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111TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 111-310

ORGAN MOUNTAINS-DESERT PEAKS WILDERNESS ACT

SEPTEMBER 27, 2010.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1689]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1689) to designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Organ Mountains-Desert Peaks Wilderness Act”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) CONSERVATION AREA.—The term “Conservation Area” means each of the Organ Mountains National Conservation Area and the Desert Peaks National Conservation Area established by section 4(a).
- (2) MANAGEMENT PLAN.—The term “management plan” means the management plan for the Conservation Areas developed under section 4(d).
- (3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (4) STATE.—The term “State” means the State of New Mexico.

SEC. 3. DESIGNATION OF WILDERNESS AREAS.

(a) IN GENERAL.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness and as components of the National Wilderness Preservation System:

- (1) ADEN LAVA FLOW WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 27,650 acres, as generally depicted on the map entitled “Potrillo Mountains Complex” and dated May 18, 2010, which shall be known as the “Aden Lava Flow Wilderness”.

(2) BROAD CANYON WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 13,900 acres, as generally depicted on the map entitled “Desert Peaks National Conservation Area” and dated May 18, 2010, which shall be known as the “Broad Canyon Wilderness”.

(3) CINDER CONE WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 16,950 acres, as generally depicted on the map entitled “Potrillo Mountains Complex” and dated May 18, 2010, which shall be known as the “Cinder Cone Wilderness”.

(4) ORGAN MOUNTAINS WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 19,400 acres, as generally depicted on the map entitled “Organ Mountains National Conservation Area” and dated June 22, 2010, which shall be known as the “Organ Mountains Wilderness”.

(5) POTRILLO MOUNTAINS WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana and Luna counties comprising approximately 125,850 acres, as generally depicted on the map entitled “Potrillo Mountains Complex” and dated May 18, 2010, which shall be known as the “Potrillo Mountains Wilderness”.

(6) ROBLEDO MOUNTAINS WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 16,950 acres, as generally depicted on the map entitled “Desert Peaks National Conservation Area” and dated May 18, 2010, which shall be known as the “Robledo Mountains Wilderness”.

(7) SIERRA DE LAS UVAS WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 11,100 acres, as generally depicted on the map entitled “Desert Peaks National Conservation Area” and dated May 18, 2010, which shall be known as the “Sierra de las Uvas Wilderness”.

(8) WHITETHORN WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana and Luna counties comprising approximately 9,600 acres, as generally depicted on the map entitled “Potrillo Mountains Complex” and dated May 18, 2010, which shall be known as the “Whitethorn Wilderness”.

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated by subsection (a) shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.) except that—

(1) any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land or interest in land that is within the boundary of a wilderness area designated by subsection (a) that is acquired by the United States shall—

(1) become part of the wilderness area within the boundaries of which the land is located; and

(2) be managed in accordance with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.);

(B) this Act; and

(C) any other applicable laws.

(d) GRAZING.—Grazing of livestock in the wilderness areas designated by subsection (a), where established before the date of enactment of this Act, shall be administered in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(e) MILITARY OVERFLIGHTS.—Nothing in this section restricts or precludes—

(1) low-level overflights of military aircraft over the wilderness areas designated by subsection (a), including military overflights that can be seen or heard within the wilderness areas;

(2) the designation of new units of special airspace over the wilderness areas or wilderness additions designated by this Act; or

(3) the use or establishment of military flight training routes over wilderness areas or wilderness additions designated by this Act.

(f) BUFFER ZONES.—

(1) IN GENERAL.—Nothing in this section creates a protective perimeter or buffer zone around any wilderness area designated by subsection (a).

- (2) **ACTIVITIES OUTSIDE WILDERNESS AREAS.**—The fact that an activity or use on land outside any wilderness area designated by subsection (a) can be seen or heard within the wilderness area shall not preclude the activity or use outside the boundary of the wilderness area.
- (g) **PERMIT AUTHORIZATION.**—The Secretary may continue to authorize the competitive running event permitted from 1970 through 2010 in the vicinity of the boundaries of the Organ Mountains Wilderness designated by subsection (a)(4) in a manner compatible with the preservation of the area as wilderness.
- (h) **POTENTIAL WILDERNESS AREA.**—
- (1) **ROBLEDO MOUNTAINS POTENTIAL WILDERNESS AREA.**—
- (A) **IN GENERAL.**—Certain land administered by the Bureau of Land Management, comprising approximately 100 acres as generally depicted as “Potential Wilderness” on the map entitled “Desert Peaks National Conservation Area” and dated May 18, 2010, is designated as a potential wilderness area.
- (B) **USES.**—The Secretary shall permit only such uses on the land described in subparagraph (A) that were permitted on the date of enactment of this Act.
- (C) **DESIGNATION AS WILDERNESS.**—
- (i) **IN GENERAL.**—On the date on which the Secretary publishes in the Federal Register the notice described in clause (ii), the potential wilderness area designated under subparagraph (A) shall be—
- (I) designated as wilderness and as a component of the National Wilderness Preservation System; and
- (II) incorporated into the Robledo Mountains Wilderness designated by subsection (a)(6).
- (ii) **NOTICE.**—The notice referred to in clause (i) is notice that—
- (I) the communications site within the potential wilderness area designated under subparagraph (A) is no longer used;
- (II) the associated right-of-way is relinquished or not renewed; and
- (III) the conditions in the potential wilderness area designated by subparagraph (A) are compatible with the Wilderness Act (16 U.S.C. 1131 et seq.).
- (i) **RELEASE OF WILDERNESS STUDY AREAS.**—Congress finds that, for purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the public land in Doña Ana County administered by the Bureau of Land Management not designated as wilderness by subsection (a)—
- (1) has been adequately studied for wilderness designation;
- (2) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and
- (3) shall be managed in accordance with—
- (A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);
- (B) this Act; and
- (C) any other applicable laws.

SEC. 4. ESTABLISHMENT OF NATIONAL CONSERVATION AREAS.

- (a) **ESTABLISHMENT.**—The following areas in the State are established as National Conservation Areas:
- (1) **ORGAN MOUNTAINS NATIONAL CONSERVATION AREA.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 84,950 acres, as generally depicted on the map entitled “Organ Mountains National Conservation Area” and dated June 22, 2010, which shall be known as the “Organ Mountains National Conservation Area”.
- (2) **DESERT PEAKS NATIONAL CONSERVATION AREA.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 75,550 acres, as generally depicted on the map entitled “Desert Peaks National Conservation Area” and dated May 18, 2010, which shall be known as the “Desert Peaks National Conservation Area”.
- (b) **PURPOSES.**—The purposes of the Conservation Areas are to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, geological, historical, ecological, watershed, wildlife, educational, recreational, and scenic resources of the Conservation Areas.
- (c) **MANAGEMENT.**—
- (1) **IN GENERAL.**—The Secretary shall manage the Conservation Areas—
- (A) in a manner that conserves, protects, and enhances the resources of the Conservation Areas; and
- (B) in accordance with—

- (i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);
 - (ii) this Act; and
 - (iii) any other applicable laws.
- (2) USES.—
- (A) IN GENERAL.—The Secretary shall allow only such uses of the Conservation Areas that the Secretary determines would further the purposes described in subsection (b).
 - (B) USE OF MOTORIZED VEHICLES.—
 - (i) IN GENERAL.—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Areas shall be permitted only on roads designated for use by motorized vehicles in the management plan.
 - (ii) NEW ROADS.—No additional road shall be built within the Conservation Areas after the date of enactment of this Act unless the road is necessary for public safety or natural resource protection.
 - (C) GRAZING.—The Secretary shall permit grazing within the Conservation Areas, where established before the date of enactment of this Act—
 - (i) subject to all applicable laws (including regulations) and Executive orders; and
 - (ii) consistent with the purposes described in subsection (b).
 - (D) UTILITY RIGHT-OF-WAY UPGRADES.—Nothing in this section precludes the Secretary from renewing or authorizing the upgrading (including widening) of a utility right-of-way in existence as of the date of enactment of this Act through the Organ Mountains National Conservation Area—
 - (i) in accordance with—
 - (I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
 - (II) any other applicable law; and
 - (ii) subject to such terms and conditions as the Secretary determines to be appropriate.
- (d) MANAGEMENT PLAN.—
- (1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a management plan for each of the Conservation Areas.
 - (2) CONSULTATION.—The management plans shall be developed in consultation with—
 - (A) interested Federal agencies;
 - (B) State, tribal, and local governments; and
 - (C) the public.
 - (3) CONSIDERATIONS.—In preparing and implementing the management plans, the Secretary shall consider the recommendations of Indian tribes and pueblos on methods for providing access to, and protection for, traditional cultural and religious sites in the Conservation Areas.
- (e) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land or interest in land that is within the boundary of a Conservation Area designated by subsection (a) that is acquired by the United States shall—
- (1) become part of the Conservation Area within the boundaries of which the land is located; and
 - (2) be managed in accordance with—
 - (A) this Act; and
 - (B) any other applicable laws.
- (f) TRANSFER OF ADMINISTRATIVE JURISDICTION.—On the date of enactment of this Act, administrative jurisdiction over the approximately 2,050 acres of land generally depicted as “Transfer from DOD to BIM” on the map entitled “Organ Mountains National Conservation Area” and dated June 22, 2010, shall—
- (1) be transferred from the Secretary of Defense to the Secretary;
 - (2) become part of the Organ Mountains National Conservation Area; and
 - (3) be managed in accordance with—
 - (A) this Act; and
 - (B) any other applicable laws.

SEC. 5. GENERAL PROVISIONS.

- (a) MAPS AND LEGAL DESCRIPTIONS.—
 - (1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the Conservation Areas and the wilderness areas designated by this Act with—
 - (A) the Committee on Energy and Natural Resources of the Senate; and
 - (B) the Committee on Natural Resources of the House of Representatives.

(2) **FORCE OF LAW.**—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the maps and legal descriptions.

(3) **PUBLIC AVAILABILITY.**—The maps and legal descriptions filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(b) **NATIONAL LANDSCAPE CONSERVATION SYSTEM.**—The Conservation Areas and the wilderness areas designated by this Act shall be administered as components of the National Landscape Conservation System.

(c) **FISH AND WILDLIFE.**—Nothing in this Act affects the jurisdiction of the State with respect to fish and wildlife located on public land in the State, except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may designate zones where, and establish periods during which, hunting, or fishing shall not be allowed for reasons of public safety, administration, the protection for nongame species and their habitats, or public use and enjoyment.

(d) **WITHDRAWALS.**—

(1) **IN GENERAL.**—Subject to valid existing rights, the Federal land within the Conservation Areas, the wilderness areas designated by this Act, and any land or interest in land that is acquired by the United States in the Conservation Areas or wilderness areas after the date of enactment of this Act is withdrawn from—

(A) entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) **PARCEL A.**—The approximately 1,300 acres of land generally depicted as “Parcel A” on the map entitled “Organ Mountains National Conservation Area” and dated June 22, 2010, is withdrawn in accordance with paragraph (1), except that the land is not withdrawn from disposal under the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.).

(3) **PARCEL B.**—The approximately 6,500 acres of land generally depicted as “Parcel B” on the map entitled “Organ Mountains National Conservation Area” and dated June 22, 2010, is withdrawn in accordance with paragraph (1), except that the land is not withdrawn for purposes of the issuance of oil and gas pipeline rights-of-way.

SEC. 6. PREHISTORIC TRACKWAYS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 2103 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 431 note; Public Law 111–11; 123 Stat. 1097) is amended by striking subsection (b) and inserting the following:

“(b) **DESCRIPTION OF LAND.**—The Monument shall consist of approximately 5,750 acres of public land in Doña, Ana County, New Mexico, as generally depicted on the map entitled ‘Desert Peaks National Conservation Area’ and dated May 18, 2010.”.

SEC. 7. BORDER SECURITY.

(a) **IN GENERAL.**—Nothing in this Act—

(1) prevents the Secretary of Homeland Security from undertaking law enforcement and border security activities, in accordance with section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)), within the areas designated as wilderness by this Act, including the ability to use motorized access within a wilderness area while in pursuit of a suspect;

(2) affects the 2006 Memorandum of Understanding among the Department of Homeland Security, the Department of the Interior, and the Department of Agriculture regarding cooperative national security and counterterrorism efforts on Federal land along the borders of the United States; or

(3) prevents the Secretary of Homeland Security from conducting any low-level overflights over the wilderness areas designated by this Act that may be necessary for law enforcement and border security purposes.

(b) **RESTRICTED USE AREA.**—

(1) **WITHDRAWAL.**—The area identified as “Restricted Use Area” on the map entitled “Potrillo Mountains Complex” and dated May 18, 2010 is withdrawn in accordance with section 5(d)(1).

(2) **ADMINISTRATION.**—Except as provided in paragraphs (3) and (4), the Secretary shall administer the area described in paragraph (1) in a manner that, to the maximum extent practicable, protects the wilderness character of the area.

(3) **USE OF MOTOR VEHICLES.**—The use of motor vehicles, motorized equipment, and mechanical transport shall be prohibited in the area described in paragraph (1) except as necessary for—

(A) the administration of the area (including the conduct of law enforcement and border security activities in the area); or

(B) grazing uses by authorized permittees.

(4) EFFECT OF SUBSECTION.—Nothing in this subsection precludes the Secretary from allowing within the area described in paragraph (1) the installation and maintenance of communication or surveillance infrastructure necessary for law enforcement or border security activities.

(c) RESTRICTED ROUTE.—The route excluded from the Potrillo Mountains Wilderness identified as “Restricted—Administrative Access” on the map entitled “Potrillo Mountains Complex” and dated May 18, 2010, shall be—

(1) closed to public access; but

(2) available for administrative and law enforcement uses, including border security activities.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

PURPOSE OF THE MEASURE

The purpose of S. 1689 is to establish the 84,950-acre Organ Mountains National Conservation Area, the 75,550-acre Desert Peaks National Conservation Area, and to designate approximately 241,400 acres of public land in the State of New Mexico administered by the Bureau of Land Management as wilderness.

BACKGROUND AND NEED

S. 1689 would establish the 84,950-acre Organ Mountains National Conservation Area, the 75,550-acre Desert Peaks National Conservation Area, and designate as wilderness approximately 241,400 acres of public land managed by the Bureau of Land Management (BLM) in Doña Ana County in southern New Mexico, including the 27,650-acre Aden Lava Flow, 13,900-acre Broad Canyon, 16,950-acre Cinder Cone, 19,400-acre Organ Mountains, 125,850-acre Potrillo Mountains, 16,950-acre Robledo Mountains, 11,100-acre Sierra de las Uvas, and 9,600-acre Whitethorn wilderness areas.

The wilderness and conservation areas would provide protection for large expanses of the Chihuahuan Desert ecosystem, including mountain ranges and grasslands, mesas and canyons, and lava flows and extinct volcanic cinder cones. The majority of the proposed wilderness areas are currently managed by the BLM as Wilderness Study Areas, and the majority of the Organ Mountains National Conservation Area is currently managed as an Area of Critical Environmental Concern.

The region provides important wildlife habitat for both game and sensitive species, and contains a number of archeological and historical sites, including petroglyphs, throughout the area. The proposed-Desert Peaks National Conservation Area lies adjacent to the Prehistoric Trackways National Monument and may contain similar archeological resources as the National Monument. The areas designated under S. 1689 are used by the public for hunting, hiking, and other recreational activities as well as for grazing purposes. The surrounding communities also rely on the public lands for their importance as watersheds and aquifer recharge zones.

LEGISLATIVE HISTORY

S. 1689 was introduced on September 17, 2009 by Senators Bingaman and Udall of New Mexico. On October 8, 2009, the Sub-

committee on Public Lands and Forests held a legislative hearing on the bill (S. Hrg. 111–285). On February 15, 2010, the Committee on Energy and Natural Resources held a field hearing on S. 1689 in Las Cruces, New Mexico (S. Hrg. 111–384). At its business meeting on July 21, 2010, the Committee on Energy and Natural Resources ordered S. 1689 favorably reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on July 21, 2010, by voice vote of a quorum present, recommends that the Senate pass S. 1689, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 1689, the Committee adopted an amendment in the nature of a substitute. The amendment updates map references in the bill to reflect the boundary adjustments to avoid power lines and some roads near the edges of some of the proposed wilderness areas. Additionally, it updates other changes made to the designated areas, including the establishment of a Restricted Use Area south of the Potrillo Mountains Wilderness near the U.S.-Mexico border. It also clarifies the permitted uses in the Robledo Mountains Potential Wilderness Area, and authorizes the permitting of a long-standing running event in the vicinity of the Organ Mountains Wilderness.

The amendment also details the authorities of the Department of Homeland Security with respect to the designations established by the bill, allows for the location of oil and gas pipelines through a specified area, south of the Organ Mountains National Conservation Area, and makes several other technical and conforming amendments. The amendment is explained in detail in the section-by-section analysis below.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the “Organ Mountains-Desert Peaks Wilderness Act”.

Section 2 defines key terms used in the bill.

Section 3(a) designates public land managed by the Bureau of Land Management in Doña Ana County as the 27,650-acre Aden Lava Flow Wilderness, 13,900-acre Broad Canyon Wilderness, 16,950-acre Cinder Cone Wilderness, 19,400-acre Organ Mountains Wilderness, 125,850-acre Potrillo Mountains Wilderness, 16,950-acre Robledo Mountains Wilderness, 11,100-acre Sierra de las Uvas Wilderness, and 9,600-acre Whitethorn Wilderness.

Subsection (b) states that the wilderness areas shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

Subsection (c) states that any land that is acquired within the boundary of the wilderness areas shall become part of the wilderness area in which the land is located and managed accordingly.

Subsection (d) provides for the administration of livestock grazing in the wilderness areas where established before the date of enactment of the Act, in accordance with section 4(d)(4) of the Wilder-

ness Act (16 U.S.C. 1133(d)(4)) and the BLM wilderness grazing guidelines.

Subsection (e) clarifies that nothing in the section restricts or precludes military overflights, the designation of special air-space, or military flight training routes over the wilderness areas.

Subsection (f) states that the designation of the wilderness areas shall not create a protective perimeter or buffer zone around the area or limit authorized land uses or activities outside the wilderness areas.

Subsection (g) authorizes the Secretary of the Interior (Secretary) to continue to permit the competitive running event organized by the Mesilla Valley Track Club and continuously permitted since 1970 in the vicinity of the Organ Mountains Wilderness.

Subsection (h)(1) designates approximately 100 acres of public land in the Robledo Mountains as the Robledo Mountains Potential Wilderness Area. Paragraph (2) states that only those uses permitted at the time of designation shall be permitted within the potential wilderness area. Paragraph (3) provides for the incorporation of the potential wilderness area into the Robledo Mountains Wilderness area at the time the Secretary determines that the non-conforming uses within the potential wilderness area have ceased and the conditions in the area are compatible with the Wilderness Act.

Subsection (i) releases from Wilderness Study Area status land within Doña Ana County that is not designated as wilderness by this Act. Approximately 30,000 acres of public land in the county will be released from Wilderness Study Area status, to be managed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws.

Section 4(a) establishes the 84,950-acre Organ Mountains National Conservation Area and 75,550-acre Desert Peaks National Conservation Area (Conservation Areas) on public land within Doña Ana County managed by the Bureau of Land Management.

Subsection (b) describes the purposes for which the Conservation Areas are established, which are to conserve, protect, and enhance the areas' cultural, archaeological, natural, geological, historical, ecological, watershed, wildlife, educational, recreational, and scenic resources.

Subsection (c)(1) directs the Secretary to administer the Conservation Areas in a manner that protects their resources and in accordance with the laws and regulations applicable to public land, this Act, and other applicable laws. Paragraph (2) directs the Secretary to allow only such uses that further the purposes of the Conservation Area and provides the Secretary with direction with regard to the management of motorized vehicles, grazing, and utility right-of-way upgrades.

Subsection (d) requires the Secretary to develop a management plan for the Conservation Areas within three years after the date of enactment of the Act. The subsection further requires the Secretary to develop the management plan in consultation with state and local governments, tribal governments, and the public, and to consider the recommendation of Indian tribes and pueblos with respect to access to and protection of religious and cultural sites within the Conservation Areas.

Subsection (e) states that any land that is acquired within the boundary of either Conservation Area shall become part of the respective Conservation Area and managed accordingly.

Subsection (f) transfers administrative jurisdiction over approximately 2,050 acres of land currently part of Fort Bliss Military Reservation from the Secretary of Defense to the Secretary and incorporates the land into the Organ Mountains National Conservation Area to be managed in accordance with this Act and other applicable laws.

Section 5(a) directs the Secretary to develop a map and legal description of the Conservation Areas and wilderness areas and to make it available to the public as soon as practicable after the date of enactment of this Act.

Subsection (b) states that the Conservation Areas and wilderness areas shall be administered as components of the National Landscape Conservation System.

Subsection (c) clarifies that nothing in the Act affects the State of New Mexico's jurisdiction with respect to fish and wildlife, except that the Secretary may establish areas where hunting is not allowed for reasons of public safety, administration, or public use and enjoyment.

Subsection (d)(1) withdraws, subject to valid existing rights, the Conservation Areas and wilderness areas from: Entry, appropriation, or disposal under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing laws. Paragraph (2) states that the approximately 1,300 acres of public land depicted on the map as "Parcel A" is withdrawn according to paragraph (1) except that it is not withdrawn from disposal under the Act of June 14, 1926, commonly known as the "Recreation and Public Purposes Act" (43 U.S.C. 869 et seq.). Paragraph (3) states that the approximately 6,500 acres of public land depicted on the map as "Parcel B" is withdrawn according to paragraph (1) except that it is not withdrawn for purposes of the issuance of oil and gas pipeline rights-of-way.

Section 6 adjusts the boundary of the Prehistoric Trackways National Monument located in Doña Ana County by incorporating an additional 470 acres of public land into the existing Monument boundary.

Section 7(a) clarifies that nothing in the Act: Prevents the Department of Homeland Security from undertaking law enforcement and border security activities within the wilderness areas while in pursuit of a suspect, in accordance with section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)), including the use of motorized vehicles; affects the 2006 Memorandum of Understanding among the Department of Homeland Security, the Department of the Interior, and the Department of Agriculture regarding cooperative national security and counterterrorism efforts on Federal land along the borders of the United States; or prevents the Secretary of Homeland Security from conducting any low-level overflights over the wilderness areas designated by this Act.

Subsection (b)(1) states that the public land depicted on the map as "Restricted Use Area" is withdrawn in accordance with section 5(d)(1). Paragraph (2) directs the Secretary to administer the area in a manner that, to the maximum extent practicable, protects the

wilderness character of the area. Paragraph (3) prohibits the use of motorized equipment and mechanical transport within the area except for administration of the area, including the conduct of law enforcement and border security activities and grazing uses by authorized permittees. Paragraph (4) clarifies that the Secretary is not precluded from allowing the installation and maintenance of communication or surveillance infrastructure necessary for law enforcement or border security activities within the Restricted Use Area.

Subsection (c) excludes the route depicted on the map as “Restricted—Administrative Access” from the Potrillo Mountains Wilderness and closes the route to public access but provides that it shall remain available for administrative and law enforcement uses, including border security activities.

Section 8 authorizes the appropriation of such sums as are necessary to implement the Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

S. 1689—Organ Mountains-Desert Peaks Wilderness Act

S. 1689 would change the legal status of about 250,000 acres of federal land in New Mexico. The bill would establish two National Conservation Areas (NCAs) and eight new wilderness areas totaling about 240,000 acres. The legislation also would withdraw about 8,000 acres of Bureau of Land Management (BLM) land from most disposal, mining or mineral leasing activities; transfer 2,000 acres of land from the Department of Defense to BLM for inclusion in one of the NCAs established under the bill; and expand the Prehistoric Trackways National Monument to include an additional 470 acres of BLM land. Finally, the bill would release about 16,000 acres of land from its current status as a wilderness study area. Because the lands affected by the legislation are already managed by the federal government, CBO estimates that any increase in federal costs to manage those lands would not exceed \$500,000 in any year.

S. 1689 could reduce offsetting receipts because it would no longer allow certain lands to be disposed of or leased. Therefore pay-as-you-go procedures apply to the legislation. However, based on information from BLM, CBO estimates that any reduction in offsetting receipts would be negligible over the 2010–2020 period.

S. 1689 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1689. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic re-

sponsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 1689.

EXECUTIVE COMMUNICATIONS

The views of the administration were included in testimony received by the Committee at a hearing on S. 1689, on October 8, 2009.

STATEMENT OF MARCILYNN A. BURKE, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for inviting the Department of the Interior to testify on S. 1689, the Organ Mountains-Desert Peaks Wilderness Act. The Administration supports S. 1689, which designates two new National Conservation Areas (NCAs) and eight new wilderness areas in Doña Ana County, New Mexico. We welcome this opportunity to enhance protection for some of America's treasured landscapes.

BACKGROUND

Doña Ana County is many things—the county with the second highest population in New Mexico; home to Las Cruces, one of the fastest growing cities in the country; and a land of amazing beauty. Towering mountain ranges, dramatic deserts, and fertile valleys characterize this corner of the Land of Enchantment. The Organ Mountains, east of the city of Las Cruces, dominate the landscape. Characterized by steep, angular, barren rock outcroppings, the Organ Mountains rise to nearly 9,000 feet in elevation and extend for 20 miles, running generally north and south. This high-desert landscape within the Chihuahu Desert contains a multitude of biological zones—mixed desert shrubs and grasslands in the lowlands ascending to pinon and juniper woodlands, and finally to ponderosa pines at the highest elevations. Consequently, the area is home to a high diversity of animal life, including peregrine falcons and other raptors, as well as mountain lions and other mammals. Abundant prehistoric cultural sites, dating back 8,000 years, dot the landscape. The Organ Mountains are a popular recreation area, with multiple hiking trails, a popular campground, and opportunities for hunting, mountain biking, and other dispersed recreation.

On the west side of Las Cruces are the mountain ranges and peaks of the Robledo Mountains and Sierra de las Uvas, which make up the Desert Peaks area. These desert landscapes are characterized by numerous mesas and buttes interspersed with deep canyons and arroyos. Mule deer, mountain lions, and golden eagles and other raptors are attracted to this varied landscape. Prehistoric cultural sites of the classic Mimbres and El Paso phases are sprinkled throughout this region along with historic sites asso-

ciated with more recent settlements. This area is also home to the unusual Night-blooming Cereus—seeing the one-night-a-year bloom in its natural surroundings is a rare delight. Finally, the area provides varied disbursed recreational opportunities.

To the southwest of Las Cruces, near the Mexican border, is the Potrillo Mountains Complex. The geologic genesis of these mountains is different from that of the Organ Mountains and Desert Peaks area. Cinder cones, volcanic craters, basalt lava flows, and talus slopes characterize this corner of Doña Ana County. These lands are famous for their abundant wildlife, and contain significant fossil resources. A well-preserved giant ground sloth skeleton, now housed at Yale University, was discovered in this area. The sheer breadth of these lands and their open, expansive vistas offer remarkable opportunities for solitude.

Senator Bingaman and a wide range of local governments, communities, user groups, conservationists, and Federal agencies have worked collaboratively to develop this consensus proposal to protect all of these special areas.

S. 1689

S. 1689 proposes to designate two new NCAs and eight wilderness areas in Doña Ana County, New Mexico, which would be included in BLM's National Landscape Conservation System. The legislation also releases over 16,000 acres from wilderness study area (WSA) status, transfers land from the Department of the Defense (DOD) to the BLM for inclusion within an NCA, and withdraws certain additional lands from disposal, mining, and mineral leasing.

Section 3 of S. 1689 designates eight wilderness areas totaling approximately 259,000 acres. The BLM supports the proposed wilderness designations in S. 1689. We would like the opportunity to work with the Chairman on minor boundary modifications for manageability, as well as modifications to some minor technical provisions.

These new wilderness designations are in three distinct areas of the county. First, within the proposed Organ Mountains NCA, 19,400 acres would be designated as the Organ Mountains Wilderness.

The second area is within the Desert Peaks National Conservation Area proposed in this legislation. The bill proposes three designations in this area: Broad Canyon Wilderness (13,900 acres); Robledo Mountains Wilderness (17,000 acres); and Sierra de las Uvas Wilderness (11,100 acres). These three areas are within the 33,600-acre Desert Peaks NCA. Within the Robledo Mountains Wilderness, a small corridor of approximately 100 acres has been designated as "potential wilderness" by section 3(g) of S. 1689. The lands included in this potential wilderness contain a communications right-of-way, and it is our understanding that it is the intention of the Chairman to allow the continued use of this site by the current lessees. However, in the event that the communications right-of-way is relin-

quished, these lands would be reclaimed and become part of the wilderness area. We support this provision.

Finally, the Potrillo Mountains complex in the southwest corner of Doña Ana County includes: Aden Lava Flow Wilderness (27,650 acres); Cinder Cone Wilderness (16,950 acres); Potrillo Mountains Wilderness (143,450 acres); and Whitethorn Wilderness (9,600 acres). Both the Potrillo Mountains Wilderness and Whitethorn Wilderness extend into adjacent Luna County. The legislation releases a substantial swath of land along the border with Mexico that is currently designated as WSA from WSA restrictions. The release contemplated by the legislation would allow greater flexibility for law enforcement along the border. We support this WSA release.

Two National Conservation Areas are established by section 4 of the legislation—the Organ Mountains NCA and the Desert Peaks NCA. As noted above, both of these NCAs include proposed designated wilderness within their boundaries. Each of the NCAs designated by Congress and managed by the BLM is unique. However, all NCA designations have certain critical elements in common, including withdrawal from the public land, mining, and mineral leasing laws; off-highway vehicle use limitations; and language that charges the Secretary of the Interior with allowing only those uses that further the purposes for which the NCA is established. Furthermore, NCA designations should not diminish the protections that currently apply to the lands. Section 4 of the bill honors these principles, and the BLM supports the designation of both of these NCAs.

Much of the lands proposed for both wilderness and NCA designations have been historically grazed by domestic livestock, and grazing continues today. Many of BLM's existing wilderness areas and NCAs throughout the West are host to livestock grazing, which is compatible with these designations. This use will continue within the NCAs and wilderness areas designated by S. 1689.

Section 4(f) of the bill transfers administrative jurisdiction of 2,050 acres from DOD to the BLM. These lands, currently part of the Army's Fort Bliss, would be incorporated into the Organ Mountains NCA. The lands to be transferred include the dramatic and scenic Fillmore Canyon as well as the western slopes of Organ Peak and Ice Canyon. We would welcome these lands into BLM'S National System of Public Lands, and we would like to work with the Committee and DOD to ensure that the transfer is conducted consistent with other DOD land transfers to BLM.

Section 6 of S. 1689 concerns the recently established Prehistoric Trackways National Monument, just southeast of the proposed Desert Peaks NCA, the monument was established in Title II, Subtitle B of the Omnibus Public Land Act (Public Law 111-11) signed by the President on March 30 of this year. Section 6 of S. 1689 addresses recent additional discoveries of 280 million-year old reptile, insect, and plant fossils on adjacent BLM-managed lands

by adding 170 acres to the Monument. The BLM supports this expansion of the Monument.

Section 5(d) of the legislation provides for the withdrawal of two parcels of BLM-managed lands from the land, mining, and mineral leasing laws. The parcel designated as "Parcel A" is approximately 1,300 acres of BLM-managed lands on the eastern outskirts of Las Cruces. This parcel is a popular hiking and mountain biking site, and provides easy access to the peak of the Tortugas Mountains. From here, visitors can take in spectacular views of Las Cruces and the Rio Grande Valley. We understand that Chairman Bingaman's goal is to ensure that these lands are preserved for continued recreational use by Las Cruces residents. The legislation provides for a possible lease of these lands to governmental or nonprofit agency under the Recreation and Public Purposes Act. The larger, 6,300 acre parcel, designated as "Parcel B," lies on the southern end of the proposed Organ Mountains NCA. It is our understanding that Chairman Bingaman considered adding this parcel to the NCA because of important resource values. However, a multitude of current uses make inclusion of this parcel in the NCA inconsistent with the purposes established for the NCA. Therefore, the limited withdrawal of the parcel will better serve to protect the resources within this area without negatively affecting the current uses of the area. The BLM supports the withdrawal of both of these parcels.

Finally, the BLM, along with many partners, has undertaken restoration efforts on more than one million acres of degraded landscapes in New Mexico, with the goal of returning grasslands, woodlands, and riparian areas to their original healthy conditions. We would like to work with the Chairman to develop language to support the BLM in implementing appropriate land restoration activities that will benefit watershed and wildlife health within these designated areas.

CONCLUSION

Thank you for the opportunity to testify in support of S. 1689. Both the BLM and the Department welcome opportunities to engage in important discussions such as this that advance the protection of treasured American landscapes. Passage of this legislation will ensure that generations of New Mexicans and all Americans will be able to witness a golden eagle soar over the Sierra de las Uvas, hike the landmark Organ Mountains, or hunt in the volcanic outcroppings of the Portrillo Mountains.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1689, as ordered reported.