

Statement of Julie Jacobson
Deputy Assistant Secretary for Land and Minerals Management
U.S. Department of the Interior

On H.R. 3058, the Public Land Communities Transition Assistance Act of 2007

Subcommittee on National Parks, Forests, and Public Lands
House Committee on Natural Resources

July 26, 2007

Thank you for the opportunity to testify at today's hearing on H.R. 3058, the Public Land Communities Transition Assistance Act of 2007.

The Administration supports the reauthorization of the Secure Rural Schools and Community Self Determination Act with agreed upon offsets and eventual phase out of payments. The Administration also supports helping local governments deal with the loss of property tax revenue when they contain certain Federally-owned lands within their boundaries; in fact, the President's FY 2008 Budget includes \$190 million for PILT payments. While we appreciate the Committee holding a hearing on this bill, the Administration strongly opposes the mandatory spending provisions contained in H.R. 3058. Additionally, we have serious concerns about the adequacy of the funding mechanisms contained in the bill.

Background: The Secure Rural Schools and Community Self-Determination Act of 2000 and the Payments in Lieu of Taxes Program

The BLM manages 69 million acres of forests and woodlands on the public lands, approximately 2.5 million of which are located in the 18 western Oregon counties covered by the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands Act of 1937 (O&C Act.). With respect to the BLM, the Secure Rural Schools Act applied exclusively to the 18 O&C counties in western Oregon.

Congress set the stage for the long and close association between the BLM and the O&C counties when, in the O&C Act, it directed the Department of the Interior to manage the O&C lands for "the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities." The O&C counties receive approximately 50 percent of the receipts from timber harvested from public lands in the counties.

By the late 1980s and early 1990s, litigation regarding the northern spotted owl resulted in steep reductions in timber harvests in the Pacific Northwest, and correspondingly steep reductions in income to counties that depended on revenues from timber harvests on public lands to fund essential local government services. In the years between 1989 and 1993, income to O&C counties from timber harvests dropped by nearly 30 percent, to approximately \$79 million. In response to this, Congress enacted "safety net payments" to stabilize income flow to timber-dependent counties during this tumultuous period, through the Omnibus Budget Reconciliation Act of 1993 (P.L.103-66).

In 2000, Congress repealed the “safety net payments” and enacted the Secure Rural Schools Act to set a stable level of payments to counties over 6 years. The Act provided the O&C counties with the option of receiving a full payment amount equal to the average of their three highest timber receipt years from 1986 through 1999. In addition, under the Act the counties elect the percentage of the payment (80-85 percent) to be distributed directly to the counties (Title I), and the remaining percentage (15-20 percent) to be allocated between Title II projects (administered by the BLM), Title III projects (administered by the counties), or returned to the Treasury. A provision was included in the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (P.L. 110-28) to extend provisions under Title II and Title III of the Secure Rural Schools Act, which expired in September 2006, for one additional year.

BLM has a long history with the O&C counties, and we look forward to continuing this relationship. In fact, the BLM is currently working on revisions to the Western Oregon Resource Management Plans. Seventeen out of 18 O&C counties, as well as the State of Oregon, are cooperating agencies in this important effort which will include public input. These documents will serve as the basis for land management in these areas and will be critical to the counties and communities.

The PILT Act (P.L. 94-565) was passed by Congress in 1976 to provide payments to local governments in counties that contain certain Federal lands within their boundaries. PILT is based on the concept that local governments incur costs associated with maintaining infrastructure on Federal lands within their boundaries, but are unable to collect taxes on these lands; thus, they need to be compensated for these losses in tax revenues. The payments are made to local governments in lieu of tax revenues and to supplement other Federal land receipts shared with local governments. The amounts available for payments to local governments require annual appropriation by Congress. The Department allocates payments according to the formula in the PILT Act. The Act provides for annual inflationary adjustments to the authorized amounts. Incorporating these annual adjustments, the formula takes into account the population within an affected unit of local government and the number of acres of eligible Federal land. The annual PILT payment also is partially adjusted based on the amounts of prior year payments for a select number of Federal revenue payments (such as receipts from mineral leasing, livestock grazing, and timber harvesting).

In the current Fiscal Year, on June 15, 2007, approximately 1,900 local governments received payments under the PILT program totaling \$232.1 million. The FY 2007 payments maintained the levels provided in FY 2006, which were the highest funding level in history. Along with other discretionary programs, decisions on PILT funding are made in balance with other priorities. We support this process in contrast with a mandatory spending program that would force the Federal government to cut into other programs that are integral to the President's Budget and important to the American people.

H.R. 3058

The Secure Rural Schools payments provided for in H.R. 3058 that apply to BLM lands would only involve western Oregon counties. H.R. 3058 provides for transition payments based on the amounts paid in 2007. Payments in 2008 would be 100 percent of that amount, then would

decrease to 90 percent, 81 percent, and 73 percent of that amount respectively for the years 2009 through 2011. In 2012, the payments are based on a new method for determining the amount and distribution of the payments and would be significantly lower. The payments using the new method are called the “full funding amount.” The new method takes into account historical payment levels, but distributes the payments by a complicated formula that accounts for use acreage and median per capita income levels in states and counties. Under H.R. 3058, counties must elect to receive payments under the new method or to receive 50 percent payments authorized in the 1937 and 1939 statutes.

The Secure Rural Schools Act provides that Title II funds be used to support cooperative projects, to restore healthy conditions on public or private lands. Title II amounts are retained by BLM in a special account, but spent on projects in the counties for those purposes. Title III funds are used for emergency services, community service work camps, purchase of easements for recreation or conservation, forest related after-school programs, and fire prevention activities. H.R. 3058 would continue the requirement that at least 15 percent of the funds be used for Title II and Title III projects. We are concerned, however, that the bill does not extend the expiration dates of these critical provisions or authorize resource advisory committees to implement the projects. We would like to work with the Committee to ensure that these provisions and other technical corrections are included in any amendments to H.R. 3058.

Regarding PILT, H.R. 3058 would amend chapter 69 of title 31, United States Code, by making full funding of the PILT Program mandatory for fiscal years 2008 through 2012. This would significantly increase PILT funding over recent appropriated levels, despite the fact that PILT funding has already increased by 74% since 2000. Including PILT substantially increases the cost of the bill and result in the need for additional mandatory spending offsets.

The bill also would add a new section that provides a new formula for payments to counties that previously received funding under P.L 110-28, which, as noted earlier, extended provisions under Title II and Title III of the Secure Rural Schools Act for one year.

To fund the PILT and Secure Rural Schools payments, H.R. 3058 would direct the Secretary of the Interior and the Secretary of Agriculture to promulgate regulations to establish new fees or fee increases for commercial activities on Federal lands, National Forest System lands, and National Grasslands. The new fees would apply to commercial leases or activities that are in effect on the date the regulations are promulgated or that are issued or that commence after that time.

As stated earlier, the Administration strongly opposes creating a new mandatory spending category. In addition, we have serious concerns about the proposed offsets in H.R. 3058. These provisions would direct the Secretary to raise or establish fees for commercial activities, which could severely harm Interior programs that provide tremendous value to the American people.

H.R. 3058 would require that the fees for commercial activities used to offset the payments total \$4,025,000. However, we estimate the cost of the bill to be approximately \$4.6 billion for the five year period of FY 2008 through FY 2012. The offset provision is not only unacceptable to the Administration and difficult for the Department to implement, but is also highly unlikely to generate the \$4.6 billion in funds needed under this bill.

An across-the-board increase in fees would be tantamount to a tax, while selective increases could result in litigation. Fees are not royalties, bonus bids, or rents, and the fees that are currently charged are designed to compensate for certain activities that take place on Federal lands. The Department charges many different cost-recovery fees, and the fee levels are based on the costs related to the activity at issue. For example, certain rights of way fees, fees to film on public lands, and reimbursements by water users paid to the Bureau of Reclamation, all are set at a level to cover costs to the Federal government and are expended for that purpose.

The Department also charges other fees for specific purposes. For example, grazing fees are collected by the BLM and shared with states and counties. Recreation fees and special recreation permit fees collected by the National Park Service, BLM, the U.S. Fish and Wildlife Service, and the Bureau of Reclamation from individuals and commercial recreation providers are reinvested at the site where they are collected and used to enhance visitor services and facilities. The National Park Service sets franchise fees for concession contracts at levels based upon a detailed statutory standard. Such fees are contractual, and changes to existing fees require renegotiation of the contracts or referral to binding arbitration when agreement cannot be reached, as provided under statute. Diverting such fees would be detrimental to these important programs; raising the fees could result in contractual disputes and litigation, and make those activities cost-prohibitive for the users.

Existing fees, and even new fees, are highly unlikely to generate the revenue necessary to cover the costs for the bill. For example, the Department annually collects a total of approximately \$30 million through BLM cost recovery fees, \$5.6 million in grazing fees, and \$178.8 million in recreation fees. Even if all these fees were diverted from the important programs they now fund, these totals fall far short of the \$4.6 billion needed in offsets over five years.

We note that H.R. 3058 also does not include language in previous appropriations bills that would cover administrative expenses for PILT and would exempt the Secretary from making PILT payments to units of local governments whose computed payment is less than \$100 dollars.

Conclusion

The Administration recognizes that Secure Rural Schools and PILT payments are important to local governments, in some states comprising a significant portion of their operating budgets. Again, the Administration supports the reauthorization of the Secure Rural Schools and Community Self Determination Act with agreed upon offsets and eventual phase out of payments. Also, the President's budget includes \$190 million for PILT. The Department looks forward to continuing to work cooperatively with the Congress and the communities on these important issues.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions that you or the other members may have.