

**Statement of
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U.S. Department of the Interior
Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, & Mining
S. 32, California Desert Protection and Recreation Act
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Thank you for the opportunity to testify on S. 32, the California Desert Protection and Recreation Act. This bill, which amends the California Desert Protection Act of 1994 (CDPA, Public Law 103-433), provides direction for the future management of Federal lands within the California Desert Conservation Area (CDCA).

The Department of the Interior (Department) recognizes the work of members of the California delegation to attempt to address a wide array of resource issues and management concerns in the California desert. Secretary Zinke is committed to implementing the America First Energy Plan, which is an “all-of-the-above” plan that includes oil and gas, coal, and renewable resources. Public lands in California are integral to the development of these important energy resources. In addition, Secretary Zinke, through Secretarial Order 3347, has pledged to expand access to America’s public lands and increase hunting, fishing, and recreational opportunities nationwide. While we support the goals of S. 32 that align with these important priorities, we do not support the bill as currently written because many of its proposed designations and administrative provisions could ultimately decrease public access, limit outdoor recreation, and impede energy development.

The Department would like the opportunity to work with the sponsors and Subcommittee to address a number of concerns outlined in this statement. In particular, we note that the sponsors and Subcommittee may wish to consider a more geographically focused or county-specific approach for some of the designations proposed by S. 32. The bipartisan Washington County, Utah, and Owyhee County, Idaho, land management legislation advanced during the 110th Congress could serve as good examples. Finally, we defer to the Department of Agriculture and the Department of Defense regarding provisions in the bill concerning the lands and interests they administer.

Because of the complexity of this legislation and the importance of these issues to the Department, my statement will address each of the bill’s provisions individually.

Background

The CDCA contains over 25 million acres and includes 16 million acres of public lands administered by the Department. It was singled out for special management in the Federal Land Policy and Management Act of 1976 (FLPMA). Section 601 of FLPMA recognized the unique location of the CDCA, which is adjacent to the major metropolitan areas of southern California and over 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, energy

development, rights-of-way, conservation, and other important uses. The CDCA Plan of 1980 and its associated amendments were vast in their scale, ambitious in their goals, and designed to accommodate a variety of uses and users.

By the early 1990s, increased development pressures on the desert and new public awareness led many to believe that further measures were necessary to adequately conserve the special places of the California desert. After careful deliberation and an extensive public process, Congress in 1994 enacted the CDPA, which established Death Valley and Joshua Tree National Parks and the Mojave National Preserve, designated wilderness, and provided strong protections for traditional cultural uses of the area by various Tribes. The areas conserved by the CDPA serve as invaluable natural and recreational resources for the people of the California desert and the nearby Los Angeles metropolitan area.

Title I – California Desert Conservation & Recreation

Title I of S. 32 creates three new wilderness areas and expands two existing Wilderness Areas; expands wilderness in Death Valley National Park, and releases portions of six Wilderness Study Areas (WSAs). Title I also establishes the Vinagre Wash Special Management Area and Alabama Hills National Scenic Area; designates potential wilderness areas; expands three units of the National Park System; and establishes six National Off-Highway Vehicle (OHV) Recreation Areas, along with other miscellaneous provisions.

Wilderness

Section 1301 would designate the approximately 88,000-acre Avawatz Mountains Wilderness, the approximately 8,000-acre Great Falls Basin Wilderness, and the approximately 80,000-acre Soda Mountains Wilderness. In addition, this section would expand the existing Golden Valley Wilderness by approximately 1,300 acres, the Kingston Range Wilderness by approximately 53,000 acres, and Death Valley National Park Wilderness by approximately 92,000 acres. The Department supports Congressional action to resolve wilderness designation and WSA release issues on public lands across the West, and we welcome opportunities to further those efforts. Only Congress can determine whether to designate WSAs as wilderness or to release them for other multiple uses. We would like to work with Congress to achieve this important goal.

The Department notes that the lands proposed for wilderness designation by S. 32 generally serve as habitat for a diversity of plant and animal life and provide important opportunities for hiking, hunting, rock climbing, horseback riding, and other forms of outdoor recreation in the California desert. Pursuant to the priorities outlined by Secretary Zinke, we would like the opportunity to work with the sponsors and the Subcommittee to ensure that wilderness designation is the best mechanism for protecting these resources while restoring balance to other important uses. Alternative management approaches could conserve sensitive resources while still accommodating the full range of uses and activities permitted on other BLM-managed lands. If Congress opts to proceed with designation of these lands as wilderness, we would like to work on some management language modifications in section 1302 to ensure that the BLM and the NPS retain the flexibility to coordinate on cross-boundary issues.

A provision that the Department would recommend adding to Title I is the conversion of an approximately 1-acre area from designated wilderness to designated potential wilderness. This

area, known as the Mormon Peak Communication Area, serves as a major communications hub for the Death Valley National Park community. We would like to see it identified as potential wilderness until such time that a technological alternative becomes available to the present system.

Section 1303 proposes to release over 130,000 acres of BLM-managed public lands from WSA status, allowing these areas to be managed according to the existing BLM land use plans. As discussed above, we support this provision. These lands are small portions of WSAs that were not designated wilderness by this or previous legislation.

Vinagre Wash

Sections 1401 through 1404 create the approximately 82,000-acre Vinagre Wash Special Management Area (SMA) and would designate approximately 112 miles of trails for motorized recreation, horseback riding, mountain biking, and hiking. In recognition of the importance of the lands within the SMA to the Quechan Indian Nation and other Indian Tribes, section 1403 includes special protections of cultural resources and provides for a two-year study of those resources and related needs. Finally, section 1404 identifies four potential wilderness areas within the SMA. The Secretary is directed to preserve the character of the potential wilderness areas for eventual inclusion in the National Wilderness Preservation System, with limited specific exceptions for military uses. Designation would occur when the Secretary, in consultation with the Secretary of Defense, determines that all activities on these lands are compatible with the Wilderness Act of 1964.

The Department strongly supports efforts to facilitate and enhance recreational opportunities on America's public lands. We are also committed to the principle of tribal self-determination and efforts to strengthen tribal communities, including the preservation of cultural heritage. As with other lands proposed for wilderness designation by S. 32, however, we would like the opportunity to work with the sponsors and Subcommittee to ensure that the proposed potential wilderness designations are the most effective method of protecting sensitive resources while restoring balance to other important uses within the proposed SMA. We note that other management approaches could also conserve these resources while still allowing for the full range of uses and activities available on other BLM-managed lands, which may not be permitted under the Wilderness Act. The Department would also like to work with the sponsors on amendments to the language to ensure consistency with existing plans and laws, including boundary adjustments for manageability.

National Park System Additions

At Mojave National Preserve, 25 acres would be transferred from the BLM to the NPS. The NPS owns a maintenance facility situated on this parcel. No additional maintenance costs for the NPS would be incurred through the transfer.

At Joshua Tree National Park, approximately 2,900 acres of BLM land would be transferred to the NPS. An additional approximately 1,600 acres would be donated by the Mojave Desert Land Trust. These lands, which are contiguous to several places along the northern boundary of the park, would help provide a more cohesive, logical northern boundary and ensure the protection

of primary wildlife corridors that run through the park and adjoining public lands in the Mojave Desert.

The NPS would also be authorized to acquire and administer the Joshua Tree Visitor Center, currently located outside the park boundary and owned by the Joshua Tree National Park Association. The Association currently leases the structure to the NPS, and lack of permanent Federal property ownership prevents the park from making basic repairs or enhancements to the visitor center. Purchasing the structure would save the NPS annual rental expenses.

Although these land transfers would be beneficial to both NPS and BLM over the long term, we are concerned that a significant majority of the lands to be transferred to NPS under this bill has not been investigated for environmental conditions. These lands include areas that have been subject to mining, military operations, and other uses that may have created contamination necessitating cleanup. The Department recommends amending this section of the bill to ensure consistency with Departmental policy and the Comprehensive Environmental Response, Compensation, and Liability Act, and to require that prior to the transfer of any of the above-described lands to the NPS, they be fully investigated for any contamination in accordance with applicable environmental due diligence standards and that any contamination be remediated.

Off-Highway Vehicle Recreation Areas

Section 1601 designates six OHV Recreation Areas totaling about 200,000 acres on BLM-managed public lands. The Department is committed to expanding access to public lands and increasing recreation opportunities nationwide. As such, we support each of these designations as they would provide congressionally designated areas for this popular recreational activity in the California desert. The Department notes that the Dumont Dunes, El Mirage, Rasor, Spangler Hills, Stoddard Valley, and Johnson Valley OHV Recreation Areas would be consistent with BLM management goals for these areas. We would like to work with the sponsors and the Subcommittee on amendments to this section to address management discretion for commercial uses, consistency in naming, the requirement for additional planning activities, and timeframes.

Alabama Hills National Scenic Area

Sections 1701 through 1707 establish the Alabama Hills National Scenic Area, which would encompass approximately 19,000 acres of BLM-managed public lands and would be administered as a unit of the BLM's National Conservation Lands. These sections also provide for the transfer of about 40 acres of U.S. Forest Service land to the BLM; direct that 132 acres of Federal land be taken into trust for the benefit of the Lone Pine Paiute-Shoshone Reservation; and provides for an acquisition by a private landowner to resolve an ongoing trespass issue. The Alabama Hills contain unique geologic features that have attracted photographers, cinematographers, and recreationists for generations. The area provides stunning views of Mount Whitney and the Sierra Nevada Mountains and has spectacular natural arches, rolling hills, and vibrant wildflowers. The Alabama Hills also serve as a backdrop for iconic Hollywood movies and remains a popular location for commercial filming.

The Department's understanding is that Senators Feinstein and Harris, Congressman Cook, and their staffs have worked to assemble a diverse coalition of stakeholders, including Inyo County, the Lone Pine Chamber of Commerce, the Lone-Pine Paiute-Shoshone Tribe, local business

owners, and other key stakeholders, to reach consensus on the management and conservation of this area. The Department notes that each of the National Conservation Areas (NCAs) and similar designations established by Congress and managed by the BLM is unique. However, all of these designations have certain critical elements in common, including withdrawal from the public land, mining, and mineral leasing laws; limiting off-highway vehicles to roads and trails designated for their use; language that charges the Secretary of the Interior with allowing only those uses that further the purposes for which the area is established; and language ensuring that lands within such designations are managed at a higher level of conservation than the lands outside.

The Department could support the protection of the Alabama Hills as a part of the National Conservation Lands and the other provisions in this section, but we would like to work with the sponsors and Subcommittee on language to address management of utility rights-of-way, to ensure consistency with management of other units of the National Conservation Lands, and to address other minor technical issues.

Miscellaneous Provisions

Section 1801 provides for the transfer of approximately 1,000 acres of the Table Mountain Wilderness Study Area to the California Department of Parks and Recreation for administration as a unit of Anza-Borrego Desert State Park. This area contains 12 active mining claims, and the transfer would occur after claims are terminated. The Department does not necessarily object to this transfer, but we would like to work with the sponsors on language to ensure clarity of the transfer process and release language of the Wilderness Study Area status prior to transfer to California State Parks.

Section 1803 requires a study to assess the impacts of climate change on the CDCA within two years. The Department believes such study is unnecessary and notes that the analysis already conducted as part of the BLM's Desert Renewable Energy Conservation Plan largely met the requirements of this section.

Section 1804 establishes certain restrictions on the use of acquired or donated lands within the CDCA. The Department does not necessarily object to these restrictions, which we understand are related to various plans and agreements made under Federal and State laws, but we would like to work with the sponsors to ensure consistency with other existing agreements and requirements, to provide for discretion and public input, and to ensure technical accuracy. Section 1805 provides for access by members of Indian tribes and requires the Secretary to develop a Tribal Cultural Resources Management Plan for the Xan Kwatchan Trail network.

Section 1806 would transfer the Federal reversionary interest in certain lands and minerals to the Metropolitan Water District of Southern California. All costs associated with this conveyance would be the responsibility of the Metropolitan Water District. The BLM, as a matter of both policy and practice, and in accordance with FLPMA, generally requires receipt of fair market value for public lands or interests transferred out of public ownership. This serves to ensure that taxpayers are fairly compensated for the removal of public lands from Federal ownership. The Department supports the goal of conveying the reversionary interest outlined in this section. As with previous such proposals, we recommend amending the legislation to ensure the payment of

fair market value for the reversionary interest. However, the Department recognizes that there may be circumstances, as determined by Congress, in which the public benefits of a proposed transfer outweigh financial considerations. We would also like to work with the sponsors and Subcommittee on amendments to address issues of technical clarity.

Section 103 requires the Secretary to work with the California State Lands Commission to develop a process for exchange of State parcels within the new conservation designations. The Department has no objection to this process but would like to work with the sponsors on minor modifications to ensure it is consistent with existing authorities.

Section 104 amends the Wild and Scenic Rivers Act (16 U.S.C. 1274[a]) by adding segments of five rivers to the National Wild and Scenic River System. Three of these segments, the Amargosa River, Surprise Canyon Creek, and Whitewater River, cross public lands managed by the BLM and the NPS. All three of these are important riparian areas in the deserts of southern California and provide habitat for a number of threatened, endangered, and sensitive species. With that said, we would like the opportunity to work with the sponsors and the Subcommittee to ensure that wild and scenic river designation is the best mechanism for protecting such resources. Alternative management approaches could conserve sensitive resources while still accommodating the full range of uses and activities permitted on other BLM-managed lands. If Congress opts to add these segments to the National Wild and Scenic River System, we would like to work with the Subcommittee on technical issues, including correcting what we believe is an error in the legal description.

Section 105 contains a number of conforming amendments, some of which could significantly impact management of areas designated under the bill. We would like to work with the sponsors and the Subcommittee on the language regarding avoiding establishment of buffer zones. The section pertaining to Native Groundwater Supplies would preclude the Secretary from authorizing the use of any right-of-way or lease to extract, consume, export, transfer or distribute groundwater on certain BLM-managed public lands in quantities that collectively exceed the estimated perennial safe yield or annual recharge rate, as determined by the United States Geological Survey. The Department supports working landscapes across the West and is committed to keeping public lands healthy and productive. The Department would like to work with the sponsors and Subcommittee on amendments to this section to ensure that the BLM retains its ability to manage these public lands on the basis of multiple-use and sustained yield.

Title II – Development of Renewable Energy on Public Lands

Title II of S. 32 establishes a new process for disposition of revenues received for the development of wind or solar energy on BLM-administered lands throughout the West. Under this title, 25 percent of revenues would be distributed to States and 25 percent to Counties. For ten years, 15 percent of revenues would be used for the processing of renewable energy permits, while 35 percent would be deposited in a Renewable Energy Resource Conservation Fund (Fund). After ten years, the permit processing funds would also be deposited in the Fund. The Secretary would be permitted to make amounts in the Fund available to other Federal and State agencies for five purposes: 1) protection and restoration of important wildlife habitat and corridors and water resources; 2) conducting research with Universities on restoration and protection activities; 3) securing recreational access to Federal lands; 4) carrying out activities

authorized under the Land and Water Conservation Fund; and 5) establishing, operating, and maintaining a trans-State desert tortoise conservation center. The Secretary is also required to establish an Advisory Board to provide recommendations and guidance on the amount of funds expended from the Fund.

The Department notes that all revenues from solar and wind energy authorizations on public lands currently go to the U.S. Treasury. We do not support the diversion of solar and wind energy receipts and have concerns with the potential long-term costs associated such diversion. The Department would like to work with the sponsors and the Subcommittee to determine how best to achieve the overall goal of this title.

Additionally, under existing authorities and regulations, the BLM currently collects full cost recovery as costs are incurred throughout the wind and solar application process. Due to the difficulty in estimating the total cost for processing an application upfront, the Department recommends continuing its current cost recovery process.

Conclusion

The Department recognizes the work of members of the California delegation on S. 32 and supports certain goals of the bill that align with the Secretary's priorities of expanding access to and recreational opportunities on public lands. However, we do not support S. 32 as currently written. We would like to work with the sponsors and the Subcommittee on a number of substantive and technical modifications to the bill as it moves through the legislative process.