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12/31

APPROVED
DEC 31 1974

THE WHITE HOUSE
WASHINGTON
December 28, 1974

ACTION
Last Day: December 31

Posted on Colorado 12/31/74

*To ARCHIVES
1/3/75*

MEMORANDUM FOR THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill S. 3518
Quiet Title to Certain Land In Nevada

Attached for your consideration is S. 3518, sponsored by Senator Bible and Senator Cannon which quiets title with respect to 9,000 to 10,000 acres of land in Nevada.

OMB recommends approval and provides additional background information in its enrolled bill report (Tab A).

Max Friedersdorf and Phil Areeda both recommend approval.

RECOMMENDATION

That you sign S. 3518 (Tab B).



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 827

Date: December 26, 1974

Time: 3:00 p.m.

FOR ACTION: Mike Duval *MD*
Max Friedersdorf *MF*
Phil Areeda *PA*

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 27

Time: noon

SUBJECT:

Enrolled Bill S. 3518 - Quiet title to certain
land in Nevada

ACTION REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 23 1974

Dear Mr. Ash:

This responds to your request for our views on the enrolled bill S. 3518, "To remove the cloud on title with respect to certain lands in the State of Nevada."

We recommend that the President approve the enrolled bill.

S. 3518, as enrolled, provides that all interest of the U. S. in lands which were patented by the State of Nevada before June 16, 1880, pursuant to section 7 of the Act of March 21, 1864, 13 Stat. 30, shall be deemed to have vested in the State as of the time such lands were patented. The Secretary of the Interior is authorized to issue to the State of Nevada such documents as are necessary to carry out the purposes of the legislation.

The Act of March 21, 1864 is the Nevada Enabling Act. Section 7 of the Act granted to the State, subject to survey, all lands in sections 16 and 36 of each township for support of schools. In 1880 Congress granted the State about 2 million acres as a substitute for the school sections. During the 16 years between 1864 and 1880 the State conveyed about 9,000 to 10,000 acres located in the school sections, but the lands were not officially surveyed until 1917. There is, therefore, a cloud on the title to those lands since it appears that the State did not have a title to convey. This is confirmed by a recent decision of the Interior Board of Land Appeals involving part of the lands conveyed. S. 3518 would clear the title to all the lands.

Sincerely yours,

Jack W. Carlson
Assistant Secretary of the Interior

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503



Save Energy and You Serve America!

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 827

Date: December 26, 1974

Time: 3:00 p.m.

FOR ACTION: Mike Duval
Max Friedersdorf
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 27

Time: noon

SUBJECT:

Enrolled Bill S. 3518 - Quiet title to certain
land in Nevada

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

WASHINGTON

December 27, 1974

MEMORANDUM FOR: WARREN HENDRIKS

FROM: MAX L. FRIEDERSDORF

SUBJECT: Action Memorandum - Log No. 827
Enrolled Bill S. 3518 - Quiet title to certain
land in Nevada

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 827

Date: December 26, 1974

Time: 3:00 p.m.

FOR ACTION: Mike Duval
Max Friedersdorf
Phil Areeda ✓

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 27

Time: noon

SUBJECT:

Enrolled Bill S. 3518 - Quiet title to certain
land in Nevada

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*No objection
P Areeda*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

REMOVING THE CLOUD ON TITLE CONCERNING CERTAIN LANDS IN THE STATE OF NEVADA

AUGUST 19, 1974.—Ordered to be printed

Mr. BIBLE, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 3518]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 3518) to remove the cloud on title with respect to certain lands in the State of Nevada, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments adopted by the committee are as follows:

- (1) On page 1, line 7, between "under" and "the" insert "section 7 of".
- (2) On page 2, delete lines 1 and 2 in their entirety.
- (3) On page 2, line 6, between "issue" and "such" insert "to the State of Nevada".

The bill, as amended, is set forth in full below:

That notwithstanding any other provision of law, all right, title, and interest of the United States in and to all lands which the State of Nevada, prior to the date of the enactment of the Act of June 16, 1880 (21 Stat. 287), sold and patented on the basis of the grant to it under section 7 of the Act of March 21, 1964 (Nevada Enabling Act) (13 Stat. 30), shall be deemed to have been vested in the State of Nevada as of the time such lands were so sold and patented.

SEC. 2. The Secretary of the Interior is authorized to issue to the State of Nevada such documents or other instruments as may be necessary to carry out the purposes of this Act.

I. PURPOSE OF, AND NEED FOR, S. 3518

The purpose of S. 3518 is to remove the cloud on title of certain lands in the State of Nevada.

On March 21, 1864 when Nevada was admitted to statehood, the Nevada Enabling Act (13 Stat. 31) provided that sections 16 and 36 of each township would be granted to the State for the benefit of the school fund. Because much of the land in the State was unsurveyed—a condition precedent to the transfer—in 1880, an agreement was entered into between the State and the Federal Government under which the State relinquished its claim to the two sections per township and received in exchange approximately 2 million acres of selected public domain lands. The Act of June 16, 1880 (21 Stat. 287), which approved this substitution of lands, provided specifically that the title of the State and its grantees to the lands covered by the Nevada Enabling Act would not be changed or vitiated by or in consequence of the 1880 substitution of lands. The purpose, of course, was to protect and assure the title of persons who received grants of these lands from the State of Nevada between 1864 and 1880.

Approximately 62,000 acres of the land conveyed under the Nevada Enabling Act was patented to private ownership by the State of Nevada prior to 1880. The quality of title to such lands went unquestioned until 1972. That year, the validity of the title to those lands became suspect as a result of a decision by the Interior Board of Land Appeals (*Battle Mountain Wildcat Inc.*, 7 IBLA 157) pertaining to a 160-acre tract within one of the school sections. The tract was patented by the State in 1870 but was not officially surveyed until 1917. The IBLA held that since no official survey had been made in 1870 when the tract was patented, the tract was not vested in the State at that time and the patent was ineffective.

The Board's decision may have cast a cloud on the title of 9,000 to 10,000 acres of land patented before the 1880 substitution. Since the cloud on title is a result of administrative error and was not the intent of the Nevada Enabling Act, the Committee believes that S. 3518 should be promptly enacted in order to remove that title impediment.

II. COMMITTEE AMENDMENT

The Department of the Interior, in its report, recommended enactment of S. 3518 should the Department's suggested changes be adopted. The most important change concerned the provision in S. 3518, as introduced, which would identify the lands addressed by the bill to be those "contained on 'clear lists' transmitted to the State of Nevada by the Department of the Interior." The Department report carried the following discussion of that provision:

Contrary to the indication in the bill, the lands have not been identified on "clear lists" approved by the Secretary of the Interior. Rather, the Surveyor General and the Land Registrar of Nevada submitted several "reports" to the Secretary after passage of the 1880 Act which contained abstracts of the lands conveyed by the State prior to that

Act. We cannot attest to the accuracy of those "reports" at this time, but we anticipate that decisions to clear titles to lands under the bill would be based primarily on information in them. In the event that the "reports" omit land affected by the IBLA decision, we suggest that the scope of the bill not be limited to lands identified in the "reports".

Subsequent to the July 17, 1974, Subcommittee on Public Lands hearing on S. 3518, Committee staff counsel and representatives of the Department of the Interior developed a set of mutually agreed-upon amendments to the bill.

On August 9, 1974, in open markup session, the Subcommittee on Public Lands adopted these amendments. In ordering S. 3518, as amended, reported to the Senate, the Committee on Interior and Insular Affairs concurred in the amendments.

The amendments strike the language concerning the clear lists, identify the section of the Nevada Enabling Act under which the lands in question were originally transferred, and identified the State of Nevada as the party to which the documents are to be issued.

III. LEGISLATIVE HISTORY

S. 3518 was introduced by Senator Bible on May 21, 1974. A hearing by the Subcommittee on Public Lands was held on the measure on July 17, 1974. In open markup sessions, by unanimous voice votes, S. 3518, as amended, was ordered reported by the Subcommittee on August 9, 1974, and the full Committee on August 12, 1974.

IV. TABULATION OF VOTES CAST

The votes on the amendments adopted in Subcommittee and on the orders to report the measure in Subcommittee and full Committee were taken in open public session. As these votes were previously announced by the Committee in accord with the provisions of section 133(b) of the Legislative Reorganization Act of 1946, as amended, tabulation of the votes in this Committee Report is unnecessary.

V. COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, in open markup session on August 12, 1974, by voice vote, unanimously recommended that S. 3518, as amended, be enacted.

VI. COST

In accordance with subsection (a) of section 255 of the Legislative Reorganization Act, the following is a statement of estimated costs which would be incurred in the implementation of S. 3518, as amended.

The enactment of S. 3518, as amended, could result in only minor expenditures to process the documents removing the cloud on title. These expenditures would be included in the annual budget submissions of the Department of the Interior.

VII. EXECUTIVE COMMUNICATIONS

The reports of Federal agencies to the Committee concerning S. 3518 are set forth in full, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. 20240, Dec. 16, 1974.

HON. HENRY J. JACKSON,
Chairman, Committee on Interior and Insular Affairs
U.S. Senate, Washington, D.C.

Dear Mr. CHAIRMAN: This responds to your views on S. 3518, a bill to remove the cloud on title with respect to certain lands in the State of Nevada.

We would not object to enactment of the bill if amended as suggested below.

S. 3518 provides that all interest of the United States in lands which were patented by the State of Nevada before June 16, 1880 pursuant to the Act of March 21, 1864, 13 Stat. 30, and which were identified on "clear lists" transmitted to the State by the Department of the Interior, shall be deemed to have vested in the State as of the time such lands were patented. The Act of March 21, 1864 is the Nevada Enabling Act which granted to the State, subject to survey, all lands in sections 16 and 36 of each township for support of schools. Subsequently, the Act of June 16, 1880, 21 Stat. 287, substituted approximately 2 million acres for those school sections.

S. 3518 is apparently the result of a 1972 decision of the Interior Board of Land Appeals pertaining to a 160-acre tract within one of the school sections, *Battle Mountain Wildcat Inc.*, 7 IBLA 157. The tract was patented by the State in 1870 but was not officially surveyed until 1917. The IBLA held that since no official survey had been made in 1870 when the tract was patented, the tract was not vested in the State at that time and the patent was ineffective.

We understand that the Board's decision may have cast a cloud on the title of 9,000 to 10,000 acres of land patented before the 1880 substitution. Since the cloud is a result of administrative error and was not the intent of the Nevada Enabling Act, we would not object to enactment of the bill which would clear the titles to the lands.

We recommend, however, that S. 3518 be amended so that the Secretary of the Interior is given discretion to make the conveyances to the State where he deems they are appropriate rather than simply declaring lands to be vested in the State when the State patented them. We also recommend that the reference to "clear lists" be deleted from the bill.

While the IBLA decision has created a problem that needs correction, the Department has not had an opportunity to examine or even identify other lands possibly affected by the decision to determine whether it is appropriate to issue the documents as ordered by S. 3518. Contrary to the indication in the bill, the lands have not been identified on "clear lists" approved by the Secretary of the Interior. Rather, the Surveyor General and the Land Registrar of Nevada submitted several "reports" to the Secretary after passage of the 1880 Act which contained abstracts of the lands conveyed by the State prior

to that Act. We cannot attest to the accuracy of those "reports" at this time, but we anticipate that decisions to clear titles to lands under the bill would be based primarily on information in them. In the event that the "reports" omit land affected by the IBLA decision, we suggest that the scope of the bill not be limited to lands identified in the "reports".

Accordingly, we recommend that everything following the word "law" on line 3, page 1 be deleted and the following added: "the Secretary of the Interior is authorized to issue to the State of Nevada such documents or other instruments necessary to vest in the State of Nevada all right, title and interest of the United States in and to lands described in section 2 of this Act as of the time the State of Nevada sold and patented such lands. Sec. 2. This Act applies to those lands which are identified in section 7 of the Act of March 21, 1864, (13 Stat. 30) and which the State of Nevada sold and patented prior to the date of enactment of the Act of June 16, 1880, (21 Stat. 287)."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

VII. CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by S. 3518, as amended.

REMOVING THE CLOUD ON TITLE WITH RESPECT TO CERTAIN LANDS IN THE STATE OF NEVADA

DECEMBER 13, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 3518]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 3518) to remove the cloud on title with respect to certain lands in the State of Nevada, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF S. 3518

The purpose of S. 3518 is to remove the cloud on title of certain lands in the State of Nevada.

EXPLANATION AND NEED

On March 21, 1864 when Nevada was admitted to statehood, the Nevada Enabling Act (13 Stat. 31) provided that sections 16 and 36 of each township would be granted to the State for the benefit of the school fund. Because much of the land in the State was unsurveyed—a condition precedent to the transfer—in 1880, an agreement was entered into between the State and the Federal Government under which the State relinquished its claim to the two sections per township and received in exchange approximately 2 million acres of selected public domain lands. The Act of June 16, 1880 (21 Stat. 287), which approved this substitution of lands, provided specifically that the title of the State and its grantees to the lands covered by the Nevada Enabling Act would not be changed or vitiated by or in consequence of the 1880 substitution of lands. The purpose, of course, was to protect and assure the title of persons who received grants of these lands from the State of Nevada between 1864 and 1880.

Approximately 62,000 acres of the land conveyed under the Nevada Enabling Act was patented to private ownership by the State of Nevada prior to 1880. The quality of title to such lands went unquestioned until 1972. That year, the validity of the title to those lands

became suspect as a result of a decision by the Interior Board of Land Appeals (*Battle Mountain Wildcat Inc.*, 7 IBLA 157) pertaining to a 160-acre tract within one of the school sections. The tract was patented by the State in 1870 but was not officially surveyed until 1917. The IBLA held that since no official survey had been made in 1870 when the tract was patented, the tract was not vested in the State at that time and the patent was ineffective.

The Board's decision may have cast a cloud on the title of 9,000 to 10,000 acres of land patented before the 1880 substitution. Since the cloud on title is a result of administrative error and was not the intent of the Nevada Enabling Act, the Committee believes that S. 3518 should be promptly enacted in order to remove that title impediment.

S. 3518 removes all right title, and interest of the United States, notwithstanding any other provision of law in and to all lands which the State of Nevada sold or patented on the basis of the grant to it under section 7 of the Nevada Enabling Act (13 Stat. 30) (Act of March 21, 1864) prior to the date of the enactment of the Act of June 16, 1880 (21 Stat. 287). The Secretary of the Interior is authorized to issue to the State of Nevada such legal instruments as necessary to carry out the purposes of this Act.

COMMITTEE AMENDMENTS

There were no Committee amendments to S. 3518.

COST

The enactment of S. 3518 could result in only minor expenditures to process the documents removing the cloud on title. These expenditures would be included in the annual budget submissions of the Department of the Interior.

CHANGES IN EXISTING LAW

None.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends, by voice vote, that the bill, S. 3518, be enacted. (H.R. 15877, introduced by Congressman Towell, is a House companion to S. 3518. Legislative action was taken on S. 3518 to expedite consideration of this legislation which passed the Senate on August 21, 1974.)

DEPARTMENTAL REPORT

The report received by the Committee from the Department of the Interior, dated December 9, 1974, follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., December 9, 1974.

HON. JAMES A. HALEY,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your views on H.R. 15877, a bill "To remove the cloud on title with respect to certain lands in the State of Nevada."

H.R. 1594

We would not object to enactment of the bill if amended as suggested below. If our amendments are adopted, H.R. 15877 would conform with S. 3518, the corresponding bill passed by the Senate.

H.R. 15877 provides that all interest of the United States in lands which were patented by the State of Nevada before June 16, 1880 pursuant to the Act of March 21, 1864, 13 Stat. 30, and which were identified on "clear lists" transmitted to the State by the Department of the Interior, shall be deemed to have vested in the State as of the time such lands were patented. The Act of March 21, 1864 is the Nevada Enabling Act which granted to the State, subject to survey, all lands in sections 16 and 36 of each township for support of schools. Subsequently, the Act of June 16, 1880, 21 Stat. 287, substituted approximately 2 million acres for those school sections.

H.R. 15877 is apparently the result of a 1972 decision of the Interior Board of Land Appeals pertaining to a 160-acre tract within one of the school sections, *Battle Mountain Wildcat Inc.*, 7 IBLA 157. The tract was patented by the State in 1870 but was not officially surveyed until 1917. IBLA held that since no official survey had been made in 1870 when the tract was patented, the tract was not vested in the State at that time and the patent was ineffective.

We understand that the Board's decision may have cast a cloud on the title of 9,000 to 10,000 acres of land patented before the 1880 substitution. Since the cloud is a result of administrative error and was not the intent of the Nevada Enabling Act, we would not object to enactment of the bill which would clear the titles to the lands.

We recommend, however, that H.R. 15877 be amended so that the reference to "clear lists" is deleted from the bill. Contrary to the indication in the bill, the lands have not been identified on "clear lists" approved by the Secretary of the Interior. Rather, the Surveyor General and the Land Registrar of Nevada submitted several "reports" to the Secretary after passage of the 1880 Act which contained abstracts of the lands conveyed by the State prior to that Act. We cannot attest to the accuracy of those "reports" at this time, but we anticipate that decisions to clear titles to lands under the bill would be based primarily on information in them. In the event that the "reports" omit land affected by the IBLA decision, we suggest that the scope of the bill not be limited to lands identified in the "reports". Accordingly, we recommend that lines 9 and 10 on page 1 be deleted.

For the purpose of clarification, we also recommend that the words "section 7 of" be inserted between the words "under" and "the" on line 7, page 1, and that the words "to the State of Nevada" be inserted between the words "issue" and "such" on line 4, page 2. The first amendment would specifically identify the section of the Nevada Enabling Act to which this bill is applicable, and the second amendment would ensure that the documents necessary to implement the bill would be issued to the State rather than to each of the potentially hundreds of grantees of the State.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

○

H.R. 1594

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To remove the cloud on title with respect to certain lands in the State of Nevada.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, all right, title, and interest of the United States in and to all lands which the State of Nevada, prior to the date of the enactment of the Act of June 16, 1880 (21 Stat. 287), sold and patented on the basis of the grant to it under section 7 of the Act of March 21, 1964 (Nevada Enabling Act) (13 Stat. 30), shall be deemed to have been vested in the State of Nevada as of the time such lands were so sold and patented.

SEC. 2. The Secretary of the Interior is authorized to issue to the State of Nevada such documents or other instruments as may be necessary to carry out the purposes of this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 19, 1974

Dear Mr. Director:

The following bills were received at the White House on December 19th:

✓ S.J. Res. 234	B. 2838 ✓	S. 3578 ✓
S. 184 ✓	S. 3341 ✓	S. 3615 ✓
S. 194 ✓	S. 3397 ✓	H.R. 3538 ✓
S. 1283 ✓	S. 3418 ✓	H.R. 14401 ✓
S. 1357 ✓	S. 3489 ✓	H.R. 15912 ✓
S. 2125 ✓	S. 3518 ✓	H.R. 16609 ✓
S. 2594 ✓	S. 3574 ✓	H.R. 16901 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.