

**Statement of
Edwin Roberson, Assistant Director
Bureau of Land Management
Department of the Interior
Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands and Forests
S. 1787, Federal Land Transaction Facilitation Act Reauthorization
December 17, 2009**

Thank you for the opportunity to testify on S. 1787, the Federal Land Transaction Facilitation Act Reauthorization of 2009. The Administration strongly supports S. 1787 and encourages the Congress to move swiftly to reauthorize the Federal Land Transaction Facilitation Act (FLTFA). Over the past decade, the Department of the Interior has made a number of important acquisitions using the FLTFA's provisions. Reauthorization of the Act will allow us to continue to use this critical tool for enhancing our Nation's treasured landscapes.

Background

Congress enacted the FLTFA in July of 2000 as Title II of Public Law 106-248 (frequently referred to as the "Baca Bill"). As originally enacted, the FLTFA is scheduled to sunset on July 24, 2010, just seven months away.

Under the FLTFA, the Bureau of Land Management (BLM) may sell public lands, identified for disposal through the land use planning process prior to July 2000, and retain the proceeds from those sales in a special account in the Treasury. The BLM may then use those funds to acquire, from willing sellers, inholdings within certain Federally-designated areas and lands that are adjacent to those areas that contain exceptional resources. Lands may be acquired within and/or adjacent to areas managed by the National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), the U.S. Forest Service (FS), and the BLM. To date, approximately 29,400 acres have been sold under this authority and approximately 17,000 acres of treasured landscapes have been acquired.

The 1976 Federal Land Policy and Management Act (FLPMA) provides clear policy direction to the BLM that public lands should generally be retained in public ownership. However, section 203 of FLPMA allows the BLM to identify lands as potentially available for disposal if they meet one or more of the following criteria:

- Lands consisting of scattered, isolated tracts that are difficult or uneconomic to manage; or
- Lands that were acquired for a specific purpose and are no longer needed for that purpose; or
- Lands that could serve important public objectives, such as community expansion and economic development, which outweigh other public objectives and values that could be served by retaining the land in Federal ownership.

The BLM identifies lands that may be suitable for disposal through its land use planning process, which involves full public participation. The process of identifying these lands does not typically include review of other considerations such as the presence of threatened or endangered

species, cultural or historic resources, or encumbrances because these considerations are not included in the FLTFA criteria. Before the BLM can sell, exchange, or otherwise dispose of these lands, however, it must undertake extensive environmental impact analyses, clearances, surveys, and appraisals for the individual parcels.

Before the enactment of the FLTFA, the BLM had the authority under FLPMA to sell lands identified for disposal. The proceeds from those sales were deposited into the General Fund of the Treasury. However, because of the costs associated with those sales (including environmental and cultural clearances, appraisals, and surveys), few sales were undertaken. Rather, the BLM relied largely on land exchanges to adjust land tenure. This can often be a less efficient process.

Once the FLTFA was enacted, the BLM developed guidance, processes, and tools to complete the FLTFA land sales. Working cooperatively, the BLM, NPS, FWS, and FS then developed guidance, processes, and tools for subsequent FLTFA land acquisitions. The BLM markedly increased sales under the program over the last few years. Recent market conditions, however, have led to less-robust sales than earlier in the life of the program.

Since it was enacted, the BLM utilized FLTFA to sell 309 parcels previously identified for disposal totaling 29,437 acres, with a total value of approximately \$113.4 million. Over the same time period, the Federal government acquired 28 parcels totaling 16,738 acres, with a total value of approximately \$43.8 million using FLTFA authority. An additional 11 parcels, totaling 1,282 acres and valued at approximately \$23 million have been approved for acquisition. Work on these acquisitions is proceeding swiftly.

Some lands identified for disposal and sold through the FLTFA process are high-value lands in the urban interface. For example, in 2007 the BLM in Arizona sold at auction a 282-acre parcel in the suburban Phoenix area for \$7 million. However, many of the lands the BLM has identified for disposal are isolated or scattered parcels in remote areas with relatively low value. Frequently, there is limited interest in acquiring these lands, and the costs of preparing them for sale may exceed their market value.

Since the inception of the FLTFA, the BLM has deposited \$108.9 million into the Federal Land Disposal Account. That figure represents 96% of the total revenues from these sales. Approximately \$4.5 million has been transferred to the states in which the sales originated, as provided for in individual Statehood Acts (typically 4% of the sale price).

Using the FLTFA proceeds, the BLM, NPS, FWS, and FS have acquired significant inholdings and adjacent lands from willing sellers, consistent with the provisions of the Act. For example, just last month the BLM used FLTFA funds to complete the acquisition of 4,573 acres within the BLM's Canyons of the Ancients National Monument in southwest Colorado. These inholdings encompass 25 documented cultural sites, and archaeologists expect to record an additional 700 significant finds. The acquisition also included two particularly important areas: "Jackson's Castle," which is archeologically significant; and the "Skywatcher Site,"

a one-of-a-kind 1,000 year old solstice marker. The following are a few additional examples of important FLTFA acquisitions:

- Elk Springs Area of Critical Environmental Concern (ACEC), New Mexico/BLM – This 2,280-acre acquisition protects critical elk wintering habitat.
- Hells Canyon Wilderness, Arizona/BLM – A 640-acre parcel constituting the last inholding within the Hells Canyon Wilderness, located just 25 miles northwest of Phoenix.
- Grand Teton National Park, Wyoming/NPS – This small (1.38 acres), but critical inholding within the Park was acquired and protected from development.
- Zion National Park, Utah/NPS – A combination of FLTFA and Land and Water Conservation Fund monies were used to acquire two 5-acre inholdings that overlook some of the Park’s outstanding geologic formations. These areas were previously target for development.
- Nestucca Bay National Wildlife Refuge, Oregon/FWS – This 92-acre dairy farm on the outskirts of Pacific City, Oregon was slated for residential development and was acquired to protect a significant portion of the world’s population of the Semidi Islands Aleutian Cackling Goose.
- Six Rivers National Forest, California/FS – Over 4,400 acres were acquired within the Goose Creek National Wild and Scenic River corridor, preserving 4 miles of the river known for dense stands of Douglas fir, redwoods, and Port Orford cedar.

S. 1787

S. 1787 would both extend and enhance the original FLTFA through four major changes.

First, the bill eliminates a 10-year sunset provision included in the original FLTFA. This change would enable the BLM to plan for and implement this program on a long-term basis.

Second, under the original FLTFA, only lands identified for disposal prior to July 25, 2000 were eligible to be sold. S. 1787 modifies that restriction by allowing any lands identified for disposal through the BLM’s land use planning process by the date of enactment of S. 1787 to be sold through the FLTFA process. The Department supports this change, which recognizes the usefulness and importance of the BLM’s land use planning process. However, we would recommend eliminating this restriction rather than simply moving the date forward.

The BLM currently oversees the public lands through 172 Resource Management Plans (RMPs). Since 2000, the BLM has completed 67 new RMPs, 18 major amendments to existing RMPs, and numerous smaller land use plan amendments. Additionally, the BLM is currently involved in planning efforts on 35 new RMPs, all of which the agency expects to complete within the next three years. Planning updates are an ongoing part of the BLM’s mandate under FLPMA. In this process, the BLM often makes incremental modifications to the plans, and identifies lands that may be suitable for disposal. All of these planning modifications or revisions are made in compliance with the National Environmental Policy Act, and are undertaken through a process that invites full public participation.

Third, the original FLTFA only allows acquisitions of inholdings within, or special lands adjacent to Federal units that existed prior to July 25, 2000. S. 1787 eliminates this limitation as well, and we support this change. In March of this year, President Obama signed the Omnibus Public Land Management Act of 2009 (Public Law 111-11) into law, which designates or expands numerous wilderness areas, wild and scenic rivers, national park units, and other units of the BLM's National Landscape Conservation System. S. 1787 will allow the use of FLTFA funds to acquire inholdings within these areas and areas designated by other legislation enacted after July 2000.

Finally, S. 1787 adds exceptions to the FLTFA in recognition of specific laws that modify the FLTFA with respect to some particular locations. The FLTFA does not apply to lands available for sale under the Santini-Burton Act (P.L. 96-586) and the Southern Nevada Public Land Management Act (P.L. 105-263). S. 1787 additionally exempts lands included in the White Pine County Conservation, Recreation, and Development Act (P.L. 109-432) and the Lincoln County Conservation, Recreation and Development Act (P.L. 108-424).

However, we note that S. 1787 does not account for some provisions of the Omnibus Public Land Management Act of 2009 that modify the application of FLTFA at specific sites or for specific purposes. The portions of the Omnibus Public Land Management Act of 2009 that contain language regarding the applicability of the FLTFA include:

- Owyhee Public Land Management (Title I, Subtitle F);
- Washington County, Utah (Title I, Subtitle O);
- Carson City, Nevada, land conveyances (Title II, Subtitle G, section 2601); and
- Douglas County, Washington, land conveyance (Title II, Subtitle G, section 2606).

We are happy to work with the Committee, as appropriate, to address these special provisions.

Conclusion

Thank you for the opportunity to testify in strong support of S. 1787, the Federal Land Transaction Facilitation Act Reauthorization of 2009. By extending the FLTFA, the Congress will allow the BLM to continue a rational process of land disposal that is anchored in public participation and sound land use planning, while providing for land acquisitions to augment and strengthen our Nation's treasured landscapes.