

**Statement of Lawrence E. Benna
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**Hearing of the Senate Energy Subcommittee on Public Lands and Forests
on
H.R. 1101, An Act to revoke a Public Land Order with respect to certain lands
erroneously included in the Cibola National Wildlife Refuge, California**

July 20, 2005

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify today in support of H.R. 1101, which will revoke a portion of Public Land Order 3442, dated August 21, 1964. This Public Land Order withdrew approximately 16,600 acres of public domain lands along the Colorado River in California and Arizona for the Cibola National Wildlife Refuge (NWR). The withdrawal erroneously included a small area of approximately 140 acres in Imperial County at the southern boundary of the California portion of the Refuge. A similar bill in the 108th Congress, H.R. 417, was passed by the House and by the Senate with an amendment, but was not enacted.

Prior to 1964, this property fell under the jurisdiction of the Bureau of Land Management (BLM). In 1962, the BLM issued a permit for a public recreation concession on 18 acres of the lands now in question. The concession is known as "Walter's Camp," and consists of a recreational vehicle park, a small marina, and a store, and the BLM estimates that Walter's Camp receives 11,000 visitors per year. Because neither the Fish and Wildlife Service (FWS) nor the BLM recognized the mistake in legal descriptions on the ground, the BLM continued to renew the original permit and the recreational concession use has continued, unbroken, to the present time. The current concession contract was issued by the BLM in 1980, under the provisions of Section 10 of the Reclamation Project Act of 1939 for a period of 20 years. Four extensions to the current contract have since been issued.

The National Wildlife Refuge System Administration Act of 1966, as amended, (Act) requires that all uses of refuge lands be compatible with the purpose for which the refuge was established. Section 4(a) of the Act and section 204(j) of the Federal Land Policy and Management Act both prohibit the Secretary of the Interior from revoking withdrawals of land within NWRs. For this reason, Congressional action is required to remove these lands from the Refuge System.

Since the inclusion of these lands in Public Land Order 3442 was a mistake, due to the prior existence of the concession, we believe the most equitable solution is removal of the lands from the refuge. There are no listed species inhabiting the 140 acres and the area in question is, at best, marginal wildlife habitat. Removal of the 140 acres of land from the refuge would free-up the area necessary for the continuation of the recreational concession, while still affording more than adequate protection for the nearest significant wildlife habitat feature, Three Fingers Lake.

We believe that withdrawal of these lands will benefit all parties involved — the concessionaire, the Service, the BLM and, ultimately, the public. For this reason, we support the bill and urge prompt action on enactment of H.R. 1101.