

**Statement of
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U.S. Department of the Interior, Bureau of Land Management
Senate Energy and Natural Resources Committee
S. 3102, Pershing County Economic Development and Conservation Act
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Thank you for inviting the Bureau of Land Management (BLM) to testify on S. 3102, the Pershing County Economic Development and Conservation Act. This bill authorizes public land sales, exchanges, and conveyances in Pershing County, Nevada; designates approximately 136,000 acres of BLM-managed public lands as seven wilderness areas; and releases approximately 48,600 acres of BLM-managed public lands from Wilderness Study Area (WSA) status. The BLM largely supports the conveyance and conservation goals of S. 3102 and would welcome the opportunity to work with Senators Heller and Reid and the Committee on important modifications to the bill.

Background

Pershing County, located in northwestern Nevada, is home to nearly 7,000 people. The county holds spectacular value for recreation because of its close proximity to the Black Rock Desert, Selenite Mountains, and Augusta Mountains. It also boasts significant historic, cultural, and paleontological treasures. The BLM manages approximately 2.9 million acres of public lands within Pershing County for a wide range of uses, including mineral development, recreation, livestock grazing, and conservation.

Public Land Sales & Exchanges

In 1976, with the passage of the Federal Land Policy and Management Act (FLPMA), Congress directed the BLM to retain management of most public lands, thereby reducing the acreage that had been available for disposal in earlier years. Under FLPMA, the BLM's mission is to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. FLPMA also provides the BLM with a clear multiple-use and sustained yield mandate that the agency implements through its land use planning process.

Nevertheless, public land sales remain a component of the BLM's land management strategy when these sales are in the public interest and consistent with publicly-approved land use plans. The primary land sale authority of the BLM is found in Section 203 of FLPMA. Land sales conducted under FLPMA occur at the discretion of the Secretary of the Interior (Secretary) and are made at fair market value in accordance with Federal law. Current policy is to generally conduct sales under competitive bidding procedures to ensure a fair return. In such cases, sales are widely advertised through public notices, media announcements, and on appropriate BLM websites.

Similarly, the BLM uses land exchanges to ensure effective land management. Among other purposes, land exchanges allow the BLM to acquire environmentally sensitive lands while transferring public lands into non-Federal ownership for local needs and the consolidation of scattered tracts. The BLM conducts land exchanges pursuant to Section 206 of FLPMA, which

provides the agency with the authority to undertake such exchanges, or when given specific direction by Congress. To be eligible for exchange under Section 206 of FLPMA, BLM-managed lands must have been identified as potentially available for disposal through the land use planning process. Extensive public involvement is critically important for such exchanges to be successful.

The Administration notes that the process of identifying lands as potentially available for disposal through sale or exchange does not include the clearance of impediments to disposal or exchange, such as the presence of threatened and endangered species, cultural or historic resources, mining claims, oil and gas leases, rights-of-way, and grazing permits. Under FLPMA, these clearances must occur before a disposal action can be completed.

Public Purpose Conveyances

The BLM regularly leases and conveys lands to local governments and nonprofit entities for a variety of public purposes. These leases and conveyances are typically accomplished under the provisions of the Recreation and Public Purposes Act (R&PP Act) or through direction supplied by specific Acts of Congress. Such direction allows the BLM to help states, local communities, and nonprofit organizations obtain lands at nominal cost for important public purposes. The BLM generally supports appropriate legislative conveyances at nominal cost if the lands are to be used for purposes consistent with the R&PP Act, if the lands are appropriate for disposal, and if the conveyances have reversionary clauses to enforce this requirement.

S. 3102

S. 3102 directs Federal land sales, exchanges, and conveyances in Pershing County, Nevada. The legislation also designates approximately 136,000 acres of public lands as seven wilderness areas and releases approximately 48,600 acres of BLM-managed WSAs from further study.

Checkerboard Land Resolution (Title I)

Section 103 of S. 3102 directs the sale or exchange of up to approximately 334,000 acres of BLM-managed public lands located within the area identified as the “Checkerboard Lands Resolution Area” and that have been or will be identified as potentially suitable for disposal in the Winnemucca Resource Management Plan, or in any subsequent land use plan amendment or revision for the planning area. This acreage total also includes approximately 15,000 additional acres of BLM-managed public lands specifically identified on the legislative map.

In addition, the bill directs the Secretary of the Interior (Secretary) to identify, no later than one year after enactment, Management Priority Areas (MPAs) within the “Checkerboard Lands Resolution Area” that are considered by the Secretary to be Greater Sage-Grouse habitat; part of an identified wildlife corridor or designated critical habitat; of value for outdoor recreation or public access for hunting, fishing, and other recreational purposes; of significant cultural, historical, ecological, or scenic value; or of value for improving Federal land management. Once the initial identification of the MPAs is completed, the Secretary may identify additional MPAs at any time.

Under the bill, land sales must be conducted through a competitive bidding process and cannot exceed 150,000 acres in total. However, exchanges would be exempted from the acreage cap.

The bill requires that all lands authorized for sale or exchange be appraised en masse within one year of enactment and every five years thereafter. Any lands with a value of less than \$500 per acre, under this Act, may be exchanged on an acre-for-acre basis with private land within a MPA; no other lands would be eligible for exchange. The first land sale must be completed within one year of enactment, with at least one sale conducted every year thereafter, until the acreage limit for sales has been reached, or the end of a sale postponement period requested by the county.

The bill also requires that five percent of the proceeds from the sales of land would be disbursed to the State for general education programs. Ten percent would be disbursed to the county for use as determined through normal county budgeting procedures. The remaining 85 percent would be deposited into a special U.S. Treasury account, which would be available to the Secretary of the Interior to: 1) reimburse costs of the BLM incurred in preparation of land sales or exchange (e.g., the costs of surveys and appraisals and the costs of compliance with the National Environmental Policy Act [NEPA] and the Federal Land Policy and Management Act [FLPMA]); 2) conduct projects in the county to address wildlife habitat conservation and restoration; address drought conditions; secure public access to Federal land for hunting, fishing, and other recreational purposes; 3) acquire environmentally sensitive land in the county; and 4) conduct surveys related to the wilderness areas designated by this Act.

While the BLM generally supports the consolidation of land patterns to provide for more orderly land management and the conservation of natural and cultural resources, the BLM has some concerns with the land sales and exchanges directed in section 103. We would like to work with the sponsors and Committee to address them as this legislation moves forward. Equal value land transfers must be the cornerstone of any proposal. The Administration is committed to continuing its adherence to the Uniform Appraisal Standards for Federal Land Acquisition and Uniform Standards of Professional Appraisal Practice. While it may be appropriate to consider alternative methods for low-value parcels as envisioned by this legislation, we believe in general that adhering to existing FLPMA processes as much as possible is important. In addition, the President's FY 2017 Budget included a proposal to reauthorize the Federal Land Transaction Facilitation Act (FLTFA), which provided the BLM with an important tool to facilitate land tenure adjustments. FLTFA expired in 2011. Reauthorization would allow the BLM to sell lands identified as suitable for disposal in recent land use plans, and then to use the proceeds from those sales to acquire environmentally sensitive lands, including State trust land inholdings. We recommend that Congress move to reauthorize FLTFA.

Furthermore, the personnel the BLM would need to process these land transfers are the same personnel currently employed in a wide variety of other vital land management issues, including processing renewable energy and transmission rights-of-way applications and land use authorizations for community needs to name just two. Therefore, the bill's time frames will necessarily have consequences for a wide variety of other users of the public lands.

As we have previously testified, the BLM believes that Federal land should not be used to pay for activities that would normally be funded through annual appropriations or the administrative costs of land sales and exchanges. We would like to work with Congress to determine how best to implement the proposed sales and exchanges while also achieving the important conservation

and resource protection objectives outlined in this title. Finally, the BLM notes that some of the lands proposed for sale or exchange appear to conflict with at least two Section 368 energy corridors. We would welcome the opportunity to work with the sponsors and the Committee on language or boundary adjustments addressing impacts to these corridors.

Land Conveyances & Transfers (Title II)

Section 201 of S. 3102 provides for directed sales of up to approximately 102,000 acres of BLM-managed public lands identified as “covered land” on the legislative map to a “qualified entity,” which is defined in the bill as the owner (or authorized leaseholder acting with the consent of the owner) of the mining claims, mill sites, or tunnel sites currently existing on any portion of the covered land. All sales would be for fair market value, subject to uniform appraisal standards and practices, and must be completed within one year. The qualified entity would assume all costs of the sales, including survey and administrative costs. Proceeds from these sales would be disbursed in the manner outlined for the sales and exchanges required by section 103.

The BLM opposes this section as currently written because the lands proposed for sale include Greater Sage-Grouse habitat, numerous sites eligible for the National Register of Historic Places, and a portion of the California National Historic Trail and viewshed. We would like to work with the sponsors and Committee on technical amendments to this section, including boundary adjustments to protect natural and cultural resources in this area, the use of standard appraisal language, and ensuring that the lands to be conveyed are appropriate for disposal.

Section 202 of the bill directs the Secretary to convey, at no cost, approximately 10 acres to Pershing County for use as a public cemetery. We note that BLM is currently working to transfer this cemetery to the county under the R&PP Act. While the BLM supports this conveyance, we would like to work with the sponsors and the Subcommittee on language for consistency with the R&PP Act, including a standard reversionary clause to ensure that the land continues to be used for this important public purpose.

Wilderness (Title III)

Section 301 of S. 3102 designates the approximately 12,300-acre Cain Mountain Wilderness, the approximately 25,000-acre Bluewing Wilderness, the approximately 23,000-acre Selenite Peak Wilderness, the approximately 12,000-acre Mount Limbo Wilderness, the approximately 14,000-acre North Sahwave Wilderness, the approximately 35,300-acre Tobin Crest Wilderness, and the approximately 15,000-acre Fencemaker Wilderness. The BLM supports each of these designations.

These proposed additions to the National Wilderness Preservation System will protect fragile desert ecosystems and provide important habitat for Greater Sage-Grouse, pronghorn antelope, mule deer, desert bighorn sheep, and many other species of wildlife and plants. The proposed Mount Limbo Wilderness, for example, features a spectacular landscape of granite outcrops, basaltic flows, and alluvial fans that is perfect for backcountry exploration. These proposed wildernesses provide excellent opportunities for hiking, hunting, rock climbing, camping, and horse-packing for those who wish to experience the solitude of rugged canyons and dramatic desert vistas. The BLM recommends the use of standard language for the designation of wilderness areas. We would also like to work with the sponsors and Committee on boundary

adjustments for manageability and consistency with the Wilderness Act and on clarifying language related to technical issues, temporary telecommunications devices, and noxious weed treatments.

Finally, section 304 of the bill releases approximately 48,600 acres of five BLM-managed wilderness study areas (WSAs) from further study, allowing these areas to be managed according to the existing BLM land use plans.

Conclusion

The BLM recognizes the sponsors' extensive public outreach and hard work on S. 3102, and we largely support the bill's conveyance and conservation goals. We have a number of substantive as well as minor and technical modifications to recommend, and we look forward to working with the sponsors and the Committee to address these issues as the bill moves through the legislative process.