

**Statement of
Tim Spisak
Deputy Assistant Director
Minerals and Realty Management
Bureau of Land Management
Department of the Interior
House Natural Resources Committee
Subcommittee on Indian and Native Alaskan Affairs
H.R. 4027, To Amend an Act to Define the Exterior Boundary of the
Uintah and Ouray Indian Reservation
March 20, 2012**

Thank you for inviting the Department of the Interior (Department) to testify on H.R. 4027, which would facilitate the relinquishment of State of Utah mineral interests to benefit the Ute Tribe, and the compensatory selection of Federal mineral estate by the State of Utah within the Uintah and Ouray Reservation. The Department supports the goals of the relinquishment and selection of mineral estates on the Hill Creek Extension of the Uintah and Ouray Reservation in Uintah and Grand Counties in Utah, but the Department cannot support the bill, as currently written. Consistent with the Federal Land Policy and Management Act (FLPMA), agency policy on the valuation of lands, as well as underlying Acts regarding the Hill Creek Extension, the Department would like to work with the Committee and the Sponsor to ensure that the interest of the Federal government is protected. The Department recognizes that we have a unique trust responsibility to the Ute Tribe; as such, we are committed to finding an equitable solution.

Background

In 1948, Congress, through P.L. 80-440, extended the boundary of the Uintah and Ouray Reservation by approximately 900 square miles to include what is generally known as the “Hill Creek Extension.” The Act transferred the Federal surface estate to the Tribe, while the mineral estate in those parts of the area affected by then existing withdrawals was reserved to the Federal government. Furthermore, that Act as amended in 1955 (P.L. 84-263), authorized the State of Utah to relinquish state sections for the benefit of the Tribe and subsequently select Federal lands (including the mineral interest in land) of equal value outside of the Hill Creek Extension area.

The State of Utah’s School and Institutional Trust Land Administration (SITLA) holds the mineral interest in about 28 square miles (approximately 18,000 acres) within the southern portion of the Hill Creek Extension in Grand County, while the surface ownership is held in trust for the Tribe. The Tribe would like to obtain the mineral estate underlying tribal lands in the Grand County portion of the Hill Creek Extension in order to prevent development on lands that have special significance to the Tribe. However, the Tribe does not object to development of other mineral estate, retained by the Federal government, within the Hill Creek Extension in Uintah County.

SITLA proposed to trade their mineral estate within the Hill Creek Extension in Grand County for similar acreage of Federal mineral estate in Uintah County, also within the Hill Creek Extension. However, the 1955 law specified that the selection by the state should take place “outside of the area hereby withdrawn,” and therefore outside of the Hill Creek Extension.

H.R. 4027

H.R. 4027 proposes to amend the 1948 and 1955 Acts to permit this trade to take place within the Hill Creek Extension. The legislation further provides that the transaction should be on an acre-for-acre basis and establishes a limited overriding interest for both the United States and SITLA in the lands exchanged.

The Department has no objection to allowing for the selection by SITLA of mineral estate within the Hill Creek Extension and supports that provision of the legislation. However, the 1948 and 1955 laws as well as FLPMA require that these transfers be of equal value. The per-acre value of mineral estate can vary dramatically from one acre to another, and this area of Utah has significant oil and gas resources.

The legislation proposes to address any difference in value by having each party to the transaction retain a financial interest in their respective parcels for thirty years. However, as written, the overriding interest fails to fully protect the Federal government's interest in two ways. First, the overriding interest would expire 30 years after the date of enactment, with no requirement for leasing during that period of time. Second, the royalty rate specified for the financial interest is the royalty rate in effect today, and fails to account for the possibility of a changed royalty rate in the future. These issues should be addressed before H.R. 4027 moves forward.

Finally, the Department would like the opportunity to work on other technical amendments with the Sponsor and the Committee.

Conclusion

Thank you for the opportunity to testify. The Department would welcome the opportunity to resolve these issues for the benefit of the Ute Indian Tribe and protect land that has special significance in a manner that also protects the fiduciary interest of the Federal government.

**Statement of
Tim Spisak
Deputy Assistant Director
Minerals and Realty Management
Bureau of Land Management
Department of the Interior
House Natural Resources Committee
Subcommittee on Indian and Native Alaskan Affairs
H.R. 4027, To Amend an Act to Define the Exterior Boundary of the
Uintah and Ouray Indian Reservation
March 20, 2012**

Thank you for inviting the Department of the Interior (Department) to testify on H.R. 4027, which would facilitate the relinquishment of State of Utah mineral interests to benefit the Ute Tribe, and the compensatory selection of Federal mineral estate by the State of Utah within the Uintah and Ouray Reservation. The Department supports the goals of the relinquishment and selection of mineral estates on the Hill Creek Extension of the Uintah and Ouray Reservation in Uintah and Grand Counties in Utah, but the Department cannot support the bill, as currently written. Consistent with the Federal Land Policy and Management Act (FLPMA), agency policy on the valuation of lands, as well as underlying Acts regarding the Hill Creek Extension, the Department would like to work with the Committee and the Sponsor to ensure that the interest of the Federal government is protected. The Department recognizes that we have a unique trust responsibility to the Ute Tribe; as such, we are committed to finding an equitable solution.

Background

In 1948, Congress, through P.L. 80-440, extended the boundary of the Uintah and Ouray Reservation by approximately 900 square miles to include what is generally known as the “Hill Creek Extension.” The Act transferred the Federal surface estate to the Tribe, while the mineral estate in those parts of the area affected by then existing withdrawals was reserved to the Federal government. Furthermore, that Act as amended in 1955 (P.L. 84-263), authorized the State of Utah to relinquish state sections for the benefit of the Tribe and subsequently select Federal lands (including the mineral interest in land) of equal value outside of the Hill Creek Extension area.

The State of Utah’s School and Institutional Trust Land Administration (SITLA) holds the mineral interest in about 28 square miles (approximately 18,000 acres) within the southern portion of the Hill Creek Extension in Grand County, while the surface ownership is held in trust for the Tribe. The Tribe would like to obtain the mineral estate underlying tribal lands in the Grand County portion of the Hill Creek Extension in order to prevent development on lands that have special significance to the Tribe. However, the Tribe does not object to development of other mineral estate, retained by the Federal government, within the Hill Creek Extension in Uintah County.

SITLA proposed to trade their mineral estate within the Hill Creek Extension in Grand County for similar acreage of Federal mineral estate in Uintah County, also within the Hill Creek

Extension. However, the 1955 law specified that the selection by the state should take place “outside of the area hereby withdrawn,” and therefore outside of the Hill Creek Extension.

H.R. 4027

H.R. 4027 proposes to amend the 1948 and 1955 Acts to permit this trade to take place within the Hill Creek Extension. The legislation further provides that the transaction should be on an acre-for-acre basis and establishes a limited overriding interest for both the United States and SITLA in the lands exchanged.

The Department has no objection to allowing for the selection by SITLA of mineral estate within the Hill Creek Extension and supports that provision of the legislation. However, the 1948 and 1955 laws as well as FLPMA require that these transfers be of equal value. The per-acre value of mineral estate can vary dramatically from one acre to another, and this area of Utah has significant oil and gas resources.

The legislation proposes to address any difference in value by having each party to the transaction retain a financial interest in their respective parcels for thirty years. However, as written, the overriding interest fails to fully protect the Federal government’s interest in two ways. First, the overriding interest would expire 30 years after the date of enactment, with no requirement for leasing during that period of time. Second, the royalty rate specified for the financial interest is the royalty rate in effect today, and fails to account for the possibility of a changed royalty rate in the future. These issues should be addressed before H.R. 4027 moves forward.

Finally, the Department would like the opportunity to work on other technical amendments with the Sponsor and the Committee.

Conclusion

Thank you for the opportunity to testify. The Department would welcome the opportunity to resolve these issues for the benefit of the Ute Indian Tribe and protect land that has special significance in a manner that also protects the fiduciary interest of the Federal government.