

DISSENTING VIEWS ON H.R. 2016

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

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

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

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

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

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

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

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

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