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COLORADO CANYONS NATIONAL CONSERVATION AREA AND BLACK RIDGE CANYONS WILDERNESS ACT OF 2000

OCTOBER 2 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

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

REPORT

[To accompany H.R. 4275]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 4275) to establish the Colorado Canyons National Conservation Area and the Black Ridge Canyons Wilderness, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 4275 is to designate the Colorado Canyons National Conservation Area, comprising approximately 122,300 acres, and the Black Ridge Canyons Wilderness Area, comprising approximately 75,550 acres, in western Colorado and eastern Utah.

BACKGROUND AND NEED

Located north and west of the rapidly growing city of Grand Junction in western Colorado, the Colorado Canyons and Black Ridge Canyons area in Mesa County, Colorado and Grand County, Utah, contain unique and nationally important features. The lands are diverse, ranging from pinyon juniper and sagebrush mesas to steep red rock canyons cutting into the landscape, forming natural arches, caves and alcoves. The Colorado Canyons area includes tremendous wildlife, scenic, recreational, and paleontological resources. Establishment of the Colorado Canyons National Conservation Area and the Black Ridge Canyons Wilderness Area seeks to protect and enhance these resources.

Each year, more than 100,000 visitors use these public lands for a variety of recreational uses, including biking the Kokopelli Trail,

hiking through and among the sandstone arches of Rattlesnake Canyon, floating the red rock canyons of the Colorado River, viewing the dinosaur quarries and experiencing the solitude of the wilderness. This recreational use is expected to increase as the population of Grand Junction and surrounding communities continues to grow. At the same time, more and more Americans are discovering public lands as the national interest in outdoor recreation continues to climb. This increasing demand for high quality recreational experiences can lead to unacceptable damage to fragile landscapes if those landscapes are not appropriately managed.

The legislation will protect these fragile and important lands through special designations which formally establish long-term management objectives and describe the appropriate balance between traditional uses, such as grazing and recreation, and resource protection.

Central to the landscape is the Colorado River, which is specifically excluded (up to the 100-year high water mark) from both the Wilderness and National Conservation Area designations because any claims on the River or its water could have an extremely significant impact on water rights in Colorado

LEGISLATIVE HISTORY

H.R. 4275 passed the House of Representatives by voice vote and was referred to the Committee on Energy on Natural Resources on July 25, 2000. The Subcommittee on Forests and Public Land Management held a hearing on H.R. 4275 on September 13, 2000. At the business meeting on September 20, 2000, the Committee on Energy and Natural Resources ordered H.R. 4275 favorably reported without amendment.

COMMITTEE RECOMMENDATIONS

The Senate Committee on Energy and Natural Resources, in open business session on September 20, 2000, by a voice vote of a quorum present, recommends that the Senate pass H.R. 4275 without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1 describes the short title.

Subsection 2(a) describes the findings of Congress.

Subsection 2(b) describes the purpose of the Act.

Subsection 3 defines key terms used in the Act.

Section 4 designates the Colorado Canyons National Conservation Area encompassing approximately 122,300 acres of public land in the States of Colorado and Utah.

Section 5 designates the Black Ridge Canyons Wilderness encompassing approximately 75,550 acres in Mesa County, Colorado and Grand County, Utah to be managed as a component of the National Wilderness Preservation System.

Section 6(a) directs the Secretary to manage the Conservation Area to conserve, protect and enhance resources in accordance with applicable laws.

Subsection 6(b) directs the Secretary to allow only such uses that benefit the purposes of the Conservation Area.

Subsection 6(c) directs the Secretary to withdraw the lands within the Conservation Area and Wilderness Area from public land laws and mining laws, subject to valid existing rights. Nothing in the Act affects the discretionary authority of the Secretary to grant, issue, renew rights-of-way or other land use authorizations.

Subsection 6(d) permits motorized vehicles on designated roads and trail except for emergencies and administrative purposes.

Subsection 6(e) directs the Secretary to manage lands designated as wilderness by the Act in accordance with the Wilderness Act.

Subsection 6(f) requires that hunting, fishing and trapping be allowed in accordance with State laws and provides that the heads of the Utah or Colorado Divisions of Wildlife or the Secretary can issue regulations to restrict these activities for reasons of safety, administration, public use and enjoyment.

Subsection 6(g) requires the Secretary to issue and administer grazing permits on lands in the Conservation Area in accordance with applicable laws and within the Wilderness in accordance with provisions of the Wilderness Act and guidelines set forth in Appendix A of House Report 101-405 of the 101st Congress.

Subsection 6(h) directs the Secretary to complete a management plan within 3 years which describes appropriate uses, considers existing information, provides for continued management of a utility corridor, considers historical involvement of local community and includes all public lands between the boundary of the Conservation Area and the edge of the Colorado River.

Subsection 6(i) describes Congress's intent that no buffers around the Conservation Area or Wilderness be created or that no activity on private lands up to the boundary be precluded.

Subsection 6(j) directs future acquisitions of private inholdings be acquired by donation, exchange or purchase from willing seller and be managed in accordance with the Act.

Subsection 6(k) permits the Secretary to establish minimal interpretive facilities in cooperation with others as appropriate to protect resources.

Subsection 6(l) describes water rights.

Paragraphs (1) and (2) documents Congress's findings in regards to water rights, notes that nothing in the Act constitutes reservation of a water right, affects any water rights, establishes a precedent with regard to future conservation area or wilderness designations of affects existing interstate compacts or apportionment decrees.

Paragraph (3) directs the Secretary to follow requirements of the law of the State of Colorado to obtain new water rights.

Paragraph (4) prohibits the Secretary to fund, assist, authorize or permits new water resources facilities within the wilderness area, except existing facilities may be used, operated, maintained and modified as needed.

Paragraph (5) states neither the conservation area or wilderness area includes the Colorado River within their boundaries and notes the Act does not affect the Secretary's authority to manage recreational uses of the Colorado or manage use of the lands between the Colorado River and the boundary of the conservation area. The Secretary is directed to withdraw the lands between the Colorado River and the boundary of the conservation area from public land laws and mining laws, subject to valid existing rights.

Section 7 directs the Secretary to prepare a map for the conservation area and wilderness area, and permits corrections for clerical and typographical errors. The map is required to be available to the public. In the case of discrepancy between the map and the descriptions in the Act, the map shall control.

Section 8 directs the Secretaries to establish an advisory committee in accordance with applicable law to advise in regards to preparation and implementation of the management plan and describes the representation to be included.

Section 9 directs the Secretary to continue to allow access to private inholdings for private landowners and public access to Glade Park, Colorado.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 2000.

Hon. FRANK H. MURKOWSKI,
*Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4275, the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Felix LoStracco.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 4275—Colorado Canyons National Conservation Area and
Black Ridge Canyons Wilderness Act of 2000*

Summary: H.R. 4275 would establish the Colorado Canyons National Conservation Area on about 122,300 acres of federal land in Colorado and Utah. The legislation also would designate the Black Ridge Canyons Wilderness, consisting of about 75,550 acres in those states.

CBO estimates that implementing H.R. 4275 would cost about \$3 million over the 2001–2005 period, assuming appropriation of the necessary amounts. Enacting this legislation could affect offsetting receipts (a form of direct spending); therefore, pay-as-you-go procedures would apply, but CBO estimates that any such effects would be less than \$500,000 a year. H.R. 4275 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: For this estimate, CBO assumes that H.R. 4275 will be enacted near the start of fiscal year 2001. We also assume that the necessary funds will be appropriated starting in fiscal year 2001 and that outlays will follow the historical spending pattern for similar activities.

Spending subject to appropriation

Under H.R. 4275, the Bureau of Land Management (BLM) would administer lands in the proposed conservation and wilderness areas. The legislation would direct the Secretary of the Interior to establish an advisory committee and would require BLM to develop, within three years, a comprehensive management plan for the proposed conservation and wilderness areas in consultation with that committee.

Based on information from BLM, CBO estimates that implementing H.R. 4275 would cost about \$3 million over the 2001–2005 period, assuming appropriation of the necessary funds. That estimate includes the cost of adding staff and administrative services to the area, upgrading and maintaining existing infrastructure and facilities, establishing and operating the advisory committee, and preparing the management plan required by the act. According to BLM, the agency does not expect the management plan would require new activities or facilities that would significantly increase federal costs. As a result, we estimate that implementing the management plan required by the legislation would cost less than \$500,000 a year. Because the agency would have three years to develop that plan, we estimate that any spending to implement it would not occur until 2004.

Direct spending (including offsetting receipts)

H.R. 4275 would withdraw federal land in the proposed conservation and wilderness areas, as well as federal land between the boundary of the conservation area and the high-water mark of the Colorado River, from mining, mineral leasing, and geothermal leasing, subject to valid existing rights. Enacting those provisions could result in forgone receipts from those lands over the next five years if, under current law, the land would generate receipts from mineral and geothermal development. Based on information from BLM, however, we estimate that any such receipts would total less than \$500,000 each year.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Because provisions in H.R. 4275 that would withdraw certain lands from mining, mineral leasing, and geothermal leasing could affect offsetting receipts, pay-as-you-go procedures would apply. CBO estimates, however, that any such effects would not be significant.

Intergovernmental and private-sector impact: H.R. 4275 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On July 25, 2000, CBO transmitted a cost estimate for H.R. 4275, as ordered reported by the House Committee on Resources on July 19, 2000. The two versions of the legislation are identical, as are our cost estimates.

Estimate prepared by: Federal Costs: Felix LoStracco. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, 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 H.R. 4275. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities 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 H.R. 4275, as ordered reported.

EXECUTIVE COMMUNICATIONS

On September 20, 2000, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on the bill. These reports had not been received at the time the report on H.R. 4275 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

The testimony provided by the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF TOM FRY, DIRECTOR, BUREAU OF LAND
MANAGEMENT

Thank you for the opportunity to testify regarding S. 2784, the Santa Rosa and San Jacinto Mountains National Monument Act, and S. 2956, the Colorado Canyons National Conservation Area and the Black Ridge Canyons Wilderness Act. Both of these areas, the Santa Rosas in southern California and the Ruby Canyon/Black Ridge area of western Colorado, are deserving of the recognition and the meaningful protections that are inherent in National Monument and National Conservation Area (NCA) designations. The Administration supports both of these bills.

The Administration has testified before Congress several times this year on special protective legislation for public lands managed by the Bureau of Land Management (BLM). While each NCA or BLM-managed National Monument is unique, there are certain common elements, and we have set a standard for what these special areas must include. Critical components of a Monument or NCA include: a land, mining, and mineral withdrawal; off-highway vehicle (OHV) use limitations; and language which charges the Secretary to allow "only such uses" as further the purposes for which the monument or NCA is established. In addition, we cannot consent to any language that represents a step backward from current management. I'd like to discuss with the subcommittee how each of these bills successfully addresses these important criteria and describe some of the important features of these very special places.

S. 2784, SANTA ROSA AND SAN JACINTO MOUNTAINS NATIONAL MONUMENT ACT

The Santa Rosa and San Jacinto Mountains, covering 272,000 acres in this Monument proposal, are areas of great contrast. Nowhere else can you find the juxtaposition of outstanding biological, scenic, cultural and recreation values bordering a rapidly growing population center and world-class resort destination. Much of the growth and prosperity of the Coachella Valley is a result of its proximity to these great natural areas and that growth is now the biggest threat to its preservation.

The unique combination of extraordinary natural values of the Santa Rosa and San Jacinto Mountains adjacent to a growing urban complex has long been recognized as deserving special protection. In 1990, Interior Secretary Manuel Lujan designated the Santa Rosa Mountains as a National Scenic Area. A cooperative effort among the BLM, State and local governments, the Agua Caliente Band of Cahuilla Indians, private organizations, and property owners, this administrative designation was the first step to protect the 194,000 acres. However, the current designation cannot provide the permanent protection necessary to ensure that future generations visiting the Santa Rosas will still be able to see a Golden Eagle soar over them, a Peninsular Ranges Bighorn Sheep clamber through them or a Desert Tortoise crawl across them. A National Monument designation can provide that insurance. Early in 1999 a local, grass-roots effort was initiated to seek support for just such a National Monument designation. Responding to that call, Secretary Babbitt made the first of several visits in August 1999 to begin listening to the local community on how best to protect the area.

The resource values in this special area are as diverse as any area that the Federal government manages. The area is home to five distinct "life zones" from Sonoran Desert to Arctic Alpine resulting in an exceptionally diverse biological population. Over 500 species of plants and a suite of Federally-listed threatened and endangered species call the Santa Rosas home. Premier among these is the Federally-endangered Peninsular Ranges Bighorn Sheep whose population has plummeted so that today only about 300 remain. Desert oases, natural hot springs, and verdant riparian areas dot this landscape.

Likewise the cultural and archaeological resources of the region abound. A number of sites sacred to the Agua Caliente Band of Cahuilla Indians, whose ancestors inhabited most of the area, are within the proposed monument. Networks of trails connect village sites, campsites and other areas of importance to the Tribe. The Tribe presently manages portions of the proposed Monument within its reservation boundaries and will continue to do so after the designation.

Recreational use of the Santa Rosas is, and should continue to be, an important use of the mountains. Hiking,

biking, camping and horseback riding are all legitimate uses which should, and can, continue in a way compatible with meaningful protection of the region.

S. 2784 meets the important tests that we have set out for these special areas. First it contains a complete withdrawal from land laws, mineral leasing laws and the mining laws. This withdrawal, while protecting valid existing rights, assures us that these public lands will not be disposed of in the future, that they will not be pockmarked with mining claims and that no new oil and gas wells or sand and gravel pits will appear within the monument on public lands. As the Director of the multiple-use agency managing the majority of the public lands in the West, I believe that mineral production is an important use of BLM's public lands when it occurs in the right place and is done the right way. The protection of special areas, such as the Santa Rosas, is also an important part of BLM's multiple-use mandate as established by the Federal Land Policy and Management Act. The legislation also includes new strong limitations on off-highway vehicle use within the Monument and states that the Secretary shall allow "only such uses" of the lands within the Monument as further the purposes for which it is created.

Senator Feinstein and Congresswoman Bono have both worked hard to see that the bill before us today is a good bill. Through long negotiations and extensive compromise on all sides, we have a bill we can support and will provide real protections for this very special area.

S. 2956, COLORADO CANYONS NATIONAL CONSERVATION AREA
AND BLACK RIDGE CANYONS WILDERNESS ACT

Located north and west of the growing city of Grand Junction in western Colorado, the Ruby Canyon/Black Ridge area covered by the legislation encompasses over 122,000 acres of magnificent lands, including over 75,000 acres that make up the Black Ridge Canyon Wilderness Study Area (WSA) that the bill would designate as wilderness. Each year, more than 100,000 visitors come to these public lands to bike the Kokopelli Trail, hike through and among the awe-inspiring sandstone arches of Rattlesnake Canyon, float the red rock canyons of the Colorado River, marvel at the dinosaur quarries and revel in the solitude of extraordinary wilderness.

Carved over millions of years by the Colorado River and its tributaries, this northern edge of the Colorado Plateau is home to a wide range of geological and other natural wonders. The evolution of life on earth can be read on the many canyon walls. From the Precambrian crystalline rocks predating the evolution of higher life forms at the bottom of the canyons, to Triassic sandstone attesting to the ancient desert that was once here, to the abundant dinosaur bones in the Jurassic strata, the geologic history is accessible to scientists and schoolchildren alike.

For over 100 years, paleontologists have appreciated the incredible resource this area presents. Dinosaur Hill,

Fruita Paleontological Area, and the Mygatt-Moore Dinosaur Quarry have been, and continue to be, the source for significant finds. Brachiosaur, Apatosaur, Dipoldocus, and Ceratosaur bones have all been recovered from these areas furthering our scientific knowledge. Today, while scientific recovery work continues, the BLM has created interpretive walks and provides information to allow access and understanding to nonscientists as well as scientists.

This is a landscape where scale is important. From the awesome 300-foot wide amphitheater carved in the side of Mee Canyon to sheer cliff walls and waterfalls in the bottom of many canyons, an individual is dwarfed by the sheer size of a myriad of geological formations. Natural arches are found throughout the area, but Rattlesnake Canyon has a wondrous concentration of huge arches and related alcove features.

The area also is a haven for an incredible range of fauna. Desert bighorn sheep, mule deer, antelope, mountain lions and smaller mammals inhabit the region along with peregrine falcons, eagles and other raptors. The Colorado River running through the proposed NCA is home to four species of endangered fish—the humpback chub, pike minnow, bonytail chub and razorback sucker. In addition, the riparian communities found along the Colorado River are a significant biological resource of great importance to many forms of wildlife.

Recreation, including hiking, floating and mountain biking, is a significant and appropriate use of the area. The Black Ridge Canyons wilderness area provides accessible opportunities for solitude and discovery for over 25,000 hikers annually. Twenty-five miles of the world-renowned mountain-bike Kokopelli Trail traverses the NCA as it traces a 140-mile path from Grand Junction to Moab, Utah. The Ruby Canyon/Black Ridge area is one of stark beauty and tremendous natural assets—it deserves designation as a National Conservation Area. S. 2956, which is identical to H.R. 4275 as passed by the House of Representatives, includes the important provisions that must be in an NCA. It includes the complete land, mineral and mining withdrawal, “only such uses” language and restrictions on off-highway vehicle use that we have established as critical elements. In addition, this bill designates over 75,000 acres, including just over 5,000 acres in Utah, as the Black Ridge Canyons Wilderness, and it does so clearly consistent with the provisions of the Wilderness Act.

I would like to highlight briefly one provision of the bill that may seem unusual at first glance, but we can support it in the context of this legislation and in this particular conservation area. Under the bill the Colorado river, to the 100-year flood plain, will not be included within the NCA. While we would oppose such a provision in most cases, we can support it because of the specifics of the situation. As the Chairman and members of this Committee are well aware, water in the West is a highly-charged issue and none more so than water from the Colorado river. The Col-

orado River is a major source of water for the states of Colorado, Utah, Nevada, Arizona and California as well as for the northern states of the Republic of Mexico. In the context of this politically-charged climate, we believe that excluding the Colorado river from management under the Act represents a reasonable compromise.

This does not, however, mean removing management of these lands from the legislation and the important protections it provides. The legislation not only withdraws the public lands within the 100-year flood plain from the land laws, mining and mineral leasing laws, but it also makes clear that the Secretary shall manage recreation and other uses of these lands in the same manner as the lands within the NCA. It is only with these important provisions that we can support the legislation.

CONCLUSION

Mr. Chairman, these two bills, S. 2784 to create the Santa Rosa and San Jacinto Mountains National Monument and S. 2956 which establishes the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness, are good bills. They provide important new protections to these special areas without diminishing current management. We support both of these bills and urge their speedy passage.

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 H.R. 4275, as ordered reported.

