110TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
110–561

NATIONAL LANDSCAPE CONSERVATION SYSTEM ACT

APRIL 1, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2016]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2016) to establish the National Landscape Conservation System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Landscape Conservation System Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) SYSTEM.—The term "system" means the National Landscape Conservation System established by section 3(a).

SEC. 3. ESTABLISHMENT OF THE NATIONAL LANDSCAPE CONSERVATION SYSTEM.

(a) ESTABLISHMENT.—In order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations, there is established in the Bureau of Land Management the National Landscape Conservation System.

(b) COMPONENTS.—The system shall include each of the following areas administered by the Bureau of Land Management:

(1) Each area that is designated as—

(A) a national monument;

(B) a national conservation area;

(C) a wilderness study area;

(D) a National Scenic Trail or National Historic Trail designated as a component of the National Trails System;

(E) a component of the National Wild and Scenic Rivers System; or

(F) a component of the National Wilderness Preservation System.

(2) Any area designated by Congress to be administered for conservation purposes, including—

(A) the Steens Mountain Cooperative Management and Protection Area, as designated under section 101(a) of the Steens Mountain Cooperative Management and Protection Act of 2000 (16 U.S.C. 460nnn–11(a));

(B) the Headwaters Forest Reserve;

(C) the Yaquina Head Outstanding Natural Area; and

(D) any additional area designated by Congress for inclusion in the system.

(c) MANAGEMENT.—The Secretary shall manage the system—

(1) in accordance with each applicable law (including regulations) relating to each component of the system included under subsection (b); and

(2) in a manner that protects the values for which the components of the system were designated.

SEC. 4. STATUTORY CONSTRUCTION.

Nothing in this Act shall be construed to enhance, diminish, or modify any law or proclamation (or regulations related to such law or proclamation) under which the components of the system identified in section 3(b) were established, or are managed, including, but not limited to, the Alaska National Interest Land Conservation Act (43 U.S.C. 1601 et seq.), the Wilderness Act (16 U.S.C. 1131 et seq.), the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), the National Trails System Act (16 U.S.C. 1241 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

PURPOSE OF THE BILL

The purpose of H.R. 2016 is to establish the National Landscape Conservation System, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The National Landscape Conservation System (NLCS) includes approximately 26 million acres, or about 10% of the land administered by the Bureau of Land Management (BLM). The System includes more than 800 units, including all National Scenic and Historic Trails, National Conservation Areas, National Monuments, wilderness areas, Wild and Scenic Rivers, and wilderness study areas managed by the BLM.

Each NLCS unit was established by Congress or Presidential Proclamation and is managed according to its enabling authority, as well as the Wilderness Act, Wild and Scenic Rivers Act, Federal Land Policy and Management Act, or other laws applicable to specific units. Former Interior Secretary Babbitt established the NLCS administratively as a framework to tie each of these units together into a larger conservation system. The NLCS has never been established by statute, however.

NLCS units include significant natural resources, including approximately 12% of the BLM-managed sage grouse habitat, as well as important cultural and scientific resources. For example, the Canyons of the Ancients National Monument in Colorado includes more than 6,000 archeological sites significant to Native American cultures. NLCS units provide unique recreational opportunities, with many located in or near heavily developed urban areas.

H.R. 2016 establishes the NLCS, lists the components of the system, and specifies that any future additions must be authorized by Congress. The legislation makes clear that each NLCS unit is to be managed in accordance with all laws applicable to that unit and in

"a manner that protects the values for which the components of the system were designated."

In addition to the support of the Bush Administration, this legislation enjoys broad support from a diverse coalition which includes the American Hiking Society, National Council of Churches, Boone and Crockett Club, National Trust for Historic Preservation, National Wildlife Federation, and the Outdoor Industry Association.

COMMITTEE ACTION

H.R. 2016 was introduced on April 24, 2007, by National Parks, Forests, and Public Lands Subcommittee Chairman Raul Grijalva (D–AZ) along with a bipartisan group of 16 cosponsors. The bill currently has 65 bipartisan co-sponsors. The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests, and Public Lands.[1]

On June 6, 2007, the House Subcommittee on National Parks, Forests and Public Lands held a hearing on the bill, during which a representative from the Department of the Interior testified in support of the bill.

On March 12, 2008, the subcommittee was discharged from further consideration of H.R. 2016 and the full Natural Resources Committee met to consider the bill. Subcommittee Chairman Grijalva offered an amendment in the nature of a substitute to H.R. 2016. In addition to technical changes, the substitute clarifies that enactment of H.R. 2016 will not alter existing authorities under which units of the NLCS are currently managed. Specifically, the substitute states that, "Nothing in this Act shall be construed to enhance, diminish, or modify any law or proclamation (or regulations related to such law or proclamation) under which the components of the system identified in section 3(b) were established, or are managed.".

Representative Jeff Flake (R–AZ) offered an amendment to the amendment in the nature of a substitute (Flake #1) prohibiting additional appropriations for the NLCS. The amendment was not agreed to by a rollcall vote of 12 yeas and 16 nays, as follows:

[1] 1ACompanion legislation (S. 1139) was introduced by Senate Energy and Natural Resources Committee Chairman Jeff Bingaman. The Senate bill was ordered reported from the Energy and Natural Resources Committee on May 23, 2007 by voice vote.

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
110th Congress

Date: March 12, 2008 **Convened:** 11:39 **Adjourned:** 2:35

Meeting on: **HR 2016**: Amendment to the Amendment in the Nature of a Substitute offered by Mr. Flake #1, was NOT AGREED TO by a roll call vote of 12 Yeas and 16 Nays.

✓ Recorded Vote Vote # 1 Total: Yeas: **12** Nays: **16**

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		*Mr. Gohmert, TX*			
Mr. Young, AK				Mrs. Bordallo, GUAM		✓	
Mr. Miller, CA				*Mr. Cole, OK*			
Mr. Saxton, NJ				Mr. Costa, CA			
Mr. Markey, MA				*Mr. Bishop, UT*	✓		
Mr. Gallegly, CA				Mr. Boren, OK		✓	
Mr. Kildee, MI				*Mr. Shuster, PA*	✓		
Mr. Duncan, TN				Mr. Sarbanes, MD		✓	
Mr. DeFazio, OR				*Mr. Sali, ID*	✓		
Mr. Gilchrest, MD				Mr. Hinchey, NY		✓	
Mr. Faleomavaega, AS				*Mr. Lamborn, CO*	✓		
Mr. Cannon, UT	✓			Mr. Kennedy, RI			
Mr. Abercrombie, HI				*Ms. Fallin, OK*	✓		
Mr. Tancredo, CO				Mr. Kind, WI		✓	
Mr. Ortiz, TX				*Mr. Adrian Smith, NE*	✓		
Mr. Flake, AZ	✓			Mrs. Capps, CA		✓	
Mr. Pallone, NJ		✓		*Mr. Wittman, VA*	✓		
Mr. Pearce, NM	✓			Mr. Inslee, WA		✓	
Mrs. Christensen, VI				*Vacancy*			
Mr. Brown, SC	✓			Mr. Mark Udall, CO			
Mrs. Napolitano, CA		✓		Mr. Baca, CA		✓	
Mr. Fortuño, PR	✓			Ms. Solis, CA		✓	
Mr. Holt, NJ		✓		Ms. Herseth Sandlin, SD		✓	
Mrs. McMorris Rodgers, WA				Mr. Shuler, NC		✓	
Mr. Grijalva, AZ		✓					
				Total	**12**	**16**	

Markups - 1/3 to meet (16), 25 to report
March 27, 2008 (2:37pm)

Representative Steve Pearce (R–NM) offered an amendment to the amendment in the nature of a substitute (Pearce #3) stating that inclusion in the NLCS would not affect grazing permits. The amendment was not agreed to by a roll call vote of 14 yeas and 21 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
110th Congress

Date: March 12, 2008 **Convened:** 11:39 **Adjourned:** 2:35

Meeting on: **HR 2016**: Amendment to the Amendment in the Nature of a Substitute offered by Mr. Pearce #3, was NOT AGREED TO by a roll call vote of 14 Yeas and 21 Nays.

✓ Recorded Vote Vote # 2 Total: Yeas: **14** Nays: **21**

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		*Mr. Gohmert, TX*			
Mr. Young, AK				Mrs. Bordallo, GUAM		✓	
Mr. Miller, CA				*Mr. Cole, OK*			
Mr. Saxton, NJ				Mr. Costa, CA		✓	
Mr. Markey, MA				*Mr. Bishop, UT*	✓		
Mr. Gallegly, CA				Mr. Boren, OK		✓	
Mr. Kildee, MI		✓		*Mr. Shuster, PA*	✓		
Mr. Duncan, TN				Mr. Sarbanes, MD		✓	
Mr. DeFazio, OR		✓		*Mr. Sali, ID*	✓		
Mr. Gilchrest, MD				Mr. Hinchey, NY		✓	
Mr. Faleomavaega, AS				*Mr. Lamborn, CO*	✓		
Mr. Cannon, UT	✓			Mr. Kennedy, RI			
Mr. Abercrombie, HI		✓		*Ms. Fallin, OK*	✓		
Mr. Tancredo, CO				Mr. Kind, WI		✓	
Mr. Ortiz, TX		✓		*Mr. Adrian Smith, NE*	✓		
Mr. Flake, AZ	✓			Mrs. Capps, CA		✓	
Mr. Pallone, NJ		✓		*Mr. Wittman, VA*	✓		
Mr. Pearce, NM	✓			Mr. Inslee, WA		✓	
Mrs. Christensen, VI		✓		*Vacancy*			
Mr. Brown, SC	✓			Mr. Mark Udall, CO			
Mrs. Napolitano, CA		✓		Mr. Baca, CA		✓	
Mr. Fortuño, PR	✓			Ms. Solis, CA		✓	
Mr. Holt, NJ		✓		Ms. Herseth Sandlin, SD	✓		
Mrs. McMorris Rodgers, WA	✓			Mr. Shuler, NC		✓	
Mr. Grijalva, AZ		✓					
				Total	**14**	**21**	

Markups - 1/3 to meet (16), 25 to report
March 27, 2008 (2:37pm)

Representative Pearce then offered an amendment to the amendment in the nature of a substitute (Pearce #1) stating that inclusion in the NLCS would not affect eligibility for wind and solar energy development. The amendment was not agreed to by a roll call vote of 15 yeas and 22 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
110th Congress

Date: March 12, 2008 **Convened:** 11:39 **Adjourned:** 2:35

Meeting on: **HR 2016**: Amendment to the Amendment in the Nature of a Substitute offered by Mr. Pearce #1, was NOT AGREED TO by a roll call vote of 15 Yeas and 22 Nays.

✓ Recorded Vote Vote # 3 Total: Yeas: **15** Nays: **22**

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		*Mr. Gohmert, TX*			
Mr. Young, AK				Mrs. Bordallo, GUAM		✓	
Mr. Miller, CA				*Mr. Cole, OK*			
Mr. Saxton, NJ				Mr. Costa, CA		✓	
Mr. Markey, MA				*Mr. Bishop, UT*	✓		
Mr. Gallegly, CA				Mr. Boren, OK		✓	
Mr. Kildee, MI		✓		*Mr. Shuster, PA*	✓		
Mr. Duncan, TN	✓			Mr. Sarbanes, MD		✓	
Mr. DeFazio, OR		✓		*Mr. Sali, ID*	✓		
Mr. Gilchrest, MD				Mr. Hinchey, NY		✓	
Mr. Faleomavaega, AS		✓		*Mr. Lamborn, CO*	✓		
Mr. Cannon, UT	✓			Mr. Kennedy, RI			
Mr. Abercrombie, HI		✓		*Ms. Fallin, OK*	✓		
Mr. Tancredo, CO				Mr. Kind, WI		✓	
Mr. Ortiz, TX		✓		*Mr. Adrian Smith, NE*	✓		
Mr. Flake, AZ	✓			Mrs. Capps, CA		✓	
Mr. Pallone, NJ		✓		*Mr. Wittman, VA*	✓		
Mr. Pearce, NM	✓			Mr. Inslee, WA		✓	
Mrs. Christensen, VI		✓		*Vacancy*			
Mr. Brown, SC	✓			Mr. Mark Udall, CO			
Mrs. Napolitano, CA		✓		Mr. Baca, CA		✓	
Mr. Fortuño, PR	✓			Ms. Solis, CA		✓	
Mr. Holt, NJ		✓		Ms. Herseth Sandlin, SD	✓		
Mrs. McMorris Rodgers, WA	✓			Mr. Shuler, NC		✓	
Mr. Grijalva, AZ		✓					
				Total	**15**	**22**	

Markups - 1/3 to meet (16), 25 to report
March 27, 2008 (2:37pm)

Representative Pearce then offered an amendment to the amendment in the nature of a substitute (Pearce #2) providing that no funds can be expended on the NLCS until the Bureau of Land Management Payment in Lieu of Taxes program is fully funded at authorized levels for that fiscal year. The amendment was not agreed to by a roll call vote of 13 yeas and 23 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
110th Congress

Date: March 12, 2008 **Convened:** 11:39 **Adjourned:** 2:35

Meeting on: **HR 2016**: Amendment to the Amendment in the Nature of a Substitute offered by Mr. Pearce #2, was NOT AGREED TO by a roll call vote of 13 Yeas and 23 Nays.

✓ Recorded Vote Vote # 4 Total: Yeas: **13** Nays: **23**

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		*Mr. Gohmert, TX*			
Mr. Young, AK				Mrs. Bordallo, GUAM		✓	
Mr. Miller, CA				*Mr. Cole, OK*			
Mr. Saxton, NJ				Mr. Costa, CA		✓	
Mr. Markey, MA				*Mr. Bishop, UT*	✓		
Mr. Gallegly, CA				Mr. Boren, OK		✓	
Mr. Kildee, MI		✓		*Mr. Shuster, PA*	✓		
Mr. Duncan, TN	✓			Mr. Sarbanes, MD		✓	
Mr. DeFazio, OR		✓		*Mr. Sali, ID*	✓		
Mr. Gilchrest, MD				Mr. Hinchey, NY		✓	
Mr. Faleomavaega, AS		✓		*Mr. Lamborn, CO*	✓		
Mr. Cannon, UT	✓			Mr. Kennedy, RI			
Mr. Abercrombie, HI		✓		*Ms. Fallin, OK*	✓		
Mr. Tancredo, CO				Mr. Kind, WI		✓	
Mr. Ortiz, TX		✓		*Mr. Adrian Smith, NE*	✓		
Mr. Flake, AZ	✓			Mrs. Capps, CA		✓	
Mr. Pallone, NJ		✓		*Mr. Wittman, VA*	✓		
Mr. Pearce, NM				Mr. Inslee, WA		✓	
Mrs. Christensen, VI		✓		*Vacancy*			
Mr. Brown, SC	✓			Mr. Mark Udall, CO			
Mrs. Napolitano, CA		✓		Mr. Baca, CA		✓	
Mr. Fortuño, PR	✓			Ms. Solis, CA		✓	
Mr. Holt, NJ		✓		Ms. Herseth Sandlin, SD		✓	
Mrs. McMorris Rodgers, WA	✓			Mr. Shuler, NC		✓	
Mr. Grijalva, AZ		✓					
				Total	**13**	**23**	

Markups - 1/3 to meet (16), 25 to report
March 31, 2008 (9:41am)

Representative Chris Cannon (R–UT) offered an amendment to the amendment in the nature of a substitute (Cannon #1) stating that nothing in this Act creates a federal cause of action based on inclusion within the NLCS. The amendment was not agreed to by voice vote.

Representative Cannon then offered an amendment to the amendment in the nature of a substitute (Cannon #2) providing that no county would be included in the NLCS if the county elects not to be included through passage of a resolution or similar statement. The amendment was not agreed to by voice vote.

Representative Rob Bishop (R–UT) offered an amendment to the amendment in the nature of a substitute (Bishop #24) stating that existing multiple uses of the areas in the NLCS remain a high value. The amendment was not agreed to by voice vote.

The Grijalva amendment in the nature of a substitute was then agreed to by voice vote.

The bill, as amended, was then ordered favorably reported to the House of Representatives by a roll call vote of 24 yeas and 13 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
110th Congress

Date: March 12, 2008 **Convened:** 11:39 **Adjourned:** 2:35

Meeting on: **HR 2016**: Favorably Reported to the House of Representatives, as amended., by a Roll Call Vote of 24 Yeas and 13 Nays.

✓ Recorded Vote Vote # 5 Total: Yeas: **24** Nays: **13**

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV	✓			*Mr. Gohmert, TX*			
Mr. Young, AK				Mrs. Bordallo, GUAM	✓		
Mr. Miller, CA				*Mr. Cole, OK*			
Mr. Saxton, NJ				Mr. Costa, CA	✓		
Mr. Markey, MA				*Mr. Bishop, UT*		✓	
Mr. Gallegly, CA				Mr. Boren, OK	✓		
Mr. Kildee, MI	✓			*Mr. Shuster, PA*		✓	
Mr. Duncan, TN		✓		Mr. Sarbanes, MD	✓		
Mr. DeFazio, OR	✓			*Mr. Sali, ID*		✓	
Mr. Gilchrest, MD				Mr. Hinchey, NY	✓		
Mr. Faleomavaega, AS	✓			*Mr. Lamborn, CO*		✓	
Mr. Cannon, UT		✓		Mr. Kennedy, RI			
Mr. Abercrombie, HI	✓			*Ms. Fallin, OK*		✓	
Mr. Tancredo, CO				Mr. Kind, WI	✓		
Mr. Ortiz, TX	✓			*Mr. Adrian Smith, NE*		✓	
Mr. Flake, AZ		✓		Mrs. Capps, CA	✓		
Mr. Pallone, NJ	✓			*Mr. Wittman, VA*	✓		
Mr. Pearce, NM		✓		Mr. Inslee, WA	✓		
Mrs. Christensen, VI	✓			*Vacancy*			
Mr. Brown, SC		✓		Mr. Mark Udall, CO			
Mrs. Napolitano, CA	✓			Mr. Baca, CA	✓		
Mr. Fortuño, PR		✓		Ms. Solis, CA	✓		
Mr. Holt, NJ	✓			Ms. Herseth Sandlin, SD	✓		
Mrs. McMorris Rodgers, WA		✓		Mr. Shuler, NC	✓		
Mr. Grijalva, AZ	✓						
				Total	**24**	**13**	

Markups - 1/3 to meet (16), 25 to report
March 27, 2008 (2:37pm)

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 entitles this Act "The National Landscape Conservation System Act."

Section 2. Definitions

Section 2 defines the terms in this Act.

Section 3. Establishment

Section 3(a) establishes the National Landscape Conservation System within the Bureau of Land Management in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values, for the benefit of current and future generations.

Section 3(b) identifies and lists the components, administered by the Bureau of Land Management, which shall be included within the National Landscape Conservation System:

Subsection (1) provides that the NLCS shall include each area that is designated as: (A) a national monument; (B) a national conservation area; (C) a wilderness study area; (D) a National Scenic Trail or National Historic Trail designated as a component of the National Trails System; (E) a component of the National Wild and Scenic Rivers System; or (F) a component of the National Wilderness Preservation System.

Subsection (2) provides that the NLCS shall also include any area designated by Congress to be administered for conservation purposes, including: (A) the Steens Mountain Cooperative Management and Protection Area as designated under section 101(a) of the Steens Mountain Cooperative Management and Protection Act of 2000 (16 U.S.C. 460nnn–11(a)); (B) the Headwaters Forest Reserve; (C) the Yaquina Head Outstanding Natural Area; and (D) any additional area designated by Congress for inclusion in the system. These areas are listed specifically because they are currently part of the NLCS but are not covered by the broad categories in subsection (1).

Section 3(c) provides that the Secretary of the Interior shall manage the NLCS, (1) in accordance with each applicable law (including regulations) relating to each component of the system included in this Act; and (2) in a manner that protects the values for which the components of the system were designated.

Section 4. Statutory construction

Section 4 ensures and guarantees that nothing in this Act shall be construed to alter, enhance, diminish or modify any law or proclamation (or regulations related to such law or proclamation) under which the components of the NLCS, identified in section 3(b), were established, or are managed. This specifically includes, but is not limited to, the Alaska National Interest Land Conservation Act (43 U.S.C. 1601 et seq.), the Wilderness Act (16 U.S.C. 1131 et seq.), the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), the National Trails System Act (16 U.S.C. 1241 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3, of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to establish the National Landscape Conservation System.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 2016—National Landscape Conservation System Act

H.R. 2016 would provide a statutory basis for the National Landscape Conservation System (NLCS), which was established administratively in 2000. The NLCS encompasses about 20 million acres of land administered by the Bureau of Land Management (BLM). Based on information provided by that agency, CBO estimates that enacting H.R. 2016 would have no effect on the BLM budget (which currently includes about $50 million a year for the NLCS) because BLM already has permanent authority to manage the lands in the system, subject to amounts provided annually in appropriations acts. Enacting H.R. 2016 would not affect direct spending or revenues.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On June 6, 2007, CBO transmitted a cost estimate for S. 1139, the National Landscape Conservation System Act, as ordered reported by the Senate Committee on Energy and Natural Resources

on May 23, 2007. S. 1139 and H.R. 2016 are similar, and the CBO cost estimates for the two pieces of legislation are the same.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 2016 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS ON H.R. 2016

We strongly oppose H.R. 2016. The true purpose of H.R. 2016 is to prevent many locally popular, wholesome family recreational opportunities and almost all economic activities from taking place on 26 million acres of BLM land. H.R. 2016 will create a two-tiered system within the BLM under which some BLM land can be carefully managed for multiple use while other vast tracts would be walled off from almost all human use and managed for "preservation" or in layman's terms, no use. While well- meaning, few supporters of this bill live in the areas most affected by the legislation and fewer still ever truly get know first hand the rural communities of farmers, ranchers, and others whose ability to provide for their families can be devastated by decisions we so cavalierly make from afar. More that one third of the land in the United States is federally managed, but in much of the West, that ratio is reversed and doubled. To those of us who live in the public land states, multiple use means having the opportunity to practice conservation as it was defined by Teddy Roosevelt's mentor, Gifford Pinchot, "conservation means the wise use of natural resources." It means having the opportunity to obtain the many compatible esthetic and economic benefits well managed resources can provide. Properly managed, public lands can simultaneously contribute to energy independence, timber for affordable housing, needed food and fiber, wildlife conservation, outdoor recreation and the advancement of science and technology. We can choose to remove land from multiple us, but that choice is not cost-free; indeed, it will be impossible to meet any of these vital needs domestically if more and more public land is locked up every year.

Rep. Grijalva has contended both during the hearing that took place in June of 2007 and during the March 12, 2008 markup session of H.R. 2016 that this legislation just codifies the existence of a division within the BLM that has already been administratively created. Putting aside for a moment our objections to "just," the language in H.R. 2016 goes well beyond a codification of what already exists. Section 3(c)(2) states the Secretary (of the Interior) shall manage the system (NLCS) "in a manner that protects the values for which the components of the system were designated". The term "values" is a wholly new concept to the BLM and this would be the first time legislation directing the management and operation of BLM interjects this nebulous, malleable term. This is not an accidental or trivial insertion of verbiage in the legislation; it was specifically plucked from the National Park Service's organic act in order to purposefully mandate broad and vague new management practices. What are some "values" to the National Park Service that allow the iron-fisted "no-impairment standard" of enforcement to protect them? They include such things as "viewscapes," "soundscapes," and "smellscapes." It happens that many times

these wonderfully indefinable concepts are enforced laxly within the park but used with draconian severity against the park's neighbors. This is a particularly poor model for BLM lands which, unlike National Parks, are more often part of a mixed checkerboard of private, state and federal land.

When asked how the term "values" is defined, proponents point to the assortment of declarations made when the units were added to the NLCS system. What happens when it is unclear if the Secretary is managing the system in a manner that protects the values for which a component was designated? Many of the designations of units within the NLCS consist of wonderful prose and lofty platitudes but have very little in the way of management direction or substance. The Secretaries of the Interior who make these declarations range from Bruce Babbitt to James Watt and it may be noted that their values and the language they used to describe the ideal use of federal land have not always coincided exactly. Are we in Congress not then abdicating our responsibility as the policy setting branch of government if we simply punt this issue to whatever team is currently at the other end of Pennsylvania Avenue? NLCS Director Elena Daly testified that today ninety percent of NLCS lands are potentially open to grazing with much currently taking place. How does grazing fit into the concept of "smellscapes"? Not too well we suspect, based on our observations of city folks experiencing their first encounter with the grand smellscape provided by cattle. How do shooting ranges and hunting activities, which are currently part of several NLCS units, fit into the concept of "soundscapes"? How does OHV use, mining, oil exploration, horseback riding, camping, and numerous other activities that are currently part of most NLCS units square with the new concept of "values"? The fact that this is even debatable shows that the ultimate arbiter will be the Courts. Far-fetched? Not hardly. Take for example one of the strongest advocates of this bill, The Wilderness Society, who testified in support of H.R. 2016 and has a history of using litigation to stop activities on federal lands. The Wilderness Society in its 18 page packet in support of the NLCS lists road building, energy exploration and mining, recreational use, off road vehicle use and boundary adjustments as "immediate threats to the units of the NLCS" that must be stopped. The Wilderness Society and their contingent of special interest allies, who are disdainful of people who work outdoors, and have sued federal land management agencies several times before to stop such activities on federal lands and this vague new management directive of "values" is a perfect entree for more lawsuits. Not to just single out The Wilderness Society, numerous other supporters of H.R. 2016 such as the Center for Biological Diversity, National Parks Conservation Association and the Defenders of Wildlife have used the courts to drive off ranchers and destroy the livelihood of timber workers in the United States. We also view the inclusion of Wilderness Study Areas (WSA) in H.R. 2016 as a way to congressionally lock in the administratively created and released WSA, turning them into de facto wilderness areas. This is especially problematic given the fact that over half of BLM's WSA's do not meet even the minimum acreage requirement and should be released immediately.

H.R. 2016 at best would codify a division of BLM (NLCS) that performs work that can better be performed by other agency officials and creates a duplicative agency without a clear mission or structure. H.R. 2016 would also bestow Congressional recognition on over a dozen BLM monuments that we still cannot identify as having met the three criteria that must be met in the Antiquities Act. We remain unsatisfied and troubled with the Administration's answers when asked about the scope, structure and powers of the NLCS and specifically its Washington, D.C. office. It is even fair to say that something mischievous is afoot when one compares what has been said before the Committee with what has been reported in the press and proclaimed in BLM's own documents. In testifying before the Committee (in two separate hearings) NLCS Director Daly and Deputy Director (BLM) Henri Bisson gave the impression that the NLCS had no binding authority, no ability to supersede or interfere with the longstanding BLM organizational structure at any level, and had no real way to implement policy or management changes or recommendations and ability to appoint staff. "The NLCS is more or less a policy office, is what it is. It doesn't exactly manage the system," is what Deputy Director Bison stated during a budget hearing. Yet according to the BLM's own organizational structure chart located on their website the NLCS office is one of four departments directly underneath the Director and above the state offices.

Former Secretary of the Interior Babbitt was forthright from the beginning when he by fiat created the NLCS and set forth what he envisioned it to be: a new way of managing BLM lands (he estimated up to 100 million acres someday) through the NLCS system so that "the old bureaucratic mule will awaken to a new future as an environmental steward right up there with the National Park Service and the National Wildlife Refuge System. The day is coming, I believe, when the BLM so often stereotyped and dismissed as the Bureau of Livestock and Mining will be better known as the Bureau of Landscape and Monuments." Rep. Grijalva, when asked if H.R. 2016 would lead to NLCS lands receiving more regulation stated candidly, "You've got to establish the system.. .and then you go to step 2." NLCS Director Daly, not exactly invoking images of a policy shop, was quoted in the Arizona Republic stating, "This is like being part of a birthing. I think we are all about to witness the next major conservation system in the United States." BLM's 2007 "National Landscape Conservation System Science Strategy" clearly sets up a system for the NLCS apart from the rest of the BLM. Despite assurances that the field offices (overseen by BLM State Directors) will continue to operate freely and will only get guidance from the NLCS, the Science Strategy document directs the NLCS to develop and implement (using "leverage" i.e. the millions in subactivity budget accounts the Administration is proposing the NLCS control). NLCS official Jeff Jarvis outlined very clearly in a report titled "National Landscape Conservation System: A New Approach to Conservation" that the purpose behind the NLCS is to shed the old, burdensome role of "developing commodities" that Congress gave the BLM and to move into conservation, assuming the two concepts were incompatible. We find this troublesome given how much and how irreplaceably BLM lands

contribute to our nation's economy and security. Many of us have districts whose viability is dependent on ongoing multiple uses of BLM land. And the country as a whole has a continuing vital need to ensure that our local and national economies grow stronger, more resilient and have access to vital resources from secure domestic sources. One thing is certain: there are no more zealous and knowledgeable guardians of environmental and recreational "values" of these lands than the local people who hunt, fish, ride, hike, camp, raise their kids and, yes, try to earn a living on and around these lands.

Many and imperfect are the federal laws that set the course for the management of our public land. But they are duly enacted laws passed by Congress and signed by a President and they can be changed the same way they were adopted. For us to pass legislation delegating to the Secretary of the Interior of the moment and unelected bureaucrats within a federal land management agency a mandate to create a management regime to enforce legislatively undefined "values" on a vast, resource rich part of the country is an unacceptable abdication of our responsibility as the policy setting branch of the government.

DON YOUNG.
ROB BISHOP.
STEVE PEARCE.
CATHY MCMORRIS RODGERS.
HENRY BROWN.
BILL SALI.
JEFF FLAKE.
DOUG LAMBORN.
LOUIE GOHMERT.
JIMMY DUNCAN.
ADRIAN SMITH.
TOM TANCREDO.
CHRIS CANNON.
MARY FALLIN.
TOM COLE.
LUIS FORTUÑO.
ELTON GALLEGLY.
BILL SHUSTER.

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
11250 WAPLES MILL ROAD
FAIRFAX, VIRGINIA 22030

Office of the Executive Director
CHRIS W. COX

March 13, 2008

The Honorable Nick J. Rahall II
Chairman
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Don Young
Ranking Member
House Natural Resources Committee
1329 Longworth House Office Building
Washington, DC 20515

The Honorable Raul M. Grijalva
Chairman
Subcommittee on National Parks, Forests, and Public Lands
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Rob Bishop
Ranking Member
Subcommittee on National Parks, Forests, and Public Lands
House Natural Resources Committee
1329 Longworth House Office Building
Washington, DC 20515

Dear Chairmen Rahall and Grijalva and Ranking Members Young and Bishop:

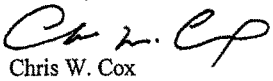
In August of 2007, the National Rifle Association signed a letter to you, along with other organizations, outlining our *general* support for H.R. 2016, the "National Landscape Conservation System Act of 2007". Specifically, the letter states:

> "Our organizations support this legislation with the understanding that:
>
> 1) Access for hunting, fishing, and recreational shooting will be assured on all appropriate NLCS lands; and
> 2) Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, and management plans.

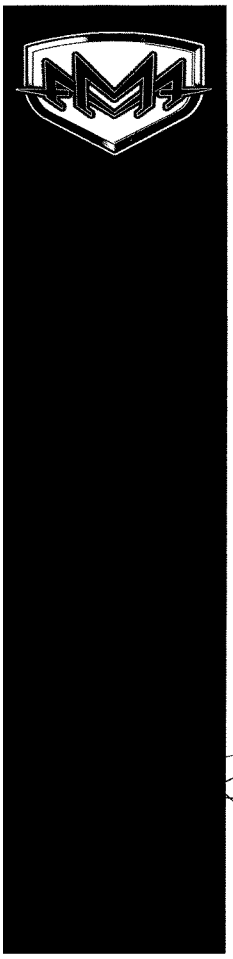
Unfortunately, H.R. 2016 as passed out of the Natural Resources Committee on March 12, 2008, does not ensure access to hunting, recreational shooting or the other values outlined above. As a result, the National Rifle Association opposes H.R. 2016 and would appreciate

it if members of the Committee would cease misrepresenting the Association's position and correct the record to reflect our position.

Sincerely,



Chris W. Cox
Executive Director, NRA-ILA



American**Motorcyclist**Association

March 11, 2008

The Honorable Congressman Nick J. Rahall, II
Chairman, House Committee on Natural Resources
1324 Longworth Building
Washington, DC 20515

Re: Opposition to H.R. 2016

Dear Chairman Rahall,

The American Motorcyclist Association (AMA) is a not-for-profit organization, founded in 1924 and incorporated in Ohio with nearly 300,000 enthusiast members nationwide.

Our members are interested in any action that may affect or enhance their enjoyment of motorcycle or all-terrain vehicle (ATV) recreation. It is on behalf of these members that we are requesting your opposition to H.R. 2016, which seeks to certify the National Landscape Conservation System (NLCS).

This bill attempts to create yet another restrictive federal land designation that is simply unwarranted. In fact, it would only further complicate the job of the very federal agencies charged with managing these important lands. The legislation, which seeks to include, "Any area designated by Congress to be administered for conservation purposes," will affect every user of our public lands. Additionally, the bill adds another layer of restriction to over 600 Wilderness Study Areas; which will effectively make them Wilderness Areas, while bypassing the legally required public processes to do so.

Equally troubling is that the NLCS will apparently be funded out of the limited monies appropriated to the Department of the Interior. Consequently, the program will reduce funds available to the National Park Service, which is already known to be critically behind in important park maintenance and repairs.

Again, we respectfully request you vote "No" on H.R. 2016. Thank you for your consideration of this important matter.

Sincerely,

Edward Moreland
Vice President, Government Relations

rights. riding. racing.

101 Constitution Avenue, NW, Suite 800 West, Washington, D.C. 20001
(T) 202-742-4301 (F) 202-742-4304 www.AMADirectlink.com

Blue Diamond Oil Corporation:
2018 South Pioche Hwy, P.O. Box 150432, Ely, NV 89315 – Ph 775-289-3849, Fax 775-289-9246

March 12, 2008

Memo: To All Congressional Leaders:

Regarding: **HR 2016 – National Landscape Conservation System**

To Whom It May Concern:

I would like to encourage you to vote against Bill HR 2016- creating a National Landscape Conservation System; because we feel it would be a threat to private property rights and their multiple uses on federally administered lands.

My company has interest in various ranches in this area of Nevada and Utah, and we are concerned that this bill would permanently threaten private access for everyone including those who use these areas for grazing their herds, all mining, oil and gas explorations as well as personal recreation areas.

In addition, we are also very concerned that creating an entirely new program will divert funding from those programs already in financial straits such as the US Forest Service and the Bureau of Land Management programs. The US economy is already stretched to the limit to provide funds for the programs already in existence and in my opinion, it is not economically feasible to increase the budget load already in heavy debt by creating an entirely new department with all its offices, payroll, equipment and supplies needed.

Please, vote against this proposal to create a totally unnecessary Landscape Department!!!

COUNTY OF
SAN BERNARDINO

BOARD OF SUPERVISORS

Brad Mitzelfelt ..... *First District*
Paul Biane, Chair ..... *Second District*
Dennis Hansberger ..... *Third District*
Gary Ovitt, Vice-Chair ..... *Fourth District*
Josie Gonzales ..... *Fifth District*

March 6, 2008

The Honorable Nick Rahall
Chairman
The Honorable Don Young
Ranking Member
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Chairman Rahall and Ranking Member Young:

The County of San Bernardino has recently become aware that H.R. 2016, a bill to establish the National Landscape Conservation System (NLCS) on public land administered by the Bureau of Land Management (BLM) jurisdiction, will be considered at mark-up on March 12, 2008. As a county directly affected by the bill, the Board of Supervisors wish to express concern over the bill's general premise, and propose that the Committee consider a small amendment that would address San Bernardino County's concern.

The bill would designate a number of areas within San Bernardino County as units of the system, creating – in essence -- a two-tiered system of land management for BLM administered Federal land in the County.

Since the entire county (with two small exceptions) is part of the larger California Desert Conservation Area (CDCA), created by Congress in 1976 as Section 601 of the Federal Land Policy and Management Act, we believe it is appropriate to extend the NLCS designation to all BLM land within it.

From our contacts with both BLM staff and Energy and Natural Resources Committee staff, it is our understanding the only reason for the interpretation that the CDCA be excluded from the legislation is the absence of the word "National" in the original enactment in 1976. The addition of the following language in Section 3, paragraph (b)(1)(B):

> *"including Federal public land administered by the Bureau of Land Management within the California Desert Conservation Area,"*

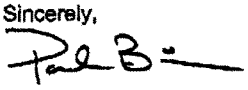
would remove all ambiguity and avenues for misinterpretation and would also assure balanced management on all public land within the CDCA, which has been identified as having critical management issues and needs.

The Honorable Nick Rahall
The Honorable Don Young
March 6, 2008
Page 2

We are concerned that excluding the CDCA could result in the denigration of Federal lands not included within the proposed System by forcing budget allocations and priorities to be set contrary to needs of the total CDCA. For example, much of the critical habitat of the desert tortoise, for which active conservation and recovery efforts are now underway, would not be included in the proposed NLCS. Since the CDCA, by its previously legislated purposes for establishment meets the general qualifications for inclusion, we feel it essential to explicitly include it in this legislative proposal as it moves toward enactment.

Thank you for your attention in this matter, we are happy to discuss this with you or your staff and can provide further information and justification for this action on your part. Any questions or concerns can be directed to the Board's Director of Legislative Affairs, Lance Larson at (909) 387-4821 or Gerald Hillier, the County's Federal Lands Consultant, at (951) 683-5725.

Sincerely,



PAUL BIANE
Chairman, Board of Supervisors

cc: San Bernardino County Congressional Delegation
The Honorable Mary Bono
The Honorable Lois Capps
The Honorable Elton Gallegly
The Honorable Hilda Solis
The Honorable Kevin McCarthy
The Honorable Grace Napolitano

The mission of the government of the County of San Bernardino is to satisfy its customers by providing service that promotes the health, safety, well being, and quality of life of its residents according to the County Charter, general laws, and the will of the people it serves.

○