

112TH CONGRESS  
1ST SESSION

# S. 1024

To designate the Organ Mountains and other public 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.

---

## IN THE SENATE OF THE UNITED STATES

MAY 19, 2011

Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To designate the Organ Mountains and other public 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.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Organ Mountains—  
5 Doña Ana County Conservation and Protection Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) CONSERVATION AREA.—The term “Con-  
2           servation Area” means each of the Organ Mountains  
3           National Conservation Area and the Desert Peaks  
4           National Conservation Area established by section  
5           4(a).

6           (2) MANAGEMENT PLAN.—The term “manage-  
7           ment plan” means the management plan for the  
8           Conservation Areas developed under section 4(d).

9           (3) SECRETARY.—The term “Secretary” means  
10          the Secretary of the Interior.

11          (4) STATE.—The term “State” means the State  
12          of New Mexico.

13 **SEC. 3. DESIGNATION OF WILDERNESS AREAS.**

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

18               (1) ADEN LAVA FLOW WILDERNESS.—Certain  
19               land administered by the Bureau of Land Manage-  
20               ment in Doña Ana County comprising approximately  
21               27,650 acres, as generally depicted on the map enti-  
22               tled “Potrillo Mountains Complex” and dated May  
23               18, 2010, which shall be known as the “Aden Lava  
24               Flow Wilderness”.

1           (2) BROAD CANYON WILDERNESS.—Certain  
2 land administered by the Bureau of Land Manage-  
3 ment in Doña Ana County comprising approximately  
4 13,900 acres, as generally depicted on the map enti-  
5 tled “Desert Peaks National Conservation Area”  
6 and dated May 18, 2010, which shall be known as  
7 the “Broad Canyon Wilderness”.

8           (3) CINDER CONE WILDERNESS.—Certain land  
9 administered by the Bureau of Land Management in  
10 Doña Ana County comprising approximately 16,950  
11 acres, as generally depicted on the map entitled  
12 “Potrillo Mountains Complex” and dated May 18,  
13 2010, which shall be known as the “Cinder Cone  
14 Wilderness”.

15           (4) ORGAN MOUNTAINS WILDERNESS.—Certain  
16 land administered by the Bureau of Land Manage-  
17 ment in Doña Ana County comprising approximately  
18 19,200 acres, as generally depicted on the map enti-  
19 tled “Organ Mountains National Conservation Area”  
20 and dated May 18, 2011, which shall be known as  
21 the “Organ Mountains Wilderness”.

22           (5) POTRILLO MOUNTAINS WILDERNESS.—Cer-  
23 tain land administered by the Bureau of Land Man-  
24 agement in Doña Ana and Luna counties comprising  
25 approximately 125,850 acres, as generally depicted

1 on the map entitled “Potrillo Mountains Complex”  
2 and dated May 18, 2010, which shall be known as  
3 the “Potrillo Mountains Wilderness”.

4 (6) ROBLEDO MOUNTAINS WILDERNESS.—Cer-  
5 tain land administered by the Bureau of Land Man-  
6 agement in Doña Ana County comprising approxi-  
7 mately 16,950 acres, as generally depicted on the  
8 map entitled “Desert Peaks National Conservation  
9 Area” and dated May 18, 2010, which shall be  
10 known as the “Robledo Mountains Wilderness”.

11 (7) SIERRA DE LAS UVAS WILDERNESS.—Cer-  
12 tain land administered by the Bureau of Land Man-  
13 agement in Doña Ana County comprising approxi-  
14 mately 11,100 acres, as generally depicted on the  
15 map entitled “Desert Peaks National Conservation  
16 Area” and dated May 18, 2010, which shall be  
17 known as the “Sierra de las Uvas Wilderness”.

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

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

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

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

12 (c) INCORPORATION OF ACQUIRED LAND AND INTER-  
13 ESTS IN LAND.—Any land or interest in land that is with-  
14 in the boundary of a wilderness area designated by sub-  
15 section (a) that is acquired by the United States shall—

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

18 (2) be managed in accordance with—

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

21 (B) this Act; and

22 (C) any other applicable laws.

23 (d) GRAZING.—Grazing of livestock in the wilderness  
24 areas designated by subsection (a), where established be-

1 fore the date of enactment of this Act, shall be adminis-  
2 tered in accordance with—

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

5 (2) the guidelines set forth in Appendix A of  
6 the Report of the Committee on Interior and Insular  
7 Affairs to accompany H.R. 2570 of the 101st Con-  
8 gress (H. Rept. 101–405).

9 (e) MILITARY OVERFLIGHTS.—Nothing in this sec-  
10 tion restricts or precludes—

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

15 (2) the designation of new units of special air-  
16 space over the wilderness areas designated by this  
17 Act; or

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

21 (f) BUFFER ZONES.—

22 (1) IN GENERAL.—Nothing in this section cre-  
23 ates a protective perimeter or buffer zone around  
24 any wilderness area designated by subsection (a).

1           (2)   ACTIVITIES   OUTSIDE   WILDERNESS  
2   AREAS.—The fact that an activity or use on land  
3   outside any wilderness area designated by subsection  
4   (a) can be seen or heard within the wilderness area  
5   shall not preclude the activity or use outside the  
6   boundary of the wilderness area.

7   (g) POTENTIAL WILDERNESS AREA.—

8           (1) ROBLEDO MOUNTAINS POTENTIAL WILDER-  
9   NESS AREA.—

10           (A) IN GENERAL.—Certain land adminis-  
11   tered by the Bureau of Land Management,  
12   comprising approximately 100 acres as gen-  
13   erally depicted as “Potential Wilderness” on the  
14   map entitled “Desert Peaks National Conserva-  
15   tion Area” and dated May 18, 2010, is des-  
16   ignated as a potential wilderness area.

17           (B) USES.—The Secretary shall permit  
18   only such uses on the land described in sub-  
19   paragraph (A) that were permitted on the date  
20   of enactment of this Act.

21           (C) DESIGNATION AS WILDERNESS.—

22           (i) IN GENERAL.—On the date on  
23   which the Secretary publishes in the Fed-  
24   eral Register the notice described in clause

1 (ii), the potential wilderness area des-  
2 ignated under subparagraph (A) shall be—

3 (I) designated as wilderness and  
4 as a component of the National Wil-  
5 derness Preservation System; and

6 (II) incorporated into the  
7 Robledo Mountains Wilderness des-  
8 ignated by subsection (a)(6).

9 (ii) NOTICE.—The notice referred to  
10 in clause (i) is notice that—

11 (I) the communications site with-  
12 in the potential wilderness area des-  
13 ignated under subparagraph (A) is no  
14 longer used;

15 (II) the associated right-of-way is  
16 relinquished or not renewed; and

17 (III) the conditions in the poten-  
18 tial wilderness area designated by sub-  
19 paragraph (A) are compatible with the  
20 Wilderness Act (16 U.S.C. 1131 et  
21 seq.).

22 (h) RELEASE OF WILDERNESS STUDY AREAS.—Con-  
23 gress finds that, for purposes of section 603(c) of the Fed-  
24 eral Land Policy and Management Act of 1976 (43 U.S.C.  
25 1782(c)), the public land in Doña Ana County adminis-

1 tered by the Bureau of Land Management not designated  
2 as wilderness by subsection (a)—

3 (1) has been adequately studied for wilderness  
4 designation;

5 (2) is no longer subject to section 603(c) of the  
6 Federal Land Policy and Management Act of 1976  
7 (43 U.S.C. 1782(c)); and

8 (3) shall be managed in accordance with—

9 (A) the Federal Land Policy and Manage-  
10 ment Act of 1976 (43 U.S.C. 1701 et seq.);

11 (B) this Act; and

12 (C) any other applicable laws.

13 **SEC. 4. ESTABLISHMENT OF NATIONAL CONSERVATION**  
14 **AREAS.**

15 (a) **ESTABLISHMENT.**—The following areas in the  
16 State are established as National Conservation Areas:

17 (1) **ORGAN MOUNTAINS NATIONAL CONSERVA-**  
18 **TION AREA.**—Certain land administered by the Bu-  
19 reau of Land Management in Doña Ana County  
20 comprising approximately 84,000 acres, as generally  
21 depicted on the map entitled “Organ Mountains Na-  
22 tional Conservation Area” and dated May 18, 2011,  
23 which shall be known as the “Organ Mountains Na-  
24 tional Conservation Area”.

1           (2) DESERT PEAKS NATIONAL CONSERVATION  
2           AREA.—Certain land administered by the Bureau of  
3           Land Management in Doña Ana County comprising  
4           approximately 75,550 acres, as generally depicted on  
5           the map entitled “Desert Peaks National Conserva-  
6           tion Area” and dated May 18, 2010, which shall be  
7           known as the “Desert Peaks National Conservation  
8           Area”.

9           (b) PURPOSES.—The purposes of the Conservation  
10          Areas are to conserve, protect, and enhance for the benefit  
11          and enjoyment of present and future generations the cul-  
12          tural, archaeological, natural, geological, historical, eco-  
13          logical, watershed, wildlife, educational, recreational, and  
14          scenic resources of the Conservation Areas.

15          (c) MANAGEMENT.—

16               (1) IN GENERAL.—The Secretary shall manage  
17          the Conservation Areas—

18                       (A) in a manner that conserves, protects,  
19                       and enhances the resources of the Conservation  
20                       Areas; and

21                       (B) in accordance with—

22                               (i) the Federal Land Policy and Man-  
23                               agement Act of 1976 (43 U.S.C. 1701 et  
24                               seq.);

25                               (ii) this Act; and

1 (iii) any other applicable laws.

2 (2) USES.—

3 (A) IN GENERAL.—The Secretary shall  
4 allow only such uses of the Conservation Areas  
5 that the Secretary determines would further the  
6 purposes described in subsection (b).

7 (B) USE OF MOTORIZED VEHICLES.—

8 (i) IN GENERAL.—Except as needed  
9 for administrative purposes or to respond  
10 to an emergency, the use of motorized ve-  
11 hicles in the Conservation Areas shall be  
12 permitted only on roads designated for use  
13 by motorized vehicles in the management  
14 plan.

15 (ii) NEW ROADS.—No additional road  
16 shall be built within the Conservation  
17 Areas after the date of enactment of this  
18 Act unless the road is necessary for public  
19 safety or natural resource protection.

20 (C) GRAZING.—The Secretary shall permit  
21 grazing within the Conservation Areas, where  
22 established before the date of enactment of this  
23 Act—

1 (i) subject to all applicable laws (in-  
2 cluding regulations) and Executive orders;  
3 and

4 (ii) consistent with the purposes de-  
5 scribed in subsection (b).

6 (D) UTILITY RIGHT-OF-WAY UPGRADES.—

7 Nothing in this section precludes the Secretary  
8 from renewing or authorizing the upgrading  
9 (including widening) of a utility right-of-way in  
10 existence as of the date of enactment of this  
11 Act through the Organ Mountains National  
12 Conservation Area in a manner that minimizes  
13 harm to the purposes of the Conservation Area  
14 described in subsection (b)—

15 (i) in accordance with—

16 (I) the National Environmental  
17 Policy Act of 1969 (42 U.S.C. 4321  
18 et seq.); and

19 (II) any other applicable law; and

20 (ii) subject to such terms and condi-  
21 tions as the Secretary determines to be ap-  
22 propriate.

23 (d) MANAGEMENT PLAN.—

24 (1) IN GENERAL.—Not later than 3 years after  
25 the date of enactment of this Act, the Secretary

1 shall develop a management plan for each of the  
2 Conservation Areas.

3 (2) CONSULTATION.—The management plans  
4 shall be developed in consultation with—

5 (A) interested Federal agencies;

6 (B) State, tribal, and local governments;

7 and

8 (C) the public.

9 (3) CONSIDERATIONS.—In preparing and imple-  
10 menting the management plans, the Secretary shall  
11 consider the recommendations of Indian tribes and  
12 pueblos on methods for providing access to, and pro-  
13 tection for, traditional cultural and religious sites in  
14 the Conservation Areas.

15 (e) INCORPORATION OF ACQUIRED LAND AND INTER-  
16 ESTS IN LAND.—Any land or interest in land that is with-  
17 in the boundary of a Conservation Area designated by sub-  
18 section (a) that is acquired by the United States shall—

19 (1) become part of the Conservation Area with-  
20 in the boundaries of which the land is located; and

21 (2) be managed in accordance with—

22 (A) this Act; and

23 (B) any other applicable laws.

24 (f) TRANSFER OF ADMINISTRATIVE JURISDICTION.—  
25 On the date of enactment of this Act, administrative juris-

1 diction over the approximately 2,050 acres of land gen-  
2 erally depicted as “Transfer from DOD to BLM” on the  
3 map entitled “Organ Mountains National Conservation  
4 Area” and dated May 18, 2011, shall—

5 (1) be transferred from the Secretary of De-  
6 fense to the Secretary;

7 (2) become part of the Organ Mountains Na-  
8 tional Conservation Area; and

9 (3) be managed in accordance with—

10 (A) this Act; and

11 (B) any other applicable laws.

12 **SEC. 5. GENERAL PROVISIONS.**

13 (a) MAPS AND LEGAL DESCRIPTIONS.—

14 (1) IN GENERAL.—As soon as practicable after  
15 the date of enactment of this Act, the Secretary  
16 shall file maps and legal descriptions of the Con-  
17 servation Areas and the wilderness areas designated  
18 by this Act with—

19 (A) the Committee on Energy and Natural  
20 Resources of the Senate; and

21 (B) the Committee on Natural Resources  
22 of the House of Representatives.

23 (2) FORCE OF LAW.—The maps and legal de-  
24 scriptions filed under paragraph (1) shall have the  
25 same force and effect as if included in this Act, ex-

1       cept that the Secretary may correct errors in the  
2       maps and legal descriptions.

3           (3) PUBLIC AVAILABILITY.—The maps and  
4       legal descriptions filed under paragraph (1) shall be  
5       on file and available for public inspection in the ap-  
6       propriate offices of the Bureau of Land Manage-  
7       ment.

8           (b) NATIONAL LANDSCAPE CONSERVATION SYS-  
9       TEM.—The Conservation Areas and the wilderness areas  
10      designated by this Act shall be administered as compo-  
11      nents of the National Landscape Conservation System.

12          (c) FISH AND WILDLIFE.—Nothing in this Act af-  
13      fects the jurisdiction of the State with respect to fish and  
14      wildlife located on public land in the State, except that  
15      the Secretary, after consultation with the New Mexico De-  
16      partment of Game and Fish, may designate zones where,  
17      and establish periods during which, hunting, or fishing  
18      shall not be allowed for reasons of public safety, adminis-  
19      tration, the protection for nongame species and their habi-  
20      tats, or public use and enjoyment.

21          (d) WITHDRAWALS.—

22           (1) IN GENERAL.—Subject to valid existing  
23      rights, the Federal land within the Conservation  
24      Areas, the wilderness areas designated by this Act,  
25      and any land or interest in land that is acquired by

1 the United States in the Conservation Areas or wil-  
2 derness areas after the date of enactment of this Act  
3 is withdrawn from—

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

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

8 (C) operation of the mineral leasing, min-  
9 eral materials, and geothermal leasing laws.

10 (2) PARCEL A.—The approximately 1,300 acres  
11 of land generally depicted as “Parcel A” on the map  
12 entitled “Organ Mountains National Conservation  
13 Area” and dated May 18, 2011, is withdrawn in ac-  
14 cordance with paragraph (1), except that the land is  
15 not withdrawn from disposal under the Act of June  
16 14, 1926 (commonly known as the “Recreation and  
17 Public Purposes Act”) (43 U.S.C. 869 et seq.).

18 (3) PARCEL B.—The approximately 6,500 acres  
19 of land generally depicted as “Parcel B” on the map  
20 entitled “Organ Mountains National Conservation  
21 Area” and dated May 18, 2011, is withdrawn in ac-  
22 cordance with paragraph (1), except that the land is  
23 not withdrawn for purposes of the issuance of oil  
24 and gas pipeline rights-of-way.

1 **SEC. 6. PREHISTORIC TRACKWAYS NATIONAL MONUMENT**  
2 **BOUNDARY ADJUSTMENT.**

3 Section 2103 of the Omnibus Public Land Manage-  
4 ment Act of 2009 (16 U.S.C. 431 note; Public Law 111–  
5 11; 123 Stat. 1097) is amended by striking subsection (b)  
6 and inserting the following:

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

12 **SEC. 7. BORDER SECURITY.**

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

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

21 (2) affects the 2006 Memorandum of Under-  
22 standing among the Department of Homeland Secu-  
23 rity, the Department of the Interior, and the De-  
24 partment of Agriculture regarding cooperative na-  
25 tional security and counterterrorism efforts on Fed-  
26 eral land along the borders of the United States; or

1           (3) prevents the Secretary of Homeland Secu-  
2           rity from conducting any low-level overflights over  
3           the wilderness areas designated by this Act that may  
4           be necessary for law enforcement and border secu-  
5           rity purposes.

6           (b) RESTRICTED USE AREA.—

7           (1) WITHDRAWAL.—The area identified as “Re-  
8           stricted Use Area” on the map entitled “Potrillo  
9           Mountains Complex” and dated May 18, 2010, is  
10          withdrawn in accordance with section 5(d)(1).

11          (2) ADMINISTRATION.—Except as provided in  
12          paragraphs (3) and (4), the Secretary shall admin-  
13          ister the area described in paragraph (1) in a man-  
14          ner that, to the maximum extent practicable, pro-  
15          tects the wilderness character of the area.

16          (3) USE OF MOTOR VEHICLES.—The use of  
17          motor vehicles, motorized equipment, and mechan-  
18          ical transport shall be prohibited in the area de-  
19          scribed in paragraph (1) except as necessary for—

20                 (A) the administration of the area (includ-  
21                 ing the conduct of law enforcement and border  
22                 security activities in the area); or

23                 (B) grazing uses by authorized permittees.

24          (4) EFFECT OF SUBSECTION.—Nothing in this  
25          subsection precludes the Secretary from allowing

1 within the area described in paragraph (1) the in-  
2 stallation and maintenance of communication or sur-  
3 veillance infrastructure necessary for law enforce-  
4 ment or border security activities.

5 (c) RESTRICTED ROUTE.—The route excluded from  
6 the Potrillo Mountains Wilderness identified as “Re-  
7 stricted—Administrative Access” on the map entitled  
8 “Potrillo Mountains Complex” and dated May 18, 2010,  
9 shall be—

10 (1) closed to public access; but

11 (2) available for administrative and law enforce-  
12 ment uses, including border security activities.

13 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

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

○