STATEMENT OF LARRY FINFER
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BUREAU OF LAND MANAGEMENT
S. 719 NEVADA PUBLIC LAND MANAGEMENT ACT OF 1999
AND
S. 1030 60 BAR LAND EXCHANGE ACT
BEFORE
COMMITTEE ON ENERGY AND NATURAL RESOURCES S/C ON FORESTS AND PUBLIC LANDS MANAGEMENT

JULY 27, 1999

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today to testify on S. 719, the Nevada Public Lands Management Act of 1999 and S. 1030, the 60 Bar Land Exchange Act. The Bureau of Land Management (BLM) supports the concept of the orderly disposal of public lands where authorized by the Federal Land Policy Management Act of 1976 (FLPMA) and the acquisition of environmentally sensitive lands. However, it is the position of the BLM that S. 1129, the Federal Land Transaction Facilitation Act, which is currently being considered by this committee, provides a more appropriate and efficient means to deal with these issues than does S. 719. Accordingly, the BLM opposes S. 719. The BLM does not object to the 60 Bar Land Exchange Act.

First let me address our concerns regarding S. 719. This legislation provides for the sale or exchange of BLM managed public lands, in the state of Nevada, which have been identified for disposal in current land use plans under section 202 of FLPMA. The proceeds from the conveyance of these lands would then be used for the acquisition, from willing sellers, of environmentally sensitive lands or interests in those lands within the state of Nevada and other purposes. Lands identified under the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2343) are excluded from S. 719.

Let me provide some background on some of the challenges confronting BLM in public land management. In many parts of the west, the legacy of settlement left scattered and checkerboard land ownership patterns. The growing demands to accomplish multiple uses of the public lands continue to put pressures on federal land managers. During the last 30 years BLM has attempted to improve management of the public lands by consolidating land ownership through the land use planning process. We have done so through disposal, exchanges, purchases and cooperative agreements with other land management agencies.

It is the BLM's position that a single bill addressing all BLM lands provides the most appropriate vehicle for disposal of federal lands and acquisition of sensitive lands. The BLM has previously testified in strong support of S.1129 with recommended amendments which would allow for the reconfiguration of land ownership patterns and would better facilitate resource management activities. Our goal is to provide a mechanism to dispose of dispersed, unmanageable public lands scattered across the west, while acquiring those lands that will benefit the public and meet the BLM mission.

Because it affects only one state, S.719 could hinder these broader efforts to streamline federal land disposal efforts. In fact it could mark the beginning of the need for separate legislation for each public land state.

If the Congress should decide to proceed on a state-by-state basis the BLM has several serious concerns regarding the current language in this bill. Let me elaborate on some of the more significant concerns.

SEC. 4 DISPOSAL AND EXCHANGE, (a) DISPOSAL: Because the wording of this paragraph is different from that used in BLM planning documents, the term "disposal" could be narrowly interpreted to eliminate land exchanges in the state of Nevada. To make the wording more consistent with BLM planning documents we suggest that the line reading "...identified for disposal under current land use plans...", be changed to read "...identified for disposal by sale or exchange under a current land use plan.

SEC. 4 DISPOSAL AND EXCHANGE, (c) WITHDRAWAL: It has been an unfortunate practice in some locations for individuals to file claims on land as quickly as it is identified for disposal, in what is known as a 'nuisance claim." The purpose may be to delay disposal, or otherwise confuse the issue. This paragraph addresses such spurious claims. In order to make the language of this paragraph consistent with the definitions section, and to ensure that the withdrawal from entry occurs on passage of the act and without requiring additional formal action by the agency we recommend re-wording the phrase "...all Federal land selected for disposal..." to read as follows "...identified for disposal in a current land use plan...".

SEC. 4 DISPOSAL AND ACQUISITION, (d) SELECTION, (1) IN GENERAL: This paragraph calls for the joint selection of lands for disposal by the Secretary, the local unit of government and the state. This wording is inconsistent with the Southern Nevada Public Lands Act of 1998 (P.L. 105-263), which directs that the Secretary and the unit of local government will jointly select lands. The addition of a third party to the process can only complicate and slow down the disposal and land acquisition processes.

SEC. 4 DISPOSAL AND EXCHANGE, (d) SELECTION, (3) LOCAL LAND USE PLANNING AND ZONING REQUIREMENTS: It will be important that BLM involve local government throughout the land sale program envisioned by this Act. While local zoning information is readily available, it is not of consistent quality across the state of Nevada. This may not be the most effective way to address the concerns of local government.

SEC. 4 DISPOSAL AND EXCHANGE, (e) SALES OFFERING...,(3) COMPETITIVE, (C) NOTICE: This paragraph specifies that notice be given to three specific groups. However, it is unclear what constitutes adequate public notice. To avoid this conflict we suggest re-wording the phrase "...shall also ensure adequate notice..." To the following "...shall also ensure adequate notice, consistent with current public sale procedures ..." and delete the phrase, "...of competitive bidding procedures..."

SEC. 4 DISPOSAL AND EXCHANGE, (e) SALES OFFERINGS..., (4) PROHIBITIONS: This section would prohibit BLM from selling a parcel if the cost of preparing the land for sale, and

processing the actual sale, are estimated to exceed the dollar value that can be expected from the sale. In other words, all sales have to result in a profit. There may be locations where prudent business practice suggests disposal of land for land management efficiencies. An example might be a land-locked parcel where there is no access and no overriding reason to retain the land. In these cases the true value to the Federal government may lie in the reduction in costs associated with management of the parcel. While the land would be sold at fair market value, the total costs could be greater. Savings would still accrue due to management efficiencies. In order to incorporate the opportunity to deal with these unusual situations we recommend adding the following language to the existing paragraph "...unless the efficiencies afforded the government by disposal of the land are determined to be sufficient to make the sale in the public interest."

SEC. 4 DISPOSAL AND EXCHANGE, (f) DISPOSITION OF PROCEEDS, (1) LAND SALES: We strongly oppose the language in this paragraph. This section dedicates 50% of the proceeds from the conveyance of these lands to the state and local unit of government. When added to the administrative costs necessary to convey the lands or prepare them for conveyance, including conducting land surveys and meeting NEPA compliance requirements, there would be little in the way of proceeds available for land acquisition. This would unfairly transfer assets owned by all citizens to a limited number of local governments in Nevada.

SEC. 4 DISPOSAL AND EXCHANGE, (f) DISPOSITION OF PROCEEDS, (2) LAND EXCHANGES, (A) IN GENERAL: We also oppose the language in this paragraph which provides for a payment to the county in the amount of 15 percent of the fair market value of the Federal land conveyed as an exchange. This requirement is not part of FLPMA and could decrease the number and acreage in exchanges.

SEC. 4 DISPOSAL AND ACQUISITION, (f) DISPOSITION OF PROCEEDS, (2) LAND EXCHANGES, (C) PENDING EXCHANGES: This section is unclear on how any existing land exchanges would be affected. This paragraph could be interpreted to mean it effects all pending land exchanges whether or not they were initiated prior to enactment of this legislation. We recommend language be included that is more specific in excluding any pending exchanges in which the BLM and the initiating entity have signed an initial agreement to initiate an exchange prior to the date of passage of the act.

SEC. 6 SPECIAL ACCOUNT, (c) USE, (1) IN GENERAL, (A) IN GENERAL: The Special Account provided for in the Southern Nevada Public Land Management Act (P.L. 105-263), has become contentious even before expenditures have been made from it. Every involved entity has its own thoughts about priorities. Reaching agreement on a single set of priorities is proving to be a difficult task. The BLM believes that the Secretary should be allowed the flexibility to direct expenditure of the funds, as long as expenditure is consistent with the act. We suggest clarifying the language as follows: "The Special Account may be used for all costs incurred by BLM in carrying out and implementing all provisions of the Act including actions related to disposal, acquisition and management of the Special Account."

SEC. 6 SPECIAL ACCOUNT, (c) USE, (3) PLAN REVISIONS: This paragraph says that the process of revising or amending a land use plan shall not cause a delay in implementation of the Act. This statement could be construed to mean that BLM lands identified by this act are exempt

from the requirements for BLM land use planning found in Sec. 202 of the Federal Land Policy and Management Act of 1976 (FLPMA), and the National Environmental Policy Act of 1969 (NEPA). Amending a land use plan requires specific consultation, and other steps. It is BLM's recommendation that this entire paragraph be deleted.

That concludes my testimony on S. 719. I now would like to provide comments on S. 1030, the 60 Bar Land Exchange Act. The BLM does not object to S. 1030 because, once completed, the exchange will result in a tract of public land consisting of approximately 18,600 acres with public access. However, we recommend that S. 1030 be amended as more specifically set forth below. Before addressing the amendment, let me describe the mechanics of the land exchange.

This act involves the exchange of approximately 20,000 acres of public lands for approximately 9,500 acres of private lands within the State of Wyoming. The private lands were formerly located within the 60 Bar Ranch, adjacent to existing BLM and Wyoming State lands. They have been purchased by Cow Creek LLC, a limited liability company, and will be exchanged for scattered, isolated tracts of public land located within the private ranch units of the owners of Cow Creek LLC. An existing uranium company holds surface rights on the scattered public lands proposed for exchange. The company stated a willingness to relinquish its mining claims if this act passes. With respect to the lands being transferred by the BLM, S. 1030 provides for an exemption to 43 CFR Sections 2201.1-2 (d) and 2091.3-2(c). These exemptions will allow the uranium mine to pursue subsurface claims in the future. We realize that these exemptions are unusual. However, it is our understanding that the owners of Cow Creek LLC support this legislation.

With respect to the lands to be acquired, the BLM recommends that the bill be amended to withdraw the lands from entry under the general mining laws until appropriate land use planning is completed for the acquired lands.

That concludes my testimony. I would be glad to respond to any questions.

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