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SENATE

{ REPORT  
107-255

### BLACK CANYON OF THE GUNNISON NATIONAL PARK AND GUNNISON GORGE NATIONAL CONSERVATION AREA BOUNDARY REVISION ACT OF 2002

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SEPTEMBER 9, 2002.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1944]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1944) to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

1. On page 2, line 16, strike “January 22, 2002” and insert “June 13, 2002”.
2. On page 6, line 6, strike “5,700” and insert “7,100”.
3. On page 6, line 9, strike “January 22, 2002” and insert “June 13, 2002”.

#### PURPOSE

The purpose of S. 1944 is to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado to authorize the addition of approximately 2,725 acres to the park and approximately 7,100 acres to the conservation area.

#### BACKGROUND AND NEED

The Black Canyon of the Gunnison was designated as a National Monument on March 2, 1933 by Presidential Proclamation to protect the unique and spectacular landscape formed by the Gunnison River in western Colorado. The park has been expanded several

times over the past seventy years by Presidential Proclamations and Acts of Congress. In 1999, Public Law 106–76 further expanded the monument’s boundaries to include approximately 30,000 additional acres and redesignated the monument as a National Park. That Act also established the adjacent Gunnison Gorge National Conservation Area under the management of the Bureau of Land Management.

The Black Canyon of the Gunnison combines the narrow opening, sheer walls and startling depths found in no other canyon in North America. Located on the western slope of Colorado, approximately 250 miles southwest of Denver, the park hosts approximately 180,000 recreational visitors each year.

Protection of the canyon rim from development prompted the passage of the 1999 legislation. Enactment of S. 1944 will better enable the National Park Service to protect additional lands near the canyon and allow for land exchanges with the owners of certain adjacent lands to improve the management of the park’s boundary.

#### LEGISLATIVE HISTORY

S. 1944 was introduced by Senator Cambell on February 13, 2002. The Subcommittee on National Parks held a hearing on S. 1944 on June 12, 2002. At its business meeting on July 31, 2002, the Committee on Energy and Natural Resources ordered S. 1944 favorably reported with amendments.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 31, 2002, by voice vote of a quorum present, recommends that the Senate pass S. 1944, if amended as described herein.

#### COMMITTEE AMENDMENTS

During the consideration of S. 1638, the Committee adopted three amendments. Amendment #1 revises the official map for the Black Canyon of the Gunnison National Park to reflect the lands added to the park. Amendments #2 increases the number of acres being added to the Gunnison Gorge National Conservation Area. Amendment #3 revises the map for the Conservation Area.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* designates the bill title as the “Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2002.”

*Section 2* amends section 4(a) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff–2(a)) by revising the boundary of the National Park to authorize the addition of 2,75 acres, as depicted on the map, and by transferring land, identified as “Tract C” on the same map, from the Bureau of land Management to the administrative jurisdiction of the National Park Service.

*Section 3* amends section 4(e) of the 1999 Act (16 U.S.C. 410fff–2(e)) to authorize the Secretary of the Interior to transfer grazing privileges to the private land acquired by the legislation. In addi-

tion, grazing leases or permits held by LeValley Ranch Ltd. and Sanburg Herefords, L.L.P. are to be issued for the lifetime of the two partners as of October 21, 1999.

*Section 4* amends section 5(a)(1) of the 1999 Act (16 U.S.C. 410fff-3(a)(1)) to authorize the Secretary of the Interior to acquire the lands added to the Black Canyon of the Gunnison National Park and the Gunnison Gorge National Conservation Area in accordance with the provisions of the 1999 establishment Act. No lands or interests in land may be acquired except with the consent of the owner.

*Section 5* amends section 7(a) of the 1999 Act (16 U.S.C. 410fff-5(a)) to revise the boundary of the conservation area by not more than 7,100 acres, as indicated on the Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications map, dated July 13, 2002.

#### COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, August 8, 2002.

Hon. JEFF BINGAMAN,  
*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. 1944, the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2002.

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. 1944—Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2002*

CBO estimates that implementing S. 1944 would cost \$200,000, assuming the availability of appropriated funds. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 1944 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

S. 1944 would authorize the Secretary of the Interior to revise the boundaries of the Gunnison National Park in Colorado to include three parcels of privately owned land that would be acquired by the Secretary. The Secretary would exchange federal lands in order to acquire two of the parcels. According to the Department of the Interior (DOI), the federal lands to be exchanged currently generate no significant receipts and are not expected to do so in the

near future; hence, CBO estimates that exchanging them would not significantly affect the federal budget. The Secretary would purchase a conservation easement on the third parcel at an estimated cost of \$500,000. According to DOI, \$300,000 has already been unappropriated for that purpose; thus, we estimate that completing the transaction would cost \$200,000 in 2003, assuming the availability of appropriated funds.

S. 1944 also would authorize the Secretary to expand the boundaries of the Gunnison Gorge National Conservation Area to include 7,100 acres of federal lands administered by the Bureau of Land Management (BLM). Based on information from the BLM, we estimate that adding those lands to the conservation area would not affect offsetting receipts or the agency's costs to manage that land.

The CBO staff contact for this estimate is Megan Carroll. This estimate was 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. 1944. 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. 1944.

#### EXECUTIVE COMMUNICATIONS

The legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 1944 follows:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, DC, July 16, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This letter sets forth the views of the Department of the Interior on S. 1944, a bill to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes.

The Department of the Interior supports S. 1944. The bill authorizes additions to both Black Canyon of the Gunnison National Park ("Park"), through three separate easement or exchange transactions, and Gunnison Gorge National Conservation Area ("NCA"). The revision of the national park boundary would not contribute to the National Park Service ("NPS") maintenance backlog because the management and operation of the land added to the boundary would not result in any additional facilities, increased operating costs, or additional staffing. Costs involved with the land trans-

actions are expected to be minimal. One parcel would be an equal value exchange, another would involve the purchase of a conservation easement on 240 acres, estimated to cost approximately \$500,000 (although the park currently has approximately \$300,000 in a land acquisition account that could be used for this transaction), and the third involves the transfer of 480 acres of isolated Bureau of Land Management (BLM) land to NPS and then the exchange of this parcel for a conservation on approximately 2,000 acres. The private landowner is expected to donate the difference in value as a result of this last exchange.

S. 1944 amends the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (Public Law 106-76). The boundary of the park would be revised to include the addition of not more than 2,725 acres and the National Conservation Area (NCA) would also be revised. These additions are indicated on a new map, which supplements the boundary map referenced in P.L. 106-76.

The bill authorizes the transfer of 480 acres of BLM land to the jurisdiction of NPS. The Secretary is authorized to acquire lands or interests in lands in accordance with P.L. 106-76 (by donation, transfer, purchase with donated or appropriated funds, or exchange) and lands cannot be acquired without the consent of the owner.

S. 1944 also amends P.L. 106-76 to clarify grazing privileges within the park. If land authorized for grazing within the park is exchanged for private land, then any grazing privileges would transfer to the private land that is acquired. Also, the bill clarifies the length of time that grazing may be conducted on park lands by partnerships.

#### *Black Canyon of the Gunnison National Park*

The boundary of the park would be expanded in three transactions. The first, locally referred to as Sanburg II, is located just south of Red Rock Canyon, one of the most scenic hiking opportunities into the Black Canyon of the Gunnison. The landowner agrees with the NPS that maintaining the rural character adjacent to the Red Rock Canyon trailhead is an important part of the wilderness experience and he would be willing to sell the NPS a conservation easement on 240-acres in order to maintain the rural character of the land, and to prevent future subdivision. The Conservation Fund, a nationally recognized land trust, is assisting with this effort.

The second, the Bramlett exchange, would authorize the exchange of a 200-acre parcel of the Bramlett Ranch located on Grizzly Ridge, which overlooks the North Rim Road and North and South Rim overlooks. Although the landowner has proposed building cabins on the ridge top, he is willing to exchange this 200-acre parcel for land of equal value within the park and adjacent to his ranch headquarters. The equal value exchange would give the landowner land with easier access, and would add the ridgeline parcel to the park, thus protecting the natural landscape in that portion of the park.

The third boundary adjustment, the Allison exchange is, located along the East Portal Road, on the park's south rim. The landowner would exchange a combination of fee simple ownership and

a conservation easement on up to 2,000 acres in return for fee simple ownership of up to 480 acres of the BLM parcel that would be transferred to NPS. The landowner has indicated that he would protect this parcel with a conservation easement should he acquire it. He has also indicated that he would donate any value above and beyond the value represented in the exchange.

The Department believes these acquisitions are important for several reasons. Combined with the land authorized by P.L. 106-76, the present and future land requirements for the park would be met. The present landowners are all willing sellers and in addition to them, this effort enjoys the support of the Montrose County Commissioners, the Montrose Chamber of Commerce, and local and national land trusts involved in the project.

S. 1944 would also amend P.L. 106-76 regarding grazing within the park. P.L. 106-76 allowed for the continuation of grazing on lands transferred to the NPS. Permits held by individuals can be renewed through the lifetime of the individual permittees. However, P.L. 106-76 requires that partnerships and corporations be treated alike regarding the termination of grazing permits. Partnerships and corporations now lose their permits upon the termination of the last remaining individual permit.

S. 1944 would amend P.L. 106-76 to treat partnerships similarly to individual permit holders, allowing permits to be renewed through the lifetime of the partners as of October 21, 1999. Since the two partnerships affected are essentially family run ranching operations, the Department feels that they should be treated consistently with individual permit holders.

S. 1944 would also allow grazing on land acquired in an exchange if the land being given up in the exchange currently has authorized grazing. This appears to be consistent with the intent of Congress when it authorized grazing in Public Law 106-76.

#### *Gunnison Gorge National Conservation Area*

S. 1944 also provides for the expansion of the Gunnison Gorge NCA managed by the BLM. A 5,759-acre parcel of land on the north side of the existing NCA has been acquired from a willing seller through a land exchange. This parcel includes approximately five miles of the Gunnison River and provides important resource values and recreational opportunities. In addition, 1,349 acres of preexisting BLM-managed public lands on the north side of the acquisition would also be added to the NCA. By incorporating these federal lands into the NCA, they will have appropriate protection, attention, and resources devoted to them.

The legislation also makes some minor boundary adjustments to the NCA. In the process of completing surveys of the lands designated as the NCA by P.L. 106-76, the BLM discovered a few inadvertent trespass situations on the NCA land. In order to resolve these issues with the local landowners in a fair and equitable manner, slight boundary modifications need to be made so that exchanges can be effected. Without the benefit of this legislation, the BLM would be forced to take extreme punitive measures which are not in the best interest of the federal government or local landowners who frequently were not aware of the encroachment issues.

Since S. 1944 was introduced the BLM has discovered an additional trespass and we would like the opportunity to work with

Senator Campbell and the subcommittee to modify the map before markup. Finally, the BLM recently discovered an error in computing acreage totals on the January 22 map references in the bill and would like to correct those before markup.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CRAIG MANSON,  
Assistant Secretary for Fish and Wildlife and Parks.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1994, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### Public Law 106–76, 106th Congress

AN ACT To redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

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#### SEC. 4. ESTABLISHMENT OF BLACK CANYON OF THE GUNNISON NATIONAL PARK.

(a) ESTABLISHMENT.—**[There is hereby established]**

(1) *IN GENERAL.*—*There is established the Black Canyon of the Gunnison National Park in the State of Colorado as generally depicted on the map identified in section 3. The Black Canyon of the Gunnison National Monument is hereby abolished as such, the lands and interests therein are incorporated within and made part of the new Black Canyon of the Gunnison National Park, and any funds available for purposes of the monument shall be available for purposes of the park.*

(2) *BOUNDARY REVISION.*—*The boundary of the park is revised to include the addition of not more than 2,725 acres, as depicted on the map entitled "Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications" and dated June 13, 2002.*

(b) ADMINISTRATION.—**[Upon]**

(1) *LAND TRANSFER.*—

(A) *IN GENERAL.*—*On enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management which are identified on the map for inclusion in the park to the administrative jurisdiction of the National Park Service. [The Secretary shall]*

(B) *ADDITIONAL LAND.*—*On the date of enactment of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision*

*Act of 2002, the Secretary shall transfer the land under the jurisdiction of the Bureau of Land Management identified as "Tract C" on the map described in subsection (a)(2) to the administrative jurisdiction of the National Park Service for inclusion in the Park.*

(2) *AUTHORITY.*—*The Secretary shall administer the park in accordance with this Act and laws generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes, approved August 25, 1916 (16 U.S.C. 1, 2–4), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes, approved August 21, 1935 (16 U.S.C. 461 et seq.).*

\* \* \* \* \*

(e) *GRAZING.*—(1)(A) Consistent with the requirements of this subsection, including the limitation in paragraph (3), the Secretary shall allow the grazing of livestock within the park to continue where authorized under permits or leases in existence as of the date of the enactment of this Act. Grazing shall be at no more than the current level, and subject to applicable laws and National Park Service regulations.

(B) *TRANSFER.*—*If land authorized for grazing under subparagraph (A) is exchanged for private land under this Act, the Secretary shall transfer any grazing privileges to the private land acquired in the exchange in accordance with this section.*

[(B)] (C) Nothing in this subsection shall be construed as extending grazing privileges for any party or their assignee in any area of the park where, prior to the date of the enactment of this Act, such use was scheduled to expire according to the terms of a settlement by the United States Claims Court affecting property incorporated into the boundary of the Black Canyon of the Gunnison National Monument.

[(C)] (D) Nothing in this subsection shall prohibit the Secretary from accepting the voluntary termination of leases or permits for grazing within the park.

(2) Within areas of the park designated as wilderness, the grazing of livestock, where authorized under permits in existence as of the date of the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, consistent with this Act, the Wilderness Act, and other applicable laws and National Park Service regulations.

(3) With respect to the grazing permits and leases referenced in this subsection, the Secretary shall allow grazing to continue, subject to periodic renewal—

(A) with respect to a permit or lease issued to an individual, for the lifetime of the individual who was the holder of the permit or lease on the date of the enactment of this Act; [and]

(B) with respect to the permit or lease issued to LeValley Ranch Ltd., a partnership, for the lifetime of the 2 limited partners as of October 21, 1999;

(C) with respect to the permit or lease issued to Sanburg Herford, L.L.P., a partnership, for the lifetime of the 2 general partners as of October 21, 1999; and



[(B)] (D) with respect to a permit or lease issued to a [partnership, corporation, or] *corporation or* other legal entity, for a period which shall terminate on the same date that the last permit or lease held under [subparagraph (A)], *Subparagraphs (A), (B), or (C)* terminates, unless the [partnership, corporation, or] *corporation or* legal entity dissolves or terminates before such time, in which case the permit or lease shall terminate with the [partnership, corporation, or] *corporation or* legal entity.

**SEC. 5. ACQUISITION OF PROPERTY AND MINOR BOUNDARY ADJUSTMENTS.**

(a) ADDITIONAL ACQUISITIONS.—

(1) IN GENERAL.—The Secretary may acquire land or interests in land depicted on the Map *or the map described in section 4(a)(2)* as proposed additions.

\* \* \* \* \*

**SEC. 7. ESTABLISHMENT OF THE GUNNISON GORGE NATIONAL CONSERVATION AREA.**

[(a) IN GENERAL.—There is established]

(A) *ESTABLISHMENT.*—

(1) *IN GENERAL.*—*There is established* the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres as generally depicted on the Map.

(2) *BOUNDARY REVISION.*—*The boundary of the Conservation Area is revised to include the addition of not more than 7,100 acres, as depicted on the map entitled “Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications” and dated June 13, 2002.*

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