

**Statement of  
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Bureau of Land Management, Department of the Interior  
House Natural Resources Committee  
Subcommittee on Federal Lands  
H.R. 3668, California Minerals, Off-Road Recreation, and Conservation Act  
December 9, 2015**

Thank you for the opportunity to testify on H.R. 3668, the California Minerals, Off-Road Recreation, and Conservation Act of 2015. H.R. 3668 would designate six National Off-Highway Vehicle (OHV) Recreation Areas, six wilderness areas, and five Wild and Scenic Rivers and would authorize land transfers to Death Valley National Park, Joshua Tree National Park, and the Mojave National Preserve. The bill also would designate the Black Lava Butte and Flat Top Mesa Area of Critical Environmental Concern (ACEC), the Mojave Trails Special Management Area, and the Sand to Snow National Monument. In addition, H.R. 3668 would authorize land conveyances to the Town of Apple Valley and the City of Twentynine Palms, and includes a number of other miscellaneous provisions. Finally, the bill provides direction for the future conservation, management, and use of federal lands within the California Desert Conservation Area (CDCA).

The Department of the Interior (DOI, Department) would like to recognize the sponsor's efforts to address a number of resource, climate change, and management issues in the California desert. Due to the length and complexity of the bill, my testimony will briefly summarize the views of DOI. While the Department supports many of the conservation goals of H.R. 3668, we cannot support the bill as written. In particular, the Department opposes the designation of the Mojave Trails area as a Special Management Area, which would fail to adequately protect the nationally significant resources found there and would undermine the ability of the Bureau of Land Management (BLM) to manage the area for responsible recreational use. Additionally, the Department strongly opposes restrictions to the President's authority to protect important areas under the Antiquities Act of 1906. A number of additional important concerns are detailed below. 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 Congressional 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 members of the California congressional delegation, careful deliberation and an extensive public process led to the enactment of the 1994 California Desert Protection Act (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 Proposed Land Use Plan Amendment and Final Environmental Impact Statement for the DRECP, for example, new conservation allocations would protect significant and intact natural habitats and cultural resources and link existing Congressionally-designated National Conservation Lands. The BLM notes that some provisions of H.R. 3668 would not be compatible with designations identified in the DRECP. Because the DRECP process included extensive public involvement and coordination with tribal, state, and local government agencies, the BLM recommends that the bill be amended to align wherever possible with the DRECP.

### **H.R. 3668**

#### ***Off-Highway Vehicle Recreation Areas***

Title I of H.R. 3668 designates six OHV Recreation Areas totaling about 220,000 acres. The BLM supports the Dumont Dunes, Razor, and Stoddard Valley designations as they would provide congressionally designated areas for this popular recreational activity in the California desert and would be consistent with BLM management goals for these areas. The BLM notes, however, that the proposal to expand the existing El Mirage, Spangler Hills, and Johnson Valley OHV areas would conflict with some of the conservation designations identified through the public process of the DRECP, including protection of critical habitat for the desert tortoise, bighorn sheep, state-listed Mohave ground squirrel, and numerous rare and sensitive plants. We would like the opportunity to work with the sponsor on boundary modifications to these three areas to achieve greater consistency with the cooperative analysis and public input received through the DRECP in order to protect these critical habitats. We would also appreciate the opportunity to work with the sponsor and the Subcommittee on minor and technical amendments to this title, to address management discretion for commercial uses, the requirement for additional planning activities, and language concerning a project application that has been withdrawn.

### ***Wilderness***

Title II of H.R. 3668 would designate the approximately 92,000-acre Avawatz Mountains Wilderness, the approximately 8,000-acre Great Falls Basin Wilderness, and the approximately 80,000-acre Soda Mountains Wilderness. In addition, this section would expand the existing Golden Valley Wilderness by approximately 1,300 acres, the San Geronio Wilderness by approximately 6,000 acres, the Malpais Mesa Wilderness by approximately 15,000 acres, the Kingston Range Wilderness by approximately 53,000 acres, and Death Valley National Park Wilderness by approximately 88,000 acres. The Department supports each of these designations but defers to the U.S. Department of Agriculture for lands currently managed by the U.S. Forest Service. The 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 desert tortoise and other wildlife to move across a large landscape. The proposed wilderness areas meet the definition of wilderness. These lands have retained their primeval character and have been influenced primarily by the forces of nature, with opportunities for hiking, hunting, rock climbing and horseback riding for those who wish to experience desert solitude and an outstanding backcountry experience. We would like to work with the sponsor and the Subcommittee on some management language modifications in section 203. In particular, with regard to Sections 203(e)(2) and 203(f), 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.

Title II proposes to release over 150,000 acres of twelve BLM-administered wilderness study areas (WSAs) from WSA status. The bill also includes new language that appears to prevent the BLM from conducting regular resource inventories and from considering public concerns regarding the management of these lands for a full range of multiple uses. The BLM strongly opposes language that would restrict the BLM's management of these lands following release from WSA status for a full range of multiple uses under FLPMA, including section 201, which provides for land inventory and identification across a broad range of resources and uses. We recommend the bill be amended to include standard WSA release language. The BLM would support the release of several WSAs under standard WSA release language, but notes that many of these areas, while not appropriate for the protection of wilderness characteristics, nevertheless contain important resources worthy of balanced management subject to the BLM's full inventory and public planning process. These WSAs include the Cady Mountain, Kingston Range, Avawatz Mountains, Soda Mountains, Great Falls Basin, and Death Valley 17 WSAs, which are small portions of WSAs that were not designated as Wilderness by this or other legislation. On the other hand, the Department notes that the Crater Mountain, White Mountains, Symmes Creek, Independence Creek, Southern Inyo, and Cerro Gordo WSAs contain significant wilderness characteristics and other unique resources. We would like the opportunity to work with the sponsor and the Subcommittee on language ensuring the continued protection of outstanding resources in these areas.

### ***National Park System Additions***

Title III of H.R. 3668 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 66,200 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 (approximately 59,000 acres in total) would be designated as wilderness under the bill. In addition, the area known as the Bowling Alley, which consists of approximately 29,000 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 approximately 29,000 acres at the Bowling Alley, about 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 2,900 acres of BLM land would be transferred to the NPS by H.R. 3668. 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 28,000 acres would be transferred from the BLM to the NPS for inclusion in the preserve upon termination of all mining and reclamation activities by Newcastle Gold, Limited, or any successor. Given the significant natural and cultural resources in this area as well as its proximity to the Mojave National Preserve, the Department cannot support the transfer as drafted in this title. 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 also opposes the inclusion of section 303(e), which would give unrestricted water, mining, and access rights to the owners and operators of Castle Mountain Mine. Providing all of the water described in these provisions for the purposes of the mine would likely have irreparable adverse impacts on the preserve's resources and values.

On October 8, 2015, the Department testified before the Senate Committee on Energy & Natural Resources in support of the immediate expansion of the Mojave National Preserve by 21,000 acres followed by a subsequent expansion of 8,000 acres upon the termination and reclamation of mining or ten years from enactment of the title if no mining activities have occurred.

The Department also recommends amending H.R. 3668 with respect to the Death Valley National Park wilderness designation by removing references to the “Federal Land Policy and Management 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 section 202(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 further 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. We also suggest narrowing the buffer zone along the roads in the park to 50 feet from the center line to follow established NPS practice for setbacks in wilderness.

In addition, the Department recommends deleting the proposed section 301(c)(2), which would require 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 Department would like the opportunity to work with the sponsor on a number of technical issues in several NPS-related sections of the bill, including accurate terminology, alignment with language for similar provisions in other laws, time frames, and minor clarifications.

#### ***Designation of Wild, Scenic, & Recreational Rivers***

Title IV of H.R. 3668 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 rivers are important and rare riparian areas in the deserts of southern California and provide habitat for a number of threatened, endangered and sensitive species. We support these designations and would like to work with the sponsor and Subcommittee on technical issues, including correcting what we believe may be an error in the legal description.

#### ***Black Lava Butte & Flat Top Mesa***

Title V of H.R. 3668 establishes the Black Lava Butte and Flat Top Mesa ACEC, which would include approximately 6,500 acres of BLM-managed public lands. The Department strongly supports this provision for the protection of the remarkable cultural resources located on Black Lava Butte but recommends minor technical amendments to enhance manageability.

#### ***Mojave Trails Special Management Area***

The BLM testified before the Senate Committee on Energy & Natural Resources in support of the designation of the Mojave Trails National Monument on October 8, 2015. The spectacular

and diverse landscapes of the BLM's National Conservation Lands currently include 23 National Monuments and 21 National Conservation Areas (NCAs). Each of the National Monuments and 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 mineral entry under the public land, mining, and mineral leasing laws; limiting off-highway vehicles to roads and trails designated for their use; and language that charges the Secretary of the Interior with allowing only those uses that further the conservation purposes for which the unit is established.

The Mojave Trails area 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 area connects eleven existing designated BLM wilderness areas that lie between the Mojave National Preserve and Joshua Tree National Park. This area features stunning sand dunes, iconic mountain ranges, and critical wildlife habitat as well as the remains of historic World War II-era training camps, sites important to Native Americans, and the best preserved section of historic Route 66. Within the proposed Special Management Area are over 250,000 acres of lands acquired by the BLM in the late 1990s from the Catellus Development Corporation for conservation purposes through donation by local conservation partners and purchase with Land and Water Conservation Fund monies.

The BLM currently manages much of this area through administratively-designated ACECs and Desert Wildlife Management Areas (DWMAs), which protect the desert environment and the habitat of the threatened desert tortoise and many other listed and sensitive species. The area was identified for protection under all of the action alternatives analyzed in the DRECP, a collaborative public planning process with the State of California over five years in the making. Based on strong public support and extensive analysis, the Department believes that the significance of the natural and cultural resources in the Mojave Trails area merits their inclusion in the BLM's National Conservation Lands. As we have previously testified, the Department believes the Mojave Trails area could be managed under the common critical elements of the National Conservation Lands in a way that protects the area's significant resources and also allows for recreational use, including by off-highway vehicles.

Title VI of H.R. 3668 would designate this area as the Mojave Trails Special Management Area with a focus on mining and motorized recreation, which would severely conflict with the protection of significant natural and cultural resources. The title contains several management provisions related to mining, utilities, off-highway vehicle recreation, and existing rights that would significantly constrain the management discretion currently available to the BLM and would fail to protect habitat for sensitive wildlife and plant species and other unique resources. Indeed, we believe the provisions outlined in this title would result in management that is considerably less protective of the area's significant natural and cultural resources than is the case today. Therefore, the Department opposes the designation of the Mojave Trails area as a Special Management Area as identified in this title. Additionally, the Department opposes the title's waiver of important processes of NEPA and FLPMA.

### ***Sand to Snow National Monument***

Title VII of the bill establishes the Sand to Snow National Monument, which would include 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 public lands and approximately 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 analyzed.

The Department supports designation of the Sand to Snow National Monument for its outstanding natural values, but we would like the opportunity to work with the sponsor and Subcommittee on a number of issues in this title, including language on OHV use and utilities and alignment with language for similar provisions in other laws.

### ***Land Conveyances, Withdrawals, & Related Provisions***

Title VIII of H.R. 3668 provides for the release of federal reversionary land interests, addresses California State School land and energy development in Juniper Flats, and provides for a number of land exchanges and conveyances.

Section 801 would transfer the federal reversionary interest in certain lands and minerals to the Metropolitan Water District of Southern California (MWDSC). The BLM supports the goal of conveying the reversionary interest to MWDSC. 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 MWDSC could make a decision on purchasing the reversionary interest. All costs associated with this conveyance, including the appraisal, would be the responsibility of the MWDSC.

Section 802 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 supports developing such a process, but would like to work with the sponsor on modifications to ensure it is consistent with existing authorities.

Section 803 prohibits the development of renewable energy generation facilities (excluding rights-of-way or facilities for the transmission of energy and telecommunication facilities and infrastructure) in the Juniper Flats area. The Department notes that the proposed Land Use Plan Amendment and Final Environmental Impact Statement for the DRECP designates a small portion of scattered parcels east of Juniper Flats as Development Focus Areas for renewable energy development. The Department would appreciate the opportunity to work with the sponsor and Subcommittee on boundary adjustments to ensure consistency among the maps included with the bill.

Section 804 authorizes the exchange of approximately 1,300 acres managed by the BLM and the U.S. Forest Service within the San Gorgonio Wilderness with a private individual. We are concerned that such an exchange would create private inholdings that prevent the protection of

wilderness characteristics and other unique resources for which the area was designated. The Department would like to work with the sponsor to ensure that section 804 is consistent with FLPMA and the National Environmental Policy Act (NEPA), including the requirement that all exchanges be in the public interest.

Sections 805 and 806 require the Secretary of the Interior to convey federal land to the Town of Apple Valley and the City of Twentynine Palms for various uses. Since these are both no cost conveyances, the Department would like to work with the sponsor and the Subcommittee on language ensuring that the land would be used for purposes consistent with the Recreation and Public Purposes Act, verifying that the conveyances would be in the public interest, and including a reversionary clause.

Section 807 includes provisions related to the exercise of valid existing rights in areas identified for new designation or conveyance under the bill. The Department strongly recommends that all new designations and conveyances be subject to valid existing rights and urges a general statement protecting such valid existing rights.

### ***Miscellaneous Provisions***

Title IX of H.R. 3668 contains a number of miscellaneous provisions related to tribal uses and interests, deed restrictions on donated land, wildlife management, monument designations, and categorical exclusions for broadband. Specifically, section 901 provides for access by members of Indian tribes and requires the Secretary to develop a Tribal Cultural Resources Management Plan for the Xam Kwatchan Trail network. The Department generally supports this section and would like to work further with the sponsor on this important issue.

Section 902 stipulates that the designations under this Act should not impede military activities, such as overflights and training. The Department would like to work with the Department of Defense, the sponsor, and the Subcommittee to ensure consistency with other authorities, such as FLPMA.

Section 903 allows for the establishment of deed restrictions on the use of acquired or donated lands within the CDCA. The Department generally supports these provisions, 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 904 permits fish and wildlife habitat restoration and management activities on lands designated as wilderness by both H.R. 3668 and the CDPA, when consistent with wildlife conservation objectives of the California Department of Fish and Wildlife. Section 904 also requires the Secretary of the Interior to authorize additional structures and facilities, as well as the continued presence of existing manmade structures and facilities, for wildlife water development projects where determined necessary to benefit wildlife by the California Department of Fish and Wildlife in the wilderness areas and the National Monument designated by the bill. The Department has concerns with this approach and recommends that the sponsor and Subcommittee consider wildlife management language consistent with laws previously enacted by Congress designating wilderness.



Section 905 would restrict presidential authority to designate a national monument in the OHV areas, special management areas, or future additions to the Mojave National Preserve proposed in H.R. 3668. The Department strongly opposes this provision. The Antiquities Act has been used for over 100 years as an instrument to protect critical natural, historical, and scientific resources on federal lands for the benefit of future generations. Sixteen presidents in both parties have used this authority to preserve unique natural and historic features in America, such as the Grand Canyon, the Statue of Liberty, and Colorado's Canyons of the Ancients.

Finally, section 906 categorically excludes a proposed broadband corridor from review under NEPA. The Department strongly opposes this provision because the unknown environmental consequences of the corridor make it an inappropriate use of a categorical exclusion. Environmental analysis under NEPA is necessary to determine if the proposed corridor would create environmental conflicts with the resources protected by the proposed designations and if reasonable alternatives or mitigation measures would be needed to address those conflicts.

### **Conclusion**

The Department of the Interior appreciates the sponsor's work on H.R. 3668 and supports the bill's conservation goals. 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 Subcommittee to address those issues.