

**Statement of
Ned Farquhar
Deputy Assistant Secretary
Land and Minerals Management
Department of the Interior
House Natural Resources Committee
Subcommittee on Public Lands and Environmental Regulations
H.R. 657, Grazing Improvement Act
April 18, 2013**

Introduction

Thank you for the opportunity to present the views of the Department of the Interior (Department) on H.R. 657, the Grazing Improvement Act. The Bureau of Land Management (BLM) is dedicated to a broad range of stewardship goals, including the long-term health and viability of the public rangelands. Our Nation's rangelands provide and support a variety of goods, services, and values important to Americans. In addition to being an important source of forage for livestock, healthy rangelands conserve soil, store and filter water, sequester carbon, provide a home for an abundance of wildlife, provide scenic beauty and are the setting for many forms of outdoor recreation.

The BLM recognizes that the conservation and sustainable use of rangelands is important to those who make their living on these landscapes—including public rangeland permittees. Public land livestock operations are important to the economic well-being and cultural identity of the West and to rural Western communities. Livestock grazing is an integral part of BLM's multiple-use mission, and at the right levels and timing, can serve as an important vegetation management tool, improving wildlife habitat and reducing risk of catastrophic wildfire.

The BLM is committed to collaborating with those who work on the public lands and takes seriously its challenge to conserve and manage healthy rangelands for current and future generations.

The Department shares the Subcommittee's interest in identifying opportunities for increasing efficiencies in public land grazing administration, as well as finding ways to make permit renewal less complex, costly, and time-consuming. The BLM would like to work with the Committee to further these shared goals. However, the Department cannot support H.R. 657 as it limits the BLM's ability to provide for appropriate environmental review and public involvement—critical components of the BLM's multiple-use management of the public lands. The Department looks forward to continuing a dialogue with the Congress on these important matters.

Background

The BLM manages over 17,000 livestock grazing permits and leases for 12.4 million AUMs (animal unit months) across 155 million acres of public lands in the West. Since 1999, the BLM has evaluated the health of the rangelands based on standards and guidelines that were developed with extensive input from the ranching community, as well as from scientists, conservationists, and other Federal and state agencies. The BLM collects monitoring and assessment data to compare current conditions with the standards and land use plan objectives. This information is

used to complete environmental assessments, to develop alternative management actions, and to modify grazing management as needed.

The BLM administers the range program through issuance of grazing permits or leases. The Federal Land Policy and Management Act (FLPMA) provides for a 10-year (or less) term for grazing permits. In a typical year, the BLM processes up to 2,000 permit renewals or transfers. In 1999 and 2000, the BLM saw a spike in permit renewals, when over 7,200 permits were due for renewal. The BLM was unable to process all those permits before expiration, which resulted in a backlog of grazing permit renewals that remains today. By the end of the 2013 Fiscal Year, the BLM anticipates that a backlog of 4,964 unprocessed permits will remain. Congress has assisted the BLM since Fiscal Year 2004 by adding language to Appropriations measures that allow grazing leases and permits to continue in effect until the agency has completed processing a renewal, transfer, or waiver. The BLM is committed to eliminating the backlog of grazing permit renewals and to issuing permits in the year they expire. An increase in appeals and litigation of grazing management decisions continues to pose significant workload and resource challenges for the BLM.

The BLM will continue to focus on grazing permits for the most environmentally sensitive allotments, using authorities Congress provided in the FY 2012 Consolidated Appropriations Act concerning grazing permit renewals and transfers. This strategy will allow the BLM to address a wide array of critical resource management issues through its land health assessments and grazing decisions. Additionally, this strategy will help ensure that the backlog of unprocessed permits consists of the least environmentally sensitive allotments that are more custodial in nature and/or that are already meeting land health standards.

H.R. 657

H.R. 657 provides for automatic renewal of all expired, transferred, or waived permits, and categorically excludes all permit renewals, reissuance, or transfers from preparation of an environmental analysis under the National Environmental Policy Act (NEPA) if the decision continues current grazing management of the allotment. Terms and conditions of the permit would continue until a permit is later renewed in full compliance with NEPA and other Federal laws. The bill does not first require a determination that the permittee is meeting land health standards. H.R. 657 doubles the duration of grazing permits from 10 to 20 years, and stipulates that livestock crossing and trailing permits and transfers of grazing preference are exempt from analysis under NEPA.

The Department supports the concept of having the flexibility to issue longer term permits in certain circumstances, as well as the transfer provision that is currently in place under the FY 2012 Consolidated Appropriations Act. That provision is expected to reduce the permit renewal workload in 2013 by about 700 permits. The number of transfers needing processing each year is unpredictable, posing significant challenges to the BLM as it works to manage staff and other resources.

H.R. 657 includes provisions that the Department cannot support since they provide for automatic permit or lease renewal without requiring further analysis or assurances the permittee is meeting land health standards. The bill limits the BLM's ability to provide for appropriate environmental review and public involvement. H.R. 657 would result in the majority of permits

being renewed under a categorical exclusion. The engagement of the public through the environmental review process under NEPA is a crucial component of the BLM's multiple-use management of the public lands. In summary, while H.R. 657 contains provisions that would expedite permitting, the Department cannot support it because of the overarching impact the bill could have on the 155 million acres of public lands used for livestock grazing, potentially affecting other valid uses and the health of the land itself.

Conclusion

Thank you for the opportunity to present testimony on H.R.657. The BLM looks forward to working with the Congress to develop improvements to the grazing permit renewal process while maintaining the integrity of NEPA, the Nation's bedrock environmental and citizen involvement law, and FLPMA, our multiple-use statute requiring consideration of many uses and values of the public lands. I will be pleased to answer any questions.

**Statement of
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Deputy Assistant Secretary
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House Natural Resources Committee
Subcommittee on Public Lands and Environmental Regulations
H.R. 934, Lower Merced Wild and Scenic River Amendment
April 18, 2013**

Thank you for inviting me to testify on H.R. 934, a bill amending the Wild and Scenic Rivers 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. 934 would, for the first time in the system's history, 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" under that Act. H.R. 934 would remove the "Wild and Scenic River" designation of this segment of the Merced River and would enable the FERC to consider the relicensing of FERC hydroelectric project No. 2179 on this newly de-designated segment. The Department of the Interior believes this action would deprive 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. 934.

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 9 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. 934

The full implications of H.R. 934 are not clear, but the potential impacts from inundation could be substantial to both natural resources and local economies. H.R. 934 would reduce the current designated segment of river from 8 miles to 7.4 miles and allow an increase in 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 increase in the size of the reservoir would result in approximately six-tenths of a mile of inundation

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 including an opportunity for public comment.

Among the potential resource implications of this inundation are habitat loss and a finding of taking for the limestone salamander (a California designated Fully Protected Species) and habitat loss for 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 where the species has been found in recent studies. Inundation would also include the destruction of thousands of individual BLM sensitive listed plants and their seed banks. Habitat for the foothill 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 six tenths of a mile 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. 934 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. 934, the BLM recommends that all of these implications of de-designation of a portion of the Lower Merced 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.

Thank you for the opportunity to testify

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H.R. 696, Lyon County Economic Development and Conservation Act
April 18, 2013**

Thank you for the opportunity to testify today on H.R. 696, the Lyon County Economic Development and Conservation Act, which presents economic and other development opportunities for the western Nevada city of Yerington. This bill would allow the city to purchase, at fair market value, about 11,500 acres of surface land and the subsurface mineral estate managed by the Bureau of Land Management (BLM) that surround a copper mine development located on approximately 1,500 acres of private land as well as a 3.5 mile transmission corridor that extends over two miles into Mineral County. The BLM has concerns with the legislation and proposes a number of modifications and amendments, including provisions that would ensure that the Federal government receives full value for the lands and associated mineral interests. In addition, Sections 3 and 4 of H.R. 696 designate an addition to the National Wilderness Preservation System – the Wovoka Wilderness Area – on National Forest System lands managed by the U.S. Forest Service. The Department of Interior defers to the U.S. Department of Agriculture on provisions that apply to lands and programs under its management.

Background

Yerington is a city of about 3,000 people located southeast of Carson City in Lyon County, Nevada. Historically, mining and agriculture have been significant contributors to the local economy, but today, Yerington has an unemployment rate higher than the national average. The BLM manages approximately 850,000 acres of public land in Lyon County. Not all of the land in the conveyance area has been identified for disposal in the BLM's Carson City Resource Management Plan. A revision of the plan is underway.

In February 2012, Nevada Copper Corp. broke ground on an exploratory operation at its Pumpkin Hollow mine site on private lands that are at the center of the proposed conveyance area. The city plans to annex the mine as well as the conveyance area, which will increase the tax base of both the city and Lyon County. Nevada Copper will fund the land acquisition costs for the city as well as land surveys, appraisals and cultural and natural resource evaluations required for the conveyance. In return, the city will either lease or sell certain lands that Nevada Copper requires for the development of its mine complex. Nevada Copper will also work with the city to extend water and sewer services beyond those needed for the Pumpkin Hollow mine. The city's plans envision an area where transportation, power, and water infrastructure installed for the mine will benefit other industrial and commercial users and facilitate the development of cultural and recreational areas for the benefit of Yerington.

H.R. 696

H.R. 696 (Section 2) requires the Secretary of the Interior to convey to the city of Yerington for fair market value approximately 11,500 acres of BLM-managed land and the underlying mineral estate - if the city agrees to the conveyance. The Secretary would establish the value of the land and the mineral estate in accordance with the Federal Land Policy and Management Act and uniform appraisal standards. A map of the transfer area would be made available for public inspection, and the city will be responsible for the costs of the transfer in addition to the fair market value of the land and resources.

The BLM would like to work with the sponsors and the committee on possible changes to the bill and to clarify certain issues.

The bill's 180-day time period for conveyance does not allow time to perform complete reviews and consultation with parties under the National Environmental Policy Act and the National Historic Preservation Act. These reviews are valuable for many reasons, not the least of which is that the NEPA process allows for public participation and comment. To its credit, the city has moved ahead and already sought and been granted permission to perform cultural survey work on the area. The preliminary findings of this survey indicate that there are sites in the conveyance area that may be eligible for inclusion in the National Register of Historic Properties. These include old mine complexes and sites associated with the early development of Yerington, and heritage properties of concern to local tribes. Resolution of adverse effects, or an agreement for the resolution or preservation, should be addressed before the sites pass from Federal ownership.

Additionally, the bill's 180-day time period for conveyance does not allow sufficient time to conduct appraisals to establish the fair market value of the surface and mineral estates. A mineral report would need to be completed for the area before an appraisal of the mineral estate could be conducted.

The area's longstanding relationship to mining poses two other challenges not taken into account in the bill. The area includes numerous other mining claims, besides those of Nevada Copper, and those claims may represent valid existing rights. For this reason, the BLM generally does not convey lands with mining claims. H.R. 696 leaves open the question of who would administer these other mining claims, which by default leaves the responsibility to the BLM to conduct validity exams and resolve other issues such as site remediation. According to the city, one of the stated goals of this bill is to "expedite near term and long term development of mining facilities." If the BLM manages these claims but not the surrounding surface rights, conflicts may occur that would hobble this goal of expedited development.

The area's mining legacy poses a second and potentially dangerous situation. The Nevada Division of Minerals has identified 147 abandoned mine hazards on the public lands to be conveyed to the city. The BLM has concerns about attracting the public to the area with recreational and economic development without these sites being secured. At a minimum, the United States government should be indemnified from any future liabilities arising from these

sites. In addition, there are a few technical changes the BLM suggests for the bill on such matters as boundary irregularities and references to a utility right of way.

Conclusion

Thank you again for the opportunity to testify on H.R. 696. This legislation is important to the people of this area, and the BLM looks forward to working with the sponsor and the committee. I would be glad to answer your questions.