

**Statement of
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**Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 441, Organ Mountains-Desert Peaks Conservation Act
February 7, 2018**

Thank you for inviting the Department of the Interior (Department) to testify on S. 441, the Organ Mountains-Desert Peaks Conservation Act. The bill designates eight new wilderness areas and includes direction for future management on additional public lands managed by the Bureau of Land Management (BLM) in Doña Ana County, New Mexico.

Secretary Zinke, through Secretarial Order 3347, has pledged to expand access to America's public lands and increase hunting, fishing, and recreational opportunities nationwide. In addition, Secretary Zinke is focused on restoring full collaboration and coordination with local communities and making the Department a better neighbor. The Department supports the goals of S. 441 that are consistent with the Secretary's priorities and would like to work with Congress to make sure the Secretary's priorities are appropriately considered.

In addition, the Department supports Congressional action to resolve issues of wilderness designation and release of wilderness study areas (WSAs) on public lands across the West, and we welcome opportunities to further those efforts. However, we want to ensure that designating public lands outside of existing WSAs as wilderness is the most appropriate management tool and that it does not unnecessarily impede public access or limit outdoor recreational opportunities. Furthermore, the Department is concerned that the sponsor's language regarding our Nation's security needs along the southern border with Mexico does not adequately address the Administration's priority of making America safe through effective management of the borderlands. We recommend a number of important modifications to the bill to address these critical issues.

Background

Doña Ana County, New Mexico, covers just over 3,800 square miles and is home to Las Cruces, one of the fastest-growing cities in the country. BLM-managed public lands in this part of New Mexico provide significant opportunities for economic development and jobs, outdoor recreation, traditional uses, and conservation. The Organ Mountains, east of the city of Las Cruces, dominate the landscape. Characterized by steep, angular, barren rock outcroppings, the Organ Mountains rise to nearly 9,000 feet in elevation and extend for 20 miles, running generally north and south. The Organ Mountains feature mixed desert shrubs and grasslands in the lowlands transitioning to pinyon and juniper woodlands, and finally to ponderosa pines at the highest elevations. These lands are an important recreation area, with multiple hiking trails, a popular campground, and opportunities for hunting, mountain biking, and other dispersed recreation.

On the west side of Las Cruces are the mountain ranges and peaks of the Robledo Mountains and Sierra de las Uvas, which make up the Desert Peaks area. These desert landscapes feature numerous mesas and buttes interspersed with deep canyons and arroyos and serve as habitat for mule deer, mountain lions, golden eagles, and other raptors. This area also provides varied dispersed recreational opportunities.

To the southwest of Las Cruces, near the Mexican border, is the Potrillo Mountains Complex, which is characterized by cinder cones, volcanic craters, basalt lava flows, and talus slopes. These lands are noted for their abundant wildlife and fossil resources. A well-preserved giant ground sloth skeleton, now housed at Yale University, was discovered in this area. The Potrillo Mountains offer excellent opportunities for hiking, hunting, photography, and other forms of outdoor recreation.

S. 441

S. 441 designates eight wilderness areas in Doña Ana County. The bill provides for the management and future transfer of land from the Department of the Defense (DOD) to the BLM, withdraws certain additional lands from disposal, mining, and mineral leasing, and includes provisions related to border security, the management plan for the Organ Mountains-Desert Peaks National Monument (Monument), and acquisition of specified State trust land adjacent to the Desert Peaks area of the Monument.

Wilderness

Section 3 of S. 441 designates eight wilderness areas totaling approximately 242,000 acres. Of these lands, approximately 197,000 acres are within existing WSAs and approximately 45,000 acres have not previously been identified as suitable for wilderness by the BLM. This section also releases approximately 30,200 acres from WSA status. The Department notes that the lands proposed for wilderness designation by S. 441 generally serve as habitat for a diversity of plant and animal life and provide important opportunities for hiking, hunting, rock climbing, horseback riding, and other forms of outdoor recreation in the New Mexico desert near Las Cruces.

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 1991. The Department, therefore, supports Congress settling the status of these lands, which would provide certainty to public land users in this part of Doña Ana County.

Pursuant to the priorities outlined by Secretary Zinke, we would like the opportunity to work with the sponsors and the Subcommittee to ensure that wilderness designation on public lands outside of existing WSAs is the most appropriate mechanism to adequately protect these areas. Alternative management approaches could conserve sensitive resources while still accommodating the full range of uses and activities permitted on other BLM-managed lands within the Monument.

In addition, we would like to work with the sponsors on minor and technical amendments to this section, including boundary modifications for enhanced manageability and to provide access to public trails and private inholdings. In addition, as currently drafted, we do not believe that the bill provision authorizing paragliding to continue in this area after wilderness designation would achieve what we understand to be the sponsors' intended objective. As a result, we would like to work with the sponsors and Subcommittee on amendments to the paragliding management language that aid implementation and ensure consistency with the Wilderness Act.

Within the proposed Robledo Mountains Wilderness, a small corridor of approximately 100 acres has been designated as "potential wilderness" by section 3(l) of S. 441. The lands included in this potential wilderness contain a communications right-of-way. It is our understanding that it is the intention of the sponsors to allow the continued use of this site, which is important to the Elephant Butte Irrigation District, U.S. Border Patrol, New Mexico State Police, and others. However, in the event that the communications right-of-way were relinquished and the lands were reclaimed in the future, they would become part of the wilderness area. The Department does not necessarily object to this provision, but we believe there are alternative approaches that would preserve this important use.

Fillmore Canyon

Section 3(k)(4) of the bill authorizes hunting, hiking, wildlife viewing, camping, and other outdoor recreational activities on approximately 2,035 acres of land. This land is currently part of the Army's Fort Bliss and includes the scenic Fillmore Canyon, as well as the western slopes of Organ Peak and Ice Canyon. This section requires the DOD to develop an outdoor recreation plan for the area that is consistent with its primary military mission and permits the DOD to close all or a portion of the area to protect public or military member safety. In the event that the DOD determines that military training capabilities, personal safety, and installation security would not be hindered, the DOD would be required to transfer administrative jurisdiction of the area to the BLM. After such a transfer of jurisdiction, the bill immediately withdraws the area from the public land, mining, and mineral leasing laws. At the DOD's request, the BLM would be required to enter into a Memorandum of Understanding (MOU) providing for the conduct of military training within the area and, to the maximum extent practicable, for the protection of natural, historic, and cultural resources. The Department supports this section as it would improve access to an area popular with the public. We would, however, like to work with the sponsors and the Department of the Army on language that we believe would enhance implementation.

Additional Withdrawals

Section 3(k) of the legislation provides for the withdrawal of two parcels of BLM-managed lands from the public land, mining, and mineral leasing laws. The parcel designated as "Parcel C" is approximately 1,300 acres of BLM-managed lands on the eastern outskirts of Las Cruces. This parcel is a popular hiking and mountain biking site and provides easy access to the peak of the Tortugas Mountains. The larger 6,500-acre parcel, designated as "Parcel B," lies on the southern end of the Organ Mountains area of the Monument and provides a number of current uses, including oil and gas pipelines (mainly natural gas), fiber optic lines for telecommunications, and transportation (State Route 404). The Department also notes that the Sierra Vista National Recreation Trail traverses Parcel B and connects to the Franklin Mountains in Texas. We would

like the opportunity to work with the sponsors and the Subcommittee to ensure that withdrawal is the best mechanism for ensuring that these important uses continue. 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 the Federal Land Policy and Management Act (FLPMA), for example, the BLM currently manages public lands within the Monument for a variety of uses, such as conservation, watershed protection, hunting, fishing, and other forms of recreation, and livestock grazing. If Congress chooses to proceed with the proposed withdrawal, the Department would like to work with the sponsors on language accommodating potential maintenance of and improvements to State Route 404.

Border Security

The Department is strongly committed to securing our Nation's borders and promoting a safe and secure environment for the public, employees, and users of lands managed by the BLM, National Park Service, U.S. Fish and Wildlife Service, and Bureau of Indian Affairs. The BLM and other Department bureaus regularly coordinate and collaborate with local, State, Tribal, and Federal partner agencies on border safety, security, and environmental protection, including protecting public land resources from the impacts of crimes such as smuggling.

S. 441 includes a number of provisions regarding border security to provide flexibility to the Department of Homeland Security (DHS) and other law enforcement agencies. First, the legislation releases approximately 30,200 acres from WSA status along the southern boundary of the proposed Potrillo Mountains Wilderness. Within an approximately 16,500-acre area along that southern border, designated as "Parcel A", the bill charges the Secretary with protecting the wilderness character, to the extent practicable, while at the same time allowing for the installation of communications and surveillance facilities that may be necessary for law enforcement and border security purposes. Finally, the bill keeps open for administrative and law enforcement uses an east-west route bisecting the proposed Potrillo Mountains Wilderness.

While the Department is encouraged to see the WSA release along the southern boundary of the Potrillo Mountains, we believe it is not the appropriate time to permanently encumber Federal borderlands with restrictive designations. The Department recommends that the entire Potrillo Mountains area be removed from WSA until such time as DHS has achieved operational control. Furthermore, the Department will coordinate with DHS and the Subcommittee to develop language that ensures access for the U.S. Border Patrol to conduct routine patrols, perform road maintenance, and position equipment to proactively deter illegal border crossings. The limitation to enter wilderness only during pursuit as described in the legislation, but already permitted by law, puts our Border Agents at a disadvantage in completing their statutory mission.

Monument Management Plan & Land Exchange

Section 5(a) of the bill requires that the Monument management plan include a watershed health assessment to identify opportunities for watershed restoration. The BLM, along with many partners, has undertaken restoration efforts on nearly two million acres in New Mexico, with the goal of restoring grasslands, woodlands, and riparian areas to their original healthy conditions. The BLM will continue to implement appropriate land restoration activities that will benefit watershed and wildlife health.

Section 5(c) of S. 441 requires the Secretary, within 18 months, to “attempt to enter into an agreement” with the Commissioner of Public Lands of New Mexico to exchange approximately 11,000 acres of State trust land within the Desert Peaks area of the Monument to the BLM and an unspecified acreage of BLM-managed public lands to the State. The BLM-managed lands to be exchanged to the State would be jointly identified by the Secretary and Commissioner of Public Lands of New Mexico. While the Department appreciates the use of standard appraisal and equalization of values language, we believe that this section as currently drafted could inadvertently affect land exchanges elsewhere in New Mexico where significant biological, cultural, and recreational values are present. The Department would like the opportunity to work with the sponsors and Subcommittee on time frames and language ensuring that the BLM retains the flexibility to accomplish other important land exchanges.

Conclusion

The Department supports the goals of S. 441 that are consistent with the Secretary’s priorities and would like to work with Congress to make sure the Secretary’s goal of enhancing recreational opportunities on Federal lands is appropriately considered. The Department also supports Congressional action to resolve wilderness designation and WSA release issues, but would like to ensure that designating public lands outside of existing WSAs as wilderness is the most appropriate management tool. We recommend a number of important modifications to the bill to address these critical issues.