (a) *IN GENERAL.*—*The conveyance authorized by this*
4 *Act shall be subject to the following terms and conditions:*

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

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

19 (b) *WITHDRAWAL.*—*Subject to valid existing rights, ef-*
20 *fective on the date of the enactment of this Act, the Federal*
21 *selected lands are hereby withdrawn from all forms of ap-*
22 *propriation under the public land laws (including the min-*
23 *ing laws) and from disposition under all laws pertaining*
24 *to mineral leasing.*

25 (c) *PATENT.*—*The conveyance of the Federal selected*
26 *lands under this Act shall be by United States patent ac-*

1 *ceptable to the Secretary and in conformity with applicable*
2 *title standards of the Attorney General.*

3 (d) *TRIBAL RIGHTS.*—Not later than 30 days after the
4 *date of enactment of this Act, the Secretary shall initiate*
5 *in government-to-government consultation with any Indian*
6 *Tribe affected by the conveyance of the Federal selected*
7 *lands regarding issues of concern to the affected Indian*
8 *Tribe related to the land conveyance. Such consultation*
9 *shall conclude within 90 days of its initiation. After the*
10 *consultation under this subsection, the Secretary shall con-*
11 *sult with Atlantic Richfield and seek to find mutually ac-*
12 *ceptable measures to address any identified concerns of the*
13 *affected Indian Tribe.*

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

17 (f) *STATE LAW UNAFFECTED.*—Nothing in this Act
18 *modifies, expands, diminishes, amends, or otherwise affects*
19 *any State law relating to the imposition, application, tim-*
20 *ing, or collection of a State tax.*

21 (g) *COMPLIANCE WITH APPLICABLE LAWS.*—The land
22 *transfer directed by this Act, and all determinations, au-*
23 *thorizations, and actions taken by the Secretary pursuant*
24 *to this Act, are deemed to be non-discretionary actions au-*
25 *thorized and directed by Congress, and to comply with all*

1 *applicable procedural and other requirements of the laws*
2 *of the United States.*

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

8 *(i) ENVIRONMENTAL COMPLIANCE.—After the convey-*
9 *ance, Atlantic Richfield shall perform all response actions*
10 *determined by the State Division of Environmental Protec-*
11 *tion to be necessary to protect human health and the envi-*
12 *ronment with respect to any hazardous substance stored, re-*
13 *leased, or disposed of on the Federal selected lands. Response*
14 *actions on the Federal selected lands shall be conducted in*
15 *accordance with applicable Federal, State, and local laws*
16 *pertaining to response, mining, and related activities on*
17 *land in private ownership.*

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

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