

INFORMATION MEMORANDUM FOR THE DEPUTY DIRECTOR

FROM: NLCS Director Elena Daly

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SUBJECT: INCLUSION OF THE CALIFORNIA DESERT CONSERVATION
AREA IN THE NATIONAL LANDSCAPE CONSERVATION
SYSTEM

I. SUMMARY

Legislation pending before Congress would permanently establish the National Landscape Conservation System (NLCS) as part of the BLM. The proposed legislation identifies the purpose of the NLCS as conservation, protection, and restoration. The proposed language of this act identifies those conservation designations which are to be part of the NLCS as: national monuments, national conservation areas, outstanding natural areas, wilderness study areas, a component of the national trails system, a component of the national wild and scenic rivers system, a component of the national wilderness preservation system, and any additional area designated by Congress for inclusion in the system.

It is unclear from the language of the Federal Land Policy and Management Act (FLPMA) or of the proposed legislation whether or not the California Desert Conservation Area (CDCA) qualifies as part of the NLCS. Ambiguity arises because the CDCA does not clearly align with the categories of the pending legislation for three reasons: 1) FLPMA identifies the CDCA as a conservation area not a *national* conservation area as specified in the pending legislation, 2) section 3 (b) (2) (C) of the pending legislation does not specifically address the status of the CDCA, and 3) the proposed savings clause for the pending legislation states that nothing in the legislation will change the management of NLCS units. Inclusion in NLCS might alter some management of CDCA.

H.R. 2262 (Hardrock Mining and Reclamation Act of 2007) contains a provision that would restrict mineral activities on conservation areas. H.R. 3221 (New Direction for Energy Independence, National Security, and Consumer Protection Act) precludes allocation of funding for projects that adversely impact land, water or other resources within NLCS, and excludes monies for strategic solar reserves and biomass utilization pilot programs within NLCS.

II. Discussion

The CDCA was established by Section 601 of the Federal Land Policy and Management Act (FLPMA). Since the passage of FLPMA, Congress has elected to extend protection to certain areas of the CDCA. In 1994 the California Desert Protection Act transferred more than 3 million acres of the CDCA to the National Park Service and other agencies and established 69 BLM managed wilderness areas. In 2001 Congress designated the Santa Rosa and San Jacinto Mountains National Monument to be managed by the BLM. Most of this Monument is within the CDCA. Two National Trails have been designated within the CDCA. Much of the CDCA is open to location of new mining claims, mineral leases, mineral material sales, and new rights-of-way. Several open intensive off road vehicle areas are located in the CDCA. Although the CDCA is currently included in the NLCS by administrative decision, it is managed differently

BLM 1

from other areas of the NLCS. The CDCA is excluded from the NLCS budget and the area is exempt from general NLCS management policies.

The pending legislation is ambiguous as to whether the California Desert Conservation Area should continue to be part of the NLCS. A Solicitor's Office review of the language and legislative history of FLPMA and the language of the pending legislation could not determine the status of the CDCA in relation to the NLCS.

MESSAGES AND ANSWERS

Issue: Should the CDCA be part of the NLCS? There are three options: Inclusion of the CDCA in the NLCS, Exclusion of the CDCA from the NLCS, and an option of inclusion of the CDCA in the NLCS but exclusion from the NLCS budget and from general NLCS management policies:

1. Inclusion of the CDCA in the NLCS

Advantages

- Emphasizes the conservation, protection, and restoration of the CDCA
- Extends NLCS and National Conservation Area policies to all programs within the CDCA
- Increases public awareness of the CDCA resources

Disadvantages

- Increases public expectations that the CDCA will be managed to emphasize conservation, protection, and restoration
- Increases scrutiny of some existing resource uses
- Increases the complexity of the NLCS budget
- Changes the management of the CDCA in direct opposition to the proposed savings clause

2. Exclusion of the CDCA from the NLCS

Advantages

- Allows existing resource uses of the CDCA to proceed without the appearance of conflicting with core NLCS values
- Keeps budget processes for the CDCA and the NLCS separate
- Maintains Wilderness, National Monuments, and National Trails within the CDCA as part of the NLCS

Disadvantages

- Increases concern from some interest groups that conservation, protection, and restoration of the CDCA would be deemphasized
- Reduces breadth and scope of NLCS
- Raises concern among members of the California delegation

3. Inclusion of the CDCA in the NLCS, exclusion from the NLCS budget and management policies

Advantages

- Maintains the connection between the NLCS and CDCA

BLM 2

- Maintains current budget processes
- Allows flexibility in management

Disadvantages

- Increases public expectations that the entire CDCA will be managed to emphasize conservation, protection, and restoration
- Increases scrutiny of some existing resource uses
- Creates separate standards for the CDCA and the NLCS

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DATE: July 20, 2007

BLM 3