

**Statement of  
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Department of the Interior  
Senate Energy & Natural Resources Committee  
Subcommittee on Public Lands, Forests, and Mining  
S. 368, Federal Land Transaction Facilitation Act Reauthorization  
April 25, 2013**

Thank you for the opportunity to testify on S. 368, the Federal Land Transaction Facilitation Act (FLTFA) Reauthorization. The Administration strongly supports S. 368 and encourages the Congress to move swiftly to reauthorize the FLTFA. Over the past decade, the Department of the Interior has made a number of important acquisitions using the FLTFA's provisions. Reauthorization of the FLTFA will allow us to continue to use this critical tool for enhancing our Nation's treasured landscapes.

**Background**

Congress enacted the FLTFA in July of 2000 as Title II of Public Law 106-248. The FLTFA expired on July 25, 2011. Under the FLTFA, the Bureau of Land Management (BLM) could sell public lands identified for disposal through the land use planning process prior to July 2000, and retain the proceeds from those sales in a special account in the Treasury. The BLM and the other Federal land managing agencies were then able to use those funds to acquire, from willing sellers, inholdings within certain federally designated areas and lands that are adjacent to those areas that contain exceptional resources. Lands were able to be acquired within and/or adjacent to areas managed by the National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), the U.S. Forest Service (FS), and the BLM. Over the life of the FLTFA, approximately 27,200 acres were sold under this authority and approximately 18,100 acres of high resource value lands were acquired.

The President's fiscal year 2014 Budget includes a proposal to permanently reauthorize FLTFA, and allow lands identified as suitable for disposal in recent land use plans to be sold using the FLTFA authority. FLTFA sales revenues would continue to be used to fund the acquisition of environmentally sensitive lands and the administrative costs associated with conducting sales.

The 1976 Federal Land Policy and Management Act (FLPMA) provides clear policy direction to the BLM that public lands should generally be retained in public ownership. However, section 203 of FLPMA allows the BLM to identify lands as potentially available for disposal if they meet one or more of the following criteria:

- Lands consisting of scattered, isolated tracts that are difficult or uneconomic to manage; or
- Lands that were acquired for a specific purpose and are no longer needed for that purpose; or

- Lands that could serve important public objectives, such as community expansion and economic development, which outweigh other public objectives and values that could be served by retaining the land in Federal ownership.

The BLM identifies lands that may be suitable for disposal through its land use planning process, which involves full public participation. Before the BLM can sell, exchange, or otherwise dispose of these lands, however, it must undertake extensive environmental impact analyses, clearances, surveys, and appraisals for the individual parcels.

Before the enactment of the FLTFA, the BLM had the authority under FLPMA to sell lands identified for disposal. The proceeds from those sales were deposited into the General Fund of the Treasury. However, because of the costs associated with those sales (including environmental and cultural clearances, appraisals, and surveys), few sales were undertaken. Rather, the BLM relied largely on land exchanges to adjust land tenure. This can often be a less efficient process.

Once the FLTFA was enacted, the BLM developed guidance, processes, and tools to complete the FLTFA land sales. Working cooperatively, the BLM, NPS, FWS, and FS then developed guidance, processes, and tools for subsequent FLTFA land acquisitions. The BLM markedly increased sales under the program; however market conditions in the later years led to less robust sales.

Since it was enacted, the BLM utilized FLTFA to sell 330 parcels previously identified for disposal totaling 27,249 acres, with a total value of approximately \$117.4 million. Over the same time period, the Federal government acquired 37 parcels totaling 18,535 acres, with a total value of approximately \$50.4 million using FLTFA authority.

Some lands identified for disposal and sold through the FLTFA process were high-value lands in the urban interface. For example, in 2007 the BLM in Arizona sold at auction a 282-acre parcel in the suburban Phoenix area for \$7 million. However, many of the lands the BLM identified for disposal prior to July 2000 that are eligible under FLTFA are isolated or scattered parcels in remote areas with relatively low value. Frequently, there is limited interest in acquiring these lands, and the costs of preparing them for sale may exceed their market value.

Since the inception of the FLTFA, the BLM deposited \$112.8 million into the Federal Land Disposal Account. That figure represents 96% of the total revenues from these sales. Approximately \$4.7 million was transferred to the states in which the sales originated, as provided for in individual Statehood Acts (typically 4% of the sale price).

Using the FLTFA proceeds, the BLM, NPS, FWS, and FS acquired significant inholdings and adjacent lands from willing sellers, consistent with the provisions of the Act. For example, in November 2009 the BLM used FLTFA funds to complete the acquisition of 4,573 acres within the BLM's Canyons of the Ancients National Monument in southwest Colorado. These inholdings encompass 25 documented cultural sites, and archaeologists expect to record an additional 700 significant finds. The acquisition also included two particularly important areas:

“Jackson’s Castle,” which is archaeologically significant; and the “Skywatcher Site,” a one-of-a-kind, 1,000-year-old solstice marker. The following are a few additional examples of important FLTFA acquisitions:

- Elk Springs Area of Critical Environmental Concern (ACEC), New Mexico/BLM – This 2,280-acre acquisition protects critical elk wintering habitat.
- Hells Canyon Wilderness, Arizona/BLM – A 640-acre parcel constituting the last inholding within the Hells Canyon Wilderness, located just 25 miles northwest of Phoenix.
- Grand Teton National Park, Wyoming/NPS – This small (1.38 acres), but critical inholding within the Park was acquired and protected from development.
- Zion National Park, Utah/NPS – A combination of FLTFA and Land and Water Conservation Fund monies were used to acquire two 5-acre inholdings that overlook some of the Park’s outstanding geologic formations. These areas were previously target for development.
- Nestucca Bay National Wildlife Refuge, Oregon/FWS – This 92-acre dairy farm on the outskirts of Pacific City, Oregon, was slated for residential development and was acquired to protect a significant portion of the world’s population of the Semidi Islands Aleutian Cackling Goose.
- Six Rivers National Forest, California/FS – Over 4,400 acres were acquired within the Goose Creek National Wild and Scenic River corridor, preserving 4 miles of the river known for dense stands of Douglas fir, redwoods, and Port Orford cedar.

### **S. 368**

S. 368 would both reauthorize and enhance the original FLTFA through four major changes. First, the bill extends the program to July 2021. The Department recommends eliminating the sunset altogether to enable the BLM to plan for and implement this program on a longer-term basis.

Second, under the original FLTFA, only lands identified for disposal prior to July 25, 2000, were eligible to be sold. S. 368 modifies that restriction by allowing any lands identified for disposal through the BLM’s land use planning process by the date of enactment of S. 368 to be sold through the FLTFA process. The Department supports this change, which recognizes the usefulness and importance of the BLM’s land use planning process. However, we would recommend eliminating this restriction rather than simply moving the date forward.

The BLM currently oversees the public lands through 157 Resource Management Plans (RMPs). Since 2000, the BLM has completed over 75 RMP revisions and major plan amendments. Additionally, the BLM is currently involved in planning efforts on 57 new RMPs, all of which the agency expects to complete within the next three to four years. Planning updates are an ongoing part of the BLM’s mandate under FLPMA. In this process, the BLM often makes incremental modifications to the plans, and identifies lands that may be suitable for disposal. All of these planning modifications or revisions are made in compliance with the National Environmental Policy Act, and are undertaken through a process that invites full public participation. If the enactment date is again utilized as the cut-off date, the BLM may, in a few years, face the same challenges it does with the program today. Many of the high-valued lands

have been sold and the remaining eligible lands are isolated or scattered parcels in remote areas with relatively low value. Eliminating the restriction to provide more flexibility on the lands eligible for FLTFA will allow the BLM to maintain a more consistent program over time.

Third, the original FLTFA allowed acquisitions of inholdings within, or adjacent to, certain Federal units such as BLM conservation units, National Parks, National Wildlife Refuges, and certain Forest Service units if they existed prior to July 25, 2000. S. 368 eliminates this limitation as well, and we support this change.

Finally, S. 368 adds exceptions to the FLTFA in recognition of specific laws that modify the FLTFA with respect to some particular locations. The FLTFA does not apply to lands available for sale under the Santini-Burton Act (P.L. 96-586) and the Southern Nevada Public Land Management Act (P.L. 105-263). S. 368 additionally exempts lands included in the White Pine County Conservation, Recreation, and Development Act (P.L. 109-432) and the Lincoln County Conservation, Recreation and Development Act (P.L. 108-424). Finally, a number of provisions of the Omnibus Public Land Management Act of 2009 (P.L. 111-11) modify FLTFA at specific sites or for specific purposes. These exceptions are also captured by S. 368.

### **Conclusion**

Thank you for the opportunity to testify in strong support of S. 368, the Federal Land Transaction Facilitation Act Reauthorization. By reauthorizing the FLTFA, the Congress will allow the BLM to continue a rational process of land disposal that is anchored in public participation and sound land use planning, while providing for land acquisitions to augment and strengthen our Nation's treasured landscapes.