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S. HRG. 107–846

MISCELLANEOUS PUBLIC LANDS AND NATIONAL FORESTS BILLS

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

ON

S. 2016	**S. 2612**
S. 2565	**S. 2652**
S. 2587	**S. Con. Res. 107**

JULY 30, 2002



Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

84–923 PDF WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
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CONTENTS

STATEMENTS

	Page
Abbey, Robert, Acting Assistant Director for Renewable Resources, Bureau of Land Management, Department of the Interior	16
Bentley, Clint, Founder, Nevada Land Users Coalition, Las Vegas, NV	41
Cantwell, Hon. Maria, U.S. Senator from Washington	3
Craig, Hon. Larry E., U.S. Senator from Idaho	5
Ensign, Hon. John, U.S. Senator from Nevada	14
Feinstein, Hon. Dianne, U.S. Senator from California	6
Hunter, Kem, Mayor, Town of Index, WA	39
Kimbell, Abigail, Associate Deputy Chief, National Forest System, Forest Service, Department of Agriculture	24
Murkowski, Hon. Frank H., U.S. Senator from Alaska	2
Murray, Hon. Patty, U.S. Senator from Washington	7
Pearce, Drue, Senior Advisor to the Secretary of the Interior for Alaska Affairs	31
Reid, Hon. Harry, U.S. Senator from Nevada	10
Wallin, John, Director, Nevada Wilderness Project	46
Wyden, Hon. Ron, U.S. Senator from Oregon	1

APPENDIX

Additional material submitted for the record	57

MISCELLANEOUS PUBLIC LANDS AND NATIONAL FORESTS BILLS

TUESDAY, JULY 30, 2002

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:30 p.m. in room SD–366, Dirksen Senate Office Building, Hon. Ron Wyden presiding.

OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. The subcommittee will come to order. Let me note that we do have a vote at 2:45, but we are going to see if we can begin and at least get through the opening statements, and then we will go for the vote and return quickly.

The purpose of today's hearing in the Senate Subcommittee on Forests and Public Lands is to receive testimony on a number of public lands and national forests bills. Our goal is to focus on constructive and creative responses to issues arising on our public lands concerning environmental, economic and human concerns.

During this Congress, the subcommittee has heard testimony on a number of contentious issues, including old growth Northwest forest plans, and fire issues, but also on a number of noncontroversial public land management issues such as invasive weed control and individual land exchanges.

Today, the subcommittee examines the issue of wilderness in addition to addressing proposed solutions to several public land management issues that have come across the country. To that end we will be examining S. 2016 to authorize an exchange of lands in Alaska; S. 2565, the Wild Sky Wilderness Area, which proposes wilderness in Washington State; S. 2587 to establish a Joint Federal and State Navigable Waters Commission; S. 2612 to examine wilderness areas in Nevada; S. 2652, the Florida National Forest Grant Management Act; and S. Con. Res. 107 expressing the sense of Congress that Federal land agencies should be fully supportive of the Western Governors Association collaborative 10-year strategy for reducing fire risks.

We are very pleased to have members, in particular from Nevada and from Washington, who have done very good work with respect to their wilderness bills, and we commend them for working hard to bring all the stakeholders together. We welcome all of them, and

I first want to recognize our colleagues for their opening statements, and let us begin with Senator Murkowski.

STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you very much, Senator Wyden. Let me generalize a little bit again, and I have done this every occasion as we look at the fires that are burning in the West, whether it be Colorado or California or now Oregon, and the realization that these fires don't necessarily know the origin of land, other than it's rather curious that for the most part these fires are occurring on U.S. Government land, and they are devastating, and if you look at forest management practice and recognize that those that control private lands, they are not exempt from lightning or activities associated with campfires or accidents, but they have a much better record of being able to combat them because they have access into the areas.

As long as we maintain this ingenuous, disingenuous I should say, policy of kidding ourselves that somehow we can manage these public lands without having access into the areas, we are going to continue to have devastating fires and as a consequence, those fires are going to leave us with the frustration of having to make decisions that are temporary as opposed to decisions that are permanent. The permanent decisions suggest access is appropriate in these areas and the sooner we get on with it, the better.

I want to thank you for the hearing today on two of the bills from Alaska. The Concurrent Resolution 107 calls for the Forest Service and Department of the Interior land management agencies to implement the Western Governors Association so-called collaborative 10-year strategy for reducing wildland fire risks to communities and the environment.

We've got over 200 million acres of Federal land that have fuel problems posing a serious risk for wildfire. These have been mapped in a fire risk condition Class II and Class III. Mechanical fuel removal is critical to protecting these lands from fire risks. And let there be no mistake about fuel removal, it means removing the timber that's in question. We have about a million acres of bug kill timber that represents a tinder box awaiting a serious catastrophe that will occur on the Kenai Peninsula. We've got more than 600,000 acres of dead trees standing on Federal land.

The rationale is that the Federal authorities can't come to any kind of a uniform decision-making process as to what to do, so in the void they hold a town hall meeting, a public hearing, and they don't make a decision based on forest health or best forest management practice. This is a situation I think that hopefully will come to an end under the current administration.

Passing Senate Concurrent Resolution 107 and implementing the Western Governors collaborative 10-year strategy are timely actions, they should be pursued.

The situation in the Village of Newtok, in western Alaska, this little village is only 300 people, it's threatened by erosion, the Ninglick River is eating away the banks. The bill would provide for a simple land exchange as the first step with providing these villagers with an alternative to saving their homes.

We have worked with the Department of the Interior to arrive at a solution to the problem. A substitute bill has been crafted that addresses the concerns expressed by the Department about the original S. 2016. I would ask the committee to help get us through this issue during the present session of Congress.

S. 2587 establishes a Joint Federal State Commission to expedite the resolution of a longstanding problem in Alaska. The commission would facilitate determinations of the navigable status of lakes, rivers and streams. That's taken place in all the other States, but it hasn't been completed in my State of Alaska.

Under the equal footing doctrine, Submerged Lands Act, every State gains title to submerged lands that underline navigable rivers within its boundaries upon entering the Union. Since Alaska became a State in 1959, we have had only 13 of more than 22,000 rivers determined to be navigable, and the status of well over one million lakes has been left in question.

Currently, there is no mechanism by which the State and Federal Governments can reach prearranged agreement on waters that need classification, leaving litigation against the United States the only recourse available. Well, that's just full employment for the lawyers. S. 2587 will obviate the need for litigation on the status of these waterways where agreement can be reached by the joint commission.

The State has done its part to make the commission a reality. It passed legislation that authorized the State's side of the commission. Congress should act expeditiously to establish the needed Federal authority.

Again, I express my appreciation, and I know your frustration, Senator Wyden, with the poor forest management practices. I would hope under your leadership that we can address some realistic solutions as opposed to just taking the heat off for the balance of the summer as we go into the fall and then sitting here next year doing the same thing when we have these fires.

Thank you, Mr. Chairman.

Senator WYDEN. The Senator makes a number of very good points and it's my hope just as we were able to come together against great odds on the county payments legislation in the last Congress that we will be able to come together on this issue of addressing fire questions and related issues with respect to forest management so we can get our forests prospering again. I am very hopeful that in the next few days we will see some exciting developments with Senators coming together around these issues, and I appreciate the Senator's comments.

Let's hear now from the Senator from Washington, who has done very good work on Washington wilderness issues.

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Mr. Chairman, for holding this hearing, and I would first like to recognize my colleague Senator Patty Murray, who is here today, and the mayor of Index, Mayor Kem Hunter. They are both here today to testify on behalf of the Wild Sky Wilderness Act. I want to thank Senator Murray for her outstanding leadership on this legislation. I applaud her and her

staff for crafting this legislation, which has such broad public support in our State.

This bill is the result of 2 years of hard work by her and her staff, with input from the Forest Service and various community stakeholders. The bill reflects a consensus approach to putting the natural heritage and treasures which have come to define Washington's culture and history into place. I am proud to be a cosponsor of the Wild Sky Wilderness Act, and Mr. Chairman, this is the first Washington State wilderness bill to be considered by this committee in 18 years.

Washington State has had a long and rich history of designating wilderness areas, starting with Senator Henry "Scoop" Jackson, who understood the importance of preserving these unique natural resources that our State possesses. And he believed it was our responsibility as members of this body to protect our national forests for future generations.

This legislation, which I'm sure Senator Murray will go into with much more detail, would make wilderness area some 106,000 acres within the Mount Baker-Snoqualmie National Forest. And it would provide high quality open space for more than 2.4 million people living in nearby communities. I believe that we must act now, not only for our generation but for future generations that will benefit from the good stewardship that this legislation represents.

Mr. Chairman, I would also like to mention that I am also a cosponsor of Senate Resolution 107, sponsored by Senators Craig and Feinstein, which is also the subject of today's hearing. This resolution highlights the need for Federal land management agencies to fully support and implement the Western Governors' 10-year strategy for reducing wildfire risks. My colleague just mentioned that issue and our need to work together using a commonsense approach to get something done.

I also want to make sure that we don't use this as an opportunity for creating division among us on various issues in the management of public lands or public forests. I would like to submit for the record an editorial that was in *The New York Times* today that basically talked about how we do need to work together to implement a strategy and implement it now.*

Senator WYDEN. Without objection, so ordered.

Senator CANTWELL. I look forward to hearing from our witnesses today, and I look forward to seeing action on both of these pieces of legislation.

Senator WYDEN. I thank my colleague, and will congratulate Senator Murray a little bit more down the road, and I know it seems like eons ago when she came to me on this legislation. She's spent all this time bringing the stakeholders together, and we congratulate her on her work.

Let me recognize my colleague from Idaho, and in doing so, express my thanks to him. He has been working, and his staff, pretty much around the clock with me and my staff on these issues, and I'm very appreciative. And it has also been with an eye towards finding common ground, which is never easy to do in this area, and I want to thank him.

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*The editorial has been retained in subcommittee files.

STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Thank you very much, Mr. Chairman, for those kind remarks. We are working. We hope we can come up with something to adapt with the public and the stakeholder interests across the country as we go out for the August recess that deals with a variety of issues on our forests and public lands.

Mr. Chairman, I went home this weekend like many do, except that to get into north Idaho, I land in Spokane, Washington, one of the cities—and both Senators from Washington State. I landed in a city shrouded in smoke. Fires were not burning in or around the Spokane area, they were burning above the Dalles on the Washington side, and they were wild in Oregon. Homes being evacuated, people's lives being threatened, property, wildlife habitat.

Congress fiddles while our public lands burn, and some of our radical environmentalists are playing the symphony chorus, and how tragic it is at this moment. This weekend we burned the four-millionth acre of public lands, not just lands, watershed, wildlife habitat, and that land probably will not replenish itself in our lifetime because these fires are so hot and so threatening, and stand-altering in stand-changing ways.

And the summer is early. In a normal year we would just be entering the fire season, not in the midst of a wildfire, and yet today we are. The national headlines this morning, thousands of homes in Oregon being evacuated or at risk to a fire down there that's now over 90,000 acres in size.

So Senator Feinstein and I, her vision, the Western Governors, we have teamed up on Senate Concurrent Resolution 107. It's kind of like sticking your finger in a bucket of water and stirring it just a little bit, you hope it will come out wet enough that you can flick the finger and maybe put out a spark. But that's about all we will get done.

200 million acres of public lands at high risk, Class III lands. That means the Forest Service and the scientists and the experts have gone out and studied them, and said those lands are subject to wildfire, major fire that will destroy everything in its path.

Now, 200 million acres is no small tract of land. It's the size of Oklahoma and Texas combined. So in your minds while you're sitting out there, think of that section of the country, blacken it out, destroy it for the next 30 years to wildfire, and you have what is in reality what this Government and this country is allowing to happen at this moment on the forested public lands of the United States.

The Western Governors are right and we hope that our strategy will work a little bit. But even if we were to go into warp speed to correct the problem, we would still lose upwards of maybe 50, 60, 70 million acres over the next 10 years, folks, just simply put, it's going to burn. Not naturally, not in a way that fire once ambled through our forests a century ago, but in wild torrents that will destroy everything in its path. That's what we're facing today, so we are working at doing something about it, and the chairman and I are working to do something more.

Many have criticized Tom Daschle for what he did in the Black Hills. I criticized his process, but I don't criticize the results. He

had to do something. He reached out to try to save that property, at the criticism of some, including me, because he did not do it in the bright light of day, he did it in the shroud of smoky darkness, but he got it done. And I would hope that maybe we can use that as a precedent, oh yes, environmental interests, a precedent that something is wrong out there in America's forests that we have to deal with, and I hope me do.

Let me also say that what the Senators from Washington have done in the Wild Sky Wilderness Act of 2002, while I have not looked at all of the details of it, is the way it ought to get done, an inclusive collaborative process that has brought all of the stakeholders together to try to resolve this issue. I said to our new President early on, while we ought to put down the roadless regs, while we ought to just not allow any President or any administration to bypass the process and lock us out of 64 million acres of public land, this President and all of us ought to get at the business of the rare-to process, look at the wilderness areas that have been designated, work with all of our stakeholders and try to resolve them. And that's good public policy when that's done in a collaborative fashion.

I know that Senator Ensign is here from Nevada. Senator Reid and he have worked on some similar efforts in his State to bring some balance and I encourage them to continue. A lot of work left to be done. Thank you, Mr. Chairman.

Senator WYDEN. I thank my colleague. Senator Feinstein, congratulations to you for bringing the work of the Western Governors before the subcommittee.

STATEMENT OF DIANNE FEINSTEIN, U.S. SENATOR FROM CALIFORNIA

Senator FEINSTEIN. Thank you very much, Mr. Chairman, and I'm delighted to have my colleagues Senator Murray and Senator Ensign. I'm not sure you want to sit here and listen to us speak, but it's great that they're here on this particular bill.

I'm very happy to join with Senator Craig. Two of the last 3 years have been the worst years in history for forest fire, and this one looks like it's going to be the worst year for all time. And so if you really reach back and look for a reason, I think the reason one comes up with, and I say this after now about 2 or 3 years working on Quincy, and Senator Craig, you have been a great help on that, is really failed forest policy. That fire suppression, this one size fits all effort simply to suppress fire when it encroaches on property or life is a mistake in policy.

Let me use for an example, a fire that's burning in California in the giant sequoias. The giant sequoia by nature is a fire resistant tree, but if the underbrush builds up, if small nonindigenous trees build up and they burn, it creates a fire ladder which burns so hot that it reaches the canopies of the giant sequoias, and even those trees burn. And that's what we find has been happening, that there is so much dead and dying, so much underbrush that's not cleared under the policies of fire suppression in our forests, that when a fire hits, it burns hotter than it used to historically, and therefore, does much, much more damage.

I also believe very strongly that the kind of one size fits all approach of the past has not been right. Geography is different, weather is different, tree species are different, they burn in different ways. And therefore, the one size fit all doesn't work. And we have had an interesting experience because for the last 3 or 4 years, we in California in the north have been trying to change that fire suppression policy by a group that came together, they met in the public library so that timber people and environmentalists could not scream at each other in the public library, and worked for 5 years to evolve a plan which was a pilot, to build in defensible fuel zones, to do some mechanical, very precise thinning to clear out underbrush, to use it as biomass, and to see if you couldn't prevent forest fires and at the same time have prudent sustainable harvesting that made sense.

I thought it was worth a try, and the interesting thing is, it passed the House by all but one vote. It came here, it began to move, it had problems, it finally moved. It's been the law now for well over a year and very little progress has been made, and part of the problem is in the field, the Forestry Service doesn't want to do what the legislation calls for, and consequently our forests burn.

There are 23 million acres in the highest risk of catastrophic fire in the United States of America. 7 million of those are in my State, the entire Sierra Nevada range, the Plumas, the Lassen, the Tahoe forests. I am very worried because I think we could have a major wipe out, and I also believe that the way we need to go is to take a look at the areas in the highest fire risk of catastrophic fire and provide a methodology to expedite what needs to be done, to create defensible fuel zones, to clear out underbrush, to remove dead and dying, to prevent these fires. When they do happen naturally and they will, to burn so hot, so mean, so fast that they wipe out old growth, they wipe out endangered species habitat, and most importantly, they kill people.

We just lost three firefighters close to your State, Senator Wyden, Senator—well, you're not Oregon but Northwest, and I feel very, very strongly, and I think this is a first step, moving this resolution. I am happy to follow the lead of Senator Craig, moving this resolution, but the proof is going to be in the pudding and we've got to take that highest fire risk fire, we have to move more rapidly to move in and clean out and clear out those forests before they go.

Senator WYDEN. I thank my colleague. We've got a vote on the floor. I think what we will do is break now for 10 minutes, we'll go and vote and then we will come back.

Senator REID. We still have a lot of time to vote, Mr. Chairman.

Senator MURRAY. We can make our statements brief.

Senator WYDEN. Do you want to try to make your statements in a couple of minutes?

Senator REID. We will make them short.

Senator WYDEN. This is a first. Senator Murray, congratulations.

STATEMENT OF HON. PATTY MURRAY, U.S. SENATOR FROM WASHINGTON

Senator MURRAY. Thank you, Mr. Chairman. I really appreciate your accommodating all of us here. I want to thank you and Senator Craig for giving us the opportunity today to show this commit-

tee why we in Washington State, as Senator Cantwell said, are so excited about the Wild Sky Wilderness proposal.

This is a new wilderness area that will protect a unique landscape and the wildlife that depend on it, and it's going to offer great recreational opportunities for thousands of families in the growing Puget Sound region for generations to come. And importantly, it's going to strengthen the economies of the surrounding area. But best of all, Mr. Chairman, as was stated by Senator Craig, it was developed with the cooperation and input of local residents and organizations throughout our State.

I want to specially welcome to our hearing Mayor Kem Hunter, who is the mayor of Index, and his wife Edna. They are here, have traveled all the way out here, and he will give you a much better local perception. But he has taken time out of a very busy personal life and professional life to share why he is so excited about the Wild Sky Wilderness proposal, and I am delighted he is here today.

As I said, this has really been a cooperative effort, and I want to thank Senator Cantwell, who has just been great with her support and commitment, and Senator Bingaman and his staff, Kira Finkler and David Brooks. And I want to thank my colleague in the House, Congressman Rick Larson, who has spent a great deal of time with me on this issue.

The proposal before you today is really the result of more than 2 years of discussion and negotiation with the local community, Longview Fiber, Washington State Snowmobile Association, Wild Washington Campaign, and the Chelan County POD. Throughout the process the staff of Mount Baker-Snoqualmie National Forest has just been great in responding to our questions as well. This proposal really reflects the values of Washington State and respects the economic and recreational interests of the people of Snohomish County.

It's going to provide a very unique landscape and make it accessible to families throughout the Puget Sound region, where our population is growing very rapidly and hasn't added any new Forest Service since 1984, as Senator Cantwell mentioned.

Mr. Chairman, I know time is short. I'm going to give you my statement for the record, but just let me say, there's such unique times in our history where we can do something that really will be there for generations to come. This is a proposal that has many wonderful aspects that I will submit for the record, but I want to say, a lot of people worked very, very hard, and we appreciate your helping us move this forward through the process. Thank you.

[The prepared statement of Senator Murray follows:]

PREPARED STATEMENT OF HON. PATTY MURRAY, U.S. SENATOR FROM WASHINGTON

Thank you, Mr. Chairman.

I want to thank you and Senator Craig for giving us the opportunity to show this committee why we in Washington State are so excited about the Wild Sky Wilderness proposal. This new wilderness area will protect a unique landscape and the wildlife that depend on it. It will offer recreational opportunities for thousands of families in the growing Puget Sound region. And it will strengthen the economies of the surrounding communities.

Best of all, Mr. Chairman, it was developed with the cooperation and input of local residents and organizations throughout our state. I want to especially welcome to our hearing, Mayor Kem Hunter of the Town of Index. He's taken time out of

his busy personal and professional life to share his support for the Wild Sky Wilderness proposal. He really personifies the values we're trying to preserve in Washington state, and we're grateful that he's with us today.

As I mentioned, this has been a cooperative effort throughout. I want to recognize just a few of the people who have helped us reach this point. I want to thank Senator Cantwell for her strong support and commitment. I want to thank Senator Bingaman and his staff, Kira Finkler and David Brooks for their help in developing this bill.

Finally, I want to thank my colleague and my partner in this bill, Congressman Rick Larsen. He's spent a great deal of time on this proposal. He's reached out to the local communities to understand their priorities and include them in our bill.

The proposal before you today is the result of more than two years of discussion and negotiation with the local community, Longview Fibre, the Washington State Snowmobile Association, the Wild Washington Campaign, and the Chelan County Public Utility District. Throughout the process, the staff of the Mt. Baker-Snoqualmie National Forest have responded to our questions quickly and with professional insight.

The Wild Sky Wilderness Proposal reflects the values of Washington State, and respects the economic and recreational interests of the people of Snohomish County.

Mr. Chairman, the Wild Sky Wilderness will protect a unique landscape and make it accessible to families in the Puget Sound. While our population is growing rapidly, Washington State hasn't added any new Forest Service wilderness areas since 1984. I want to briefly mention four benefits of this proposal.

First, this wilderness area will protect wildlife and promote clean water by preserving the landscapes that host many native plants and animals. Native Americans and early 19th century settlers encountered wolves, mountain goats, black and grizzly bears, deer, and healthy runs of salmon, steelhead, and trout. Unfortunately, their numbers are shrinking, and we can protect them for future generations by protecting their habitat. The wilderness will also help us protect threatened species of salmon, steelhead, and trout.

As we ask private landowners to recover wild fish runs, I believe the federal government must do everything possible on its own land to achieve those goals.

Second, this wilderness designation will enhance and protect recreational opportunities for our growing region. It protects the area for today's users and seeks to open up new areas for climbers, hikers, hunters, and anglers. It directs the Forest Service to work with the public to develop new trails in and around the wilderness to expand public access to these remarkable landscapes.

Third, the Wild Sky Wilderness will better reflect the diverse landscapes of our region. Low-land elevations, like areas under 3,000 feet, are not a large part of our existing wilderness areas. Only 6.6 percent of all Washington State wilderness areas are under 3,000 feet. As a result, our current wilderness areas don't reflect the entire array of ecological system. Our proposal is made up of about 30% low-land areas, including low-land forests and salmon-bearing streams. That will bring new ecological systems into our State's wilderness lands and better reflect the broad palette of nature's landscapes.

Finally, this wilderness will contribute to the local economy. People looking for easy and quick access to nature will see the Wild Sky listed in maps and hiking books as a special destination. Every climber, hiker, hunter, and angler setting out to the Wild Sky Wilderness will be stopping at hotels, campgrounds, restaurants and stores in the gateway communities in the greater Skykomish area.

Rafters and horseback riders will be using guides and outfitters in the local communities. The recreational economy appears to have grown even in difficult times, and I hope this bill will help improve the economies of these gateway communities.

Mr. Chairman, those are just a few of the benefits this proposal will bring. I've included more information on my Senate web site. And in a few minutes, we'll get to hear more about it from Mayor Hunter.

Again, Mr. Chairman, I appreciate the Subcommittee's time and consideration of this legislation. I believe the Wild Sky Wilderness Act is significant for the state and local communities and hope it will be moved by the Committee this fall.

Thank you.

Senator WYDEN. I thank you. We're going to try to move your bill just as quickly as we can. Senator Reid, you came to me a long time ago with your wilderness initiative. Congratulations for all the good work you and Senator Ensign have done, and go ahead with your statement.

STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA

Senator REID. Mr. Chairman, this is an important bill. Senator Ensign and I have worked on this from they day he stepped into the Senate until we got a bill. It's bipartisan. We have worked so hard, our staffs have worked diligently, we have had many hearings in the State of Nevada where our staffs met with people all over, as this deals with southern Nevada.

This is a fine bill, it's big, but people should understand, the Las Vegas area does not have urban sprawl. It's one of the most compact cities in America because 87 percent of the land is owned by the Federal Government. This is a modest proposal to get some of that public land into private ownership. All the municipalities have signed off on this. The Las Vegas Metropolitan Police Department has signed off on it. This is good legislation, and I appreciate very much you holding this hearing.

This also takes into consideration the new airport that we're building about 35 miles from Las Vegas. It develops a small corridor of land out to the airport so that there can be utilities and stuff put in to go to that big new airport that will relieve congestion in the Las Vegas area.

I ask for consent of this committee that my whole statement be made part of the record.

[The prepared statement of Senator Reid follows:]

PREPARED STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA

Mr. Chairman. I would first like to thank you for taking time out of your busy schedule to hold this hearing on S. 2612, the Clark County Conservation of Public Land and Natural Resources Act of 2002. The Clark County Conservation PLAN bill is extremely important to southern Nevada and to Senator Ensign and me. I think this broad-based compromise legislation is also important for America.

The Clark County Conservation PLAN bill balances the needs for infrastructure development, recreational opportunities, and conservation of our precious natural resources in southern Nevada.

As you may remember, Mr. Chairman, 87 percent of the land in Nevada is managed by the Federal Government. This includes land managed by the U.S. Forest Service, the Bureau of Reclamation, the Bureau of Land Management, the Department of Energy, the National Park Service, the Fish and Wildlife Service, the U.S. Army, the U.S. Navy, and the U.S. Air Force.

The Secretaries of the Interior, Agriculture, Defense and Energy bear tremendous responsibilities for the management, development, and conservation of natural resources in Nevada. Unlike most of America, where land-use decisions are made by communities, in Nevada, many land use decisions require concurrence of Federal officials and, in some cases, the passage of Federal laws. This is a circumstance that very few Senators understand from experience, but I know that my colleagues on this Committee recognize the tremendous challenge inherent in this system.

The challenge of Federal land management is not unique to Nevada: in fact, it characterizes much of the West. As I have mentioned, however, this situation is compounded in Clark County, where the fastest-growing population in America lies in the heart of one of the most extreme and fragile regions in North America—the Mojave Desert. This legislation has many provisions, but it accurately reflects the many challenges faced by southern Nevada.

Some people believe that guiding growth in Southern Nevada and protecting our desert for future generations are mutually exclusive. Some believe that protecting our air and water quality and setting aside some open space as wilderness are overly costly and unnecessarily restrict recreation and development. Some believe that the Federal government's management of public land is too strict; others believe it is too lenient. Some believe that every acre of Clark County should be privatized. Some believe that not a single acre more should be auctioned from the public domain. Every Nevadan has a different view on the particulars, but every Nevadan feels passionately about these issues.

I have described the context within which we developed this bill to illustrate why compromise is not just necessary but warranted. Senator Ensign and I have received criticism for what this bill does not do—it does not designate all of the 2 million acres in Clark County as the Nevada Wilderness Coalition advocates—nor does it release all the wilderness study areas in Nevada as others advocate. We do not apologize for this compromise, rather we present it to the Committee for what it is—a fair-minded, forward-looking framework for the future development and protection of public land in Clark County.

The Clark County Conservation PLAN reflects three complementary goals:

(1) Enhancing our quality of life;
(2) Protecting our environment for our children and grandchildren; and
(3) Making public land available for high-quality development consistent with these principles.

I would like to highlight a few ways in which the Clark County Conservation PLAN bill will improve the quality of life and enhance economic opportunities for Nevadans while enriching and protecting the awe-inspiring natural resources that bless southern Nevada for the benefit of future generations of Nevadans and all Americans. I would like to submit my full written testimony for the Committee's Record.

TITLE I—RED ROCK CANYON NATIONAL CONSERVATION AREA EXCHANGE

When Congress passed the Southern Nevada Public Lands Management Act in 1998, we made the decision that it was in the public interest to transition away from Federal-private land exchanges and competitively auction those parcels of land deemed by the BLM as suitable for disposal. This decision has proven quite effective and fair and likely represents the future of land privatization in Nevada and the West. At the time the law was enacted, however, Congress did contemplate that a limited number of ongoing land exchanges should be completed because of their benefit to the public. One of these exchanges is familiarly known as the Red Rock Canyon-Howard Hughes exchange. This exchange would be completed by Title I of the Clark County Conservation PLAN bill.

In the Red Rock Exchange, the Bureau of Land Management will acquire roughly 1,070 acres of land owned by the Howard Hughes Corporation. This land forms promontories above the gently-sloping bajada (buh-HA-da) in the foothills of the La Madre Mountains on the eastern border of the Red Rock Canyon National Conservation Area. This land affords spectacular views of the Las Vegas Valley. Development of this land would degrade the Red Rock NCA and diminish the beautiful view from Las Vegas to the west—a view many Las Vegans treasure.

Our bill provides that the lands I have described will become part of the Red Rock NCA once acquired by the Federal government. In exchange for the Red Rock lands, the Howard Hughes Corporation will receive acreage of equal value, as determined by a government-certified appraiser, within the Las Vegas Valley. Finally, the Howard Hughes Corporation will convey some of their acquired acreage to Clark County for use as a county park and for inclusion in a regional trail system. As I mentioned earlier, this proposal has been around for a number of years and enjoys unusually broad support ranging from the County to the environmental community. The time when this exchange should have reached completion through the administrative process has long since passed and a legislative resolution is now in order.

TITLE II—WILDERNESS DESIGNATION

Nevada has nearly 100 Wilderness Study Areas on Federal land across the state. These areas, which are primarily administered by the Bureau of Land Management, are managed to protect wilderness character of the lands under current law. These areas remain as de facto wilderness until Congress passes a bill changing wilderness study status by either designating the land as wilderness or releasing the land from Wilderness Study Area consideration.

Although there is broad support for addressing Nevada's Wilderness Study Areas through Federal legislation, there is no consensus regarding how to do so. Those who advocate for wilderness designation and those who oppose further additions to the wilderness system hold strong and, in many cases, irreconcilable views on this issue.

Those of us who wrote this bill likewise hold different views regarding wilderness. In developing the wilderness component of this bill, Senator Ensign, Congressman Gibbons, and I made compromises that cause heartburn for all interested parties. We believe, however, that this is a critical step toward addressing the outstanding wilderness study issues in the state of Nevada. Our bill designates wilderness and releases wilderness study areas. It creates 20 wilderness areas: 6 managed by the

BLM; 4 jointly managed by the Park Service and BLM; 7 managed by the Park Service; and 3 jointly managed by the BLM and the Forest Service.

In addition to these wilderness areas, our bill releases from Wilderness Study Area status acreage associated with each of the BLM and Forest Service areas we address. In fact, we release three BLM study areas in their entirety. Two of these areas will eventually accommodate growth at the north end of the Las Vegas Valley and help provide jobs for decades into the future.

We have provided for wilderness management protocols that address the particular circumstances of southern Nevada. For example, we explicitly require the Secretary of the Interior to allow for the construction, maintenance, and replacement of water catchments known as guzzlers when and where that action will enhance wilderness wildlife resources. In addition, we believe that the use of motor vehicles should be allowed to achieve these purposes when and where it is the minimum tool necessary to accomplish the task, and it does not require the creation of new roads.

Some wilderness purists argue that these man-made guzzler tanks disturb the naturally functioning ecosystems of the Mohave Desert. I respect this view, but I believe that these projects help restore more natural function to ecosystems that have been forever fragmented by development, including roads. These projects, which are privately funded by dedicated sportsmen like Clint Bentley, who will testify later today on behalf of the Nevada Land Users Coalition, have a legitimate place in southern Nevada wilderness, and this bill is clear on that point.

In our effort to create a fair wilderness designation, we have benefitted from the advice and suggestions of many Nevadans representing a range of views. These advocates include the Nevada Land Users Coalition, The Sierra Club, The Virgin Valley Sportsmen's Association, The Nevada Wilderness Project, The Fraternity of Desert Bighorns, the Nevada Mining Association, Red Rock Audubon, and Partners in Conservation, to name just a few. We appreciate their help and believe that this compromise honors our commitment to listen carefully to all parties. We are also grateful for the help we have received from the Federal land managers in Clark County and look forward to working with them to improve this bill to help make their jobs easier and the public experience on public land better. We have also received comments from the staff of this Committee and look forward to working with the members of the Committee to further refine the wilderness provisions of this bill.

TITLE III—INTERAGENCY FEDERAL JURISDICTION TRANSFERS

Early in this bill's development, we decided not to address wilderness issues within the Desert National Wildlife Range, which lies just north of Las Vegas. This decision disappointed many in the environmental community who view the wilderness resources in the Range as some of the best in the Mohave Desert. Wilderness in the Range is, however, beyond the scope of this bill.

The Clark County Conservation PLAN does transfer the management responsibility of three Wilderness Study Areas, totaling more than 49,000 acres, from the Bureau of Land Management to the Fish and Wildlife Service. These areas lie between State Highway 93 and the Range, so this transfer helps rationalize the Federal land ownership pattern in northern Clark County.

In addition, this bill transfers a small parcel of land from the Bureau of Land Management to the National Park Service for use as an administrative site on the road between Searchlight and Cottonwood Cove. This transfer will save taxpayer dollars by allowing the Park Service to consolidate two planned administrative sites into one and manage the Lake Mead National Recreation Area more effectively.

TITLE IV—SOUTHERN NV PUBLIC LANDS MANAGEMENT ACT AMENDMENTS

When Congress passed the Southern Nevada Public Lands Management Act of 1998, it established a new paradigm for the sale of public lands in Clark County, Nevada. One of the core principles of this new way of doing business was that the proceeds from the sale of Federal lands should be reinvested in Federal, state, and local environmental protection and recreational enhancements in the state in which the lands are sold.

The Clark County Conservation PLAN Act modifies the Southern Nevada Public Lands Management Act and expands the so-called Las Vegas Valley disposal boundary. This expansion will make an additional 25,000 acres of BLM land available for auction and development for many years. The proceeds from the sale of this Federal land will continue to accrue to the Southern Nevada Public Lands Special Account and be invested in the purchase of environmentally sensitive land, the development of Federal land infrastructure, the implementation of the Clark County Multi-Species Habitat Conservation Plan, and local government open space, recreation and

conservation projects. Our bill further provides that at least one-quarter of the Special Account be dedicated to the last of these purposes.

TITLE V—IVANPAH CORRIDOR

One of the most important infrastructure issues facing southern Nevada is siting a new international airport. The County's preferred and likely site is in a dry lake bed between Jean and Primm, Nevada, south of the Las Vegas Valley in the Interstate 15 transportation corridor near the California border. Congress made Federal land at that site available for use as an airport, pending environmental reviews.

The Clark County Conservation PLAN bill complements that law in two important ways. First, our bill conveys Federal land adjacent to the proposed airport to the Clark County Airport Authority so that it can promote compatible development within the area affected by the noise of the airport. Any proceeds derived from the sale of these Airport Authority lands would be distributed in the same way as proceeds generated from lands sold within the Las Vegas Valley Disposal Boundary.

Second, our bill directs the Bureau of Land Management to reserve a right-of-way for non-exclusive utility and transportation corridors between the Las Vegas Valley and the proposed airport. This corridor is important, because in order for the new airport to remain economical, it will require significant utility development to come from the north. Our bill does not dictate exactly where, when, how, or by whom this infrastructure will be developed; it simply reserves land explicitly to serve this purpose.

TITLE VI—SLOAN CANYON NATIONAL CONSERVATION AREA

One of the most precious areas in southern Nevada is a relatively non-descript canyon near Henderson. It is an area graced with hundreds of wonderful and curious petroglyphs. Under ordinary circumstances, I would not reveal the location of this site because public knowledge of prehistoric rock art sites commonly leads to their destruction. In this case, however, this canyon is in desperate need of protection because it is within a short walk of the Las Vegas valley. Similar resources elsewhere in the desert Southwest have been destroyed by urban growth and lack of intensive management.

The Clark County Conservation PLAN bill designates the Sloan petroglyphs site and the area that comprises most of its watershed as the North McCullough Mountains Wilderness. This wilderness, combined with about 32,000 acres of open space, comprises the proposed Sloan Canyon National Conservation Area. The NCA and wilderness will provide critical protection for the Sloan petroglyphs, preserve open space near Henderson's rapidly growing neighborhoods, and together represent a legacy of cultural and natural resource conservation our grandchildren will value dearly.

TITLE VII—PUBLIC INTEREST LAND CONVEYANCES

The sheer number of public-lands bill requests Senator Ensign and I receive is staggering. If we chose to introduce stand-alone legislation to address each legitimate issue that constituents bring to our attention, we would create an awkward patchwork of new Federal laws. In the Clark County Conservation PLAN, we have attempted to provide a comprehensive vision and framework for conservation and development in southern Nevada by balancing competing interests.

The bill's final title includes a select few of many important public interest land conveyances. For example, we include two land grants to further the higher-education mission of Nevada's university system. One provides land to the UNLV research foundation for the development of a technology park. The other provides land for the planned Henderson State College.

We convey a small active shooting range to the Las Vegas Metropolitan Police Department for training purposes. We grant a modest parcel of land to the City of Las Vegas for the development of affordable housing. We provide for the conveyance of the Sunrise Landfill from the Bureau of Land Management to Clark County pending completion of the environmental clean-up at the site. We convey park and open space land to the City of Henderson and provide for a cooperatively managed zone comprised of Federal land around Henderson Executive airport. These are relatively small but important actions that help our communities, law enforcement, and educational system better serve southern Nevada.

Mr. Chairman, the bill we are discussing here today promises a better tomorrow for our public lands in southern Nevada, for the more than 1.5 million people who call Clark County home, and for the millions of Americans who visit southern Nevada every year. This balanced compromise provides land for development, land grants for public purposes, wilderness for conservation in perpetuity, and a new Na-

tional Conservation Area to celebrate and protect the wonderful natural and cultural resources of the North McCullough Mountains including the Sloan petroglyph site.

Senator Ensign and I have been working on this bill since he came to the Senate a year and a half ago. We are proud of the progress we have made and believe that this public lands bill should serve as a model for bipartisan cooperation and constructive compromise. We look forward to working with you and Chairman Bingaman to perfect this legislation so that we can enact the Clark County Conservation PLAN bill into law this year.

Thank you again, Mr. Chairman, for your willingness to hold this hearing and your hard work on public lands issues facing our country.

Senator WYDEN. Without objection. We thank you, and we're going to try to move your bill as quickly as we can. Senator Ensign, I know this has been bipartisan and we're glad you're here.

STATEMENT OF HON. JOHN ENSIGN, U.S. SENATOR FROM NEVADA

Senator ENSIGN. Thank you, Mr. Chairman, and thanks for holding this hearing and considering our bill. Senator Reid and myself have worked very hard, but as you know, our staffs have just done a terrific job on this. And Senator Reid talked about, it really was a model for how to put legislation together, because we have environmental groups working together with multi-use people, with the Federal Government, State governments, local governments, utilities, everybody working together at the table.

There are people that aren't real happy with the bill but aren't real dissatisfied with the bill, and I think neither side was real, real happy or real, real dissatisfied, and that's usually what happens when you come together with legislation.

Just to mention a couple of things about the bill. We've got a new conservation area in there to protect some very valuable petroglyphs. We have taken some out of wilderness settings and put other lands permanently into wilderness, to try to resolve some of the wilderness issues in southern Nevada. We've also put in there, I had an interest—as a matter of fact, when I was living up in your State, I was very impressed in Oregon, that's where my family is from, and I was very impressed when I was going to college up there, the Keep Oregon Green campaign.

Well, we put in the desert—a lot of people come to the desert and they just think it's a wasteland, and they throw things out the door and out of their cars, and they dump things in the desert, they dump beds, it's amazing, it looks like a dumping ground. And we've got money put aside in this for an anti-littering campaign to try to make people aware that the desert is very fragile, and not to litter out there, to try to have people take pride in where they're living and to get tourists to think about it too, because a lot of the litter that happens in the desert is from tourists as well. So that's a smaller part of the bill, but I think an important part of the bill.

And lastly, when we look at recreational opportunities, we took the wilderness areas and we still allowed access almost as the fingers, you know, going into the wilderness areas so people would be able to get to those and then hike to where they needed to be to enjoy those wilderness areas.

So we think we have come up with a very, very good balance, working together and working with all the stakeholders, and you will hear from some of those stakeholders today. But we appreciate

your holding this hearing and for allowing us to testify before the vote. Thank you.

[The prepared statement of Senator Ensign follows:]

PREPARED STATEMENT OF HON. JOHN ENSIGN, U.S. SENATOR FROM NEVADA

Chairman Wyden and Senator Craig, good afternoon. Thank you for holding a hearing on the Clark County Conservation of Public Lands and Natural Resources Act of 2002, or the Clark County PLAN. I understand the Committee has a number of bills pending before it and I am grateful for your assistance in promptly scheduling this hearing. I will keep my comments brief.

We have three of our constituents testifying with us here today: John Wallin of the Nevada Wilderness Coalition, Clint Bentley of the Nevada Land Users Coalition, and Bob Abbey, Nevada's very able BLM Director. Thank you very much for traveling to Washington and for your very hard work on this effort.

The Clark County PLAN that Senator Reid and I introduced resolves a number of local land use dilemmas we face in southern Nevada. As you know well, Mr. Chairman and Senator Craig, representing a state with large tracts of federal land means we have to get congressional approval for many matters that in other states east of the Mississippi are left to local officials. Given the phenomenal growth in Clark County over the past decade, it is difficult to respond to the growth pressures and needs of our citizens because we do have a cumbersome federal land process to navigate.

Senator Reid and I believe it is in Clark County's best interest to formulate a comprehensive lands bill. We receive dozens of land disposal requests every year from around the state of Nevada and it is impossible—not to mention bad public policy—to address them piecemeal. I am proud of the fact that a Republican and a Democrat have worked together closely to write a pro-environment bill that is good for the people of Clark County. We could not have done so if it were not for the friendship and trust we have developed over the past year and a half.

Our bill does a number of positive things for southern Nevada. While time constraints do not permit me to touch on every part of the Clark County PLAN, I do want to bring a few important features to your attention:

- Sloan Canyon National Conservation Area Creation/Red Rock National Conservation Area Expansion. Our bill creates southern Nevada's second national conservation area in a way that protects the priceless Sloan Petroglyps. Establishment of the Sloan Canyon National Conservation Area provides permanent open space and recreational opportunities for the residents of nearby Henderson. We also add breathtaking acreage to the existing Red Rock National Conservation Area.
- Wilderness Resolution. Our bill formally designates 444,000 acres of quality wilderness in Clark County, while releasing 231,000 acres for multiple use or development. While the issues of wilderness and wilderness release are controversial, the fact that we are taking action on the majority of Wilderness Study Areas in Clark County is a major accomplishment.
- Quality Growth and Expansion. Our bill releases federal land for auction within the Las Vegas Valley for future residential and commercial growth. The proceeds benefit the environment, our infrastructure, and public education. The cities of Las Vegas, North Las Vegas, and Henderson will benefit by having the ability to grow wisely and promote quality of life and economic expansion.
- Litter Cleanup and Beautification. I am grateful to Senator Reid for including a provision I have strongly advocated that provides the funding to implement a comprehensive litter cleanup and public education campaign in southern Nevada. Unfortunately, too many people equate the desert with a garbage dump. Changing public attitudes and cleaning up garbage-choked public lands will make Clark County an even better place to live.
- Power Corridors Critical to the Intermountain West. The legislation opens up a critical north-south power corridor so that transmission lines can transport power in the Intermountain West, a region that has been particularly hard-hit by power shortages.

I would like to take a moment to comment on the process by which Senator Reid and I crafted the Clark County PLAN. I am very proud to have tackled some tough issues in a bipartisan way and I believe our working together is a model for other Western states to follow. We encouraged diametrically opposed groups to come up with solutions. The Clark County PLAN is built on the same model as the Southern Nevada Public Lands Management Act, legislation that I was very proud to have written with former Senator Richard Bryan in 1997.

We asked our staffs to meet with all interested parties in Clark County to make sure their views and concerns were considered. The Nevada Wilderness Coalition and the Nevada Land Users Coalition have provided Senator Reid and me with very thoughtful and constructive comments about our legislation. Many of those comments are incorporated in the bill. We have sat down with local jurisdictions, the state of Nevada, elected officials, business groups, and environmentalists. The Clark County PLAN reflects the work of a very diverse and balanced cross section of Nevadans.

With this said, I acknowledge that some of our friends in the environmental community would like to see changes made to the Clark County PLAN due to concern that the wilderness designations are inadequate. I want to commend them for standing up for their strongly held beliefs. It is fair to fight for what you think is right.

This bill is a compromise. It moves us forward. It does not have everything in it that the Nevada Land Users Coalition, the multiple use advocates, wished to have. Senator Reid and I have endeavored to make this an inclusive process and I believe we have achieved a result that the vast majority of Nevadans support. I urge this Committee and my colleagues to pass this bill expeditiously.

Working with Senator Reid, Congressman Jim Gibbons, and numerous Nevadans on the Clark County PLAN has been a very rewarding and productive experience. I thank them for their willingness to come together to form this compromise.

Thank you, Mr. Chairman, and Senator Craig.

Senator REID. Mr. Chairman, if I could say, if there are any questions staff has, Senator Ensign and I will be very happy to meet with them anytime, this is very important for us, to see if we can move it this year.

Senator WYDEN. We thank you both. You have gone about it in a very thoughtful way, you're welcome to stay after we come back, but I'm going to try and get this bill out of subcommittee as fast as we can.

We will be back in 10 minutes.

[Recess.]

Senator WYDEN. The subcommittee will come back to order. We appreciate the patience of our guests, and this panel will have Bob Abbey, Assistant Director for Renewable Resources, the Acting Assistant Director; Gail Kimbell, Deputy Chief of the National Forest System; and Drue Pearce, Senior Advisor to the Secretary for Alaska Affairs, Department of the Interior.

These three will come forward. Okay. I'm going to make your prepared statements a part of the hearing record in their entirety. And whenever I say that, it always does little good, because people just go forward and read it all. If I could somehow entice you into just hitting the main concerns you have in 5 minutes or so, it would be great, and I really do pledge that every word you have will be made a part of the record.

Bob Abbey, welcome.

STATEMENT OF ROBERT ABBEY, ACTING ASSISTANT DIRECTOR FOR RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. ABBEY. Thank you, Mr. Chairman, and I will take your word for it, and I will eliminate much of what I was going to offer. We certainly appreciate the opportunity to testify regarding S. 2612, the Clark County Conservation and Public Land and Natural Resources Act of 2002. Sponsored by Senators Ensign and Reid of Nevada, S. 2612 is an attempt to deal in a comprehensive fashion with a wide array of public land issues facing Clark County, Nevada.

The Department of the Interior, the Bureau of Land Management, the National Park Service strongly supports their efforts to resolve these issues. This bipartisan collaborative approach for addressing land use issues should be a model throughout the West.

We have a number of specific concerns to certain provisions to the legislation, however. The Department would like to work with the sponsors and the committee on improvements to this bill.

As you've heard from the two Senators from Nevada, Clark County is home to Las Vegas, the fastest growing metropolitan area in the country. Of the 4.2 million acres within Clark County, BLM managed public lands constitutes 66 percent of those lands. The National Park Service manages over a half million acres in Clark County as part of the Lake Mead National Recreation Area. The high concentration of public lands combined with their proximity to such a fast growing area provides unique challenges and opportunities for the Bureau of Land Management, the National Park Service, the county, the city of Las Vegas, and the many other cities in the region.

Issues of growth and conservation are difficult in the expanding West, as many of you know. In 1998, the Southern Nevada Public Lands Management Act, Public Law 105-263, addressed many of the issues in the Las Vegas Valley by providing a system for disposing of appropriate BLM managed lands within that area to both benefit the greater Las Vegas area and protecting the interests of the American public. S. 2612 is the logical next step to Public Law 105-263.

S. 2612 presents a comprehensive approach to addressing a number of public land issues in Clark County. Among the many issues covered in this lengthy bill are land exchanges, land conveyances, wilderness designations and release, national conservation area establishment, and revisions to the Southern Nevada Public Lands Management Act of 1998.

For example, title II moves the wilderness debate forward in Clark County, Nevada by designating lands as wilderness and releasing other lands from wilderness study area. Senators Reid and Ensign have worked diligently with their local constituencies to seek consensus on these designations and release. We hope that this approach can be a model and provide an impetus for other States and regions to take similar actions.

After all, it is up to Congress to resolve the long simmering wilderness study area question. Nevada Senators have proven that this can be done in a collaborative bipartisan fashion that deserves our support.

In the wilderness title and throughout the bill, we would like the opportunity to work with the sponsors and this committee to resolve numerous issues. Some of these are minor and technical in nature; others are a little more far reaching.

For example, in title I of the bill, we believe it is critical to insure that the land values to be exchanged are in fact of equal value. On the many land conveyances in title VII, we ask the sponsor and the committee to consider various concerns that we have raised. In title II, we want to insure that the management language is well understood and consistent.

A key provision of this legislation is the expansion of the disposal boundary established by the Southern Nevada Public Lands Management Act by approximately 23,600 acres of Federal land. The additions are primarily on the north side of Las Vegas. And while capital improvements and acquisitions of the environmentally sensitive lands are allowed, use of the funds that are generated within this disposal area, the law is silent on restoration and rehabilitation. Along with preserving and protecting important and environmentally sensitive lands, there are significant opportunities for careful restoration and conservation work. This may be an appropriate use of some of these funds and we would like to discuss those options.

The establishment of the Sloan Canyon National Conservation Area in title VI is significant. As the Red Rock Canyon National Conservation Area has proven such a popular site on the west side of Clark County, we believe that Sloan Canyon will provide equal opportunities to disperse recreation on the east side.

So in conclusion, Mr. Chairman, we thank you for the opportunity to testify on S. 2612. This is by far a significant bill, but it is also a detailed and a complex one. We look forward to the opportunity to work with Senators Reid and Ensign and this committee to adequately address the concerns that we raise so that this important proposal can be finalized and go forward. Thank you again for the opportunity to testify.

[The prepared statement of Mr. Abbey follows:]

PREPARED STATEMENT OF ROBERT ABBEY, ACTING ASSISTANT DIRECTOR FOR RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify regarding S. 2612, the Clark County Conservation of Public Land and Natural Resources Act of 2002. Sponsored by Senators Ensign and Reid of Nevada, S. 2612 is an attempt to deal in a comprehensive fashion with a wide array of public land issues facing Clark County, Nevada. The Department of the Interior, the Bureau of Land Management (BLM) and the National Park Service (NPS) strongly support their efforts to resolve these issues. This bipartisan collaborative approach to addressing land use issues should be a model throughout the West. We have a number of specific concerns with certain provisions of the legislation which are outlined in the testimony. The Department would like to work with the sponsors and the Committee on improvements to the bill, so that once these changes are made we would be in a position to support the bill.

BACKGROUND

Clark County is home to Las Vegas the fastest growing metropolitan area in the country. Of the 4.2 million acres within Clark County, BLM-managed public lands constitute 66 percent of those lands. The high concentration of public lands combined with their proximity to such a fast growing metropolis provide unique challenges and opportunities for the BLM, the NPS, the county, the city of Las Vegas and the many other cities in the region.

Issues of growth and conservation are difficult in the expanding West. In 1998, the Southern Nevada Public Land Management Act (SNPLMA), Public Law 105-263, addressed many of the issues in the Las Vegas Valley by providing a system for disposing of BLM-managed lands within that area to both benefit the greater Las Vegas area while protecting the interests of the American public. S. 2612 is the logical next step to P.L. 105-263.

S. 2612

S. 2612 presents a comprehensive approach to addressing a number of public land issues in Clark County. Among the many issues covered in the bill are: land exchanges, land conveyances, wilderness designation and release, National Conservation Area (NCA) establishment, and revisions to the Southern Nevada Public Land

Management Act of 1998 (SNPLMA). I'd like to address these many issues title by title of the bill.

However, let me make a few general comments. We should note that this bill, if it were to become law, represents a substantial workload for BLM Nevada, especially the Las Vegas field office. The time frames established by the legislation will likely mean that other high priority projects will not be addressed and some of the deadlines may simply be impossible to meet. In addition, the costs of completing many of the land conveyances in the bill (for example, NEPA compliance, survey and title work and other types of clearances) should be borne by the benefitting local entity, not by the BLM. While we generally support reversionary clauses in land transfers, we believe they should be at the discretion of the Secretary to ensure that the Federal government is not burdened with potential future liability costs related to the uses of some of the lands conveyed. Also, there are numerous small technical issues as well as a number of PAYGO costs not addressed in this testimony which we would like to discuss with the Committee and the bill sponsors.

TITLE I

Title I addresses the same exchange and transfers of land as H.R. 4141, the "Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002." The BLM testified before the House Resources Committee on that bill on June 6 of this year, expressing support for the land tenure adjustments outlined in the legislation, but raising a number of issues needing resolution before the legislation moved forward.

While some of our concerns have been addressed, many remain outstanding. Title I proposes to legislate both a land exchange between the BLM and the Hughes Corporation as well as a transfer of additional public lands to Clark County for a park. The lands proposed to be acquired by the BLM in the land exchange with the Hughes Corporation border the eastern edge of the NCA and total approximately 1,068 acres in seven separate parcels. The BLM strongly supports the acquisition of these parcels and believes they will enhance the NCA. The addition of these parcels will improve boundary management and allow for better protection of rock art and other resources within the NCA.

The public lands identified for exchange to the Hughes Corporation total approximately 998 acres and were identified for disposal under SNPLMA. It is our understanding that these lands would be used for the expansion of a master-planned housing community. Under SNPLMA, proceeds from the disposal of BLM-managed lands are divided between the State of Nevada general education fund (5%), the Southern Nevada Water Authority (10%), and a special account in the Treasury for acquisition of environmentally-sensitive lands in Nevada and other purposes (85%). Section 4 of SNPLMA mandates that in the case of a land exchange, the non-Federal party remains liable for the 5% and 10% payments. The legislation is silent on this point, and therefore we make the assumption that these provisions of SNPLMA would apply to the Hughes Corporation land exchange.

The bill would also require the BLM to transfer approximately 1,344 acres of additional public lands to Clark County for purposes of a park. These lands are adjacent and intermingled with the lands to be exchanged to the Hughes Corporation. While we do not oppose the transfer of these lands to the County we believe they should be transferred at fair market value or through a Recreation and Public Purposes (R&PP) lease/conveyance.

The legislation is silent on responsibility for any potential hazardous materials that may preexist on these parcels. We believe that this must be addressed in the legislation. In addition, the public lands identified for disposal are currently encumbered by rights-of-way for roads, water pipelines, gas pipelines, and power lines as well as mining claims. We would like to ensure that these current uses are appropriately addressed by the legislation. Likewise if there are any encumbrances on the private lands to be acquired, this would need to be addressed.

Finally, and very importantly, the issue of land values is critical to our support of this Title. The Hughes Corporation contracted with a private appraiser to complete an appraisal of these lands. The BLM in Nevada received that appraisal in late June and is currently reviewing it. Following our review, we would like the opportunity to modify the acreage of the lands involved in the exchange to ensure that the exchange is of equal value. While the legislation appears to address this issue in section 104(c) and section 105(c), we believe that the language is confusing. The valuation issue must be addressed adequately before markup in order to ensure that all interests are protected.

TITLE II

Title II moves the wilderness debate in Clark County, Nevada, forward both by designating lands as wilderness and releasing other lands from wilderness study area (WSA) status. Senators Ensign and Reid have worked diligently with their local constituencies to seek consensus on these designations and releases. We hope that this approach can be a model and provide an impetus for other states and regions to take similar actions. It is up to Congress to resolve the long simmering WSA question. The Senators from Nevada have proven that this can be done in a collaborative bipartisan fashion that deserves our support.

The bill would release approximately 233,192 acres of BLM-managed lands from WSA status and interim protection of their wilderness values under section 603(c) of the Federal Land Policy and Management Act (FLPMA). In addition, 223,858 acres of BLM-managed lands, 183,809 acres of National Park Service-managed lands, and 36,252 acres of Forest Service-managed lands would be designated wilderness. The 1979 Preliminary Wilderness Proposal for Lake Mead National Recreation Area recommended wilderness designation for 273,327 acres in Nevada. S. 2612 recommends approximately 182,000 acres in Nevada approximately 91,000 acres less than the recommended proposal.

All told the bill would designate 20 new wilderness areas and expand one preexisting area. This is an important legacy for the people of Las Vegas, Nevada, and the entire country. At the same time, this legislation also provides important opportunities for urban growth.

The legislation releases over 230,000 acres from FLPMA's WSA interim management protection. Of that, over 180,000 acres will be returned to the full range of non-wilderness multiple uses.

We would like the opportunity to work with the sponsors and the Committee on improvements to the wilderness management language before the bill is marked up. First and foremost, we strongly urge the Committee to clarify expressly that this legislation shall not constitute or be construed to constitute either an express or implied reservation of any water rights with respect to the designated areas. In addition there is unnecessary language (for example the air quality language in section 203(d) which is superfluous), confusing language (for example, the hunting, fishing, and trapping language in section 208(b) and the grazing language with respect to the NPS), or nontraditional language (for example the motorized vehicles and access language). The Department would like the Act to recognize the differences in land management policies that arise from FLPMA and the NPS Organic Act, and nothing in the Act should supersede management authorities and policies arising from each agency's organic legislation. Likewise, the addition of language withdrawing these wilderness areas from the public land, mining, and mineral leasing laws will prevent any future misinterpretation. While we do not oppose what we believe are the goals of these provisions, there are preferred ways of addressing them that are widely understood and accepted.

In addition, there are a number of mapping issues we would like to address before markup. The BLM in Nevada and the NPS at Lake Mead National Recreation Area are in the process of carefully reviewing each proposed wilderness boundary to ensure that these boundaries are as manageable as possible. We would like the opportunity to propose minor changes, when making such changes would increase manageability of the wilderness and ensure that we are not inadvertently affecting important current uses.

The Department may require further clarification to ensure that this legislation is consistent with the provisions of Public Law 106-181, which directs the FAA in cooperation with the NPS to develop air tour management plans for units with commercial air tours for the purpose of mitigating or preventing significant adverse impacts of commercial air tour operations upon the natural or cultural resources, and visitor experiences.

Section 207(d) addresses rights-of-way within the Sunrise Mountain Instant Study Area (ISA) and the Meadow Valley Range WSA. Sections 703 and 706 also effect lands within the Sunrise Mountain ISA. It is our conclusion that the best way to address these issues is to release the entire Sunrise Mountain ISA from WSA status and from wilderness interim management protection. With the number of exceptions we have noted, the remaining ISA becomes unwieldy and difficult to manage for wilderness values. In addition, we recommend that the portion of the Meadow Valley Range WSA originally recommended not suitable by the BLM in 1992 be likewise released from wilderness protection. The provisions of section 207(d) would no longer be necessary with such releases.

Finally, Section 208(d) addresses wildlife water development projects. General management policies of the NPS do not permit the construction of wildlife water de-

velopment projects and artificial manipulation of habitat except to restore natural features that have been disrupted due to human development or activities. Lake Mead NRA has coordinated with the Nevada Division of Wildlife for the maintenance of wildlife drinkers where there has been a finding that original sources of water have been lost to development or irreversible disruption of natural processes. We recommend this section be rewritten to authorize construction of wildlife drinkers where such construction is not in conflict with other applicable state and federal law or policy.

TITLE III

Title III provides for the transfer of BLM-managed lands to the Fish and Wildlife Service and the National Park Service. Substantial acreage in the case of the former and a small site in the case of the latter.

Three BLM-managed WSAs would be released from interim protection under section 603(c) of FLPMA and then transferred to the Fish and Wildlife Service for inclusion in the Desert National Wildlife Range. Because this area is a long narrow piece abutting the east side of the Wildlife Range we believe that this is a sensible proposal. In addition, 10 acres of public land east of Searchlight, Nevada, would be transferred from BLM management to the National Park Service for purposes of an administrative site for Lake Mead National Recreation Area.

We support these transfers, but would like the opportunity to work on language which would provide for a direct legislative transfer rather than a more cumbersome time-consuming administrative withdrawal process.

TITLE IV

Title IV modifies the Southern Nevada Public Land Management Act of 1998 (SNPLMA), Public Law 105-263. The bill would substitute a new map for the map used in the original bill which outlines the "disposal area" within the Las Vegas Valley. Under the new map, the area subject to the disposal provisions of SNPLMA are expanded by approximately 23,600 acres of federal land. The additions are primarily on the north side of Las Vegas (three WSAs are released from protection under section 603(c) of FLPMA in Title II of the bill and the majority of those acres are placed inside the disposal boundary) as well as scattered areas to the west and east of Las Vegas. We do not oppose these additions to the disposal boundary.

In addition to providing for the disposal of certain public lands in the Las Vegas area, the SNPLMA also provided for the disposition of receipts from those disposals. 85 percent of the receipts are deposited in a special account. The special account funds are then spent to acquire environmentally sensitive lands in Nevada, pay for capital improvements in certain Clark County federal sites (such as the National Park Service's Lake Mead National Recreation Area and BLM's Red Rock Canyon National Conservation Area (NCA)), develop parks, trails and natural areas in Clark County in cooperation with local governmental units, and for other specified purposes.

Title IV of this bill would require that a minimum of 25 percent of the special account fund be used for cooperative agreements for parks, trails, and natural areas. While we share the cooperative sentiment behind this proposal, we believe the amendment is limiting. To place arbitrary floors on certain uses of the special account, ties the agency's hands and may result in less than optimal use of the funds in the special account. For example, in the most recent, and third round, of recommendations for expenditures of the SNPLMA special account, over 33 percent of the expenditures would be for these cooperative agreements. Cumulatively expenditures for cooperative agreements have been over 26 percent of the total. The process of local working groups establishing priorities is working and the establishment of a cap is an unnecessary and limiting restriction. Section 401(2)(A) should be deleted.

Finally, we would like the opportunity to have discussions with the bill's sponsors regarding a slight modification to the expenditure provisions of section 4(e)(3) of the SNPLMA. While capital improvements and acquisitions of environmentally sensitive lands are allowed under the Act, it is silent on restoration and rehabilitation. Along with preserving and protecting important environmentally sensitive lands, there are significant opportunities for careful restoration and conservation work. This may be an appropriate use of these funds and we would like to discuss those options.

TITLE V

It appears that the intent of this Title is primarily twofold: first, to protect a potential utility corridor to serve the proposed Ivanpah Airport; and, second, to transfer approximately 15,500 acres of public land to the Clark County Airport Authority.

We believe that this Title, especially the transfer of lands, is premature. In late 2000, the Congress passed the "Ivanpah Valley Airport Public Lands Transfer Act," (P.L. 106-362). That Act provides for the sale of approximately 5,900 acres to Clark County at fair market value. Those lands are for the purpose of airport development. The sale of public lands under that Act is to take place once the FAA certifies an airspace assessment which has been completed by the County. Following the sale by the BLM to the County, the County is then required to complete an Environmental Impact Statement (EIS). The completion of that EIS is expected to take several years. A final decision on whether or not to build an airport will not be made until that EIS is complete. We oppose the transfer of additional lands, as directed in section 501(b), until this underlying issue is addressed.

We would also note that some of the lands in the southwest portion of the area identified for inclusion in the Ivanpah Airport Noise Compatibility Area are important Desert Tortoise habitat and are within the Desert Tortoise translocation area under the Clark County Habitat Conservation Plan (CCHCP). If acreage is conveyed out of Federal ownership within the CCHCP it could jeopardize Clark County's section 10 permit with the U.S. Fish & Wildlife Service under the Endangered Species Act. Finally, these lands are currently managed for a variety of multiple uses including utility corridors and OHV recreational use which we urge be considered before any transfer of lands.

We have additional concerns with section 501(a). We note that it establishes a 173,000-acre Interstate 15 corridor south of Las Vegas and terminates an existing mineral withdrawal for that corridor. Other purposes of this corridor are unclear. This subsection also establishes a transportation and utility corridor surrounding the proposed Ivanpah Airport, which again appears premature.

Section 501(b) may affect the provisions of Public Law 106-362, which directed that funds received from the sale of public lands are to be used for the acquisition of private inholdings in the Mojave National Preserve and for the protection and management of the petroglyph resources in Clark County, Nevada. Park Service would like the opportunity to work with the Sponsor and the Committee to clarify this issue.

Finally, section 501(c) segregates and withdraws from the operations of the mining laws certain Areas of Critical Environmental Concern (ACECs) identified in the BLM's 1998 Las Vegas Resource Management Plan (RMP). We support this provision which is consistent with the RMP as well as the CCHCP.

TITLE VI

Title VI establishes the Sloan Canyon National Conservation Area (NCA). The Sloan Canyon area south and east of Las Vegas is a strikingly beautiful area with important cultural and archaeological sites. It rightly deserves the recognition and the meaningful protections that are inherent in a National Conservation Area designation.

The centerpiece of the nearly 48,000-acre NCA is the Sloan Canyon site. The Canyon includes over 3/4 of a mile of more than 300 rock art panels with nearly 1,000 designs. The age of these petroglyphs and pictographs range from pre-Columbian to historic times, clearly illustrating the rich human history of the area. This canyon continues to hold spiritual meaning to the native peoples of the area where it remains a sacred site for the intertribal community.

Each of the NCAs designated by Congress and managed by the BLM is unique. However, for the most part they have certain critical elements, these include: public land, mining, and mineral leasing law withdrawal, OHV use limitations, and language which charges the Secretary to only allow those uses which further the purposes for which the NCA is established. Furthermore, NCA proposals do not diminish the protections that currently apply to the lands. The Sloan Canyon NCA proposal largely honors this spirit. However, the uses language in section 605(c) is open to interpretation. We would recommend that this be amended to include either the traditional "only such uses" language or at a minimum to delete the word "any" in this subsection.

In addition, we recommend that the hunting language in section 605(f) be revised. As currently written it implies that the Secretary of the Interior is responsible for the permitting of hunting on public lands. In Nevada, as in most other States, state officials exercise primary responsibility for the regulation of hunting, fishing, and trapping on federal public lands. We would be happy to work with the Committee and the sponsors so as to modify this language in an appropriate fashion.

Section 605(h) requires the BLM to issue a right-of-way to the city of Henderson for a road connecting the main portion of Henderson to the community of Anthem. A portion of this right-of-way would cut through the Sloan Canyon NCA. BLM cur-

rently has an application for this right-of-way on file. However, we should note that the Nevada Division of Wildlife has raised concerns about the possible effect of this road on the bighorn sheep population. We would recommend that before a decision is made on this right-of-way full environmental impacts need to be determined through the NEPA process. This would take longer than the 90 days specified in 605(h). In addition, we would seek the flexibility to revise the right-of-way as necessary to address any serious issues discovered in the NEPA process.

Section 606 provides for the sale of a 500-acre parcel to the west of the NCA to the highest bidder. 87 percent of the funds generated from this sale are earmarked for uses related to the Sloan Canyon NCA. We would hope the sponsors would consider a wider use of these funds for other conservation and science costs related to the implementation of this bill. In addition, we believe this sale should comply with section 203 of FLPMA to ensure that proper procedures are followed and the public interest is protected.

We would also like to work with the Committee on other minor modifications including map references and proposed minor boundary modifications.

TITLE VII

Title VII of the legislation provides for a number of land conveyances to various entities. While in general we do not oppose these transfers, there are a number of complicating factors that need to be addressed. I will discuss each conveyance individually.

The lands involved in section 702 were transferred from the BLM to Clark County Department of Aviation in the SNPLMA. Under SNPLMA, conveyance of these lands resulted in 85 percent of their value being transferred to the SNPLMA special account. This section would transfer approximately 115 acres of these lands to the University of Nevada, Las Vegas (UNLV) at no cost for a technology research center. While we do not oppose the transfer to UNLV we do believe that the same restriction on future sale, lease, or other conveyance which applied to the Clark County Department of Aviation should now apply to UNLV.

Section 703 of the bill proposes to convey approximately 176 acres, described as "Tract F," to the Las Vegas Metropolitan Police Department. The southern half of this parcel is currently leased under the R&PP Act to the city of Las Vegas for a Police Department shooting range. The north half of the parcel is vacant public land within the Sunrise Mountain ISA. Because these lands are within the ISA the BLM cannot convey them to the city without Congressional action. As we noted in this testimony under Title II we recommend that the entire Sunrise Mountain ISA be released by Congress from interim wilderness management.

Section 704 provides for the conveyance of approximately 511 acres, described as "Tract H," to the city of Henderson for the Nevada State College at Henderson. Nevada State College is admitting its first class of students this fall into its four-year baccalaureate program and has been authorized by the Nevada Board of Regents as part of the University and Community College System of Nevada. 230 of these acres are within the SNPLMA disposal boundary and the State of Nevada has applied for an R&PP lease for these acres. A number of unresolved issues exist on the other 281 acres which lie outside the disposal boundary. Among the complicating factors related to this proposed conveyance are flood control structures, communications sites (with concomitant hazardous materials problems), significant cultural sites and neighborhood concerns about the College. These issues need to be addressed before such a transfer is approved.

Section 705 provides for the conveyance of two parcels, the 20-acre "Tract C" and the 10-acre "Tract D," to the city of Las Vegas for the purposes of affordable housing. These lands are within the SNPLMA disposal boundary. "Tract C" is currently under an R&PP lease to the city of Las Vegas for a public park and "Tract D" is vacant BLM-managed land.

Section 7(b) of the SNPLMA made provisions for the transfer of lands at less than fair market value and in consultation with the Department of Housing and Urban Development (HUD) for affordable housing purposes under certain circumstances. We would prefer utilizing that authority in the cases of Tracts C and D. However, at a minimum we believe that section 705 needs to be both coordinated with and consistent with the 7(b) language of SNPLMA.

Section 706 proposes to transfer 688 acres, identified as "Tract G," to the city of Henderson, if requested by the city, for the purpose of economic development. These lands are within the SNPLMA disposal boundary. While resale, lease, or other conveyance of these lands by Henderson would result in a deposit to the SNPLMA special account consistent with that Act, we are concerned about unlimited administra-

tive costs which Henderson can charge against the funds. A reasonable limit on such costs should be established by the legislation.

Section 707 transfers 917 acres of land identified at "Tract E" to Clark County. These lands comprise the Sunrise Mountain Landfill and portions of it are within the Sunrise Mountain ISA. Clark County is currently working on landfill closure in conjunction with the EPA. In our earlier discussion of Title II we recommended that the entire Sunrise Mountain ISA, including these lands, be released from WSA status and from interim wilderness protection. While we support the transfer of the landfill to Clark County, many of the specific provisions of section 707 appear to put the Federal government at a distinct disadvantage. We believe the transfer should take place immediately, or within a very short time frame. Delaying this transfer places the Federal government at risk of liability for an area for which it has no responsibility. In addition, the Department should be released from any liability arising from the land before or after the transfer. Finally, the map for the landfill fails to include a small section of the current landfill. The map should be modified to include all of the landfill.

Section 708 proposes to establish an "Open Space Land Grant" for the city of Henderson. This is a new and innovative concept. Under this section the BLM would transfer approximately 2,442 acres of land, identified as "Tract B," which abuts the proposed Sloan Canyon NCA on the northwest, to Henderson for "open space." This area would be used for conservation, recreation, and flood control facilities. We support the provision, but would like the opportunity to address some minor map modifications which may be necessary in order to avoid apparent duplicate uses of some of the lands or creating an unmanageable isolated parcel of public land. In addition, we would support language providing for cooperation in the planning efforts for the NCA established by Title VI and this "open space" area.

It appears that the intent of section 709 is to remove a right-of-way from lands patented to Aerojet-General Corporation by the Federal government in 1988. When these lands were conveyed to Aerojet-General as part of a land exchange, the existence of the right-of-way reduced the appraised value of the lands. Relocation of the right-of-way would result in enhanced value of the lands which have since been sold by Aerojet-General to a private party. We believe that the Federal government should be compensated at fair market value for the removal of this right-of-way.

CONCLUSION

Thank you for the opportunity to testify on S. 2612. This is a significant bill; but it is also a detailed and complex bill. We look forward to the opportunity to work with Senators Reid and Ensign and the Committee to adequately address the concerns we have raised so that this important proposal can be finalized.

Senator WYDEN. Thank you. Ms. Kimbell.

STATEMENT OF ABIGAIL KIMBELL, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Ms. KIMBELL. Good afternoon. Mr. Chairman, I am here to provide the administration's comments on four bills and a concurrent resolution. Would you like our testimony on all four bills and the resolution at this time?

Senator WYDEN. Sure.

Ms. KIMBELL. The Department supports S. 2652 and the Concurrent Resolution 107, and does not object to S. 2565, S. 2587, or S. 2612. The Department would like to work with the committee to recommend improvements to the last three bills.

The Wild Sky Wilderness Act of 2002, the Department does not oppose S. 2565 designating the Wild Sky Wilderness on the Mount Baker-Snoqualmie in the State of Washington as a component of the National Wilderness Preservation System. However, the Department would like to work with the committee to improve S. 2565.

The Department has significant concerns with approximately 20,000 of the 106,000 acres proposed for wilderness designation.

These acres would not be considered suitable for wilderness designation under the provisions of the 1964 Wilderness Act or under existing Forest Service regulations and planning direction. It may be that some other back country designation would be more suitable for these acres. To that end, the Department would like to work with the committee to make a few adjustments.

The lands that would help meet the goals of the Wilderness Act consist of all of the Eagle Rock Roadless Area and portions of Glacier Peak A, B, K and L. These acres retain their undeveloped character and are largely without permanent improvement or human habitation. Limiting the wilderness designation to these lands would address many of the Department's concerns.

The areas we propose for exclusion from wilderness designation and an alternative back country designation include forests showing visible evidence of logging, railroad logging and mining activities. The areas also include 35 miles of existing road, some of which are all-weather, driveable and graveled. Several of the roads receive high levels of visitor use associated with recreation opportunity.

Another concern lies with roads outside and adjacent to the proposed wilderness boundary that have narrow corridors subject to landslide. This situation poses significant public safety and resource management issues, as the close proximity of the proposed boundary could result in constraints related to necessary repairs and road construction work.

We propose the exclusion of the area encompassing patented mining claims and private timberlands. We would also suggest excluding the Evergreen Mountain Lookout, a widely used recreation rental cabin, from the proposed wilderness, in order to continue offering this developed recreation opportunity to visitors.

A boundary adjustment would also accommodate a likely future expansion of the existing Bonneville Power Administration's right-of-way.

Further, Lake Isabel has substantial floatplane use. We would like to work with the committee to clarify intent regarding that use.

Finally, S. 2565 represents the kind of careful forest level evaluation of roadless areas that is necessary to resolve the roadless issue with appropriate and specific congressional designation for additions to the National Wilderness System. The Department is supportive of the administrative provisions in the bill, particularly provisions for a repeater site in order to provide improved communications for safety and health purposes. The Department is also supportive of the provisions for land exchange in the Glacier Peak wilderness and provisions for management of the existing Snotel site in that wilderness.

On S. 2587, Joint Federal and State Navigable Waters Commission for Alaska Act, the purposes of the bill are threefold. The issue of navigability is central to the ownership of submerged lands; generally title to lands underlying a navigable body of water pass to the State upon its admission to the Union unless those lands were retained as part of a Federal reservation.

The enactment of S. 2587 could have value in expediting determinations of navigability on fresh water rivers, lakes and streams

in Alaska. However, the courts have generally rejected formula approaches to navigability determinations, opting instead to inquire into the facts of each case. The Department is concerned that the proposed commission during its short 2-year duration might not be capable of effectively conducting the necessary historical research to determine the factual underpinnings of navigability for thousands of waterways in the remote areas of Alaska.

We are also concerned about the effect of the recommendations submitted by the commission and whether the courts would accept those recommendations.

We have an additional concern regarding the composition of the commission. There is no requirement for any member to have expertise in any aspect of law or land management that would facilitate determinations. We believe the committee should consider adding expertise as criteria for some of the commission members.

In addition, OMB advises that the bill has pay as you go implications because of the commission compensation provision. An estimate has not yet been developed. The Department is not opposed to the purpose of the bill but would welcome the opportunity to work with the committee to address these issues so that determinations of navigability could be expedited for Alaskan waterways.

On S. 2612, Clark County Conservation of Public Land and Natural Resources Act, it is made up of several titles, only a few of which concern the Forest Service directly, title II and title IV.

Although the Department does not oppose title II and is supportive of the proposed additions to the National Wilderness Preservation System, we have significant concerns with some of the administrative and management provisions as they are currently drafted. We look forward to working with the committee to resolve those concerns.

Specifically, they have to do with the provision for low level flights and for the boundaries that are indicated. As a general matter, the Forest Service is concerned with our ability to administer wilderness boundaries that follow unsurveyed property lines or township lines. Resulting wilderness may be more effectively managed if where possible, recognizable landscape features and elevation contour lines define the boundaries.

Additionally, we have a number of substantive and technical concerns concerning sections 208, 209 and 210, and would like to work with the committee to modify these sections.

Title IV of the bill contains amendments to the Southern Nevada Public Land Management Act. We recommend maintaining flexibility in the proportions allocated to land acquisitions, capital improvements, and parks, trails and natural areas to allow these three——

Senator WYDEN. Miss Kimbell, I think you're over 5 minutes at this point. Could you possibly summarize your remaining points?

Ms. KIMBELL. Certainly. The Florida National Forest Land Management Act of 2002, the Department supports S. 2652. There is one parcel that is not National Forest System land. We would like to work with the committee on that.

And we would also like to work with the committee on the language that specifies the concurrence of the Secretary of the Air Force.

On the Senate Concurrent Resolution 107, this plan is a consensus document. Certainly the Secretary of Agriculture has signed in May of this year the implementation plan for the 10-year strategy, and the newly formed Wildland Leadership Council is important to the leadership accountability and coordination in carrying out the goals.

We certainly appreciate the continued bipartisan support from Congress and we are committed to meeting the goals of this Federal-State partnership. This concludes my statement. We are looking forward to working with the committee on making these bills stronger.

[The prepared statement of Ms. Kimbell follows:]

PREPARED STATEMENT OF ABIGAIL KIMBELL, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today. I am Abigail Kimbell, Associate Deputy Chief for National Forest System, Forest Service. I am here today to provide the Administration's comments on four bills and a concurrent resolution:

S. 2565—to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River Valley of the State of Washington by designating certain Federal lands as wilderness, and for other purposes.

S. 2587—to establish the Joint Federal and State Navigable Waters Commission for Alaska.

S. 2612—to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes.

S. 2652—to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.

S. Con. Res. 107—expressing the sense of Congress that Federal land management agencies should fully support the Western Governors Association "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment", as signed August 2001, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National Prescribed Fire Strategy that minimizes risks of escape.

The Department supports S. 2652 and S. Con. Res. 107 and does not object to S. 2565, S. 2587 or S. 2612. The Department would like to work with the Committee to recommend improvements to S. 2565, S. 2587 and S. 2612.

S. 2565—THE WILD SKY WILDERNESS ACT OF 2002

The Department does not oppose S. 2565 designating the Wild Sky Wilderness on the Mount Baker-Snoqualmie National Forest in the State of Washington as a component of the National Wilderness Preservation System. However, the Department would like to work with the Committee to improve S. 2565.

This legislation would create approximately 106,000 acres of additional wilderness on the Skykomish Ranger District of the Mt. Baker-Snoqualmie National Forest. It directs the Secretary to assure adequate access to private in-holdings within the Wild Sky Wilderness and establish a hiking trail plan. The bill authorizes the use of helicopter access to construct and maintain a Forest Service communication repeater site to provide improved communication for safety and health purposes.

S. 2565 also requires the Secretary to exchange specified lands with the Chelan County Public Utility District if the District offers to the Secretary approximately 371.8 acres within the Snoqualmie National Forest, in exchange for a permanent easement, including helicopter access, consistent with such levels of use as of the date of this Act's enactment, to maintain an existing Snotel site on 1.82 acres on the Wenatchee National Forest.

If Chelan County notifies the Secretary that they no longer need to maintain the Snotel site, the easement will be extinguished and all rights conveyed by this exchange would revert to the United States.

The Department has significant concerns with approximately 36,000 acres of the 106,000 acres proposed for wilderness designation. These acres would not be considered suitable for wilderness designation under the provisions of the 1964 Wilderness Act or under existing Forest Service regulations and planning direction. It may be that some other backcountry designation would be more suitable for these acres.

Within the proposed wilderness in S. 2565, there are lands that could meet the 1964 Wilderness Act goals for preservation and protection of lands in their natural condition. To that end, the Department would like to work with the Committee to make a few adjustments. The lands that would help meet the goals of the Wilderness Act, approximately 70-75,000 acres, consist of all of the Eagle Rock Roadless Area and portions of Glacier Peak A, B, K, and L. These areas retain their undeveloped character and are largely without permanent improvements or human habitation. Limiting the wilderness designation to these lands would address many of the Department's concerns.

The areas we propose for exclusion from wilderness designation and an alternative backcountry designation include low elevation forests that have been utilized for timber harvest and mining over the last 80 years, still showing visible evidence of railroad logging and mining activities. The areas also include approximately 35 miles of existing roads, some of which are all weather, drivable, and graveled. Several of the roads receive high levels of visitor use associated with recreation opportunities. The Rapid River Road is such a travel way and we recommend its exclusion from wilderness designation. The types of recreation experiences enjoyed by users along the Rapid River Road corridor include driving for pleasure, nature photography, fishing, picnicking and dispersed camping at a number of pull-off sites along the road. In the winter snowmobiles utilize this road as a part of the snowmobile trail system, traveling to its end point.

Another concern lies with roads outside and adjacent to the proposed wilderness boundary that have narrow corridors subject to landslide. This situation poses significant public safety and resource management issues, as the close proximity of the proposed boundary could result in constraints related to necessary repairs and road reconstruction work. We would like to work with the Committee on more appropriate boundaries.

We propose the exclusion of the area encompassing approximately 2,426 acres of private fee patented mining claims and private timberlands. We also would suggest excluding the Evergreen Mountain Lookout, a widely used recreation rental cabin, from the proposed wilderness in order to continue offering this developed recreation opportunity to visitors.

A boundary adjustment would also accommodate a likely future expansion of the existing Bonneville Power Administration's (BPA) right of way. S. 2565 includes a 200-foot wilderness boundary setback from the edge of the BPA power line right-of-way. While the proposed wilderness boundary follows the power line right-of-way for only 1.5 miles, the boundary is too close to allow for additional power lines which would be required in the likely event that increased power capacity is needed for the greater Seattle area. This concern could be eliminated if the wilderness boundary was offset a minimum of 500 feet uphill from the existing right-of-way. Further, Lake Isabel has substantial floatplane use and we would like to work with the committee to clarify intent regarding this use.

The Department is supportive of the administrative provisions in the bill, particularly provisions for a repeater site in order to provide improved communications for safety and health purposes. The Department is also supportive of the provisions for land exchange in the Glacier Peak Wilderness and provisions for management of the existing Snotel site in that wilderness.

S. 2587—JOINT FEDERAL AND STATE NAVIGABLE WATERS COMMISSION FOR ALASKA ACT

The purposes of the bill are threefold: (1) to expedite the process of quieting title to the submerged lands in the State of Alaska; (2) to facilitate determinations of which bodies of water in Alaska are navigable and which are not navigable; and (3) to recommend to both the Federal and State governments ways to improve the process for water use and navigability decision making.

The bill would establish a joint Commission composed of senior executives representing the highest levels of both Federal and State governments. Representatives of the President of the United States and the Governor of the State of Alaska would serve as co-chairpersons of the commission.

The Commission would make recommendations to the Secretary of the Interior and the State of Alaska regarding navigability determinations. The Commission would also focus on developing procedures to include private landowners, Native Corporations and the general public in the process. The Commission would have two years to complete its task and would then be terminated.

The issue of navigability is central to the ownership of submerged lands. Generally, title to lands underlying a navigable body of water passed to the state upon its admission to the Union, unless those lands were retained as part of a Federal reservation. Navigability is based on a factual determination as to whether the wa-

terway was used, in the customary modes of trade and travel on water, as a highway for commerce as of the date of the States' admission to the Union.

The enactment of S. 2587 could have value in expediting determinations of navigability on fresh water rivers, lakes and streams in Alaska by establishing the Commission to help provide factual information to be considered in these determinations. However, the courts have generally rejected formula approaches to navigability determinations, opting instead to inquire into the facts of each case. The Department is concerned that the proposed Commission, during its short, two-year duration might not be capable of effectively conducting the necessary historical research to determine the factual underpinnings of navigability for thousands of waterways in remote areas of Alaska.

We are also concerned about the effect of the recommendations submitted by the Commission, and whether the courts would accept those recommendations. It is not clear that the Commission, however constituted, can achieve the bill's purposes of expediting the title adjudication processes and facilitating navigability determinations.

We have an additional concern regarding the composition of the Commission. As the bill is currently written, the Commission is composed of members who each represent an interested party. There is no requirement for any member to have expertise in any aspect of law or land management that would facilitate determinations. We believe the Committee should consider adding expertise as criteria for some of the Commission members.

In addition, OMB advises that the bill has pay-as-you-go implications because of the Commission compensation provision. An estimate has not yet been developed.

The Department is not opposed to the purpose of the bill, but would welcome the opportunity to work with the committee to address these issues so that determinations of navigability could be expedited for Alaskan waterways.

S. 2612—CLARK COUNTY CONSERVATION OF PUBLIC LAND AND NATURAL RESOURCES ACT OF 2002

S. 2642 is made up of several titles, only a few of which concern the Forest Service directly. Therefore, I will limit my comments to Title II and Title IV. These titles designate specified Federal lands in Nevada as wilderness and components of the National Wilderness Preservation System. S. 2612 also releases and retains certain Nevada lands as wilderness study areas.

Title II proposes a number of areas in Clark County as additions to the National Wilderness Preservation System, and several related administrative and management requirements and limitations. Although the Department does not oppose Title II and is supportive of the proposed additions to the National Wilderness Preservation System, we have significant concerns with some of the administrative and management provisions as they are currently drafted. We look forward to working with the Committee to resolve these concerns.

The Nevada Wilderness Protection Act of 1989 provided for low-level over-flights in designated wilderness for military purposes only. The language of the section 205 in the current bill allows for low-level flights by anyone. We would like to work with the Committee to resolve this difference.

As a general matter applicable to three of the proposed additions to the National Wilderness Preservation System, the Forest Service is concerned with our ability to administer wilderness boundaries that follow private property lines and un-surveyed cadastral (i.e., township) lines. The resulting wilderness would be more effectively managed if, where possible, recognizable landscape features and elevation contour lines defined the boundaries.

In most cases, private property boundaries and cadastral lines were defined in the last century and have not been surveyed. For example, the western boundary of the proposed La Madre Wilderness appears to follow the section lines.

Revising that boundary to follow topographic features would make it easier to both establish and administer on the ground. The Forest Service also recommends assuring that this portion of the boundary is sufficiently offset from FSR 576 and the private inholding to guard against any potential conflict with those features. Also, where boundaries use offsets from man-made structures, such as roads or power lines, these offsets should be adequate to allow for road and fuel break maintenance, as well as dispersed parking where appropriate. We would like to discuss our specific boundary concerns with the Committee and staff before the bill moves forward.

Additionally, we have a number of substantive and technical concerns regarding sections 208210 and would like to work with the Committee to modify these sections.

Title IV of the bill contains amendments to the Southern Nevada Public Land Management Act (SNPLMA), specifying that a maximum of 25 percent of the amounts be used for capital improvements and a minimum of 25 percent be used for parks, trails, and natural areas. These legislated restrictions are problematic. We recommend maintaining flexibility in the proportions allocated to land acquisitions, capital improvements, and parks, trails, and natural areas to allow those three program areas to adjust to the variations in needs and priorities that naturally occur from year to year. The process currently described in the SNPLMA Implementation Agreement permits important flexibility. The Implementation Agreement process allows public participation throughout the nomination process to help set the priorities for distribution of funds. The latest round of project submittals exemplified how the current flexibility was used to distribute funds to the mutual advantage of all participating agencies and, ultimately, to the public. Therefore, we recommend that the Implementation Agreement process be used to develop the annual recommendations for SNPLMA project funding.

S. 2652—FLORIDA NATIONAL FOREST LAND MANAGEMENT ACT OF 2002

S. 2652 would authorize the Secretary of Agriculture to solicit offers for the sale or exchange of 18 parcels of land within the National Forests in Florida.

S. 2652 authorizes the Secretary to use a real estate broker and pay the real estate broker a commission in an amount that is comparable to the amounts of commission generally paid for real estate transactions in the area.

The bill allows the Secretary to accept a cash equalization payment in excess of 25 percent of the value of the Federal land exchanged for non-Federal land of a lesser value.

S. 2652 also prohibits the Secretary of Agriculture from selling or exchanging the parcel of land described in paragraphs (1) through (7) of subsection (b) without the concurrence of the Secretary of the Air Force. The Department has concerns with this provision and believes it could significantly delay disposing of the specified parcels. We would like to work with the Committee to revise the concurrence language.

Further, we would recommend that parcel 17 (tract C-2212) be removed from the bill. The 5 acres does not belong to the Forest Service.

The Department supports S. 2652. The parcels contained in the bill are also identified for exchange or sale in the National Forests in Florida's Land Management Plan. This legislation will expedite the sale of these parcels, which are separated and isolated lands that no longer contain national forest characteristics and are no longer manageable as National Forest land. Several of these parcels are encumbered with urban structures, such as baseball fields and the Okaloosa County fairgrounds.

S. 2652 will allow us to acquire the remainder of a 2,560-acre inholding within Florida's Apalachicola National Forest. We recently completed a land exchange for 1,180 acres of this property.

S. CON. RES. 107—SENSE OF CONGRESS ON THE "COLLABORATIVE 10-YEAR STRATEGY FOR REDUCING WILDLAND FIRE RISKS TO COMMUNITIES AND THE ENVIRONMENT"

Senate Concurrent Resolution 107 expresses the sense of Congress that Federal land management agencies should fully support the 10-Year Comprehensive Strategy for Reducing Wildfire Risks to Communities and the Environment. This strategy was developed by the Secretaries of Agriculture and the Interior in collaboration with the Western Governors Association. The Secretaries and the Governors endorsed this document in August 2001.

Subsequently, in May of this year, the Secretaries and Governors signed the implementation plan for the 10-Year strategy. This plan is a consensus document agreed to by the Secretaries, the Western and Southern Governors Associations, the National Association of Counties, the National Association of State Foresters, industry, environmental groups, and other parties. The goals of the implementation plan are to improve fire suppression, reduce hazardous fuels, restore fire adapted ecosystems, and promote community assistance through performance based collaboration. The implementation plan establishes the need for active forest management, including thinning that produces commercial or pre-commercial products, biomass removal and utilization of prescribed fire and other tools to reduce wildland fire risks to communities and the environment.

The newly-formed Wildland Leadership Council is important to the leadership, accountability, and coordination in carrying out these goals. The Council has developed action plans for each task described in the 10-Year Implementation Plan. We appreciate the continued bipartisan support from Congress, and we are committed to meeting the goals of this federal-state partnership.

CONCLUSION

This concludes my statement. We look forward to working with the Committee on making the suggested modifications as noted above, and I would be happy to answer your questions.

Senator WYDEN. Thank you.

Ms. Pearce.

STATEMENT OF DRUE PEARCE, SENIOR ADVISOR TO THE SECRETARY OF THE INTERIOR FOR ALASKA AFFAIRS

Ms. PEARCE. Thank you, sir. I have two bills that I will be commenting on on behalf of the Department of the Interior.

I appreciate the opportunity to appear here before you to present the views of the Department of the Interior on S. 2587, which would establish a Joint Federal and State Navigable Waters Commission. We believe the purposes of the bill are laudable and we support legislation to create a commission. We believe a bill would provide a desirable focus on a seemingly endless process of determining title to unreserved beds of navigable waters in the State of Alaska.

We share the view of the State of Alaska that there will be many cases where the navigability of particular waterways is not likely to be in dispute. The commission process is an excellent way to identify such waterways, without protracted and costly litigation. While some disagreement between the two governments is inevitable, the ability to identify those waterways not in dispute properly leaves both governments in a position to more efficiently utilize their resources to address those waterways for which the resolution is more difficult.

Under the equal footing document and the Submerged Lands Act of 1953, title to and ownership of the lands beneath navigable waters vested in the State at the time of statehood. Section 6(m) of the Alaska Statehood Act of 1958 applied the Submerged Lands Act to Alaska. Thus, title to unreserved beds of navigable waters passed to the State on January 3, 1959.

Thousands of rivers and streams, and millions of lakes are located on Federal lands in Alaska. The question of who owns the unreserved beds is still unresolved all these years later.

The State of Alaska has long sought to establish its right, title and interest in the beds of navigable waters. Ordinarily, this would be accomplished through real property quiet title actions in Federal court. In August 1992, the State notified the Secretary of the Interior that it intended to initiate quiet title proceedings on nearly 200 rivers, streams and lakes. Nearly a year later, in November 1993 the State took its first step in this efforts, filing a suit in Federal court in Anchorage to quiet title to the beds of the Nation, Kandik and Black Rivers.

In January 2000, the Ninth Circuit issued an opinion in this case which frustrates the State's efforts. The United States has adopted a very narrow view of the term "interest" due to the Ninth Circuit's opinion that the Federal court had no jurisdiction to hear quite title actions against it, unless the Federal Government actively and expressly asserts an interest in the land. Because the Federal Government rarely expresses such interest, the State rarely has a viable cause of action to quiet title to submerged lands.

The State of Alaska legislature passed a bill which was signed by the governor in June of this year, to create a navigable waters commission. This Federal bill actually would go along with that. It enumerates three purposes. It also establishes the duties of the commission, which we believe are reasonable. While advisory only, the commission can be helpful.

We note that the term of 2 years may be insufficient to effect the purposes of the commission. The committee may want to consider a longer term of the commission. The membership includes seven members each representing the Federal and the State governments. We believe the committee should consider providing membership for additional interested Federal agencies, including relevant land management agencies such as U.S. Forest Service, and possibly the Department of Justice.

We believe a more systematic process is long overdue to identify navigable and non-navigable waters of Alaska, by far the Nation's largest and most complex State with respect to these issues. The commission can contribute significantly to the Federal and Alaska State governments working together in a more focused and productive way to resolve these important matters.

I am also here before you today to present the views of the Department on S. 2016, which would direct the land exchange between the Department of the Interior and the Newtok Native Corporation. The purpose of this exchange is to provide a new site for the Native Village of Newtok, Alaska, on lands within the Yukon Delta National Wildlife Refuge on Nelson Island.

The present village site is experiencing severe erosion along the banks of the Ninglick River. The average annual erosion rate is 90 feet per year and it is expected the land under the homes, the schools and the businesses in Newtok, including the airport, their only access, will erode within 8 years.

We support and have supported from the onset the desire of the residents of Newtok to relocate their village from its present site across the river to an upland area on the Yukon Delta National Wildlife Refuge that is adjacent to other Newtok Village owned lands on Nelson Island.

We do have some concerns, however, as the bill as it was introduced. Fish and Wildlife Service negotiations with Newtok seek to balance the necessity of the villagers to relocate to a new village site that is suitable and will accommodate the immediate and future needs of the village, while also providing protection for wildlife and their habitat on the refuge.

We are optimistic that together we can reach an agreement through careful planning and continuing negotiations that satisfies both parties. Since the passage of the Alaska Native Claims Settlement Act, better known as ANCSA, in 1971, the Village of Newtok has nearly tripled in population, all the way to about 321. Continued growth of the village population must be considered in the planning for necessary infrastructure. There should also be a sufficient exchange of land of high value to wildlife to balance or at least minimize the loss of refuge lands associated with developing the undisturbed habitats in and around Nelson Island.

We believe that surveys of the proposed Nelson Island lands should be conducted to determine the appropriate size and site for

the village. We believe it's important to note that a description of the lands in the legislation at this time might result in the need for future adjustments.

Current law authorizes the Secretary to conduct land exchanges in Alaska using either section 22(f) of ANCSA, as amended, which provides authority to conduct land exchanges on the basis of equal value, or section 1302(h) of the ANILCA, the Alaska National Interests Lands Conservation Act, which provided for other than equal value exchanges if the parties agree to an exchange and if the Secretary of Interior determines it is in the public interest.

If this exchange is done on an equal value basis, we would urge the committee to allow the service to follow its standard appraisal process. As drafted the legislation is unclear as to whether selected lands being offered by Newtok will be deducted from ANCSA entitlements or——

Senator WYDEN. Miss Pearce, excuse me, I think you are well over 5 minutes too, if you could summarize your key points.

Ms. PEARCE. Legislation is unclear as to whether the selected lands being offered by Newtok will be deducted from ANCSA entitlements. If Newtok offers selected lands, they should be charged against their entitlement.

While we have concerns with some of the details, we support legislation that directs the service and Newtok to negotiate an exchange that insures adequate land is conveyed for the village infrastructure.

Thank you very much and I would be happy to answer any questions.

[The prepared statements of Ms. Pearce follow:]

PREPARED STATEMENT OF DRUE PEARCE, SENIOR ADVISOR TO THE SECRETARY OF THE INTERIOR FOR ALASKA AFFAIRS

S. 2587

Mr. Chairman, I appreciate the opportunity to appear before you to present the views of the Department of the Interior on S. 2587, a bill to establish a Joint Federal and State Navigable Waters Commission.

We believe the purposes of the bill are laudable and we support legislation to create a commission. We believe a bill would provide a desirable focus on the seemingly endless process of determining title to unreserved beds of navigable waters in the State of Alaska. While we support the purposes of the bill and the focus it will provide on this important issue, we must recognize there are limits on what a commission may be expected to accomplish. Also, we would like to work with the Committee to refine language as to duties of the Commission and purposes of the reports to enhance the usefulness of the work of the Commission. In addition, we understand that the Department of Justice is still reviewing this bill and may have additional concerns.

We share the view of the State of Alaska that there will be many cases where the navigability of particular waterways is not likely to be in dispute. The commission process is an excellent way to identify such waterways without protracted and costly litigation. While some disagreement between the two governments is inevitable, the ability to identify those waterways not in dispute properly leaves both governments in a position to more efficiently utilize their resources to address those waterways for which the resolution is more difficult.

BACKGROUND

Under the Equal Footing Doctrine and the Submerged Lands Act of 1953, "title to and ownership of the lands beneath navigable waters" vested in the states at the time of statehood. Section 6(m) of the Alaska Statehood Act of 1958 applied the Submerged Lands Act of 1953 to Alaska. Thus, title to unreserved beds of navigable waters passed to the state on January 3, 1959.

Thousands of rivers and streams and millions of lakes are located on Federal lands in Alaska. This question of who owns the unreserved beds, and the natural resources in the beds, of these rivers, streams, and lakes has not been answered. The Interior Department's policy has been to make administrative navigability determinations to permit an agency to perform its administrative functions under the public land laws. The BLM, for example, makes administrative navigability determinations in support of the lands transfer program authorized by the Alaska Statehood Act, the Alaska Native Claims Settlement Act, and the Native Allotment Act. However, the Department's Solicitor noted in 1976, "the determinations by BLM will not decide legal disputes with respect to title, determine or adjudicate title. . . ."

The State of Alaska has long sought to establish its right, title, and interest in the beds of navigable waters. Ordinarily, this is accomplished through real property quiet title actions in federal court. In August 1992 the State notified the Secretary of the Interior, among others, that it intended to initiate quiet title proceedings on nearly two hundred rivers, streams, and lakes. Nearly a year later, in November 1993, the State took its first step in this effort, filing a suit in Federal Court in Anchorage to quiet title to the beds of the Nation, Kandik, and Black Rivers (all located in the Upper Yukon area).

In January 2000, the Ninth Circuit Court issued an opinion in this case which frustrates the State's efforts. In a white paper entitled "Conflicts Concerning Title to Submerged Lands in Alaska" (March 4, 2002), State officials presented the predicament to the Alaska Legislature. The paper states that the United States has adopted a very narrow view of the term "interest" due to the Ninth Circuit's opinion that the federal court has no jurisdiction to hear quiet title actions against it unless the federal government actively and expressly asserts an interest in the lands. Because the Federal government rarely expresses such interest, the State rarely has a viable cause of action to quiet title to submerged lands.

In response, the State of Alaska legislature passed a bill, SB 219, signed into law by the Governor on June 20, 2002 to create a navigable waters commission. The effective date is September 18, 2002. According to testimony before the legislative committees, the navigable waters commission provision was patterned after Section 17 of the Alaska Native Claims Settlement Act which created the Joint Federal-State Land Use Planning Commission for Alaska. The bill is very similar, though not identical, to the current Senate bill, and anticipates a possible Federal partner in the Commission through Federal legislation.

PURPOSES AND DUTIES

The bill enumerates three purposes, to:

(1) expedite the process of quieting legitimate title to the submerged lands in the State of Alaska;

(2) facilitate determinations for purposes of the Submerged Lands Act (43 U.S.C. 1301 et seq.), which bodies of water in Alaska are navigable waters; and

(3) recommend to the State of Alaska and the Federal Government ways to improve the process of making water use and navigability decisions and to fairly and expeditiously quiet title to the State's submerged lands.

To further these purposes, the bill establishes duties of the Commission to:

(1) make recommendations to the Secretary of the Interior and the State of Alaska regarding determinations of bodies of water in the State that are navigable waters for purposes of the Submerged Lands Act;

(2) establish a process for employing established standards to facilitate making such recommendations and determinations;

(3) develop procedures for involving private landowners, including Alaska Native corporations and the general public, in that process;

(4) undertake a process to identify navigable waters in Alaska pursuant to established standards and criteria; and

(5) make recommendations to improve coordination and consultation between the government of the State of Alaska and the Federal Government regarding navigability determinations and decisions concerning title to submerged lands.

The Commission's duties are reasonable. While advisory only, they can be helpful, but we believe they may be further detailed to assist and focus their efforts.

The efforts of the Commission could help the BLM in resolving numerous jurisdictional questions which they have confronted over the past fifty years, involving the issuance of mining claims, rights-of-way permits, land use permits, and oil and gas lease sales which involved submerged lands. For over a decade the BLM and the State have disputed, for example, which entity has jurisdiction over certain sections

of the Fortymile River. Mining-related activities usually precipitate these disputes. The proposed Commission's work could also help resolve questions of ownership over islands that form in a river or lake after the date of statehood.

However, we should point out that "established standards and criteria" referred to in item 4 may be somewhat elusive. The Federal courts set the legal standards for title navigability determinations. As the courts have repeatedly said, each water body must be considered on its own merits. Also, the Commission's recommendations are not definitive, but must be acted upon by the Federal and State governments, and where there is disagreement between the Federal and State governments, the Commission would need to recognize that only the courts will resolve the legal differences.

We note that the term of 2 years may be insufficient to effect the purposes of the Commission. The Committee may want to consider a longer term or including in a report from the Commission a provision for addressing the need for renewal.

The membership in the Commission includes 7 members each representing the Federal and State governments. We believe the Committee should consider providing memberships for additional interested Federal agencies, including relevant land management agencies, and possibly the Department of Justice for their expertise in the area.

We note that there are ironies in navigability determinations, in that while they may result in State ownership, they also trigger legal responsibilities for other Federal agencies, such as the Corps of Engineers, EPA, and the Coast Guard.

We support legislation to create a Commission. We would like to work with the Committee to refine provisions for duties, membership, and reporting, to best effectuate the purposes of the Commission. However, we believe a more systematic process is long overdue to identify navigable and non-navigable waters of Alaska, by far the nation's largest and most complex state with respect to these issues. The Commission can contribute significantly to the Federal and Alaska State governments working together in a more focused and productive way to resolve these important issues.

In addition, OMB advises that S. 2587 has pay-as-you-go implications because of the commission compensation provisions. An estimate has not yet been developed.

I thank you again for allowing me the opportunity to testify on this issue of such importance to the people and State of Alaska. I would be happy to answer any questions you may have.

S. 2016

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today to present the views of the Department of the Interior on S. 2016, which would direct a land exchange between the Department of the Interior and Newtok Native Corporation. The purpose of this exchange is to provide a new site for the Native Village of Newtok, Alaska, on lands within the Yukon Delta National Wildlife Refuge on Nelson Island. The present village site is experiencing severe erosion along the banks of the Ninglick River. The average annual erosion rate is 90 feet per year, and it is expected that the land under the homes, schools, and businesses of Newtok will erode within eight years.

We continue to support, and have supported from the onset, the desire of the residents of Newtok to relocate their village from its present site across the Ninglick River to an upland area on the Yukon Delta National Wildlife Refuge that is adjacent to other Newtok Village owned lands on Nelson Island.

We have concerns, however, with the bill as currently written. Fish and Wildlife Service negotiations with Newtok seek to balance the necessity of the villagers to relocate to a new village site that is suitable and will accommodate the immediate and future needs of the Village, while also providing protection for wildlife and their habitat on the Refuge. We are optimistic that together we can reach an agreement through careful planning and continued negotiations that satisfies both parties.

In November 1996, Newtok Native Corporation passed a resolution authorizing the Corporation to negotiate a land exchange with the Service. At that time, the Corporation identified approximately 19,000 acres of Refuge land on Nelson Island that they deemed suitable and necessary for a new village site. Immediately thereafter, negotiations began, and by December 1997, the Regional Director for the U.S. Fish and Wildlife Service submitted an intent to exchange agreement for a 21,427 acre exchange to Newtok Native Corporation.

Newtok Native Corporation responded to the proposed agreement by reducing both the Refuge land they sought on Nelson Island to 14,750 acres and their corporate land offered elsewhere to 11,105 acres. Negotiations were temporarily stalled over the amount of land to include in the exchange. When S. 2016 was introduced

on March 14, 2002, Newtok's request for Refuge lands for a new village site on Nelson Island was reduced to 5,580 acres. We recommend that potential revisions to S. 2016 should include an amount of land that is of sufficient size to provide for the current and future growth of the Village and for its necessary infrastructure. Since the passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971, the Village of Newtok has nearly tripled in population to about 321. Continued growth of the Village population must be considered in the planning for necessary infrastructure. There should also be a sufficient exchange of lands of high value to wildlife to balance or at least minimize, the loss of Refuge lands associated with developing undisturbed habitats in and around Nelson Island.

We believe that surveys of the proposed Nelson Island lands should be conducted to determine the site and size for the Village. Without such surveys it is impossible to know with certainty whether the proposed exchange provides adequate resources for the Village and whether the future needs of the community can be met. We believe it is important to note that a description of the lands in the legislation at this time might result in the need for future adjustments.

In addition, it is unclear how the proposed new village site might impact wildlife. In the current proposal, the proposed site is closer to Baird Inlet Island than the present village. The island supports a large colony of nesting Pacific brant. One of just five major Pacific brant colonies on the Refuge, Baird Inlet Island is a critical production area for these geese. During an average year, up to 4,500 pairs of brant use Baird Inlet Island to nest and brood their young. Nests on this island comprise up to 25% of the colonial nests on the Refuge in any given year. Air traffic to and from a new airport, if routed directly over Baird Inlet Island, could cause disturbances to birds at critical stages in their life cycle as well as be potentially hazardous to aircraft and the safety of the flying public. Increased boating activity adjacent to the island would be an additional source of disturbance to the birds as villagers travel to and from their traditional subsistence use area northwest of the new village site and when supplies are brought into the new village. In addition to Pacific brant, other species likely to be impacted by the proximity of the Village and airport to the island are emperor goose, cackling Canada goose, Pacific white-fronted goose, the threatened spectacled eider, and muskox. The Service intends to address these issues with the Village during the NEPA review for the airport siting and construction.

Current law authorizes the Secretary to conduct land exchanges in Alaska using either Section 22(t) of ANCSA, as amended, which provides authority to conduct land exchanges on the basis of equal value; or Section 1302(h) of the Alaska National Interests Lands Conservation Act (ANILCA), which provides for other than equal value exchanges if the parties agree to an exchange and the Secretary determines it is in the public interest.

If the exchange is done on an equal value basis, we would urge the Committee to allow the Service to follow its standard appraisal process. The methodology provided in the bill for conducting the proposed exchange of lands does not follow the standard procedures used by the Service in appraising lands for either acquisition or exchange. We believe the proposed methodology could impede our ability to accomplish the exchange by setting timeframes and procedures that might be problematic for both parties.

An additional concern is that, as drafted, the legislation is unclear as to whether selected lands being offered by Newtok will be deducted from ANCSA entitlement upon relinquishment of Newtok's selections. Native Corporations have no legal rights to selected lands until conveyance. If Newtok offers selected lands, they should be charged against their ANCSA entitlement or Newtok would be offering Federal lands in exchange for Federal lands on Nelson Island.

Newtok has expressed concern over statutory and regulatory restrictions imposed by Section 22(g) of ANCSA on Corporation land within the boundaries of the Clarence Rhode Unit of the Yukon Delta National Wildlife Refuge. Only 589 acres of the Refuge lands identified for exchange at the new village site would be subject to Section 22(g) restriction. We agree that this legislation should direct that lands received by Newtok in this exchange be free from restrictions imposed by Section 22(g) of ANCSA.

The proposed legislation as drafted, in Section 2(b), would exempt the conveyance of lands to the Newtok from all laws, rules, and regulations. This would prohibit the Service from administering other federal laws and regulations that do not apply strictly to refuge lands. Also, the United States has treaty obligations with many nations that require that certain resources are protected such as the Migratory Bird Treaty Act and the Marine Mammals Protection Act. Other laws such as the National Environmental Policy Act, the Endangered Species Act, the Clean Air Act, the

Clean Water Act, etc., should apply on lands conveyed to Newtok, as they do throughout the United States.

This same language in Section 2(b) jeopardizes the protection of valid existing rights. All Alaska Native and other legislation provides protection for valid existing rights. For example, an existing Native allotment application or certificate on refuge lands is a valid existing right and must be protected as such and that area would be excluded from conveyance to Newtok.

SUMMARY AND CONCLUSIONS

While we have concerns with some of the details of the bill, we support legislation that directs the Service and Newtok to negotiate an exchange that insures adequate land is conveyed for village infrastructure. Once adequate lands are identified by the parties, the exchange can be completed through established land exchange procedures. With the terms of the legislation modified as suggested, the lands conveyed to Newtok would also be free of 22(g) restrictions. The exchange would protect refuge resources and include sufficient land to provide adequate resources and facilities for the Village.

I appreciate the opportunity to comment on S. 2016 and the Department looks forward to working with Newtok representatives and the Committee to achieve the goal of relocation and reestablishment of the Village to more suitable terrain while protecting the fish and wildlife resources and their habitat within the National Wildlife Refuge System.

Senator WYDEN. Great. Thank you all, and thank you for your cooperation.

Mr. Abbey, on S. 2612, let's go first to the question of water rights. Previous laws designating wilderness areas in Nevada have either expressly reserved the water right, or in the case of the Black Rock Desert Wilderness enacted last Congress, were essentially silent on the issue. Why is it appropriate to ignore the wishes of the Nevada delegation on this and create yet another standard?

Mr. ABBEY. Well, Senator Wyden, it is the position of the Department that we believe that this legislation should not construe or be construed to constitute either an expressed or implied reservation of any water rights. And again we would, you know, we would be the advocate for that position being accepted by the members of this committee.

Senator WYDEN. Well, I hope you will work with the two Nevada Senators on it. Beyond the fact that the Congress and this committee has traditionally deferred to the delegation with respect to these kinds of issues, it seems to me the idea of creating yet another standard is troublesome, so I hope you will work with us and we can get that resolved.

Now with respect to wilderness issues, here we are talking about release language, and the release language in S. 2612 differs from that used in previous BLM wilderness bills. You recommend incorporating management language that is "widely understood and accepted." Do you all have any concerns with the standard wilderness study area release language?

Mr. ABBEY. We would not.

Senator WYDEN. On title IV, the bill designates 23,000 acres of additional lands for disposal under the terms of the 1998 Southern Nevada Public Lands Management Act. According to BLM data, the price of the lands average between $25,000 and $116,000, depending on the number of acres sold. So at those land prices, the bill appears to create several hundred million dollars in new direct spending. Has the Agency prepared any estimate of the probable costs of this bill for the lands identified for disposal under the

Southern Nevada law and the value of the other lands that are designated for no-cost conveyances?

Mr. ABBEY. We could provide that information to the members of this committee.

[The information follows:]

We do not have precise or accurate values for each of the land transfers or disposals provided for in this bill. It would be a costly and time-consuming matter to complete appraisals to determine the values. However, let me briefly outline what I can.

First, under Title IV of the bill, approximately 23,600 acres would be added to the Southern Nevada Public Land Management Act (SNPLMA) disposal area. The value of these lands will be dependent on a number of factors including, when they are sold, in what size parcels they are sold and what level of infrastructure is adjacent to the parcels.

That being said, we can take some guidance from past experience. Sales of small parcels tend to result in higher per acre values than larger parcels, but location is the most critical element in value. Ten land sale auctions have been conducted since November of 1999 under SNPLMA. 187 individual parcels of BLM-managed public lands have been sold, totaling 2,782 acres. The average price per acre for these sales is approximately $56,000. The most recent sales in July and August of this year resulted in approximate price per acre of $153,000 and $77,000 respectively.

Second, there are eight conveyances within the bill without cost to the benefitting entity. These total 19,788 acres. They range in size from 30 acres for low income housing to 15,500 acres for Clark County Airport Authority. In addition their location varies from urban to suburban to rural.

Senator WYDEN. Okay, good. We would like that promptly so we can move it.

Just one question for you, Miss Kimbell. On S. 2652, there is a question with respect to the hiring of real estate brokers in order to sell the property in return for commission. It's my understanding that you already have reality specialists on your staff who could perform the work. Is there any reason for having to contract this out?

Ms. KIMBELL. The bill would authorize us to hire a broker and we have estimated that the use of a broker's service who is real familiar with the real estate values in the area, we could in the long term save money.

Senator WYDEN. So you're going to save money by contracting out?

Ms. KIMBELL. Yes.

Senator WYDEN. So what do the people on the Forest Service staff do?

Ms. KIMBELL. They are quite fully occupied already with all the realty work that we do as a normal course of business, so this would be an additional piece of business, and quite a large piece of work.

Senator WYDEN. We don't have any other questions. Anything you all would like to add? We will excuse you at this time.

Our next panel, the Honorable Kem Hunter, mayor of Index, Washington; Clint Bentley, Nevada Land Users Coalition; and John Wallin, director of the Nevada Wilderness Project.

We welcome all of you and again, we're going to make those prepared remarks a part of the hearing record completely, and if you could just possibly summarize your key concerns, that would just be great.

Welcome, Mr. Hunter.

STATEMENT OF KEM HUNTER, MAYOR, TOWN OF INDEX, WA

Mr. HUNTER. Thank you, Chairman Wyden. I appreciate your entering my formal testimony into the text, and therefore I will speak from the heart rather than from the text.

Senator WYDEN. Great.

Mr. HUNTER. First of all, I would like to thank you and the other members of the subcommittee for inviting me to testify today and I would also like to thank Senator Murray, Senator Cantwell, and Congressman Larson for cosponsoring this important legislation on the Wild Sky wilderness bill.

Let me introduce myself. I am the mayor of the town of Index. We are a very small town, which is on the outskirts of the proposed wilderness area, we're just a few miles away from the closest boundaries. I have lived there for a long time, I've seen a lot of things happening to the town, and I firmly believe that this is one of the best things that could happen to our community.

Some of the reasons for that is first of all, it's just an incredibly beautiful area. The area in the proposed wilderness has incredible spires, granite spires, mountains. It has flanks that are unbroken by miles and miles of forest. It has babbling streams, it has meadows, it has all the varied parts of an ecosystem that you could imagine that one would hope to have in a diverse wilderness area.

Not only that, the wild and scenic Skykomish River runs right through town, and it's for this beauty that most of us moved up there. And most of us recognize that currently there is very little formal legislative protection for most of this land and most of us would really like to see this land stay wild rather than see more roads built or forest cut down, and we believe that a wilderness area designation is the most durable protection for that land.

Another reason that we feel that the Skykomish wilderness area would be very good for us is for the economy. We have a problem in Index; there are very few local jobs. Most of us have to drive a long ways through congested corridors, and it would be really nice to have more decent job opportunities where we live. We believe that with this wilderness area and the hiking trails that are provided, that are hard wired into the legislation, which I believe is a very important feature, that more jobs will be created by the outdoor recreational community.

Years ago we had a pretty good job source in forestry jobs, timber cutting, but the glory days of logging are long gone. The logging now is basically dictated by automated forestry practices that don't hire that many people, and they provide only temporary local employment.

Also, the very beauty of the area that is caused by all these rugged and rocky features also makes most of the valley very economically marginal for the timber extraction. So I believe that what our town really needs now is jobs that stay with us, and we believe that the jobs that stay with us are those that are tied to this growing outdoor recreational market. With the guarantees in the legislation of a wilderness trail network, the old saying goes, you build the and people will come, we believe that more people will come and visit our area, and enjoy the beauty that we have enjoyed for years.

We have small businesses in town that would really benefit from these visitors. We have bed and breakfasts, we have a couple of restaurants, we have a general store, we could have more businesses to employ more people.

Remember that Index is within a 2-hour drive of about two million people, and Index would be the perfect starting point for the growing body of folks who would like to enjoy the outdoor recreational opportunities such as hiking, fishing, camping, rafting, and so on and so forth, that this wilderness area would protect.

Then I would like to really point out in finishing my comments, and I'd like to finish on a more personal note. I'd like to tell you about years ago. I served my country in Vietnam. I spent 18 months in the steamy jungles and the murky rivers over there, and if you can imagine this, the weather there was quite often more hot and more humid than an August day in Washington, D.C., it was really dreadful. And one of the things that really got me through that 18 months is sometimes I would daydream about being in an Alpine forest with babbling brooks, with sparkling water and clean crisp air around me, and I just fantasized about being there, and the weather and conditions around me would go away for a while. I actually found such a place when I moved to Index in 1976, it was exactly what I was dreaming about back in Vietnam.

And then I spent a long time just really enjoying and discovering the mysteries of the forests and the mountains around me, it was just a great experience. And during my 25-year career as a firefighter in the Seattle Fire Department, after work I would go home to this beautiful place up in the mountains. It was so quite and so serene. A fire department career quite often today is very stressful, very difficult, very traumatic, and it was really a great opportunity for me to come back to a place like this where I could just enjoy the quiet and serenity of the natural beauty of where I lived, and unload all that baggage from a very stressful urban job.

Someday, I'm going to be too old to enjoy this wilderness area. A lot of it is very rugged, the slopes are very steep, but I know that for me, it has been just a wonderful place for me to go and ease my mind and enjoy nature, and to just experience the beauty and quiet and solitude. There's plenty of other people that would have more opportunities to do this, if this wilderness area is created.

I have children who grew up loving the beauty of this area, and some day I hope that my grandchildren will also come back to this area and enjoy it in the say ways that I have. And I think that is the best legacy that we could leave for future generations in this area. I would like to see the roadless national forest near my home left just as it is, I would like to see it intact, I would like to see it pristine, and yet I would like to see it still accessible so that these unborn generations for many years to come can enjoy it just as I have done.

And that is really the true reason why I ask you to support the proposed Wild Sky Wilderness bill.

[The prepared statement of Mr. Hunter follows:]

PREPARED STATEMENT OF KEM HUNTER, MAYOR, TOWN OF INDEX, WA

Chairman Wyden, Senator Craig, and other members of this subcommittee, I would like to thank you for giving me the opportunity to testify today on behalf of

the proposed Wild Sky Wilderness bill. I'd also like to thank Senator Murray, Senator Cantwell, and Congressman Larsen for co-sponsoring this important legislation.

I am the Mayor of the Town of Index, a small community located in the North Cascades mountain range in Washington State. If this proposed legislation passes, residents of our town will live within hiking distance of a wilderness area. I have lived in Index almost half my life, and I believe the proposed Wild Sky Wilderness would be the best thing that ever happened in this valley.

We are indeed fortunate to live in a spectacular natural setting. From any street in town you can see magnificent peaks flanked by hillsides of unbroken forest as far as the eye can see. The wild and scenic Skykomish River runs right through town. In fact, the main reason many of us moved here was to be close to the awesome beauty of this pristine valley in the mountains. But even though most of the land around us is national forest, little of it has any formal legislative protection. Most of us would like the land to stay wild rather than see more roads built or forests cut down.

One problem with living in Index is that there are few jobs in the local economy. Many of us have to drive long distances into congested urban corridors to find decent work. Most of those would prefer local employment if it were available. Decades ago, timber cutting provided good jobs. But today's automated forestry practices would provide only scant and temporary local employment. Further, the rugged, rocky features that make this valley so beautiful also leave it economically marginal for timber extraction.

What our town really needs is jobs that stay with us, and jobs that stay with us are those that are tied to the growing outdoor recreational market. Index is within a two hour drive of almost two million people; our town is a perfect starting point for visitors who would come to enjoy this wilderness area. These visitors will boost our economy when they shop in our general store, stay in our B&B's, eat in our restaurants and hire our local river guides. This recreation based economy is clean, environmentally friendly, and enhances the quality of life for residents and visitors alike. Further, the lower reaches of this proposed wilderness are accessible all four seasons, so visitors would provide a year round boost to our local economy. If the roadless forest land around us is protected with wilderness area designation, this new economy could help sustain our community forever.

I am especially pleased that, partly at my insistence, a promised network of wilderness trails in this new wilderness area is hardwired into the legislation. This provides me with a written guarantee that the national forest around us, while protected from environmental degradation, will also be managed in a way that invites people to enter and enjoy the wilderness and all of its serene beauty. I am also pleased that certain areas were intentionally excluded from the proposed wilderness area so that the snowmobile community could continue to enjoy their favorite destinations without clashing with those who seek more solitude.

I would like to finish my comments on a more personal note. Years ago, when I was serving my country in the steamy jungles and murky rivers in Vietnam, I often dreamed of someday being in a quiet place back home surrounded by alpine forest, sparkling water and clean, crisp air. I found such a place when I moved to Index in 1976. I spent several decades exploring the back country around me and discovering its hidden secrets. The forests, rivers and mountains around me were a perfect refuge from the stress and rigors of my 25 year career as a firefighter in the Seattle Fire Department. Someday, I will be too old to scale the steep slopes rising from the valley in which I live. But I have children who grew up loving the beauty of this area, and grandchildren who will someday, I hope, do the same. The best legacy I can think of would be to leave the roadless national forest near my home just as it is: intact, pristine, yet still accessible, by protecting it so that it can be enjoyed by many generations yet unborn. That is why I ask you to support passage of the proposed Wild Sky Wilderness bill.

Senator WYDEN. Very good, thank you.

Mr. Bentley.

STATEMENT OF CLINT BENTLEY, FOUNDER, NEVADA LAND USERS COALITION, LAS VEGAS, NV

Mr. BENTLEY. Chairman Wyden, committee members and staff, thank you for the opportunity to voice our position regarding S. 2612, the Clark County Public Lands Bill. My name is Clint Bentley and I represent the Nevada Land Users Coalition. The Nevada Land Users Coalition is formed up at present by the following

types of groups: We have 11 State and national conservation groups, 6 sportsman groups, 5 off-highway groups, 4 wildlife advisory groups, 2 town advisory boards, and 2 gem collection groups.

This diverse group representing over 15,000 Nevadans are united behind the proposal and positions that we advocate. With the submittal of S. 2612, we had several meetings to digest the impact of the proposed wilderness areas, the NCA and WSA release areas, and the proposed language for these items. The consensus of the coalition was that Senator John Ensign and Senator Harry Reid had crafted a compromise bill that was a very responsible bill.

They addressed the areas that met wilderness criteria and environmental concerns. Included was language that will permit proactive wildlife management, allow for the existing water guzzlers to remain, maintenance to be performed, and the development of new guzzlers if required. This bill also gives the managing land use agency the ability to manage wildfires. All of these items are very essential for the proper responsible management of the Mojave Desert and the Great Basin, due to their unique landscape and climatic conditions.

We agree with the release of the 183,000 plus acres of WSAs that do not meet wilderness criteria. These lands clearly demonstrate their multiple use criteria. This will facilitate the additional needed multiple use areas and in some cases additional development areas. The Sloan Canyon National Conservation Area will be a great recreational resource if the management plan follows the intent with which it was submitted.

Attached with the testimony is a copy of our proposal which differs from the proposed bill. However, we recognize that a compromise had to be made between our proposal and our environmental friends' proposal. Because of this, we recommend that you pass this proposed legislation as is. We felt that only areas that had previously been submitted as meeting wilderness criteria be made wilderness, and that all remaining areas should be released. That obviously is not what's in this bill.

In numerous discussions with other Western State wildlife agencies, it became apparent that the need for specific wildlife management language was needed, and we applaud the language provided in this bill.

Again, thank you for your time. If you have any questions regarding the coalition or our position, I would be pleased to answer them.

[The prepared statement of Mr. Bentley follows:]

PREPARED STATEMENT OF CLINT BENTLEY, FOUNDER,
NEVADA LAND USERS COALITION, LAS VEGAS, NV

Chairman Wyden, Committee Members and Staff: Thank you for the opportunity to voice our position regarding S. 2612, the Clark County Public Lands Bill. My name is Clint Bentley, I represent the Nevada Land Users Coalition.

The Nevada Land Users Coalition is formed up at present by the following types of groups.

11—State and National Conservation Groups
6—Sportsman Group
5—Off Highway Groups
4—Wildlife Advisory Boards
2—Town Advisory Boards
2—Gem Collection Groups

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They addressed the areas that met wilderness concerns. Included was language that will permit Pro-Active Management, allow for the existing water guzzlers to remain, maintenance to be performed and the development of new guzzlers if required. This bill also gives the managing land use agency the ability to manage wildfires.

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This will facilitate the additional needed multiple use areas and in some cases additional development areas.

The Sloan Canyon National Conservation Area will be a great recreational resource if the Management Plan follows the intent with which it is submitted.

Again, thank you for your time and if you have any questions regarding the Coalition or our position, I would be pleased to answer them.

A PETITION TO HON. HARRY REID AND HON. JOHN ENSIGN
OF THE GREAT STATE OF NEVADA

Submitted by:

The Nevada Land Users Coalition Consisting of:

Best In The Desert
Bunkerville Town Advisory Board
Clark County Gem Collectors
Clark County Wildlife Advisory Board
Coalition for Nevada Wildlife
Ducks Unlimited Reno
Dunes and Trails ATV Club
Foundation for North American Wild Sheep
Fraternity of the Desert Bighorn
Gold Searchers of Southern Nevada
Lincoln County Wildlife Advisory Board
Mule Deer Foundation
National Wild Turkey Federation
Nevada Bighorns Unlimited
Nevada Bow Hunters Association
Nevada Outdoorsmen
Nevada Trappers Association
Nevada United Four Wheelers Association
Ormsby Sportsmen Group
Overton Conservation Society
Partners In Conservation
Pershing County Wildlife Advisory Board
Quail Unlimited
Safari Club International
Southern Nevada Off Road Enthusiasts
Southern Nevada Regional Trails Partnership
Trout Unlimited—Southern Nevada Chapter
Vegas Valley Four Wheelers
Washoe County Wildlife Advisory Board
Wildlife & Habitat Improvement of Nevada

Whereas:

The public lands of Nevada are valuable far continued economic development, training for our national defense, human recreation and wildlife habitat.

The continued disposal of federal lands and development of private lands continue to crowd, fragment and intrude upon the habitat of these desert wildlife species.

Habitat improvements, such as water developments, have proven crucial in the reestablishment of desert bighorn sheep, upland game birds and numerous other wildlife, by mitigating some of the disturbances and habitat alterations of man.

The Nevada Division of Wildlife, Bureau of Land Management, United States Fish and Wildlife Services and the United States Forest Service have made substantial commitments to a wide variety of wildlife species by cooperating and constructing water developments and are obligated to maintain these projects.

The habitat crucial for the survival of these species within Southern Nevada is almost entirely managed by multiple agencies of the United States Government (Bureau of Land Management, United States Forest Service, United States Fish and Wildlife Service, National Park Service, Bureau of Reclamation, Department of Energy, Department of Defense).

Wilderness as it is observed and managed by federal land management agencies is a limited recreational pursuit, with relevance to species, ecological concerns and scientific principles being largely incidental and accidental.

Land, managed under wilderness criteria, e.g., areas of severe use restrictions, will constrain wildlife management and habitat, along with the recreational needs of the people of Nevada.

The Nevada Land Use Coalition proposes the following:

1. No portion of the Desert National Wildlife Range, will be designated as wilderness and will be released from wilderness consideration for the following reasons:

A. Regardless of assurances, wilderness designation on wildlife refuges and its attendant regulations, interfere with necessary management activities for desert bighorn sheep and other species of wildlife.

B. Current management strategy for desert bighorn sheep preserves characteristics of the area that would allow for wilderness recreation experiences without the burden of wilderness designation.

C. The refuge is currently withdrawn from mineral, exploration and extraction, thus not requiring any such protection.

D. Over half of the refuge is unavailable to public access wilderness recreation due to military training activities.

2. That Congress of the United States of America establish as wilderness the following areas:

Muddy Mountains	NV-050-229	36,850 acres
La Madre Mountains	NV-050-412	42,005 acres
Pine Creek	NV-050-414	22,966 acres
South McCullough Mountains	NV-050-435	19,558 acres
Lime Canyon	NV-050-231	13,895 acres
Mount Sterling	NV-050-402	50,682 acres

These recommendations were submitted by the Bureau of Land Management to the Secretary of the Interior on October 18, 1991, including the boundaries and the acreage recommended for wilderness as set forth in the final wilderness environmental impact statements.

3. That Congress of the United States of America establish as wilderness the following areas:

Grapevine	7,834 acres
Newberry Mountains	34,351 acres
Nellis Wash	16,072 acres
Ireteba	38,948 acres
Eldorado Mountains	45,289 acres
Black Canyon	16,444 acres
Temple Mesa	83,295 acres
Black Mountains	62,415 acres
Indian Hills	33,974 acres
Lime Ridge	58,375 acres

These recommendations were submitted by the National Park Service to the Secretary of the Interior in 1986, including the boundaries and the acreage recommended for wilderness as set forth in the Lake Mead National Recreation Area General Management Plan. The exception being, the wilderness area boundary for these areas, where they are bordered by Lake Mead, will be 1/4 mile inland from the existing high water line. This boundary will allow continued use of motorized water craft for wildlife and recreation management and public uses along this artificially created shoreline.

4. That these areas be managed for wilderness values. It is the express intent of Congress, that modern proactive wildlife management continue with the following allowances for wildlife management.

A. Wildlife management activity will continue in the form of:

1. Maintain full use of motorized vehicles, including helicopters, to survey, capture, transplant and monitoring wildlife populations, emergency repairs of water guzzlers and the implementation of new guzzlers.

2. Existing wildlife water developments will remain and be maintained, monitored and/or reconstructed in designated wilderness to enhance wildlife populations and be maintained, monitored and/or reconstructured by motorized vehicle, including helicopters, gas, and electrical tools.

3. Hunting and trapping will be utilized as a management tool.

4. Maintain full use of motorized equipment, including helicopters, to manage and remove feral stock, and/or wild horses and burros.

5. Water developments and other wildlife management structures may be constructed within designated wilderness when:

A. The action will enhance wilderness values by promoting healthy viable wildlife populations, as identified in existing Habitat Management Plans (HMP) dated:

Muddy Mountain EA 1989
Highland Range Wildlife HMP 1969
Gold Butte HMP 1983

B. Care is taken to construct and maintain projects so as to visually integrate wildlife projects into the environment;

C. Cherry stemmed roads, trails or ways will continue to be allowed to provide public motorized access. There will be a 150-foot wide buffer zone along each side of the cherry stemmed roads, trails or ways to provide adequate pull outs and camping sites for the public;

D. Fish and Wildlife species introduced by Nevada Division of Wildlife, will be managed in wilderness areas in accordance with Nevada Division of Wildlife's management policies;

E. Habitat rehabilitation and restoration work will be conducted as needs are identified (example: reseeding following fires and riparian enclosure fences).

5. Those lands managed by the Bureau of Land Management, U.S. Forest Service, National Park Service and U.S. Fish and Wildlife Service which are not designated for wilderness or as special wildlife habitat management shall be released from any wilderness consideration and will be subject to multiple uses as identified in the agencies land use plans.

6. Those lands which are the Desert National Wildlife Range, under management of the U.S. Fish and Wildlife Service, under the Department of the Interior, shall be managed primarily for desert bighorn sheep for which this unit of the National Wildlife Refuge System was established and is managed under CFR Title 50, Chapter I, Subchapter C, Part 25, Subpart A, 25.11. No lands of the aforementioned refuge will be designated as wilderness.

7. Those lands which are under the management of the Bureau of Land Management, under the Department of the Interior, shall be managed primarily for wildlife objectives as set by Nevada Division of Wildlife and compatible multiple use activities, as allowed for under CFR Title 43, Chapter II, Part 2420, Subpart 2410.2, b.2; c.1, c.4 and c.5. All wilderness areas shall allow for the existence or habitat improvements and access for the maintenance of said improvements. Management plans will be developed for each area by the Bureau of Land Management, the Nevada Division of Wildlife and interested parties.

8. Those lands within the State of Nevada which constitute the Lake Mead National Recreation Area (LMNRA) under the management of the National Park Service, under the Department of the Interior, shall continue to be managed for the unique wildlife and habitats with special consideration for desert bighorn sheep and compatible multiple use activities, as allowed for under CFR Title 36, Chapter I, Part 2. That management of those lands designated as wilderness within the LMNRA, shall not interfere with historic uses of wildlife or prohibit necessary management of desert bighorn sheep or their habitats.

9. Mechanized equipment and motorized aircraft will be allowed to combat fires, insects and/or diseases and to initiate prescribed burns.

Senator WYDEN. Well said.

Mr. Wallin.

STATEMENT OF JOHN WALLIN, DIRECTOR, NEVADA WILDERNESS PROJECT

Mr. WALLIN. Chairman Wyden, members of the committee and their staffs, thanks very much for the opportunity to testify. My name is John Wallin. I am the director of the Nevada Wilderness Project, and I am here representing the Nevada Wilderness Coalition, which is made up of the Wilderness Society, Toiyabe Chapter of the Sierra Club, Red Rock Audubon Society, Nevada Outdoor Recreation Association, the Nevada Wilderness Project, and friends of the Nevada wilderness. We have about 7,000 members in Nevada and we represent nearly one million citizens across the country.

On behalf of the coalition, I do want to thank Senators Reid and Ensign and their excellent staffs for the hard work that has gone into this legislation. The process has been fair and they have worked hard to listen to the concerns of all parties involved.

Our coalition believes that S. 2612 is a good first step to wilderness protection in southern Nevada. That said, there is need for significant improvement in the bill. We won't go into too much detail because of time limitations, but highlighting a couple issues we have or major areas of concern.

The release language is overly broad and may undermine Clark County's multi-species habitat conservation plan.

Important wilderness areas in the Gold Butte region, the Spring Mountains, and the Highland Range, are left unprotected by the legislation.

Wilderness management language may alter agency execution of the Act in a manner that undercuts the foundation of the National Wilderness Preservation System.

Also, critical wildlife areas transferred to the administration of the U.S. Fish and Wildlife Service are currently opened up to speculative gravel mining, and that undermines the purposes of America's second largest wildlife refuge, the Desert National Wildlife Range.

Also, the management language for the Sloan Canyon National Conservation Area lacks key protective provisions, and we would like to work with the committee to see they are put into legislation.

While we are very grateful for the cooperation and straightforward goodwill of all this parties to this compromise, we must stress that this bill is a bottom line compromise and it is not a wilderness bill. It protects far less land than we believe deserves protection. Instead, it releases many deserving wilderness candidate areas from continued protection as BLM wilderness study areas, opens up much more land in Clark County to development, with serious environmental consequences, and as introduced, it contains troubling release and management issues that again, should be corrected.

Our proposal, the citizens' wilderness proposal that the Nevada Wilderness Coalition has put forth, is the result of over 700 days of field work and over 6,000 photographs using GPS and topographic maps to do our inventory, and we came up with a regional approach to conservation of lands in southern Nevada, recognizing that county growth in Clark County affects all of the region of the

Mojave Desert. And so, we had a 4.1 million acre citizens' wilderness proposal.

We also understand that this is a compromise bill and that while everything we are asking for is not in this legislation, we do want to point out that our proposal has received tremendous support in southern Nevada. A recent poll done by Mason Dixon, which frequently does polling for the *Las Vegas Review Journal*, conducted a poll on wilderness in Nevada, and over 79 percent of Clark County residents supported our proposal and only 17 percent were opposed, and that would have included approximately 1.9 million acres in Clark County alone.

More than 100 businesses have endorsed the citizens' wilderness proposal and in addition, over 80 scientists just recently came out in support of the proposal. I can't stress to the committee enough that our coalition firmly believes that all the areas in our proposal should be designated as wilderness by Congress.

Our coalition is very supportive of a number of the areas, including the additions to Mount Charleston Wilderness, the North McCullough Mountain Wilderness which is just south of the city and acts as a tremendous open space opportunity for the residents of the area. And also the Wee Thump Joshua Tree Wilderness is home to some of the largest and most spectacular Joshua trees in the United States.

As I mentioned before, some of the areas that didn't receive the kind of protection they needed, the Gold Butte area, the Highland Range and the west side of the Spring Mountains, all of which I believe there are not significant conflicts with other parties to this compromise. It's a matter of perhaps having too much wilderness in the bill.

Furthermore, several problematic cherry stems included in the bill need to be eliminated. One major example of a cherry stem slices deep into the South McCullough Wilderness. I have a letter hear from the only public lands rancher left in Clark County, his name is Cal Baird, in which he asks that the McClanahan Spring cherry stem in the bill is eliminated entirely, and I quote Mr. Baird. "If this cherry stem is not eliminated, motorized vehicles, dirt bikes, ATVs, et cetera, will continue to harass my cattle, which has resulted in many injuries or deaths to my livestock." And I respectfully request that this letter be made part of the official hearing record.

Senator WYDEN. Without objection, so ordered.

Mr. WALLIN. So we also urge the committee to strengthen the wildlife management language found in section 208. Our changes are patterned after the 1984 Wyoming Wilderness Act and include language that makes it very clear that management actions that are taken must be determined to be the minimum necessary to accomplish the tasks.

As you know, S. 2612 contains many non-wilderness titles. Several member organizations of the coalition have concerns regarding a number of these provisions. I have detailed written testimony from the Sierra Club with regards to the issues I have just noted and I respectfully request that their written testimony be made a part of the official record.

Senator WYDEN. Without objection.

Mr. WALLIN. In conclusion, we do have some concerns about the mineral withdrawal for areas of critical environmental concern, and we strongly support the protection of statutory mineral withdrawal language that is found in the bill as it's currently conceived.

Thanks very much for the opportunity to present testimony today. Our coalition looks forward to working with members of the committee and the staff, and the offices of Senators Reid and Ensign on this legislation, and I'm happy to answer any questions that you might have.

[The prepared statement of Mr. Wallin follows:]

PREPARED STATEMENT OF JOHN WALLIN, DIRECTOR, NEVADA WILDERNESS PROJECT

Chairman Wyden, members of the committee and staff, thank you for the opportunity to testify today. My name is John Wallin. I am the Director of the Nevada Wilderness Project, a Nevada-based grassroots conservation advocacy organization. I am here today representing the Nevada Wilderness Coalition (NWC).

The Nevada Wilderness Coalition is made up of the Nevada Wilderness Project, Friends of Nevada Wilderness, The Wilderness Society, Toiyabe Chapter of the Sierra Club, Redrock Audubon Society, and Nevada Outdoor Recreation Association. Collectively our organizations directly represent more than 6,700 Nevadans and nearly one million citizens across the country.

On behalf of the coalition, I would like to thank Senators Reid and Ensign and their excellent staff for the hard work that has gone into this legislation. Their process has been fair, and they have worked hard to listen to the concerns and recommendations from all interested parties.

S. 2612 REPRESENTS A GOOD FIRST STEP FOR WILDERNESS IN SOUTHERN NEVADA BUT NEEDS MANY CHANGES

The Nevada Wilderness Coalition believes that S. 2612 is a good first step for Wilderness designation and protection in Southern Nevada. We are very pleased to see some of the most valuable wild places in Clark County receiving the protection they so desperately need. That being said, the legislation is in need of significant improvement. Before getting into our detailed comments on S. 2612, I would like to highlight some of our Coalition's major areas of concern.

- The "release" language in S. 2612 is overly broad, may undermine the Clark County Multi-Species Habitat Conservation Plan, and must be corrected.
- Important wilderness areas, particularly those in the Gold Butte region, the West Side of the Spring Mountains, and the Highland Range are left unprotected by the legislation and must be addressed.
- The Wilderness management language may alter agency execution of the Wilderness Act in a mariner that undercuts the foundation of the National Wilderness Preservation System.
- Critical wildlife areas, transferred to the administration of the U.S. Fish and Wildlife Service are opened up to speculative gravel mining undermining the purposes of the Desert National Wildlife Range.
- The management language for the Sloan Canyon National Conservation Area (NCA) lacks key protective provisions.
- S. 2612 contains a number of non-wilderness titles that concern several of our member organizations.

While we are most grateful to Senators Reid and Ensign for their leadership, for the extensive and dedicated work of their excellent staff, and for the cooperation and straightforward good will of all the parties to this compromise. We must stress that this bill is a bottom-line compromise, not a wilderness bill. It protects far less land than we believe deserves protection. Instead, it releases many deserving wilderness candidate areas from continued protection as BLM Wilderness study areas. It opens up much more land in Clark County to development with serious environmental consequences. And, as introduced, it contains troubling "release" and management provisions that must be corrected. Some member groups of our coalition also have concerns about several nonwilderness aspects of S. 2612.

BACKGROUND ON SOUTHERN NEVADA'S WILD PLACES

In order to give the Committee a better understanding of Nevada's wild landscape and the Wilderness potential that it contains, I would like to begin by providing some background information on Nevada's Mojave Desert region.

The Nevada Wilderness Coalition is fortunate to work on behalf of one of the wildest, most ecologically diverse and beautiful landscapes in this country, Nevada's Mojave Desert region.

Nevada's Mojave Desert lies between the Sonoran Desert to the south and the higher and cooler Great Basin to the north. This region is home to a wonderful array of plants and animals. At lower elevations Joshua tree, creosote bush, yucca and cacti abound while pinyon pines and juniper trees at higher elevations give way to the world's oldest living thing, the Bristlecone Pine, near some of Southern Nevada's higher summits.

The Mojave Desert region of Nevada supports a unique biological community unlike any other on Earth. The lands in the Mojave Desert range in elevation from 500 feet to almost 12,000 feet and temperatures range from below zero at higher elevations to over 120 degrees F in some valleys. This range of climates provides incredibly diverse habitats, allowing more than 1500 plant and animal species to thrive in the region.

From the snowy summits and pine forests of the Spring Mountains, to the deep shadows of Arrow Canyon, the unique sandstone sculptures of the Muddy Mountains, and the expansive views from the Grapevine Mountains, Nevada's Mojave Desert region invites people to escape, explore and discover. History buffs can ponder the meaning of enigmatic rock carvings. Hunters can search rugged cliffs for desert bighorn. Geologists can probe the history of Earth's evolution in rock formations. Hikers can explore timeless canyons in remote solitude.

Despite the arid climate, wildlife thrives throughout the Mojave Desert. Desert bighorn, kit fox. golden eagles, owls, cougar and mule deer call the rolling arroyos and rocky mountainsides home. Numerous rare, threatened or endangered species of plants, animals, birds, reptiles, insects and fish can be found in the Mojave Desert. They include the desert tortoise, peregrine falcon, southwestern willow flycatcher and the yellow-billed cuckoo.

Hidden in the mountains and valleys of Nevada's Mojave Desert region are clues to the people, climate, and landscape of the past. Fossils of long extinct animals and plants, and evidence of a dramatically different climate can be found throughout the region.

On rock walls throughout southern Nevada, traces of ancient peoples exist in the form of petroglyphs, and pictographs. Ancient campsites, milling stones, agave roasting pits and stone walls, as well as scattered tools and pottery can be found in this vast landscape. Each time these artifacts are vandalized or stolen, we lose another clue to the lives of this area's first peoples.

In addition, Nevada's Mojave Desert Region contains many places that are sacred to Native Americans and deserve protection for that reason alone.

THREATS TO WILDERNESS IN SOUTHERN NEVADA

The wild land of Southern Nevada is one of the most imperiled landscapes in the United States. There are many threats to the open space and wilderness character of the public lands in southern Nevada.

A major threat to the wild nature of southern Nevada is the explosive population growth in the region. According to the Nevada State Demographers Office, Clark County's population is expected to exceed two million people by 2010. Approximately 6,000 people move to the Las Vegas Valley each month, making the Las Vegas area the fastest growing region in the nation. The next ten years will see an increase in the Clark County population of over 500,000 new residents. Of this number, approximately 200,000 people will be moving to the unincorporated parts of the county where increasing urbanization will strain the existing local infrastructure and present ever-increasing threats to our remaining open space and wild public lands.

Another very large and growing threat to the natural environment of southern Nevada is the irresponsible use of dirt bikes and other off-road vehicles. While some dirt bike and off-road vehicle users make an effort to stay on existing trails, there are thousands and thousands of instances where users have destroyed, damaged and fragmented habitat with irresponsible use. Attempts at public education have helped somewhat, however the ultimate solution lies in legislated Wilderness with visible and enforceable boundaries, thereby protecting wild areas from this increasing threat.

Given the incredible diversity and beauty of the wild places found in southern Nevada, the important role they play in providing habitat for wildlife, open space and

recreational opportunities for our communities, and the clean air and water they provide, the Nevada Wilderness Coalition has long advocated for their protection as Congressionally designated Wilderness areas.

CITIZENS WILDERNESS PROPOSAL FOR NEVADA'S MOJAVE DESERT REGION

For many years, volunteers and staff from the Nevada Wilderness Coalition have been exploring, inventorying, and advocating protection for special wild places in Southern Nevada. Together we have developed a comprehensive Citizens Wilderness Proposal for Nevada's Mojave Desert Region.

The Nevada Outdoor Recreation Association began a comprehensive inventory of the wild resources found on lands managed by the Bureau of Land Management in Nevada decades ago. Information from their detailed review of the wild places in southern Nevada was incorporated into the Nevada Wilderness Coalition's updated inventory. In its preliminary investigations, the Nevada Wilderness Coalition identified the Mojave Desert ecoregion of southern Nevada as an area that, because of its exponential population growth and decades old Wilderness reviews by federal land management agencies, needed a reassessment and detailed on-the-ground inventory. Using data provided by all federal land managers, state offices and local government, a field inventory was initiated that began a systematic look at the remaining wildlands in southern Nevada's Mojave Desert. This process involved paid, as well as volunteer field crews who spent months traveling the wildest reaches of southern Nevada. The work entailed traveling to predetermined locations, and photographing any man-made impacts on the land and marking those locations on a topographic map using a GPS (Global Positioning System) unit to pinpoint the location. The NWC inventory procedure is complimentary to the inventory protocol that the Bureau of Land Management used during the late 70s and early 80s, although our process is more exacting and has the benefit of 21st century technology to guide it, such as advanced mapping software and GPS. The inventory protocol that the NWC used is consistent with methods used in Utah and Colorado where similar citizens' initiatives have been undertaken.

This protocol yielded over 6,000 photos taken in over 700 days in the field. This information was then entered into a database that allowed it to be compared with current data from the major federal land managers, as well as state and local agencies. Utilizing ArcView mapping software, citizens' boundaries were delineated based on the fieldwork and on the additional information collected.

Staff and volunteer efforts were directed towards collecting and analyzing every conceivable piece of information that may have some relevance to our proposal. Through these efforts, a cross-section of information was obtained from dozens of land management agencies, conservation organizations, and educational institutions. This information was then analyzed and interpreted by the Nevada Wilderness Coalition with an eye towards minimizing potential conflicts with other uses of the proposed Wilderness areas and identifying agency information that the NWC felt was contradictory or erroneous.

The process led to the detailed "Citizens' Wilderness Proposal for Nevada's Mojave Desert Region of 2001."

The Citizens' Wilderness Proposal for Nevada's Mojave Desert Region includes Wilderness recommendations for just over four million acres of public land within the Mojave Desert region of Southern Nevada. This includes public lands within Clark County and portions of Lincoln, Nye, and Esmeralda Counties. These lands are managed by the Bureau of Land Management, U.S. Forest Service, National Park Service and U.S. Fish and Wildlife Service. In many cases the NWC proposal for Wilderness corresponds to inventory work and Wilderness proposals developed by the various agencies. In other cases, we found previously overlooked areas which qualified for Wilderness designation.

SUPPORT FOR CITIZENS' WILDERNESS PROPOSAL

The Citizens Wilderness Proposal has received widespread support in Nevada. Last year, Mason-Dixon, an independent pollster that frequently conducts polls for the Las Vegas Review Journal conducted a poll on wilderness in Nevada. The poll showed overwhelming support in Nevada for the Citizen's Wilderness Proposal for Southern Nevada's Mojave Desert Region. Seventy-four percent of voters polled statewide favored the Wilderness proposal, which calls on Congress to designate 4.1 million acres of Wilderness in Southern Nevada. Only 21 % opposed the proposal. Support for the Wilderness Proposal was even higher in Clark County, where most of the proposed Wilderness is located, with 79% supporting and only 17% opposed. The poll also found that Nevada voters believe that dirt bikes and other off-road vehicles are damaging the public lands in Southern Nevada. In addition, the poll

showed 73% of Clark County respondents favored Wilderness designation as an important tool to protect open space and help ease the impact of urban sprawl.

More than 100 businesses have endorsed the Citizens' Wilderness Proposal. In addition, over 80 scientists recently announced their endorsement for the Citizens' Wilderness Proposal for Southern Nevada. Steve Ellsworth, Chair of the Science and Technology Department at Sierra Nevada College in Incline Village said in a letter supporting the proposal, "Wilderness designation is clearly the best way to safeguard air and water quality, protect open space, and maintain intact ecosystems. At a time when Nevada faces mounting environmental threats, this proposal is an excellent way for Nevadans to send a loud and clear message that protection of special environments in the Mojave Desert is important."

The Scientists' letter to Senators Reid and Ensign urged Congress to protect all of the remaining wildlands in Nevada's Mojave Desert, and stated that the Wilderness proposal offers broad-based protection for air and water quality as well as for habitat for plants and animals. It went on to say that Wilderness allows for natural ecological processes to occur, which keeps native landscapes healthy and diverse. Many of these scientists have spent decades researching in the Mojave Desert and have witnessed the deterioration of these landscapes due to inappropriate development, misuse, and mismanagement.

Brett Riddle, Professor of Biological Sciences at UNLV recently said, "by seeking to minimize the footprint resulting from human impacts, the Citizens Wilderness Proposal offers one of our most powerful tools for maintaining the integrity of ecological processes required to sustain biological diversity."

The Citizens' Wilderness Proposal for Nevada's Mojave Desert Region was presented to Nevada's congressional delegation, this Committee, and all of the relevant land management agencies in Nevada last year. The Nevada Wilderness Coalition continues to firmly believe that all of the areas in our proposal should be designated as Wilderness by Congress.

WILDERNESS DESIGNATED UNDER S. 2612

S. 2612 incorporates some aspects of the Citizens' proposal, but on the whole, S. 2612 is a much more minimalist approach to wilderness protection in southern Nevada.

There are several aspects of S. 2612 that the Nevada Wilderness Coalition welcomes.

Given the haphazard approach to land use planning and development that has taken place in southern Nevada for decades, the Nevada Wilderness Coalition is extremely pleased to see the landscape-based, comprehensive approach to land use planning that S. 2612 embraces.

S. 2612 does not simply address the urgent need for wilderness protections on land managed by the Bureau of Land Management in Southern Nevada, but also begins to address the need for additional Wilderness to be managed by the National Park Service and U.S. Forest Service. The Nevada Wilderness Coalition advocates looking beyond agency boundaries to envision Wilderness designations that make ecological sense. We are encouraged that Senators Reid and Ensign have begun this approach.

The Nevada Wilderness Coalition is very supportive of the inclusion of all of the Wilderness areas in S. 2612. Many of the most threatened, scenic, and ecologically diverse wild places in southern Nevada will gain needed protection under S. 2612. These places include:

- The popular Mt. Charleston Wilderness, which will be expanded to include some lower elevation areas that are important for wildlife.
- Portions of the Muddy Mountains, one of the most awe-inspiring areas in southern Nevada.
- The North McCullough Mountains, just outside the city limits of Henderson will ensure the protection of open space on the southern horizon of Las Vegas Valley.
- The South McCullough Mountains provide excellent wildlife habitat and recreational opportunities.
- The Arrow Canyon Range Wilderness will protect a spectacular wild mountain range for future generations.
- Areas within the Red Rock National Conservation Area will benefit from the Wilderness protection that they clearly merit.
- Many beautiful and ecologically diverse areas within Lake Mead National Recreation area and adjacent land managed by the Bureau of Land Management will be protected as Wilderness under S. 2612.

- The Wee Thump Joshua Tree Wilderness area is home to some of the largest and most spectacular Joshua trees in the United States. The Joshua tree forest in this area rivals, or in our mind surpasses the forest in the Joshua Tree National Park in California.
- Several areas that are sacred to American Indians, including Spirit Mountain and Table Mountain and Arrow Canyon will be protected.

There are two Wilderness areas designated under S. 2612 that have a name that is already taken by an existing Wilderness Area, Pine Creek and Black Canyon. In our suggested legislative wording changes, which is attached to this testimony, we have recommended different names for these Wilderness areas.

New Wilderness areas will be very beneficial to Nevada at a time when the Lt. Governor and the State Tourism Board are engaged in a campaign to show the rest of the nation the "other side of Nevada." Wilderness areas could enhance our efforts to diversify our tourism base and recreational opportunities near Las Vegas.

The new Wilderness Areas created under S. 2612 will protect an incredible range of wildlife habitat. Many culturally and historically significant petroglyphs and rock art panels will receive lasting protection under S. 2612. In addition, S. 2612 will ensure that future generations will be able to experience at least some portion of the wild landscape in Southern Nevada as it exists today.

S. 2612 represents a good first step for Wilderness protection for Nevada's Mojave Desert Region. While the Nevada Wilderness Coalition is very supportive of these new Wilderness areas, and thankful to Nevada's Senators for advocating for their protection under S. 2612, significant problems remain in S. 2612 that we hope will be addressed by this Committee.

NEVADA WILDERNESS COALITION'S CONCERNS ABOUT THE WILDERNESS COMPONENT OF S. 2612

First, and foremost, we are troubled by the very large amount of land that is "released" from Wilderness Study Area status under S. 2612. The lands contained in these Wilderness Study Areas have been managed to protect their wilderness values for more than twenty years. Releasing these lands is a step backwards for conservation in Southern Nevada. Many of the areas released from WSA status have no compelling rationale for their release. This is especially true in the Gold Butte region. Several of the released portions of WSAs are lower elevation areas that provide critical habitat for the Desert Tortoise and other imperiled species. We urge that the WSA status of these areas be continued.

There are many deserving areas that do not receive protection under S. 2612. The three areas left out or significantly underprotected under S. 2612 that are most troubling to the Nevada Wilderness Coalition include the west side of the Spring Mountains, the Highland Range and the Gold Butte Region.

The west side of Spring Mountains contains significant wilderness quality lands. These lands range from the lower elevation Mojave Desert upwards to an alpine environment. It is rare to find this spectrum of ecosystems in an intact, unfragmented state. The west side of the Spring Mountains is facing increased off-road vehicle use and habitat fragmentation. The rapid growth of the city of Pahrump is also placing pressure on this region. While S. 2612 designates some Wilderness in this area, it does not do justice to a region that deserves significantly more Wilderness protection. Furthermore, Mt. Stirling, an area recommended for Wilderness by the BLM, is not designated as Wilderness by S. 2612.

The Highland Range is a biologically unique wilderness quality mountain range within Clark County. This area was recommended for Wilderness protection in the Citizens' proposal, yet receives no protection under S. 2612.

The Nevada Wilderness Coalition is most troubled by the lack of Wilderness protection and significant release of WSAs in the Gold Butte region. The entire Gold Butte region deserves protection as a National Conservation Area or National Monument. The NWC advocated for significant Wilderness designation in this region to protect the important wildlife habitat and cultural and historic resources in the region. S. 2612, for lack of a better term, shortchanges the Gold Butte area. There is no compelling rational for the release of the Garrett Buttes Wilderness Study Area and portions of the Lime Canyon WSA. The lack of Wilderness designation for the Million Hills WSA and National Park Service recommended Wilderness under S. 2612 is, in our opinion, seriously shortsighted.

Additionally, the Nevada Wilderness Coalition feels strongly that wilderness quality lands within the Desert National Wildlife Range should be designated under this legislation. The U.S. Fish and Wildlife Service has had Wilderness recommendations for this refuge pending before Congress for thirty years. There is no compelling reason not to act upon those recommendations under this legislation.

Furthennore, several problematic "cherry stems" included in S. 2612 need to be eliminated. One major example is the "cherry stem" that slices deep into the South McCullough Mountains Wilderness. This "cherry stem" would not only disrupt an existing ranching operation, but would also be extremely difficult to enforce. This "cherry stem" should be closed at the end of the graded county road at McClanahan Spring.

There are numerous site-specific boundary changes that the Nevada Wilderness Coalition would like to see made to the Wilderness areas designated in S. 2612. We believe that Wilderness boundaries should be based on on-the-ground features and avoid section and contour lines.

SIGNIFICANT CHANGES NEEDED TO WILDERNESS MANAGEMENT LANGUAGE

The Nevada Wilderness Coalition has significant concerns regarding the Wilderness management portion of S. 2612.

Changes should be made to the "release" language in Section 207 of S. 2612. As written, this could be interpreted to be "hard release language" which would prohibit areas released from WSA status from ever again being considered for Wilderness designation. Many Wilderness bills have dealt with release of WSA lands, and Congress has developed "boilerplate" language that is acceptable to the Nevada Wilderness Coalition. Congress has never enacted hard release language. The Nevada Wilderness Coalition would not be able to support legislation with the current Wilderness release language included.

As you know, Clark County and the U.S. Fish and Wildlife Service have reached an agreement a Multi-Species Habitat Conservation Plan (MSHCP) for listed species in Clark County. The release language of S. 2612 requires that released areas "shall be managed in accordance with the Clark County MSHCP." This plan was the result of years of research and negotiations. The Clark County MSHCP relied on Wilderness Study Areas to make up the bulk of the areas considered IMAs (areas intensely managed for protection of at-risk species.) This form of management must continue unchanged to ensure the integrity of the MSHCP. While the bill states that these areas are to be managed "in accordance with" the MSHCP and any amendments thereto, we believe that this language is not specific enough to provide the level of protection required by the MSHCP.

We urge this Committee to strengthen the wildlife management language found in Section 208. We have attached our detailed suggested changes to this, our written statement. Basically, our changes are patterned after the 1984 Wyoming Wilderness Act, and include language that makes it very clear that management actions taken must be "determined to be the minimum necessary to accomplish the task." The language of the 1984 Wyoming Wilderness Act Committee Report embodies the congressional directives we believe that this Southern Nevada Bill must follow:

> *"The Committee views this language cage as allowing the occasional, temporary use by Federal and State officials of motor vehicles, helicopters, aircraft and the like, in furtherance of the purposes of specific wilderness areas. The Committee believes that this language means that any such use should be occasional and temporary; that no roads should be built to accommodate vehicles; and that such use must be determined to be the minimum necessary to accomplish the task."*

We recognize that it may be necessary to add "the designees of State officials" in S. 2612 because volunteers play an important role in wildlife management.

The Nevada Wilderness Coalition advocates changing S. 2612 to ensure that Park Service Wilderness in the Lake Mead National Recreation Area is placed into a separate title of the bill. The current wording implies that Park Service Wilderness will be subject to management language that is meant to apply to BLM Wilderness.

S. 2612 includes language regarding valid existing rights, which we support. However, the language goes on to say, "including rights to access the area." We believe that this language is unnecessary and confusing. Section 5 of the Wilderness Act clearly recognizes valid existing rights. In this regard, Sec. 203(c) is entirely unnecessary in view of the clear language of Sec. 5 of the Wilderness Act and nearly four decades of satisfactory experience with that process.

Section 203(d) of S. 2612 which requires that any Wilderness area designated under this title retain a Class II air quality designation is unnecessary and would set a bad precedent for Wilderness areas. We feel it should be stricken from the bill.

The overflights language, Section 205 goes beyond standard language for Wilderness overflights. We are hopeful that the committee will correct this problem by striking the words "testing and evaluation".

We feel that Section 206 (dealing with Native American rights) should be changed to say, "Nothing in this Act shall be construed to diminish the rights of any Indian

tribe. Nothing in this Act shall be construed to diminish tribal rights regarding access to Federal lands for tribal activities, including spiritual, cultural, and traditional food gathering activities." (This language is based on the Steens Mountain Cooperative Management and Protection Act of 2000, which was approved and signed into law during the 106th Congress.)

Section 210 of S. 2612, which deals with climatological data collection, appears to be a reoccurrence of language that was included in the Nevada Wilderness Act of 1989. We see no compelling need for this language in this legislation and believe that it should be removed from S. 2612.

OTHER COMPONENTS OF S. 2612—MINERAL WITHDRAWAL FOR AREAS OF CRITICAL ENVIRONMENTAL CONCERN (ACECS)

We strongly support the protection of Areas of Critical Environmental Concern (ACECs) by the inclusion of statutory mineral withdrawal language that is found in S. 2612. These withdrawals have been fully vested in the BLM's land management plan development process and are recommended in the final plan. Inclusion of legislative language supporting this direction will ensure the withdrawals are done immediately and at less cost to taxpayers.

AMENDMENTS TO THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT (SNPLMA)

Title IV of S. 2612 makes amendments to the Southern Nevada Public Land Management Act (SNPLMA). Section 401 amends SNPLMA to make money from the SNPLMA account available to regional government entities. We believe that this provision is unnecessary and has not been fully vested with the many interests who worked hard to develop the original SNPLMA.

The Nevada Wilderness Coalition would support language in this section of S. 2612 that would allow for money from the SNPLMA account to be used for implementation and enforcement of the Clark County Multi-Species Habitat Conservation Plan.

SLOAN CANYON NATIONAL CONSERVATION AREA

The Nevada Wilderness Coalition is pleased to see the inclusion of the Sloan Canyon National Conservation Area in S. 2612. The NCA includes Sloan Canyon, home to a treasure trove of important petroglyphs just outside of the city limits. While our coalition feels that the Wilderness designation inside the NCA is too small, we are happy to see that the NCA includes Wilderness designation within the boundaries.

In order to truly achieve the objectives for which the NCA is being created several language changes and additions need to be made to the legislation.

Most importantly the NCA should have language stating that, "The Secretary shall only allow such uses of the conservation area as the Secretary finds will further the purposes for which the conservation area is established."

S. 2612 should also have much clearer language with regards to off-road vehicle use in the Sloan Canyon NCA. The Nevada Wilderness Coalition recommends language mirroring the Grand Canyon Parashant National Monument language, which states, "all off road motorized and mechanized vehicle use is prohibited."

TRANSFER OF ADMINISTRATIVE JURISDICTION

Under S. 2612, three BLM WSAs are transferred to management by the U.S. Fish and Wildlife Service. These WSAs are released from WSA status and made available for mineral extraction. NWC supports the transfer of these WSAs to the Fish and Wildlife Service and their inclusion in the Desert National Wildlife Range. However, we feel strongly that these lands should be designated as Wilderness and be subject to the same management as the rest of the Desert National Wildlife Range.

While there has been some interest in aggregate development in the area, we feel there are significant aggregate resources in other portions of Clark County. Additionally, the area of disturbance for an aggregate mine may range from 5 acres (small borrow pit) to 200 plus acres for a large, ongoing operation on private land (example: Nevada Readymix) to 250 acres for a large community pit on BLM land. (Example: Lone Mountain pit currently has 8 permitted operators and disturbs 250 acres). Setting aside more than 50,000 acres for aggregate mining seems incredibly excessive.

WATER RIGHTS

The Nevada Wilderness Coalition is pleased to see that S. 2612 does not include a denial of federal water rights for Wilderness. The House version of this bill con-

tains a denial of water rights. The House bill does not, as its sponsor claims, simply provide for state versus federal adjudication. All adjudication is state-based as has been made explicit by the Wilderness Act of 1964 section 4(d)(7). Rather, the House companion to this bill seeks to deny water rights to areas that may or may not have such rights. No such radical provision has ever passed the Congress and been signed into law. We want to make it clear that we will seek to defeat any bill that attempts such a blatant denial of environmental protection.

MEADOW VALLEY MOUNTAINS RIGHT OF WAY

We are strongly opposed to Section 709, which would grant a right-of-way through the Meadow Mountains Wilderness Study Area. First, this area lies outside of Clark County, which this bill has been limited to. Secondly, this WSA merits wilderness designation. And finally, the wording in the legislation would set a negative precedent for activities within WSAs.

SUNRISE MOUNTAIN POWERLINE RIGHT OF WAY

The Nevada Wilderness Coalition believes that the provision of S. 2612 permitting an additional power line through the Sunrise Mountain Instant Study Area needs to comply with the National Environmental Policy Act (NEPA) so that a judicious decision is made on when, where, and to what extent another corridor needs to be pushed through this area.

ADDITIONAL CONCERN REGARDING NON-WILDERNESS COMPONENTS OF S. 2612

As you know, S. 2612 contains many non-Wilderness titles. Several member organizations of the Nevada Wilderness Coalition have concerns regarding a number of these provisions.

Specifically, the non-Wilderness concerns expressed by some of NWC's member organizations include:

- First, as mentioned earlier, changes in land designation and land use has a significant impact on the MSHCP. Such is the case with the release of WSAs, the expansion of the city's disposal boundary and the establishment of the 2,640-foot wide utility corridor along I-15. which threatens Desert Tortoise Translocation Center—an IMA of unique and pivotal importance to the MSHCP and the recovery of the threatened desert tortoise. The MSHCP requires that there be no net unmitigated loss of IMAs or LIMAs (less intensively managed areas). Some of the NWC's member organizations contend that there must be an analysis of the extent of the loss, and that a mitigation plan must be developed and implemented before these land management changes are put into effect.
- Second, all of these land management changes are major federal changes and as such should have complete review in an environmental impact study under NEPA before they are put into effect.
- Third, in an attempt to alleviate some of the sprawl inducing provisions included in S. 2612 and encourage alternative commuting methods, some of the NWC's member groups advocate reserving the 2,640-foot wide utility corridor along I-15 in the Ivanpah Valley for utilities and transit instead of utilities and transportation. There is also a great opportunity for infill development in Las Vegas, and this should be encouraged in the strongest manner possible.

I have detailed written testimony from the Sierra Club with regards to the issues that I just noted. I respectfully request that their written testimony be made an official part of the Committee record.

CONCLUSION

On the whole, the Nevada Wilderness Coalition believes that Senators Reid and Ensign have engaged in a fair process with admirable goals of protecting some of the wild landscape of southern Nevada. We believe that the Wilderness areas designated in S. 2612 represent a good first step for Wilderness designation in Nevada's Mojave Desert region. However, the Nevada Wilderness Coalition believes that the Committee should make significant changes to the Wilderness management language, improve boundaries, close several cherry stems, and safeguard several areas that remain unprotected.

Even with passage of an unproved S. 2612, there are many more wild places in Nevada that truly deserve lasting protection as Wilderness. Nevada lags behind other western states in terms of the protection of its wild places. We look forward to working with the Nevada congressional delegation and this Committee to ensure that Nevada's magnificent wild lands are adequately represented in the National

Wilderness Preservation System in the years to come. Additionally, while we have supported working on a county basis for this legislation because of the unprecedented threats to the wild areas in Clark County, we would prefer that future legislation designating Wilderness in Nevada take a larger view and not be limited to a county by county approach. These lands belong to all Americans, not just those who live closest to them.

Again, thank you for the opportunity present testimony today. The Nevada Wilderness Coalition looks forward to working with members of the committee and their staff, and the offices of Senators Reid and Ensign on this important legislation. I am happy to answer any questions that you may have.

Senator WYDEN. Thank you all. Just a quick question, Mr. Hunter. How would you respond to the Forest Service proposal that some 20,000 acres of the bill should be protected through some other means than wilderness designation?

Mr. HUNTER. Chairman Wyden, I'm very glad you asked that question because one of the important things with the current proposed wilderness area is that it includes many lowland areas which support services proposed for exclusion. The importance of the lowland area inclusion in the wilderness area to us is that as currently proposed, it would provide accessible wilderness area all four seasons, and this would help to provide a boost for our economy.

As well, it also includes a lot of ecological areas that might be excluded if these 20,000 acres were excluded from the wilderness area.

Senator WYDEN. Mr. Bentley and Mr. Wallin, do you think additional negotiations would be useful or would that just be going over plowed ground? It seems that you've made a good case that we ought to just get on with it, and I just want to get for the record your opinion on that.

Mr. BENTLEY. Well, I believe that due to the contentious nature and the diverse nature of the groups, that at this point in time, I think both sides have been able to quell their radical portions and get them to accept the way that this has come into being at this point, and that further negotiations have a chance of providing and provoking a more contentious attitude and that therefore, the way it is presented is probably in the best form.

Senator WYDEN. Mr. Wallin, would you disagree with that?

Mr. WALLIN. I would slightly, and I think what I would say is that we have made tremendous strides working with Mr. Bentley and the groups that he represents, and I think we have a real formula for moving forward with cooperation.

That said, it doesn't change some of the things that we believe undermine the integrity of the Wilderness Act and the National Wilderness Preservation System in terms of the wildlife management language, potential water rights problems that we may see introduced in the House version of the bill, and so I think that there are a couple of things that in a very short period of time could go from a difficult bill to support to something that is going to be quite outstanding for us to support.

Senator WYDEN. All right. Anything you would like to add further, or we will excuse you. Thank you all. We look forward to moving these bills quickly, and the subcommittee is adjourned.

[Whereupon, at 4:05 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

STATEMENT OF LARRY CHARLES, CHAIRMAN OF THE BOARD AND PRESIDENT, NEWTOK NATIVE CORPORATION, NEWTOK, AK

Mr. Chairman, members of the subcommittee, I am Larry Charles, the Chairman of the Board and President of Newtok Native Corporation, headquartered in Newtok, Alaska, where I live. We thank Senator Murkowski for introducing S. 2016 that directs Newtok and the Fish and Wildlife Service to exchange land. We thank the Senators on this committee for hearing our bill.

BACKGROUND

Newtok is located in the Yukon-Kuskokwim Delta of western Alaska. The people of this region are Yupik and have lived along the Bering Sea coast for 2000 years. Living in the lands and waters of this great delta means that we live on land that shifts over time as the water currents change and deposit new soil. The present village has been occupied since 1949 after the villagers moved from another site that flooded.

There are fewer than 300 residents of Newtok. The village is unincorporated and has no taxing authority. While some villagers are employed at the school, the clinic, by the Native corporation and as commercial fishermen, most villagers pursue a subsistence living. Fifty percent of the villagers live below the poverty level. Most villagers are shareholders in the Newtok Native Corporation. The Alaska Native Claims Settlement Act of 1971 authorized our corporation. Through that law, we have selected and have been conveyed lands in the vicinity of our village to provide good hunting areas for the villagers. Surrounding our village and all of our lands, the federal government owns the land and manages it as the Yukon Delta National Wildlife Refuge.

This exchange legislation is necessary because our village is in danger of washing away within the next decade. Each year since the early 1950's, the shifting course of the nearby Ninglick River moves closer to the village. The erosion has been particularly rapid in the last decade. The changing course of the river also affects nearby delta wetlands and creeks causing subsidence in the village at this time. To save our village and our way of life, we must move Newtok to higher ground nearby.

We have employed engineers and soil scientists who tell us that the most appropriate site for a new village is across the river on Nelson Island. There the land is higher, there are some limited gravel deposits for a road and an airstrip, and the river channel will allow boats and barges to tie up. However, much of that land is currently owned by the Fish and Wildlife Service.

S. 2016 by Senator Murkowski was introduced to make an equal value land exchange with the Fish and Wildlife Service. Under the bill, Newtok would receive a small amount of land where we can rebuild a village. In exchange, the Fish and Wildlife Service would receive lands of high wildlife and waterfowl value from Newtok in an area called Aknerkochik. We support this legislation because after many years of trying to work with the agency, we believe that only Congress can help us complete an exchange before our village is lost.

A FAILED EFFORT AT ADMINISTRATIVE EXCHANGE

In 1997, Newtok Native Corporation approached the Fish and Wildlife Service to request an administrative land exchange in order to obtain a new village site on Nelson Island, an area of approximately 5,000 acres. The agency responded enthusiastically, proposing a swap of 21,400 acres of federal land surrounding the village site for up to 34,200 acres of the corporation's land, including all of our best waterfowl hunting areas. The agency proposed to bear all costs of appraisals and agency paperwork.

When Newtok objected to the scale of the proposed exchange and the loss of subsistence hunting lands, the Service wrote that "to justify expenditure of public funds, the Service must receive high quality habitat." The small exchange proposed by Newtok "greatly reduces the Service's interest."

Despite four years of meetings and many counterproposals, including proposals by Newtok to share costs, the agency has so far not accepted a more modest exchange. They insist that Newtok give up our best subsistence lands in order to obtain the new site.

Newtok villagers make decisions slowly after extensive participation by everyone in the village. The villagers are willing to part with some of their hunting lands, but not all of the most important areas. They see no reason to receive more land from the government than they need. The Fish and Wildlife Service told us that Aknerkochik was their highest priority. It is 11,105 acres, much larger than the 5,580 acres of land we need for the new village. But they wanted many more of our lands as well. And they want us to take many acres of land with little wildlife and poor hunting. Since the agency will not agree with a more limited approach, Newtok Native Corporation and the Newtok Traditional Council have come to Congress to seek fairness and results before the village is lost.

Therefore, Newtok requested Senator Murkowski and Congress to direct this small equal value exchange that will permit Newtok to obtain a small village site, retain most of our hunting areas, and go forward on the village relocation. We would give the Fish and Wildlife Service the area it said is most important but keep our other lands.

S. 2016 bill will allow us to go forward.

CONCLUSION

We understand that in recent months, Senator Murkowski and his staff have continued to speak with the Fish and Wildlife Service in an effort to gain their support for the legislation. We will support reasonable changes in the bill if it will help us make a fair exchange in a timely manner and at reasonable cost.

Thank you for letting us testify in favor of S. 2016 even though we could not travel to Washington to speak to you in person. We hope you will be able to help us by passing a fair bill for a fair exchange, one that allows us to move our village to safer ground and to continue to live as we have for many years to come.

SIERRA CLUB TESTIMONY FOR THE SUBCOMMITTEE ON FOREST AND PUBLIC LANDS HEARING ON CLARK COUNTY CONSERVATION OF PUBLIC LAND AND NATURAL RESOURCES ACT OF 2002

Thank you for the opportunity to submit this testimony on S. 2612, the Clark County Conservation of Public Land and Natural Resources Act of 2002.

We would first like to thank Senator Reid and Senator Ensign for introducing this legislation to permanently protect several important wilderness areas in southern Nevada. We strongly support the wilderness designations and we agree with the Nevada Wilderness Coalition's testimony suggesting management language changes and increases in wilderness protections.

We also applaud the Senators for creating the Sloan Canyon National Conservation Area. It recognizes the extremely important but fragile cultural resources in that location and the need to preserve them and the surrounding natural areas, for our national heritage and for future generations.

Finally, we strongly support the protection of Areas of Critical Environmental Concern (ACECs) by including statutory mineral withdrawal language. These withdrawals have been fully vetted in the land management planning process and are recommended in the final plan. Including legislative language that supports this planning process will ensure that the withdrawals are done more quickly and at almost no cost to taxpayers.

There are two major issues of concern in addition to those already presented by the Nevada Wilderness Coalition in its testimony for S. 2612. The two issues are: habitat and species protection required by federal environmental law and urban sprawl and its attendant problems.

The first issue involves the need to fully evaluate and mitigate for the environmental consequences to any land use changes affected by trades, sales, conveyances, or creation of rights of way or corridors under the legislation. The federal laws governing these issues include but may not be limited to the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA).

Regarding the ESA, our concerns include both the cumulative and the specific effects this legislation may have on Clark County's Multiple Species Habitat Con-

servation Plan, the MSHCP. This plan has been developed after many years of work to ensure compliance with the ESA while allowing Clark County to continue to grow at an astounding rate. Any land use changes may jeopardize the validity of the MSHCP. Specifically, the plan requires "no net unmitigated loss" of two categories of managed land. Various elements of S. 2162 change the management of portions of habitat assumed to be protected under the MSHCP, and so the loss of protection of that land requires mitigation. However, S. 2162 prescribes no specific mitigation. Further, no overall analysis has been undertaken, to our knowledge, to review what types of habitat, how much, and which species are affected by the various elements of the bill. Indeed, this analysis probably requires a full environmental impact study.

The following are the major concerns we have been able to identify which may invalidate the MSHCP:

1. All released Wilderness Study Areas (WSAs) have been identified as "IMAs" or Intensively Managed Areas [to protect species] by the BLM as part of the MSHCP. This form of management must continue unchanged to ensure the integrity of the MSHCP. While the bill states that these areas are to be managed "in accordance with" the MSHCP and any amendments thereto, we are not certain that this language is specific enough to address this concern. The bill's language needs to make sure that the former WSAs continue to be managed as Intensively Managed Areas under the Clark County MSHCP.

2. The Ivanpah Corridor is a 1/2-mile-wide right-of-way corridor between a proposed airport site and Las Vegas. The Ivanpah Corridor along with the Ivanpah Airport Environs Overlay District land transfer currently is an IMA under the MSHCP. It provides habitat protection for the desert tortoise and the white-margined beardtongue, both federally protected or sensitive species. The west side of the Ivanpah Corridor directly impacts the desert tortoise translocation center, the place where tortoises are released after they are removed from areas under development. Land use changes that affect either of these species significantly impacts the MSHCP and thus requires mitigation.

3. There are additional land use changes whose impacts on the MSHCP have not been assessed, nor has any mitigation plan been developed. The MSHCP requires no net unmitigated loss to either intensively managed areas (IMAs) or less intensively managed areas (LIMAS), which are two of the four land use areas managed by the MSHCP. There needs to be a complete analysis of cumulative losses to IMAs and LIMAS under the MSHCP. Land use changes that need to be assessed include, but are not necessarily limited to, the change in the disposal boundary to the north and west of North Las Vegas and Las Vegas, two new utility rights-of-way, and other land sales and conveyances. While there may be no impact on the MSHCP from one specific change in land use, no change should go forward without full analysis and mitigation of the cumulative impacts of all elements of the legislation.

A positive element of the legislation that may not need to be mitigated as habitat loss is the conveyance to the city of Henderson for conservation and other purposes (Section 708, Open Space Land Grants, Tract B). A review of the resource values and the proposed management of the land is needed to determine if and how this parcel could serve to protect habitat and species under the MSHCP.

To summarize our concerns on the MSHCP:

- Land use changes contained in this legislation may have a major impact on the assumptions and plans underlying the approval of Clark County's MSHCP by U.S. Fish and Wildlife Service regarding compliance with the Endangered Species Act.
- To address this concern, the legislation should require (1) a complete analysis of the impact of changes in land designations, management and ownership, to the species and habitat needs addressed by the MSHCP and, (2) to the extent that these changes cause a net loss of habitat or protections, a mitigation plan approved by U.S. Fish and Wildlife Service needs to be developed and implemented PRIOR to any changes in land ownership, use or management that would affect current habitat protections.

The changes to land designations such as land trades, sales and conveyances, and the creation of new corridors and rights of way are major federal actions in themselves. They are major federal actions that we already know hold the potential to jeopardize the Clark County MSHCP and thereby violate the Endangered Species Act. Taken together, these actions need to be assessed through an environmental impact statement (EIS). We would like to ensure that any proposed changes to these

lands' designation, management or ownership resulting from the legislation has a full NEPA review prior to that proposed action taking place.

The second major issue is urban sprawl—that is, the likelihood of the bill exacerbating urban sprawl and the negative environmental impacts associated with it.

1. Most troublesome is the creation of a 1/2-mile-wide corridor along I-15 for "the placement of utilities and transportation" between Las Vegas and the proposed new airport at Ivanpah 30 miles away. Although this legislation does not specifically allow land transfers within or adjacent to most of the corridor, the pressure to urbanize the entire length of this area will be huge and indeed proposals are already being developed to do so. This will require new infrastructure; it will create additional air pollution in a region already seriously out of compliance for particulate matter (PM 10) and carbon monoxide. There are water questions that haven't even been begun to be asked. Inappropriate, leapfrog development would put years of air quality planning in jeopardy and should be avoided. Some of the sprawl pressure can be relieved by modifying the language to state "the placement of utilities and transit," and clarifying in report language that new transit would not allow new highway lanes but only some form of light rail or similar public transportation. Creating a simple, convenient, quick way for residents of the city of Las Vegas to commute to and from work at the new airport would greatly decrease the pressure to urbanize the Ivanpah Valley.

2. Other elements of the bill also contribute to urban sprawl. One is the change in the disposal boundary allowing additional development on the northwest fringe of the metro area of Las Vegas; another is the potential development of Nellis A, B and C, which we would prefer to see left as open space or in passive park status. Clark County's air quality planning has been based on the current disposal boundary; an expansion of that boundary could force the county further out of compliance with clean air laws. In general, the bill leads to an overall net loss in public land and open space in the county, which is important not only for habitat, but for clean air and people's quality of life. We would like, before this bill is passed, to have available a fuller evaluation of the acreage affected by each section and a better picture of the total impacts of these land use changes and transfers.

3. We believe that the Henderson Economic Development area would be an excellent place to use the County's mixed-use zoning code and create village-style development that has residential, retail and commercial areas closely linked with pedestrian, bike and transit access. This type of development could be a model for other development in Clark County to minimize negative impacts of growth. While we realize this is not something that can be federally legislated, the Senators' leadership in encouraging this type of development would be influential.

4. The legislation in its current form lacks clarity regarding location of rights of way, acreage of affected changes, and other key facts. We hope the Senators will address these issues prior to the bill's moving forward so that citizens and federal land managers will be able to analyze its potential impacts more completely.

5. On the plus side of the urban sprawl concern, we support the intention to create affordable housing within the metro area and would encourage other infill areas to be considered in the future for this purpose as a way to assist our community without contributing to urban sprawl.

To summarize, we are pleased that some of the most valuable and wild places in Clark County will receive the protection they need, particularly in the form of Wilderness and National Conservation Area designations. We believe this is a good first step for wilderness in southern Nevada and we applaud the delegation for these efforts.

However, we are concerned with the impact of changes in land management, ownership or use on the County's Multi-Species Habitat Conservation Plan, and we believe a full evaluation and mitigation program should be in place prior to making any of the changes allowed in the legislation. We further would like to ensure complete compliance with all federal laws, particularly NEPA, prior to these major federal actions going forward.

We are also concerned about the potential for elements of this legislation to exacerbate urban sprawl and further degrade air quality, traffic, water and related problems. We look forward to working with the delegation and committee to look to address these concerns.

Thank you very much for this opportunity to provide input on this important legislation.

BOW & ARROW RANCH, LLC.,
Jean, NV, July 28, 2002.

DEAR SENATOR WYDEN: Please make this letter a part of the official hearing record regarding Senate Bill 2612, a bill which would protect many important wild places in Southern Nevada as wilderness.

As a good steward of the land and student of holistic resource management, I strongly support the proposed boundaries for the Southern McCullough Wilderness Area, with one important change. I know these boundaries like the back of my hand because my cow camp is located at McClanahan Springs, right next to the wilderness boundary.

The important change I am asking for is this: totally eliminate the proposed "cherry stem" access route that starts at the end of the existing county road at McClanahan Springs and then cuts deep into the heart of the wilderness.

If this "cherry stem" is not eliminated, motorized vehicles, dirt bikes, ATV's, etc. will continue to harass my cattle—which has resulted in many injuries and deaths to my livestock.

Furthermore, If the "cherry stem" is not closed off right at the new wilderness boundary, the BLM law enforcement will never be able to keep these vehicles restricted to the access route. Once they get on the "cherry stem" they will be able to cross through wilderness to another cherry stem and elude BLM law enforcement.

I am the only public lands rancher left in Clark County. I urge you move quickly to remove this proposed "cherry stem" and stop the motorized access at the end of the existing county road, along the western edge of the wilderness boundary.

Thank you,

CAL BAIRD,
Jean Lake Allotment Grazing Permittee.

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