

**STATEMENT OF
BRYAN NEWLAND
ASSISTANT SECRETARY FOR INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS**

September 25, 2024

S. 4444, Crow Revenue Act

S. 4444 involves the conveyance of surface and mineral estate in Montana involving the Bureau of Land Management (BLM), the Crow Tribe of Montana, and a private party. The bill requires, within 60 days of enactment, the relinquishment of the Federal coal lease associated with Signal Peak Energy’s Bull Mountains Mine near Roundup, Montana; the conveyance by the Joe and Barbara Hope Mineral Trust (Hope Family Trust) of approximately 4,660 acres of private mineral estate located within the boundaries of the Crow Indian Reservation in Bighorn County, Montana, to the Crow Tribe of Montana; and the conveyance of approximately 4,530 acres of mineral estate and approximately 940 acres of surface estate managed by the BLM in Musselshell County, Montana (the Bull Mountains Tracts), to the Hope Family Trust.

In addition, the bill states that the mineral estate conveyed by the Hope Family Trust to the Crow Tribe shall not be subject to state or local taxation and shall be held in trust by the United States for the benefit of the Tribe, upon the Tribe’s request. Finally, S. 4444 requires that the Crow Tribe notify the Secretary of the Interior when the Tribe and the Hope Family Trust have agreed on a formula for revenue sharing from development of the minerals conveyed to the Tribe, should they be developed at a later date.

Analysis

Under President Biden’s and Secretary Haaland’s leadership, the Department is committed to strengthening the government-to-government relationship with Tribal Nations. We believe that Tribal sovereignty and self-governance, as well as honoring the Federal trust and treaty responsibility to Tribal Nations, must be the cornerstones of Federal Indian policy. In addition, the Department is committed to managing public lands and minerals to protect the treaty, trust, religious, subsistence, and cultural interests of Federally recognized Tribes, consistent with our mission and applicable Federal law. By placing lands into trust status through the Department, Tribes are able to reacquire lands within or near their reservations, establish a land base, and clarify jurisdiction over their territories and lands including mineral estates.

The Department supports the bill’s goals of addressing inholdings within the boundaries of the Crow Indian Reservation and providing an additional source of revenue for the Crow Tribe. We would like to work with the Sponsor on several modifications to improve the bill. First, we

recommend that the conveyances be subject to valid existing rights, as is standard, to ensure that they do not inadvertently result in Federal takings issues under the Fifth Amendment. In addition, we suggest that language be added to the bill that expressly states that the parcels to be conveyed are withdrawn from location, entry, and patent under the U.S. mining laws as of the date of enactment. Including a withdrawal provision for parcels will ensure that no new mining claims are located between enactment and finalization of the conveyances.

The Department also notes that it is unclear whether the Sponsor intends for the required Federal coal lease relinquishment to be consistent with the BLM's coal leasing regulations. For example, under the lease provision referenced in section 3(a)(1) of the bill, the lease relinquishment would be required to follow all applicable regulations. This means that, if enacted, a lease relinquishment cannot occur until the lessee has met all financial obligations associated with the lease, all profitable portions of the leased coal deposit have been mined, and all required reclamation has been completed successfully, as determined by the BLM and the Montana Department of Environmental Quality. As currently drafted, the BLM would be unable to relinquish the lease as directed within the timeframe provided by the bill.

We would like to work with the Sponsor to ensure that the parcels to be conveyed under the bill are of equal value; to provide sufficient time to comply with any applicable laws; and to ensure that public access to nearby BLM-managed public lands is maintained after the conveyance. The Department would also like to work with the Sponsor to clarify the provision regarding revenue sharing between the Tribe and the Hope Family Trust. As currently drafted, the bill does not appear to specifically require that a revenue sharing agreement be developed. In addition, based on local media coverage associated with the bill, it appears that the Sponsor may have intended for the revenue sharing agreement to cover the mineral estate conveyed to the Hope Family Trust, not the mineral estate conveyed to the Crow Tribe. The Department recommends that the Sponsor amend the bill to address these issues to provide certainty to the Crow Tribe.

We also recommend technical amendments to clarify various terms and exempt the United States from any responsibility for future reclamation efforts associated with the Bull Mountain Tracts, as they would be conveyed into private ownership. The Department looks forward to working with the Sponsor on such modifications as the bill moves forward through Congress.