Testimony of
Michael Nedd, Acting Deputy Director
Bureau of Land Management
Department of the Interior
Subcommittee on National Parks, Forests, & Public Lands
Committee on Natural Resources
U.S. House of Representatives
H.R. 689, Bureau of Land Management and Forest Service California
March 24, 2009

Thank you for the opportunity to testify on H.R. 689, a bill to transfer the administrative jurisdiction of certain Federal lands in California between the Bureau of Land Management (BLM) and the U.S. Forest Service (FS). The BLM supports H.R. 689 because it will improve administrative efficiencies and thereby benefit the public. We would like to work with the sponsor and the Committee to resolve minor technical issues.

Background

The Chappie-Shasta Off-Highway Vehicle (OHV) Area consists of approximately 56,000 acres located within Shasta County, California. The area has a complex pattern of land ownership with approximately 25,000 acres administered by the BLM, 11,760 acres managed by the FS, and the rest in other Federal or private ownership. Each year, numerous special recreation events occur within this popular OHV area that require special recreation permits from both the BLM and the FS. In an effort to more consistently handle the recreational use, the BLM has taken the lead in managing the area and special events on both BLM and FS managed lands. Nonetheless, the mixed ownership and separate management and regulatory frameworks between the two agencies have, at times, caused frustrations for the public.

H.R. 689

H.R. 689 transfers to the BLM administrative jurisdiction of 11,760 acres of Federal land located within the Chappie-Shasta OHV Area that are currently managed by the FS. Consolidation of land ownership within the Chappie-Shasta OHV Area will allow for a more streamlined administration of recreation use and an improved recreation experience for the area's users.

In addition, the bill transfers to the FS administrative jurisdiction over three parcels totaling approximately 5,000 acres of public land currently managed by the BLM in Trinity, Shasta, Humboldt, and Siskiyou Counties. These lands are either adjacent to or within areas managed by the FS, and include the 4,830 acre-Tunnel Ridge portion of the Trinity Alps Wilderness (currently managed by the FS through a Memorandum of Understanding with the BLM) which is within the FS managed 517,000 acre Trinity Alps Wilderness. The other two parcels are a 217-acre parcel adjacent to Shasta Lake and a 44-acre parcel along California Highway 89. Both parcels are surrounded by FS lands and were identified for transfer to the FS in the 1993 BLM California Redding Resource Management Plan.

This interchange of administrative jurisdiction between the two agencies will lead to efficiencies in agency management, consistent management of Federal resources involved and better service to the public. H.R. 689 is the result of years of local efforts by the agencies, the public, and the sponsor. The BLM believes enactment of the bill would make land management adjustments where they are appropriate and beneficial to the public.

Finally, the bill as currently written uses both legal descriptions and references to a map to describe the lands. The BLM would like to work with the sponsor and the Committee to create maps to accompany the legislation, and recommend that the bill be amended accordingly. We believe that such maps will provide clarity.

Conclusion

Thank you for the opportunity to testify in support of H.R. 689. I would be happy to answer any questions.

Testimony of
Michael Nedd, Acting Deputy Director
Bureau of Land Management
Department of the Interior
Subcommittee on National Parks, Forests, & Public Lands
Committee on Natural Resources
U.S. House of Representatives
H.R. 1275, Utah Recreational Land Exchange Act
March 24, 2009

Thank you for the opportunity to testify on H.R. 1275, the Utah Recreational Land Exchange Act. The bill would legislate a large-scale land exchange between the Bureau of Land Management (BLM) and the State of Utah. We support the completion of major land exchanges which further public policy goals and enhance resource protection. However, we have several concerns with H.R. 1275 and we request that the Committee defer any action on the bill until we can address our concerns with the sponsors and the Committee. We look forward to working with the sponsors and the Committee on this legislation.

Background

The Utah School and Institutional Trust Lands Administration (SITLA) manages approximately 3.5 million acres of land and 4.5 million acres of mineral estate within the State of Utah primarily for the benefit of the schools of the State of Utah. Many of these parcels are interspersed with public lands managed by the BLM.

Managing 22.8 million acres of land within the State of Utah, the BLM's mission is to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. As the nation's largest Federal land manager, the BLM administers the public lands for a wide range of multiple uses, including energy production, recreation, livestock grazing and conservation uses. The Federal Land Policy and Management Act (FLPMA) provides the BLM with a clear multiple-use mandate which the BLM implements through its land use planning process.

Section 206 of FLPMA provides the BLM with the authority to undertake land exchanges. Among other purposes, exchanges allow the BLM to acquire environmentally-sensitive lands while transferring public lands into non-Federal ownership for local needs and the consolidation of scattered tracts. Over the past ten years the BLM in Utah has completed two large-scale exchanges with the State of Utah at the direction of Congress through the Utah West Desert Land Exchange Act of 2000 (Public Law 106-301) and the Utah Schools and Land Exchange Act of 1998 (Public Law 105-335). Over 262,000 acres of Federal land were conveyed to the State of Utah and the United States acquired over 571,000 acres from the state through these exchanges.

H.R. 1275

H.R. 1275 directs the exchange of approximately 46,300 acres of land and mineral estate managed by SITLA for approximately 35,700 acres of BLM-managed Federal lands and mineral estate primarily in Grand and Uintah Counties, and further specifies that the exchange shall be of equal value.

The first hearing on this proposal was held in 2005 by this Committee. The BLM in Utah is currently revisiting the specific parcels identified for exchange on the maps accompanying H.R. 1275 to assess any changes in status in the intervening years, and whether the acquisition of all of these parcels is in the public interest. The BLM will inform the Committee if we find any conditions that raise concerns about the transfer of specific parcels and we would request that the Committee delay any further action on this legislation until we have a chance to complete this review.

Many of the lands that the State is proposing to transfer to the BLM are lands the BLM has an interest in acquiring in order to consolidate Federal ownership within wilderness study areas, Areas of Critical Environmental Concern, or other sensitive lands. Among these are:

- 1,280 acres and 420 acres along the Colorado River west and east of Moab which includes Corona Arch and other popular recreation sites within the BLM's Colorado Riverway Management Area;
- 4,500 acres within the Castle Valley watershed which also has important wildlife habitat and scenic values;
- 1,280 acres of land currently leased by the BLM and Grand County from the State for recreation-related activities associated with the Sand Flats Recreation Area and the famous Slickrock Mountain Bike Trail;
- 800 acres within the Nine Mile Canyon containing significant cultural and recreational resources; and,
- 8,600 acres in the Dolores Triangle containing prime habitat for elk and deer which is therefore a focus area for hunting.

The BLM supports the provisions of the bill that establish a phased process which prioritizes the transfer of lands from SITLA to the BLM. This will allow the BLM to make best use of Federal resources in the appraisal and review process.

The lands and mineral estate the bill directs be transferred to SITLA from the BLM are primarily parcels with high energy potential. These lands are located in the highly productive Uintah Basin, with producing oil and natural gas wells within close proximity of these parcels. Some of the parcels which would be transferred to SITLA under this legislation would improve manageability and encourage local development in the state; for example 80 acres adjacent to Canyonlands Field municipal airport in Grand County.

It is typical in administrative exchanges between governmental entities that costs of the exchange, including but not limited to appraisals, surveys, and clearances, are split equally between the two parties. We trust that is the intention of H.R. 1275, but it is not specified and we recommend that this be made clear.

Section 3(i) provides that the exchange shall be equal value and provides for a mechanism of equalizing those values. The BLM supports section 3(i), but notes that it is often impossible to reach complete equalization through land values alone. We recommend allowing for a minimal cash equalization payment or waiver of payment by either party as authorized by Section 206(b)

of FLPMA. Any difference in values would be minimized to the extent possible through the addition or elimination of land.

Section 4 of H.R. 1275 addresses management of the lands post-exchange. In general the lands exchanged to the government are to be managed as a part of the Federal administrative unit in which the land is located. However, section 4(a)(2)(A) further provides that all of the lands acquired by the Federal government from SITLA should be withdrawn from the mineral leasing laws for the later of two years after the date of enactment of this Act or the signing of the Record of Decision (ROD) for the applicable Resource Management Plans (RMPs). The RODs for the Moab and Vernal RMPs were signed on October 31, 2008, and therefore the temporary withdrawal language is no longer necessary since new land use plans governing management of these lands is now in place. Furthermore, section 4(a)(2)(B) permanently withdraws from the mineral leasing and mineral materials laws more than half of the acres acquired from the state. We understand that the intent of this withdrawal is to protect lands which would be specifically acquired for conservation purposes.

The status of existing grazing permits on both the lands to be exchanged to SITLA and to the BLM is addressed in section 4(b). In the case of state lands transferred to the BLM, it might be more advantageous to both the rancher and the BLM to simply include the new lands in existing grazing leases under existing laws and regulations rather than have them continue as if under state law. The Utah BLM office believes that the lessees of the state land would be the same as those on adjacent BLM land. Maintaining separate grazing systems on small inholdings within larger grazing allotments could be administratively burdensome for both the BLM and the permittee and would increase costs for the permittee as state grazing fees are higher than those charged by the Federal government. We would like to discuss with the Committee the inclusion of a transition period for full integration of the state leases into the preexisting BLM permits.

Many of the parcels proposed for transfer from SITLA to the BLM are encumbered with mineral leases. The BLM has concerns with acquiring existing mineral leases because we do not typically do so, and we would like the opportunity to more fully understand the implications of these encumbered parcels. For example, managing leases under terms established by the state of Utah (which may differ substantially from terms the BLM would impose established through our planning process) may pose management challenges. The legislation does not specifically address this issue and we are reviewing options at this time.

Valuation and Appraisal

The valuation and appraisal provisions of H.R. 1275, are found in sections 3(d) and 3(f). These differ from standard methods in some cases. While there may be circumstances in which the Congress may decide that alternative methods of valuation are appropriate for achieving worthwhile public policy objectives, the Department seeks to be clear and transparent about where those differences lie and where they raise concerns.

Section 3(d)(2) states that appraisals "shall be conducted in accordance with section 206 of the Federal Land Policy and Management Act" (FLPMA). While we do not disagree with this statement, the legislation omits the language typically included in legislated land sales and exchanges stating that the appraisals shall be conducted "in accordance with the Uniform

Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice." The omission of this language could raise questions about the intent of Congress and the Department recommends its inclusion.

Section 3(d)(4) provides a limitation on the appraisal that raises additional concerns. As noted earlier, the lands proposed for exchange from the BLM to SITLA are lands with high oil and gas mineral potential. The BLM does not typically exchange such lands out of Federal ownership. Section 3(d)(4) requires the appraiser to reduce the value of parcels with attributable mineral value (under the Mineral Leasing Act -- MLA) by the percentage of the Federal revenue sharing with the states under the MLA. Presumably, the premise is that the state would have received a revenue stream had there been production under Federal ownership. However, Federal revenue sharing with the states under the MLA is 50% of royalties, bonus bids and rentals which is different than the total value of the parcels. The Federal royalty is 12.5% of production, with a resulting state share of 6.25%. Thus, the relationship between the 50 % discount in mineral value and the 50% of the revenue stream the State would have received had there been production under Federal ownership is unclear. The Department opposes this provision and recommends that the bill be amended to clearly require that standard appraisal practices are utilized to ensure that the taxpayer is made whole and is treated the same as if these exchanges were undertaken administratively.

Section 3(f) of H.R. 1275 is critically important to the legislation and we strongly support it. In addition to the oil and gas reserves that underlie the lands to be exchanged to SITLA from the BLM, there is significant, but speculative, high potential for oil shale resources. Under current standard appraisal practices, potential oil shale values would likely not factor into appraisals because of their speculative nature. Using a standard appraisal process might therefore result in properties with significant oil shale resources having no additional value attributed to them in spite of the presence of this resource. This could lead to the criticism that the United States is "giving away" millions of dollars in potential oil shale revenues. Section 3(f) addresses this risk by reserving a Federal interest in the oil shale, thus ensuring that the United States receives the value for any future oil shale development it would have received if the Federal government had retained the lands and leased them. This reserved interest arrangement is common in the private sector and protects sellers from disposing entirely of some unknown future mineral wealth.

Additional Concerns

There are a number of additional issues that should be addressed before the bill moves forward. Many of these are no doubt oversights and technical in nature, but nonetheless significant. For example, while the bill addresses hazardous materials inventory and remediation, it should make clear that these actions should be undertaken consistent with FLPMA, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and other relevant laws. Furthermore, we believe the legislation should make it clear that SITLA and the Federal Government should have equivalent obligations with respect to inventory and remediation of their respective properties. Additionally, the bill and its provisions are open-ended with no sunset date. To avoid unexchanged lands being held indefinitely without any certainty as to their status, we believe a 10 year sunset provision would be reasonable. We look forward to working with the Committee and sponsor to resolve these issues and other technical concerns.

Conclusion

Large-scale land exchanges can resolve management issues, improve public access, and facilitate greater resource protection. We support such exchanges. To that end, we are ready to work with the Committee and the sponsor to resolve remaining issues in the bill. I would be happy to answer any questions.

STATEMENT FOR THE RECORD OF THE NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 1078, TO ESTABLISH THE HARRIET TUBMAN NATIONAL HISTORICAL PARK IN AUBURN, NEW YORK, AND THE HARRIET TUBMAN UNDERGROUND RAILROAD NATIONAL HISTORICAL PARK IN CAROLINE, DORCHESTER AND TALBOT COUNTIES, MARYLAND AND FOR OTHER PURPOSES.

MARCH 24, 2009

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on H.R. 1078, a bill to establish the Harriet Tubman National Historical Park in Auburn, New York, and the Harriet Tubman Underground Railroad National Historical Park in Caroline, Dorchester and Talbot Counties in Maryland.

The Department supports enactment of H.R. 1078.

Harriet Tubman is truly an iconic American. Born circa 1822 as an enslaved person in Dorchester County, Maryland, she courageously escaped her bondage in 1849, returned on many occasions to Dorchester and Caroline Counties to free others including members of her family and remains known, popularly and appropriately, as “The Moses of her People.” She was a leading “conductor” along the Underground Railroad guiding the enslaved to freedom at great risk to her own life. Her accomplishments were admired and extolled by her contemporaries including the abolitionist leader and former slave Frederick Douglass. In 1868 Douglass wrote to Tubman:

"Most that I have done and suffered in the service of our cause has been in public, and I have received much encouragement at every step of the way. You, on the other hand, have labored in a private way. I have wrought in the day—you in the night…The midnight sky and the silent stars have been the witnesses of your devotion to freedom and of your heroism."

Harriet Tubman served honorably during this nation's Civil War as a cook, nurse, scout and spy for Union forces in Virginia, South Carolina and Florida, always at personal risk and always advancing the quest for freedom by providing assistance to other enslaved people. In June 1863 she guided Union troops in South Carolina for an assault along the Combahee River resulting in the emancipation of hundreds of the enslaved.

At the invitation of then U.S. Senator and later Secretary of State William H. Seward, Harriet Tubman purchased land from him in Auburn, New York where she lived and cared for members of her family and other former slaves seeking safe haven in the North. In later life, she became active in progressive causes including efforts for women's suffrage. Working closely with activists such as Susan B. Anthony and Emily Howland, she traveled from Auburn to cities in the East advocating voting rights for women. Harriet Tubman gave the keynote speech at the first meeting of the National Federation of Afro-American Women upon its founding in 1896.

Harriet Tubman was an intensely spiritual person and active in the African Methodist Episcopal Zion Church. In 1903 she donated land to the Church in Auburn for the establishment of a home "for aged and indigent colored people." She died on March 10, 1913 at this home for the aged

and was buried with full military honors at Fort Hill Cemetery in Auburn. Booker T. Washington, also born into slavery, journeyed from Alabama a year later to speak at the installation of a commemorative plaque for her at Auburn City Hall.

Harriet Tubman is an American figure of lore and legend. Today, she is an enduring inspiration to those who cherish individual freedom and strive for human rights throughout the world.

On January 12, 2009, the Department transmitted the Harriet Tubman Special Resource Study to Congress. The study, authorized by Public Law 106-516, the Harriet Tubman Special Resource Study Act, concluded that the resources associated with Harriet Tubman in Auburn, New York and Caroline, Dorchester and Talbot Counties, Maryland met the national significance, suitability, feasibility and need for National Park Service management criteria for potential units of the National Park System. After an intensive and lengthy public involvement process, the study found that there is extensive public support, including support by affected private property owners within the boundaries proposed by H.R. 1078 in New York and Maryland, for the establishment of the two units. Locally elected officials in both states have also expressed their support.

H.R. 1078 would authorize the Secretary of the Interior to establish a unit of the National Park System, the Harriet Tubman National Historical Park in Auburn, New York, upon the execution of an easement with the A.M.E. Zion Church, the owners of the property. The park would be comprised of the Harriet Tubman Home, the Home for the Aged, the Thompson Memorial A.M.E. Zion Church, which is no longer used for religious services, and its parsonage. The

Secretary would be authorized to enter into cooperative agreements and provide technical and matching financial assistance to the A.M.E. Zion Church and others for historic preservation, rehabilitation, research, maintenance and interpretation of the park and related Harriet Tubman resources in Auburn, New York. The Secretary would be further authorized to provide uniformed National Park Service staff to operate the park in partnership with the Church and to conduct interpretation and tours.

In Maryland, the Harriet Tubman Underground Railroad National Historical Park would be established and comprised of nationally significant historic landscapes associated with Harriet Tubman in Caroline, Dorchester and Talbot Counties. This agricultural, forest and riverine mosaic largely retains historic integrity from the time that Tubman was born enslaved, worked in the fields and forests, emancipated herself, and helped others there to escape to freedom.

The Secretary of the Interior would be authorized to provide matching grants to the state of Maryland, local governments and nonprofit organizations for the purchase of lands and easements within the boundary of the park and matching grants to the state of Maryland for the construction of a visitor services facility to be jointly operated by the state and uniformed staff of the National Park Service. The Secretary would be further authorized to enter into cooperative agreements with various organizations and property owners, and provide grants for the restoration, rehabilitation, public use, and interpretation of sites and resources related to Harriet Tubman, as well as research including archeology. Because a number of closely related Harriet Tubman resources exist on lands adjacent to the proposed park managed by the U.S. Fish and Wildlife Service at Blackwater National Wildlife Refuge, or on lands scheduled for future refuge

acquisition, the bill provides for an interagency agreement between the U.S. Fish and Wildlife Service and the National Park Service to promote compatible stewardship and interpretation of these resources.

The cost estimates for the annual operations and maintenance for each unit would be approximately $500,000 to $650,000. The cost estimates for the federal share of capital improvements are approximately $7.5 million at the Harriet Tubman National Historical Park in Auburn, New York. The federal share of the Harriet Tubman Underground Railroad visitor center and grants for land protection at the Harriet Tubman Underground Railroad National Historical Park in Maryland are estimated at up to $11 million. The cost estimates for the completion of the general management plan for each unit would be approximately $600,000 to $700,000. All funds are subject to NPS priorities and the availability of appropriations.

The Department notes that there are a few inconsistencies between the provisions of H.R. 1078 and those of its companion measure in the Senate--S. 227. We would appreciate the opportunity to work with the committee to resolve these differences.

Mr. Chairman, it is not a usual occasion when the Department comes before the committee to testify on a bill to establish two units of the National Park System to honor an enslaved woman who rose from the most difficult and humble beginnings imaginable to indelibly influence the causes of human justice and equality in our society, and to have such a significant impact on our national story. We do so with full understanding of the life and contributions of Harriet Tubman

and suggest that nearly 100 years after her death the time for this abundantly deserved honor has finally arrived.

That concludes my testimony Mr. Chairman. I would be pleased to respond to any questions from you and members of the committee.