

**Statement of  
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Bureau of Land Management  
U.S. Department of the Interior  
Senate Committee on Energy and Natural Resources  
Subcommittee on Public Lands, Forests, and Mining  
S. 357, Santa Ana River Wash Plan Land Exchange Act  
July 26, 2017**

Thank you for the opportunity to present the views of the Department of the Interior on S. 357, the Santa Ana River Wash Plan Land Exchange Act. S. 357 would direct the exchange of approximately 327 acres of public lands managed by the Bureau of Land Management (BLM) for approximately 310 acres of land managed by the San Bernardino Valley Water Conservation District (WCD) in San Bernardino County, California.

The Department supports the bill but would like to work with the sponsor and the Subcommittee on a few modifications. We appreciate Senator Feinstein's support of this land exchange, which will help consolidate ownership of lands, allow for infrastructure improvements, further mineral development, and contribute to habitat protection and conservation efforts in the Upper Santa Ana River Wash.

**Background**

For over twenty years, the BLM has been an active participant in coordinated land use planning and conservation efforts in the Upper Santa Ana River Wash (Wash Planning Area). This area is approximately one mile below the Seven Oaks Dam, near the City of Redlands, California, and involves a mix of both public and private land ownership.

The Wash Planning Area is regionally important for flood control, groundwater recharge, recreation, and habitat for threatened and endangered species. The area is also an important source for aggregate for concrete products and roadway construction materials. Under a Public Law from 1909 ("Act of February 20, 1909"), Congress set aside certain lands within this area for water recharge and excluded mining on BLM-managed lands. The diverse resource values within the region served as an impetus for the formation of a task force in 1993 to help coordinate land uses irrespective of land ownership boundaries. City and county officials, industry representatives, WCD officials, and the BLM were key members of the task force.

After 15 years of collaboration and engagement with stakeholders representing water, mining, flood control, wildlife, and municipal interests, the task force finalized a Regional Plan to coordinate the uses of the Wash Planning Area. Based on this Regional Plan, the users of the Wash Planning Area are developing a Habitat Conservation Plan (HCP) with the U.S. Fish and Wildlife Service. Taken together, these management strategies serve to guide land uses and activities while also improving the wildlife habitat in the Upper Santa Ana River Wash.

***Public Land Exchanges***

Under the Federal Land Policy Management Act of 1976 (FLPMA), the BLM's mission is to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of

present and future generations. FLPMA provides the BLM with a clear multiple-use and sustained yield mandate that the agency implements through its land use planning process.

Among other purposes, land exchanges allow the BLM to acquire environmentally-sensitive lands while transferring public lands into non-Federal ownership for local needs and the consolidation of scattered tracts. The BLM conducts land exchanges pursuant to Section 206 of FLPMA, which provides the agency with the authority to undertake such exchanges, or when given specific direction by Congress. To be eligible for exchange under Section 206 of FLPMA, BLM-managed lands must have been identified as potentially available for disposal through the land use planning process. Extensive public involvement is critically important for such exchanges to be successful. The Department notes that the process of identifying lands as potentially available for exchange does not include the clearance of impediments to disposal or exchange, such as the presence of threatened and endangered species, cultural or historic resources, mining claims, oil and gas leases, rights-of-way, and grazing permits. Under FLPMA, this clearance must occur before the exchange can be completed.

### **S. 357**

S. 357 would require within two years of the bill's enactment the exchange of approximately 327 acres of BLM-managed public lands for approximately 310 acres of WCD-administered private lands in San Bernardino County, California. The purpose of the exchange would be to transfer public lands to the WCD for economic development and to acquire environmentally sensitive private lands for consolidated management of public lands.

The land exchange would be subject to valid existing rights, appraisals would be conducted, and it would be completed pursuant to FLPMA Section 206. The WCD would be responsible for all costs associated with the exchange. If the value of the public lands proposed for exchange exceeds the value of the private lands, up to 59 additional acres of private lands may be added to the proposed exchange to equalize values. If the additional private lands are insufficient to equalize values, the WCD must make a cash equalization payment in accordance with the land exchange provisions of FLPMA or terminate the exchange. If the value of the private lands proposed for exchange exceeds the value of the public lands, up to an additional 90 acres of public lands may be added to the proposed exchange to equalize values. In the event that the additional public lands are insufficient to equalize values, the Secretary is not required to make a cash equalization payment to the WCD.

The bill would also exempt any public lands proposed for exchange to the WCD from the "Act of February 20, 1909." The private lands proposed for exchange to the BLM, however, would continue to be subject to the continued use, maintenance, operation, construction, relocation, or expansion of groundwater recharge facilities to the extent that such activities are not in conflict with the HCP. Finally, the bill revokes Secretarial Order 241 from November 11, 1929, which withdrew a portion of the public land for a transmission line that ultimately was not constructed.

### **Analysis**

The Department supports the completion of land exchanges that consolidate ownership of scattered tracts of lands, thereby streamlining land management tasks and enhancing resources protection and providing opportunities for resource development. In this particular exchange, the

BLM would acquire quality habitat for the Federally-listed Santa Ana River woolly-star, slender-horned spinyflower, coastal California gnatcatcher, and the San Bernardino kangaroo rat, while facilitating mineral and infrastructure development for local communities across the region.

We have a few concerns with the bill's provisions, however, and we would like the opportunity to work with the sponsor and Subcommittee to incorporate in the bill standard appraisal and equalization of values language, which has been used in many other successful legislated land exchanges. The Department is committed to continuing its adherence to the Uniform Appraisal Standards for Federal Land Acquisition and Uniform Standards of Professional Appraisal Practice and recommends the appraisal process be managed by DOI's Office of Valuation Services. The Department notes that the public lands proposed for exchange have not yet been fully analyzed under the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the National Historic Preservation Act (NHPA), or the FLPMA public interest determination. These review requirements provide for public engagement, opportunities to consider environmental and cultural impacts, and help ensure that unknown or unforeseen issues are not overlooked. Finally, we understand that the Department of Justice would like to work with the subcommittee to address a constitutional concern with some of the text in the bill.

### **Conclusion**

Thank you for the opportunity to provide testimony on S. 357, the Santa Ana River Wash Plan Land Exchange Act. The Department supports the bill, but would like to work with the sponsor and the Subcommittee on a few modifications. I would be happy to answer any questions.