

**Statement of
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U.S. Department of the Interior, Bureau of Land Management
Senate Committee on Energy and Natural Resources
S. 2380, RPPA Commercial Recreation Concessions Pilot Program Act
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Thank you for inviting the Bureau of Land Management (BLM) to testify on S. 2380, the RPPA Commercial Recreation Concessions Pilot Program Act. S. 2380 would amend the Recreation and Public Purposes Act (R&PP Act) to require the Secretary of the Interior (Secretary) to establish a commercial concessions pilot program for lands transferred or leased under the R&PP Act (R&PP Act lands, covered lands). The BLM understands that allowing third party commercial concessions on R&PP Act lands could possibly enhance the public's use and enjoyment of those lands. However, allowing unlimited profit-generating activities on covered lands would severely undermine the core principle of the R&PP Act and ignore BLM's statutory responsibility to obtain a fair return for the use and disposal of valuable public resources that belong to all Americans. As a result, the BLM strongly opposes S. 2380 in its current form.

Background

The BLM frequently exercises authority under the R&PP Act to help states, local communities, and nonprofit groups obtain lands at no or low cost for important, specified public purposes. Examples of public purposes allowed under the Act include establishment of parks, schools, hospitals and other health facilities, fire and law enforcement facilities, courthouses, social services facilities, and public works. Since the R&PP Act's passage in 1954, the BLM has transferred approximately 410,000 acres of public lands to qualifying entities in the form of over 1,600 R&PP Act patents. The Bureau also currently manages over 630 R&PP Act leases totaling approximately 76,000 acres.

Because the R&PP Act allows for the transfer and lease of public lands at prices far below fair market value, the state, local, and nonprofit entities that receive the lands must agree to always use them for bona fide public purposes. This compromise is the foundation of the R&PP Act, and it is the basis for a limitation imposed on for-profit activities on covered lands. Under longstanding BLM policy, any revenue collected on lands leased or transferred under the R&PP Act must be used on those lands. This restriction prevents public lands obtained at little or no cost from being used for large-scale revenue generation at the expense of the American public.

The BLM includes reversionary clauses in the transactions to enforce the terms of the original agreements that state and local governments and nonprofit organizations enter into upon applying for and receiving R&PP Act transfers and leases. These provisions help ensure R&PP Act lands will either be used for public purposes in perpetuity or revert to Federal management. Over the years, the BLM has addressed many requests to eliminate the Federal reversionary interests in covered lands. In the leasing context, this generally can be accomplished by replacing an existing R&PP Act lease with a commercial lease at fair market value. In the case of an existing R&PP Act transfer, the state, local, or nonprofit entity generally can purchase the Federal reversionary interest at fair market value.

S. 2380

S. 2380 would amend the R&PP Act to require the Secretary to establish a commercial concessions pilot program to cover R&PP Act lands. Under the pilot program, the Secretary would enter into agreements with one to 10 parties to whom R&PP Act lands have been patented or leased for the establishment of commercial concessions on the covered lands. The agreements between the Secretary and these parties could last up to 20 years based on specific financing criteria, and they could be extended once for no longer than their original terms.

In addition, S. 2380 would allow R&PP Act land holders who have such agreements with the Secretary to enter into subsequent agreements with third parties for the establishment of commercial concessions pursuant to the initial secretarial agreements. The bill also includes troubling language that would effectively subvert the public purpose mandate of the R&PP Act by opening covered lands to virtually any residential, agricultural, industrial, or commercial use without being considered a change in use under the Act. Finally, S. 2380 would allow any revenue collected by the R&PP Act land holders pursuant to the commercial concessions to be spent without restriction.

Taken together, these provisions would permit public lands obtained for very little or no cost to be used for potentially limitless profit at the expense of the American taxpayer. While the title of the bill purports to provide only for recreation concessions, the legislative text also would open covered R&PP Act lands to all uses allowable under BLM regulations for leases, permits, and easements – including revenue-generating uses for which the BLM collects fair market value. This outcome would be contrary to the spirit of the R&PP Act, in direct conflict with the mission and purposes for which the BLM manages the public’s lands under the Federal Land Policy and Management Act, and would prevent the BLM from ensuring a fair return to the American people for valuable public resources. Therefore, the BLM strongly opposes S. 2380 as currently written.

Conclusion

Thank you for inviting me to testify before you today. I would be happy to answer any questions you may have.