

**Statement of
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U.S. Department of the Interior
Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, & Mining**

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Introduction

Thank you for the opportunity to provide testimony on the bills on the hearing agenda related to the Bureau of Land Management (BLM). The BLM manages approximately 245 million surface acres, located primarily in 12 western states, and approximately 700 million acres of subsurface mineral estate. The Federal Land Policy and Management Act (FLPMA) sets forth the BLM's multiple-use mission, directing that public lands generally be managed for a broad range of uses, such as renewable and conventional energy development, livestock grazing, timber production, hunting and fishing, recreation, wilderness, and conservation – including protecting cultural and historic resources. FLPMA also requires the BLM to manage public land resources on a sustained-yield basis for the benefit of current and future generations.

This multiple-use, sustained yield mission enables the BLM to make tremendous contributions to economic growth, job creation, and domestic energy production, while generating revenues for Federal and state treasuries and local economies and allowing for a thoughtful, science-based approach to management of our public lands and waters. Lands managed by the BLM also provide vital habitat for more than 3,000 species of wildlife and support fisheries of exceptional

regional and national value. In addition, as recognized by the Biden-Harris Administration's *America the Beautiful* initiative, many uses of our lands and waters, including working lands, are consistent with the conservation of the nation's natural resources, contributing to the long-term health and sustainability of natural systems.

S. 3123, Modernizing Access to Our Public Waters Act

The Department of the Interior (Department, DOI) generally supports the goals of S. 3123, the Modernizing Access to Our Public Waters (MAPWaters) Act, to consolidate, standardize, and simplify information related to outdoor recreation on public waters. However, the Department has implementation concerns informed by experiences implementing the MAPLands Act (Public Law 117-114) which serves as the model for the MAPWaters Act. In particular, the Department has concerns related to exclusion of certain Federal agencies with jurisdiction over public waters, potential overlap with existing mandates, and challenges regarding agencies' unique missions and mandates. Additionally, we believe the legislation would benefit from discussion with key stakeholders including other Federal agencies, state and local governments, Tribes, non-profits, private-sector groups, and members of our communities who must be included in any discussions about the future of recreation. The bill contains mandates for both the Department of the Interior and the U.S. Department of Agriculture (USDA). As such, we defer to USDA for perspectives unique to their agency mission. We would also like to help avoid implementation challenges whereby two land and water-management entities, but not others, are required to make changes in the information associated with managing Federal lands and waterways, which could result in unintended consequences and confusion.

Analysis

Section 3 requires that within 30 months, the Secretaries of Agriculture and Interior jointly develop and adopt interagency standards among applicable Federal databases that handle geospatial data relating to public outdoor recreational use of Federal waterways and Federal fishing restrictions. The Department notes that each agency and/or bureau uses standards that have been developed in coordination with each entity's unique set of stakeholders and situations. Selecting a new format may result in unintended consequences that may require additional time and resources to work through. The Department also recommends that any standards are coordinated through the Federal Geographic Data Committee, which is the lead entity in the Executive Branch for the development, implementation, and review of policies, practices, and standards relating to geospatial data. In addition, the Department would like to work with the Sponsor to define the scope of the bill more clearly.

Section 4 requires, within four years to the extent practicable, that the Secretaries of Agriculture and Interior shall digitize and make publicly available various data related to Federal waterway restrictions and Federal waterway access and navigation. The Department notes that the bill requests detailed information on many different areas including access points, restrictions, boat ramps, wake zones, and direction of various uses of watercraft. Given both man-made and natural changes, such as water levels, and ambulatory boundaries occurring in general and at specific locations, this is a very large undertaking, and the Department would like to work with

the Sponsor to clarify what could be accomplished at the authorized funding level. Based on experiences implementing the MAPLands Act, the Department recommends extending this period to five years from four. In addition, the Department notes that digitizing and publishing some of this information is already required under the MAPLands Act and the FLAIR Act (Public Law 117-328). We would like to work with the Sponsor to address duplication with existing mandates in this section.

Section 5(b) states that the Secretaries may work with the Director of the United States Geological Survey (USGS) to collect, aggregate, digitize, standardize, and publish data on behalf of the Secretaries to meet the requirements of this Act. The Department notes that the USGS and the United States Fish and Wildlife Service (FWS) shall provide interdepartmental leadership and coordination as the designated co-leads of the Office of Management and Budget Circular A-16 Waters-Inland Theme. The involvement of these bureaus for their advice and guidance on foundational geospatial datasets is critical for implementation plans. The Department notes that other Federal agencies that manage significant portions of Federal waterways, including the U.S. Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, and the Bureau of Indian Affairs (BIA), as well as Tribal governments, are not mentioned in this bill.

Section 6 requires that the Secretaries of Agriculture and Interior submit an annual progress report through March 1, 2033, to the relevant Senate and House Committees. The Department would like to work with the Sponsor to better understand what information should be provided in each annual update.

S. 3148, Historic Roadways Protection Act

S. 3148 would prohibit the use of funds to finalize and implement 11 travel management plans (TMP) required under the 2017 settlement agreement in *Southern Utah Wilderness Alliance, et al. v. U.S. Department of the Interior, et al.* (Consolidated Case No. 2:12-cv-257 DAK) until the Secretary of the Interior certifies to Congress that 22 individual Revised Statute 2477 (R.S. 2477) lawsuits filed by various Utah counties have been adjudicated by Federal courts.

Analysis

The Department strongly opposes S. 3148, as it would undermine the BLM's ability to minimize user conflicts and protect sensitive resources, including cultural resources important to Tribes and threatened and endangered species. The bill is fundamentally inconsistent with the Quiet Title Act, which provides that the United States "shall not be disturbed in possession or control of any real property in any action...pending a final judgment or decree." S. 3148 also conflicts with FLPMA, which charges the BLM to manage the public lands for multiple use and sustained yield, including preventing unnecessary or undue degradation. Moreover, because the final adjudication of R.S. 2477 claims is the exclusive responsibility of Federal courts, the BLM's TMPs cannot affect the validity of those claims. The final outcome of the R.S. 2477 lawsuits will inform any changes that may need to be made to the Utah TMPs as a result of the adjudication of those claims.

By precluding the development of TMPs – a process that by regulation expressly requires robust public participation – S. 3148 would ultimately limit the ability of state and local governments and members of the public to provide input on a topic that is of critical importance to communities across Utah, potentially indefinitely.

Route designations in a TMP are not intended to provide evidence, have a bearing on, or address the validity of any R.S. 2477 assertions. Instead, R.S. 2477 rights-of-way (ROWs) are determined through a judicial process that is entirely independent of the BLM's planning processes. At such time as a Federal court decision is made on a R.S. 2477 assertion, the BLM will adjust its travel designations accordingly. The three TMPs required by the 2017 settlement agreement that the BLM has completed – the San Rafael Desert, Canyon Rims, and Labyrinth-Gemini Bridges TMPs – include language directly addressing this foundational concept, as does the BLM's national travel and transportation management policy. Accordingly, S. 3148 is wholly unnecessary because the TMPs required by the 2017 settlement agreement have no bearing on the validity of R.S. 2477 claims in Utah. Should a Federal court determine that those claims are valid, the BLM would simply change the relevant route designation in the TMP to reflect the adjudication.

S. 3148 would also inhibit the BLM's ability to protect sensitive natural and cultural resources from adverse impacts stemming from off-highway vehicle (OHV) use. Litigation involving the BLM's 2008 Resource Management Plans (RMPs) and associated TMPs resulted in an adverse decision because route designations did not follow the agency's OHV regulations, among other issues. To address these deficiencies, as well as to resolve the litigation, the BLM committed to developing new TMPs consistent with all applicable Federal statutes and regulations. Under the BLM's OHV regulations at 43 C.F.R. § 8342.1, the agency must designate routes in a manner that protects the resources of public lands, promotes the safety of all users of those lands, and minimizes user conflicts. Given the issues identified with the 2008 RMPs and TMPs, halting the finalization of the eight TMPs still in development, as well as the implementation of the three that have already been completed, would result in continued OHV use of routes that may not minimize impacts to natural and cultural resources and user conflicts, as required by law. This could result in severe impacts to certain resources. For example, OHV use could destroy artifacts and features at cultural resource sites eligible for listing in the National Register of Historic Places and harm threatened and endangered plant species known to occur only in confined areas, including within the planning areas of these TMPs.

Finally, S. 3148 would impede the ability of state and local governments and members of the public to participate in the management of OHVs on public lands throughout eastern and southern Utah, potentially for years to come. In the 12 to 19 years since Utah counties began filing their R.S. 2477 lawsuits, which cover over 12,000 claimed ROWs, Federal courts in Utah have adjudicated title in only two cases involving 16 claimed R.S. 2477 ROWs. By halting the development and finalization of the new TMPs until the final adjudication of all outstanding lawsuits, the bill would undermine the BLM's ability to manage more than 5.1 million acres of public lands until those issues are resolved. As a result, state and local government agencies and

members of the public would lose a valuable mechanism for guiding and influencing the management of OHV use on these lands, including in areas that are nearby or even immediately adjacent to their communities.

S. 3322, Ranching Without Red Tape Act

S. 3322 would require the Department to streamline the procedures for authorizing minor range improvements carried out by grazing permittees and the BLM. Minor range improvements are defined by the bill as improvements to existing fences and fence lines, wells, water pipelines, and stock tanks.

Under S. 3322, the Department (and USDA) would be directed to issue regulations that would allow for minor range improvement on permitted lands if the grazing permit holder requests the minor range improvements with 30 days prior notice and either receives agency approval or no response. Additionally, the bill requires the BLM to respond to requests by permittees for range improvements to be carried out by the BLM within 30 days. If the BLM agrees to carry out the requested range improvement, the agency is directed to provide notification to the state office serving the area and to expedite carrying out the range improvement using any available administrative tool, including categorical exclusions.

Analysis

The Department supports the goals of the bill to identify opportunities for increasing efficiency in public land grazing administration. We would like to work with the Sponsor and the Subcommittee to further these shared goals and ensure that any new regulations define minor range improvements in a manner that avoids unintended impacts to wildlife or adjacent resources. Structural improvements can often involve substantial disturbance to soils and vegetation, and all improvements may not be appropriately considered “minor.” For example, improving water pipelines can involve burying pipe, which can require clearing trees and brush and create obstacles for wildlife. Accordingly, impacts from proposed range improvements to soils, vegetation, wildlife, and cultural resources are analyzed in compliance with the National Environmental Policy Act (NEPA) and other applicable laws, and can vary widely depending on the project design and the project location. Lastly, the Department recommends providing more than 30 days for the BLM to respond to requests for either the permittee or the BLM to carry out range improvements. Additional time may be required to conduct reviews and surveys to comply with NEPA and other applicable laws, and allow for the timeframes established for participation in grazing decision processes currently provided by the BLM’s grazing regulations.

S. 3346, Montana Headwaters Legacy Act

S. 3346 would add approximately 376 miles of rivers and streams in Montana administered by the BLM and the USDA Forest Service (USFS) as wild, scenic, and recreational rivers under the Wild and Scenic Rivers Act of 1968 (WSRA). The bill applies to approximately 28 river miles of the Madison and Yellowstone Rivers flowing through BLM-managed public lands.

The designation of these rivers will help ensure that they continue to be an important natural resource and significant contributor to local economies for generations to come. S. 3346 aligns

with the Biden-Harris Administration’s conservation goals, and the Department supports the bill, but would like to work with the Sponsor and the Subcommittee on some modifications. The Department defers to the USDA regarding the bill’s provisions affecting USFS-managed lands.

Analysis

S. 3346, would designate a 13.5-mile segment of the Madison River administered by the BLM as a recreational river segment from 2,000 feet downstream of the Hebgen Lake Dam to the point further downstream where the river leaves BLM-managed public lands; a 7-mile wild river segment from 800 feet downstream of the Madison Dam Powerhouse, downstream to the Lee Metcalf Wilderness boundary; and a 7-mile recreational river segment from the Lee Metcalf Wilderness boundary downstream to the BLM boundary at the Black’s Ford Fishing Access Site. The segment of the Yellowstone River managed by BLM would consist of a 2,775-foot recreational river segment, part of a 19-mile segment from the Yellowstone National Park boundary in Gardiner, Montana, downstream to the confluence with Rock Creek and the Carbella Fishing Access Site.

S. 3346 provides that the designations will not prohibit, preempt, or abridge the licensing of any hydroelectric project on the Madison River or the addition of any future hydroelectric generation to the Hebgen and Madison Developments by the Federal Energy Regulatory Commission (FERC) under Part 1 of the Federal Power Act. Further, the bill stipulates that the designations shall not affect the flow release requirements of the Hebgen and Madison Developments intended to satisfy FERC license conditions or FERC-approved compliance or management plans.

The Department notes that section 7(a) of the WSRA prohibits FERC from issuing a license for the construction of any dam, water conduit, reservoir, powerhouse, transmission line or other project works under the Federal Power Act on or directly affecting any river segment designated as a component of the National Wild and Scenic Rivers System. As written, S. 3346 conflicts with the requirements of section 7 of the WSRA. If there are substantial modifications to the existing Hebgen and Madison Developments for future licensing, it may have direct or adverse effects to downstream Madison River segments covered under section 4(a) of S. 3346. Therefore, any modifications to the existing facilities would require an evaluation under section 7 to ensure the river values present at the date of designation are not unreasonably diminished. While the BLM supports the designation of the river segments that would traverse BLM-managed public lands, the Bureau recommends technical modifications to S. 3346 to ensure consistency with the WSRA, specifically that water resource projects will not have a direct and adverse effect on the values for which these rivers are proposed for designation.

S. 3593, Truckee Meadows Public Lands Management Act

S. 3593 provides direction for the future management of various Federal lands in Washoe County, Nevada. Specifically, the bill designates five wilderness areas; establishes five National Conservation Areas (NCA); withdraws seven areas from entry and appropriation under the public land laws, from location and entry under the mining laws, and from operation of the mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights; and takes lands into trust for the benefit of various Tribes. S. 3593 also authorizes a number of

public purpose conveyances and directs the sale of certain lands for fair market value, among other provisions.

The Department supports the goals of S. 3593 that align with the Administration's priorities to conserve public lands and waters for future generations, build healthy communities and economies across the West, and strengthen the government-to-government relationship with Tribal Nations. We would like to work with the Sponsor and the Subcommittee to address certain concerns with the bill as currently drafted, including refining the legislative maps associated with the bill's proposed conservation designations, conveyances, and other land tenure actions. The Department appreciates the Sponsor's efforts to address challenging resource issues and management concerns in this part of Nevada and her willingness to work with the Department and its bureaus on technical assistance to improve the bill.

The Department defers to the USDA regarding provisions in the bill concerning the lands and interests administered by the USFS.

Background

Bordering both California and Oregon, Washoe County stretches for over 6,500 square miles along the northwestern corner of Nevada. More than half a million people call Washoe County home, many of whom live in Reno, the county's most populous city. Washoe County contains significant historic, cultural, and natural resources, including areas of special significance to a number of Tribes. The BLM manages approximately 2.67 million acres of public lands within Washoe County for a wide range of uses. These include various recreational activities, such as hiking, camping, horseback riding, and OHV riding, as well as renewable energy projects, ROWs for utilities, and mineral development. Notably, Washoe County includes portions of Lake Tahoe, the BLM-managed Black Rock Desert – High Rock Canyon Emigrant Trails NCA, and the Sheldon National Wildlife Refuge (NWR), which is managed by the FWS.

Federal Land Conveyances & Sales

Section 101 of S. 3593 directs the conveyance – at no cost – of approximately 3,500 acres of lands managed by the BLM, the Bureau of Reclamation (BOR), and the USFS to the State of Nevada, Washoe County, the University of Nevada-Reno, and other local government entities for a variety of specified public purposes, including recreation, parks and open space, public school sites, flood control, fire reduction activities, and water and wastewater treatment facilities. If these lands cease to be used for the purposes outlined in the bill, or other purposes consistent with the Recreation and Public Purposes Act (R&PP Act), they would revert to the Federal government.

Section 102 of the bill directs the sale at fair market value of approximately 15,900 acres of lands managed by the BLM and USFS within one year. These lands would be jointly selected by the applicable agency and Washoe County. As part of the joint selection process, the applicable agency and Washoe County would be required to determine whether any parcels are suitable for affordable housing; if parcels are determined to be suitable, they would be offered for less than

fair market value. Section 102 further requires the BLM, in consultation with the Secretary of Housing and Urban Development, to make an additional 30 acres available for sale at less than fair market value for affordable housing. Under section 102, proceeds from the land sales would be distributed by formula to the State of Nevada, Washoe County, and a special account in the United States Treasury. Among other purposes, the special account could be used by the BLM or USFS to reimburse the costs associated with processing the land sales; fund the acquisition of environmentally sensitive land; develop and implement hazardous fuels reduction and wildfire prevention plans; and develop parks, trails, and natural areas in the County. Lastly, section 102 includes provisions authorizing the movement or disposal of sand and gravel on parcels acquired under the bill for uses including recontouring or balancing the surface or filling utility trenches.

The BLM regularly leases and conveys lands to state, local, and Tribal governments and nonprofit entities for a variety of public purposes. These leases and conveyances are typically accomplished under the provisions of the R&PP Act or through direction supplied by specific Acts of Congress. Such direction allows the BLM to help states, Tribes, local communities, and nonprofit organizations obtain lands at nominal cost for important public purposes. The Department supports the public purpose conveyances contemplated in section 101, to the extent that they pertain to BLM-managed public lands, as they are generally consistent with the R&PP Act and include reversionary clauses to ensure that they are used for the purposes identified by this section. We recommend that the Sponsor and the Subcommittee consider adding language to each conveyance clarifying that the recipient may acquire the reversionary clause at fair market value. Similar to what would occur as part of the initial conveyance, we also recommend the inclusion of language specifying that the recipient bear the administrative costs associated with conveying the reversionary interest.

While the Department does not object to the proposed land sales, we would like to work with the Sponsor and Subcommittee on minor and technical modifications to section 102, including amendments regarding the management and use of the special account and the timeframes for the sale. For example, the Department notes that section 402(g) of FLPMA and the BLM's grazing regulations require two years' notice to grazing permittees before grazing can be terminated when lands subject to the affected grazing permit are conveyed out of BLM management. To take these requirements into account, the Department recommends that the Sponsor and the Subcommittee consider amending the deadline for sale to at least two years or more. Regarding the affordable housing provisions, the Department notes that the Secretary already has the authority to make public lands in Nevada available at less than fair market value for affordable housing under section 7(b) of the Southern Nevada Public Land Management Act (SNPLMA).

Lastly, the Department notes that some of the lands proposed for conveyance appear to be in private ownership or are currently managed by the BOR, and that some of the referenced maps do not clearly identify which entity is to receive the parcels in question. Similarly, certain parcels proposed for disposal are currently managed by the BOR and are associated with the Newlands Project. With respect to the BOR-managed parcels proposed for transfer, the Department would appreciate the opportunity to continue working with the Sponsor and the Subcommittee on

refining the language, including potentially transferring three entire parcels instead of partial ones and adding two additional parcels, and adjusting the specific mechanism by which the lands would be conveyed.

The Department would welcome the opportunity to work with the Sponsor on updated maps to ensure that the parcels to be conveyed and sold are accurately depicted. Consistent with other enacted public purpose conveyance legislation, we also recommend that the Sponsor and the Subcommittee consider including language regarding the development of final maps and legal descriptions for each of the proposed conveyances.

Lands to be Held in Trust

Title II of S. 3593 provides that, subject to valid existing rights, certain Federal and fee lands be held in trust for three Tribes in Nevada. More specifically, the bill provides that approximately 11,436 acres of BLM-managed public lands be held in trust for the benefit of the Pyramid Lake Paiute Tribe; approximately 8,319 acres of BLM-managed public lands and approximately 155 acres of fee land be held in trust for the benefit of the Reno-Sparks Indian Colony; and approximately 1,095 acres of land managed by the BLM and USFS and approximately 2 acres of fee land be held in trust for the benefit of the Washoe Tribe of Nevada and California. Title II includes provisions requiring surveys of the lands within 180 days of enactment and prohibits Federal land to be taken into trust from being used for Class II or III gaming.

The Department is committed to honoring our nation-to-nation relationship with Tribal Nations, strengthening Tribal sovereignty and self-governance, and upholding trust and treaty responsibilities. As such, we are pleased to support the provisions concerning lands to be held in trust for these three Tribes. The Department would welcome the opportunity to work with the Sponsor and the Subcommittee on a few technical language modifications to the trust transfer to improve implementation. Given the survey work that will be needed for the other designations and land tenure actions in S. 3593, as well as work required by other Nevada lands legislation, we also recommend that the timeframe for the required surveys be extended.

Wilderness & National Conservation Areas

Title III of S. 3593 designates the approximately 25,150-acre Bitner Table Wilderness, the approximately 49,500-acre Wrangler Canyon Wilderness, the approximately 6,300-acre Burro Mountain Wilderness, and the approximately 30,000-acre Granite-Banjo Wilderness on BLM-managed public lands. In addition, Title III designates approximately 112,000 acres of wilderness within the Sheldon NWR, which, as noted above, is managed by the FWS. Title III also releases approximately 590,000 acres of 11 existing BLM-managed wilderness study areas in the county from further study under section 603 of FLPMA. Finally, this title releases the remainder of the proposed wilderness within the Sheldon NWR.

The Department notes that the BLM-managed public lands proposed for wilderness designation serve as important habitat for greater sage-grouse, pronghorn antelope, mule deer, bighorn sheep, mountain lions, and many other species of wildlife and plants. They also provide excellent

opportunities for hiking, hunting, rock climbing, camping, horseback riding, and other forms of outdoor recreation amidst the basalt plateaus, sagebrush steppe, steep canyons, and ridges of northwestern Nevada. The Department notes that the proposed Granite-Banjo Wilderness overlaps with existing geothermal leases and an exploration project boundary. While this wilderness would be subject to valid existing rights, the Sponsor may wish to consider adjusting the wilderness boundary to avoid this overlap.

The proposed Sheldon National Wildlife Refuge Wilderness is consistent with the Sheldon NWR's Comprehensive Conservation Plan and includes some of the most intact and healthy sagebrush habitat remaining in the Great Basin and American West. The Sheldon NWR was established for the protection and conservation of pronghorn antelope, and the FWS manages habitat for hundreds of species of native, rare, and imperiled fish, wildlife, and plants that depend on the sagebrush ecosystem. The Department notes that the proposed Sheldon National Wildlife Refuge Wilderness contains important public use and administrative roads that provide critical wildland fire evacuation routes and enable access to manage and maintain boundary fences, manage sagebrush habitat, and support compatible wildlife-dependent recreational opportunities. The Sponsor may wish to cherry-stem these roads and exclude them from designation to ensure that these important management and public use activities can continue.

The Department strongly supports the designation of these areas as wilderness, and we would appreciate the opportunity to work with the Sponsor to make additional technical edits to this Title.

Title V of the bill designates the approximately 134,100-acre Massacre Rim Dark Sky NCA, the approximately 145,300-acre Kiba Canyon Range NCA, the approximately 272,000-acre Smoke Creek NCA, the approximately 11,000-acre Pah Rah NCA, and the approximately 70,100-acre Fox Range NCA on BLM-managed public lands. The proposed NCAs, which total more than 632,000 acres, would include the vast majority of the public lands that would be released from WSA status.

The Department notes that each of the NCAs and similar designations established by Congress and managed by the BLM are unique. However, all of these designations have certain critical elements in common, including withdrawal from entry and appropriation under the public land laws, location and entry under the mining laws, and operation of the mineral leasing laws; limiting off-highway vehicles to roads and trails designated for their use; language that charges the Secretary of the Interior with allowing only those uses that further the purposes for which the area is established; and language ensuring that lands within such designations are managed at a higher level of conservation than the lands outside. The NCAs proposed by Title V are consistent with these principles, and the Department supports their designation. With that said, however, we encourage the Sponsor and the Subcommittee to consider whether any additional WSA lands within the proposed NCAs also merit designation as wilderness. For example, the lands within the existing Dry Valley Rim and Twin Peaks WSAs, which would be released from WSA status and become part of the Smoke Creek NCA, provide excellent opportunities for experiencing

solitude, isolation, and primitive recreation in a natural desert shrub environment that feature dramatic vistas of a Pleistocene lakebed and sinuous canyons and steep mountain ranges. As early as 1991, these areas were recognized as having outstanding wilderness characteristics, and they have been managed to preserve those characteristics since then.

The Department would like to work with the Sponsor and the Subcommittee on various technical amendments to Titles III and V, such as the inclusion of wilderness and NCA designation language that has become standard for this type of legislation and updating the referenced maps to ensure that all areas proposed for designation are clearly delineated. For example, we recommend the inclusion of standard wilderness designation language clarifying that it is not the intent of the legislation to create buffer zones around wilderness areas. We would also welcome the opportunity to further discuss the Sponsor's intent regarding the provision that would grant the Secretary the authority to construct and maintain fencing around the boundaries of the wilderness areas. As currently written, this provision may inadvertently create a buffer zone around the wilderness areas, which may not be the Sponsor's intent. In addition, the Department notes that completing the required grazing facilities and improvements on more than 100,000 acres of BLM-managed wilderness within a year of enactment may be challenging given current resources.

Finally, we note that the proposed WSA release only addresses the portions of the WSAs in Washoe County. Parts of these WSAs also extend into California. If enacted, the bill could result in fragmentation of the remainder of these WSAs. We urge Congress to consider addressing the areas in California as well.

Withdrawals

Finally, Title VI of S. 3593 withdraws approximately 115,500 acres managed by the BLM and approximately 58,300 acres managed by the USFS from entry and appropriation under the public land laws, from location and entry under the mining laws, and from operation of the mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights. Among the BLM-managed public lands proposed for withdrawal are the Tule Peak and Sand Hills-Petersen Mountain areas. The Tule Peak area, which includes the highest summit of the Virginia Mountain Range, borders Pyramid Lake and is characterized by rolling foothills, steep canyons, and rugged cliff walls. The higher elevations of this area feature sagebrush and grassland communities that serve as habitat for upland game birds, raptors, mule deer, bighorn sheep, and other species of wildlife. Similarly, the Sand Hills-Petersen Mountain area includes moderately incised canyons and draws with pinyon, juniper, and aspen woodlands; montane sagebrush steppe and wet meadows; and big sagebrush shrub land that serve as habitat for many species of wildlife and plants. Both areas offer excellent opportunities for recreation, including hiking, camping, and horseback riding, among others.

The Department would like to work with the Sponsor and the Subcommittee to clarify whether the proposed withdrawals would prevent disposal and to update the referenced maps to ensure that the boundaries are clearly delineated.

The withdrawals proposed in S. 3593 would put in place protections and safeguards for areas with significant natural resources – including some of special importance to Tribes – for the benefit of current and future generations. The Department supports the proposed withdrawals, as they align with and complement President Biden’s *America the Beautiful* initiative, a ten-year, locally-led effort to protect, conserve, connect, and restore the lands, waters, and wildlife upon which we all depend.

S. 3596, A bill to amend the Mineral Leasing Act to amend references of gilsonite to asphaltite

S. 3596 would amend the Mineral Leasing Act (MLA) to replace the term “gilsonite” with “asphaltite.” The MLA identifies gilsonite as a leasable mineral, but it does not contain any references to asphaltite. The Department’s general understanding is that the term asphaltite can be considered a more inclusive term for all vein-type solid hydrocarbons, which includes gilsonite. While the term gilsonite has been included in the MLA since 1981, the Department has recently become aware of a potential intellectual property dispute regarding the use of the term. Notwithstanding this potential dispute, the proposed change to the MLA would not alter how these types of hydrocarbons are leased by the BLM. However, we note that the BLM would need to amend its regulations at 43 C.F.R. Parts 3000, 3140, and 3500 to reflect this change in terminology.

S. 3617, Cape Fox Land Entitlement Finalization Act

S. 3617 would waive the core township requirement for land selection under the Alaska Native Claims Settlement Act (ANCSA) for the Cape Fox Corporation, the ANCSA Corporation for the Native Village of Saxman. Under the bill, Cape Fox would not be required to receive the approximately 185 acres that the corporation previously selected in the township where Saxman is located pursuant to ANCSA. Instead, Cape Fox would be able to select lands outside of its ANCSA-established exterior selection boundary, specifically 180 acres within the Tongass National Forest. In addition, the bill requires that Cape Fox submit its selections to the Secretary via written notice within 90 days of enactment. The BLM would then be required to convey the selected surface lands to Cape Fox and the mineral estate to the Sealaska Corporation as soon as practicable. These conveyances would fulfill Cape Fox’s entitlement under ANCSA.

Analysis

ANCSA was enacted in 1971 to settle aboriginal land title claims with Alaska Natives. ANCSA section 12(a)(1) requires Alaska Native Villages to select Federal lands in the township in which any part of the village is located. The selection process was completed in the early 1970s, and the BLM continues to work through some of the more complicated conveyances and patents. While the BLM is currently ready to convey Cape Fox’s remaining entitlement, the corporation has stated that the selected Federal lands in the township where the village falls – i.e., its “core township” – are unsuitable and that it is seeking this legislative solution.

Based on an initial review of the legislative text and legal land descriptions, there appear to be areas identified for conveyance that are currently encumbered by a Federal Energy Regulatory Commission powersite classification. We recommend that the legislation clarify whether or not the Cape Fox conveyance is subject to this existing encumbrance.

The Department supports fulfilling Cape Fox’s remaining entitlement. However, the Department defers to the USDA regarding disposition of lands managed by USFS under the bill. The Department would like to work with the Sponsor on technical edits to section 2(3)(A) of the bill regarding the description of which lands Cape Fox was permitted to select under ANCSA, and to clarify the existing land status.

S. 3870, Slip-on Tanks for Tribes Act

The Department supports S. 3870, the Slip-on Tanks for Tribes Act of 2024, which would amend section 40803(c)(5) of the Infrastructure Investment and Jobs Act, more commonly known as the Bipartisan Infrastructure Law (BIL, Public Law 117-58), to include Tribes as entities able to receive financial assistance from the Department to acquire slip-on tanks used in wildland firefighting. These units allow for the quick conversion of certain vehicles to be operated as wildland fire engines. The BIL authorized a total of \$50 million for the Department to establish and implement a pilot program to provide financial assistance to local governments for the acquisition of slip-on tank units. In February 2024, \$5 million was made available under this program through a Notice of Funding Opportunity. More than 150 local governments responded with a statement of interest. Invitations to apply were extended to 25 entities based on their eligibility and priority ranking. Applications were due from all 25 entities on June 4, 2024. The Department plans to issue a second funding opportunity this fall.

Making Tribes eligible to participate in this grant opportunity would further enhance Department-Tribal coordination and collaborative wildland fire management efforts. Tribes have a deep and longstanding connection to the land, and their indigenous wildland fire knowledge, practices, and history are integral to the Department’s efforts to manage wildfires and reduce wildfire risk.

S. 3790, Alaska Native Vietnam Era Veterans Land Allotment Extension and Fulfillment Act

S. 3790 would extend the Alaska Native Vietnam Era Veterans Land Allotment Program (ANVLAP) through late 2030. The bill would also make additional lands managed by the FWS available for selection by eligible veterans under the program. These lands were identified in a November 2020 report completed by the FWS pursuant to section 1119(c)(1) of the John D. Dingell, Jr. Conservation, Management, and Recreation Act (Dingell Act, Public Law 116-9). Finally, S. 3790 establishes a process by which the USFS would identify USFS-managed lands to be made available for selection by eligible veterans.

Analysis

The ANVLAP is a top priority for the Secretary of the Interior and the BLM. The BLM has conducted extensive outreach, including through national media and in-person workshops throughout Alaska and the Pacific Northwest, to identify and contact those who may be eligible for allotment selection under the program. Through these efforts, the BLM has heard concerns from numerous veterans, as well as their heirs and families, regarding certain large areas of the state that are not currently available for allotment selection under the Dingell Act – including lands in the Yukon-Kuskokwim River Delta, on the Aleutian Islands, on the North Slope, and in Southeast Alaska. This is a particularly acute issue because many eligible veterans are believed

to live within these regions – for example, the BLM estimates that there are approximately 500 eligible veterans in Southeast Alaska alone. S. 3790 would likely provide opportunities to address some of these concerns by making additional lands identified by the FWS and the USFS available for selection. We appreciate congressional efforts to make additional lands available. It should be noted that there would still be regions of the state, such as the North Slope, that are unavailable even if this legislation is enacted.

The current five-year deadline for eligible veterans to submit applications expires on December 29, 2025. This deadline is only for the BLM to receive applications, not for the completion of the allotment certification process. The Department appreciates the Sponsor’s interest in extending the application period to ensure eligible veterans can apply as more lands become available for selection.

The Department is concerned that the “navigable body of water” buffer described in section 3(b)(2) of the bill could greatly increase the processing time for applications it receives for lands within national wildlife refuges. The BLM has not made administrative determinations of navigability for many bodies of water within such refuges in Alaska. This provision could create significant uncertainty for the applicants as to whether land is available, as the BLM would not be able to make these determinations until an application is received near a waterbody. If the BLM ultimately determines that the water body is navigable, the agency would have to reject the application, or any lands described in the application that are within the 300-foot setback identified in the bill. This provision would also create a substantial increase in survey workload associated with any allotment that is selected by a navigable waterway within a national wildlife refuge. Instead of following our standard practice of simply using the established ordinary high-water mark as one boundary of the allotment, the BLM’s cadastral survey crews would have to physically survey the 300-foot offset, significantly increasing the current \$40,000-\$50,000 cost of surveying each allotment. We recommend maintaining our standard practice.

While the Department defers to the USDA regarding the lands and interests managed by the USFS, we generally support this legislation. We appreciate the Sponsor’s interest in working with the Department on technical assistance to improve the bill and would welcome the opportunity to discuss several technical changes to the legislation.

S. 4310, Chugach Alaska Land Exchange and Oil Spill Recovery Act

S. 4310 directs a land exchange between the Federal government and the Chugach Alaska Corporation (CAC) within one year of enactment. The Federal government would acquire over 231,000 acres of subsurface estate from the CAC, the majority of which underly Federal and state surface lands with conservation easements managed by the Federal government or village corporation-owned lands with timber easements managed by the Federal government. In exchange, the CAC would receive the fee estate, both surface and mineral estate, for nearly 64,000 acres managed by the USFS, approximately 1,200 acres managed by the BLM, and 760 acres managed by the National Park Service (NPS).

Analysis

The Habitat Protection and Land Acquisition Program established by the Exxon Valdez Oil Spill Trustee Council allowed the United States and the State of Alaska to acquired impacted lands or

interests in the surface estate for conservation purposes. While the CAC did not participate in the land sale agreement, the corporation has since raised concerns regarding its ability to develop the subsurface under the established conservation easements. The proposed legislation is an attempt to reflect some of the exchange recommendations identified by the Chugach Region Land Study, which was submitted as directed under section 1113 of the Dingell Act.

While the Department generally supports the goals of the bill to the extent that they are aligned with the recommendations in the study, we are concerned about the impact that it could have on the BLM's ability to meet existing cadastral survey requirements. S. 4310 calls for the exchange of approximately 231,036 acres of mineral estate owned by the CAC for approximately 65,403 acres of surface and mineral estate managed by the Federal government. Although survey has been completed in most locations, if the exchange is implemented, all land parcels will require resurvey to redefine the boundaries to match the new land ownership patterns, especially with respect to split estate. This would represent a substantial unfunded cost to the BLM, which could delay the one-year requirement to complete the exchange, especially when the current priority survey work associated with the ANVLAP is taken into account. Additionally, the one-year timeframe for completion would be challenging as the legislation does not waive the need for the BLM to complete a title review, including a Certificate of Inspection and Possession exam, prior to accepting title to land, which is required by the Department of Justice's Title Regulations. Finally, the Department notes that because appraisals have not been conducted for the lands in question, it is unclear whether the proposed exchange would be of equal value.

The Department would like to work with the Sponsor and the Subcommittee on modifications to the bill, including adjustments to timeframes, to ensure that the BLM is able to meet its survey obligations under other important Alaska legislation. We would also like to work with the Sponsor and the Subcommittee to refine the legal descriptions associated with the proposed exchange. Based on an initial review of the legislative text, there appear to be discrepancies that could result in continued split estate issues in the region. In addition, there appear to be lands that were not identified in the Chugach Region Land Study as potentially available for exchange.

The Department defers to the USDA regarding the disposition of lands managed by the USFS land under this bill.

S. 4424, National Prescribed Fire Act

The Department supports S. 4424, the National Prescribed Fire Act of 2024. Title I of the bill would establish a Prescribed Fire Account to support coordination with state, local and Tribal governments to facilitate additional prescribed fire work; fund training opportunities; and establish a Collaborative Prescribed Fire program in the Department. Title II of the bill would authorize agreements and contracts with non-Federal entities to conduct prescribed fire on Federal lands; expand the number and locations of prescribed fire training centers; authorize several wildland firefighter workforce reforms; provide legal protections to employees and entities conducting prescribed fires; study the feasibility of a Prescribed Fire Claims Fund; and address smoke management under the Clean Air Act. Title III would require the annual reporting of prescribed fire accomplishments.

S. 4424 aligns with the Wildland Fire Mitigation and Management Commission’s final report to Congress that recommends improved collaboration among Federal, state, Tribal, and local partners to increase the pace and scale of prescribed fire on Federal and non-Federal lands. To address this recommendation, the Department has proposed legislation that is included in the Fiscal Year (FY) 2025 President’s Budget request that authorizes the use of Federal funds to conduct hazardous fuels treatments, including prescribed fire, and burned area rehabilitation work on non-adjacent, non-Federal lands in certain circumstances. This would provide the flexibility for the Department to collaborate with partners across landscapes to reduce wildfire risk, restore the natural role of fire, and increase resilience. The FY 2025 President's Budget request also includes pay reforms and increased firefighter workforce capacity. Together, these proposals would increase capacity to do prescribed fire work and improve recruitment and retention of firefighters qualified to do prescribed fire work, which are consistent with the objectives of S. 4424.

The Department recognizes the importance of collaboration to reduce wildfire risk and achieve hazardous fuels management objectives. Funding from the BIL has facilitated the Department’s ability to expand its reach through collaborative efforts, resulting in an increase of the Department’s FY 2023 fuels accomplishments by 30 percent over FY 2022 levels. The Department supports the bill’s provisions that protect our employees and other non-Federal wildland fire management practitioners from liability in the event of an escaped prescribed fire that causes loss or damage. There are inherent risks in conducting prescribed fires, and protecting employees that follow appropriate standards and that are not negligent in their actions is key to providing these employees with the incentive to use this tool under the right conditions. Considering this, the Department appreciates the technical improvements that were made to prior versions of the bill; however, the Department would like to continue working with the Sponsor to address other technical issues to promote the further expansion of collaborative prescribed fire work on Federal and non-Federal lands.

To facilitate cross-boundary work, the Department recommends that Title I of the bill – and all other relevant sections – be expanded to include all land management agencies in DOI, including the BIA, NPS, and the FWS. These agencies make considerable use of prescribed fire to achieve land and resource management objectives. The Department also recommends that Federal agencies with the expertise in community engagement and training, such as the Federal Emergency Management Agency’s U.S. Fire Administration, be included as a key partner in supporting the provisions that address community-based wildfire risk reduction. Additionally, the Department would like to work with the Sponsor on addressing the workforce provisions in section 202(a) that would fund employee overtime pay and hazardous duty pay that is tied to prescribed fire project work from the Suppression Operation Account. This could stress the availability of suppression funds at a time of increasing operational needs and costs. Additionally, the Department notes that this provision could be duplicative of existing hazardous fuels programs within DOI bureaus. We would like to work with the Sponsor and the Subcommittee to address this issue while still meeting the objectives of the section.

The Department has concerns with section 102, which would require a 10 percent annual increase in the number and combined size of prescribed fires on Federal lands for nine years. Prescribed fires require certain weather and vegetation moisture conditions to achieve land health and wildfire risk reduction objectives and to ensure ignitions stay within the prescribed boundaries. In some cases, prescribed fires cannot be completed under specific deadlines or timeframes because these conditions cannot be consistently and predictably met. The Department understands the urgent need to increase fuel reduction efforts to reduce catastrophic wildfire. In general, the Department's ability to match the right fuels treatment with the right ecosystem results in better fire management. This provision could overly emphasize prescribed fire use in ecosystems on DOI-managed lands even where it is not the best tool, thus limiting the Department's ability to match the right fuels treatment with the right ecosystem. This would result in less effective wildfire risk reduction work while potentially impacting funding availability for other treatments, as well.

Finally, the Department also has concerns with section 202(b), which expands prescribed fire training centers to include all Geographic Area Coordination Centers. This is contrary to current on-going efforts to develop a module based Western Prescribed Fire Training Center where hands-on training is conducted in the field rather than in a classroom. This alleviates the need for additional physical facilities, improves training efficiency, and supports a national approach to training without duplicative efforts at the geographic level.

The Department would like to work with Sponsor to address these issues and other technical modifications to the bill.

S. 4449, River Democracy Act

S. 4449 would add nearly 3,200 miles of rivers and streams in Oregon to the National Wild and Scenic Rivers System (System), including over 500 river miles managed by the BLM, with the remainder managed by the USFS, NPS, the FWS, and other entities. The bill expands the authority of Federal land management agencies to enter into cooperative agreements to share river management responsibilities with Tribes, in addition to state or local governments. S. 4449 also withdraws certain river segments in the State of Oregon from entry and appropriation under the public land laws, location and entry under the mining laws, and operation of the mineral leasing laws. As detailed below, the Department supports the bill and would like to work with the Sponsor on a modification to the proposed withdrawals to improve implementation. The Department defers to the USDA regarding river segments managed by the USFS.

Analysis

S. 4449 would designate over 300 unique river segments, based on classification, crossing BLM-managed lands throughout the BLM Oregon districts of Burns, Coos Bay, Lakeview, Medford, Northwest Oregon, Prineville, Roseburg, and Vale. These wild, scenic, and recreational river designations include additions to existing components of the System and designating entirely new river and stream segments throughout the state of Oregon.

BLM-Managed Additions to the Wild & Scenic Rivers System

The BLM works through its planning process to identify all rivers on BLM-administered lands that possess free-flowing conditions and outstandingly remarkable values for potential addition to the System. While the BLM has not assessed the eligibility for all of the segments proposed for designation by S. 4449, it is the agency's policy to consider rivers and their values identified by other public agencies at the Federal, state, and local level; Tribal governments; and the public. The Department appreciates the Sponsor's efforts to coordinate with local communities in the development of these proposed designations and supports the designations included in S. 4449 located on BLM-managed lands.

Administration & Comprehensive River Management Plans

Section 4 of S. 4449 directs the Department to publish an implementation plan for each covered segment within one year of enactment that provides timeframes for completing comprehensive river management plans (CRMP) required by Section 3(d)(1) of the WSRA. CRMPs are prepared with appropriate NEPA analysis and extensive consultation with state, Tribal, and local governments, and public involvement. The Department appreciates the flexible timeframes provided by S. 4449 to conduct a thorough and collaborative planning process for the CRMPs. Further, the Department supports the Sponsor's direction to address wildfire risks, culturally significant native species, and the ecological function of ecosystems in the CRMPs.

Wild & Scenic River Boundaries

Section 3(b) of the WSRA provides for the establishment of boundaries of an average of not more than 320 acres of land per mile measured from the ordinary high-water mark on both sides of the river while section 15(1) provides an average of not more than 640 acres per mile on both sides of designated rivers in Alaska. Congress has approved expansions of the acreage limitation per linear mile outside of Alaska through legislation, such as in the Dingell Act.

S. 4449 provides for boundaries that include an average of 640 acres of land per mile measured from the ordinary high-water mark on both sides of the river for designated components of the System under this bill and for any future river designations in the State of Oregon. The Department supports this increase in the river corridor acreages as it would enhance the protection of river values and facilitate management of the river area.

Withdrawals

The bill establishes a withdrawal for all river segments designated or amended by the bill in the State of Oregon. Under section 8(a) of the WSRA, all components of the System are withdrawn from entry, sale, or other disposition under the public land laws of the United States. Section 9(a) withdraws Federal lands within river corridors classified as "wild" from operation of the mining and mineral leasing laws, subject to valid existing rights. Rivers classified as "scenic" or "recreational" may be administratively withdrawn through a public land order or notice of realty action but are not automatically withdrawn upon designation. S. 4449 provides a comprehensive withdrawal, subject to valid existing rights, for all classifications including "scenic" and "recreational" rivers designated or amended by the bill in Oregon. The

Department supports the expansion of the WSRA withdrawal to these other classifications as it would improve the agency's ability to protect and enhance river values, including free-flow, water quality, and outstandingly remarkable values on "scenic" and "recreational" segments. Further, the Department recommends that the interim boundaries comprise a corridor that is 640 acres from the ordinary high-water mark on each bank or shore to ensure that the lands withdrawn remain consistent between designation and the publication of detailed boundaries.

Section 8 of S. 4449 withdraws, subject to valid existing rights, certain essential serpentine wetlands in Oregon and California from operation of the public land and mining laws, and all laws pertaining to mineral and geothermal leasing. These essential serpentine wetlands are those identified in a 2018 joint BLM and USFS conservation strategy, which seeks to maintain long-term viability of five rare plants and prevent their listing under the Endangered Species Act. Under the bill, the Secretaries of Agriculture and of the Interior are required to give priority to implementing the interagency conservation strategy and provide for public review of draft maps and descriptions for each essential serpentine wetland. The Department supports the withdrawal to benefit these species of concern and other species that occupy serpentine wetland habitats.

Finally, section 8(b) of the bill withdraws Federal land within the Illinois Watershed Special Management Area from entry and appropriation under the public land laws, location and entry under the mining laws, and all laws pertaining to mineral and geothermal leasing, subject to valid existing rights. The special management areas withdrawn include eleven BLM-administered Areas of Critical Environmental Concern (ACEC) as well as eight botanical areas. ACECs are public lands where special management is needed to protect important resource values. These areas are evaluated using the best available information and public involvement, and ultimately can be designated as ACECs through the land use planning process. The Department supports this withdrawal as it would provide a greater level of protection for these special areas.

S. 4451, RESERVE Federal Land Act

S. 4451 would require the Secretary of the Interior, in coordination with the Secretary of Agriculture and the Secretary of the Army, acting through the Chief of Engineers, to enter into an agreement with the National Academy of Sciences to carry out a study of reservation systems for recreation activities on Federal land. Federal land is defined as BLM land, USFS System land, units of the National Park System, units of the National Wildlife Refuge System, sites administered by the BOR, and sites administered by the U.S. Army Corps of Engineers.

S. 4451 directs the National Academy of Sciences to conduct a comprehensive review of the history of reservation systems, including a review of prior studies, previous iterations of the Federal agency reservation system Recreation.gov, and visitor feedback on that system. The bill also directs the study to answer several questions, such as the benefits and challenges of implementing reservation systems and best practices to guide reservation system design. The bill requires the National Academy of Sciences to submit a report that describes the results of the study within 18 months of enactment of the Act.

Analysis

Federal land management agencies have been using the reservation system Recreation.gov for nearly 30 years. It is the centralized system for 14 Federal agencies to support land management and enable visitors to discover and experience public lands and waters. Recreation.gov provides reservation and trip planning capabilities and features more than 125,000 individual sites and activities across 5,500 recreation areas. The platform offers expanded features to improve the customer experience through visitor mapping and trip planning tools that allow visitors to discover locations and activities new to them, especially when their chosen sites are already reserved. Recreation.gov plays a crucial role in providing users with assurance and peace of mind that their campsite will be ready for them and that they'll have access to parks and recreation experiences as scheduled.

The Department is committed to providing high-quality experiences to visitors recreating on Federal lands and to ensuring that access to those experiences is equitable and inclusive. The Department supports the intent of S. 4451, but since the bill was recently introduced, would appreciate the opportunity to review the language of the bill more thoroughly and work with the Sponsor and the Subcommittee on any recommended amendments.

S. 4454, Operational Flexibility Grazing Management Program Act

S. 4454 aims to provide grazing permittees and leaseholders with increased operational flexibility based on emerging landscape conditions as a way to improve the long-term ecological health of Federal land. The Department supports the bill's goal to provide the BLM with flexibility to restore the ecological health of public lands used for grazing and welcomes the opportunity to work with the Sponsor to ensure the use of operational flexibility does not result in unintended consequences.

Analysis

S. 4454 provides that the Secretary may carry out an Operational Flexibility Grazing Management Program. Under this program, at the request of an authorized grazing permittee or lessee when renewing a grazing permit or lease, the Secretary would be required to "develop and authorize at least [one] alternative to provide operational flexibility" to permittees and leaseholders to address changing conditions on the ground. Such alternatives would be developed in consultation with the authorized grazing permittee or lessee; affected Federal and state agencies; applicable Indian Tribes; and other landowners, permittees, or lessees in the affected allotment.

As currently written, the draft appears to require the BLM to not just consider but select and authorize an alternative that includes operational flexibility. Such a requirement may prevent the BLM from selecting the most appropriate management alternative to promote ecological health. The Department recommends that the bill require the BLM to develop and analyze at least one alternative that includes operational flexibility, but not require that the agency necessarily authorize that alternative. That approach provides the agency with flexibility to manage public lands to support ecological health.

The bill also directs the Secretary, if requested by the permittee or lessee, to use new and existing data to provide interim operational flexibility that may include an allowance to deviate from the

terms and conditions of the existing permit – for up to the remaining term of the permit – to address significant changes in weather or forage production or effects due to fire, drought, market conditions, or other temporary conditions. Management flexibility may include adjusting the season of use; the beginning or ending date, or both, of the period of use; the stocking level; water placement and transportation; and other operational actions. Under the bill, the season of use could be adjusted by up to 14 days before the beginning date specified in the permit or up to 14 days after the ending date of the permit, unless an allotment management plan or its equivalent would allow for an even greater adjustment.

As currently drafted, implementing interim operational flexibility outside the terms and conditions of the existing permit, for the duration of the permit, may not comply with the requirements of other state or Federal laws, including NEPA, and may cause unintended impacts to resources. The Department recommends that the bill specify that these adjustments cannot exceed the active use authorized by the permit or cause new surface disturbance.

Under the bill, permittees would also be required to provide the BLM with advance notice of two business days before utilizing the flexibility. The Department recommends defining the market conditions and other temporary reasons that would prompt the use of interim operational flexibility. The Department would also like to work with the Sponsor to identify a more appropriate period for advanced notice before exercising flexibility to facilitate implementation.

Additionally, the Secretary would be required to develop cooperative rangeland monitoring plans, in coordination with grazing permittees and lessees, that comply with applicable monitoring requirements under FLPMA, applicable Federal grazing regulations, and rangeland health objectives to monitor and evaluate outcomes from the use of operational flexibilities under the program. Eight years after the date of enactment, the Secretary would be required to conduct a review of the use of operational flexibilities under the program, including a review of ecological and other relevant outcomes.

The Department recognizes that providing permittees with flexibility to adjust their grazing use will provide more timely and responsive adjustments to changing conditions in order to achieve identified resource and operational objectives. We recommend that allowances to depart from permit or lease terms and conditions for purposes of operational flexibility also include objectives that identify when adjustments are appropriate and provide for a monitoring plan that tracks how progress is measured toward achieving those objectives. Cooperative rangeland monitoring is a key component of implementing strategically sound grazing flexibility as part of the BLM's existing outcome based grazing program.

The Department appreciates the bill's inclusion of the requirement for cooperative rangeland monitoring plans and would like to work with the Sponsor to develop more stringent monitoring requirements to ensure that the use of operational flexibilities results in benefits to the health of public lands and does not result in unintended harm to wildlife and other resources. The success of the BLM's current outcome based grazing program is due, in part, to the program's cooperative monitoring plans, which include monitoring methods and protocols; a schedule for collecting data; identifying the responsible party for data collection and storage; an evaluation schedule; and a description of the anticipated use of the data (e.g., adjusting season-of-use,

assessing habitat, and determining trends). The Department recommends that the monitoring plans contemplated by this bill also include these components and provisions for making any adjustments.

Finally, the bill prohibits the Secretary from terminating or failing to renew an applicable grazing permit or lease for violation if the use of an operational flexibility under the program violates the applicable permit or lease. It is unclear whether this prohibition could create tension with the BLM's obligations to enforce other applicable environmental protection and cultural resources laws, such as the Endangered Species Act, the National Historic Preservation Act, and others. The Department would like to work with the Sponsor on this provision to ensure that the appropriate use of the operational flexibility complies with other applicable laws and does not result in the termination or failure to renew a grazing permit or lease.

S. 4457, Southern Nevada Economic Development and Conservation Act

S. 4457 provides direction for the future management of various Federal lands in Clark County, Nevada. Specifically, the bill takes lands into trust for the benefit of two Tribes; designates six new and expands five existing wilderness areas; expands two NCAs; creates nine Special Management Areas (SMA); and designates four OHV Recreation Areas. S. 4457 also authorizes public purpose conveyances in Clark County; makes several amendments to SNPLMA; and includes a number of other miscellaneous provisions.

The Department supports the goals of S. 4457 that align with the Administration's priorities to conserve public lands and waters for future generations, build healthy communities and economies across the West, and strengthen the government-to-government relationship with Tribal Nations. We would welcome the opportunity to work with the Sponsor and the Subcommittee to address certain concerns with the bill as currently drafted, including creating new or updated legislative maps that more clearly depict the bill's proposed conservation and special management designations, conveyances, and other land tenure actions, in addition to management language for some of the proposed designations.

Background

Clark County, located in southern Nevada, is home to over 2.2 million people. The county is also home to iconic BLM recreation and conservation areas, such as Red Rock Canyon NCA, Sloan Canyon NCA, and the Gold Butte National Monument. It boasts significant historic, cultural, and paleontological treasures. The BLM manages approximately 2.6 million acres of public lands within Clark County for a wide range of multiple uses. These include various recreational activities, such as hiking, camping, horseback riding, and OHV riding; renewable energy projects; ROWs for utilities; and mineral development.

SNPLMA, enacted in 1998, authorizes the sale of BLM-managed public lands within a congressionally designated boundary in the Las Vegas Valley. Funds generated from the sale of public lands may be used for public purposes such as parks, trails, and natural areas; hazardous fuel reduction; capital improvements; conservation initiatives; and for the purchase of environmentally sensitive lands. The BLM uses the funds generated through SNPLMA to work

with local community partners on projects that enhance access to public lands and to protect and maintain resilient landscapes and ecosystems.

Lands to be Held in Trust

Section 101 of S. 4457 directs approximately 44,950 acres of Federal land managed by the BLM and the BOR to be held in trust for the benefit of the Moapa Band of Paiutes. This section of the bill requires the Secretary to complete all surveys for the transfer within 60 days of enactment. Additionally, section 102 requires the Secretary to hold in trust approximately 200 acres of fee land and directs the Secretary to complete the surveys for the fee land within 180 days of enactment. Section 103 of S. 4457 would direct the Secretary to take approximately 3,156 acres of BLM-managed public lands into trust for the benefit of the Las Vegas Paiute Tribe, with the condition that a 300-foot-wide ROW be granted by the Tribe to a qualified electric utility for the construction and maintenance of high-voltage transmission facilities, consistent with existing renewable energy transmission agreements.

Taking land into trust is one of the most important functions the Department undertakes on behalf of Indian Tribes. These lands can be essential to their health, safety, cultural heritage, and economic development. This Administration has made strengthening the nation-to-nation relationship with Tribal Nations a top priority and we support holding these lands in trust for the Moapa Band of Paiutes and the Las Vegas Paiute Tribe. We would like to work with the Sponsor on boundary modifications to remedy potential land use conflicts. For example, a portion of the lands proposed to be held in trust for the benefit of the Moapa Band of Paiutes are an important Mojave desert tortoise translocation area that was set aside as a mitigation measure to allow for renewable energy development in southern Nevada. The Department would also like to work with the Sponsor to ensure the BLM has adequate time to conduct the required boundary surveys, and on a technical correction to the provision involving the renewable energy transmission corridor.

Wilderness

Section 301 of S. 4457 designates over 1.5 million acres of wilderness on lands managed by the BLM, FWS, and NPS. This section would designate the approximately 73,000-acre Mount Stirling Wilderness, the approximately 14,500-acre New York Mountain Wilderness, the approximately 7,500-acre Paiute Mountains Wilderness, and the approximately 9,600-acre Lucy Gray Wilderness on BLM-managed public lands. Section 301 would also designate the 1.28-million-acre Southern Paiute Wilderness on lands managed by the FWS within the Desert NWR and the approximately 92,000-acre Gates of the Grand Canyon Wilderness on lands managed by the NPS within the Lake Mead National Recreation Area. Finally, this section expands the BLM's existing Bridge Canyon, Eldorado, Ireteba Peaks, Muddy Mountain, Nellis Wash, South McCullough, and Spirit Mountain Wildernesses by a total of approximately 140,000 acres.

The BLM-managed lands proposed as wilderness feature rolling foothills and wide bajadas, steep slopes, rugged canyons, and majestic peaks. They support a diverse range of plant and animal species and provide an outstanding opportunity to experience solitude in a stark and

colorful desert landscape. Similarly, encompassing six major mountain ranges and seven distinct life zones, the Desert NWR showcases the abundance and variety of plants and animals that occur in southern Nevada, all just a short drive from Las Vegas. Created in 1936 to provide habitat and protection for desert bighorn sheep, the 1.6-million-acre Desert NWR is the largest wildlife refuge outside of Alaska. Teeming with diversity over a vast landscape, the Desert NWR provides habitat for over 500 plant, 320 bird, 52 mammal, and 35 reptile species as it transitions from the Mojave to the Great Basin Desert. While the Desert NWR has been home to people for thousands of years, from Nuwu/Nuwuvi (Southern Paiute/Chemehuevi) to ranch homesteaders, the refuge remains largely unchanged by human hands.

The Department supports the proposed wilderness designations and expansions. With respect to the areas proposed on BLM-managed public lands, we would like to work with the Sponsor and the Subcommittee on boundary modifications to ensure continued access to existing telecommunication sites. The Department also notes that the existing map depicting the proposed Mount Stirling Wilderness appears to include lands managed by the USFS. We defer to the USDA regarding lands managed by the USFS. Additionally, the Department would like to work with the Sponsor and the Subcommittee to ensure the use of standard wilderness designation language.

With respect to the areas proposed on FWS-managed lands, the Department would like to continue to work with the Sponsor and the Subcommittee on several technical edits, including those that would ensure that minimal and appropriate “guzzler” maintenance to enhance water availability for desert bighorn sheep and other wildlife remains possible in a manner that will be consistent with the Wilderness Act. We also recommend that representatives from Nuwu/Nuwuvi Tribes be consulted in the final determination of the name for the designated wilderness area within Desert NWR.

Finally, the Department would like to work with the Sponsor to update the maps of the wilderness area proposed on NPS-managed lands, as some conditions may have changed since the preliminary study for the proposed wilderness was completed in 1979.

Red Rock Canyon NCA Expansion

Section 202 of S. 4457 would expand the size of the Red Rock Canyon NCA in Clark County by approximately 51,000 acres of BLM-managed public lands. Originally designated in 1990, the Red Rock Canyon NCA is located 17 miles west of the Las Vegas Strip and serves as a premier recreation destination for both local residents and visitors from across the United States and many foreign countries. More than three million visitors each year enjoy the Red Rock NCA’s spectacular desert landscape; climbing, mountain biking, and hiking opportunities; and interpretive programs. Section 201 of the bill would also allow for the use of fees for the public parks designated under the Clark County Conservation of Public Land and Natural Resources Act of 2002 (Public Law 107-282).

The Department supports the proposed expansion of the Red Rock Canyon NCA and would also like to work with the Sponsor and the Subcommittee to ensure that the management of the public parks conveyed to Clark County under Public Law 107-282 remains consistent with the conditions associated with the exchange authorized by Congress.

Sloan Canyon NCA Expansion & Lateral Pipeline Authorization

Section 209 of S. 4457 would expand the Sloan Canyon NCA in Clark County by approximately 9,000 acres of BLM-managed public lands. The Sloan Canyon NCA was designated in 2002 to preserve and protect the natural and cultural resources located in the southern Mojave Desert. The Sloan Canyon NCA provides outstanding opportunities for visitors who wish to experience the unique scenic and geologic features, remarkable cultural resources, and diverse recreation possibilities within the area. The Department notes that the majority of the lands identified for inclusion in the Sloan Canyon NCA are currently being used for dispersed recreation, OHV use, and recreational shooting. Section 209 of the bill would also require the Secretary to grant a free, permanent ROW to the Southern Nevada Water Authority through the Sloan Canyon NCA within one year of enactment.

The Department generally supports expanding the Sloan Canyon NCA but would like to work with the Sponsor and the Subcommittee to ensure that any lands included would be consistent with the stated purpose of the NCA. While the Department appreciates the inclusion of language in section 209 that could help reduce impacts from the construction of a water pipeline, we are still concerned that the bill's mandate for a permanent ROW could compromise the natural values that the NCA was specifically designated to protect, despite what we understand to be the Sponsor's intent.

The permanent ROW granted by the bill is for an underground water pipeline and associated infrastructure, which would involve surface-disturbing activities. In addition, the Department is concerned that the language in section 209(c) of the bill could be interpreted as allowing for significant expansion and authorization of surface-disturbing activities within the NCA, and notes that this section does not include some of the protective language provided with the authorization of the ROW in section 209(b). The Department would like to work with the Sponsor and the Subcommittee to ensure that the bill as written does not inadvertently allow for activities beyond the envisioned scope, as the Department remains committed to ensuring the core values and resources identified for protection by the creation of the Sloan Canyon NCA remain protected.

The Department would like to work with the Sponsor and the Subcommittee to ensure that any ROW issued by the BLM follows the established requirements for ROWs and that the legislative map referred to in this section is updated to more clearly depict facility and temporary access ROWs and to correct what we believe to be an error in the underlying data used to prepare the map. We also note that the one-year timeframe to issue the ROW provided by the bill is insufficient to complete adequate Tribal consultation and environmental analysis.

Special Management Areas & Ivanpah Area of Critical Environmental Concern

Section 204 of S. 4457 designates the approximately 141,000-acre Stump Springs SMA, the approximately 39,300-acre Bird Spring Valley SMA, the approximately 45,900-acre Desert Tortoise Protective Corridor SMA, the approximately 2,600-acre Jean Lake SMA, the approximately 16,400-acre Gale Hills SMA, the approximately 10,100-acre California Wash SMA, the approximately 61,800-acre Bitter Springs SMA, the approximately 33,400-acre Muddy Mountains SMA, and the approximately 8,400-acre Mesa Milkvetch SMA on lands managed by the BLM. The purposes of these SMAs, which collectively total approximately 359,000 acres, would be to mitigate the impacts of any amendment to the Clark County Multiple Species Habitat Conservation Plan (MSHCP) and associated incidental take permit (ITP), and to conserve, protect, and enhance a broad range of natural, cultural, and other resources within each SMA.

Under section 204 of the bill, the SMAs would be withdrawn from entry and appropriation under the public land laws, location and entry under the mining laws, and operation of the mineral leasing laws, subject to valid existing rights and ROWs for the construction, maintenance, and operation of certain Moapa Valley Water District facilities. In addition, this section includes language limiting OHVs to roads and trails designated for their use and charging the Secretary with allowing only those uses that further the purposes for which each SMA is established. Section 204 also requires the BLM to enter into a cooperative agreement with Clark County on the development and implementation of management plans for the SMAs within one year after the county is issued an amended ITP and provides for interim management until such plans are completed. Finally, section 204 revokes any portion of the existing Ivanpah ACEC that overlaps with an SMA and requires the BLM to seek to enter into a cooperative agreement with Clark County for the long-term protection and management of the SMAs.

Section 205 of S. 4457 requires the Department to credit the approximately 359,000 acres of BLM-managed lands designated as SMAs in the bill as a mitigation measure to fully or partially offset additional incidental take impacts resulting from the development of additional land within Clark County under the MSHCP. This section further authorizes the Secretary to extend the existing MSHCP and associated ITP for the “maximum authorized duration” upon receipt of a complete application for an amendment to the MSHCP and associated ITP.

The Department notes that the management framework associated with the proposed SMAs and MSHCP is complex, and we encourage the Sponsor and the Subcommittee to consider whether alternative special management designations – paired with an extension to the MSHCP – could achieve the intended purpose. For example, Congress has previously designated NCAs to conserve, protect, and enhance habitat for threatened and endangered species, and such a framework could potentially serve here as well. In addition, the Department is concerned that revoking the Ivanpah ACEC could negatively impact the Mojave desert tortoise and certain rare plant habitat covered by the existing MSHCP. If the Sponsor and the Subcommittee opt to move forward with the designation of the SMAs as currently proposed, the Department would like to work on additional mitigation measures to ensure the purposes of the proposed SMAs can be

implemented successfully. We would also like to work with the Sponsor to clarify language describing the proposed cooperative management agreement with the county, the proposed withdrawal, the effects on transportation and utility corridors, and corrections to the required maps.

OHV Recreation Areas

Section 701 establishes the approximately 16,100-acre Laughlin OHV Recreation Area, the approximately 21,700-acre Logandale Trails OHV Recreation Area, the approximately 43,800-acre Nelson Hills OHV Recreation Area, and the approximately 39,000-acre Sandy Valley OHV Recreation Area on BLM-managed public lands. Under the bill, the purposes for each area are to preserve, protect, and enhance OHV use; other activities determined to be appropriate by the Secretary; and certain natural, cultural, and other resources. This bill also requires the BLM to develop a comprehensive management plan for the areas within two years of enactment and provides for interim management until such plans are completed. Each of the proposed OHV Recreation Areas, along with the Nellis Dunes OHV Recreation Area designated by Public Law 113-291, would be withdrawn from entry and appropriation under the public land laws, location and entry under the mining laws, and operation of the mineral leasing laws, subject to valid existing rights, and OHVs would be limited to roads and trails designated for their use in the applicable management plan.

The Department supports increasing access to public lands for outdoor recreation but would like to work with the Sponsor and the Subcommittee on boundary adjustments to the proposed OHV Recreation Areas to exclude designated critical habitat for the Mojave desert tortoise. The Department would also like to work with the Sponsor and the Subcommittee to ensure that language in the bill regarding motorized vehicle allowances complements the purposes of the OHV Recreation Areas.

Federal Land Conveyances

Section 211 of the bill directs the conveyance of approximately 354 acres of BLM-managed public lands near Sloan, Nevada, to Clark County for use as part of a “Job Creation Zone.” The section further states that after conveyance, the county may sell, lease, or otherwise convey, for fair market value, the lands within the Job Creation Zone for nonresidential development, with the proceeds to be distributed in accordance with section 4(e) of SNPLMA. In addition, the County is authorized to retain parcels within the Job Creation Zone for public recreation or other public purposes consistent with the R&PP Act. Lastly, section 211 requires any parcels not conveyed per the section within 30 years of enactment, as well as any parcel found to be used in a manner that is inconsistent with the uses specified, to revert to the United States.

The Department supports the objective of this conveyance but would like to work with the Sponsor and the Subcommittee to ensure the Federal government receives fair market value for any land that leaves Federal ownership, consistent with FLPMA. The Department also recommends that the Sponsor include language ensuring that the receiving entity pay for the costs associated with the land conveyance.

Sections 401-414 of S. 4457 direct the Secretary to make 54 conveyances totaling at least 8,700 acres of Federal lands to local government entities within Clark County, Nevada, upon request. These conveyances are to be used for a variety of specified public purposes and include a reversionary clause requiring that the lands be used for their intended public purposes or they will revert to the Department, at the discretion of the Secretary. If any of the conveyances become contaminated with hazardous waste, the receiving entity would be responsible for remediation of such contamination before the lands reverted to the Department.

The BLM regularly leases and conveys lands to state, local, and Tribal governments and nonprofit entities for a variety of public purposes. These leases and conveyances are typically accomplished under the provisions of the R&PP Act or through direction supplied by specific Acts of Congress. Such direction allows the BLM to help states, Tribes, local communities, and nonprofit organizations obtain lands at nominal cost for important public purposes. The Department is concerned, however, that the total acreage proposed for conveyance by the bill is larger than what is normally authorized for public purposes under the R&PP Act, which is limited to 6,400 acres to a state or political subdivisions of a state. The Department would welcome the opportunity to further discuss the proposed public purpose conveyances with the Sponsor and the Subcommittee, as well as to create official legislative maps to ensure that the conveyances and the current land tenure status are properly delineated. We also recommend that the Sponsor include language correcting a few technical errors and ensuring that the receiving entity pay for the costs associated with the land conveyance and permitting parcels to be used for any purpose consistent with the R&PP Act.

Finally, section 601 of the bill amends the Omnibus Public Land Management Act of 2009 (Public Law 111-11) to convey approximately 740 acres of BLM-managed lands to the city of Henderson, Nevada, for public purposes such as affordable housing. This section also directs that the land be made available for sale or conveyance by the city at fair market value if no longer needed for public purposes. The Department supports the objective of this conveyance but would like to work with the Sponsor and the Subcommittee to clarify the identified purposes.

Amendments to SNPLMA – Enlargement of Land Disposal Boundary & Affordable Housing Changes

Section 203 makes several amendments to SNPLMA, such as requiring the Secretary to allow for the movement of sand and gravel resources in the acquired public lands by the private surface owners to recontour or balance the surface estate and dispose of sand and gravel at off-site landfills. This section also makes available an additional 25,000 acres of BLM-managed land that would be jointly selected by the BLM and Clark County and set aside for disposal under SNPLMA. Section 203 also revokes the BLM's designation of the West Valley Disposal Boundary and the Nelson Disposal Boundary, which were included in the Las Vegas Resource Management Plan in 1998. Finally, section 203 would modify SNPLMA's existing affordable housing provision, define "affordable housing" within Clark County, and authorize the use Federal land acquired after enactment by units of local government in Clark County to be used for affordable housing. The provisions further exempt such parcels from the notice of realty

action requirements and would only require public notice of use of covered land for affordable housing at least two weeks in advance. Lastly, the section allows the Secretary, in consultation with the Secretary of Housing and Urban Development, to set terms and conditions for affordable housing, as appropriate.

Additionally, section 207 amends SNPLMA to allow the funds generated through SNPLMA land sales to be expended on capital improvement projects within the Tule Springs Fossil Bed National Monument and allows for the special account to be expended on sustainability and climate initiatives.

The Department understands the Sponsor's goal to make public land available for acquisition to facilitate the growth of local communities that are surrounded by Federal lands, including for affordable housing, and we generally appreciate the improvements to this section over previous versions of this legislation. The Department would like to work with the Sponsor and the Subcommittee to better understand the intent of some of the affordable housing provisions. Finally, the Department is supportive of the amendment to SNPLMA in section 207, which would benefit Tule Springs Fossil Beds National Monument and put it on equal footing with all other Federal public lands within the area covered by SNPLMA.

Apex Area Technical Corrections

Section 212 of S. 4457 would amend the Nevada Land Transfer and Authorization Act of 1989 to include the Apex Industrial Park Owners Association and the City of North Las Vegas – in addition to Clark County – as parties to whom the Secretary is required to issue utility or transportation ROWs to access the Apex industrial site. This section would amend the law by removing the discretion from the Secretary in the issuance of these ROW grants and would allow for the unlimited noncompetitive sale of any mineral materials generated from activities within the Apex site.

The Department supports the bill's goal of facilitating the expansion of public infrastructure for the City of North Las Vegas, but we would like to work with the Sponsor to ensure that the Department retains discretion on the issuance of any future utility or transportation ROWs. In addition, the Department would like to work with the Sponsor to ensure the sale or use of any Federal minerals follow existing law and regulations.

Miscellaneous Provisions

Section 703 directs the BLM to amend the 1998 Las Vegas Resource Management Plan to allow for the construction of flood control facilities in the Coyote Springs Desert Tortoise ACEC. The Department understands the need for improved water management in southern Nevada but would like to ensure that this ACEC continues to provide important habitat for the desert tortoise.

Conclusion

Thank you again for the opportunity to provide testimony on these bills.