

**Statement of
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**House Committee on Natural Resources
Subcommittee on National Parks, Forests, and Public Lands
H.R. 5355, Desert Community Lands Act
June 23, 2022**

Thank you for the opportunity to testify on H.R. 5355, the Desert Community Lands Act. The bill proposes to convey to the Town of Apple Valley and Cities of Twentynine Palms, Barstow, and Victorville in California approximately 8,000 acres of public lands managed by the Bureau of Land Management (BLM). The BLM has concerns with a number of the conveyances proposed in the bill, and we cannot support it as written.

Background

Since President Biden issued E.O. 14008, *Tackling the Climate Crisis at Home and Abroad*, the Administration has launched an all-of-government effort to conserve our lands and waters, improve equitable access to recreation, and pursue locally led efforts to conserve, connect, and restore the lands and waters upon which we all depend. Conserving and restoring the nation's lands and waters can yield immense economic benefits. Outdoor recreation contributes an estimated \$460 billion to the nation's economy, with mayors and local leaders across the nation recognizing parks, trails, and open spaces as indispensable infrastructure for livable and prosperous communities. Additionally, Section 207 of the EO sets ambitious renewable energy goals that will ensure America and the world can meet the urgent demands of the climate crisis, while empowering American workers and businesses to lead a clean energy revolution. The EO further directs the Secretary to review siting and permitting processes on public lands and in offshore waters to identify ways we can increase renewable energy production.

In 1976, the passage of the Federal Land Policy and Management Act (FLPMA) gave BLM its mission to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. Under FLPMA, the BLM retains management of most public lands; however, Section 203 of FLPMA also authorizes the sale of certain public lands when the sales are in the public interest and consistent with approved BLM land use plans. Public lands may be identified as potentially suitable for disposal through the BLM's land use planning process and generally require site-specific analysis and appraisal prior to disposal. Additionally, FLPMA requires payment of fair market value as determined by appraisal of the lands and interests transferred out of Federal ownership.

The BLM regularly transfers public land to local governments and nonprofits for a variety of public purposes. These transfers are typically accomplished under the provisions of the Recreation and Public Purposes (R&PP) Act or through specific Acts of Congress. The R&PP Act is a statute frequently used by the BLM to help States, local communities, and nonprofit organizations obtain lands – at no or low cost – for important public purposes such as parks, schools, hospitals and other health facilities, fire and law enforcement facilities, courthouses, social services facilities, and

public works. Because these public purpose lands are conveyed at far below market value, R&PP Act conveyances and many similar legislated conveyances include a reversionary clause requiring that lands be used for the intended public purposes or revert to the Federal government.

San Bernardino County, located in southern California, is home to over 2 million people and holds important recreational, renewable energy, and conservation values. The county is over 12 million acres, of which eight million acres are public lands within the California Desert Conservation Area (CDCA) that are identified for special management in FLPMA. Section 601 of FLPMA recognized the unique location of the CDCA, which is adjacent to the major metropolitan areas of Los Angeles and San Diego, home to more than 20 million residents. This location has always meant that the management of the CDCA must consider the public's desire for recreational activities, public access, renewable energy, rights-of-way, conservation, and other important uses. The land use plan for the CDCA was last amended as part of the Desert Renewable Energy Conservation Plan (DRECP) in 2016.

H.R. 5355

H.R. 5355 conveys to the Town of Apple Valley and Cities of Twentynine Palms, Barstow, and Victorville in California approximately 8,000 acres of BLM-managed public lands.

Apple Valley Off-Highway Vehicle (OHV) Recreation Area Conveyance (Section 2)

Section 2 of H.R. 5355 directs the Secretary of the Interior (Secretary) to convey approximately 4,600 surface acres managed by the BLM to the Town of Apple Valley, at no cost, to establish a centralized OHV recreation park, subject to valid existing rights. The area is located south of the BLM's Stoddard Valley OHV area and is a popular destination for recreation activities. The mineral estate would not be included as part of the conveyance. Section 2 also requires the Secretary's approval if the city seeks to dispose of the conveyed lands, but the section does not specifically provide the United States a clear reversionary interest if the lands are no longer used for recreation-related public purposes. The Secretary would be responsible for any administrative costs associated with the conveyance (e.g., cultural and cadastral surveys).

Analysis

As a matter of policy, the BLM supports working with local governments to resolve land tenure issues that advance worthwhile public policy objectives. However, the BLM cannot support the conveyance to Apple Valley as outlined in section 2, because the lands are within several special management units designated under the DRECP. Further, the lands are not identified as potentially suitable for disposal in the land use plan.

Included among approximately 4,000 of the acres to be conveyed in section 2 is the center portion of the Northern Lucerne Wildlife Linkage Area of Critical Environmental Concern (ACEC). This ACEC connects the Ord-Rodman ACEC to the east with the Mojave Monkey Flower ACEC and Bendire's Thrasher ACEC to the west. The Northern Lucerne Wildlife Linkage ACEC was designated as important habitat and contains migration corridors for bighorn sheep, golden eagles, desert tortoise, prairie falcons, and several other BLM sensitive wildlife species. Additionally, numerous rare and sensitive plants have major populations in the ACEC, making it regionally significant. These areas are important for enhancing habitat connectivity and linking natural landscapes, which are important adaptation strategies for conserving biodiversity and supporting ecological function during climate change. The DRECP established a goal for this area to protect its biological values while providing for compatible public uses, including camping and OHV use

on designated roads and trails.

The remaining 600 acres are identified as potentially suitable for disposal in the land use plan, but they are specifically identified as a Development Focus Area (DFA) for renewable energy development, not recreational use. Under the DRECP, prior to any disposal of DFA acres, the BLM must determine that a new owner would facilitate renewable energy or would not preclude such development. The BLM also notes there are more than 50 mining claims on the public lands proposed for conveyance. Additionally, the bill allows the lands to be conveyed to Apple Valley at no cost and to potentially be used for commercial services and other revenue generation without providing a fair return to the American taxpayer. Finally, the BLM believes as a general policy matter that all administrative costs related to the conveyance, including surveys, cultural reviews, and related legal clearances should be borne by the benefiting entity, not by the Federal government, as provided under the bill.

City Conveyances (Sections 3, 4, & 5)

Sections 3, 4, and 5 of H.R. 5355 direct the Secretary to convey approximately 3,600 surface acres managed by the BLM to the Cities of Twentynine Palms, Barstow, and Victorville, respectively. Each of these conveyances would be at no cost, subject to valid existing rights, not include the mineral estate, and occur no later than one year after the bill's enactment. Of the approximately 3,600 surface acres, approximately 2,800 acres are identified through the BLM's land use planning process as potentially suitable for disposal under specific conditions. The remaining acres were not identified as potentially suitable for disposal.

Analysis

Section 3 would convey approximately 80 acres of public land located north of Joshua Tree National Park to the City of Twentynine Palms. The BLM notes these lands are not identified as available for disposal under the DRECP and there appears to be a road running through the land that may be an unrecorded encumbrance. Section 4 would convey approximately 300 acres of public land to the City of Barstow. Roughly 290 acres of this proposed conveyance are within the Stoddard/Johnson Special Recreation Management Area (SRMA). While this area has no mining claims, it contains at least five rights-of-way, including a water reservoir, a natural gas pipeline, a highway, and a railroad. Under the DRECP, this area is available for disposal to parties that will manage the lands in accordance with its recreational values. The Stoddard/Johnson SRMA is extremely popular and intensively used since it is along the outer edge of Barstow and other adjacent communities. There is a diverse range of recreational opportunities in the SRMA, including OHV use, rock climbing, camping, and hiking. The BLM does not object to this transfer as long as it is consistent with the DRECP's specific conditions for disposal. Additionally, we would recommend transferring these lands to the city for recreational purposes consistent with the R&PP Act and including a reversionary clause. The remaining 10 acres to be conveyed to Barstow under the bill are designated as General Public Lands and are unavailable for disposal under the DRECP.

Section 5 of the bill would convey approximately 3,200 acres of public land to the City of Victorville. Roughly 2,500 acres of the proposed conveyance to Victorville are within an administratively designated DFA. Under the DRECP, these DFAs encompass specific lands with high quality renewable energy resources (wind, solar, and geothermal) where energy generation and storage projects may be proposed for development. The BLM notes that encouraging renewable energy development in these DFAs is an integral part of the DRECP strategy to promote

renewable energy production on certain public lands, while conserving unique and valuable desert ecosystems and providing outdoor recreation opportunities. Through incentivizing the use of DFAs, the BLM can unlock new renewable energy opportunities and meet the national goal established by Congress in the Energy Act of 2020 to site at least 25 gigawatts of renewable energy on public lands by 2025. The BLM also notes the 700 acres outside of the DFA are designated as General Public Lands under the DRECP and are unavailable for disposal.

Under the DRECP, these acres are available for disposal if the BLM determines that the new owner would facilitate renewable energy development or would not preclude such development. The BLM also does not object to this transfer as long as it is consistent with the DRECP's specific conditions for disposal of a DFA through the inclusion of a condition in the patent and a reversionary clause. Additionally, the BLM notes that the public land proposed for conveyance to Victorville has one mineral materials permit and more than 16 active rights-of-way, including power transmission lines, a railroad, a landfill, water quality monitoring wells, and an aquifer restoration system used by the U.S. Army Corps of Engineers and the U.S. Air Force.

As discussed above, and as with other land conveyance proposals, we recommend the bill include language to ensure payment of fair market value for any of the parcels to be conveyed. The BLM also believes the cities of Twentynine Palms, Barstow, and Victorville should be responsible for administrative costs associated with the transfers. Finally, we recommend amending the bill to ensure sufficient time is provided to fully process the conveyances, including completion of appropriate reviews and clearances in accordance with the National Environmental Policy Act and any required plan amendment, along with cadastral surveys and appraisals to determine fair market value.

Conclusion

Thank you for the opportunity to testify on H.R. 5355.