

**Statement of
Steven A. Ellis
Deputy Director, Operations
Bureau of Land Management, Department of the Interior
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands, Forests, & Mining
S. 414, California Desert Conservation & Recreation Act of 2015
October 8, 2015**

Thank you for the opportunity to testify on S.414, the California Desert Conservation and Recreation Act of 2015. S. 414 represents a milestone in Senator Feinstein's two decades-long effort to conserve the deserts of southern California while providing for public access and recreation in support of desert communities and the economy of southern California. This bill, which amends the 1994 California Desert Protection Act (CDPA) (Public Law 103-433), provides a comprehensive approach to the future management of federal lands within the California Desert Conservation Area (CDCA).

The Department of the Interior (DOI, Department) commends Senator Feinstein and her staff for their work over many years and with a broad range of stakeholders to address a wide array of resource issues and management concerns in the California Desert. The Department supports S. 414 and looks forward to working closely with Senator Feinstein, the Committee, and our federal partners on this legislation. Due to the length and complexity of the bill, my testimony will summarize the views of DOI, but we would also like the opportunity to work further with the Senator and the Committee on certain aspects of the bill that we believe would facilitate implementation and improve the manageability of the areas that would be designated by S. 414. We defer to the Department of Agriculture and the Department of Defense regarding provisions in the bill concerning the lands and interests they administer.

Background

The California desert has been the subject of BLM conservation efforts for nearly 40 years. The CDCA contains over 25 million acres and includes 16 million acres of public lands administered by the Department. It was singled out for special management in the Federal Land Policy and Management Act of 1976 (FLPMA). Section 601 of FLPMA recognized the unique location of the CDCA which is adjacent to the metropolitan areas of southern California and over 20 million residents. This location has always meant the management of the CDCA's fragile resources must balance the public's desire for conservation, recreational activities, public access, energy development, rights-of-way, and other uses. The CDCA Plan of 1980 and its associated amendments were vast in their scale, ambitious in their goals, and designed to accommodate a variety of uses and users.

By the early 1990s, increased development pressures on the desert and new public awareness led many to believe that further measures were necessary to adequately conserve the special places of the California desert. Through the leadership of Senator Feinstein and others, careful deliberation and an extensive public process led to the enactment of the 1994 CDPA, which protected 69 new Wilderness areas, established three new units of the National Park Service, and provided strong protections for traditional cultural uses of the area by American Indian tribes.

The areas conserved by the CDPA are some of the most beloved in the West and are invaluable resources for the people of the California desert and the nearby Los Angeles metropolitan area.

Over the past five years, Federal, state, and local partners have come together in a remarkable effort to plan for the responsible development of utility-scale renewable energy in the desert, balancing the promise of clean energy with our shared responsibility to protect the most special places and resources. As part of this effort, known as the Desert Renewable Energy Conservation Plan (DRECP), the BLM has conducted a comprehensive inventory and analysis of cultural, natural and recreation resources in the California desert, drawing on the expertise of both state and federal agencies as well as the input from local communities and the public. In the preferred alternative of the draft DRECP, new proposed conservation allocations would protect significant and intact natural habitats and cultural resources and link existing Congressionally-designated National Conservation Lands. These proposed designations are compatible with the conservation designations proposed under S. 414 and reflect the result of an extensive, multi-stakeholder public process.

Title I – California Desert Conservation & Recreation

Title I of S. 414 is the product of Senator Feinstein’s extensive collaborative efforts with various stakeholders. Her office engaged a broad cross-section of environmental organizations and others interested in the desert in dialogue, meetings, and field trips. This outreach effort achieved a significant level of consensus among participating groups— most notably, consensus regarding the bill’s conservation provisions—and it led to important compromises concerning designation boundaries, accommodations for future military expansions, allowances for renewable energy development and transmission corridors, and many other issues.

Title I establishes two new national monuments; creates three new wilderness areas and expands three existing Wilderness Areas; designates additional wilderness in Death Valley National Park, and releases portions of six Wilderness Study Areas. Title I also establishes the Vinagre Wash Special Management Area and Alabama Hills National Scenic Area; designates potential wilderness areas; expands three units of the National Park System; and establishes five Off-Highway Vehicle (OHV) Recreation Areas, along with other provisions.

The spectacular and diverse landscapes of the BLM’s National Conservation Lands currently include 23 National Monuments. S. 414 would add the Mojave Trails National Monument and the Sand to Snow National Monument to that list. Each of the National Monuments and National Conservation Areas (NCAs) designated by Congress and managed by the BLM is unique. However, all of these designations have certain critical elements in common, including withdrawal from the public land, mining, and mineral leasing laws; managed OHV use; and language that directs the Secretary of the Interior only allow those uses that further the purposes for which the area is established. The designations proposed in S. 414 are consistent with these principles and we support their designation.

Mojave Trails National Monument

S. 414’s proposed Mojave Trails National Monument encompasses approximately 965,500 acres of BLM-administered public lands in the Mojave Desert of southeastern California along historic Route 66 between Needles and Ludlow, California. The proposed monument connects six

existing designated BLM Wilderness Areas and lies between the Mojave National Preserve and Joshua Tree National Park. The proposed Mojave Trails National Monument would protect critical wildlife corridors between these protected areas as well as the best preserved section of the so-called “Mother Road,” historic Route 66. Within the proposed monument are over 250,000 acres of lands acquired for the BLM in the late 1990s from the Catellus Development Corporation for conservation purposes through donation by local conservation partners and through purchase with Land and Water Conservation Fund monies. The BLM currently manages much of this area to protect the desert environment through administratively-designated Areas of Critical Environmental Concern (ACECs) and Desert Wildlife Management Areas (DWMAs) protecting the habitat of the threatened desert tortoise and many other listed and sensitive species. The proposed monument has been identified for protection under all of the action alternatives being analyzed in the DRECP.

The Department strongly supports designation of the Mojave Trails National Monument for its outstanding natural and cultural values. The bill provides for a variety of existing uses, such as rights-of-way, leases, mining claims, and a grazing lease, all of which would continue under the provisions of the bill. The Department would appreciate the opportunity to work with the sponsor on a number of issues related to these uses in the proposed Mojave Trails National Monument.

Sand to Snow National Monument

The proposed Sand to Snow National Monument includes an incredibly diverse and biologically-rich terrain spanning from the San Bernardino Mountains to the west and Joshua Tree National Park to the east. The proposed monument includes approximately 73,200 acres of BLM-administered lands and 62,200 acres of lands under the management of the U.S. Forest Service within the San Bernardino National Forest. From west to east, the proposed monument descends from the snows of the 11,000-foot Mount San Gorgonio through the sands of the Sonoran and Mojave deserts, extends to the unusual desert riparian oasis of Big Morongo Canyon, and finally connects to the stark beauty of Joshua Tree National Park. The DRECP includes proposed National Conservation Lands units for the proposed monument area in all the action alternatives being analyzed.

The Department strongly supports designation of the Sand to Snow National Monument for its outstanding natural values. We would like the opportunity to work with the sponsor on a number of technical issues in the Sand to Snow National Monument section of the bill, including accurate terminology, alignment with language for similar provisions in other laws, and time frames.

Wilderness

Section 1501 would designate the 88,000-acre Avawatz Mountains Wilderness, 8,000-acre Great Falls Basin Wilderness, the 80,000-acre Soda Mountains Wilderness, and the 32,500-acre Death Valley 17 Wilderness. In addition, this section would expand the existing Golden Valley Wilderness by approximately 7,500 acres, the Grass Valley Wilderness by 14,000 acres, the Kingston Range Wilderness by 53,000 acres, and Death Valley National Park Wilderness by 59,000 acres. The Department supports each of these designations. These proposed additions to the National Wilderness Preservation System will protect fragile desert ecosystems and provide

important habitat for a diversity of plant and animal life. They also serve as a unique and irreplaceable living research laboratory. The Avawatz Mountains, for example, have been identified as important for regional habitat connectivity, enabling wildlife to move across a large landscape. These proposed Wilderness Areas provide opportunities for hiking, hunting, rock climbing and horseback riding for those who wish to experience the desert solitude and an outstanding backcountry experience. We would like to work with Senator Feinstein and the Committee on some management language modifications in section 1502.

In particular, with regard to Sections 1502(a)(2)(A) and (B), NPS and BLM have collaborated in the past to address cross-boundary issues. The Department would like to work with the sponsor to ensure flexible interagency coordination moving forward.

Section 1503 proposes to release over 120,000 acres of six BLM-administered wilderness study areas (WSAs) from WSA restrictions, allowing these areas to be managed according to the existing BLM land use plans. We support this provision. These lands are small portions of WSAs that were not designated wilderness by this or previous legislation.

Vinagre Wash

Sections 1601 through 1604 create the 82,000-acre Vinagre Wash Special Management Area (SMA) and identify four future potential new Wilderness Areas or expansions of existing designated Wilderness Areas within the SMA. The Secretary is directed to preserve the character of the potential wilderness areas for eventual inclusion in the National Wilderness Preservation System with limited specific exceptions for military uses. Designation of the lands would occur when the Secretary of the Interior, in consultation with the Secretary of Defense, determines that all activities on these lands are compatible with the Wilderness Act of 1964. On other lands within the SMA, the bill provides that the Secretary would permit motorized recreation on designated routes. In recognition of the importance of the lands within the SMA to the Quechan Indian Nation and other Indian tribes, this section includes special protections of cultural resources and provides for a two-year study of those resources and related needs. The Department supports the designation of this area and commends Senator Feinstein for the public outreach and coordination that led to this proposal. We would like to work with the sponsor on minor amendments to the language to ensure consistency with existing plans and laws, and on a minor boundary modification for the Buzzard's Peak Potential Wilderness.

National Park System Additions

S. 414 would expand the three California Desert units of the National Park System: Death Valley National Park, Joshua Tree National Park, and Mojave National Preserve. Altogether, a total of approximately 72,000 acres of BLM-managed lands would be transferred to the NPS, and the NPS would be given authority to acquire an additional 1,644 acres of non-federal land. In addition, the bill would establish several areas within Death Valley National Park as wilderness. These provisions would enhance opportunities for visitors seeking adventure and challenge, health and learning, and reflection and solitude in the great American desert lands of California. The Department strongly supports these additions and designations with amendments.

Within Death Valley National Park, the areas known as North Eureka Valley, Ibex, Panamint Valley, Warm Springs, and Axe Head (about 47,580 acres in total) would be designated as

wilderness. In addition, the area known as the Bowling Alley, which consists of 32,520 acres of land adjacent to Death Valley National Park, would be transferred from the BLM to the NPS and designated as wilderness. All of these areas are appropriate for wilderness designation because of their superlative scenery and wilderness qualities.

In addition to the 32,520 acres at the Bowling Alley, 6,400 acres of non-wilderness land in an area known as the Crater would be transferred from the BLM to the NPS for inclusion in Death Valley National Park.

At Joshua Tree National Park, approximately 2,879 acres of BLM land would be transferred to the NPS. The NPS would also be authorized to acquire approximately 1,639 acres from the Mojave Desert Land Trust, which plans to donate the land to the park. These lands, which are contiguous to several places along the northern boundary of the park, are located in primary wildlife corridors that link the park with other public lands in the Mojave Desert. The park would also be authorized to acquire and administer the Joshua Tree Visitor Center, currently located outside the park boundary and owned by the Joshua Tree National Park Association, enabling the park to protect this asset and provide for its continued public use.

At Mojave National Preserve, approximately 29,000 acres would be transferred from the BLM to the NPS for inclusion in the preserve. These lands include a unique plant assemblage known as the Lanfair Valley Desert Grassland. The Spirit Mountains, one of the most significant Native American Traditional Cultural Properties in the Mojave Desert, can be viewed from this area, making this a culturally significant site as well.

The Department recommends amending S. 414 with respect to the Death Valley National Park wilderness designation by removing references to the “Federal Land Management and Policy Act of 1976” and “Conservation Areas” which are applicable to BLM-managed areas, but not to areas that are part of the National Park System. We believe that the proposed new section 1501(b) should use the same language that was used for the park wilderness designation in section 601(a) of P.L. 103-433 as enacted in 1994.

We also recommend designating an approximately 1-acre area known as Mormon Peak Communication Area, which serves as a major communications hub for the Death Valley National Park community, as potential wilderness rather than wilderness, until such time that a technological alternative becomes available to the present system.

In addition, we recommend deleting the proposed new section 1701(c) requiring a memorandum of understanding between the NPS and Inyo County regarding access and use to gravel pits along Saline Valley Road within Death Valley National Park. This requirement is no longer relevant due to the fact that the NPS and the county are currently working together to find alternatives to the use of this site.

Finally, the NPS would like the opportunity to work with the sponsor on a number of technical issues in the NPS-related sections of the bill, including accurate terminology, alignment with language for similar provisions in other laws, and time frames.

Off-Highway Vehicle Recreation Areas

Section 1801 designates five OHV Recreation Areas totaling about 142,000 acres. The BLM supports each of these designations as they would provide congressionally designated areas for this popular recreational activity in the California Desert. The Dumont Dunes, El Mirage, Rasor, Spangler Hills, and Stoddard Valley Off-Highway Vehicle Recreation Areas would be consistent with BLM management goals for these areas. We would appreciate the opportunity to work with Senator Feinstein and the Committee on minor and technical amendments to this section, to address management discretion for commercial uses, consistency in naming, and the requirement for additional planning activities.

Alabama Hills National Scenic Area

Title XIX would establish the Alabama Hills National Scenic Area, which would encompass about 18,610 acres of public lands and would be administered as a unit of the National Landscape Conservation System. This title also provides for the transfer of about 40 acres of U.S. Forest Service land to the BLM; directs 132 acres of Federal land be taken into trust for the benefit of the Lone Pine Paiute-Shoshone Reservation; and provides for an acquisition by a private landowner to resolve an ongoing trespass issue. The Alabama Hills, which are proposed as a Special Recreation Management Area in the draft DRECP, contain unique geologic features that have attracted photographers, cinematographers, and recreationists for generations. The area provides stunning views of Mount Whitney and the Sierra Nevada Mountains and has spectacular natural arches, rolling hills, and vibrant wildflowers. The area also serves as a backdrop for iconic Hollywood movies and remains a popular location for commercial filming. This proposal is the outgrowth of a grassroots, community-based effort led by the Alabama Hills Stewardship Group, a community-based organization with which the BLM partners on public land stewardship and outdoor education projects in the Alabama Hills. The BLM supports the protection of this area as a part of the National Conservation Lands and the other provisions in this section, and would like to work with the sponsor on language to address management of utility rights-of-way, to ensure consistency with management of other units of the National Conservation Lands, and to address other minor technical issues.

Miscellaneous Provisions

Section 2001 provides for the transfer of approximately 1,000 acres of the Table Mountain Wilderness Study Area to the California Department of Parks and Recreation for administration as a unit of Anza-Borrego Desert State Park. This area contains 12 active mining claims, and the transfer would occur after claims are terminated. The BLM concurs with this transfer, but would like to work with the sponsor on language to ensure clarity of the transfer process and release language of the Wilderness Study Area status prior to transfer to California State Parks. This section also provides for conveyance of approximately 3,500 acres to the Department of Transportation for expansion of Holtville Airport. It is not clear how this conveyance would impact existing geothermal leases and management activities for the flat-tailed horned lizard. We would like to work further with the sponsor to avoid disruption of existing rights and existing conservation agreements.

Section 2003 requires a study to assess the impacts of climate change on the California Desert Conservation Area within two years. The BLM believes that the analysis conducted as part of the DRECP will largely meet the requirements of this section.

Section 2004 establishes certain restrictions on the use of acquired or donated lands within the CDCA. The BLM supports most of these restrictions, but would like to work with the sponsor to ensure consistency with existing agreements and requirements, to provide for discretion and public input, and to ensure technical accuracy. Section 2005 provides for access by members of Indian tribes and requires the Secretary to develop a Tribal Cultural Resources Management Plan for the Xan Kwatchan Trail network.

Section 2006 establishes the Black Lava Butte and Flat Top Mesa Area of Critical Environmental Concern, which would include approximately 6,500 acres of BLM-managed public lands. The BLM strongly supports this provision for the protection of the remarkable cultural resources located on Black Lava Butte.

Section 2007 would transfer the federal reversionary interest in certain lands and minerals to the Metropolitan Water District of Southern California. The BLM supports the goal of conveying the reversionary interest. As with previous such proposals, we recommend amending the legislation to ensure the payment of fair market value for the reversionary interest and to address issues of technical clarity. The value of the reversionary interest would be established through an appraisal by the Department of the Interior's Office of Valuation Services. Upon receiving that appraisal, the District could make a decision on purchasing the reversionary interest. All costs associated with this conveyance, including the appraisal, would be the responsibility of the Metropolitan Water District.

Section 103 requires the Secretary to work with the California State Lands Commission to develop a process for exchange of state parcels within the new conservation designations. The BLM concurs with this process, but would like to work with the sponsor on minor modifications to ensure it is consistent with existing authorities.

Section 104 amends the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) by adding segments of five rivers to the National Wild and Scenic River System. Three of these, the Amargosa River, Surprise Canyon Creek and Whitewater River, cross public lands managed by the BLM and NPS. All three of these are important and rare riparian areas in the deserts of southern California providing habitat for a number of threatened, endangered and sensitive species. We support these designations and would like to work with the Committee on technical issues, including correcting what we believe is an error in the legal description.

Section 105 contains a number of conforming amendments, some of which could significantly impact management of areas designated under the bill. We would like to work with the Senator and the Committee on the language regarding avoiding establishment of buffer zones. The section pertaining to Native Groundwater Supplies would preclude the use of groundwater from certain areas for commercial or industrial purposes in quantities exceeding estimated annual recharge rates or perennial safe yields as determined by the United States Geological Survey (USGS). The USGS has developed a model to estimate recharge in the desert southwest using precipitation and air temperature data from 1970 through 2006. Rainfall, runoff, and recharge estimates for groundwater basins adjacent to Mojave National Preserve could be extracted from this model to assist in the evaluation of right-of-way applications for projects adjacent to the

Mojave National Preserve. Continued hydrologic monitoring will be necessary to avoid any significant impacts on the groundwater resource and other environmental resources supported by groundwater. The Department has no objection to this provision, which would strengthen protection of this critical resource by requiring a careful and balanced review of development proposals in this area.

Title II – Development of Renewable Energy on Public Lands

Title II of S. 414 establishes a new process for disposition of revenues received for the development of wind or solar energy on BLM-administered lands throughout the West. Under this title, 25 percent of revenues would be distributed to States, 25 percent to counties. For ten years, 15 percent of revenues would be used for the processing of renewable energy permits, while 35 percent would be deposited in a Renewable Energy Resource Conservation Fund (Fund). After ten years, the permit processing funds would also be deposited in the Fund. Currently, all such revenues from solar and wind energy authorizations on public lands go to the U.S. Treasury. We have concerns with the diversion of solar and wind energy receipts, including the potential long-term costs of such diversion. Section 202(c) provides for the establishment of the Fund to be administered by the Secretary of the Interior, who may make funds available to other Federal and State agencies for five purposes: 1) protection and restoration of important wildlife habitat and corridors and water resources, 2) conducting research with Universities on restoration and protection activities, 3) securing recreational access to Federal lands, 4) carrying out activities authorized under the Land and Water Conservation Fund, and 5) establishing, operating and maintaining a trans-State desert tortoise conservation center. The Secretary is also required to establish an Advisory Board to provide recommendations and guidance on the amount of funds expended from the Fund.

Additionally, under existing authorities and regulations, the BLM currently collects full cost recovery as costs are incurred throughout the wind and solar application process. Due to the difficulty in estimating the total cost for processing an application upfront, the BLM recommends continuing its current cost recovery process.

Conclusion

The Department of the Interior appreciates Senator Feinstein's years of extensive public outreach and hard work on S. 414 and supports the bill. The Department has a number of substantive as well as minor and technical modifications to recommend, and we look forward to continuing to work with the sponsor and the Committee to address those issues as this bill moves through the legislative process.