

**Testimony of
Michael S. Black
Director
Bureau of Indian Affairs
Department of the Interior**

Senate Committee on Indian Affairs

**S. 2480, Nevada Native Nations Lands Act
July 9, 2014**

Thank you for the opportunity to provide the views of the Department of the Interior (Department) on S. 2480, the Nevada Native Nations Lands Act. S. 2480 is a bill that provides for the Secretary of the Interior to hold in trust for the benefit of a number of Federally-recognized tribes nearly 93,000 acres of Federal lands managed by the Bureau of Land Management (BLM) and the United States Forest Service in Nevada. The bill also provides for the conveyance of about 275 acres of BLM-managed lands to Elko County for public purposes. Placing land into trust for tribes is a top priority for this Administration. The Department of the Interior welcomes opportunities to work with Congress on lands to be held in trust and supports S. 2480, with a few concerns noted below. The Department defers to the U.S. Department of Agriculture regarding National Forest System Lands.

Some of the parcels identified in this legislation contain lands that are Preliminary General or Preliminary Priority Habitat for the Greater Sage-Grouse. The potential listing of the Greater Sage-Grouse under the Endangered Species Act is a serious concern of the Federal government. That decision by the U.S. Fish and Wildlife Service is expected in 2015. Additionally, most of the lands proposed to be held in trust occur within existing grazing allotments, and transfer of jurisdiction over these lands would likely affect the current permittees.

S. 2480

Following is a discussion of the provisions of the bill by title with an explanation of the Department's views as they relate to each contemplated transfer.

Elko Motocross Land Conveyance, Title I

Title I of S. 2480 would convey approximately 275 acres of BLM-managed lands to Elko County, Nevada, for a public motocross park. The conveyance would be subject to valid existing rights. The land is to be used only for purposes consistent with the Recreation and Public Purposes (R&PP) Act and includes a reversionary clause if the lands are used for other purposes. The bill requires the county to pay all administrative costs associated with the transfer. The BLM regularly works with local governments and non-profits to lease or convey public lands for recreational and other public purposes at very low cost. The BLM supports the transfer of this parcel of land to Elko County for a motocross park.

We recommend the addition of a clause allowing the Secretary to add reasonable terms and conditions to the transfer. For example, it might be necessary to include in the conveyance documents a provision for maintenance access by a right-of-way holder to an existing oil and gas pipeline in the lands to be conveyed. A "terms and conditions" clause would allow us to address this and similar situations. Additionally, the Department of Justice recommends that Section 102(a) of the bill be revised to make absolutely clear that the city or county would have to agree to the proposed conveyance, which is what we understand the sponsor intends. Finally, we recommend clarifying that the conveyance is subject to compliance with other federal laws, such as the National Environmental Policy Act.

Conveyance of Land to Indian Tribes, Title II

Title II of S. 2480 provides that seven areas of public lands are held in trust for specific Native American Tribes in Nevada. The bill includes a provision requiring surveys of the lands within 180 days of enactment. S. 2480 also provides that land shall not be used for class II or III gaming, and can be used only for traditional and customary uses, stewardship conservation for the benefit of the Tribe, residential or recreational development, renewable energy development, or mineral development. Any other use would require the Tribe to pay to the Secretary the fair market value of the land, as determined by standard appraisal practices. Application of this process to land taken into trust is not a familiar approach, and the Department would need to conduct additional review and analysis before taking a position on this portion of the legislation.

The Department and the BLM strongly believe that open communication between the BLM and tribes is essential in maintaining effective government-to-government relationships. In this spirit, the BLM has had a cooperative working relationship with the Tribes and the Department is pleased to support the provisions concerning lands to be held in trust for the benefit of these Tribes. In general, the Department would like to discuss further with the sponsor and Committee the fair market value provisions in Sec. 202(b)(2)(B) and (C). We would be glad to work with the sponsor and the Committee on proposed amendments to the bill. Specific comments about each proposed area follow.

(a) Trust Land for Te-Moak Tribe of Western Shoshone Indians of Nevada (Elko Band)

Section 201(a) provides that approximately 373 acres of BLM-managed lands are to be held in trust for the benefit of the Te-Moak Tribe of Western Shoshone Indians, Elko Band, subject to

valid existing rights. These lands are adjacent to an existing parcel held in trust for the Elko Band and are identified in the BLM's Elko Resource Management Plan as suitable for disposal. The Department supports holding these lands in trust for the Elko Band.

(b) Trust Land for Fort McDermitt Paiute & Shoshone Tribe

Section 201(b) provides that approximately 19,094 acres of BLM-managed lands are to be held in trust for the benefit of the Fort McDermitt Paiute and Shoshone Tribe of the Fort McDermitt Indian Reservation, subject to valid existing rights. These lands are adjacent to and surrounding the existing Fort McDermitt Indian Reservation. The BLM notes that this area contains Preliminary General Habitat for the Greater Sage-Grouse. The Department supports holding these lands in trust for the benefit of the Tribe, but would like to work with the sponsor on minor technical and boundary amendments.

(c) Trust Land for Shoshone Paiute Tribes

Section 201(c) provides that approximately 82 acres of land are to be held in trust for the benefit of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation, subject to valid existing rights. The lands to be held in trust under this section are currently managed by the United States Forest Service, and the Department of the Interior defers to the Forest Service on the current management of those lands.

(d) Trust Land for Summit Lake Paiute Tribe

Section 201(d) provides that, subject to valid existing rights, approximately 941 acres of BLM-managed lands are to be held in trust for the benefit of the Summit Lake Paiute Tribe. These

lands would expand the existing Summit Lake Indian Reservation to entirely surround Summit Lake. The Department supports holding these lands in trust for the benefit of the Tribe.

(e) Trust Land for Reno-Sparks Indian Colony

Section 201(e) provides that approximately 13,434 acres of BLM-managed lands are to be held in trust for the benefit of the Reno-Sparks Indian Colony, subject to valid existing rights. The lands are adjacent to the current reservation. The Department supports the proposed land transfer in Section 201(e), but would like to work with the sponsor to address boundary modifications to ensure manageability. In particular, the BLM notes that the proposed configuration would isolate some BLM-managed land. Isolated, irregularly shaped parcels like these are difficult to manage, especially in terms of public safety, recreation, energy development or transmission, grazing, and fire suppression.

(f) Trust Lands for Pyramid Lake Paiute Tribe Land

Section 201(f) provides that three areas comprising approximately 30,669 acres of BLM-managed land are to be held in trust for the benefit of the Pyramid Lake Paiute Tribe, subject to valid existing rights. The three areas to be held in trust are adjacent to the current reservation, which surrounds the southeast portion of Pyramid Lake. Section 201(f) would consolidate land-administration. The Department supports holding these lands in trust for the Pyramid Lake Paiute Tribe.

(g) Trust Land for Te-Moak Tribe of Western Shoshone (South Fork Band)

Section 201 (g) provides that three areas totaling approximately 28,162 acres of BLM-managed land are held in trust for the benefit of the South Fork Band. The two northern areas identified for transfer are near or adjacent to portions of the existing reservation. The third parcel is primarily composed of the Red Spring Wilderness Study Area, which would be released by the bill.

The Department supports holding these lands in trust, especially the interspersed lands in the northern parcels, where the proposal would consolidate checkerboard lands, improving land management. We note, however, that there is currently great interest in oil and gas development on and near the southern parcel, and the impact of the exception provided in Section 201(g)(2)B(ii) on future development is unclear. We would like to further discuss these provisions with the sponsor and Committee.

Conclusion

The Department of the Interior welcomes opportunities to work with Congress and tribes on holding lands in trust. We support the intent of the legislation and look forward to working with the Sponsor and the Committee to address the issues we have outlined in this testimony.