

**Statement of Bruce Babbitt
Secretary of the Interior
House Resources Committee
Subcommittee on National Parks and Public Lands
H.R. 2941, Las Cienegas National Conservation Area Establishment Act and
H.R. 3676, Santa Rosa and San Jacinto Mountains National Monument Act
March 16, 2000**

Thank you for inviting me to testify today regarding H.R. 2941, the Las Cienegas National Conservation Area Establishment Act and H.R. 3676, the Santa Rosa and San Jacinto Mountains National Monument Act. Both of these areas, Las Cienegas in the southern part of my home state of Arizona and the Santa Rosas in Southern California are much deserving of the recognition and the meaningful protections that are inherent in National Conservation Area (NCA) and Monument designations.

The Administration can support Congressman Kolbe's Cienegas bill if some important modifications are made to the legislation and if the current strengths of that bill are not weakened. Congresswoman Bono's legislation to designate the Santa Rosa and San Jacinto Mountains as a National Monument unfortunately fails in many critical respects to provide necessary protections. Should it be sent to the President as currently written, I would recommend that the President veto the bill. We remain hopeful that major modifications can be made to the bill so that it will be worthy of the name National Monument.

Mr. Chairman, it comes as no surprise to you that I am a strong supporter of NCAs and Monuments. However, I will not support proposals that simply establish a hollow designation at the expense of resource protection. Two weeks ago in this subcommittee you held a hearing on H.R. 3605 which would create the San Rafael National Conservation Area. The litmus test, which your bill met, for new National Conservation Areas (NCAs) and Monuments is that they must provide meaningful protection and they cannot weaken protections that currently apply to the lands.

Critical elements of a Monument or NCA include: a land and mining withdrawal, off highway vehicle (OHV) use limitations, and language which charges the Secretary to allow "only such uses" as further the purposes for which the monument is established. In addition, we cannot consent to any language that represents a step backward from current management. I'd like to discuss with the subcommittee how each of these bills addresses these important criteria.

H.R. 2941, Las Cienegas National Conservation Area Establishment Act

The proposed Las Cienegas NCA straddles southeastern Pima County, northeastern Santa Cruz county and portions of Cochise County along the Babocomari River only 46 miles southeast of downtown Tucson. Pima County's burgeoning population, expected to exceed one million in 2010, places extraordinary demands on the landscape. Congressman Kolbe's Las Cienegas NCA proposal is one important part of a community effort to address these demands. In 1999, Pima County developed the Sonoran Desert Conservation Plan which combines short-term actions and long-range planning to "ensure that our natural and urban environments not only coexist but

develop an interdependent relationship, where one enhances the other." This is a grassroots movement to save and preserve what is best of the Sonoran Desert, and an important element of the plan is an NCA for the Empire-Cienega area.

After many years of efforts to protect the Empire Cienegas area by numerous groups, the Bureau of Land Management (BLM), in 1995, formed the Sonoita Valley Planning Partnership (SVPP), which is made up of Federal, state and local governments and agencies, private landowners and a variety of constituency groups. Through the SVPP significant collaborative work on a management plan for the area has been accomplished. This work will be a key component of any future land use planning for the proposed NCA. The Sonoran Institute prepared a report in March of last year entitled, "Cienega Creek Watershed-Proposed National Conservation Area Assessment," which addresses many local concerns and is the result of substantial public involvement at workshops and open houses held in local communities.

However, the efforts to protect this area predate these planning efforts. The BLM took over management of the Empire and Cienega ranches and portions of the Rose Tree Ranch in June 1988, through a land exchange valued at more than \$30 million. This farsighted acquisition of 45,000 acres of land has set the stage for today's hearing. Without this important acquisition, these lands of sweeping vistas and tall lush grasslands, filled with a rich diversity of wildlife and rare native fishes, were slated for yet another housing development of 30,000 homes. Today, this high desert basin is a showcase for what these lands may have looked like before the intrusion of western man. Grasses, some as high as six feet, are the dominant feature of the land. Giant cottonwoods are interspersed along the creek banks. Willows, velvet ash, oaks and junipers are scattered throughout the area. One of the few year-round, free-flowing streams in the entire state, Cienega Creek is a rare and welcome site in this desert landscape.

Cattle were probably introduced into the area in 1698, when Father Eusebio Francisco Kino drove a herd of 160 cattle to a small mission near the present-day town of Patagonia, Arizona. Unlike some areas where cattle have meant disaster for the native grasses and healthy landscape, here good range management has resulted in healthy rangelands. A continued commitment to responsible grazing is an important element in the proposed NCA.

Three rare native fish, the Endangered Gila topminnow, the Gila Chub, and the Longfin dace are endemic to Cienega Creek. Not only are the native fish rare but there are no introduced fish within Cienega Creek, further enhancing the unique qualities of this rare Southwest river habitat. An astounding 170 species of birds have been spotted in this bird watchers' paradise. A wide variety of game species and smaller non-game mammals are abundant throughout the area.

Historic and prehistoric use of this area is well established. Evidence of human settlement goes back at least 5,000 years, and settlement of later Hohokam and Sobaipuri people is well documented.

The guiding force behind more recent development of the area was Walter L. Vail, rancher, entrepreneur and successful businessman. Begun in 1876, as a 160-acre ranch, by 1905 the Empire Ranch included more than 1,000 square miles of southern Arizona. The original four-room adobe house, built in 1874 (later expanded to 22 rooms), is part of the proposed NCA. It is

currently being stabilized through the assistance of the Empire Ranch Foundation, a group of private citizens dedicated to collaborative management of the Empire-Cienega Resource Conservation Area with the BLM. Currently, the Foundation is focusing on preserving the historic Empire Ranch buildings, and interpreting both historic and current ranching life in southeast Arizona for the public. In 1999, the ranch house restoration project was the recipient of a \$95,300 "Save America's Treasures" Millennium grant from the White House Millennium Council.

The Cienega Valley holds prehistoric treasures as well. In 1997, the University of Arizona, and the Arizona Sonora Desert Museum excavated the remains of a previously unknown dinosaur species - the Sonorasaurus, a large plant-eater that roamed the area during the Jurassic period.

Congressman Kolbe's legislation recognizes that this significant western landscape and the important natural and cultural resources it encompasses need and deserve meaningful protections. His bill contains the critical elements of an NCA that I have discussed: mineral and land withdrawals, OHV restrictions, and "only such uses" language. Additionally, except for the provisions that I will discuss, it does not contain significant management restrictions which would impair the BLM's ability to protect this important resource. We will oppose any and all provisions that would make management under NCA designation less protective than under current management.

There are some significant concerns with this legislation which need to be addressed. Attached to this testimony is our list of recommended amendments to Congressman Kolbe's bill as introduced, and I'd like to briefly discuss the most significant of these.

First and foremost, we are seriously concerned about the provisions in section 6 relating to land acquisitions. As written, the bill would prevent willing sellers (either the state or a private individual) from selling their lands within the conservation area to the Federal government. This provision makes it far more difficult for the Federal Government to protect these important lands within the conservation area and unfairly denies an individual the right available to all other property owners to dispose of their lands as they see fit. We are eager to work with Congressman Kolbe and the Committee to develop acceptable language.

Furthermore, a provision also in section 6 states that land exchanges completed within the NCA "shall not reduce the tax base within the State of Arizona." This provision is unnecessary, would be impossible to administer, and must be stricken. Land exchanges under the Federal Land Policy and Management Act (FLPMA) are for equal value. However, it is often impossible to find pieces of property with identical values. Therefore, the regulations governing land exchanges allow equalization payments, by either the government or the proponent of the exchange, in amounts up to 25% of the value of the Federal lands. As a practical matter, land exchanges are not possible without being able to trade land that is not of identical value. Moreover, to require the BLM to determine effects on the tax base of Arizona is unnecessary. When land leaves Federal ownership through an exchange with a private party, it is almost always used for commercial development- in such a case the value of the land will increase and property taxes paid will increase. Finally, the BLM is ill-equipped to take on such a time-consuming, and costly project as tracking land values after lands leave public ownership. I do not

believe that the State of Arizona wishes the Federal government to be a party to its system of property tax assessment.

Another provision of the bill that seriously requires amendment is section 10 regarding water. We agree with Congressman Kolbe that a water right should be reserved for this NCA. However, in order to avoid confusion, or intent other than what we believe is, and should be, the intent, we recommend modifying section 10(a) to read as follows:

Congress hereby reserves a quantity of water sufficient to fulfill the purposes, as specified in subsection 3(a), for which the conservation area is established to be administered according to the procedural requirements of the State of Arizona.

Other provisions that we would recommend modifying include clarification of provisions on access, overflights, buffer zones and future leases. We believe these proposed changes significantly clarify the intent of the legislation and would greatly facilitate the future manageability and protection of the conservation area. We would be delighted to work with Congressman Kolbe and the Committee staff to resolve these issues and finalize the map before markup.

The Empire-Cienegas area of southeastern Arizona deserves special protection and, with the amendments we strongly urge, it will have that protection. I believe that an NCA under BLM management is the correct designation for this important and beautiful area.

H.R. 3676, Santa Rosa and San Jacinto Mountains National Monument Act

The Santa Rosa and San Jacinto Mountains, covering 272,000 acres in this Monument proposal, is an area of great contrasts. Nowhere else can you find the juxtaposition of outstanding biological, scenic, cultural and recreation values bordering a rapidly growing population center and world class resort destination. Much of the growth and prosperity of the Coachella Valley is a result of its proximity to these great natural areas and that growth, some would say urban sprawl, is now the biggest threat to its preservation.

The unique combination of extraordinary natural values of the Santa Rosa and San Jacinto Mountains adjacent to a growing urban complex have long been recognized as deserving special protection. In 1990 Secretary Manuel Lujan designated the Santa Rosa Mountains as a National Scenic Area. A cooperative effort among the BLM, State and local governments, private organizations, and property owners took the first steps to protect 194,000 acres with this administrative designation. It has become clear today that the existing designation does not provide the necessary long-term permanent protections we need to ensure that future generations visiting the Santa Rosas will still be able to see a Golden Eagle soar over it, a Peninsular Ranges Bighorn Sheep clamber through it or a Desert Tortoise crawl across it. A National Monument designation can provide that insurance. Early in 1999 a local, grass-roots effort was initiated to seek support for just such a National Monument designation. Responding to this call, I made the first of several visits in August 1999 to begin listening to the local community on how best to protect the area.

The resource values in this special area are as diverse as any area that the Federal government manages. The area is home to five distinct "life zones" from Sonoran Desert to Arctic Alpine resulting in an exceptionally diverse biological population. Over 500 species of plants and a suite of Federally listed threatened and endangered species call the Santa Rosas home. Premier among these is the Federally endangered Peninsular Ranges Bighorn Sheep whose population has plummeted so that today only about 300 remain. Desert oases, natural hot springs, and verdant riparian areas dot this landscape.

Likewise the cultural and archaeological resources of the region abound. A number of sites sacred to the Agua Caliente Band of Cahuilla Indians whose ancestors inhabited most of the area are within the proposed monument. Networks of trails connect village sites, campsites and other areas of importance to the Tribe. The Tribe continues to manage portions of the proposed Monument within its reservation boundaries.

Recreational use of the Santa Rosas is and should continue to be an important use of the mountains. Hiking, biking, camping and horseback riding are all legitimate uses which should and can continue in a way compatible with meaningful protection of the region.

Let me state again, the litmus test for new National Conservation Areas (NCAs) and Monuments is that they must provide meaningful protection and they cannot diminish any protections that currently apply to the lands. While there are some positive provisions in this bill, which do provide meaningful new protections, the bill also undermines current management prescriptions. In the long run these adverse provisions would undermine the long term viability of this national treasure.

As I noted earlier in my testimony on H.R. 2941, critical elements of a Monument include: a land and mineral withdrawal, off highway vehicle (OHV) use limitations, and language which charges the Secretary to allow "only such uses" as further the purposes for which the monument is established. This bill has those provisions and we support them. Unfortunately, these strong management elements are undermined by other provisions contained in this legislation. The net result would be that our ability to manage these lands in an environmentally sound fashion would take a step backward from current management. I'd like to take a few minutes of the subcommittee's time to highlight a few of the most onerous provisions.

It is appropriate to have reasonable buffer zone language in legislation such as this. I recognize the Congresswoman's concerns about growth in the Coachella Valley and they are legitimate. It is not our intent that the Monument designation should affect activities and uses on lands outside the monument boundary. However, the buffer zone language in section 3(e) could significantly impair appropriate management of lands inside the Monument. Reasonable buffer language can be found in any number of other bill's including the San Rafael NCA bill, H.R. 3605, heard by this Committee just two weeks ago and supported by the Administration.

As I have stated repeatedly, now is the time to protect these lands. We cannot wait another year or another three years. Section 4(c), " Interim Management" could prevent us from taking interim steps imperative to preventing resource degradation until the management plan is completed in three years. This is unacceptable. Under current law and the current management plan, we do not

have such restrictions. Additionally this language could be interpreted as preventing us from taking important actions, such as the mineral withdrawal authorized by this bill, until completion of the management plan.

Yet another provision that takes us backward rather than forward is section 5(e) which gives a single special interest far-sweeping rights that they do not currently hold. Under current law, the granting of rights-of-way through these lands is a discretionary act of the Bureau of Land Management. Decisions on whether or where to grant these rights-of-way are handled by the BLM field office. That decision making process includes consideration of resource protection needs and public involvement before any decisions to approve, alter or deny such requests are made. Were it not for section 5(e) none of this would change, current valid existing rights-of-ways would continue and future proposals would continue to be handled by the BLM as I have described. However, section 5(e) removes the BLM's discretion and could be interpreted as forcing the BLM to grant rights-of-way without consideration of potential resource degradation. This is completely unacceptable.

Another significant concern with the bill is the water language in section 5(f). This section contains sweeping language not contained in any other law dealing with public lands. The Advisory Council established in section 7 grants seats to special interests such as the Building Industry Association and the Sierra Club. Generally reserving seats on an Advisory Council for Indian tribes that have an interest in the Monument, for conservation groups, local governments and the user community is appropriate, but legislatively mandating which, among the private interest groups, gets the nod is bad policy.

Mr. Chairman, there are, unfortunately, other problems with this bill as well. This important public lands legislation is not irretrievable, but it will require extensive amendment to reach a level of acceptability to the Administration. We are willing to work with the Forest Service, Congresswoman Bono and the subcommittee to address these serious issues before the bill proceeds to markup.

Throughout the Coachella Valley of California, groups and individuals across a wide interest spectrum are devoting countless hours to further the proposition that this exceptional natural treasure should be a National Monument. There is an overall consensus that this magnificent resource must be protected. I do not want to let them down and I know Congresswoman Bono shares my feelings. I hope together we can reach an agreement to make this legislation something this Administration can support. This very special area deserves nothing less.

Conclusion

Mr. Chairman, I support NCA and Monument legislation, but I will not support legislation that does not live up to minimal standards. It is not enough to draw a line around some lands and give them a name-they must be significant lands and they must have new and meaningful protections without stepping back from current levels of protection.

section 4(a), page 4, line 19

strike "or future" and at the end of line 21 add the following: "Future leases and agreements must be consistent with the purposes of this Act."

section 4(b)(2), page 5, lines 9-11

strike lines 9-11, and add a new subsection 4(b)(3) and renumber the ensuing subsections

"(3) Access.-- Nothing in this Act shall be construed to prohibit reasonable access to private or state lands within or outside the boundary of the conservation area."

section 4(b)(3), page 5, lines 15-18

On line 15 strike all after "military operations or missions . . ." through the end of line 18.

section 5, page 7, line 8

at the end of line 8, insert the following "but not be limited to,"

Section 6(a)(1), page 9, lines 22-23

strike "only in the case of conservation easements or as provided by paragraph (2)(B)"

Section 6(b)(1), page 12, lines 1-4

strike "only in the case of conservation easements"

strike "Exchange under this subsection shall be for land of equal value and shall not reduce the tax base within the State of Arizona."

Section 6(b)(2), page 12, lines 8-9

strike "Except as provided in paragraph (3), no privately owned land or interest therein may be purchased."

Section 6(c), page 12, line 21

add at the end of line 21 "upon acquisition, lands shall be managed as a part of the conservation area."

Section 7, page 13-14, lines 25-1

strike "even if such activities can be seen, heard, or detected from within the conservation area"

section 10(a), pages 14

on lines 7-8, strike the phrase "according to the laws and rules of the State of Arizona." and on line 10, after establish insert the phrase "to be administered according to the procedural requirements of the State of Arizona"

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