Statement of
Robert Abbey, Director
Bureau of Land Management
Department of the Interior
before the
House Natural Resources Committee
Subcommittee on National Parks, Forests and Public Lands
H.R. 1581, Wilderness and Roadless Area Release Act of 2011
July 26, 2011

Thank you for the invitation to testify on H.R. 1581, the Wilderness and Roadless Area Release Act. The Administration strongly supports the constructive resolution of wilderness designation and Wilderness Study Area (WSA) release issues on public lands across the western United States. However, the Administration strongly opposes H.R. 1581 which would unilaterally release 6.6 million acres of WSAs on public lands. H.R. 1581 is a top-down, one-size-fits-all approach, that fails to reflect local conditions and community-based interests regarding WSAs managed by the Department of the Interior.

Much as the Department of the Interior would oppose a blanket designation of all WSAs as wilderness, we oppose this proposal to release over 6.6 million acres of WSAs from interim protection. We encourage Members of Congress to work with local and national constituencies on designation and release proposals, and the Bureau of Land Management (BLM) stands ready to provide technical support in this process. Public Law 111-11, the Omnibus Public Land Management Act of 2009, serves as an excellent model for wilderness designation and WSA release decisions thoughtfully conceived and effectively implemented.

The Department of the Interior defers to the Department of Agriculture on provisions of the bill affecting lands managed by the U.S. Forest Service.

Background

In 1976, Congress passed the Federal Land Policy and Management Act (FLPMA), which provides a clear statement on the retention and management of lands administered by the BLM. Section 603 of FLPMA provided direction under which the BLM became a full partner in the National Wilderness Preservation System established by the Wilderness Act of 1964.

The first step of the Section 603 process, to identify areas with wilderness characteristics, was completed in 1980. The BLM identified over 800 WSAs encompassing over 26 million acres of BLM-managed lands. Each of these WSAs met the criteria for wilderness designation established by the Wilderness Act: sufficient size (5,000 roadless acres or more), as well as naturalness, and outstanding opportunities for solitude or a primitive and unconfined type of recreation. Today, approximately 12.8 million acres (545 units) of the original 26 million acres remain as WSAs and are awaiting final Congressional resolution. Section 603(c) of FLPMA directs the BLM to manage all of these WSAs "in a manner so as not to impair the suitability of

such areas for preservation as wilderness . . .” WSAs are managed under the BLM’s “Interim Management Policy for Lands Under Wilderness Review.”

The second step of the process, begun in 1980 and concluded in 1991, was to study each of the WSAs to make a recommendation to the President on “the suitability or nonsuitability of each such area or island for preservation as wilderness . . .” The central issue addressed by the studies was not to determine whether or not areas possessed wilderness characteristics, this fact had been previously established. Rather the question asked was “is this area more suitable for wilderness designation or more suitable for nonwilderness uses?” Among the elements considered were: mineral surveys conducted by the U.S. Geological Survey and Bureau of Mines, conflicts with other potential uses, manageability, public opinion, and a host of other elements. This process was not a scientific one, but rather a consideration of various factors to reach a recommendation. Between July 1991 and January 1993, President George H. W. Bush submitted these state-by-state recommendations to Congress.

These recommendations are now 20 years old, and the on-the-ground work associated with them is as much as 30 years old. During that time in a number of places, resource conditions have changed, our understanding of mineral resources has changed, and public opinion has changed. If these suitability recommendations were made today, many of them would undoubtedly be different.

Examples of Recent Designations

Examples abound of WSAs recommended nonsuitable which Congress later designated as wilderness after careful review, updated analysis, and thoughtful local discussions. A number of such designations were incorporated into Public Law 111-11, the Omnibus Public Land Management Act of 2009, which designated over 900,000 acres of new BLM-managed wilderness and also released well over 250,000 acres from WSA status.

The Granite Mountain Wilderness designated by P.L.111-11 is located east of Mono Lake in central California. In 1991, the entire WSA was recommended nonsuitable in large part due to reports of high potential for geothermal resources. Subsequent reviews of mineral potential, including several test wells on nearby lands, showed a low potential for geothermal resources. In 2008, the BLM provided testimony in support of Representative Buck McKeon’s legislation, H.R. 6156, designating the Granite Mountain Wilderness.

P.L. 111-11 also included broad-scale wilderness designation and WSA release in Utah’s Washington County and Idaho’s Owyhee County. Both of these successful efforts were the result of hard work by the local Congressional delegations, working with local elected officials, stakeholders, and user groups along with technical support from the BLM. They did not rely on decades old suitability studies, but rather sought common ground and comprehensive solutions to specific land management issues. In Owyhee County, what was once 22 individual WSAs is now over half a million acres of wilderness in six distinct wilderness areas, as well as nearly 200,000 acres of released WSAs. Many acres the BLM recommended nonsuitable in 1992 were designated; likewise acres recommended suitable were released by the legislation.

Similarly, the Northern California Coastal Wild Heritage Wilderness Act, P.L. 109-362, designated a number of wilderness areas in northern California, including Cache Creek Wilderness located 60 miles northwest of Sacramento in the Northern Coast Range. Cache Creek WSA was recommended nonsuitable in 1991 due in large part to the presence of 550 mining claims within the area. Fifteen years later, when designating legislation was proposed, all of these claims had been abandoned due to the area's low mineral potential.

Numerous other examples exist, but suffice it to say, every situation with every WSA is distinct and deserves to be examined individually in a congressionally-driven process involving local and national interests and a wide range of stakeholders. This process should place stronger emphasis on current resource conditions and opportunities for protection, than on decades old recommendations. The Wilderness Act and FLPMA put the responsibility for wilderness designation and release squarely with Congress. It is an awesome responsibility, which has in the past, and must in the future, be carefully discharged.

H.R. 1581

H.R. 1581(section 2) provides that BLM-managed WSAs which were recommended "nonsuitable" have been adequately studied for wilderness designation, and are released from the nonimpairment standard established in section 603(c) of FLPMA. This section further provides that these released lands are to be managed consistent with the applicable land use plan and that the Secretary may not provide for any system-wide policies that direct the management of these released lands other than in a manner consistent with the applicable land use plan. Finally, section 2(e) provides that Secretarial Order 3310 (Wild Lands Order) shall not apply to these released lands.

The Administration strongly opposes section 2 of H.R. 1581. A blanket release of lands from WSA status does not allow for a meaningful review of these lands and their resource values. Every acre of WSA should not be designated as wilderness; neither should 6.6 million acres of WSAs be released from consideration without careful thought and analysis.

The status of WSAs needs to be resolved but in the interim they should continue to be managed to keep Congressional options open. I share the frustration of many Members of Congress that resolution has taken much too long. The answer is to move forward in the footsteps of Washington County, Utah and Owyhee County, Idaho, and so many other collaborative efforts reflected in Public Law 111-11, not to seek an all encompassing solution to a complex issue.

We concur with the bill's approach in section 2(c) that lands released from interim protection, which we would hope would take place in a thoughtful process in the context of overall wilderness designation and release legislation, should be managed consistent with local land use plans. It is the local planning process through which the BLM makes important decisions on management of these lands, including, among other things, conventional and renewable energy production, grazing, mining, off-highway vehicle use, hunting, and the consideration of natural values.

Conclusion

America's wilderness system includes many of the Nation's most treasured landscapes, and ensures that these untrammeled lands and resources will be passed down from one generation of Americans to the next. Through our wilderness decisions, we demonstrate a sense of stewardship and conservation that is uniquely American and is sensibly balanced with the other decisions we make that affect public lands. These decisions should be thoughtfully made and considered, not the result of a top-down, one-size-fits-all edict. Resolution and certainty will serve all parties — including the conservation community, extractive industries, OHV enthusiasts and other recreationists, local communities, State government, and Federal land managers. The Administration stands ready to work cooperatively with Congress toward that end.

Statement of
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Bureau of Land Management
Department of the Interior
House Natural Resources Committee
Subcommittee on National Parks, Forests and Public Lands
H.R. 2578, Amends the Wild and Scenic Rivers Act for the Lower Merced Wild & Scenic River
July 26, 2011

Thank you for inviting me to testify on H.R. 2578, a bill amending the Wild and Scenic Rivers Act (Act) to reduce the length of the Merced River which is designated as a component of the National Wild and Scenic Rivers System, while increasing the allowed level of Lake McClure in central California. H.R. 2578 would, for the first time, de-designate a segment of river previously designated by Congress. The Wild and Scenic Rivers Act prohibits the Federal Energy Regulatory Agency (FERC) from licensing any project works "on or directly affecting any river which is designated" as Wild & Scenic. H.R. 2578, by removing the Wild and Scenic designation of this segment of the Merced River, would enable the FERC to consider the relicensing of FERC hydroelectric project No. 2179. The Department of the Interior believes such precipitous action deprives the public of the opportunity to evaluate the potential loss of the wild and scenic values previously accorded to the River and opposes H.R. 2578.

Background

Section 1 of the 1968 Wild and Scenic Rivers Act (Public Law 90-542) sets forth Congress' vision for management of the Nation's rivers:

> "It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or section thereof in their free-flowing condition to protect the water quality for such rivers and to fulfill other vital national conservation purposes."

From its headwaters in the snow-fed streams of the Yosemite National Park high country, the Merced plunges thousands of feet through boulder lined canyons before emptying into Lake McClure. Over 122 miles of the Merced River in central California have been designated by Congress as components of the National Wild and Scenic River System.

In 1992, Public Law 102-432, extended the previously designated Merced Wild and Scenic River by an additional eight miles to the 867 feet spillover level of Lake McClure. The Bureau of Land Management (BLM) manages the upper five miles as a recreational river and the lower three miles as a wild river. Under the provisions of P.L. 102-432, the level of Lake McClure may not exceed an

elevation of 867 feet above mean sea level, a level intended to balance water and power needs of the local community with protection of the outstanding remarkable values of the lower Merced River.

The lower Merced River is noted for having some of the most outstanding scenery and whitewater boating opportunities in California and the nation. Every summer over 10,000 whitewater enthusiasts test their skills on the river. The BLM currently permits 12 commercial businesses, which guide most of these recreationists on this section of the Merced River.

The communities of Mariposa and El Portal benefit from these whitewater boaters who contribute to the local tourism economies. Boaters generate important economic activity during the traditionally lower visitation times of spring and early summer, expanding the length of the Yosemite region tourism season. This river-dependent tourism provides a greater level of economic and employment stability for these communities.

H.R. 2578

H.R. 2578 is a short bill with unprecedented effects. The full implications of H.R. 2758 are not clear. Before the Committee takes action on the legislation, the BLM recommends that the impacts of de-designation and inundation to the values of the Merced River that BLM manages as part of the Wild and Scenic River System be fully analyzed through the lens of the agency entrusted with management of its values and resources, which would also include an opportunity for public comment.

Potential impacts from inundation could be substantial to both natural resources and local economies. H.R. 2578 reduces the current designated segment of river from 8 miles to 7.4 miles and changes the water surface level of Lake McClure from 867 feet mean sea level to the current Federal Energy Regulatory Commission (FERC) project boundary at 879 feet. The result of the increase in the FERC project boundary is likely an approximately one and one-quarter mile inundation, likely resulting in still water conditions, over half a mile of which will impact the remaining Merced Wild and Scenic River System.

Among the potential resource implications of this inundation are habitat loss for both the limestone salamander (a California designated Fully Protected Species) and the elderberry longhorn beetle (a federally listed threatened species under the Endangered Species Act). Portions of the BLM Limestone Salamander Area of Critical Environmental Concern and the BLM Bagby Serpentine Area of Critical Environmental Concern would be flooded. Inundation would include the destruction of thousands of individual BLM sensitive listed plants and their seed banks. Habitat for the yellow-legged frog, a BLM sensitive species, would be inundated from reservoir levels backing up and into the Sherlock Creek drainage. Impacts would also include loss of riparian vegetation and degradation of the scenic values of the corridor. Additionally, significant cultural and historic resources in the area, including the remains of the Yosemite Valley Railroad and historic gold-mining sites would be degraded.

A variety of recreation activities within the river corridor could also be impacted by the legislation. For whitewater boaters, inundation would add another one and a quarter miles to an already arduous paddle across flat water to an alternate take-out. In addition to boaters, the canyon is becoming

increasingly utilized as a recreational destination for hikers, mountain bikers, and equestrian riders who could be displaced by a likely inundation of five miles of the existing Merced River trail.

H.R. 2578 would, for the first time, weaken the Wild and Scenic Rivers Act by de-designating a segment of a river and allowing for the inundation of portions of the remaining Wild and Scenic River, and could set a troublesome precedent. Such an unprecedented action would result in a wild river segment becoming more like a lake than a river and could compromise the integrity of the Wild and Scenic River System, the purpose of which is to preserve rivers in their "free-flowing condition."

Conclusion

Before further action is taken on H.R. 2578, the BLM recommends that all of these implications of de-designation of Wild and Scenic River and changes to the level of Lake McClure be more fully explored. The Department believes the values for which Congress initially designated the Merced Wild and Scenic River should not be sacrificed without a full analysis through the prism of the BLM.

Thank you for the opportunity to testify.