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Subject Official Status of CDCA

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Elena,

Thanks for the phone call. As a follow up, I felt it was important to clarify the official status of the California Desert Conservation Area (CDCA).

First of all, let me state unequivocally that, based upon the legislative history leading up to passage of FLPMA and the Bureau's clear and undisputed interpretation of Section 601 since then, the California Desert is, and has been for 30 years, a National Conservation Area. In fact, we are still celebrating the CDCA's 30th Anniversary (2006) by making special presentations of the commemorative anniversary poster, which is clearly marked "National Landscape Conservation System."

Further, a quick review of the CDCA legislative history, as outlined below, clearly shows the Californians involved (Sen. Alan Cranston, Sen. John Tunney, and Rep. Bob Mathias) all called their bills (precursors of the Section 601 language) the California Desert National Conservation Area. Further, the legislative report does not indicate the omission of the word "National" was meant to make the CDCA any different from the first NCA in the country, California's King Range. In fact, that report also refers to the "King Range Conservation Area," even though the 1970 Act is officially the "King Range National Conservation Area." Congress used both terms interchangeably, with no differentiation between the two terms.

We recognize that when the NLCS was created administratively by Secretary Babbitt, there was a question about including the CDCA. The NCA status of the CDCA was not the primary issue. Instead, it was because the criteria for NLCS inclusion was unclear. The size and complexity of the CDCA was somewhat unique compared to other potential NLCS areas.

However, we note the Department officially included the California Desert in the NLCS, as referenced by Secretary Babbitt in his March 2000 NLCS speech when he stated, "In many cases these areas came to the attention of the Congress through the inspired efforts of BLM managers - such as the leadership of Ed Haste and Jim Ruch in the California desert...."

As far as we know, the issue of the CDCA as an NCA or as part of the NLCS has never been questioned officially since then.

That's why we were surprised by a call recently from a top official of a national environmental group here in California asking if the CDCA was a "real" NCA and part of the

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NLCS. We replied it certainly was, and had been an NCA for 30 years. The official indicated the reason for inquiring was "mixed signals" from BLM's Washington Office staff concerning the pending NLCS bills (HR 2016 and S 1139). Both bills, in re-establishing the NLCS in statute, state all "national conservation areas" are to be included. The official was asking if the WO staff considered the CDCA an NCA to be included in the NLCS under the bill.

As we indicated, legislative intent is very important many years after legislation is enacted and legislative intent clearly points to the CDCA as an NCA. This was true in the numerous bills introduced by the California delegation to designate the "California Desert **National Conservation Area**" (e.g., 1971's HR 9661 by Rep. Bob Mathias, 1973's S 68, by Sen. Alan Cranston and John Tunney, and 1975's HR 820 and 1527 by Rep. Pete McCloskey in honor of the late Rep. Jerry Pettis, a prominent desert congressman, who had recently died in a plane crash). In the case of all these bills, they were called the "California Desert **National Conservation Act**."

It has come to our attention through WO staff that there are concerns about other language, particularly the terms "use" and "development" in those bills and whether those terms conflict with NLCS designation under the pending legislation. For example, HR 9661 stated that the purpose of designating the NCA was for the "immediate and future protection, development and administration" of the California Desert. This language was actually amended, however, and carried forward into FLPMA (Sec. 601(b)) as:

"It is the purpose of this section to provide for the immediate and future protection and administration of the public lands in the California Desert within a framework of multiple use and sustained yield, and the maintenance of environmental quality."

The values identified for "protection and administration" are spelled out at length in Section 601(a). Without listing them all here, Congress clearly identified "historical, scenic, archeological, environmental, biological, cultural, scientific, educational, and recreational and economic resources," calling them a "total ecosystem," and requiring BLM to "prepare a plan to conserve these resources for future generations."

However, FLPMA further on requires development of comprehensive long-range land use plan "for the **management, use, development, and protection** of the public lands" within the CDCA.

It has never been interpreted that Congress' "use and development" language affected the CDCA's NCA status, nor since 2000, its inclusion in the NLCS.

We also note that the current NLCS legislation, which we strongly support (S. 1139 and HR 2016), establishes the NLCS:

"in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and

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future generations..."

It includes all national conservation areas, among other categories, adds language citing inclusion of "any area designated by Congress to be administered for conservation purposes..." and ending with important management direction that states the:

"Secretary shall manage the system (1) in accordance with any applicable law...and (2) in a manner that protects the values for which the components of the system were designated."

This language makes it clear that Congress reserves to itself the decision of not only which areas are to be designated NCAs, but also how those NCAs are to be managed.

There can be no doubt, based upon the legislative history of the CDCA and FLPMA, that Congress clearly identified the California Desert as having nationally significant resources that should be managed to conserve them for future generations.

With that view, our answer to the recent environmental group's question, as well as our position for 30 years, was that the CDCA is, and always has been, considered by BLM as an NCA (the second so designated, both in California) and is, and always has been, considered by BLM as part of the NLCS, since the system's inception.

Finally based upon very recent feedback from WO staff, I strongly believe that if any group, inside or outside BLM, proposes to "de-designate" the CDCA as an NCA and exclude it from the NLCS, we owe it to the public, particularly our many longstanding partners in the CDCA, to inform them. More important, in the interest of full public disclosure, we owe the public a chance to comment in compliance with FLPMA's Section 601 requirement that the "public must be provided more opportunity to participate" in planning and management of the California Desert Conservation Area.

Thanks for the opportunity to clarify our position on this matter. If you believe this topic needs further discussion, please let me know. I also welcome any comments you or the WO staff may regarding our position on this matter.

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