

**Statement of
Bob Ratcliffe
Deputy Assistant Director, Renewable Resources and Planning
Bureau of Land Management
U.S. Department of the Interior
House Natural Resources Committee
Subcommittee on National Parks, Forests and Public Lands
H.R. 3411, Modification of Patent for Whitefish Point Light Station (Michigan)
January 24, 2012**

Thank you for the invitation to present testimony on H.R. 3411, legislation to modify a land patent pertaining to the Whitefish Point Light Station (Michigan). Although the Bureau of Land Management's (BLM) role under the legislation is ministerial, preservation of historic lighthouses such as the Whitefish Point Light Station is a priority for the Department of the Interior. The BLM supports H.R. 3411.

Background

In the late 18th and 19th centuries, the United States built a series of lighthouses in and around Lake Michigan, Lake Huron, and Lake Superior to aid in navigation of the Great Lakes. The role played by these lighthouses in the westward expansion and economic growth of the United States is part of our national heritage, with ships and shipwrecks recalled in story and song. The Great Lakes lighthouses—including the Whitefish Point Light Station at issue in H.R. 3411—are listed on the National Register of Historic Properties.

The U.S. Coast Guard retains responsibility for aid to navigation in the Great Lakes, as it (or its predecessor, the Revenue Marine) has since 1790. In the mid-1990s, concerns reached the Congress that the Coast Guard, in carrying out its mission in the Great Lakes, was unable to assure preservation of the historic lighthouses. Interest in preserving the Whitefish Point Light Station led the Congress, in 1996, to convey land adjacent to the Light Station to two non-profit organizations dedicated to conservation and historic preservation—an 8.27 acre parcel to the Great Lakes Shipwreck Historical Society (Historical Society) and a 2.69 acre parcel to the Michigan Audubon Society (Audubon Society) of Chippewa County—and a 33 acre parcel to the U.S. Fish and Wildlife Service (FWS) (Public Law 104-208, Omnibus Consolidated Appropriations Act, Fiscal Year 1997, Section 5505).

This law contains limitations on development at the historic lighthouse, and explicitly requires compliance with the "Whitefish Point Comprehensive Plan of October 1992." The patents the BLM issued under this authority (including the most recent, number 61-2000-0007, issued March 10, 2000, to the Historical Society) contain this reference.

In 1999, the Audubon Society brought suit against the Historical Society and the FWS over plans to develop a museum at the site. The parties reached a settlement agreement under which the three groups developed the "Human Use/Natural Resource Plan for Whitefish Point, December 2002," to supersede the Whitefish Point Comprehensive Plan of 1992.

H.R. 3411

H.R. 3411 directs the Secretary of the Interior to modify patent number 61-2000-0007 by striking reference to the Whitefish Point Comprehensive Plan of October 1992 and inserting the “Human Use/Natural Resource Plan for Whitefish Point, dated December 2002.” H.R. 3411 affirms the applicability of the National Historic Preservation Act to the Whitefish Point Light Station. H.R. 3411 requires that the property be used in a manner that does not impair or interfere with its conservation values. The BLM supports this legislation.

Conclusion

Thank you for the opportunity to present testimony in support of H.R. 3411.

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H.R. 919, Mohave Valley Land Conveyance Act of 2011
January 24, 2012**

Thank you for the opportunity to testify on H.R. 919, the Mohave Valley Land Conveyance Act of 2011, which proposes to transfer 315 acres of public lands managed by the Bureau of Land Management (BLM) to the Arizona Game and Fish Department (AGFD) for use as a public shooting range. The BLM supports the goals of H.R. 919, but opposes the legislation as currently drafted. The BLM notes that the agency is nearing completion of the administrative process to accomplish the transfer, but its decision for the authorization includes important mitigation measures which are not in the current legislation.

For the past ten years, the BLM has been working with the AGFD, the Fort Mojave Indian Tribe, the Hualapai Tribe, and the public to find appropriate lands for a public shooting range within the Mohave Valley in Arizona. On February 10, 2010, the BLM made the decision to authorize the transfer of BLM lands to the AGFD (through the Recreation and Public Purposes Act of 1926, as amended, 43 U.S.C. 869 et seq.; R&PP) for use as a public shooting range. The decision, which is consistent with the goals of H.R. 919, provides a safe, designated shooting area for the public, and includes stipulations designed to respect the traditional beliefs of the Fort Mojave and Hualapai Tribes. The BLM will continue working with interested parties as we move forward with authorizing the shooting range.

Background

In 1999, the AGFD first submitted an application to the BLM for development of a public shooting range on BLM-managed lands in Mohave County, near Bullhead City in northwestern Arizona. As a result, the BLM began working with the AGFD and other interested parties to assess appropriate lands to transfer to the AGFD for the purposes of a shooting range under the R&PP.

The BLM evaluated the AGFD's application through an environmental assessment (EA) and considered numerous alternative locations throughout the Mohave Valley. The evaluation process was conducted with full public and tribal participation. There is an identified need for a designated public shooting range in this region because of the lack of a nearby facility, the amount of dispersed recreational shooting occurring on public and private lands raising public safety concerns, and the associated natural resource impacts from spent ammunition and associated waste.

In 2002, the BLM began consultations with the Fort Mojave Indian Tribe and the Hualapai Tribe. In 2003, the BLM initiated consultation with the Arizona State Historic Preservation

Officer (SHPO); and in 2006, the BLM initiated Section 106 consultation with the Advisory Council on Historic Preservation (ACHP). These consultations, as required by Section 106 of the National Historic Preservation Act and other authorities, ensure Federal agencies consider the effects of their actions on historic properties, and provide the ACHP and SHPO an opportunity to comment on Federal projects prior to implementation.

In addition to the Section 106 consultation process, the BLM initiated a year-long Alternative Dispute Resolution (ADR) process in 2004 to help identify issues, stakeholder perspectives, and additional alternatives to meet the criteria for a safe and effective public shooting range in the Mohave Valley. However, the ADR process failed to reconcile differences between several consulting parties regarding a proposed location.

In 2006, as part of continued Section 106 consultation with the ACHP, the BLM initiated site visits by the concerned parties and also continued efforts to identify alternative sites. Unfortunately, despite these efforts, the BLM was unable to reach an agreement with the consulted Tribes on any area within the Mohave Valley that the Tribes would find acceptable for a shooting range. The Tribes maintained their position that there is no place suitable within the Mohave Valley, which encompasses approximately 140 square miles between Bullhead City, Arizona, and Needles, California.

Through the EA process, the BLM identified the Boundary Cone Road alternative to be the preferred location. Boundary Cone Butte, a highly visible mountain on the eastern edge of the Mohave Valley, lies approximately 3 miles east of the Boundary Cone Road site, and is of cultural, religious, and traditional importance to both the Fort Mojave Indian Tribe and the Hualapai Tribe. In an effort to address the primary concerns expressed by the Tribes over visual and sound issues, the BLM and AGFD developed a set of potential mitigation measures. Again, there was a failure to agree between the consulting parties on possible mitigation. In the end, the BLM formally terminated the Section 106 process with the ACHP in September 2008. In November 2008, ACHP provided their final comments in a letter from the Chairman of the ACHP to then-Secretary of the Interior Kempthorne.

Although the Section 106 process was terminated, the BLM continued government-to-government consultations with the Tribes. In May of 2009, the BLM met with the Chairman of the Fort Mojave Indian Tribe, the AGFD, and the Tri-State Shooting Club in a renewed effort to find a solution. On February 3, 2010, after continued efforts to reach a mutually agreeable solution, the BLM presented the decision to approve the shooting range to the Fort Mojave Indian Tribe and the AGFD. The final decision included mitigation measures to address the concerns of the Tribes such as reducing the amount of actual ground disturbance; reducing noise levels with berm construction; monitoring and annual reporting on noise levels; and fencing to avoid culturally sensitive areas. The Secretary has the authority to take action to revert title to the land covered by the proposed R&PP patent if the AGFD fails to comply with mitigation measures. The final decision to amend the Kingman Resource Management Plan and dispose of the lands through the R&PP was signed on February 10, 2010.

The BLM decision was appealed to the Interior Board of Land Appeals (IBLA) on February 23,

2010, by a private landowner near the proposed shooting range; and on March 15, 2010, a joint appeal by the Fort Mojave Indian Tribe and Hualapai Tribe was filed. The IBLA dismissed the appeal of the private landowner on July 29, 2010. The IBLA issued a stay of the BLM decision on April 15, 2010, at the request of the Tribes. A final decision by the IBLA on the Tribes' appeal was issued on December 7, 2010 (180 IBLA 158). The IBLA affirmed the BLM's decisions and determined that the BLM had taken a "hard look" at the impacts of conveying public lands to the AGFD for a shooting range. The IBLA decision stated that the EA had an appropriate range of alternatives and the environmental consequences were insignificant or if significant could be reduced or eliminated by mitigation. The IBLA also confirmed that the BLM complied with National Historic Preservation Act obligations. This decision allows the BLM to move forward in conveying the public lands to the AGFD.

On December 21, 2010, the BLM informed the AGFD of the next steps for processing the administrative action of conveying the land for the shooting range. The AGFD is required to: (1) purchase the mineral estate or obtain a non-development agreement for the Santa Fe Railroad mineral estate (390 acres) under the disposal and buffer lands; (2) provide a detailed Plan of Development (POD) that addresses the mitigation measures found in the BLM's Decision Record; (3) develop a Cooperative Management Agreement with the BLM for the 470-acre buffer area; and (4) provide the funds (\$3,150) for purchase of the property. It is the BLM's understanding that the AGFD obtained a non-development agreement with Santa Fe Railroad in December 2011. The BLM has reviewed the detailed POD that addresses the mitigation measures in the decision and is currently reviewing the Cooperative Management Agreement provided by the AGFD. Once the Agreement is signed, the BLM will prepare the conveyance documents and then transfer the property to AGFD. The BLM expects to convey the land to the AGFD in spring 2012.

H.R. 919

H.R. 919 provides for the conveyance at no cost to the AGFD of all right, title, and interest to the approximately 315 acres of BLM-managed public lands as identified in the final decision signed by the BLM on February 10, 2010, to be used as a public shooting range. Furthermore, the legislation makes a determination that the February 10, 2010, Record of Decision is "final and determined to be legally sufficient" and "not be subject to judicial review."

As a matter of policy, the BLM supports working with local governments, tribes, and other stakeholders to resolve land tenure issues that advance worthwhile public policy objectives. The BLM acknowledges the lands proposed for development as a shooting range are of cultural, religious, and traditional significance to the Tribes which is why we support important mitigation measures. The bill as drafted does not include such mitigation measures. In general, the BLM supports the goals of the proposed conveyance, as it is similar to the transfer the BLM has been addressing through its administrative process for the last ten years. As noted, a decision has been made through the BLM administrative process and the IBLA affirmed the BLM decision, thereby dismissing the Tribes appeal that the BLM did not comply with various environmental laws. Under the provisions of H.R. 919, judicial review would be prohibited. The BLM will continue working to complete the conveyance of the lands to the AGFD for a shooting range.

If the Congress chooses to legislate this conveyance, the BLM would recommend some improvements to the bill, including changes to section 3(b), the incorporation of mitigation measures to address Tribal concerns, protection of valid existing rights, as well as a clause to allow the lands to revert back to the BLM at the discretion of the Secretary if the lands are not being used consistent with the purposes allowed in the R&PP Act. The BLM would like to work with the sponsor and the Committee to create an appropriate map that identifies the Federal land to be conveyed to AGFD.

Conclusion

Thank you for the opportunity to testify. Resolution of this conveyance in a manner that is acceptable to all parties has been an important goal of the BLM as evidenced by more than ten years of negotiations and review. The BLM is confident the issued decision addresses the concerns of the interested parties, while providing critical recreational opportunities and benefits to the public.

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**Before the
House Natural Resources Subcommittee
National Parks, Forests and Public Lands
H.R. 3440
January 24, 2012**

Introduction

Thank you for the opportunity to discuss the Bureau of Land Management's (BLM's) views on H.R. 3440, the Recreational Shooting Protection Act. The Department of the Interior strongly supports the goal of promoting opportunities for outdoor recreation, including recreational shooting on America's public lands. The BLM is responsible for the protection of resources and multiple-use management of our Nation's 245 million acres of public land. The vast majority of these public lands are open to recreational shooting.

H.R. 3440 would replace the BLM's locally driven land-use planning and management with top-down oversight and intervention from Washington, as it relates to placing limits on recreational shooting in National Monuments. The BLM's multiple-use mission is best achieved when land management issues are handled locally through its site-specific land-use planning and public involvement processes. Since H.R. 3440 would overturn this critical local management structure, and because the bill also could potentially jeopardize public safety and our ability to protect resources, the Department of the Interior opposes the measure.

Background

The BLM manages the public lands for a variety of uses, including energy development, livestock grazing, recreation, and timber harvesting, while protecting an array of natural, cultural, and historical resources. The Bureau's multiple-use management activities are authorized by the Federal Land Policy and Management Act (FLPMA) and a host of other statutes. Management of specific, local areas is shaped by public input through the land use planning process authorized by FLPMA and through environmental review documents required by the National Environmental Policy Act (NEPA).

Approximately 4.8 million acres of BLM-managed public lands have been designated as 16 National Monuments. These Monuments are managed in accordance with FLPMA and other authorities, and comprise part of the BLM's National Landscape Conservation System (NLCS).

The National Monuments managed by the BLM encompass landscapes of tremendous beauty and diversity, ranging from rugged California coastline to vividly-hued desert canyons. They exemplify not only our landscape, but our character as a nation. They include irreplaceable and fragile national treasures such as Pompey's Pillar in Montana, the site of William Clark's 1806 signature on the face of the 150-foot butte, named for Sacagawea's son and the only tangible evidence left from Lewis and Clark's historic expedition; the Canyon of the Ancients in Colorado, which has the highest known density of archaeological sites in the nation; and Kasha-Katuwe Tent Rocks in New Mexico with its delicate, boulder-capped, tapering volcanic hoodoo formations in banded shades of gray and pink.

The BLM estimates that well over 95 percent of the 245 million acres of BLM-managed public lands are open to recreational shooting. Of the BLM's 4.8 million acres of National Monument lands, currently 88 percent are open to recreational shooting. While the BLM lands are open to hunting virtually everywhere the individual states allow it, the agency must occasionally restrict recreational target shooting in extremely limited circumstances to ensure public safety or protect fragile resources. Restrictions on recreational shooting are determined through extensive analysis as part of the BLM's land-use planning process which is informed by local public input. Typically, recreational shooting closures include: administrative sites, campgrounds, and other developed facilities; certain areas with intensive energy, industrial, or mineral operations; lands near residential or community development; or areas with significant and sensitive natural or cultural resources. When lands are closed to recreational shooting, those restrictions are often implemented to comply with state and local public safety laws and ordinances, or are implemented at the request of local communities or other adjacent private property owners.

Any consideration of closures or restrictions on BLM-managed lands is completed through the BLM's public participation framework for planning and decision making established under FLPMA and NEPA. Through public comments and scoping periods, land use actions are guided and shaped by the public input. This is an open process through which BLM's proposals for managing particular resources are made known to the public before management action is taken, except in certain emergency situations. The BLM responds to substantive comments received from the public and stakeholders on the proposed management action during the NEPA public review process.

H.R. 3440

The Department of the Interior opposes H.R. 3440 as it runs counter to the BLM's fundamental and locally-driven land-use planning and management processes, and potentially jeopardizes public safety. H.R. 3440 declares that recreational shooting shall be allowed in National Monuments administered by the BLM, except if the BLM Director determines that restrictions on shooting are necessary for reasons of public safety, national security, or to comply with a Federal statute. The bill requires the BLM Director to publish public notice of all pending closures and provide a detailed report to Congress before, or in certain cases, no later than 30 days after, a closure. Under the bill, closures would be limited to six months unless specifically enacted into law by Congress.

Currently, any determination to close public lands to recreational shooting activities is made by the BLM local or State Office following detailed analysis and extensive public involvement and notification, including contacting over 40 hunting and fishing interest non-government organizations, as specified in the Federal Land Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding (MOU). For example, in 2010 the BLM made a decision to close the 70,000-acre Agua Fria National Monument near Phoenix to recreational shooting in order to protect sensitive cultural and biological resources. This was accomplished with the support of the Shooting Sports Roundtable, the Arizona Game and Fish Department, and local recreationists, in conjunction with a decision to enhance opportunities to allow recreational shooting on the adjacent 900,000 acres of public lands outside the Monument. HR 3440 strips local BLM managers of their ability to make such closure decisions at a local level, dismisses the time and effort contributed by members of the public who participate in the public planning process, and shifts responsibility thousands of miles away in Washington to the BLM Director and to Congress.

H.R. 3440 also removes all existing recreational shooting restrictions or closures in National Monuments under BLM jurisdiction. Enactment of the bill could result in the automatic repeal of all current closures and restrictions for recreational shooting, even those that are the result of collaborative resource management plans developed with extensive public input. Any such blanket repeal of closures may jeopardize public safety and property. The bill makes no reference or exception to restrictions or closures consistent with State laws or local regulations which may restrict recreational shooting. This could undermine local cooperative relationships in rural areas where BLM Law Enforcement Rangers work closely with Counties.

The effects of the bill are far-reaching, and could potentially jeopardize public safety on the public lands. Consider, for example, a BLM Field Manager who is evaluating whether to establish a restriction or closure to recreational shooting to reduce the risk of wildfire from ammunition strike. Recent examples of such public land wildfires initiated by recreational shooting include the 12,000-acre Lakeside fire that occurred this past summer 45 miles west of Salt Lake City, Utah, with an estimated suppression cost of \$800,000. In addition in 2009 the Sand Hollow fire in Idaho burned 864 acres of public land and caused over \$400,000 in damages. The risk of wildfire from recreational target shooting is real and local Field Managers should have every tool available to them, including permanent, temporary, or seasonal closures, to manage resources and reduce the likelihood of wildfire and protect communities and resources at the local level.

Under H.R. 3440, regardless of on-the-ground conditions, only the BLM Director in Washington could issue such a closure. Furthermore, under the bill, such closures would cease after six months, never to be issued again – even to prevent wildfires – unless Congress approves the closure by enacting it into law. Providing for public safety should not be a temporary, six-month consideration in public land management.

Conclusion

H.R. 3440 establishes a remote and unwieldy framework for the management of nearly five million acres of public land – thus tying the hands of a multiple-use land management agency

striving to provide for public safety with timely responses to on-the-ground conditions, informed by local input.

The BLM looks forward to continuing its work with the Congress and stakeholders in promoting and facilitating safe recreational shooting opportunities on lands administered by the BLM. Thank you for the opportunity to present testimony on H.R. 3440. I would be glad to answer any questions you may have.