

## Calendar No. 791

106TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
106-401

### SAN RAFAEL WESTERN LEGACY DISTRICT AND NATIONAL CONSERVATION ACT

SEPTEMBER 7, 2000.—Ordered to be printed

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

### REPORT

[To accompany S. 2048]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2048) to establish the San Rafael Western Legacy District in the State of Utah, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “San Rafael Western Legacy District and National Conservation Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term “Conservation Area” means the San Rafael National Conservation Area established by section 201.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(3) WESTERN LEGACY DISTRICT.—The term “Western Legacy District” means the San Rafael Western Legacy District established by section 101.

### TITLE I—SAN RAFAEL WESTERN LEGACY DISTRICT

#### SEC. 101. ESTABLISHMENT OF THE SAN RAFAEL WESTERN LEGACY DISTRICT.

(a) IN GENERAL.—In order to promote the preservation, conservation, interpretation, scientific research, and development of the historical, cultural, natural, recreational, archeological, paleontological, environmental, biological, educational, wilderness, and scenic resources of the San Rafael region of the State of Utah, as well as the economic viability of rural communities in the region, there is hereby established the San Rafael Western Legacy District, to include the San Rafael National Conservation Area established by section 201.

(b) AREAS INCLUDED.—The Western Legacy District shall consist of approximately 2,842,800 acres of land in the County of Emery, Utah, as generally depicted on the

map entitled 'San Rafael Western Legacy District and National Conservation Area' and dated March 24, 2000.

(c) MAP AND LEGAL DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to the Congress a map and legal description of the Western Legacy District. The map and legal description shall have the same force and effect as if included in this Act, except the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, and in the appropriate office of the Bureau of the Land Management in Utah.

(d) LEGACY COUNCIL.—

(1) IN GENERAL.—The Secretary shall establish a Legacy Council to advise the Secretary with respect to the Western Legacy District. The Legacy Council may furnish advice and recommendations to the Secretary with respect to management, grants, projects, and technical assistance.

(2) MEMBERSHIP.—The Legacy Council shall consist of not more than 10 members appointed by the Secretary. Two members shall be appointed from among the recommendations submitted by the Governor of Utah and 2 members shall be appointed from among the recommendations submitted by the Emery County Commissioners. The remaining members shall be persons recognized as experts in conservation of the historical, cultural, natural, recreational, archeological, environmental, biological, educational, and scenic resources or other disciplines directly related to the purposes for which the Western Legacy District is established.

(3) RELATIONSHIP TO OTHER LAW.—The establishment and operation of Legacy Council established under this section shall conform to the requirement of the Federal Advisory Committee Act (5 U.S.C. App.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) ASSISTANCE.—

(1) IN GENERAL.—The Secretary may make grants and provide technical assistance to accomplish the purposes of this section to any nonprofit or unit of government with authority in the boundaries of the Western Legacy District.

(2) PERMITTED USES.—Grants and technical assistance made under this section may be used for planning, reports, studies, interpretive exhibits, historic preservation projects, construction of cultural, recreational, educational, and interpretive facilities that are open to the public, and such other expenditures as are consistent with this Act.

(3) PLANNING.—Up to \$100,000 of amounts available to carry out this section each fiscal year, up to a total amount not to exceed \$200,000, may be provided under this subsection only to a unit of government or a political subdivision of the State of Utah for use for planning activities.

(4) MATCHING FUNDS.—Federal funding provided under this section may not exceed 50 percent of the total cost of the activity carried out with such funding, except that non-Federal matching funds are not required with respect to—

(A) planning activities carried out with assistance under paragraph (3); and

(B) use of assistance under this section for facilities located on public lands and that are owned by the Federal Government.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated under this section not more than \$1,000,000 annually for any fiscal year, not to exceed a total of \$10,000,000.

#### SEC. 102. MANAGEMENT AND USE OF THE SAN RAFAEL WESTERN LEGACY DISTRICT.

(a) IN GENERAL.—The Secretary, through the Bureau of Land Management and subject to all valid existing rights, shall administer the public lands within the Western Legacy District pursuant to this Act and the applicable provisions of the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.). The Secretary shall allow such uses of the public land as the Secretary determines will further the purposes for which the Western Legacy District was established.

(b) FISH AND WILDLIFE.—Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife within the Western Legacy District.

(c) PRIVATE LANDS.—Nothing in this Act shall be construed as affecting private property rights within the Western Legacy District.

(d) PUBLIC LANDS.—Nothing in this Act shall be construed as in any way diminishing the Secretary's or the Bureau of Land Management's authorities, rights, or responsibilities for managing the public lands within the Western Legacy District.

## TITLE II—SAN RAFAEL NATIONAL CONSERVATION AREA

## SEC. 201. DESIGNATION OF THE SAN RAFAEL NATIONAL CONSERVATION AREA.

(a) **PURPOSES.**—In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important values of the Western Legacy District and the public lands described in subsection (b), including historical, cultural, natural, recreational, scientific, archeological, paleontological, environmental, biological, wilderness, wildlife, educational, and scenic resources, there is hereby established the San Rafael National Conservation Area in the State of Utah.

(b) **AREAS INCLUDED.**—The Conservation Area shall consist of approximately 947,000 acres of public lands in the County of Emery, Utah, as generally depicted on the map entitled ‘San Rafael Western Legacy District and National Conservation Area’ and dated March 24, 2000. Notwithstanding any depiction on such map, the boundary of the Conservation Area shall be set back 300 feet from the edge of the Interstate 70 right-of-way and 300 feet from the edge of the State Route 24 right-of-way.

(c) **MAP AND LEGAL DESCRIPTION.**—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to the Congress a map and legal description of the Conservation Area. The map and legal description shall have the same force and effect as if included in this Act, except the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management and in the appropriate office of the Bureau of Land Management in Utah.

## SEC. 202. MANAGEMENT OF THE SAN RAFAEL NATIONAL CONSERVATION AREA.

(a) **MANAGEMENT.**—The Secretary, acting through the Bureau of Land Management, shall manage the Conservation Area in a manner that conserves, protects, and enhances its resources and values, including those resources and values specified in section 201(a), and pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law, including this Act.

(b) **USES.**—The Secretary shall allow only such uses of the Conservation Area as the Secretary finds will further the purposes for which the Conservation Area is established.

(c) **VEHICULAR USES.**—

(1) **IN GENERAL.**—Except where needed for administrative purposes or to respond to an emergency, and subject to paragraph (2), use of motorized vehicles in the Conservation Area shall be—

(A) prohibited at all times in areas where roads and trails did not exist as of February 2, 2000;

(B) limited to roads and trails that—

(i) existed as of February 2, 2000; and

(ii) are designated for motorized vehicle use as part of the management plan prepared pursuant to subsection (f); and

(C) managed consistent with section 8340 of title 43, Code of Federal Regulations (relating to designating public lands as open, limited, or closed to the use of off-road vehicles and establishing controls governing the use and operation of off-road vehicles in such areas).

(2) **LIMITATION ON APPLICATION.**—(A) Subparagraphs (A) and (B) of paragraph (1) do not limit the provision of reasonable access to private lands or State lands within the Conservation Area.

(B) Any access to private lands or State lands pursuant to subparagraph (A) of this paragraph shall be restricted to exclusive use by, respectively, the owner of the private lands or the State.

(d) **WITHDRAWALS.**—

(1) **IN GENERAL.**—Subject to valid existing rights and except as provided in paragraph (2), all Federal lands within the Conservation Area and all lands and interests therein that are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws and from location, entry, and patent under the mining laws, and from operation of the mineral leasing and geothermal leasing laws and all amendments thereto. Nothing in this paragraph shall be construed to effect discretionary authority of the Secretary under other Federal laws to grant, issue, or renew rights-of-way or other land use authorizations consistent with the other provisions of this Act.

(2) **COMMUNICATION FACILITIES.**—The Secretary may authorize the installation of communications facilities within the Conservation Area, but only to the extent that they are necessary for public safety purposes. Such facilities must

have a minimal impact on the resources of the Conservation Area and must be consistent with the management plan established under subsection (f).

(e) HUNTING, TRAPPING, AND FISHING.—Hunting, trapping, and fishing shall be permitted within the Conservation Area in accordance with applicable laws and regulations of the United States and the State of Utah, except that the Utah Division of Wildlife Resources, or the Secretary after consultation with the Utah Division of Wildlife Resources, may issue regulations designating zones where and establishing periods when no hunting, trapping, or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(f) MANAGEMENT PLAN.—Within 4 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-range protection and management of the Conservation Area. The plan shall describe the appropriate uses and management of the Conservation Area consistent with the provisions of this Act. The plan shall include, as an integral part, a comprehensive transportation plan for the lands within the Conservation Area. In preparing the transportation plan the Secretary shall conduct a complete review of all roads and trails within the Conservation Area. The plan may incorporate appropriate decisions contained in any current management or activity plan for the area and may use information developed in previous studies of the lands within or adjacent to the Conservation Area.

(g) STATE TRUST LANDS.—The State of Utah and the Secretary may agree to exchange Federal lands, Federal mineral interests, or payment of money for lands and mineral interests of approximately equal value that are managed by the Utah School and Institutional Trust Lands Administration and inheld within the boundaries of the Conservation Area.

(h) ACCESS.—The Bureau of Land Management, the State of Utah, and Emery County may agree to resolve section 2477 of the Revised Statutes and other access issues within the Conservation Area.

(i) WILDLIFE MANAGEMENT.—Nothing in this Act shall be deemed to diminish the responsibility and authority of the State of Utah for management of fish and wildlife within the Conservation Area.

(j) GRAZING.—Where the Secretary of the Interior currently permits grazing, such grazing shall be allowed subjects to all applicable laws, regulations, and executive orders.

(k) NO BUFFER ZONES.—The Congress does not intend for the establishment of the Conservation Area to lead to the creation of protective perimeters or buffer zones around the Conservation Area. The fact that there may be activities or uses on lands outside the Conservation Area that would not be permitted in the Conservation Area shall not preclude such activities or uses on such lands up to the boundary of the Conservation Area consistent with other applicable laws.

(l) WATER RIGHTS.—Because the available water resources in the drainage basins included in part within the exterior boundaries of the Conservation Area have already been appropriated—

(1) nothing in this Act, the management plan required by subsection (f), or any action taken pursuant thereto, shall constitute either an express or implied reservation of surface or ground water;

(2) nothing in this Act affects any valid existing water rights in existence before the date of enactment of this Act, including any water rights held by the United States; and

(3) if the United States determines that additional water resources are needed for the purposes of this Act, the United States shall work, with or through any agency that is eligible to hold instream flow water rights, to acquire such rights in accordance with Utah State water law.

(m) WILDERNESS ACTS.—Nothing in this Act alters the provisions of the Wilderness Act of 1964 (16 U.S.C. 1131) or the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) as they pertain to wilderness resources within the Conservation Area. Recognizing that the designation of wilderness areas requires an Act of Congress, the Bureau of Land Management, the State of Utah, Emery County, and affected stakeholders may work toward resolving various wilderness issues within the Conservation Area.

#### SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this title such sums as may be necessary.

## PURPOSE OF THE MEASURE

The purpose of S. 2048 is to establish the San Rafael Western Legacy District in the State of Utah, and within the District, the San Rafael National Conservation Area.

## BACKGROUND AND NEED

The San Rafael Swell region in Emery County, Utah possesses important historical, cultural, and natural resources representative of the major themes associated with the history of the American West. These include Native American culture, exploration, pioneering, industrial development, and the utilization and conservation of natural resources. This rugged area contains important historical sites, has a notable history of coal and uranium mining, is widely recognized for its paleontological resources and dinosaur quarries, and contains significant undeveloped recreational opportunities.

Many of the historical, cultural, and scientific sites are on lands owned by the Federal Government and are managed by the Bureau of Land Management or the U.S. Forest Service. The rapidly changing character of the American West is bringing about a need to rethink traditional Federal land management methodologies. S. 2048 offers an opportunity to increase local involvement in the shaping of the future of the San Rafael Swell area while ensuring the economic viability of the rural communities and enhancing the protection of Federal lands. The area covered by this legislation encompasses approximately 2,842,800 acres with approximately 947,000 acres designated as the San Rafael National Conservation Area.

The Western Legacy District and National Conservation Area concept is a multi-dimensional approach to managing the diverse and unusual lands within the San Rafael Swell. It goes beyond the traditional practices employed by Federal agencies in the management of public lands through the inclusion of local history, cultural and economics, as well as wildlife habitat, and educational opportunities for visitors.

Managing public lands across the West today requires new and innovative methodologies. The value of a National Conservation Area is the flexibility it gives to agencies in managing a broad array of lands and uses. The close involvement of the local communities and public land user groups will result in protections for critical and sensitive areas beyond that provided for under traditional land management practices. The National Heritage Area is important because it will provide a coordination vehicle which allows private citizens, local communities and Federal agencies to work together to showcase and preserve the history and lore of the San Rafael swell region. In so doing, it will make the area a unique attraction, distinct and apart from existing parks and monuments.

S. 2048 is designed to provide the management tools necessary to protect Federal lands through enhanced community involvement and the consideration of local needs.

## LEGISLATIVE HISTORY

S. 2048 was introduced on February 9, 2000, by Senators Hatch and Bennett. The Subcommittee on Forests and Public Land Man-

agement held a hearing on S. 2048 on April 26, 2000. At the business meeting on July 13, 2000, the Committee on Energy and Natural Resources ordered S. 2048 reported favorably with an amendment in the nature of a substitute.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2000, by a voice vote of a quorum present, recommends that the Senate pass S. 2048 if amended as described herein.

#### COMMITTEE AMENDMENT

During the consideration of S. 2048, the Committee adopted an amendment in the nature of a substitute that is identical to the language reported by the House Committee on Resources. The amendment is described in detail in the Section-by-Section analysis below.

#### SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title of the Act, the “San Rafael Western Legacy District and National Conservation Act.”

Section 2 defines key terms used in the Act.

#### *Title I—San Rafael Western Legacy District*

Section 101 (a) and (b) establishes the San Rafael Western Legacy District, which is approximately 2,842,800 acres in the Emery County, Utah, and is depicted on the referenced map.

Subsection (c) requires the Secretary of the Interior (the “Secretary”) to submit a map of the Legacy District to Congress, and make it available to the public as soon as practicable after the date of enactment of this Act.

Subsection (d) establishes a “Legacy Council” to advise the Secretary and make recommendations on the management of the District. The subsection further describes the membership of the Council.

Subsection (e) allows the Secretary to make grants and provide assistance, when matched by nonfederal funds of at least 50 percent, to entities within the District for planning, reports, studies, interpretive exhibits, historic preservation projects, construction of a facilities, and other expenditures consistent with the Act. The subsection restricts grants and technical assistance for planning to a unit or a political subdivision of the State of Utah and restricts the amounts to be used for that purpose. The subsection also waives the matching funds requirements for planning or for facilities located on public lands and owned by the Federal Government. The subsection further authorizes appropriations of not more than \$1,000,000 per year, nor \$10,000,000 in total.

Section 102 specifies that the management of the District will be in accordance with this Act and the Federal Land Policy and Management Act, and that the Secretary shall allow uses that further the purposes of the District. The section further specifies that the Act does not affect the jurisdiction or responsibilities of the State of Utah will respect to fish and wildlife, the private property rights

within the District, nor diminishes the authority of the Secretary within the District.

*Title II—San Rafael National Conservation Area*

Section 201 establishes the San Rafael National Conservation Area, approximately 947,000 acres, in Emery County, Utah, as depicted on the referenced map. The section designates the purposes of the Conservation Area. The section also requires the Secretary of the Interior to submit a map to the Congress describing the Conservation Area as soon as practicable after the date of enactment of this Act.

Section 202(a) requires the Secretary to manage the Conservation Area to conserve, protect, and enhance the resources and values of the Conservation Area, consistent with the Federal Land Policy and Management Act and other applicable laws.

Subsection (b) requires the Secretary to allow only such uses of the Conservation Area that further the purposes for which the Conservation Area was established. Motorized vehicles are permitted only on designated roads and trails, except where needed for administrative or emergency purposes.

Subsection (c) prohibits motorized vehicles in areas where roads did not exist as of February 2, 2000, or which are designated for vehicle use in the management plan specified in subsection (f), except where needed for administrative purposes, and reasonable access to private or State lands.

Subsection (d) withdraws the lands in the Conservation Area to mineral entry, subject to valid existing rights. The subsection further authorizes the installation of communication facilities within the Conservation Area to the extent necessary for public safety.

Subsection (e) requires the Secretary to permit hunting, trapping, and fishing within the Conservation Area, and may, after consultation with the Utah Division of Wildlife Resources, issue regulations designating zones or time periods that restrict those activities.

Subsection (f) requires the development of a comprehensive plan for the protection and management of the Conservation Area.

Subsection (g) allows land exchanges in the Conservation Area between the Secretary and the State of Utah School and Institutional Trust Lands.

Subsection (h) authorizes the Secretary, the State of Utah, and Emery County, Utah, to resolve access issues with the Conservation Area.

Subsection (i) specifies that the Act does not diminish the responsibility and authority of the State of Utah for management of fish and wildlife within the Conservation Area.

Subsection (j) allows existing livestock grazing to continue after enactment of this Act.

Subsection (k) specifies Congress' intent that the establishment of the Conservation Area will not lead to the creation of protective perimeters or buffer zones around the Conservation Area, and that otherwise permitted activities or uses that would not be permitted in the Conservation Area shall not be precluded up to the boundary of the Conservation Area.

Subsection (l) specifies that the establishment of the Conservation Area shall not constitute any implied or express reservation of

any water or water right pertaining to surface or ground water, nor affect any existing water right, nor affect any right approved by a State after the date of enactment.

Subsection (m) specifies the conformance with other acts, the co-operative resolution of wilderness issues are not precluded.

#### COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office (CBO) estimate of the costs of this measures follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 17, 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 S. 2048, the San Rafael Western Legacy District and National Conservation Act.

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

Sincerely,

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

Enclosure.

#### *S. 2048—San Rafael Western Legacy District and National Conservation Act*

Summary: S. 2048 would establish the San Rafael Western Legacy District in Emery County, Utah, and would authorize the appropriation of \$1 million a year for a total of up to \$10 million for the Secretary of the Interior to provide grants and technical assistance in support of that district. The bill also would establish the San Rafael National Conservation Area within the district and would authorize the appropriation of sums necessary for the Secretary to manage that area.

CBO estimates that implementing S. 2048 would cost \$15 million over the 2001–2005 period, assuming appropriation of the necessary amounts. Because the bill could affect offsetting receipts (a form of direct spending), pay-as-you-go procedures would apply; however, CBO estimates that any such effects would total less than \$500,000 a year. S. 2048 contains no intergovernmental or private-sector mandates as defined in the unfunded Mandates Reform Act (UMRA). State and local governments might incur some costs as a result of the bill's enactment, but these costs would be voluntary.

Estimated cost to the Federal Government: The estimated budgetary impact of establishing and managing the legacy district and conservation area is shown in the following table. The table does not include additional costs that may be incurred after 2005 to implement the management plan that would be developed under S. 2048. We estimate that such implementation costs would not exceed \$10 million. The costs of this legislation fall within budget function 300 (natural resources and environment).



	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level .....	3	3	3	3	3
Estimated outlays .....	3	3	3	3	3

Basis of estimate: For the purpose of this estimate, CBO assumes that S. 2048 will be enacted by the end of fiscal year 2000. We also assume that the necessary funds will be appropriated starting in fiscal year 2001 and that outlays will follow the historical pattern for similar activities.

#### *Spending subject to appropriation*

CBO estimates that establishing and managing the legacy district and conservation area as defined in this legislation would cost about \$3 million annually. That estimate includes \$1 million authorized by the bill for each year to operate an advisory council and to provide grants and technical assistance to support the legacy district. In addition, based on information from the Bureau of Land Management (BLM), CBO estimates that the agency would spend about \$2 million each year to establish and manage the conservation area. That amount includes the estimated cost of adding staff and administrative services to the area, upgrading and maintaining existing infrastructure and facilities, and preparing the management plan required by the bill.

In addition, we estimate that implementing the management plan after 2005 could cost up to \$10 million, assuming appropriation of the necessary amounts. According to BLM, implementing that plan probably would require the construction of new visitor and interpretive centers, campgrounds, and other facilities. Based on information from the agency, we estimate that those activities would require up to \$10 million in additional funding, some of which would be provided by nonfederal sources. Because the bill would allow the agency to spend four years developing the plan, we expect that any spending to implement it would not occur before 2005.

#### *Direct spending (including offsetting receipts)*

S. 2048 would withdraw land in the San Rafael National Conservation Area from mining, mineral leasing, and geothermal leasing, subject to valid existing rights. Enacting those provisions could result in forgone offsetting receipts from the federal land 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 effects would total less than \$500,000 each year. We estimate that other provisions in this bill would have no significant impact on direct spending.

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 S. 2048 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.

Estimated impact on state, local, and tribal governments: S. 2048 contains no intergovernmental mandates as defined in UMRA. The state of Utah and local governments within the state might choose to participate in the planning for and management of these areas, and incur some costs as a result. Such costs would be voluntary, and could be partially offset by federal grants authorized by the bill.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On June 1, 2000, CBO transmitted a cost estimate for H.R. 3605, the San Rafael Western Legacy District and National Conservation Act, as ordered reported by the House Committee on Resources on May 16, 2000. The bills are substantively the same, the cost estimates are identical.

Estimate prepared by: Federal Costs: Megan Carroll. 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 S. 2048.

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 S. 2048, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

On July 13, 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 agency recommendations on S. 2048. These reports had not been received at the time the report on S. 2048 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 MOLLY McUSIC, COUNSELOR TO THE SECRETARY, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify regarding S. 2048, the San Rafael Western Legacy District and National Conservation Area Act. The San Rafael Swell is an area of immense beauty that deserves the special designation and protections that this bill confers. The Administration supports this legislation because of the additional protections it provides for important public lands including the withdrawal from mineral development and sale or ex-

change, restrictions on off highway vehicle (OHV) use and innovative provisions for a Legacy District. However, we would like the opportunity to work with the Committee and Senators Hatch and Bennett to address particular concerns and a few technical drafting issues.

The modification of the sweeping water language in section 202(k) must be addressed before markup. Furthermore, we believe the issue of NCA boundaries may need further modification. Wilderness designation for an appropriate portion of this area is a difficult issue that remains. The Administration believes that wilderness protections for a significant portion of this area is warranted and would have preferred that it could have been resolved in this legislation.

Both the NCA and the Legacy District are wholly within Emery County, in central Utah—an expanse of nearly 4,500 square miles populated by only 11,000 hardy souls. Emery County contains the longest stretch of interstate highway in America (110 miles from Green River to Salina) without highway services. Even with a 75 MPH speed limit, the stark and stunning beauty of the vertical cliffs, buttes, ridges, alcoves and pinnacles captures the eye and the imagination of nearly every daytime traveler who uses this remote stretch of interstate to traverse this extraordinary area. The place names of Emery County (Black Dragon, Robbers Roost, Humbug and Convulsion Canyon to name but a few) speak to a storied past and a promising future inextricably linked to the human history, rugged grandeur and harsh demands of these lands.

The beauty of the San Rafael Swell area began 40 to 60 million years ago when a massive uplift formed a geologic structure called an anticline. This bulge in the earth's crust was later eroded to leave high mesas, deep canyons, domes, spectacular arches and spires. The terrain varies from sheer cliffs and dazzling canyons to more gently eroded badlands broken by shallow washes. The fins and folds of the San Rafael Reef jut through the southeast side of the area with dramatic sheer-walled cliffs, pinnacles, knobs, twisted canyons and valleys of stunning colors. Few canyons can compare to the entrenched, narrow gorges of the Black Boxes of the San Rafael River which twists and turns through the San Rafael Swell. The rugged nature of the region has long served to discourage exploration and settlement except by the hardiest of individuals.

Human occupation of the area dates to at least 11,000 years ago. Petroglyphs and pictographs attest to occupation of indigenous people of the Fremont culture at the turn of the first millenium. Early European exploration of the area probably dates to the mid- to late 18th-century Spanish explorers. Through the 1800s American explorers traveled through and around the San Rafael Swell region and were as awestruck by the area as we are today. Lieutenant E.G. Beckwith, a member of a 1853 railroad exploration expedition, wrote this of the region:

Desolate as is the country over which we have just passed, and around us, the view is still one of the most beautiful and pleasing I have seen. As we approached the river yesterday, the ridges on either side of its banks to the west appeared broken into a thousand forms—columns, shafts, temples, buildings, and ruined cities could be seen, or imagined, from the high points along our route.

Nineteenth Century settlement of the area can be traced to the last colonizing mission called by Brigham Young. Fifty families were sent to settle Castle Valley by Brigham Young in August 1877, less than a week before the West's greatest colonizer left this life. In 1880 Emery County was created by the Utah Territorial Legislature and the 1880 Census counted 556 people, a number which increased to 4,657 by 1900.

Today, Emery County, which includes both the San Rafael Swell Area as well as more hospitable grasslands and river bottoms, is poised to meet the future by living in harmony with what these lands hold. The legislation before us today reflects a recognition that the Federal lands offer opportunities for economic growth that do not rely simply on extracting from the land but also on preserving and protecting special areas.

The San Rafael Western Legacy District and National Conservation Act provides important protections for this beautiful area, insuring future generations may also enjoy it. Not only will the people of Emery County have the opportunity to rediscover and rejoice in their own considerable history and contributions to the region but they will be able to share this history with the rest of the country—what a gift to all Americans.

The bill takes a unique two-tier approach to protecting this important region. First, S. 2048 creates a nearly one million acre National Conservation Area. The San Rafael National Conservation Area created by the bill encompasses approximately 959,000 acres of BLM-managed public lands. (There may be room to consider whether these are the most appropriate boundaries or if modifications may be advisable.) Subject to valid existing rights these lands will be withdrawn from mining, land laws and mineral leasing providing important protections. The Secretary is charged under the bill with allowing only such uses of the NCA as further the purposes for which the conservation area is established—another critical protection.

Importantly, vehicular travel within the NCA will be limited to roads and trails designated for their use. The designation of roads and trails, along with many other aspects of management, will be finally determined as part of a management plan. This management plan will be developed with complete public input and involvement, and in partnership with the Emery County Commissioners. This bill does not in any way constrain current BLM authority to limit OHV use as necessary to prevent resource degradation. The BLM is committed to taking whatever in-

terim actions are necessary to protect the resources of the area while the management plan is being developed.

The NCA encompasses six Wilderness Study Areas (WSAs) totaling 269,736 acres and an additional 354,866 acres of lands with wilderness characteristics as determined by the BLM in its *Utah Wilderness Inventory 1999*. This legislation addresses wilderness with a hold harmless clause. Section 202(l) of the bill makes clear that nothing in the bill alters the provisions of the Wilderness Act and FLPMA as they pertain to wilderness resources within the NCA. Appropriate wilderness designation is a component of providing full protection for these irreplaceable lands, and the Administration would liked to have seen the wilderness issue resolved as part of this bill. However, this bill does protect these areas against degradation.

We are concerned about the language in section 202(k) of the bill that deals with water. It contains sweeping language not contained in any other law dealing with public lands. We would like the opportunity to work with the Committee and Senators Hatch and Bennett to resolve this and clarify accurate acreage before the bill is marked up. Also, it is our understanding that the map, dated February 8, 2000, and created by the BLM for the Emery County Commissioners, is the map that the bill will reference after markup.

The second tier of this legislation, a Western Legacy District, is a new and unique concept, and one that we believe can work well in this situation. This concept was developed from the Heritage Area model which has been so successfully used in the East, but here has been tailored to work in a western landscape dominated by Federal lands. The San Rafael Western Legacy District encompasses over 2.8 million acres of Federal, state and private lands. The vast majority of these lands are 2 million acres of BLM-managed public lands. The Western Legacy District encompasses the NCA and is coterminous with the boundaries of Emery County.

The role of the Western Legacy District is to promote the conservation, history and natural resources of the area. This in turn will provide new economic opportunities to the local community. The San Rafael region has a story just waiting to be told to a public fascinated with the history of the old west. Emery County doesn't need Hollywood to create that story—the people of Emery County lived it! Whether it's a retelling of Sid's Leap which commemorates a daring and dramatic leap on horseback over a 100-foot deep canyon by one of the Swazey Brothers or the attempt by another brother to tame a mountain lion, there is a tale to be told to a public eager to come, see, and hear it.

The bill establishes a Legacy Council which will provide the Secretary advice and recommendations for management of the entire area. The bill also authorizes a total of \$10 million (no more than \$1 million in any one year) to be available for matching grants and technical assistance. These monies may be used for a wide range of projects in-

cluding: planning, historic preservation and educational and interpretive facilities. We believe it will allow the local community to more fully realize the potential economic benefits derived from the protection of the San Rafael region.

In addition to retelling the history of the settlement of the West, there are other opportunities for increased tourism, and economic growth. Within the proposed NCA boundary in northern Emery County is one of the world's foremost sites for dinosaur fossils—the Cleveland-Lloyd Dinosaur Quarry. Over 12,000 bones including those of the Allosaurus (the largest carnivore of the Jurassic Age) and its prey including Stegosaurus, Diplodocus and three distinct dinosaur species found only in Emery County have been excavated at the site. While scientists have explored the quarry since the early part of the 20th century, it has become a growing tourist attraction in more recent years. The Visitor Center with its mounted Allosaurus attracts 5–7,000 visitors annually. This site arguably rivals Dinosaur National Monument and the potential for increased visitation is excellent.

Mr. Chairman, the legislation before us provides considerable new protections for these important lands. It provides the local community with opportunities for economic growth and it does so in a rational, realistic manner.

Finally, Mr. Chairman let me take a moment to commend the Emery County Commissioners and the efforts they have made. Randy Johnson, Kent Peterson and Ira Hatch deserve enormous amounts of credit for the bill before this subcommittee today.

I would be happy to answer any questions.

#### 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 S. 2048, as ordered reported.

