

**Statement of
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U.S. Department of the Interior
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands and Forests
S. 3772, White Pine County Conservation, Recreation, and Development Act of 2006
November 16, 2006**

Thank you for the opportunity to testify on S. 3772, the White Pine County Conservation, Recreation, and Development Act of 2006. This bill attempts to resolve a wide range of public land issues in White Pine County, Nevada. We strongly support the efforts of Senators Ensign and Reid to resolve the longstanding issues surrounding Wilderness Study Areas (WSAs) and a number of other public land issues. The Administration supports many of the goals of the legislation but opposes the bill as written. We have concerns with the bill's revenue distribution and will work with the Committee during the legislative process to determine an appropriate percentage of proceeds to be returned to the Treasury. We also oppose Title VIII regarding the changes in the distribution of revenues under the Southern Nevada Public Land Management Act (SNPLMA), Public Law 105-263, and have concerns with the specific language of the proposed expansion of uses of SNPLMA funds and proposed revisions to SNPLMA's affordable housing provisions.

Background

White Pine County in eastern Nevada covers a sprawling 8,900 square miles with a population of just under 9,000 persons. The county seat of Ely and surrounding towns are home to the overwhelming majority of county residents. White Pine's high desert is truly wide open space. Ninety one percent of the county is owned by the Federal government, including 77 percent managed by the Bureau of Land Management (BLM), totaling nearly 4.4 million acres. Additional lands are managed by the Forest Service and the National Park Service through the Great Basin National Park.

Title I—Land Disposal

Title I of S. 3772 provides for a process to dispose of up to 45,000 acres of public lands out of BLM management and into private ownership. We support the general proposition of disposing of public lands to provide for community growth as appropriate, and we support identifying these lands through a public process.

The bill calls for the potential disposal of lands that have been preliminarily identified for disposal by the BLM through its land use planning process. The Ely Resource Management Plan (RMP) is intended to be finalized in the spring of next year. The bill provides for the disposal of lands identified in this upcoming plan as well as subsequent amendments to the RMP. We support this disposal process as it allows for full public involvement in determining which lands are best transferred from public to private ownership. Section 101(h) provides that sales of the land shall begin one year following enactment of this Act. We recommend that this be modified to one year following completion of the Ely RMP. The BLM would undertake to complete all cultural and resource clearances, as well as appraisals and surveys, before any lands could be offered for sale. In addition, specific decisions on which of lands already identified for disposal would be sold would be determined jointly by the BLM and the county, thus allowing the BLM to exclude any lands with newly discovered conflicts.

We have concerns with the bill language on the use of sale revenues. Section 102 of S. 3772 addresses the disposition of the proceeds from the sale of lands directed in section 101. Specifically, it directs that 15 percent of the proceeds be distributed to State and county entities, while 85 percent would be retained by the Federal government. Among the allowed uses of the Federal government's share are: reimbursement of costs to prepare the lands for sale, the development and implementation of a multi-species habitat conservation plan for the county if determined necessary, and other costs related to implementation of the Act. Section 102(b) authorizes interest to be earned on amounts deposited into the

special account. As stated above, we would like to work with the Committee to address our concerns with this section.

In addition, the Administration does not support section 102(b), which allows any amounts deposited in the special account to earn interest. The Department of the Treasury strongly opposes such provisions, which effectively require the Treasury to borrow more funds to pay this interest.

Title II—Wilderness Areas

The bill would designate a number of wilderness areas within White Pine County, including over 284,000 acres of BLM-managed lands and nearly 260,000 acres managed by the Forest Service. In addition, nearly 68,000 acres of WSAs managed by the BLM would be released from WSA status and interim protection of their wilderness values under section 603 of the Federal Land Policy and Management Act (FLPMA). Release will return these lands to non-wilderness multiple use. The BLM currently manages over 152,000 acres of WSA in White Pine County.

The eight proposed wilderness areas to be managed by the BLM represent a broad range of topography. Mount Grafton at nearly 11,000 feet soars over southern White Pine County and is the home for ancient bristlecone pines. High elevation basins in the Goshute Canyon area surrounded by massive peaks are filled with beautiful spring and summer wildflowers that add color to the dramatic landscape. Large open areas interspersed with pinyon and juniper provide excellent habitat for wildlife including mule deer, elk, and upland game birds such as sage grouse, blue grouse, and quail.

Opportunities abound throughout the proposed wilderness areas for primitive and unconfined recreation, including hunting, fishing, hiking, caving, and camping. Backcountry visitors will have the chance to witness nature close up, whether on towering limestone cliffs, in beautifully decorated wild caves or within a soothing Aspen grove.

The BLM supports the efforts of the Nevada delegation to arrive at boundaries through consensus and compromise. Congress has the sole authority to designate lands to be managed as wilderness and we believe these areas are manageable as wilderness. We would like the opportunity to work with the sponsors and the Committee on technical issues, including possible minor boundary adjustments to ensure the greatest manageability.

Title III—Transfers of Administrative Jurisdiction

Section 301 of S. 3772 transfers approximately 645 acres of land from BLM management to the U.S. Fish and Wildlife Service for inclusion in the Ruby Lake National Wildlife Refuge. These lands are an inholding within the existing National Wildlife Refuge and are currently managed by the U.S. Fish and Wildlife Service under a memorandum of understanding with the BLM. This transfer would not alter any current uses of the lands and we fully support this transfer.

Section 302 transfers approximately 117,000 acres from Forest Service management to BLM management, of which 62,500 acres will be part of the 70,000-acre Highland Ridge Wilderness area and the remaining 54,440 acres will become part of a new BLM-managed “withdrawal area.” Some of the lands identified for transfer surround the Great Basin National Park in southeastern White Pine County (largely those identified as the “withdrawal area”) while the Highland Ridge Wilderness lies to the south of Great Basin National Park. Administrative boundaries in this area are complex, with three Federal agencies providing management in one mountain range. This transfer would improve efficiency for the public and for regional resource management.

The 54,440 acre “withdrawal area” envisioned by the bill would allow motorized and mechanized vehicles on roads and trails designated for this use and withdraw the lands from public land disposal and mining laws, as well as the mineral and geothermal leasing laws. All cooperative agreements currently in place would be continued by the BLM.

Title IV—Public Conveyances

Section 401 provides for the conveyance of Federal land to the State of Nevada and White Pine County for three separate public parks and/or wildlife and natural resource areas. In all three cases, the state of Nevada would pay all costs associated with the transfers, and the bill includes a reversionary clause for the lands to revert to the Federal government if they are used for purposes other than those described in the legislation.

Specifically, the BLM would transfer over 6,000 acres for the expansion of the Steptoe Valley Wildlife Management Area just southeast of Ely. The lands to be transferred surround the current 6,500- acre Wildlife Management Area. The Steptoe Valley Wildlife Management Area plans an expansion of the Commins Reservoir. This transfer would allow that expansion which will benefit the regional economy through improved hunting and fishing opportunities.

Second, the bill proposes to transfer 658 acres from the BLM to the State of Nevada for the expansion of the Ward Charcoal Ovens State Park. South of Ely, the Ward Charcoal Ovens State Park is a popular recreation area with, at its centerpiece, six beehive-shaped historic charcoal ovens. Constructed in 1873, they began as a method of converting pinyon and other woods to charcoal for use in smelting operations and later saw a variety of other uses, including hideouts for stagecoach bandits. The lands to be transferred from the BLM are currently under a Recreation & Public Purposes (R&PP) lease to the State and this provision would simply transfer those lands. Transfer of these lands will allow for the fuller interpretation of local mining history and we support their transfer.

The bill also proposes to transfer Forest Service lands for the expansion of Cave Lake State Park. We defer to the Forest Service regarding this provision.

Section 402 provides for the conveyance to the county of not more than 1,500 acres for the expansion of the White Pine County Airport and not more than 200 acres for the expansion of the White Pine County Industrial Park. While the legislation does not specify which acres are to be transferred, the BLM in Nevada has been working cooperatively with White Pine County to identify both of these parcels and transfer of these lands. We generally could support this conveyance, but we believe the legislation should require that the county pay fair market value for these lands. Also, we would like to work with the sponsors and the Committee to identify the location of these parcels on a map. While the legislation transfers the lands without consideration, if the county sells, leases, or otherwise conveys the land, any proceeds would be distributed according to the 85/15 formula established in Title I of this bill. As discussed previously, we have concerns with the bill's revenue distribution and will work with the Committee during the legislative process to determine an appropriate percentage of proceeds to be returned to the Treasury.

Title V—Silver State OHV Trail

Title V directs the Secretary of the Interior to complete a study of routes for the Silver State Off-Highway Vehicle Trail. Following the study, the Secretary shall designate the trail if it is consistent with certain principles set out in the legislation, including that it is a continuation of the Silver State trail previously designated under Public Law 108-424 and that it will not have significant negative impacts on the natural and cultural resources. This trail has the potential to be a significant tourism attraction and will allow visitors and residents another way to experience and enjoy their public lands. We support the development of this trail, but we do not support using land sale funds to pay for these activities but instead prefer to go through the regular budgetary process.

Title VI—Transfer of Land to be held in Trust for the Ely Shoshone Tribe

The Ely Shoshone Tribe currently has a reservation totaling approximately 100 acres in two separate pieces. S. 3772 proposes to add four additional parcels of land, totaling 3,536 acres to the reservation. The largest of the four parcels, over two thousand acres, is reserved for ceremonial uses.

Under the bill, the Federal government would take those lands, including improvements and appurtenances, into trust for the tribe. While the Department supports increasing the Tribe's land base, it opposes the title as written.

The Department takes land, not improvements, in trust for a tribe. The Department does not have a trust obligation for improvements that are permanently fixed to real property. Therefore, “, including any improvements on, and appurtenances to, the land” in section 6(a) should be struck from the bill.

In addition, the Department is concerned that title VI is not clear regarding which lands would be taken into trust for the Tribe. We recommend that a legal description of the land to be taken into trust be included in the legislation, rather than just being referenced on a map. This will ensure that there is no confusion regarding which lands are to be taken into trust.

Title VII—Eastern Nevada Landscape Restoration Project

Title VII provides for the implementation and enhancement of the Eastern Nevada Landscape Restoration Project. The mission of the Eastern Nevada Landscape Restoration Project is to restore the dynamic and diverse landscapes of the Great Basin for present and future generations through collaborative efforts. These healed, diverse landscapes will be a result of restoration achieved and maintained with naturally occurring disturbances such as fire, in combination with other management prescriptions, including traditional uses.

Under the bill, the Southern Nevada Public Land Management Act (SNPLMA) account would be the source of funding for the Eastern Nevada Landscape Restoration Project. We oppose the expansion of the funds' uses beyond the currently authorized uses in SNPLMA.

Title VIII—Amendments to the Southern Nevada Public Land Management Act of 1998

The Southern Nevada Public Land Management Act (SNPLMA) established a process for the orderly sale of Federal lands in the Las Vegas Valley. Under SNPLMA, 85 percent of the proceeds from land sales are deposited in a special Federal account for various uses including: the acquisition of environmentally-sensitive lands; the creation of parks, trails, and natural areas; capital improvements; conservation initiatives; multi-species habitat conservation plans; water studies; and Lake Tahoe restoration projects. Five percent of the proceeds are paid to the State of Nevada General Education Fund and 10 percent are paid to the Southern Nevada Water Authority.

The revenue generated from SNPLMA land sales has greatly exceeded anticipated levels. To date, SNPLMA land sales have totaled nearly 13,000 acres and have generated \$3.032 billion in revenue and interest. Of this amount, approximately \$436 million has been paid to the State of Nevada General Education Fund and the Southern Nevada Water Authority, while approximately \$2.596 billion has been deposited in the Federal special account. Of the amount deposited in the special account, approximately \$2.092 billion is available to the Secretary of the Interior to fund land acquisitions; capital improvements; conservation initiatives; parks, trails and natural areas; multi-species habitat conservation plans; and Lake Tahoe Restoration projects. To date, approximately \$2.120 billion, or 95 percent, of the funds available to the Secretary for these projects have been authorized for expenditure.

Title VIII of S. 3772 proposes a number of changes to the use of SNPLMA's special account and use of the deposit in the Federal account from Federal land sales. Section 803 of Title VIII expands the use of the special account for specified projects and initiatives that benefit resources, improve infrastructure, and accommodate growth in Nevada. These projects include:

- implementation of the multi-species habitat conservation plan for Clark County, Nevada;
- payments to the Southern Nevada Water Authority for implementation of the “Cash for Grass” water conservation program;
- payments to the Southern Nevada Water Authority for water quality improvement projects for the Las Vegas Wash, the Las Vegas Bay, and Lake Mead;

- development of parks by the State of Nevada in Clark County;
- expansion of SNPLMA's parks, trails, and natural areas provision to include the acquisition of the Ballardini Ranch in Washoe County, Nevada, for a county park; and
- development and implementation of a ten-year multi-jurisdictional hazardous fuels reduction and wildfire prevention plan for the Lake Tahoe Basin and the Spring Mountains.

Other changes in Title VIII allow the BLM and other Federal agencies to more efficiently implement SNPLMA. Those changes include reimbursement for costs associated with clearing, protecting, and arranging for a sale, lease, conveyance, or disposal under SNPLMA, as well as expediting the transfer of funds to local entities. Finally, Section 804 of Title VIII rewrites the affordable housing provisions contained in SNPLMA that currently provide for the development of affordable housing in Nevada.

The Administration opposes the proposed changes to SNPLMA. We oppose the reallocation of revenues that would provide a greater share of revenues to local entities such as the Southern Nevada Water Authority. We also have concerns with other provisions affecting the BLM portion of receipts, such as the low-income housing provisions, and the expansion of the kinds of activities on which BLM would be authorized to spend land sale proceeds.

In addition, we oppose payments from the special account to the Southern Nevada Water Authority for the water conservation and water quality improvement initiatives that are proposed in sections 803(1)(x) and (xi) of Title VIII of the bill. As we have noted, SNPLMA already provides for the payment of 10 percent of revenue generated from land sales to the Southern Nevada Water Authority for local water projects. To date, these payments have totaled approximately \$282 million, and additional revenue is guaranteed with future land sales.

Finally, while we support the intent of making housing available to low-income families and individuals in the burgeoning southern Nevada area, we cannot support the affordable housing provisions included in section 804 of Title VIII. As written, we believe the legislation may actually discourage the development of affordable housing due to some of the administrative processes that are included.

Over the past few years, the BLM has worked closely with other Federal agencies and local entities to implement the affordable housing provision contained in the existing subsection 7(b) in SNPLMA. The BLM is currently implementing the first affordable housing project in Clark County, Nevada under SNPLMA, and we understand that the State has plans for several other projects in both Clark County and Carson City, Nevada. The BLM has clear procedures in place to implement the SNPLMA affordable housing provisions and recently issued policies that increase the discount rates for land sales for such sales. The current law's requirements that BLM, the U.S. Department of Housing and Urban Development (HUD), and local and state governments have principal roles in affordable housing has been a fundamental reason for the progress to date. Changing these provisions of SNPLMA now may undermine our progress and complicate our efforts. We would like the opportunity to work with the sponsors and the Committee to resolve these concerns.

Title IX—Great Basin Heritage Route

Finally, we note that the provisions relating to the Great Basin Heritage Route were part of S. 203, which was signed by President Bush on October 12, 2006, and became Public Law No. 109-338. For this reason, we recommend that Title IX be removed from the bill.

Conclusion

We would like the opportunity to work with the sponsors and the Committee to address the issues we have raised in our testimony along with a host of smaller, more technical and managerial amendments. We applaud the hard work of Senators Ensign and Reid in attempting to resolve a number of difficult public lands issues and we look forward to further refinement of this legislation.