

**Statement of
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Department of the Interior
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining
S. 609, San Juan County Federal Land Conveyance Act
April 25, 2013**

Thank you for inviting the Department of the Interior to testify on S. 609, the San Juan Federal Land Conveyance Act. The Bureau of Land Management (BLM) supports S. 609, which provides for the sale of approximately 19 acres of public land in northern San Juan County, New Mexico to a private party at fair market value. We support this legislation, but would like the opportunity to work with the sponsor and the committee on a few modifications to S. 609.

Background

In 1998, the BLM settled a lawsuit regarding protection of the southwestern willow flycatcher in New Mexico. In order to protect potential flycatcher habitat, the BLM agreed to exclude livestock grazing from riparian areas in New Mexico by fencing BLM-managed river tracts identified as having suitable flycatcher habitat. While surveying lands for fencing under the settlement agreement, the BLM discovered as many as 20 different cases of trespass on BLM-administered public lands in New Mexico.

These trespass cases included a 14-acre trespass into the Bald Eagle Area of Critical Environmental Concern (ACEC) north of Aztec, N.M. In 1999, the Blancett family, who were actively farming these acres, was cited for trespass on approximately 19 acres of public lands. Despite resolution of many of the identified trespass cases—including cases with the Blancetts' neighbors to the north and south—BLM negotiation efforts with the Blancetts were unsuccessful.

Following failed negotiations and an IBLA mediation attempt, the Blancetts sued the Department of the Interior in U.S. District Court in 2010. On February 27, 2012, a settlement was reached between the Blancetts and the Department of the Interior, and the case was dismissed with prejudice. Under that settlement agreement, the Blancetts have two years to obtain a legislative solution to address the trespass situation. If a legislative solution is not obtained by March 5, 2014, or substantial progress toward that solution is not made by that time, the BLM will offer to sell the approximately two-acre parcel with the family residence to the Blancetts and the BLM may immediately begin to fence and reclaim the remaining 17 acres for bald eagle habitat, which will remain in Federal ownership.

S. 609

S. 609 provides for the direct sale of approximately 19 acres of BLM-managed public land in San Juan County, New Mexico, to the Blancetts pursuant to a 2012 settlement agreement. The bill requires the Secretary of the Interior to sell at fair market value approximately 19-acres of public land to the Blancetts upon their request, as outlined in the settlement.

Under the bill, fair market value is to be determined by an appraisal conducted using the Uniform Appraisal Standards for Federal Land Acquisitions and other standard provisions. Additionally, the bill requires the Blancetts to pay administrative costs associated with the sale, including the cost of the survey and appraisal. The BLM supports these provisions.

The bill requires the transfer to the Blancetts of all right, title, and interest of the Federal government of these public lands. As written, this would include the subsurface mineral estate. The BLM notes that there are two producing oil wells on Federal land adjacent to the lands proposed for conveyance, and the Federal mineral lease associated with these wells includes the lands proposed for transfer. In order to address the existing lease and producing wells, the BLM recommends that the Federal government retain ownership of the mineral estate, and that the legislation provide for a withdrawal of the mineral estate from the mining laws and mineral leasing laws. Furthermore, we recommend that both the conveyance and the withdrawal be subject to valid existing rights.

Under the bill, all proceeds from the sale are to be deposited into a special account in the Treasury for use in the acquisition of land or interests in land to further the protective purposes of the Bald Eagle ACEC or for resource protection consistent with the purposes of the ACEC. Because these funds are derived from the sale of lands, the BLM believes these funds should be used solely to acquire other lands or interest in lands.

The BLM supports this bill as it represents an opportunity to resolve a longstanding trespass issue and facilitates a reasonable and practicable conveyance of the lands to the Blancetts that is consistent with the 2012 settlement agreement.

Conclusion

Thank you again for the opportunity to testify in support of the San Juan Federal Land Conveyance Act. I would be glad to answer your questions.