

Statement of  
Lawrence E. Benna  
Deputy Director  
Bureau of Land Management  
United States Department of the Interior  
House Resources Subcommittee on Forests and Forest Health  
Hearing on:  
H.R. 4784, the Eugene Land Conveyance Act  
H.R. 4235, the Browns Canyon Wilderness Act  
H.R. 2718, the Idaho Land Enhancement Act  
H.R. 2039 and S. 225, the Federal Land Recreational Visitor Protection Act

July 27, 2006

Mr. Chairman, thank you for the opportunity to testify on H.R. 4784, the Eugene Land Conveyance Act, H.R. 4235, the Browns Canyon Wilderness Act, H.R. 2718, the Idaho Land Enhancement Act, and H.R. 2039 and S. 225 the Federal Land Recreational Visitor Protection Acts.

H.R. 4784—Eugene Land Conveyance Act

The Bureau of Land Management (BLM) manages 261.8 million acres of surface land primarily in 12 western states. As the Nation's largest Federal land manager, the BLM administers the public lands for a wide range of multiple uses including energy production, outdoor recreation, livestock grazing, and by conserving natural, historical, cultural, and other resources. The Federal Land Policy and Management Act (FLPMA) directs the BLM to make decisions about the appropriate use of the public lands through the development of resource management plans using a collaborative public process.

FLPMA allows the BLM to convey lands out of public ownership if, for example, they have been identified for disposal through the BLM land use planning process in order to serve important public objectives, such as community expansion and economic development. In partnering with local communities across the West, we understand their needs and are supportive of efforts that ensure a balanced approach to local land use management. As a matter of both policy and practice, the BLM generally requires receipt of fair market value for any public lands transferred out of public ownership. This serves to ensure that taxpayers are fairly compensated for the removal of public lands from Federal ownership while also supporting local communities.

H.R. 4784, the Eugene Land Conveyance Act, directs the Secretary of the Interior to convey to the City of Eugene, Oregon, without consideration and subject to valid existing rights, a parcel of approximately 12 acres currently under the administrative jurisdiction of the BLM for the purposes of constructing an environmental education center and establishing a wildlife viewing area. This bill is identical to S.2150. The BLM testified on S.2150 before the Senate Energy Subcommittee on Public Lands and Forests on March 29, 2006; our statement described areas of concern. On May 24, 2006, the Senate Committee voted to favorably report S.2150, with amendments that addressed concerns raised in our testimony. We encourage the Subcommittee on Forests and Forest Health to consider adopting the amendments reported by the Senate Energy Committee to S. 2150.

The BLM supports the conveyance authorized by H.R. 4784; however, we have some concerns and would appreciate the opportunity to work with the sponsor and the Committee on minor technical amendments.

The parcel to be conveyed under H.R. 4784 is located within the city limits of Eugene, Oregon. The BLM purchased the parcel on September 21, 1979, with \$510,000 of Oregon and California Lands Act (O&C) appropriated funds. The BLM originally planned to build its Eugene District Office on the parcel; however, about half the site was determined to be occupied by wetlands, and the Eugene office was built at another location. We have not had the site appraised since the original purchase.

If the parcel to be conveyed under H.R. 4784 were public domain land, the BLM could convey it under the authority of the Recreation and Public Purposes (R&PP) Act (43 U.S.C. 869 et seq.). However, because the BLM purchased the parcel with O&C funds, it is designated as "Revested O&C Railroad Grant Lands", and the R&PP Act does not apply.

An old ranch house located on the parcel, known as the "Red House", was converted for office use and currently hosts employees and volunteers associated with the West Eugene Wetlands (WEW) Partnership. The WEW Partnership includes the BLM, the City of Eugene, The Nature Conservancy, the U.S. Army Corps of Engineers, the Oregon Youth Conservation Corps, the U.S. Fish and Wildlife Service, the McKenzie River Trust, and the Willamette Resources

and Educational Network (WREN). The WEW Partnership (primarily the City of Eugene and The Nature Conservancy) have worked to leverage Federal dollars to reach nearly \$4.5 million for acquisition and management of the wetlands.

In addition, the Eugene 4J School District and the Bethel School District joined with the WEW Partnership to form the WEW Education Center Partnership. This group is working to build the Wetlands Education Center on the parcel to be conveyed under H.R. 4784. The wetlands education program has secured funding from a wide variety of public and private sources, including the U.S. Department of Education, the City of Eugene, the Eugene 4J School District, the Environmental Protection Agency, the Oregon Watershed Enhancement Board, the Collins Foundation, and private donations. The Education Center will contain the Rachel Carson Center for Natural Resources (a 4J High School), the Northwest Youth Corps, laboratories and green houses, visiting classrooms and office space for WEW Partnership staff. In May 2002, voters in Eugene approved a school bond that included the first installment for construction of the Rachel Carson Center for Natural Resources.

The following are concerns we would like to address through technical amendments:

**Survey:** The BLM has a survey from its purchase of the property in 1979 that is adequate to support the BLM's issuing a Quit Claim Deed to the City of Eugene. If this meets the sponsor's intentions, Section 3(b)(1) should be amended to state "12.36 acres," and the "Survey" in section 3(b)(2) should refer to the existing survey from the 1979 acquisition.

**Name of Map:** the title of the map referred to in Sec. 3(b)(1) should be changed to "West Eugene Wetlands Lands Transfer"; "Red House Property" should be deleted.

**Reversion:** We urge that Section 3(c) be amended to make reversion at the Secretary's discretion.

#### H.R. 4235— Browns Canyon Wilderness

H.R. 4235 would designate approximately twenty thousand acres of Bureau of Land Management (BLM) and Forest Service managed-lands in central Colorado near the town of Salida as wilderness. We support Congressman Hefley's legislation as it pertains to BLM-managed lands and we defer to the Forest Service on the lands managed by that agency. We appreciate Congressman Hefley's efforts working with the local community to reach consensus for this designation.

The proposed Browns Canyon wilderness area is one of rugged beauty, colorful outcroppings and abundant wildlife. The 3,000 foot deep canyon along the Arkansas River forms the western boundary of the proposed wilderness. From there the land climbs dramatically to an elevation of 10,000 feet to the east. While a single ecosystem, the land is divided administratively. BLM manages the western portion, including the canyon, while the Forest Service manages the eastern portion. A significant herd of bighorn sheep resides within Browns Canyon and it is an important winter range for deer and elk. Views from the area across the Arkansas Valley to the 14,000 peaks of the Collegiate Range are among the most spectacular in Colorado.

The Arkansas River is one of this country's most popular white water rafting destinations, with more than 300,000 visitors floating it annually. Nearly half of these visitors float the nationally renowned Browns Canyon segment. Recreation on the river is managed through a partnership between BLM and Colorado State Parks and the area is known as the Arkansas Headwaters Recreation Area. The boundaries established for the Browns Canyon wilderness in H.R. 4235 provide a 200-foot setback from the river to ensure continued and adequate access to the river.

It is our understanding that the bill has wide community support and the support of the Chaffee County commissioners. The Bureau supports the legislation as it pertains to BLM land.

#### H.R. 2718— Idaho Land Enhancement Act

This legislation authorizes the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) to move forward with an exchange that has been developed in collaboration with the State of Idaho and the City of Boise. The exchange was initiated by the City of Boise to preserve open space in the Boise Foothills. Under H.R. 2718, conveyance of State-owned lands in the Boise foothills into Federal ownership will secure open space for residents of Boise and Ada County, and, in exchange, conveyance of Federal timbered lands to the State of Idaho will provide the State with more long-term revenue than could be derived from its lands in the Boise foothills. The exchange authorized by H.R. 2718 is a milestone in a 30-year effort of conservation in the Boise Foothills.

H.R. 2718 is identical to S.1131. On July 20, 2005, we testified in support of S.1131 at a hearing of the Senate

Energy Subcommittee on Public Lands and Forests. On March 8, 2006, the Senate Energy and Natural Resources Committee ordered S.1131 favorably reported with an Amendment in the Nature of a Substitute, which we supported. We encourage the Subcommittee on Forests and Forest Health to consider adopting for H.R. 2718 the text of the Amendment in the Nature of a Substitute to S.1131 as reported by the Senate Committee on Energy and Natural Resources.

The Department supports enactment of H.R. 2718.

A proposed multi-party exchange initiated by the City of Boise involving lands managed by the BLM, the USFS, and the State of Idaho (no privately-owned lands are involved) has been proceeding administratively. In accordance with the administrative process for land exchanges, the BLM and USFS completed a Feasibility Analysis, and, on April 26, 2005, the BLM, USFS, State of Idaho, and City of Boise signed an Agreement to Initiate for the Boise Foothills—Northern Idaho Land Exchange (Agreement). As the Forest Service does not have the authority to participate in a three party exchange absent Congressional authorization, H.R. 2718 is needed to effectuate the exchange Agreement.

The legislation authorizes the BLM and the U.S. Forest Service to proceed with the land exchanges described in the Agreement. As authorized by H.R. 2718, under the Agreement, the BLM is to convey approximately 605 acres of public land to the State of Idaho; the USFS is to convey approximately 7,220 acres of National Forest System land in the Idaho Panhandle and Clearwater National Forests to the State of Idaho; and the State of Idaho is to convey approximately 11,085 acres to the United States (6,930 acres to be managed by the BLM and 4,155 acres to be managed by the USFS).

Section 3 authorizes the Secretary of the Interior and the Secretary of Agriculture (Secretaries) to complete the land exchanges described in the Agreement. The BLM is to convey four parcels which total approximately 605 acres, including Boise Peak (86 acres), Mt. Coeur d'Alene (120 acres), Skeel Gulch (80 acres), and Rock Creek (319 acres). Although forested, none of the BLM lands to be conveyed in this exchange contain old growth or officially designated old growth replacement stands. There is no current mining or mineral activity on the BLM lands, except in the Rock Creek parcel, where much of the area contains old mining prospects. There are no other permitted uses.

Although the 605 acres of public land to be conveyed out of Federal ownership by the BLM are not identified for disposal, we believe the exchange is in the public interest because this exchange will result in a net gain of 3,156 acres of high value resource lands within designated retention areas, providing management protection for cultural resources and a variety of sensitive wildlife species. Acquisition of the State lands in the Boise foothills will help the BLM meet its management objectives to protect and enhance watershed resources, wildlife habitat, recreation opportunities, and scenic values.

The legislation authorizes the parties to enter into additional agreements that specify other terms and conditions necessary to complete the land exchange:

- provide legal descriptions of the Federal land and the State land to be exchanged;
- identify all reserved and outstanding interests in the Federal land and State land; and
- stipulate any cash equalization payments required.

The conveyances are subject to valid and existing rights. As part of the Agreement, the BLM, USFS, and State of Idaho reviewed, examined, and disclosed all valid existing rights on their respective lands.

H.R. 2718 also requires the Federal land and State land to be exchanged under the bill to be of equal value; and, if the values are not equal, the bill authorizes the equalization of value by cash payment to the United States or to the State of Idaho, as appropriate, in accordance with section 206(b) of the Federal Land Policy and Management Act (FLPMA). The value of the Federal and State lands is to be determined in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions, and the appraisals must be approved by the Secretaries. Any cash equalization payment received by the United States is to be used by the Secretary of Agriculture for the acquisition of land to add to the National Forest System in the state of Idaho.

The City of Boise passed a bond levy to support acquisition of properties on the Boise Front to preserve its natural character. The City will pay the costs associated with the conveyances outlined in the Agreement and this Act, including the costs of any field inspections, environmental analyses, appraisals, title examinations, and deed and patent preparations. The BLM will review the exchange package in its regular course of business (i.e., at no additional cost to the City of Boise).

Section 4 transfers administrative jurisdiction of approximately 2,111 acres of public land in Shoshone County, Idaho, currently managed by the BLM, to the USFS, to be managed in accordance with the laws and regulations applicable to the National Forest System. This area—called Grandmother Mountain—is completely surrounded by National Forest System lands that previously, as part of the Arkansas-Idaho Land Exchange Act of 1992 (P.L. 102-584), had been

transferred from BLM management into the National Forest System. Consolidation of administrative jurisdiction in this area will improve the Federal government's management of the land and resources. Also, these 2,111 acres are in a Wilderness Study Area, and the bill preserves Congress' options to act on this WSA by providing that after transfer to the USFS, this area will be managed in a manner that preserves the suitability of the land for designation as wilderness until Congress determines otherwise.

In addition, Section 4 requires the Secretary of the Interior to manage the land conveyed by the State of Idaho as acquired land (as distinct from public domain) under FLPMA and other applicable laws. Under FLPMA, the BLM manages both public domain and acquired lands under the same management structure and plans. The direction in H.R. 2718 that the lands conveyed by

the State be managed as acquired lands affects only the ability to locate mining claims under the Mining Law of 1872 (which applies exclusively to public domain lands); exploration for and mining of locatable minerals on acquired lands is through a permitting process rather than by claim.

Finally, concerning land use planning, Section 4 provides that BLM need not do an amendment or revision to its resource management plans (RMP) upon acquisition of lands from the State of Idaho. The acquired lands are to be managed under the existing RMP applicable to that area, until the land use plans are updated in the regular planning process. The BLM's Coeur d'Alene Field Office is currently working on a Resource Management Plan that will replace the current land use plan. The Field Office held a scoping meeting earlier this year on the proposed changes to the RMP, and public comments have been generally favorable. The Field Office issued a Draft plan revision for public review and comment on January 13, 2006, and hopes to issue a Final RMP by March of 2007.

Section 5 of the bill contains several miscellaneous provisions. This Section:

- authorizes the Secretaries and the Idaho State Board of Land Commissioners to modify the land descriptions in the Agreement to correct errors; make minor adjustments to the parcels based on a survey or other means; or reconfigure the parcels to facilitate the land exchange;
- provides that the written legal description shall prevail if there is a discrepancy between a map, acreage estimate, and written legal description of the Federal land or State land;
- provides that, subject to valid existing rights, any public land orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land. (No withdrawals are on the BLM land);
- provides that subject to valid existing rights, pending completion of the land exchange, the Federal land to be conveyed under this Act is withdrawn from all forms of location, entry, and patent under the mining and public land laws; and disposition under the mineral leasing laws and the Geothermal Steam Act of 1970.
- 

As part of the administrative process detailed in the Agreement, the BLM had previously segregated the Federal lands proposed for exchange in the Agreement.

Section 5(e) of H.R. 2718 expresses the Congressional finding that the Forest Service and the BLM have conducted adequate analyses and reviews of the environmental impacts of the exchange authorized under this Act, and stipulates that no further administrative or environmental analyses or examination is required to carry out any activities authorized under this Act. As part of the Agreement, the BLM, Forest Service, and the City of Boise agreed to be jointly responsible for completing environmental and cultural review work on the Federal lands being transferred to the State of Idaho. The City of Boise is responsible for paying for contract environmental and cultural review work approved by all parties to the Agreement. The BLM, Forest Service, Idaho Department of Lands, and the City of Boise will be jointly responsible for completing mineral reports, to be paid for by the City of Boise.

Under the Agreement, initial NEPA scoping was done. The BLM and Forest Service have completed the following resource assessments: cultural/historic, Threatened and Endangered Species, biological, botanical, noxious weeds, timber, wetlands, floodplains, water resources, recreation, wilderness, visual, mineral and mineral potential. Pursuant to the Congressional Finding in Section 5(e), the BLM and Forest Service would carry out no further administrative or environmental analysis in completing the exchange delineated in the bill. We will work with the Committee so that there is a common understanding of the additional administrative or environmental review that would otherwise be undertaken by the agencies.

The Department supports the concepts contained in these bills. However, the Department cannot support the bills unless amended to (1) delete the formation of a new grants program, and (2) designate the Secretary of Agriculture as the lead agency, as stated in S. 225. At a time when we are trying to reduce backlogs and maintain what we already own, we cannot afford to take on the new funding responsibilities under this grants program.

The history of avalanches influencing visitor safety on public lands is significant and well-documented. Four hundred and forty-five people have perished in avalanches on public lands in the past twenty-two years and as winter sport activities continue to rise, so will avalanche incidents. Avalanche fatalities on National Park Service (NPS) managed lands account for about six percent, whereas avalanche fatalities on National Forest lands account for about ninety percent of the total. Avalanches kill more people on public lands than any other natural event.

The National Park Service and United States Forest Service have actively managed a coordinated aggressive avalanche protection program since the late 1930's. Although the National Park Service provides limited funding and extensive data collection to the Forest Service, it should be noted that the Forest Service is the lead agency with regard to avalanche awareness and mitigation efforts. The Forest Service program includes managing the National Avalanche Center in Ketchum, Idaho, as well as fifteen regional backcountry avalanche centers. These avalanche centers issue avalanche danger advisories for limited and specified geographic areas throughout the west, the northeast, and Alaska.

Currently these programs include snow pack and climate analysis, provide avalanche awareness information via publications, visitor centers, weather radio, and internet sites, teach avalanche awareness classes to the public, and develop and provide avalanche control work using explosives and passive control devices. It is recognized that these centers only exist in and serve a limited number of geographic areas, and all have limited resources. However, they continue to provide information to millions of recreation users and to other government and private agencies.

The primary avalanche control method includes hand and aerial projected explosive charges. However, many areas are using passive control measures such as the spreading of charcoal on avalanche prone slopes and manually triggered releases. Although the bills prescribe the use of artillery, the National Park Service is prohibited from using this method in congressionally designated wilderness areas, where the majority of avalanche hazard zones exist in the National Park System. The artillery systems that are used in NPS areas were not designed to trigger avalanches or to be used in very cold environments. In 1999, Yellowstone National Park experienced several difficulties with unexploded ordnance resulting in risk to park visitors and our employees. Military systems other than the ones currently employed have been carefully analyzed and none appear to be applicable as avalanche control systems.

Several years ago the issue was complicated further when the U.S. military requested the return of five howitzers that cooperators were using to prevent avalanches, including the one at Yellowstone, to be used for active military service. Of the many benefits of the bill, developing alternatives to military artillery for avalanche control would be very desirable.

We recognize that there is much room for improvement in avalanche management methods, and the Department respectfully urges this committee to consider the following suggestions for strengthening these bills and making its implementation more efficient and effective.

First, we recommend that H.R. 2039 designate the Secretary of Agriculture to lead the establishment of a coordinated avalanche program if the committee decides to move this bill rather than S. 225. The U.S. Forest Service has considerable experience in avalanche control and data gathering, oversight of National Avalanche Centers, and a greater percentage of incidents that warrant the designation of the Department of Agriculture as the best department to develop and manage the program.

Secondly, we recommend that the formation of a new grants program under section 3(e) be deleted from the bills. The Departments of Agriculture and the Interior must focus existing funding on effectively managing Federal lands, including avalanche awareness and protection. Creating a new responsibility to fund grants could divert available funds away from these operational needs.

We believe that these bills will provide the appropriate Federal support for services such as avalanche forecasting, munitions management, and public information to ensure visitor protection on public lands.

Mr. Chairman, this concludes my remarks. Thank you for the opportunity to provide our perspective on these bills. I would be happy to answer any questions you may have.