

**Statement of
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**Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining
S. 2828, Malheur Community Empowerment for the Owyhee Act
September 16, 2020**

Thank you for the opportunity to testify on S. 2828, the Malheur Community Empowerment for the Owyhee Act. S. 2828, if enacted as currently proposed, would require the development of a programmatic Environmental Impact Statement allowing for adaptive management of certain Federal lands in Malheur County, Oregon, and the development of an ecological restoration plan. It would also designate 1.1 million acres of wilderness, release approximately 200,000 acres of existing Wilderness Study Areas, and direct approximately 800,000 acres of lands with wilderness characteristics to be managed under the applicable land use plan. It would also designate approximately 15 miles of the Owyhee River as Wild and Scenic and includes provisions aimed at encouraging tourism and providing improvements to state parks.

The Department supports the goal of providing improved economic and recreational opportunities and important local community development. However, we cannot support S. 2828 as currently written.

As a matter of policy, the Department of the Interior (DOI) supports Congressional action to resolve wilderness designation and wilderness study area (WSA) release issues on public lands across the West, and we welcome opportunities to further those efforts. However, we also want to ensure that designating new wilderness areas on public lands outside of existing WSAs is the most appropriate land management tool. While wilderness designation may be appropriate for some of the areas included in this legislation, the Department is concerned that certain designations in the bill may present management challenges and be inconsistent with the intent of the Wilderness Act or existing land uses, as well as other uses that are of importance to the public.

The Department also has concerns with some of the provisions of the bill that would launch administratively complex and potentially duplicative planning efforts. The Department welcomes the opportunity to work cooperatively with the sponsor of the legislation, the Committee, and all members of the Oregon delegation on wilderness and planning issues in the State.

Background

Malheur County is located in the southeast corner of Oregon. It is the second largest county in the state with an area of 9,874 square miles or 6.3 million acres, and has a population of 31,313, according to the 2010 census. For many years, cattle ranching and agriculture have been the

major economic enterprises in the county. Over 70 percent of the county is in public ownership, including 4.4 million acres managed by the Bureau of Land Management (BLM).

The BLM is committed to ensuring the long-term sustainability of healthy and productive lands, consistent with its multiple-use mandate under the Federal Land Policy and Management Act. We believe partnerships and local public involvement are vital to managing sustainable, working public lands. This means being a good neighbor to local communities, respecting the ties that communities have to public lands, allowing state and local economies to prosper, and welcoming and valuing diverse views into our planning processes. As part of our commitment to healthy and productive landscapes, the BLM is in the process of amending the Resource Management Plan (RMP) for public lands within Southeastern Oregon, including BLM lands in Malheur County covered by S. 2828. The 90-day public comment period on the Draft Southeastern Oregon RMP Amendment and Draft Environmental Impact Statement ended on August 28, 2019.

S. 2828

Adaptive Management of Public Land (Sec. 4)

S. 2828 directs the DOI to develop, within one year of enactment, a programmatic Environmental Impact Statement (PEIS) allowing for adaptive management of Federal lands managed by the BLM in Malheur County, as well as a restoration plan for areas that are “ecologically degraded.” Lands subject to the PEIS are to be monitored by a collaborative Monitoring Network composed of Federal, State, and local organizations. The Department is concerned that the bill does not define what constitutes an “ecologically degraded” area, which would complicate and potentially impede BLM management decisions. The Department believes the bill should also provide a more sufficient timeframe of at least two years for the BLM to produce the required PEIS and restoration plan. Additionally, the Department recommends clarifications of key aspects of the PEIS, including scope, the potential application of wilderness-specific analysis for activities occurring outside of wilderness areas, and references to BLM manual sections.

Further, the bill establishes the Malheur Community Empowerment for Owyhee Group (Malheur CEO Group) consisting of representatives of the Burns Paiute Tribe, ranchers and other county businesses. Under the bill, members of the Malheur CEO Group are to be appointed by the Secretary of the Interior and advise on the PEIS and adaptive management of the land. The Department notes that the Southeast Oregon Resource Advisory Committee already provides advice and recommendations on all aspects of public land management to the BLM’s Burns and Vale District Offices, including lands in Malheur County. As currently written, the bill assigns the Malheur CEO Group with a role that is largely duplicative of the Southeast Oregon Resource Advisory Committee, and as such, the Department believes this Group is unnecessary.

Land Designations (Sec. 5)

S. 2828 establishes 1.1 million acres of wilderness and releases approximately 200,000 acres of wilderness study areas from consideration for wilderness designation. It also directs approximately 800,000 acres of lands with wilderness characteristics to be managed under the applicable land use plans, which is the BLM’s current practice. Additionally, Section 5 designates a 14.7-mile segment of the Owyhee River as a recreational river. The Department recognizes that the wide-ranging lands proposed for wilderness designation encompass scenic

canyons, volcanic rock formations, and rolling hills which serve as habitat for a diversity of plant and animal life and provide important opportunities for hiking, camping, horseback riding, and other forms of outdoor recreation. The Department also notes that Lookout Butte, Dry Creek, Wild Horse Basin, as well as some of the other proposed designations, are within existing WSAs that were not recommended as suitable for wilderness in 1991.

The Department would like the opportunity to work further with the sponsor to refine the initial maps referenced in S. 2828 and thoroughly assess boundary manageability, grazing allotments, and potential conflicts with the intent of the Wilderness Act, including current uses such as roads, inholdings, bicycling, motorized recreation, and access to recreation and historic sites. Additionally, the Department would like to discuss with the sponsor the wilderness management provisions related to fire and invasive species management.

The Department supports the bill's approach in section 5 that directs lands released from further wilderness study to be managed consistent with local land use plans. It is the local planning process through which the BLM makes important decisions on management of these lands, including, among other things, mineral development, grazing, off-highway vehicle use, hunting, and the consideration of natural values. The BLM uses the land use planning process to determine how to manage lands with wilderness characteristics as part of the BLM's multiple-use mandate.

Lastly, the twenty-year administrative withdrawal of lands within the Leslie Gulch Area of Critical Environmental Concern (ACEC) would be made permanent by Section 5. As an ACEC, Leslie Gulch is managed by the BLM to protect the values of high-quality scenery, California bighorn sheep habitat and special status plant species habitat. Further, 85 percent of the ACEC is made up of portions of three WSAs and managed in a manner that maintains the area's suitability for preservation as wilderness. The Department continues to manage Leslie Gulch to protect its environmental and conservation values, but is reviewing the potential supply of critical mineral resources in the area, which could ultimately impact future management decisions. The Department cannot support this section while this review is underway.

Economic Development (Sec. 6)

Section 6 of the bill directs the Department, the County, and "Travel Oregon" to establish requirements for four loop roads to promote tourism. Safety upgrades, including surfacing and signage, to improve access to recreational opportunities are to be completed within one year of enactment. The Department recommends providing additional time for the completion of safety upgrades as environmental analysis under the National Environmental Policy Act are likely to be required and could lengthen the time involved in completing safety upgrades to the loop roads.

Tribal Protections (Sec. 7)

The Department is focused on restoring full collaboration and coordination with tribal communities and making the Department a better neighbor. Under Section 7, approximately 21,000 acres of BLM-managed public lands would be held in trust for the Burns Paiute Tribe. The Department notes that adjacent Federal lands are currently accessed by the public for hunting and other forms of outdoor recreation. The Department, through Secretary's Orders 3347, 3356, 3366, and 3373, has pledged to expand access to America's public lands to increase hunting, fishing, and recreational opportunities nationwide. It would be critical for the

Department to facilitate access to adjacent Federal parcels to ensure continued public access for hunting and outdoor recreation.

Conclusion

Thank you again for the opportunity to testify on S. 2828. The Department looks forward to working with the sponsor and the Committee to address the issues outlined above as this bill moves through the legislative process.