

**Statement of  
Michael Nedd  
Deputy Director, Operations  
Bureau of Land Management  
U.S. Department of the Interior**

**Senate Committee on Energy & Natural Resources  
Subcommittee on Public Lands, Forests, & Mining  
S. 241, Colorado Outdoor Recreation and Economy Act**

**November 18, 2020**

Thank you for the opportunity to testify on S. 241, the Colorado Outdoor Recreation and Economy Act, which provides direction for the future management of certain Federal lands in southwestern Colorado. S. 241 designates the McKenna Peak Wilderness on lands managed by the Bureau of Land Management (BLM) and releases the remainder of the Dominguez Canyon Wilderness Study Area (WSA) from further wilderness study under section 603(c) of the Federal Land Policy and Management Act of 1976 (FLPMA), thereby making these lands available for other multiple uses.

In addition, the bill withdraws approximately 244,500 acres of Federal lands near Carbondale and east of Paonia, Colorado — including Thompson Divide — from operation of the public land, mining, and mineral leasing laws, subject to valid existing rights, and provides for the relinquishment of certain mineral leases within this area. The bill further requires the BLM to inventory coal mine methane emissions from coal mines, and creates a commercial coal mine methane emission capture program.

The bill also establishes a legislative boundary for the existing Curecanti National Recreation Area managed by the National Park Service (NPS), expands the area to encompass a total of approximately 50,700 acres, directs the transfer of certain lands currently managed by the BLM and Bureau of Reclamation (BOR) to the NPS for inclusion into this area, and adjusts the potential wilderness area boundary of the NPS-managed Rocky Mountain National Park.

Finally, the bill designates one new recreation area comprising approximately 17,000 acres, two new wildlife conservation areas comprising approximately 11,700 acres, two new special management areas comprising approximately 22,500 acres, and creates or expands seven wilderness areas by approximately 55,900 acres on lands managed by the U.S. Forest Service (USFS).

The Department of the Interior (Department) has pledged to expand access to America's public lands, to increase hunting, fishing, and recreational opportunities nationwide, and to enhance conservation stewardship through Secretarial Orders 3347, 3356, 3366, and 3373. S. 241, however, would not achieve these goals in a balanced way, and the Administration opposes it as currently drafted.

We would like the opportunity to work with the sponsor and the Subcommittee to determine if wilderness, withdrawal, and special management designations are the best mechanism for managing these important resources and uses in this part of Colorado. The Department defers to the Department of Agriculture regarding provisions in the bill concerning the lands and interests administered by the USFS.

## **Background**

Southwestern Colorado is characterized by high mountain ranges, scenic valleys, and arid, slick rock canyon country. Energy development, agriculture, and recreation drive the local economy, as well as world-famous resort areas like Aspen and Telluride. The public lands managed by the BLM and NPS in this region serve as popular destinations for outdoor enthusiasts, including off-highway vehicle users, hikers, mountain bikers, rock climbers, hunters, and fishers. BLM-managed public lands in these areas also provide important opportunities for grazing, energy development and jobs, and other important commercial activities.

### ***McKenna Peak WSA***

The McKenna Peak WSA covers nearly 20,000 acres of BLM-managed public lands in San Miguel and Dolores Counties in southwestern Colorado. The Department notes that this area generally serves as habitat for a diversity of plant and animal life, including mule deer, elk, pronghorn antelope, mountain lions, and bald and golden eagles. The WSA also provides important opportunities for hunting, hiking, horseback riding, snowshoeing, and cross-country skiing.

### ***Thompson Divide***

Thompson Divide and the North Fork Valley connect the Elk Mountains and Grand Mesa. These rugged areas of Colorado are near the mountain resort communities of Aspen and Glenwood Springs. The North Fork Valley is also home to a more than century-old coal mining area, as well as an emerging organic farming movement centered in Paonia. This area of Colorado is characterized by steep, forested terrain and large areas of congressionally designated wilderness, including the Raggeds and West Elk wildernesses. Higher elevations include big game habitat, particularly mule deer and elk, while lower elevations are primarily used for agriculture, including vineyards, orchards, and ranching. Oil and gas development has occurred in the Thompson Divide and North Fork Valley for decades. In addition, the Thompson Divide includes a natural gas storage unit, where natural gas stored for later use in nearby communities.

### ***Curecanti National Recreation Area***

The NPS-managed Curecanti National Recreation Area includes a series of three BOR reservoirs along the Gunnison River. The reservoirs that make up Curecanti today are a destination for water-based recreation high in the Rocky Mountains. Best known for kokanee salmon and lake trout fishing, Curecanti also offers opportunities for hiking, boating, camping, and bird watching. BLM-managed public lands border Curecanti at lower elevations, with National Forest Lands in higher elevations.

## **S. 241**

### ***Title I — Continental Divide***

Section 109 would provide for the maintenance and use of the Trail River Ranch in Rocky Mountain National Park by excluding approximately a 15.5-acre area from the Rocky Mountain National Park Wilderness. This area is currently part of the park and managed as potential wilderness in accordance with the Omnibus Public Land Management Act of 2009 (Public Law 111-11). By policy, areas listed as potential wilderness are managed as wilderness until a final determination can be made. This tract contains a historic ranch consisting of a home, guest cabin and outbuildings. The ranch is dedicated to unique environmental educational programs currently run by partner groups, The Friends of Trail River Ranch and Rocky Mountain Conservancy.

Stakeholders believe the area can be used as a more robust education center, accommodating year-round programs while expanding visitor opportunities on the west side of the Park. In order to accomplish this, several repairs and upgrades are needed to the existing facilities, as well as repairs to the bridge used to access the area. The necessary upgrades and improved educational uses for the Trail River Ranch are not feasible while the tract is being managed as wilderness. In 2015, the park conducted public scoping to gather input on the future vision of Trail River Ranch. The park received 119 pieces of correspondence which demonstrated overwhelming support for the outdoor education center and the requisite change to non-wilderness status. By removing the Trail River Ranch from the potential wilderness designation, the NPS can upgrade the facilities, and allow for year-round educational uses supported by the partner groups, community and local stakeholders. The Department supports this removal.

### ***Title II — San Juan Mountains***

Section 203 of the bill designates approximately 8,900 acres of the existing BLM-managed McKenna Peak WSA as wilderness. Only Congress can determine whether to designate WSAs as wilderness or to release them for other multiple uses. The McKenna Peak WSA has been pending final resolution by Congress since October 1991. The Department supports Congressional action to settle the status of these lands, which would provide certainty to public land users in Colorado.

We note, however, that section 203 covers only those areas of the WSA in San Miguel County. The other almost 11,000 acres of the WSA in Dolores County are not addressed in the legislation. These acres would remain in WSA status, pending Congressional action. The Department recommends that the sponsor and the Subcommittee consider addressing this portion of the WSA as well. Based on the Department's 1991 Colorado Statewide Wilderness Study Report, we recommend that this area be released from WSA status. In addition, we would like to work with the sponsor on certain modifications to this section, including adjusting the boundary to follow existing natural resource and topographical features instead of the county line, which would enhance manageability.

Section 205 of S. 241 provides for the release from WSA status of those portions of the Dominguez Canyon WSA that were not designated as wilderness under Title II, Subtitle E of Public Law 111-11, the Omnibus Public Land Management Act of 2009. Section 2403 of that Act designated the Dominguez Canyon Wilderness Area. However, small portions of the

underlying WSA totaling approximately 3,035 acres were neither designated wilderness nor released from WSA status. This release would benefit the BLM's ongoing management by removing narrow strips and scattered tracts of remaining WSA. These areas remain within the Dominguez-Escalante National Conservation Area (NCA), also designated by Public Law 111-11, and would be managed consistent with the rest of the NCA.

In addition to this needed WSA release, the Department recommends that the sponsor consider releasing other small WSAs and Instant Study Areas (ISAs) in Colorado that were not included in previous wilderness designations, including the Black Ridge Canyons, Bill Hare Gulch, North Sand Hills, Needle Rock, and High Mesa Grassland areas. Each of these areas are challenging for the BLM to manage because of their small size and proximity to existing development. Release of these areas would provide additional opportunities for multiple uses and recreational access, including hunting and fishing, hiking, camping, and horseback riding, among others.

### ***Title III — Thompson Divide***

Section 303 of the bill withdraws approximately 244,500 acres of Federal land near Carbondale and east of Paonia, Colorado, from operation of the public land, mining, mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights. This area is locally known as the Thompson Divide. The surface of these lands is managed by the USFS (approximately 187,900 acres) and the BLM (approximately 15,200 acres), with the remainder of the surface managed by the State of Colorado and the Bureau of Reclamation or in private ownership.

Under the current BLM and USFS land use plans, some of the lands proposed for withdrawal — which range from very low to very high oil and gas potential — are currently open to oil, gas, and coal development. The lands overlap with four existing BLM oil and gas units. The Thompson Divide proposed withdrawal largely avoids the historic North Fork Valley coal mine development area, although some coal reserves would be withdrawn.

Finally, under section 305 of the bill, the Department would be required to complete, within one year of enactment, a coal mine methane inventory. This inventory would include an assessment of methane emissions from active, inactive, and abandoned coal mines in the Lower North Fork Valley. Section 305 also requires the Department to develop a program to offer for lease Federal methane from active, inactive, and abandoned coal mines, subject to valid existing rights. In addition, section 305 requires the Department to establish a program to facilitate the sale and delivery of methane from such coal mines to a power provider within 100 miles of Paonia, Colorado, to generate electricity.

The Department would like the opportunity to work with the sponsor and the Subcommittee on the best mechanism for managing the resources within the Thompson Divide and the upper North Fork Valley. Alternative management approaches could protect recreational opportunities and conserve resources while still accommodating the full range of uses and activities permitted on other BLM-managed lands. Under FLPMA, for example, the BLM currently manages public lands within this area for a variety of uses, such as conservation, watershed protection, hunting, fishing, and other forms of recreation, livestock grazing, and oil and gas development. While much of the withdrawal area proposed by section 303 is open to development of oil, gas, and

coal resources, the BLM minimizes impacts through lease stipulations and conditions of approval that protect wildlife habitat, water quality, and visual impacts.

If Congress chooses to proceed with the proposed withdrawal, the Department would like to work with the sponsor on a number of modifications, including language clarifying the status of the Wolf Creek Storage Unit and the State of Colorado's share of all Federal revenue from the leasing process.

In addition, the Department is concerned with some aspects of the technical feasibility posed by the methane inventory required by section 305, which could make it difficult to complete within one year. For example, methane emissions occur naturally in many areas like the North Fork Valley, making identifying coal mine emissions more challenging. As such, it may be difficult to determine whether a particular emission is associated with an active, inactive, or legacy coal mine. As a result, other State or Federal regulatory agencies may be more appropriate to inventory and evaluate coal mine methane emissions from abandoned coal mines since the BLM does not regulate air quality.

Finally, the Department's understanding is that methane from non-operating coal mines within the Lower North Fork Valley may not comprise a commercially viable energy source, largely because of its composition (less than 50 percent methane and greater than 30 percent nitrogen). As such, the Department recommends that the sponsor consider authorizing a study to determine the market viability of waste methane electricity generation in this area before establishing the leasing program proposed in section 305.

#### ***Title IV— Curecanti National Recreation Area***

Curecanti National Recreation Area is located in southwestern Colorado, stretching approximately 40 miles along the Gunnison River basin in Gunnison and Montrose counties. Curecanti is one of the few units of the National Park System that does not have a legislated boundary.

In cooperation with the BOR, the NPS manages Curecanti National Recreation Area under Section 8 of the Colorado River Storage Project Act of 1956 and a 1965 Memorandum of Agreement (MOA) between the BOR and the NPS. At Curecanti, the BOR manages three reservoirs, including the dams, power plants, access roads, and other related facilities; while the NPS manages the natural and cultural resources, as well as visitor recreation and associated visitor facilities. Additionally, the NPS maintains cooperative agreements with the BLM and with USFS for various program areas at Curecanti. The Department notes that the BLM and the NPS currently have cooperative agreements in place for multiple program areas, including invasive species management, BLM management of NPS's remaining grazing leases, and Gunnison Sage-Grouse inventory and monitoring, among others.

P.L. 106-76, enacted in 1999, required the NPS to conduct a study and make recommendations to Congress for alternatives that would better conserve the natural, cultural, recreational and scenic resources within and surrounding Curecanti National Recreation Area. The NPS, with the BOR as a cooperating agency, conducted the study, which included preparing an Environmental Impact Statement.

The study, which was transmitted in 2009, recommended that Congress legislatively establish Curecanti as a National Recreation Area (NRA) unit within the National Park System with a legislated boundary, and that the 1965 MOA between the BOR and the NPS be revised accordingly. Title IV of S. 241 addresses the recommendations of the 2009 report in several ways. First, the bill transfers administrative jurisdiction of lands withdrawn or acquired by the BOR to the NPS within one year of the enactment of the bill, while allowing the BOR to retain lands and all necessary access required for reclamation purposes. The bill also requires that a Memorandum of Understanding governing this access be entered into between the NPS and BOR within one year of enactment. Additionally, the bill transfers approximately 2,560 acres of USFS land and approximately 5,040 acres of BLM land to the NPS, and provides authority to acquire additional land within the boundary by donation, purchase from willing sellers, transfer from a Federal agency, or exchange. The legislation requires that any existing grazing leases on BLM lands will be honored after transfer to NPS. Furthermore, hunting and fishing opportunities would be allowed on these lands after inclusion in the recreation area. Additionally, the bill transfers 800 acres currently managed by the BOR to the BLM. These Gunnison County parcels include the 6-site Gateview campground, which lies at the north end of recreation lands currently managed by the BLM's Gunnison Field Office.

The report further recommended that the NPS expand efforts to support conservation of the natural, cultural, recreational and scenic resources on lands, both within and surrounding Curecanti NRA. Specifically, the report recommended that Congress authorize the NPS to work in partnership with adjacent landowners to implement a variety of tools that would enhance the long-term conservation of natural, cultural, recreational, and scenic resources. These recommendations are addressed in Section 402(c), paragraphs (3), (4), and (5); authorizing new or modified management agreements between Federal agencies and State agencies for management of the NRA, allowing recreation access including boating, hunting, and fishing within the NRA, and authorizing landowner assistance and partnership efforts with private landowners located within 3 miles of the NRA boundary.

Section 402(c), paragraphs (7), (8), and (9) maintains existing grazing rights, existing water rights, and existing fishing easement access and programs, while Section 404 requires that the NPS prepare a General Management Plan for the NRA, in consultation with the Commissioner of Reclamation, within 3 years of funds being provided for the purpose.

### **Conclusion**

Thank you for the opportunity to testify. The Department looks forward to continuing to work with the sponsor and the Subcommittee as this bill moves forward through the legislative process. The Department is committed to managing public lands as a good neighbor to the local communities and to the Americans who live and work in close proximity to them. Rural communities have raised concerns about the land-use restrictions included in S. 241. The Department, therefore, opposes S. 241 in its current form, but is willing to work with Congress to improve it if the bill is considered further.

**Statement for the Record  
U.S. Department of the Interior**

**Senate Committee on Energy & Natural Resources  
Subcommittee on Public Lands, Forests, & Mining  
S. 1695, Human-Powered Travel in Wilderness Areas Act  
November 18, 2020**

Chairman Lee, Ranking Member Wyden, and members of the Subcommittee, thank you for the opportunity to provide the Department of the Interior's views on S. 1695, a bill to amend the Wilderness Act to allow local Federal officials to determine the manner in which nonmotorized uses may be permitted in wilderness areas, and for other purposes.

As discussed below, the Department supports S. 1695, which aligns with important and longstanding Department and Administration priorities.

**Expanding Public Access**

The lands managed by the Department have value for recreation only when people can fully access those lands and, as a result, the Trump Administration has placed a high priority on increasing public use and enjoyment of our federal lands. Secretary Bernhardt has responded by opening access to a historic amount of land managed by our bureaus for hunting, fishing, and other recreation opportunities – and by providing free access to the iconic and treasured lands we manage to additional groups of citizens, including Gold Star families, military veterans, and fifth grade students.

These efforts not only bring economic benefits to small, often remote, rural communities, but the activities support conservation actions, promote and expand our cultural heritage, and provide opportunities for increased physical and mental health benefits. Such efforts have long enjoyed bipartisan support.

Previous efforts to increase recreational access in lands the Department manages include an effort, led by the National Park Service (NPS) during the Obama Administration, which culminated in a rule change in 2012 that allowed individual park superintendents to designate biking routes as appropriate in areas under their jurisdiction, lifting a ban on bikes in most park areas.

In the final regulation implementing this change, the NPS noted that it had considered the issue of impacts to natural resources, and reviewed studies that gauged the environmental impacts of bicycling noting that impacts to soils, vegetation, and wildlife from bicycles are similar to impacts from hiking and less than impacts from horseback riding or motorized vehicle use (77 FR 39927 (2012)).

NPS also made clear that the new rule did not mandate the opening of park lands to bikes, but instead gave park superintendents greater flexibility to determine where bikes can be allowed in a park. While that regulation did not apply to designated wilderness areas, it provided a way to open more areas to bicycling while ensuring visitor and resource protection in those areas to which it applied.

More recently, Secretary's Order 3376, Increasing Recreational Opportunities through the Use of Electric Bikes, called on Department bureaus to develop policies and regulations to allow for electric bike (e-bike) use where traditional bicycles are allowed and to bring federal land e-bike experience more in line with state rules. Just last month, in keeping with this direction, the Department announced that it had finalized e-bike regulations that, similarly, pave the way for federal land managers at the NPS, Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (FWS), and Bureau of Reclamation (BOR) to allow more people, especially older Americans and those with physical limitations, to experience bicycling on lands managed by those bureaus. Like the NPS bike regulation changes before it, this rule does not apply to wilderness, but is yet another example of how the Department has made bicycling more accessible while continuing to protect visitors and resources.

### **S. 1695, the Human-Powered Travel in Wilderness Areas Act**

Generally, S. 1695 would amend the Wilderness Act to authorize the use of nonmotorized travel over permitted routes in designated wilderness areas.

The Wilderness Act of 1964 established the National Wilderness Preservation System, a national network of more than 800 federally designated wilderness areas. These wilderness areas, totaling over 111 million acres, are managed by the NPS, FWS, and BLM, all within the Department of the Interior, and the U.S. Forest Service in the Department of Agriculture. Wilderness areas under the Department's jurisdiction are found in 44 states, with the NPS managing 61 designated wilderness areas totaling 43.4 million acres, the FWS managing 75 designated wilderness areas totaling 20.7 million acres, and the BLM managing 260 designated wilderness areas totaling 9.97 million acres.

Except for limited uses related to the administration of a wilderness area, the Wilderness Act prohibits the use of motor vehicles, motorized equipment, motorboats, and other forms of mechanical transport.

S. 1695 would provide authority for federal land managers to determine allowable forms of nonmotorized, human-powered travel over permitted routes in the units under their jurisdiction. Generally, it would define nonmotorized travel as human travel that "does not use a propulsive internal or external motor with a nonliving power source," subject to the appropriate determination of local officials of the NPS, FWS, BLM and the U.S. Forest Service.

Similar to the rules on bicycles in national parks and e-bikes on our public lands, S. 1695 would not mandate that nonmotorized travel must be allowed in these areas. Rather, S. 1695 would require the local federal land managers to use their discretion to make and condition access determinations in a manner that will reduce, eliminate, or prevent environmental impacts or undue conflicts between members of travel user groups. These local land managers, with knowledge of the lands they manage, are in the best position to determine how to manage these lands, provide appropriate access to the public, and protect the wilderness values of these lands.

S. 1695 would provide greater access and recreational opportunities in wilderness areas managed by Department lands across the Nation. For this reason, it is consistent with the Administration's goals, and the Department's ongoing efforts, to expand public access to our federal lands.



Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

**Statement of  
Michael Nedd  
Deputy Director, Operations  
Bureau of Land Management  
U.S. Department of the Interior**

**Senate Energy and Natural Resources  
Subcommittee on Public Lands, Forests and Mining  
S. 2804, Pershing County Economic Development and Conservation Act  
November 18, 2020**

Thank you for inviting the Department of the Interior (Department) to testify on S. 2804, the Pershing County Economic Development and Conservation Act. This bill authorizes public land sales, exchanges, and conveyances in Pershing County, Nevada, and designates approximately 136,600 acres of public lands managed by the Bureau of Land Management (BLM) as seven new wilderness areas.

The Department has pledged to expand access to America's public lands, to increase hunting, fishing, and other recreational opportunities nationwide, and to enhance conservation stewardship through Secretary's Orders 3347, 3356, 3366, and 3373. To advance those goals, we are focusing on restoring full collaboration and coordination with local communities and ensuring the Department is a better neighbor.

Secretary Bernhardt is committed to ensuring that public access for outdoor recreation is adequately weighed when determining the appropriateness of the disposal or exchange of public lands, which is why Secretary's Order 3373 was one of his first orders signed as Secretary. The Order helps ensure that before the BLM exchanges or disposes of any lands, they must consider what impact it will have on the public's access for outdoor recreation, including existing access, potential increased access from an exchange, and access managed by other federal, state, and county agencies. While the Department supports the goals of S. 2804 that align with this important priority, we are concerned that the broad scope of the proposed land disposals as currently written could ultimately decrease public access and limit outdoor recreational opportunities.

**S. 2804**

S. 2804 directs Federal land sales, exchanges, and conveyances in Pershing County, Nevada. The legislation also designates approximately 136,600 acres of public lands as seven wilderness areas and releases approximately 48,600 acres of BLM-managed WSAs from further study.

***Public Land Sales & Exchanges (Title I)***

Title I of S. 2804 directs the sale, at fair market value, or equal value exchange of up to approximately 334,000 acres of BLM-managed public lands that have been identified as potentially suitable for disposal as part of the land use planning process. Title I requires that all lands authorized for sale or exchange be appraised using mass appraisal methodology within one year of enactment and every five years thereafter. The bill requires that the Secretary offer to exchange all eligible land within one year.

Title I of the bill directs the sale, at fair market value as determined by an appraisal, of select public lands that are currently encumbered by a mining claim, millsite, or tunnel site to a “qualified entity,” which is defined in the bill as the owner or authorized leaseholder of the mining claims, mill sites, or tunnel sites currently existing on any portion of the lands to be sold. The qualified entity would assume all costs of the sales, including survey, appraisal, and administrative costs.

Proceeds from the sales directed by the bill would be disbursed to the State of Nevada, Pershing County, and a special account in the U.S. Treasury for a number of specific purposes, including reimbursing costs associated with preparing sales, habitat conservation and restoration, and securing public access to Federal lands, among others.

The Department is committed to increasing access to America’s public lands and is concerned with the broad scope of the sales and transfers contemplated by Title I. We would welcome the opportunity to work with the sponsors to develop a legislative map to be referenced in the bill and any necessary boundary modifications to ensure that the proposed sales and transfers yield a fair return to the American taxpayer and do not inadvertently decrease public access or recreational opportunities in Pershing County.

### ***Wilderness (Title II)***

Title II of S. 2804 designates seven wilderness areas totaling approximately 136,600 acres. Of these lands, approximately 55,100 acres are within existing wilderness study areas (WSAs) and approximately 81,500 acres have not previously been identified as suitable for wilderness by the BLM. Title II also releases approximately 48,600 acres from WSA status, allowing these areas to be managed according to the existing BLM land use plans. Only Congress can determine whether to designate WSAs as wilderness or to release them for other multiple uses. The WSAs included in the proposed wilderness designations have been pending final resolution by Congress since they were established in 1991.

The Department notes that the lands proposed for wilderness designation by S. 2804 generally serve as habitat for a diversity of plant and animal life and provide important opportunities for hiking, hunting, rock climbing, camping, horsepacking, and other forms of outdoor recreation in the Nevada desert.

As a matter of policy, the Department supports Congressional action to resolve wilderness designation and WSA release issues on public lands across the West, and we welcome opportunities to further those efforts. However, we also want to ensure that designating new wilderness areas on public lands outside of existing WSAs is the most appropriate land management tool, and that such designations would not unnecessarily impede public access or limit outdoor recreational opportunities. The Department believes that alternative management approaches could conserve sensitive resources while still accommodating the full range of uses and activities permitted on other BLM-managed public lands.

If Congress opts to proceed with designation of these lands as wilderness, we would like to work with the sponsors on minor and technical amendments to this section, including the use of

standard wilderness designation language, boundary modifications for enhanced manageability and consistency with the Wilderness Act, and clarifying language related to telecommunications and climatological data collection devices and noxious weed treatments.

**Conclusion**

As a matter of policy, the Department supports the completion of land exchanges and transfers that further the public interest, consolidate ownership of scattered tracts of land to make them more manageable, and advance public policy objectives.

The Department has substantive as well as minor technical modifications to recommend, and we look forward to working with the sponsors and the committee to resolve these issues.

**Statement of  
Michael Nedd  
Deputy Director, Operations  
Bureau of Land Management  
U.S. Department of the Interior**

**Senate Energy and Natural Resources Committee  
Subcommittee on Public Lands, Forests, and Mining  
S. 3492, Elko National Cemetery Act  
November 18, 2020**

Thank you for the opportunity to testify on S. 3492, the Elko National Cemetery Act. The bill transfers administrative jurisdiction of approximately 15 acres of public land currently managed by the Bureau of Land Management (BLM) to the Department of Veterans Affairs' (VA) National Cemetery Administration (NCA) for use as a national cemetery in Elko, Nevada. The Department of the Interior supports S. 3492. This proposal aligns with the Administration's priority to restore trust with local communities and be a good neighbor by providing veterans in rural Nevada with a national cemetery near their homes.

**Background**

The city of Elko, Nevada, is the county seat with a population of approximately 21,000 people and an additional 15,000 living in the immediate area. Located in northeastern Nevada, Elko is the largest city within a 130-mile radius. Like many communities in Nevada, Elko is situated amidst BLM-managed public lands.

**S. 3492, Elko National Cemetery Act**

S. 3492 directs the Secretary of the Interior to transfer administrative jurisdiction of approximately 15 acres of public land to the Secretary of Veterans Affairs for use as a national cemetery, subject to valid existing rights. The Secretary of Veterans Affairs would be required to reimburse the Secretary of the Interior for all costs associated with processing the transfer. The Federal land to be transferred would be withdrawn from all forms of appropriation under the public land laws, including the mining, mineral leasing, and geothermal leasing laws.

The Department of the Interior supports S. 3492 and the transfer of administrative jurisdiction. Serving our nation's veterans by ensuring burial access and the opportunity to choose a cemetery near home is important. This remains a priority for the Administration per the President's Fiscal Year 2021 U.S. Department of Veterans Affairs budget request to create a cemetery in Elko, Nevada. The proposed National Veterans Cemetery in Elko would serve to honor our veterans and their families in Nevada on behalf of a grateful nation. The BLM would also like the opportunity to work with the sponsors to address technical issues including clarifying the legal description to minimize potential resource conflicts, providing technical modifications to streamline transfer of jurisdiction, and updating the legislative map referenced in the S.3492.

## **Conclusion**

Thank you again for the opportunity to testify today. The BLM looks forward to working further with the sponsors of S. 3492 as the legislation moves forward. I would welcome any questions you may have.

**STATEMENT FOR THE RECORD, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON NATIONAL PARKS, REGARDING S. 4569, A BILL TO MODIFY THE BOUNDARY OF SUNSET CRATER VOLCANO NATIONAL MONUMENT IN THE STATE OF ARIZONA, AND FOR OTHER PURPOSES.**

**November 18, 2020**

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Chairman Daines, Ranking Member King, and members of the Subcommittee, thank you for the opportunity to provide the Department of the Interior's views on S. 4569, a bill to modify the boundary of Sunset Crater Volcano National Monument in the State of Arizona, and for other purposes.

The Department supports S. 4569.

S. 4569 would transfer to the National Park Service (NPS) administrative jurisdiction over approximately 97.71 acres of land currently administered by the U.S. Forest Service and revise the boundary of Sunset Crater Volcano National Monument to include this land. The land that would be added to the monument is currently part of the Coconino National Forest and includes an NPS visitor center, park administrative facilities, and a section of Forest Service Road 545 which connects the NPS entrance kiosk and the administrative area to the Monument. At present, the NPS operates these facilities and maintains Forest Service Road 545 through an interagency agreement with the U.S. Forest Service.

Sunset Crater Volcano National Monument protects approximately 3,040 acres containing the youngest, least-eroded cinder cone in the San Francisco Volcanic Field at the site of the Colorado Plateau's most recent volcanic eruption which occurred 900 years ago. This dormant volcano, and its relatively undeveloped landscape, provide a unique opportunity to study plant succession and ecological change in an arid volcanic landscape.

Sunset Crater National Monument was established by President Herbert Hoover by Presidential Proclamation 1911 on May 26, 1930, in order to protect the area's unique geologic formations. The monument, created from and surrounded by the Coconino National Forest, was administered by the U.S. Forest Service for three years until it was transferred to the NPS in 1933. In 1990, with the passage of Public Law 101-612, the monument was redesignated as Sunset Crater Volcano National Monument.

This legislation would provide for an increase in efficiency by removing administrative burdens stemming from the need to operate NPS facilities under an interagency agreement. The NPS has used this land to support the management of the monument for decades. Currently, administration of the area is complicated for both agencies. For example, any ground disturbing activity within the area requires compliance efforts and approval by both agencies. This change in land administration is supported locally among city and county officials.

The Department recommends some technical amendments to the bill, which we would be willing to provide to the Committee.

Thank you for the opportunity to provide this statement for the record.



**Statement of  
Michael Nedd  
Deputy Director, Operations  
Bureau of Land Management  
U.S. Department of the Interior**

**Senate Committee on Energy & Natural Resources  
Subcommittee on Public Lands, Forests, and Mining  
S. 4599, Pecos Watershed Protection Act**

**November 18, 2020**

Thank you for the opportunity to testify on S. 4599, the Pecos Watershed Protection Act, which would withdraw approximately 166,600 acres of Federal land located near Pecos, New Mexico, from the operation of public land and mining laws, and all laws pertaining to mineral and geothermal leasing or mineral materials.

The lands proposed for withdrawal include approximately 165,000 acres of Federal lands managed by the U.S. Forest Service (Forest Service) and approximately 1,600 acres of public land managed by the Bureau of Land Management (BLM). While the BLM manages the subsurface Federal mineral estate, the BLM defers to surface managing agencies regarding potential development activities on Federal lands not managed by the BLM.

Under the leadership of President Trump and Secretary Bernhardt, the BLM has made environmentally responsible development of domestic minerals a priority. In communities across the country, mineral development of important commodities supports jobs, the American economy, and national security interests. The Administration is concerned that the bill would limit the management and potential development of important mineral sources – and therefore cannot support the proposed withdrawal in S. 4599.

**Background**

The BLM manages approximately 245 million acres of surface land and over 700 million acres of subsurface mineral estate on behalf of the American people. The BLM's mission is to sustain the health, diversity, and productivity of the public lands for multiple uses – including conventional and renewable energy development; livestock grazing; conservation; mining; and hunting, fishing, and other forms of recreation. This multiple use, sustained yield mission, mandated in the Federal Land Policy and Management Act, enables the BLM to contribute to economic growth, job creation, and domestic energy production, generating revenues for Federal and state treasuries and local economies.

***Mineral Operations on Public Lands***

Non-energy mineral development on Federal lands is essential to the American economy. The BLM manages three major categories of non-energy minerals on Federal lands: locatable, saleable, and leasable. Locatable minerals are subject to the Mining Law of 1872 and typically include gold, silver, copper, and other hardrock minerals. Saleable minerals, such as sand and

gravel, are subject to the Materials Act of 1947. Lastly, non-energy leasable minerals are typically subject to the Mineral Leasing Act and include minerals such as phosphate, sodium, potassium, and sulfur.

It is the BLM's policy to make these materials available to the public and local governmental agencies whenever possible, and where their development can be done economically and in an environmentally responsible manner.

### ***Executive Order 13817 & 13953***

Recognizing the national importance of reliable access to critical minerals, President Trump signed Executive Order 13817, *A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals*, on December 20, 2017. Pursuant to this Order, the Secretary conducted a review with the assistance of other executive departments and agencies that identified 35 minerals that 1) are "essential to the economic and national security of the United States;" 2) have supply chains that are "vulnerable to disruption;" and 3) serve "an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security."

In response to the review by the Department of the Interior and other agencies, on September 30, 2020, President Trump issued Executive Order 13953, *Addressing the Threat to the Domestic Supply Chain from Reliance on Critical Minerals from Foreign Adversaries*. In addition to addressing critical minerals, the Order finds that the United States must broadly enhance its mining and processing capacity, including for minerals not identified as critical minerals. Additional domestic capacity will reduce U.S. and global dependence on minerals produced in countries that do not endorse and pursue appropriate minerals supply chain standards, leading to human rights violations, forced and child labor, violent conflict, and health and environmental damage. In light of these findings, the Order directs the Department to use, as appropriate and consistent with applicable law, all available authorities to accelerate the issuance of permits and the completion of projects in connection with expanding and protecting the domestic supply chain for minerals.

### **S. 4599**

Subject to valid existing rights, S. 4599 would withdraw approximately 165,000 acres of Forest Service-managed lands and approximately 1,600 acres of BLM-managed lands from operation of the public land and mining laws, and all laws pertaining to mineral and geothermal leasing or mineral materials. The lands proposed for withdrawal surround Pecos, New Mexico, and are within and adjacent to the Forest Service's Santa Fe National Forest. Based on a 1988 United States Geological Survey (USGS) evaluation of the general area, these lands contain potential for a variety of minerals, including zinc, lead, copper, silver, and gold.

The Administration does not believe that the withdrawal provided by the bill is the appropriate mechanism for managing the resources in the area. The BLM's existing multiple use management approach can protect high value resources on BLM-managed lands while still accommodating the full range of uses and activities permitted under the Federal Land Policy and Management Act and other authorities. If the bill is to move forward, the BLM would welcome the opportunity to work with the sponsor to make a technical correction to the map referenced in

the bill, and to create an official BLM land status map that includes the BLM-managed surface acres proposed for withdrawal.

**Conclusion**

Thank you again for the opportunity to provide testimony on S. 4599.

**Statement for the Record  
U.S. Department of the Interior**

**Senate Committee on Energy and Natural Resources  
Subcommittee on Public Lands, Forests, & Mining  
S. 4625, the National Prescribed Fire Act of 2020  
November 18, 2020**

Chairman Murkowski, Ranking Member Manchin, and members of the Committee, thank you for the opportunity to provide testimony on S. 4625, the National Prescribed Fire Act, which aims to expand the use of prescribed fire on lands managed by the Department of the Interior (DOI) and the U.S. Forest Service. The Department supports S. 4625 and we look forward to working with the Committee on adjustments to the bill to facilitate the use of prescribed fire and other hazardous fuels reduction measures, increase agency accountability, and systematically enhance cross-border and landscape level collaboration among Federal agencies, states, tribes, and other landowners.

The DOI recognizes the importance of collaboration with partners to achieve the goals of the National Cohesive Wildland Fire Management Strategy (Cohesive Strategy), which are to restore and maintain fire-resilient landscapes; create fire-adapted communities; and safely and effectively respond to wildfires. We emphasize that this collaboration is critical to implementing prescribed fire in a systematic manner to reduce wildfire risk. Partnerships are key to DOI's land stewardship responsibilities, including the application of prescribed fire in the suite of tools that are available to help reduce wildfire risk; protect communities, infrastructure and watersheds; promote post-fire rehabilitation to help restore landscapes; and apply the fire science that provides information needed for fire practitioners and decision makers.

The majority of issues in wildland fire management arise from the ground up, and most are managed first at the local or landscape level, across ownerships and among interested stakeholders. The Cohesive Strategy provides the foundation for this important local cooperation. The Prescribed Fire Act would further the collaboration embodied by the Cohesive Strategy, beginning with neighboring landowners.

**2020 Wildfire Status and Fuels Accomplishments**

So far this year, more than 47,000 wildfires have burned over 8.5 million acres of land. Record heat, extended drought, widespread concurrent lightning ignitions, and several wind events have fueled wildfires across the West. Human-caused wildfires on average comprise 87 percent of all wildfires and most of these fires can be prevented. The Nation spent 49 days at the highest level of wildfire preparedness and a record 32,727 firefighters were deployed at one time this summer to support firefighting efforts. Mutually beneficial agreements facilitated international support from Canada and Mexico. Federal and state firefighting efforts were aided by state National Guard and active duty military that were deployed to wildfires in California and other places in the West.

The cumulative impacts of drought, invasive species, and climate variability created a landscape more susceptible to devastating wildland fires. Long and severe drought and a combination of stressors impacted wildland vegetation across nearly the entire western U.S. in 2020. As the grasses matured and dried, they readily spread fire to the woody vegetation impacted by drought. These impacts and declining forest health were exacerbated by an ever-expanding wildland urban interface, and the inherent complexities and dangers of fighting wildfire in and around these growing communities. We continue to be impacted by escalating emergency responses and increasingly dangerous and costly wildfire response operations.

Under President Trump's leadership, the DOI has led the way in taking bold action to address the overabundance and accumulation of excessive vegetation. In December 2018, the President signed Executive Order (E.O.) 13855 focused on active management and reducing wildfire risk. The Secretary of the Interior also addressed wildfire risk under Secretary's Order (S.O.) 3372, emphasizing hazardous fuel reduction, mitigating fire risk, and ensuring the safety and stability of local communities through active management of forests and rangelands. As a result, the DOI is taking aggressive steps to protect communities, watersheds, and infrastructure from the threats of wildfires. This past year, the DOI completed over 1.5 million acres of fuels management treatments on DOI and Tribal lands. This is a 25 percent increase over last year's accomplishments and builds on four consecutive years of increasing treatments totaling more than 5 million acres. It is also the largest number of acres treated over the past decade. Fuels management treatments are proven to have a critical role in influencing wildfire behavior, enhancing the safety and effectiveness of wildfire response, reducing wildfire risk, and safeguarding our communities.

Our partnerships with other Federal agencies, Tribes, states and local governments, and other stakeholders are increasingly important as we implement the E.O. and the S.O., and an integrated Wildland Fire Management program (WFM). By focusing on collaborative landscape-level treatments that remove excessively stocked forests and woodlands, maintaining previous treatments through the use of prescribed fire, and allowing fire to occur at the appropriate intervals and intensities, we can better protect the health of the landscape and the safety of the public and our firefighters. We believe that over the long-term this strategic approach will help us to better manage wildland fire and post-fire rehabilitation. We further believe that our efforts are consistent with the goals and direction of S. 4625.

### **Collaboration and Coordination in Wildland Fire Management**

The Wildfire Leadership Council (WFLC) promotes cooperation between Federal, state, local and Tribal partners on key wildland fire management issues. The mission of WFLC is to guide the consistent implementation of wildland fire policies, goals, and management activities. WFLC provides a structure to facilitate these objectives in support of fire-adapted communities and resilient landscapes. However, it is not an advisory board, and any change to its governance as potentially envisioned by S. 4625 requires adherence to the Federal Advisory Committee Act.

Wildfires throughout the western United States have had a devastating impact in terms of loss of life, loss of homes and businesses, and damage to infrastructure, forests, and rangelands. This past year, the smoke impacts from wildfires were some of the greatest and most prolonged that

we have seen for at least many decades, as individual fires and burned areas in several states were the greatest in any period of record. While review of epidemiological data on the human health impacts of wildfires in 2020 have not been completed, we know that smoke has significantly impacted wildfire suppression operations, public health, recreational uses, and both vehicular and aircraft transportation.

Current actions will help WFLC focus on the benefits of prescribed fire. DOI is collaborating with the USFS and the Environmental Protection Agency on comparative assessments of smoke from wildfires and prescribed fires in multiple regions of the country to better characterize their effects in various types of vegetation. Building on these analyses, DOI and the USFS are working with the Centers for Disease Control and Prevention on a health impact assessment that will quantify the public health tradeoffs of smoke from wildfire and prescribed fires, including the social, economic and ecological impacts that will be drawn from the EPA analyses. This work is expected to be completed in 2021.

Under E.O. 13855, the Secretary of the Interior, in conjunction with the Administrator of the Environmental Protection Agency, are working to identify areas to reduce interagency regulatory barriers and eliminate redundant policies in order to promote efficiencies in implementing the Clean Air Act and reduce wildfire risk. As a result, the agencies have made significant progress in defining common ground for the use of prescribed fire, and in defining areas that merit further scientific clarity to support a basis for increasing implementation of prescribed fires on the landscape.

#### **S. 4625, the National Prescribed Fire Act**

Many provisions of the National Prescribed Fire Act are consistent with efforts underway at DOI. However, for too many years we have witnessed ever-larger wildfires, particularly in many western states. While we have made considerable progress in addressing fuels management on Federal lands, the trajectory that we have been on for the past century requires meaningful revision, including expanding the use of the tools that we have, improved coordination with our partners, and flexibility in the use and implementation of Federal programs and resources.

#### ***Prescribed Fire Accounts***

Section 101 of the bill establishes a Prescribed Fire Account, which may be helpful, but the specific implementation and use of this account could be simplified. If it is the intent of the Committee to leave the mechanics of the account to the agencies and the Office of Management and Budget, then such direction to the Secretary may be sufficient. However, the Department notes that implementation of the proposed structure of the accounts presents significant accounting and tracking challenges. The Department would like to work with the Committee to simplify these requirements while preserving accountability and the spirit and intent of the bill.

Notably, the official system of record for DOI prescribed fire and other fuel treatments data is the National Fire Plan Operations Reporting System (NFPORS), rather than the data maintained

by the National Interagency Fire Center (NIFC). The record system at NIFC was designed to inform day-to-day resource commitments for wildfire suppression; as such, the system was not meant to be used to track prescribed fire use by other agencies or the public. While it does include data from many state agencies, it has also varied significantly over time in its comprehensiveness. The system is, therefore, useful to inform mobilization of wildfire suppression resources, but is not a perfect tool for tracking the comprehensive use of prescribed fire. The Federal wildland fire management agencies do not rely on the system for prescribed fire use because of these inherent limitations.

The National Wildfire Coordinating Group has chartered working groups that foster cooperation among the Federal agencies, states, Tribal, and local partners. States are represented on these working groups, which set data standards for wildfire incidents. These standards allow for the seamless integration of Federal, state, and local data to permit interoperable online collaborative geographic information systems. This type of collaboration can be used to improve the reporting of prescribed fire use in real time, and to more systematically and more consistently incorporate prescribed fire use data from our state, local, and Tribal partners.

The DOI supports development of an improved system, but strongly recommends that the federal agencies and the states collaboratively develop the most accurate and nimble system in the most cost-effective manner. This may not necessarily be an enhanced NIFC system, which would duplicate other DOI and USFS data systems.

### ***Policies and Practices***

Section 102 of the bill requires that the Secretaries significantly increase the number and size of prescribed fires on Federal lands. The bill establishes a criterion for large cross-boundary prescribed fires at 50,000 acres per year, which is unrealistic in many ecosystems. The DOI strongly affirms that the use of prescribed fire should be, and can be, significantly increased. However, it requests continued flexibility in determining how best to use the tool for treatments.

Prescribed fire is needed for the germination of some pine and brush seeds, the rejuvenation and sprouting on many brush and grass species, and the restoration and maintenance of habitat of a multitude of species. Prescribed fires release nutrients that can benefit plant growth and thin the understory of many tree species, including Ponderosa pine (*Pinus ponderosa*) and Giant Sequoia (*Sequoia sempervirens*). Without this natural thinning, thick understory vegetation and debris accumulate, resulting in fuels that produce higher intensity fires and can kill native vegetation. The sheer magnitude of our vegetation and fuels accumulation across various vegetation types necessitates the use of every available tool. Prescribed fire is often the most cost-effective tool available and can mimic natural ecological processes.

At the same time, our resource managers understand that not all lands need to see the equivalent increase in the use of prescribed fire. Some specific vegetation types, historical land uses, and current drought conditions dictate the amount and frequency of prescribed fire that can be, or should be, used to manage these lands. Under natural fire cycles, or with native American uses of fire, large areas formerly burned lightly every few years, while others burned every 200 years or less often. These areas should therefore not be burned with prescribed fire uniformly, to the

same extent and at the same frequency. In many of these areas, mechanical treatments must first be completed before prescribed fire can be implemented.

The DOI also recognizes that some small and some vast landscapes have invasive plant species that cannot be burned without greatly increasing the spatial coverage of those invasive species. These species include cheatgrass (*Bromus tectorum*) that occupies an increasing extent of our Great Basin sagebrush steppe ecosystem. The use of prescribed fire on some lands may not be compatible with some land use designations or may result in risks to resource values. Limitations may also exist in some wildland urban interface areas during drought, adverse weather, or other situations in sensitive areas.

In Section 102(d), the DOI believes that more flexibility is warranted. There are areas that have a fire return frequency of longer than 35 years, where fire risk may be very high. Areas in a mixed fire regime, with a fire return interval of 35 to 100 years may present significant social and environmental risks, as we witnessed in northwest Oregon this past summer. Prescribed fire treatments of less than 100 acres might have helped particularly significant resources within larger burned areas. The DOI welcomes a further discussion of details of the bill with the Committee to ensure flexibility where it is needed.

#### ***Collaboration and Cross-Boundary Programs***

Sections 103 and 104 of the bill focus on facilitating cooperation and training to enhance prescribed fire activities. The DOI supports these sections but would like to note that the Federal agencies currently provide substantial technical assistance to the states, and prescribed fire implementation frequently involves the sharing of resources in both directions. Contingency resources very commonly support each other. In a very real sense, cooperation in prescribed burning is similar to the level of cooperation we have seen in wildfire suppression. Qualifications, training, and standards for prescribed fire are shared across agencies as in wildfire suppression. As we increase the use of prescribed fire, the need for cooperation and collaboration will only increase for us to be successful. The DOI would like to work with the Committee to look for ways to leverage existing programs and agreements to facilitate additional prescribed fire treatments.

#### ***Environmental Reviews***

The DOI would like to work with the Committee to ensure that environmental reviews do not become overly burdensome, time consuming, and diminish windows of opportunities to complete critical prescribed fire treatments while continuing to protect communities, infrastructure and watersheds. Some uses of prescribed fire are covered by categorical exclusions, which are a type of environmental compliance, not an exemption from the National Environmental Policy Act (NEPA). If we hope to significantly expand the use of prescribed fire, we need to rely on planning, modelling, and monitoring of both implementation and fire effects. The Administration has submitted proposed legislation, in the form of legislative NEPA categorical exclusions, as part of the President's Budget for fiscal years 2020 and 2021. There is considerable overlap between the Administration's proposal and the provisions included in Section 204. The Department would welcome an opportunity to work with the Committee to combine this section with the proposal, and to get all of the Administration's wildland fire proposals enacted.



### ***Human Resources***

The DOI supports the workforce and human resource provisions included in Sections 201 and 202 of the bill to support prescribed fire. Direct hire, employment of formerly incarcerated individuals and underrepresented employees can all be human resource avenues to increase our qualified workforce. Some recruitment efforts can be modeled after our efforts to increase veterans in our workforce. The Department remains a leader in providing training and job opportunities for veterans who wish to continue their service to our country. We will continue our efforts to emphasize the hiring of veterans to fill the ranks of our wildland fire management resources and would benefit from expanding these efforts to other groups.

Notably, the fiscal year 2021 President's Budget request includes a \$50 million increase to begin this workforce transformation. The increase in funding will allow DOI to add 601 full time equivalent firefighters through a mix of converting temporary-seasonal firefighters into permanent positions and hiring some new permanent positions. This will facilitate overall improved firefighting capabilities and provide the support that is needed to more aggressively implement fuels management treatments on a year-round basis. Career appointments also provide stability to the workforce; reduce recruitment, on-boarding, and training expenses; increase morale; and help build the next generation of DOI wildland fire managers.

The DOI also recognizes the contributions of the Prescribed Fire Training Center in Tallahassee, Florida, in developing expertise within the interagency wildland firefighting community. The current center's location is ideal for prescribed fire training, as wildland fire personnel are available for prescribed fire training in the fall, winter, and early spring months. The level of cooperation between Federal and state agencies and private organizations has been outstanding. Training opportunities with the center extend to several surrounding states and include international participants as well, providing nearly year-round opportunities to apply and develop skills. In addition, we would like to work with the committee on ways to expand the reach of prescribed fire training by leveraging existing workshops and academies to facilitate continuing education elsewhere in the West. The DOI suggests that the existing prescribed fire training program, Women-in-Fire Prescribed Fire Training Exchange (WTREX) held in California, also extends its capacity beyond the center in Florida, for Federal agencies, states, Tribes, and external partners.

There are a number of issues that the Department would like to work on with the Committee, such as workforce flexibilities, which would help with overall employment, recruitment, and retention across the wildland fire management program, as well as ensuring that technical details of Section 202 can be implemented to achieve the goals of the Act.

### **Conclusion**

The DOI would welcome the opportunity to collaborate on some of the specific language of the draft legislation to enhance the intended benefits of the legislation, and to avoid some of the potential unintended consequences. These changes would increase the probability of implementing the very useful concepts in the most constructive manner. The DOI agrees with the premise that more prescribed fire use can be highly beneficial but it is not the sole key to

reducing wildfire impacts, and is very willing to work with the Committee to ensure an outcome that will benefit current communities, wildlife, airsheds and future generations.

**Statement of  
Michael Nedd  
Deputy Director, Operations  
Bureau of Land Management  
U.S. Department of the Interior**

**Senate Energy and Natural Resources Committee  
Subcommittee on Public Lands, Forests, and Mining  
S. 4696, University of Alaska Fiscal Foundation Act  
November 18, 2020**

Thank you for the opportunity to testify on S. 4696, the University of Alaska Fiscal Foundation Act. S. 4696 directs the Department to establish a program within the Bureau of Land Management (BLM) to identify and convey land to the University of Alaska to support higher education.

The Department is focusing on restoring full collaboration and coordination with local communities to make the Department a better neighbor. We look forward to working with the sponsors and the Committee on technical modifications.

**Background**

While the State of Alaska is the largest state in the nation, it has the second smallest land grant – approximately 110,000 acres – for higher education. Previous attempts to provide a land grant to the University of Alaska include a reservation made by Congress in 1915 of approximately 268,000 acres of public domain in the then-Territory of Alaska for what would become the University of Alaska. In 1929, Congress provided for an additional grant of 100,000 acres of the territory to the college. Upon admission as a state in 1959, portions of the 1915 reservation of land were eliminated, and no federal land grant for higher education was provided in the Alaska Statehood Act.

As the Secretary of the Interior's designated survey and land transfer agent, the BLM is the federal agency responsible for adjudicating land claims, conducting and finalizing cadastral land surveys, and transferring legal title of federal lands. The BLM's Alaska Land Transfer Program administers the transfer of lands to individual Alaska Natives under the Alaska Native Allotment Act; implements the 46 million-acre transfer to Alaska Native Corporations under the Alaska Native Claims Settlement Act of 1971 (ANCSA); and is also responsible for conveying 104.5 million acres to the State of Alaska under the Alaska Statehood Act. The BLM has completed over 90 percent of the ANCSA survey work. When the survey and conveyance work under the Alaska Native Allotment Act, the Alaska Statehood Act, and ANCSA is completed, over 150 million acres, approximately 42 percent of the land area in Alaska, will have been transferred from federal to State and private ownership.

### **S. 4696**

S. 4696 requires the Department to establish a program within the BLM to identify and convey available State of Alaska selected lands to the University of Alaska for use in supporting the operation and maintenance of the University system. The State of Alaska and the University are to identify not more than 500,000 acres of available State land for inclusion in the program established by the Department and eventual conveyance to the University. Of those 500,000 acres, a maximum of 360,000 acres may be conveyed to the University. Prior to the conveyance of land, the State and the University must agree regarding the lands to be conveyed, and this agreement must be provided in writing to the Department. The total acreage of all land conveyed under this bill will be charged against the remaining entitlement of the State under the Alaska Statehood Act.

Under Article IV, Section 3, Clause 2 of the Constitution Congress has the “power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States”, and we respect Congress’s role in this regard. As a result, the Department has no objection to S. 4696.

However, given the unique circumstances and legal requirements of this conveyance, the BLM would like to work with the sponsor to clarify its responsibilities under this legislation. For example, the lands available for selection under S. 4696 include “top-filed” lands – lands that are currently unavailable for selection but may become available at some future date. As currently worded, the language seems to allow the University to select lands that are not available to the State of Alaska. Additionally, allowing selection of top-filed lands that may one day become available for selection and conveyance, raises procedural questions. For instance, if the State and the University top-file the same lands, there may be uncertainty as to which entity has the preference right to the lands if they become available. Clarifying what would happen if top-filed lands are chosen would help the BLM fulfill its obligation as the bureau responsible for adjudicating land claims for the federal government.

### **Conclusion**

Thank you for the opportunity to testify on this bill. The Department looks forward to working further with the sponsor and the Committee on this legislation.

**Statement of  
Michael Nedd  
Deputy Director, Operations  
Bureau of Land Management  
U.S. Department of the Interior**

**Senate Energy and Natural Resources Committee  
Subcommittee on Public Lands, Forests, and Mining  
S. 4889, Alaska Native Claims Settlement Act Fulfillment Act  
November 18, 2020**

Thank you for the opportunity to present the views of the Department of the Interior (Department) on S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act. S. 4889 amends the Alaska Native Claims Settlement Act (ANCSA) of 1971 concerning various Alaska Native issues, including certain land conveyances to Alaska Native communities, reversion of lands to Village Corporations, and authorization for five Native communities in Southeast Alaska to organize as Urban Corporations.

The Department supports this legislation and looks forward to working with the sponsors and the Committee on some technical modifications. The Department defers to the U.S. Department of Agriculture (USDA) on the parts of Section 7 that pertain to the National Forest System.

**Background**

ANCSA provided the framework to settle aboriginal land claims in Alaska and entitled Alaska Native communities to select and receive title to 46 million acres of Federal land. The Act established a corporate structure for Native land ownership in Alaska under which Alaska Natives would become shareholders in one of over 200 private, land-owning Alaska Native Village, Group, Urban, and Reserve Corporations and/or one of 12 private, for-profit, land-owning Regional Corporations. Most Alaska Natives are enrolled in two corporations; the corporation representing the community where they lived in 1971 and a Regional Corporation. Each Regional Corporation encompasses a specific geographic area and is associated with Alaska Natives who had traditionally lived in the area. For each Corporation, whether Village or Regional, ANCSA provided at least two potential acreage entitlements through which it could select and receive ownership of Federal lands. For Alaska Natives who were non-residents of the state at the time the Act was signed into law, ANCSA authorized a non-landowning 13th Regional Corporation.

As the Secretary of the Interior's designated survey and land conveyance agent, the Bureau of Land Management (BLM) is the Federal agency tasked with transferring to Alaska Native Corporations title to the 46 million acres to which they are entitled. The BLM's Alaska Land Transfer program administers the transfer of lands to individual Alaska Natives under the Alaska Native Allotment Act, the transfer of 46 million acres to Alaska Native communities under ANCSA, and the conveyance of 104.5 million acres to the State of Alaska under the Alaska

Statehood Act. When the survey and conveyance work under the Alaska Native Allotment Act, ANCSA, and the Alaska Statehood Act is completed, more than 150 million acres, consisting of approximately 42 percent of the surface area in Alaska, will have been transferred from Federal to state and private ownership.

### **S. 4889**

Following is a review of the provisions of S.4889 of interest to the Department of the Interior.

#### ***Sec. 4. Canyon Village***

Section 4 of the bill would direct the Secretary to convey the surface estate for selected lands to Kian Tr'ee Corporation for the Native village of Canyon Village. The section also directs the Secretary to convey the subsurface rights for the selected lands to Doyon, Limited, an Alaska Native regional corporation or, at Doyon's choice, alternative subsurface estate, to fulfill its ANCSA entitlements. The Department supports this section.

#### ***Sec. 5. Kaktovik Inupiat Corporation***

Section 5 directs the Secretary of the Interior to convey surface estate for selected lands to Kaktovik Inupiat Corporation and the subsurface to Arctic Slope Regional Corporation. The Department supports this section for its potential to move toward equitable resolution of complex, longstanding issues.

#### ***Sec. 6. Reversion of Municipal Trust Lands to Village Corporations***

Under Section 6, Village Corporations would no longer be required to convey any land in trust to the State of Alaska for the establishment of a Municipal Corporation. Any land that was previously conveyed in trust by a Village Corporation to the State of Alaska for establishment of a Municipal Corporation that has not yet been created by the date of enactment of this bill would revert back to the Village Corporation. The Department supports this section and would like to work with the sponsors and the Committee on minor technical modifications.

#### ***Sec. 7. Recognition and Compensation of Unrecognized Native Communities in Southeast Alaska***

This section would amend ANCSA to authorize the Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as Urban Corporations, and providing each with land in the surface estate comprising of approximately 23,040 acres in southeastern Alaska upon incorporation. The Department defers to the Forest Service on issues related to the land selected to be transferred in the bill, as the selected lands are all on the Tongass National Forest.

### **Conclusion**

Thank you for the opportunity to testify on S.4889. The Department is proud to support the efforts of the sponsors to bring resolution to these issues facing Alaska Native communities.