

**Statement of
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Bureau of Land Management
U.S. Department of the Interior**

**House Committee on Natural Resources
Subcommittee on Federal Lands
Hearing on**

H.R. 2997, Clifton Opportunities Now for Vibrant Economic Yields (CONVEY) Act

June 22, 2023

Thank you for the opportunity to testify on H.R. 2997, the Clifton Opportunities Now for Vibrant Economic Yields (CONVEY) Act. This bill directs the Bureau of Land Management (BLM) to convey approximately 31 acres of Federal land located near Clifton, Colorado, to Mesa County, Colorado.

As a matter of policy, the BLM supports working with states and local governments to resolve land tenure and land transfer issues that advance public policy objectives. H.R. 2997 directs the conveyance, for fair market value, of a parcel that the BLM has determined to be potentially suitable for disposal, and the BLM supports the bill.

Background

The BLM manages 245 million acres of public land primarily in the west, of which 8.3 million acres are located in Colorado. Colorado's public lands are a significant contributor to the state's economy, and many Colorado communities depend on healthy public lands to sustain their livelihoods. Mesa County, home to approximately 155,000 residents and located near the Utah border in western Colorado, is no exception. Federal lands make up 73 percent of the county's land area, with the BLM managing the majority of the Federal acreage. The county seat of Grand Junction lies near the confluence of the Colorado and Gunnison Rivers in the heart of the Grand Valley. Clifton is bordered by Interstate 70 to the north and Grand Junction to the west.

Grand Valley Reclamation Project

In 1907, the construction of the Grand Valley Reclamation Project was approved by the Department of the Interior. The Bureau of Reclamation (BOR), known as the United States Reclamation Service at the time, was tasked with supplying irrigation water to the farmlands and orchards in Grand Valley. The Grand Valley Reclamation Project was one of the first six projects to have lands withdrawn from settlement for project construction following the passage of the Reclamation Act of June 17, 1902.

Since it first delivered water in 1917, the Grand Valley Reclamation Project has provided irrigation water to approximately 33,368 acres and supplemental water to about 8,600 acres of fertile land. The project's works include a diversion dam, a powerplant, two pumping plants, and two canal systems totaling 90.1 miles.

Mesa County has requested to purchase from the United States an approximately 31-acre parcel of land near Interstate 70 and 32 Road in Clifton for economic development opportunities. The 31 acres are part of an approximately 39-acre parcel currently withdrawn to BOR for the Grand Valley Reclamation Project. On April 28, 2021, BOR's Upper Colorado Regional Office submitted to the BLM Grand Junction Field Office a Notice of Intent to relinquish the 31-acre portion of the parcel, with the intent to retain approximately 8 acres of the withdrawn parcel for project purposes. Currently, the BLM is working to complete the remaining steps of the withdrawal revocation process for the 31-acre parcel, which has been identified by the BLM as potentially suitable for disposal if restored to public land status. The withdrawal revocation process must be complete before the BLM is able to pursue a direct sale of the parcel under existing authority.

Public Land Disposal Authority

A variety of statutes provide the BLM with the authorities necessary to address various land tenure issues. Under the Federal Land Policy and Management Act (FLPMA), public lands may be identified as potentially available for disposal through the BLM's land use planning process. Public lands that are identified as eligible for disposal in a Resource Management Plan (RMP) generally require site-specific analysis prior to disposal to identify special circumstances that may act as impediments to disposal – such as the presence of threatened or endangered species, cultural or historic resources, mining claims, mineral leases, rights-of-way, hazardous materials, or grazing permits – and must also be appraised before a decision on disposal can be made. Furthermore, because land use plans may be decades old, public lands identified as potentially available for disposal in an RMP may be found to be unsuitable later because of new circumstances such as solar or wind energy development, a new conservation designation, oil and gas leasing, the listing of new threatened or endangered species, the establishment of rights-of-way, or other encumbrances.

Under Section 203 of FLPMA, the BLM is authorized to transfer or dispose of public lands that have been identified as potentially suitable for disposal in an approved land use plan or through an amendment to an existing plan. The proceeds from sales are deposited into the General Fund of the Treasury. Typically, these sales are for low value lands or lands that are difficult or uneconomic to manage, such as isolated parcels surrounded by private land. Land sales conducted under FLPMA occur to serve the national interest at the discretion of the Secretary of the Interior and are made at fair market value in accordance with Federal law.

In addition, the Federal Land Transaction Facilitation Act (FLTFA) allows the BLM to sell public lands identified for disposal through the land use planning process and retain the proceeds from those sales in a special account through the Treasury. These funds can then be used by the United States to acquire lands with high conservation or recreation value, or interests therein, from willing sellers.

H.R. 2997, the CONVEY Act

H.R. 2997 directs the Secretary of the Interior, acting through the BLM Director, to convey all rights, title, and interest of the United States in 31-acres of Federal land, referred to as the “Clifton Parcel” in the bill, to Mesa County, Colorado. The bill requires the conveyance to be made notwithstanding the Secretarial Orders that withdrew the Clifton Parcel for the Grand Valley Reclamation Project, dated August 26, 1902, and July 25, 1908. The bill further requires that the conveyance be subject to valid existing rights and for not less than fair market value.

To determine the fair market value of the Clifton Parcel, H.R. 2997 requires the Secretary to obtain an independent appraisal of the parcel. Under the bill, the appraisal must be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice. The Secretary is directed to pay all costs associated with the conveyance, while Mesa County is responsible for all costs associated with any survey conducted for the conveyance. The bill provides specific instruction for the proceeds from the conveyance, requiring them to be deposited in the Federal Land Disposal Account established by FLTFA, and made available for expenditure under that Act.

Analysis

The BLM generally supports the conveyance of public lands when such conveyances are in the public interest and consistent with publicly approved land use plans. As the Clifton Parcel has already been identified as potentially suitable for disposal should it return to public land status, the BLM supports H.R. 2997 and the direct sale of the parcel to Mesa County.

The BLM notes that the conveyance directed by the bill can be achieved under the existing authorities provided by FLPMA. This process is currently underway, as BOR has submitted a Notice of Intent to relinquish the withdrawal of the Clifton Parcel. The BLM Grand Junction Field Office continues to process revocation of the withdrawal with the intent of pursuing a direct sale to Mesa County. The BLM also notes that it is typical for the party requesting the purchase to cover the conveyance costs and recommends the bill be amended accordingly. Finally, a minor technical edit to the bill is needed to ensure it refers to the date of the most recent version of the legislative map.

Conclusion

Thank you for the opportunity to provide testimony on H.R. 2997, and I look forward to your questions.

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**House Committee on Natural Resources
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H.R. 3049, Utah School and Institutional Trust Lands Administration Exchange Act

June 22, 2023

Thank you for the opportunity to testify on H.R. 3049, the Utah School and Institutional Trust Lands Administration Exchange Act. The bill will would ratify a land exchange between the Department of the Interior (DOI) and the Utah School and Institutional Trust Lands Administration (SITLA). Under the bill, the Bureau of Land Management (BLM) would acquire approximately 162,000 acres of lands, and interests in lands, managed by SITLA that are located largely within the Bears Ears National Monument (the Monument), in exchange for a roughly equivalent amount of public land and interests in land managed by the BLM across the State of Utah. The bill includes a post-conveyance appraisal and equalization process to ensure that the exchanged lands, and interests in land, would be of equal value.

The bill is consistent with President Obama’s 2016 Proclamation establishing the Monument and President Biden’s 2021 Proclamation restoring the boundaries and management conditions of the Monument. Both proclamations direct the Secretary of the Interior to explore entering into a memorandum of understanding (MOU) with the State of Utah that would set terms to exchange land owned by the State and administered by SITLA within the boundary of the Monument for land of approximately equal value managed by the BLM outside the Monument. The BLM supports H.R. 3049 as it would promote conservation and appropriate resource management, including the protection of invaluable cultural resources and sacred sites within Bears Ears National Monument.

Background

The Bears Ears National Monument is located in San Juan County, Utah, and is comprised of approximately 1.36 million acres of public land administered by the BLM as part of the National Landscape Conservation System and National Forest lands administered by the U.S. Department of Agriculture Forest Service. The Monument lands contain evidence of more than 13,000 years of occupation by indigenous peoples, including petroglyphs and pictographs, large villages, ancient cliff dwellings, ceremonial sites, and countless other objects that provide an extraordinary archaeological and cultural record. These archaeological and cultural resources were seminal to the passage of the Antiquities Act more than a century ago. The lands of the monument are profoundly sacred to many Tribal Nations, including the Ute Mountain Ute Tribe, Navajo Nation, Ute Indian Tribe of the Uintah and Ouray Reservation, Hopi Nation, and

the Pueblo of Zuni, who continue to rely on these lands for religious, traditional, and ceremonial uses.

The Monument contains several geologic marvels including deep sandstone canyons, desert mesas, the renowned Valley of the Gods, and the namesake Bears Ears Buttes, as well as a rich paleontological history that is only recently beginning to be understood. Areas within the Monument are also used by local communities and Tribal members for firewood gathering and livestock grazing. Beyond the vast cultural and natural resources found within the Monument, the area is also meaningful to recreationists who visit the Bears Ears region to backpack, rock climb, and river raft, among other recreational activities.

Proclamation 10285, issued by President Biden on October 8, 2021, directed the Secretary of the Interior to explore entering into an MOU with the State of Utah to exchange land administered by SITLA within the boundary of the Monument for land of approximately equal value managed by the BLM outside the boundary of the Monument in order to further the protective purposes of the Monument. On March 17, 2023, after more than a year of working closely to develop an agreement, the Department, the State of Utah, and SITLA entered into the “Memorandum of Understanding—Exchange of Lands.”

The MOU sets forth the terms of a broad land exchange that is designed to promote conservation and appropriate resource management by exchanging SITLA inholdings within BLM-administered public lands, including the Monument, for other BLM-administered public lands that are more suitable for revenue generation located in 20 counties within Utah that would further SITLA’s statutory duties to benefit schoolchildren and other trust beneficiaries in the state. The BLM-administered public lands identified by SITLA for conveyance to SITLA were identified to maximize the potential for revenue generation (per the applicable statutory requirement) while avoiding management conflicts from significant wildlife resources; endangered species habitat; significant archaeological, cultural, and historic resources; areas that are sacred or are traditionally, spiritually, or religiously significant to Tribal Nations; lands within the boundaries of Indian reservations; areas of critical environmental concern; coal resources requiring surface mining; wilderness study areas; and significant recreation areas; and to promote the objectives and legal mandates of both the BLM and SITLA.

H.R. 3049

H.R. 3049, the Utah School and Institutional Trust Lands Administration Exchange Act, would ratify the terms of the MOU between DOI, SITLA, and the State of Utah, thereby facilitating the exchange of state-owned land, the majority of which is located within or proximate to the Monument, for BLM-administered public lands throughout Utah. Under the bill, the BLM would acquire approximately 162,510 acres of lands administered by SITLA, including State inholdings within the Fish Creek Canyon, Road Canyon, Butler Wash, Mancos Mesa, and Bridger Jack Wilderness Study Areas. In return, SITLA would acquire approximately 167,012 acres of public lands currently managed by the BLM outside the Monument.

H.R. 3049 requires that the exchange outlined in the MOU take place within 45 days following enactment. To ensure that the exchange is of equal value, the legislation further requires that SITLA and DOI complete an appraisal of the exchanged lands within 18 months of the

exchange, using nationally recognized appraisal standards. If the appraisal identifies a disparity in the total value of the exchange, the value would be equalized through the conveyance of specific state or federal land, as appropriate. These “equalization parcels” are generally identified within the MOU.

The land exchange contemplated in the MOU would allow the BLM to acquire lands containing important or sensitive resources, mostly within or adjacent to the Monument, while transferring public lands into State ownership for revenue generation that would further SITLA’s statutory duties to provide a benefit for Utah schoolchildren and other trust beneficiaries. H.R. 3049 provides that the exchange of these lands is in the public interest, and that the values of the lands, as determined by the appraisal, are to be equal, consistent with land exchanges that would occur under Section 206 of the Federal Land Policy and Management Act (FLPMA). Like FLPMA, the land exchange provides options for equalizing the value including adding or removing parcels from the exchange.

Conclusion

The land exchange directed by this legislation would promote conservation and appropriate resource management in a manner consistent with the 2016 and 2021 presidential proclamations protecting the Monument. Thank you for the opportunity to provide testimony in support of H.R. 3049.

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**House Committee on Natural Resources
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H.R. 4141, To provide that certain communications projects are not subject to certain environmental and historical preservation reviews, and for other purposes

June 22, 2023

Thank you for the opportunity to testify on H.R. 4141, a bill “to provide that certain communications projects are not subject to certain environmental or historical preservation reviews, and for other purposes.” Specifically, the bill would exempt eligible communications projects from National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) review. The bill would also limit the timeframe for Tribes to respond and disclose Tribal interests in communication projects to 45 days.

The Department of the Interior (Department) supports the goals of the bill to expand access to electronic communications, including across Federal lands. We believe that Federal lands provide a tremendous opportunity to provide the public with access to wireless services through the permitting of communication facilities. However, the Department cannot support the bill as drafted, as it would limit crucial public engagement, limit the ability of Tribes to engage in the process, and prohibit the critical project-specific analysis provided under NEPA and NHPA for a potentially broad set of circumstances. We look forward to working with the Sponsor and Subcommittee on modifications to the bill.

Background

The Department manages nearly one fifth of the surface acreage in the United States, much of which encompasses rural areas, and therefore can play an important role in permitting communication and broadband infrastructure.

In 1976, with the passage of the Federal Land Policy and Management Act (FLPMA), Congress directed the BLM to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. Under FLPMA’s multiple use and sustained yield mandate, the BLM manages public lands for a broad range of uses, such as renewable and conventional energy development, livestock grazing, timber production, hunting and fishing, recreation, and conservation – including protecting cultural and historic resources. In addition, BLM-managed public lands provide vital habitat for more than 3,000 species of wildlife and support fisheries of exceptional regional and national value.

Rights-of-Way

Federal lands managed by the Department are crucial to facilitating the deployment of wired and wireless broadband communications infrastructure. These lands currently support a wide range of communication facilities and related technologies (e.g., radio, television, cellular, and microwave) on public lands through right-of-way (ROW) grants.

A ROW is an authorization to use a specific piece of public lands for a certain project. FLPMA ROWs are issued for a variety of uses, including electrical power generation, transmission and distribution systems, communications towers, highways, railroads, pipelines (other than oil and gas pipelines), and other facilities or systems that are in the public interest. Each year, the BLM processes thousands of applications for ROWs on public lands. The BLM currently administers over 4,200 facilities authorized by communication use ROWs on approximately 1,500 multi-facility communications sites.

Furthermore, as the largest Federal land manager in the West, the BLM plays a key role in planning for siting communication facilities and broadband development. The BLM authorizes and administers ROWs and leases for individual communication uses and develops and maintains communications site management plans to proactively support orderly deployment of new or additional communication uses.

H.R. 4141

H.R. 4141 would exempt certain communications projects and Federal ROWs and other easements for communications facilities from NEPA and NHPA review. The exemption would apply if a ROW or other easement had previously been granted for a communications facility or utility facility for the same Federal building or property, or if the ROW or other easement is for a communication facility in a public ROW. The bill would also amend the Middle-Class Tax Relief and Jobs Creation Act of 2012 to exempt any modification of an existing communication site ROW from NEPA or NHPA reviews. This would exempt agencies from needing to complete NEPA or NHPA review when approving the collocation of new transmission equipment, removal of transmission equipment from an existing facility, or replacement of existing transmission equipment.

The bill also includes certain Tribal provisions in Section 3. It would establish a presumption that, if a Tribe receives a complete FCC form 620, then the Tribe has the necessary information to ascertain whether historic properties of religious or cultural significance to the Tribe may be affected by project. The Tribe then would have up to 45 days to respond and disclose any Tribal interests in the communications project.

Analysis

The Department cannot support the bill as written because it limits the ability of agencies to provide for appropriate environmental review and public involvement in a potentially broad set of circumstances. Environmental review and public involvement are critical components of the Department's responsibilities in managing federal lands. Environmental review can include the use of categorical exclusions, as appropriate. Even when the Department uses a categorical exclusion, however, it must still consider whether extraordinary circumstances exist in which a

normally excluded action may have a significant effect. This provides the Department an opportunity to consider the particular circumstances of a given proposal.

Further, we note that new information gained during the NEPA process, including public engagement activities where appropriate, routinely prevents delays in later stages of the project review process by ensuring agency decisions are robust and able to withstand judicial and other scrutiny.

Finally, the Department cannot support the provisions in the bill that would restrict Tribal consultation by removing NHPA review requirements and severely limiting a Tribe's ability to fully identify and evaluate historical or cultural resources affected by a communications project. The timeframe in the bill is inconsistent with Executive Order 13175 on Tribal consultation, which requires a 30-day notice and a 30-day post-consultation period. The Department recommends amending the bill to allow Tribes adequate time to review projects potentially affecting Tribal interests.

Conclusion

The Department shares the goal of expanding communication networks, particularly for broadband internet in underserved and rural communities, and would appreciate the opportunity to work with the Sponsor on modifications that would help achieve these goals while maintaining the integrity of the NEPA and NHPA processes to conduct environmental, cultural, and historical reviews. Thank you again for the opportunity to provide testimony on H.R. 4141.