

**Statement of
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U.S. Department of the Interior,
Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining
S. 614, RPPA Commercial Recreation Concessions Pilot Program Act
July 26, 2017**

Thank you for the opportunity to testify on S. 614, the RPPA Commercial Recreation Concessions Pilot Program Act. S. 614 would amend the Recreation and Public Purposes Act (R&PP Act) to require the Secretary of the Interior (Secretary) to establish a commercial recreation concessions pilot program for lands transferred or leased under the R&PP Act (R&PP Act lands, covered lands).

The Department of the Interior (Department) supports working with State and local governments to resolve challenging land use issues and enhance the use and enjoyment of America's public lands. We understand that allowing third party commercial recreation concessions on R&PP Act lands could help the Department meet this important objective. The Department supports the goal of S. 614, and would like to work with Senator Flake and the Subcommittee to address a number of issues raised in this testimony. In addition, we would like to work with the sponsor on language granting the BLM explicit recreation concessions authority, which would create jobs, benefit local economies and communities, and enhance recreational opportunities on all public lands, not just those associated with R&PP Act leases.

Background

The Bureau of Land Management (BLM) frequently exercises authority under the R&PP Act to help States, local communities, and nonprofit groups obtain lands at no or low cost for important, specified public purposes. Examples of public purposes allowed under the R&PP Act include establishment of parks, schools, hospitals and other health facilities, fire and law enforcement facilities, courthouses, social services facilities, and public works. Since the R&PP Act's passage in 1926, the BLM has transferred approximately 410,000 acres of public lands to qualifying entities in the form of over 1,600 R&PP Act patents. The BLM also currently manages over 630 R&PP Act leases totaling approximately 76,000 acres.

Because the R&PP Act allows for the transfer and lease of public lands at prices far below fair market value, the State, local, and nonprofit entities that receive the lands must agree to always use them for bona fide public purposes. This stipulation is the foundation of the R&PP Act, and it is the basis for a limitation imposed on for-profit activities on covered lands. Under longstanding BLM policy, any revenue collected by State and local governments or nonprofit organizations on lands leased or transferred under the R&PP Act must be used on those lands. This restriction prevents public lands obtained at little or no cost from being used for large-scale revenue generation without a fair return to the American taxpayer.

The BLM includes reversionary clauses in the transactions to enforce the terms of the original agreements that State and local governments and nonprofit organizations enter into upon applying for and receiving R&PP Act transfers and leases. These provisions help ensure R&PP Act lands will either be used for public purposes in perpetuity or revert to Federal management, in accordance with the R&PP Act. The BLM has addressed requests to eliminate the Federal reversionary interests in covered lands by replacing R&PP Act leases with a commercial lease at fair market value or by allowing an R&PP patentee an opportunity to purchase the Federal reversionary interest at fair market value. Fair market value in each case is determined by the uniform appraisal process managed by the Department's Office of Valuation Services.

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S. 614 would amend the R&PP Act to require the Secretary to establish a commercial recreation concessions pilot program to cover R&PP Act lands. Under the pilot program, the Secretary would enter into agreements with one to 10 parties to whom R&PP Act lands have been patented or leased for the establishment of commercial recreation concessions on the covered lands. The agreements between the Secretary and these parties could last up to 20 years based on specific financing criteria, and they could be extended once for no longer than their original terms.

In addition, S. 614 would allow R&PP Act land holders who have such agreements with the Secretary to enter into subsequent agreements with third parties for the establishment of commercial recreation concessions pursuant to the initial secretarial agreements. The bill also includes language that would open covered lands to a broad array of agricultural, industrial, or commercial uses without being considered a change in use under the R&PP Act. Finally, S. 614 would allow revenue collected by the R&PP Act land holders pursuant to the commercial concessions to be spent without restriction.

Taken together, these provisions would permit public lands obtained for very little or no cost to be used for large-scale revenue generation by third party users without providing a fair return for the American taxpayer. The BLM, as a matter of both policy and practice, and in accordance with the Federal Land Policy and Management Act (FLPMA), generally requires receipt of fair market value for public lands or interests transferred out of public ownership. This serves to ensure that taxpayers are fairly compensated for the removal of public lands from Federal ownership. However, the Department recognizes that there may be circumstances, as determined by Congress, in which the public benefits of a proposed transfer outweigh financial considerations. If Congress opts to move forward with the pilot approach envisioned by S. 614, we recommend amendments to tailor the bill more closely to recreation concessions, align with the original goals of the R&PP Act, and ensure consistency with FLPMA and other Federal laws. In addition, we would like to work with the sponsor to clarify some other key aspects of the bill, including general selection criteria and how designated pilot programs should be distributed across rural and urban areas.

Finally, we would welcome the opportunity to work with the sponsor and Subcommittee to provide the BLM with explicit concessions authority as recommended by a March 30, 2015 Office of Inspector General report titled, "Review of Bureau of Land Management's Concessions Management Practices." The Department believes that providing such authority would further the bill's intended objectives and would enable the BLM to manage recreation

concessions in a manner consist with the Department's other bureaus, thereby increasing efficiency and effectiveness of the agency's visitor facilities and services while also expanding access and recreational opportunities. This authority would also provide the BLM with a longer-term solution that would create jobs and benefit small businesses, local economies and communities, and the recreating public on all of America's public lands, not just those associated with R&PP Act leases. The Department would welcome the opportunity to work with Senator Flake and the Subcommittee on drafting concessions authority language.

Conclusion

The Department appreciates the work of Senator Flake on S. 614 and recognizes the unique role that recreation concessions can play in enhancing the use and enjoyment of America's public lands. We have a number of substantive as well as minor and technical modifications to recommend, and we look forward to continuing to work with Congress to address these important issues as this bill moves through the legislative process.