

**Statement for the Record**  
**Bureau of Land Management**  
**House Committee on Natural Resources**  
**Subcommittee on National Parks, Forests & Public Lands**  
**H.R. 762, Final Patent & Land Configuration, Clark and Lincoln Counties, Nevada**  
**May 14, 2009**

Thank you for the opportunity to testify on H.R. 762, a bill which affirms a land patent and an associated land reconfiguration completed in 2005. These land transactions protect habitat for desert tortoise and other Mojave Desert wildlife species while providing for economic development in rural south-central Nevada. The BLM supports this bill.

**Background**

The Nevada-Florida Land Exchange Authorization Act of 1988 (NFLEA, P.L.100-275) authorized the exchange of approximately 29,055 acres (“fee” lands) of BLM-administered lands in Coyote Springs Valley, Clark and Lincoln Counties, Nevada, for approximately 5,000 acres of private land in the Florida Everglades owned by Aerojet-General Corporation (Aerojet). The purpose of the land exchange was to protect habitat in Florida needed for the recovery of wildlife species listed under the Endangered Species Act (ESA). The NFLEA also entitled Aerojet to lease an additional 13,767 acres (“leased” lands) of BLM-administered land in Coyote Spring Valley for 99 years, with an automatic 99-year lease renewal term unless terminated by the lessee.

Aerojet initially intended to use the fee lands for the construction of rocket manufacturing facilities. The Federal leased lands were to remain substantially undeveloped and serve as a conservation area and buffer for the rocket facilities. Aerojet never built the manufacturing facilities and the fee lands changed ownership in 1996 and 1998. In accordance with the NFLEA, the Secretary of the Interior approved the assignment of the leased lands from Aerojet to Harrich Investments LLC, and then from Harrich Investments to Coyote Springs Investment LLC (CSI), respectively.

CSI proposed to develop a planned community on the original Aerojet fee lands. Because the proposed development would affect critical habitat for the desert tortoise, an ESA listed species, the U.S. Fish and Wildlife Service (FWS) asked the BLM in 2001 to consider reconfiguring the boundary of the leased lands to benefit desert tortoise habitat. Reconfiguration of the leased lands was undertaken pursuant to the NFLEA.

Under the original configuration, the leased land was an island surrounded by the fee lands acquired by Aerojet. This configuration was designed to meet the needs of the planned Aerojet manufacturing facilities, but it provided limited habitat conservation benefits. Reconfiguring the lands would enhance conservation by consolidating the fee lands in a single parcel adjacent to U.S. Highway 93, and by placing the leased lands contiguous to protected habitat on BLM-managed public lands. This configuration would increase habitat connectivity and provide more effective conservation for desert tortoise and other Mojave Desert species.

In 2005 the Bureau of Land Management (BLM) issued a corrective patent to CSI for the reconfigured lands in Clark County. The Western Lands Project and the Nevada Outdoor Recreation Association (plaintiffs), who claimed that the BLM should have prepared an analysis of the corrective patent under the National Environmental Policy Act (NEPA) and the Federal Land Policy and Management Act (FLPMA), subsequently brought suit in the U.S. District Court in Nevada. The action has been stayed and has not yet been briefed on the merits.

Continuing with its project proposal, CSI then prepared a Multiple Species Habitat Conservation Plan (MSHCP) to protect tortoise habitat and, consistent with the ESA, applied to the U.S. Fish and Wildlife (FWS) for an “incidental take” permit necessary for project approval. The FWS, with the BLM as a cooperating agency, assessed the CSI proposal in an Environmental Impact Statement completed in July 2008. In October 2008, the FWS issued a Record of Decision authorizing an incidental take permit to CSI with numerous conservation stipulations to protect desert tortoise habitat. A key conservation stipulation is the land reconfiguration authorized by the BLM’s corrective patent.

In November 2008, the plaintiffs stipulated with the BLM to a stay of the lawsuit for one year pending action by Congress on legislation affirming the corrective patent.

**H.R. 762**

H.R. 762 affirms and validates the corrective patent issued by the BLM in 2005 and its associated land reconfiguration. The bill enables implementation of the land reconfiguration stipulated in the Coyote Spring MSHCP, which will protect critical habitat while allowing economic development in south-central Nevada. The BLM supports the bill as introduced.

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

**Statement for the Record**  
**Bureau of Land Management**  
**Subcommittee on National Parks, Forests, & Public Lands**  
**Committee on Natural Resources**  
**U.S. House of Representatives**  
**H.R. 1442, Mount Olivet Cemetery Reversionary Interest**  
**May 14, 2009**

Thank you for inviting the Department of the Interior to testify on H.R. 1442, which provides for the disposal of the Federal government's interest in certain acreage of the Mount Olivet Cemetery in Salt Lake City, Utah. The Bureau of Land Management (BLM) supports H.R. 1442 and would like to discuss minor technical modifications with the sponsor and the Committee.

**Background**

The Mount Olivet Cemetery in Salt Lake City, Utah, is owned and managed by the Mount Olivet Cemetery Association (the Cemetery Association). Located on the east side of Salt Lake City, the cemetery consists of approximately 80 acres of land, 20 acres of which is currently used for burials.

The Federal government, acting through the Secretary of War, first "set apart" 20 acres of what was then a military reservation "to be used as a public cemetery... which shall be forever devoted for the purpose of the burial of the dead" ("Act of May 16, 1874"). Subsequently, in 1909, the Congress provided for the conveyance of an adjacent 50 acres to the Mount Olivet Cemetery Association (under the "Act of January 23, 1909"). The 1909 Act provided that conveyance was contingent upon the Association first conveying to the United States a specified parcel of land of approximately 150 acres outside of Salt Lake City. However, the legislation also included a reverter clause, requiring that the land conveyed under the 1909 act could be used only as a cemetery:

"Said land to be by the said Mount Olivet Cemetery Association permanently used as a cemetery for the burial of the dead: Provided, That when it shall cease to be used for such purpose it shall revert to the United States."

The purpose of this reversionary clause is not established in the legislation. Whether it was due to an unequal exchange of lands, or for some other reason, is not stated nor has the BLM been able to make any determination through the review of historical records.

In 1992, Congress took further action regarding Mount Olivet Cemetery with the enactment of legislation (Public Law 102-347) which allows the Cemetery Association to lease tracts of the lands conveyed in 1909 for up to 70 years to the extent that such leases would not prevent future use as a cemetery. Public Law 102-347 speaks only to the possibility of 70 year leases, and the BLM has interpreted the 1909 reverter clause still to be in effect. Therefore, upon application by the Cemetery Association, in December of 1993, the BLM issued a "Certificate of Approval" for the lease of 15 acres to the adjacent East High School for a football field, and in January of 1996 an additional certificate was issued for the lease of lands for a nursing and retirement facility which was never built.

In recent years, the Cemetery Association has sought to sell, rather than lease, some of the acres conveyed under the 1909 Act to Rowland Hall/St. Mark's School. Because the proposal is for a sale, rather than a lease of up to 70 years, the BLM does not have the authority to approve such a conveyance by the Cemetery Association. Specific authority for the BLM to dispose of the reversionary interest established in 1909 to the Cemetery Association, as well any additional direction respecting valuation of this reversionary interest through appraisal, would facilitate resolution of this adjustment in land tenure.

**H.R. 1442**

H.R. 1442 is a reasonable solution to the desire of the Mount Olivet Cemetery Association to be able not only to lease, but also to sell, the cemetery lands. Under H.R. 1442, the Secretary of the Interior (acting through the Department's Appraisal Service Directorate) will undertake an appraisal of the reverter clause attached to the 1909 lands. Upon receiving that appraisal the Cemetery Association may purchase the reverter, thus owning all right, title and interest in the land. All costs associated with this conveyance, including the appraisal, would be the responsibility of the Association.

The BLM notes a couple of technical issues that we encourage the Committee to consider. While the 1909 Act refers to the lands as "fifty acres, more or less", we believe it is closer to sixty acres. Prior to an appraisal, the BLM recommends that a survey of the parcel be undertaken by the BLM to ascertain the precise boundaries and acreage. The survey could be completed within 90 days of enactment, with the appraisal to be completed within an additional 180 days.

The BLM also recommends that the Association acquire the Federal reversionary interest in the entire "fifty acres, more or less," rather than some portion of it, so that this issue finally could be resolved. Under the Uniform Appraisal standards, appraisals are typically accurate for a year. Therefore it would be in the interests of all parties to place a time limit on the acquisition process following completion of the appraisal.

Thank you for the opportunity to testify on H.R. 1442. We support this legislation and look forward to its final resolution.

**STATEMENT OF STEPHEN P. WHITESELL, ASSOCIATE DIRECTOR, PARK PLANNING, FACILITIES AND LANDS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS OF THE HOUSE COMMITTEE ON NATURAL RESOURCES ON H.R. 1471, A BILL TO EXPAND THE BOUNDARY OF THE JIMMY CARTER NATIONAL HISTORIC SITE, TO REDESIGNATE THE UNIT AS A NATIONAL HISTORICAL PARK, AND FOR OTHER PURPOSES.**

**MAY 14, 2009**

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Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to present the views of the Department of the Interior on H.R. 1471, bill to expand the boundary of the Jimmy Carter National Historic Site, to redesignate the unit as a National Historical Park, and for other purposes.

The Department supports enactment of H.R. 1471. This legislation would authorize the addition of properties to the Jimmy Carter historic site that would help broaden public understanding of the life and work of President Carter and enhance the visitor experience in Plains, Georgia.

Legislation authorizing the establishment of the Jimmy Carter National Historic Site and Preservation District was enacted in 1987 to preserve the key sites and structures associated with President Jimmy Carter during his life, provide for the interpretation of the life and presidency of Jimmy Carter, and present the history of a small rural southern town. The historic site consists of President Carter's boyhood home in the community of Archery, Plains High School, the Plains depot, and the Carter compound, where President and Mrs. Carter reside. The site also includes 100 feet of scenic easements along both sides of Old Plains Highway west of Plains. The preservation district consists of the Plains Historic District, Bond Street, and 650 acres of

agricultural lands within which the Secretary is authorized to acquire easements to protect the scenic values of the community around the historic site.

President and Mrs. Carter both grew up in and around Plains. Except for time spent in college, the Navy, the Georgia governor's mansion, and the White House, the Carters have made their home in Plains, where they continue to be very engaged in community affairs. In large part because of the historic site and preservation district, the town of Plains and its environs, a community of about 700 people, looks much the same today as it did during the earlier years of the Carters' lives. We believe the boundary changes proposed in H.R. 1471 are consistent with President and Mrs. Carter's vision for Plains as both a modest hometown of a U.S. president and a community that has preserved the history of life in a small, southern agricultural community in the early to middle years of the 20<sup>th</sup> century.

H.R. 1471 would include several new areas to the boundary of the Jimmy Carter National Historic Site. Of critical importance to the National Park Service would be the addition of properties in the vicinity of the Carter residence that, if acquired, would serve an immediate park need. One of these properties would be appropriate for relocation of the park's maintenance and curatorial facilities. The maintenance division for the park is currently housed in a dilapidated structure built by high school students in the 1950's on the grounds of the former Plains High School. Adjacent to the structure is an unsightly maintenance yard, where trucks, tractors, lawn mowers and other equipment is stored and refuse is temporarily held. The curatorial storage facility is located next to the maintenance building. It was meant to be temporary and is inadequate for processing and storing important historical records and artifacts. Neither the

maintenance yard nor the temporary curatorial facility fit with the historic character and qualities of the former school, which is now the park's visitor center, or with the center of Plains generally.

The bill would also add to the park boundary several other properties, including:

- The Billy Carter Service Station Museum at 104 West Church Street, the site of the iconic gas station operated by President Carter's brother during the Carter presidency. The museum is currently owned and operated by the Plains Better Hometown Group, a non-profit organization that assists community development.
- The property at 147 Old Plains Highway, known locally as the "Haunted House." This house is recognized as the oldest home in Sumter County and was the residence of President Carter and his family after he left the Navy.
- The Georgia Welcome Center on State Route 280/27, a state-owned facility that was built to accommodate visitors to Plains; and
- Two corridors of land no wider than 50 feet each between the Georgia Welcome Center and the President Carter boyhood home, which could be used for multi-use trails. The trails, running along each side of the Southwest Georgia Railroad lines that stretch along the same corridor, would connect a new campground proposed for the current Georgia Welcome Center property, the city of Plains and the boyhood farm.

The National Park Service anticipates that there would be no acquisition costs for the Georgia Welcome Center, the Haunted House, or the Service Station museum. We do not yet have cost estimates for the acquisition of the other properties, or for the maintenance and operation of any

of these properties, but plan to estimate these costs in the near future. All funds for such activities would be subject to National Park Service priorities and the availability of appropriations.

H.R. 1471 would also change the designation of the historic site to the Jimmy Carter National Historical Park. This proposed designation is appropriate for a unit of the National Park System that has multiple, non-contiguous sites, as does the Jimmy Carter National Historic Site. With the addition of the properties authorized for acquisition under this bill, the designation of “national historical park” would be even more apt than it is today.

Finally, the bill includes references for a map that would depict the revised boundary of the park. We will provide this boundary map to the committee in the near future.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or any members of the Subcommittee may have.



**STATEMENT OF STEPHEN P. WHITESELL, ASSOCIATE DIRECTOR, PARK PLANNING, FACILITIES AND LANDS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE COMMITTEE ON NATURAL RESOURCES, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS ON HR 1641, A BILL TO AMEND THE NATIONAL TRAILS SYSTEM ACT TO PROVIDE FOR A STUDY OF THE CASCADIA MARINE TRAIL**

**May 14, 2009**

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Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today and present the Department of the Interior view's on H.R. 1641, a bill to amend the National Trails System Act to provide for a study of the Cascadia Marine Trail.

The Department supports H.R. 1641 with one amendment. However, we feel that priority should be given to the 47 previously authorized studies for potential units of the National Park System, potential new National Heritage Areas, and potential additions to the National Trails System and National Wild and Scenic River System that have not yet been transmitted to Congress.

H.R. 1641 would amend Section 5(c) of the National Trails System Act by directing the Secretary of the Interior (Secretary) to conduct a study of the Cascadia Marine Trail for consideration for inclusion in the National Trails System. As a part of the study, the Secretary shall coordinate with State and local governments and private entities in the preparation of the study of the Cascadia Marine Trail and to look at nearby sites of recreational, scenic, or historic significance that are not connected by the Cascadia Marine Trail. We estimate the cost of this study to be approximately \$400,000.

The Cascadia Marine Trail is a non-motorized water route within the Puget Sound in the State of Washington. The trail is approximately 2,500 miles long with 55 small campsites placed on public lands. The trail begins near San Juan Island National Historical Park and passes through many coves and water ways south to Olympia, Washington. The Cascadia Marine Trail has been used for over five thousand years by Native Americans, early explorers and today's wind and hand-propelled watercraft enthusiasts. The Puget Sound is the second largest estuary in the continental United States and is home to populations of seals, bald eagles, orca whales and nearly 4 million humans living in the surrounding watershed area.

The Cascadia Marine Trail has a long and significant history in the state of Washington with its designation as a National Recreation Trail in 1994; as a National Millennium Trail in 1999; and as an American Canoe Association Recommended Water Trail in 2005.

A study produced by the National Park Service would not only look at the national significance and eligibility of the trail, but also its feasibility and suitability as a unit of the National Trails System. We envision the Cascadia Marine Trail study to focus on exploring recreational opportunities, defining historical aspects and establishing a working relationship with partners in order to identify land based facilities as required by the bill.

We request one amendment. The bill language states that the NPS may study connections to nearby sites of recreational, scenic or historic significance that are not connected by the Trail. We ask that the last sentence of the bill be amended to read as follows: "In conducting the study, the Secretary shall coordinate with appropriate Federal, State, local, tribal and private entities,

and shall determine if nearby sites of recreational, scenic, or historic significance that are currently associated with the Cascadia Marine Trail should be included.”

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions you or other members of the subcommittee may have.