

SAN RAFAEL WESTERN LEGACY DISTRICT AND NATIONAL
CONSERVATION ACT

JUNE 6, 2000.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3605]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3605) to establish the San Rafael Western Legacy District in the State of Utah, 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 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, wil-

derness, 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 _____.

(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 the 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 _____. 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 amend-

ments 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 subject 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 BILL

The purpose of H.R. 3605 is to establish the San Rafael Western Legacy District in the State of Utah, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The establishment of the San Rafael Western Legacy District will promote the development of historical, cultural, and recreational resources related to the heritage of the San Rafael region and the State of Utah. The area shall consist of approximately 2,842,800 acres of land in Emery County of Utah. An area within the Western Legacy District is to be designated as the San Rafael National Conservation Area. This area, consisting of nearly one million acres, is to be established to conserve, protect, and enhance the unique and nationally important values of the area for future generations.

The San Rafael Swell region is an area clearly in need of a management scheme. Since I-70 bisects the area, visitation is high, but not coordinated. Additionally, off-highway-vehicle use is increasing in the area and must be managed.

In order to determine the appropriate management plan for the area, a similar bill was introduced during the 105th Congress. However, the previous bill specified land uses such as wilderness, primitive, semi-primitive and the bill aroused opposition. As a result, the Secretary of Interior and the Emery County Commissioners, as well as all interested parties, began negotiations for a more flexible approach. H.R. 3605 is the outcome of those discussions and provides for the establishment of a four-year planning process to manage the National Conservation Area.

There are many diverse resources, ranging from archeological to paleontological, in the San Rafael Swell region. However, there is not a mechanism for bringing together information to conserve and protect these resources. The Western Legacy District would provide this mechanism by centralizing information and directing resources toward those sites most in need of preservation.

The Committee recognizes that off-highway vehicle (OHV) use in the area is a major concern. In fact, the Secretary of the Interior closed all but four roads in Wilderness Study Areas within the area encompassed by the bill (Federal Register, Vol. 65, No. 55, March 21, 2000). The remaining roads can only remain open if undue resource degradation does not occur subject to section 8340 of title 43, Code of Federal Regulations. The process of negotiating the bill has fostered a cooperative relationship, which allowed both the County and OHV groups to support the closure of the roads. To continue to address OHV use, Congressman Chris Cannon (R-UT) offered an amendment in Committee that would prohibit OHVs from all places where roads and trails did not exist before February 2, 2000, and allow them only on roads and trails specifically designated for OHV use in the management plan. The roads and trails must also be managed consistent with section 8340 of title 43, Code of Federal Regulations, which specifies that roads and trails may only remain open if there is no undue resource degradation. The

amendment also requires that the Secretary of the Interior conduct a complete review of all roads and trails within the Conservation Area and include within the management plan a transportation plan. The Committee feels that these measures will insure that OHV use is consistent with the purposes of the National Conservation Area mandates, will insure proper regulation of OHV use, and prevent resource degradation.

COMMITTEE ACTION

H.R. 3605 was introduced on February 9, 2000, by Congressman Chris Cannon (R-UT). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks and Public Lands. On March 2, 2000, the Subcommittee held a hearing on the bill, where the County Commissioners, the Utah State Historic Preservation Officer, Director of the Utah Division of Parks and Recreation, and Director of the Governor's Rural Partnership Office testified in support of the bill. Additionally, the Secretary of the Interior's office testified in favor of the bill. On March 23, 2000, the Subcommittee met to mark up the bill. Mr. Cannon offered an amendment to make some technical changes to the bill that added language that would ensure the Secretary of the Interior's ability to grant rights-of-way and replace the hunting, trapping, and fishing language with previously agreed-upon language. It was adopted by voice vote. The bill was then ordered favorably reported as amended to the Full Committee by voice vote. On May 16, 2000, the Full Resources Committee met to consider the bill. Mr. Cannon offered an amendment to insert water rights language agreed to by Emery County and the Department of Interior. It was adopted by voice vote. Mr. Cannon, as described above, also offered an amendment to clarify off-highway-vehicle use in the National Conservation Area. It was adopted by voice vote. Congressman Mark Udall (D-CO) offered an amendment to designate the land in the National Conservation Area as Wilderness Study Areas. The amendment failed by a rollcall vote of 10 to 21, as follows:

Committee on Resources
U.S. House of Representatives
106th Congress

Full Committee

Date 5-16-00Roll No. 1Bill No. HR 3605 Short Title San Rafael SwellAmendment or matter voted on: Mark Udall Amendment

Member	Yea	Nay	Pres.	Member	Yea	Nay	Pres.
Mr. Young (Chairman)		X		Mr. Miller	X		
Mr. Tauzin				Mr. Rahall			
Mr. Hansen		X		Mr. Vento			
Mr. Saxton				Mr. Kildee	X		
Mr. Gallegly		X		Mr. DeFazio			
Mr. Duncan		X		Mr. Faleomavaega		X	
Mr. Hefley				Mr. Abercrombie			
Mr. Doolittle		X		Mr. Ortiz		X	
Mr. Gilchrest		X		Mr. Pickett		X	
Mr. Calvert				Mr. Pallone			
Mr. Pombo		X		Mr. Dooley			
Mrs. Cubin		X		Mr. Romero-Barcelo			
Mrs. Chenoweth-Hage				Mr. Underwood			
Mr. Radanovich		X		Mr. Kennedy			
Mr. Jones				Mr. Smith	X		
Mr. Thornberry				Mr. John			
Mr. Cannon		X		Mrs. Christensen	X		
Mr. Brady		X		Mr. Kind	X		
Mr. Peterson		X		Mr. Inslee	X		
Mr. Hill				Mrs. Napolitano	X		
Mr. Schaffer		X		Mr. Tom Udall			
Mr. Gibbons		X		Mr. Mark Udall	X		
Mr. Souder		X		Mr. Crowley	X		
Mr. Walden				Mr. Holt	X		
Mr. Sherwood		X					
Mr. Hayes							
Mr. Simpson		X					
Mr. Tancredo		X		TOTAL	10	21	

The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of the bill is the San Rafael Western Legacy District and National Conservation Act

Section 2. Definitions

(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

Section 101. Establishment of the San Rafael Western Legacy District

The San Rafael region possesses many important historical, cultural, and natural resources that are representative of the history of the American West. Its history includes influence from Native American culture, exploration, pioneering, and industrial development.

The Secretary of the Interior, through the Bureau of Land Management, shall administer the public lands within the San Rafael Western Legacy District pursuant to the bill and the applicable provisions of the Federal Land Policy and Management Act. The Secretary of the Interior is also to establish a Legacy Council to advise the Secretary with respect to the Western Legacy District. The Legacy Council’s purpose will be to furnish advice and recommendations to the Secretary with respect to management, grants, projects, and assistance regarding the region. Up to 10 council members would be appointed by the Secretary, two of which would be selected from Emery County and two from the Governor of Utah. Other members of the Council would be persons recognized as experts in conservation of historical, cultural, and natural resources or other disciplines directly related to purposes of the Western Legacy District.

The Secretary may make grants and provide technical assistance to accomplish the purposes of the Western Legacy District. The Act provides for annual expenditures of no more than \$1 million and a maximum of \$10 million. Federal matching funds may not exceed 50 percent of the total cost of the assistance or grant except in cases where the funds are used for facilities located on public lands owned by the federal government, or when used for planning.

Section 102. Management and use of the San Rafael Western Legacy District

The Secretary must have discretion over the use of the public land in the Legacy District for the purposes of furthering the reasons of its establishment. Nothing in this bill will affect the status

or administration of public or private lands, water rights, wilderness issues, grazing zones, or wildlife management in the Western Legacy District.

TITLE II—SAN RAFAEL NATIONAL CONSERVATION AREA

Section 201. Designation of the San Rafael National Conservation Area

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, the San Rafael National Conservation Area, consisting of nearly one million acres in the State of Utah, is designated.

Section 202. Management of the San Rafael National Conservation Area

The Secretary, acting through the Bureau of Land Management, would manage the Conservation Area. The Secretary shall allow hunting, trapping and fishing in the Conservation Area in accordance with applicable laws and regulations. The Secretary, after consulting with the Utah Division of Wildlife Resources, may issue regulations designating zones where and periods when no hunting, trapping or fishing will be permitted for reasons of public safety, administration, or public use and enjoyment.

This bill allows the State of Utah and the Department of the Interior to exchange federal lands, federal mineral interests, and/or payment of money for land and mineral interests managed by the Utah School and Institutional Trust Lands Administration, of approximately equal value held within the boundaries of the Conservation Area. The Committee encourages the Secretary and the State School Trust Lands Administration to enter into negotiations promptly to trade the school trust lands out of the Conservation Area.

The bill contains language to prevent the establishment of the Conservation Area to lead to the creation of protective perimeters or buffer zones. Uses of lands outside the Conservation Area shall be consistent with applicable laws and not subject to regulation related to the Conservation Area.

Within four years following the date of enactment, the Secretary will develop a comprehensive plan for the long-range protection and management of the Conservation Area. The plan will outline appropriate uses and management of the Conservation Area consistent with the provisions of this bill.

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 Resources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant 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 in revenues or tax expenditures. According to the Congressional Budget Office, enactment of H.R. 3605 could result in a loss of offsetting receipts of less than \$500,000 per year from lost potential revenues from mining and geothermal leasing.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

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:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 1, 2000.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3605, 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.

H.R. 3605—San Rafael Western Legacy District and National Conservation Act

Summary: H.R. 3605 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 H.R. 3605 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. H.R. 3605 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 H.R. 3605. 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 H.R. 3605 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 would 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 costs 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 could 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)

H.R. 3605 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 H.R. 3605 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: H.R. 3605 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.

Estimate prepared by: Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: Majorie Miller; and Impact on the Private Sector: Natalie Tawil.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

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

We oppose H.R. 3605 in its present form. While the legislation is an improvement over the seriously flawed proposal (H.R. 3625) put forth in the 105th Congress, it still falls far short of providing the resource protections the San Rafael region so richly deserves.

Our concerns with H.R. 3605 fall into five categories: (1) the boundaries used in the legislation, (2) off-road (ORV) abuses, (3) treatment of wilderness, (4) creation of a never before used "Western Legacy District" designation, and (5) water rights.

The boundaries of the National Conservation Area (NCA) designated in H.R. 3605 are grossly inadequate. The San Rafael Swell is a great dome of uplifted sedimentary rock located in south-central Utah, measuring 50 miles long, 30 miles wide, and rising 150 feet above the surrounding desert. The area is ringed by highlands and studded with mesas, buttes, deep gorges and narrow slot canyons. These resources define the area's boundary, not the political lines used in H.R. 3605. Proponents of the bill would have Members believe that the San Rafael Swell is located neatly within Emery County, Utah, when in fact, it extends south into Wayne County and west into Sevier County.

Significant portions of the proposed NCA boundary follow section lines or roads. In what is the most glaring omission, the entire southern boundary is a straight line that marks the political boundary between Emery and Wayne counties. In many cases the boundary excludes notable formations such as Factory Butte and the Jones Bench. Many identified wilderness units are split in two while others are cut off completely. The proposed boundaries also fail to protect critical watersheds and Desert Bighorn Sheep habitat, ignore threatened and endangered species and sacrifice important resource lands to potential gypsum mining.

The language of the bill also fails to effectively deal with the ORV problem in the San Rafael Swell. ORV use in Utah has exploded over the past 10–15 years and is not under control on public lands in Utah. As a result, ORV abuse has become more common, with ORV users pushing new trails into more remote areas each year. Citing significant damage to soil, vegetation, and other resources the BLM was forced to do an emergency ORV closure in March for Wilderness Study Area (WSAs) in the San Rafael area. These WSAs should have been off-limits already. With this kind of damage occurring in the most pristine area, other spectacular lands in the San Rafael are at risk. In fact ORV damage extends far beyond the current WSAs.

The BLM has attempted since 1991 to come up with a plan to regulate ORV use in the San Rafael but has failed to do so. That failure has led to severe damage in the Swell. The language in H.R. 3605 would codify BLM regulations that have failed to protect the San Rafael Swell. This is not a step forward. At best, it main-

tains the status quo which is a major problem. The bill language also legitimizes routes that have been allowed to be developed during the ten-years BLM has failed to come up with a plan. If ORV use is not managed to protect conservation area values, then the designation of a National Conservation Area is meaningless.

H.R. 3605 ignores the question of wilderness, desperately trying to pretend it doesn't exist. However, what can't be ignored is the fact that the vast majority of the land in the San Rafael region is of wilderness quality and is embodied in wilderness study areas, identified as wilderness by the Department of the Interior, or included in a legislative wilderness proposal (H.R. 1732) sponsored by more than 160 Members of the House. The Department of the Interior testified that "The administration believes that wilderness protections for a significant portion of this area is warranted * * *"

Proponents' claims to be "wilderness neutral" ring hollow when their artificial boundaries divide or sever wilderness units and their chief local proponent is quoted as saying "[H.R. 3605] is a way of getting around wilderness, because wilderness has become a problem, not a solution." We strongly disagree with that assessment and oppose any attempt to subvert the consideration and designation of wilderness.

We are also concerned that H.R. 3605 includes an undefined and unwarranted new kind of designation; a so-called "western legacy district." In H.R. 3605 this designation follows political lines to completely encompass Emery County. No feasibility study was done to assess this proposed \$10 million program and there is scant evidence of the historical and cultural resources that would merit this special designation. We support historic preservation but do not feel that the case has been made to single out one county for special treatment, especially when there are historical resources in many locations within the United States that are more significant and deserving.

Finally, water is the lifeblood of the desert ecosystem. Without it, important desert resources would be lost. This is especially true for the San Rafael in which there are only two year-round streams. As it stands, the bill is inadequate to the task. Geared toward the consumptive use of water, the State of Utah does not even recognize wilderness as a beneficial use of water. We do not advocate re-appointment of existing flows but future uses must be weighed against the resource values at stake here.

The San Rafael region is a vast geologic and scenic wonder that deserves far better protection than that currently offered by H.R. 3605. Unless the bill is amended to address the concerns we have enumerated, we must oppose H.R. 3605 and urge our colleagues to do likewise.

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