STATEMENT OF LARRY FINFER

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ON

S.1892, THE VALLES CALDERA PRESERVATION ACT

BEFORE THE

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

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Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today to testify on S. 1892, the Valles Caldera Preservation Act. S. 1892 contains two distinct Titles. Title I focuses primarily on the federal acquisition and subsequent management of the Valles Caldera, also referred to as the Baca Ranch. Title II, entitled "*Federal Land Transaction Facilitation*," describes a procedure for the sale of public lands which have been identified for disposal by the managing agency, the Bureau of Land Management (BLM). Title II also describes a process for the use of the receipts of those land sales, which are to be primarily directed to the purchase of private inholdings within certain federally designated areas. The BLM will defer to the testimony of the U.S. Forest Service in regard to Title I, as the majority of the land to be acquired will be managed by the Forest Service. Our comments today are directed toward Title II, which has direct impact on the Bureau of Land Management.

Title II is very similar to S. 1129, the Federal Land Transaction Facilitation Act, on which I testified before this committee on July 21, 1999. At that time, I stated that the BLM strongly supported the objectives of the legislation. This continues to be the case. But as stated in July 1999, I will recommend some relatively minor amendments to assure effective implementation and to help meet land management objectives established under the Federal Land Policy and Management Act (FLPMA), often referred to as "BLM's Organic Act."

Throughout the west, the BLM manages a great deal of federal land that is intermingled with private lands. As a result of the scattered and checkerboard ownership, the management of some of these federal lands is difficult and uneconomical. Through the land use planning process required under the FLPMA, (P.L. 94-579), the Bureau has identified some of these lands as potentially available for disposal. However, the sale authority granted the BLM pursuant to FLPMA has not been widely used for a number of reasons, including staffing and disposition of sales receipts. As a result, much of this land is still under federal management. Despite a

relatively small history of land sales, the BLM has made progress toward improving management efficiency by consolidating land ownership through exchanges, purchases, and negotiating agreements with other land management agencies. Title II of S. 1892 will provide another significant tool to assist us in this consolidation, where appropriate.

The BLM is rapidly gaining invaluable experience in the disposal of public lands. The Southern Nevada Public Land Management Act of 1998 (PL 105-263), has helped to refine and improve our land sales process. Similar to Title II, the Southern Nevada Act provided for the sale of public land, but the implementation was limited to the Las Vegas valley.

As noted in my previous testimony on S. 1129, one of our most serious concerns with this proposed legislation is the extent of its emphasis on acquisition of inholdings. Although acquisition of inholdings is a legitimate and desirable goal, dedicating 80% of the funds available for acquisition to "inholdings" is undesirable and could limit one of the potentially valuable uses of the funds.

The FLPMA contains criteria for determining which public lands are suitable for disposal and directs that these lands be identified through the land use planning process. Title II is consistent with this direction. However, Section 205 (a) would limit the scope of land sales to those lands identified for disposal as of the date of enactment. Congress, through Report language accompanying the FY 2000 Interior and Related Agencies Appropriations bill, acknowledged BLM's position that many of our current land use plans need to be updated. The President's Budget request for FY 2001 contains significant funding for this updating. For example, in New Mexico, an anticipated update of the 1988 Farmington Resource Management Plan (RMP) could identify up to 20,000 acres of land for disposal adjacent to Aztec, Bloomfield, and Farmington. The 1988 RMP also identified lands for disposal which would now be recommended for retention based on new environmental considerations. We would recommend that Section 205 be amended to allow for the use of any updated BLM Resource Management Plan. We believe this amendment would help us better assist communities as they consider both growth opportunities and the preservation of open spaces that are basic to the Western lifestyle.

Our testimony on S. 1129 stated our strong opposition to any efforts to establish a yearly quota or acreage goal for disposal. We are pleased that Title II of S. 1892 reflects this position. Past testimony also supported the dedication of land sales receipts to acquisition within a special fund not subject to further appropriation. We are pleased that Title II supports this position as well.

Other recommendations for specific amendments to Title II language, many of which were included in our testimony on S. 1129, include:

Section 203 (2) Federally Designated Area: For clarification, the cross reference to section 103 of the FLPMA should be changed to section 103(o). Similarly, the definition of "Exceptional Resource" contained in Title II should be expanded to consider a wider variety of values for the use of sale receipts, including fish and wildlife resources or other natural systems and processes. Such language is consistent with the idea of special emphasis areas identified in Section 103 of the FLPMA.

Section 203 (3) Inholding. This special designation definition should be expanded to include "inholdings" within large tracts of public land administered by the BLM that do not have special designation. This might be done by identifying lands within BLM resource management plan boundaries as federally designated areas. In our testimony on S. 1129 we provided examples of how local communities throughout the West are looking to Federal lands to be used in concert with local and regional habitat conservation planning. One example provided was in San Diego

County, where consolidation of a large block of Federal lands -- with the support of local officials -- will allow the county to approve continued economic development on other private lands. This legislation should facilitate such collaborative efforts. The definition should also be expanded to include inholdings within BLM Wilderness Study Areas, as these are areas which have been proposed for special consideration through a public land use planning process.

Section 204 (a)(1) In General: The identification procedure for inholdings is unclear and needs to be clarified. The primary focus of land acquisition should continue to be on the importance of resource values to be acquired by the public. If it is expected that agencies will identify all "inholdings," as defined, and also whether the owner is a willing seller, the task would be immense and costly. Further, it would be difficult to manage given that many sellers will reassess their willingness to sell over the life of the program. Accordingly, the information could be outdated as soon as it is gathered. We would prefer to carry a flexible, visible and public process whereby we could identify willing sellers and determine how acquisition may resolve management issues.

Section 204 (a)(2) In General and Section 206(c)(3) Priority: It could be difficult to establish the date on which the land became an "inholding" and the date the "willing seller" acquired the property. The research to document thousands of individual private parcels that qualify under this bill will be arduous. Each seller would be required to provide documentation to justify the purchase date, and many of them would not willingly provide this information. The BLM recommends instead that a public forum be conducted to determine interest in this program. Each interested owner could request placement on a list, however, the individual agencies would continue to decide on the highest priority areas for acquisition.

Sections 206(b) Availability and 206(c)(3) Priority: We believe it would be prudent to designate a lead agency for management of the Federal Land Disposal Account to avoid redundant accounting and tracking procedures. The BLM is the logical choice for designation as the lead because the lands to be sold are currently under BLM management. Similar direction was included in the Southern Nevada Lands Act as that law also provides a special account which is available for use by a number of Federal Agencies. The BLM, in coordination with the other Federal agencies, is currently finalizing the process for the management of the Southern Nevada Fund, and this process can be easily adapted to the management of the Federal Land Disposal Account.

Section 206 (c) Federal Land Disposal Account: As discussed earlier, we believe the definition of "exceptional resources" should be expanded. We also believe the inclusion of "adjacent to federally designated areas" may not be the most effective means to ensure protection of such exceptionally sensitive lands. Title II already contains a prohibition on the purchase of lands

which would be uneconomical to manage. Given this safeguard, expanded authority for purchase of exceptional resource lands not adjacent to federally designated areas, with emphasis on inholdings, would allow maximum flexibility for the agency in implementing this Title. We would be willing to discuss a cap on the amount of money which could be spent annually on the purchase of lands other than inholdings.

Section 206 (c)(2)(C) Administrative and Other Expenses: Based on our experience with the Southern Nevada Public Land Management Act, we suggest the inclusion of this statement: "The reimbursement of costs incurred by BLM in implementation of this Act shall include not only the direct costs for sales or exchanges but also other BLM administrative costs. Other administrative costs include those expenditures for establishing and administering the Federal Lands Disposal Account under the Act, developing implementation procedures, and consultation with legal counsel." Such clarifying language, applicable to the Southern Nevada Act, was contained in Report language accompanying the FY 2000 Interior and Related Agencies Appropriations bill.

Section 206(f) Termination, contains a cross reference to section 5. This reference should be changed to section 205.

We appreciate the cooperative working relationship that we have had with the Committee and Senator Domenici on this legislation. We look forward to continuing that relationship to accomplish our common goals.

That concludes my testimony. I would be glad to respond to any questions.

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