

# U.S. Senator Jeff Bingaman

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## The Organ Mountains – Desert Peaks Wilderness Act

The Organ Mountains are among the many scenic landscapes in Doña Ana County that define Southern New Mexico and the rich culture of its people. The Organ Mountains-Desert Peaks Wilderness Act will provide protection for our watersheds, outstanding hunting and recreational opportunities, and cultural resources like petroglyphs and historical features.

These areas offer much to explore: from the granite peaks of the Organ Mountains; the cinder cones, lava flows, and increasingly rare grasslands of the Potrillo Mountains; to the caves, limestone cliffs, and winding canyons of the proposed Desert Peaks National Conservation Area.

This legislation will preserve the viewshed of the iconic Organ Mountains while promoting tourism and economic development in the region. By protecting these and other areas from development, we will preserve healthy habitat for game and sensitive species; quality grazing land; and the unique geologic formations that surround us.

The Organ Mountains-Desert Peaks Wilderness Act will ensure that, as Doña Ana County prospers and grows into the future, we will maintain and preserve our strong community values.

The proposed legislation would designate public land in Doña Ana County as wilderness and National Conservation Areas according to the following table:

Designation	Acres
Organ Mountains Wilderness	19,400
Aden Lava Flow Wilderness	27,650
Potrillo Mountains Wilderness	143,450
Cinder Cone Wilderness	16,950
Whitethorn Wilderness	9,600
Robledo Mountains Wilderness	17,000
Broad Canyon Wilderness	13,900
Sierra de las Uvas Wilderness	11,100
Organ Mountains NCA*	67,250
Desert Peaks NCA*	33,600
Wilderness Study Area Released	16,350

\*Not including Wilderness

### Comparison Between Legislation and Original Citizen's Proposal

	Legislation	Citizen's Proposal	Difference
Acres of Wilderness	259,000	307,900	- 48,900
Acres of NCA	100,850	68,100	+ 32,750
Total Wilderness and NCA	359,850	376,000	- 16,150

# Key Additions and Changes Made to the Legislation (Not Exhaustive)

## Border Security:

- Over 16,000 acres of Wilderness Study Area (WSA) along the southern boundary of the West Potrillo Mountains WSA will be released in order to facilitate Border Patrol monitoring and enforcement along the U.S.-Mexico border.
- Approximately 8,000 acres south of the East Potrillo Mountains are excluded from this proposal in order to facilitate enforcement at the border.
- Specific sites were excluded from designation to accommodate future border security infrastructure.
- 33,600 acres of the Broad Canyon area are now proposed for NCA designation instead of wilderness to ensure that Border Patrol can prevent the avoidance of the checkpoint near Radium Springs.

## Grazing:

- 33,600 acres of Broad Canyon are now proposed for NCA designation instead of wilderness to provide access to certain existing and planned ranching improvements.
- 100% of the roads leading to water wells, troughs, and corrals, and the vast majority of pipelines will be excluded from wilderness to ensure adequate access to these improvements.
- Roads will be excluded from wilderness areas where ranchers require frequent access.
- The grazing language in the legislation was strengthened to read “The Secretary **shall** permit grazing within the Conservation Area, where established before the date of enactment of this Act, subject to all applicable laws (including regulations), and Executive orders; and consistent with the purposes described in this Act.”
  - The language originally read, “The Secretary **may** allow grazing to continue in any area of the Conservation Area in which grazing is allowed before the date of enactment of this Act.”

### Ranching Improvements Excluded from Wilderness

	Water Wells	Troughs	Corrals
Potrillo Mountains	10/10	6/7*	1/1
Organ Mountains	10/10	6/6	1/1
Uvas/Robledos/ Broad Canyon	3/3	8/8	2/2
<b>Total</b>	<b>23/23</b>	<b>20/21*</b>	<b>4/4</b>

\*There is currently no road leading to this trough

### **Utilities:**

- At the request of electric utilities, language is included to clarify that utility rights-of-ways are unaffected by the designation and can be upgraded or widened.
- At the request of pipeline utilities, the southern portion of the proposed Organ Mountains NCA has been removed from consideration to avoid conflicts with existing and future natural gas and refined petroleum pipeline corridors.

### **Adjacent Communities:**

- NCA boundaries have been adjusted based on input from the city and county to ensure that designations are consistent with future development plans; including Weisner Road, Desert Wind, and Sonoma Ranch extensions.
- The Chihuahuan Desert Nature Park has been removed from the NCA boundary.
- Natural features and roads have been used as boundaries whenever possible to make the designated areas easier to identify on the ground.

### **Elephant Butte Irrigation District:**

- The section of land containing Broad Canyon Dam is removed from consideration for designation in order to allow future expansion if necessary.
- 33,600 acres of Broad Canyon are proposed for NCA designation instead of wilderness to ensure earthen berms used for flood control can be constructed and maintained.
- Language designating the NCA is crafted to allow flexibility in meeting flood control needs within the NCA.

### **Sportsmen and the General Public:**

- The Cinder Cone Loop will be open to provide access to important hunting areas within the Potrillo Mountains and Cinder Cone Wilderness Areas.
- Portions of the West Potrillo WSA are released to accommodate better road access.
- Additional roads were left open to provide access to sportsmen and the general public.
- Natural features and roads were used as boundaries whenever possible to make the designated areas easier to identify on the ground.

### **Military:**

- At the request of Ft. Bliss and White Sands Missile Range (WSMR), language regarding buffer zones, noise, light, and military overflights over and outside of wilderness areas is included in the legislation.
- At the request of WSMR, the northern part of the proposed Organ Mountains NCA was removed from consideration.
- At the request of Ft. Bliss, the Fillmore Canyon area is given back to the BLM for public use, with a boundary that accommodates needs of WSMR.

# Entities Consulted While Developing Proposal (Not Exhaustive)

## **Ranching Community:**

- All 25 grazing permittees, including owners of the permits and those who sublease the allotments

## **Utilities:**

- El Paso Electric
- Xcel Energy
- PNM
- Tristate Generation and Transmission Association, Inc.
- El Paso Natural Gas
- Rio Grande Natural Gas
- Kinder Morgan
- City of Las Cruces Utilities Department

## **Adjacent Communities:**

- Doña Ana County
- Luna County
- City of Las Cruces
- Anthony/Berino/Mesquite
  - Citizen Advisory Group representatives
  - Anthony Water and Sanitation District
  - Tierra Del Sol Housing Corporation
  - Mesquite Mutual Domestic Water Consumers & Mutual Sewage Works Association
  - Darbyshire Machine Inc.
  - Colonias Development Council
  - Desert Sands MDWCA
  - Community Leaders

- Chaparral
  - DeLara Estates Farms & Land Co.
  - Colquitt Company Hueco Bolson Realty
  - Community Leaders

## **Conservation Organizations:**

- People for Preserving Our Western Heritage
- World Wildlife Fund
- Precious Desert Cooperative
- New Mexico Wilderness Alliance
- New Mexico Wildlife Federation
- Southwest Consolidated Sportsmen

## **Flood Control Organizations:**

- EBID
- Doña Ana County Flood Commission

## **State and Federal Agencies and Installations:**

- Fish and Wildlife Service – San Andres NWR
- Bureau of Land Management - State Office and Las Cruces District
- White Sands Missile Range
- Fort Bliss
- Border Patrol – Las Cruces and Santa Teresa Stations, El Paso Sector
- USDA ARS Jornada Experimental Range
- NASA White Sands Test Facility
- New Mexico State Parks
- New Mexico State University

# Questions & Answers

## **What does a wilderness designation mean?**

Motorized equipment and mechanized transportation are generally prohibited within wilderness areas, but there are exceptions for emergencies, grazing, and security purposes. Hunting, fishing, grazing, foot travel, travel by horseback, and the use of any type of wheelchair are all allowed in wilderness areas.

## **How is the National Conservation Area (NCA) designation different from wilderness?**

Both designations prohibit the sale of public lands and mineral development. However, vehicles are permitted on designated roads within the NCA. Hunting, fishing, and grazing are all allowed in the NCA.

## **How will private property be impacted by the NCA or wilderness designations?**

The designations have no impact on private property. The federal government has no role in managing private property and is not seeking to purchase private land within the designated areas. If BLM is approached by a landowner proposing to sell property within the NCA or wilderness areas, BLM will consider the transaction on a case-by-case basis. The BLM must provide access to private property within the NCA or wilderness areas.

## **How will this affect cattle grazing?**

Grazing is consistent with both wilderness and NCA designations. Existing grazing is preserved under this legislation. According to the Congressional Grazing Guidelines established for wilderness areas (see page 8), the BLM has the authority to allow permittees to maintain improvements on their allotments using motorized vehicles and equipment. BLM will continue to manage grazing within the NCA as it does now.

## **How does wilderness designation affect emergency response?**

Emergency response can still take place. The Wilderness Act of 1964 explicitly allows the use of motor vehicles and motorized equipment, landing of aircraft, and installation of structures in wilderness areas if required for emergencies involving the health and safety of people within the area. As well, necessary measures can be taken to control fires, insects, and diseases.

## **How does the proposal affect wildlife management and hunting?**

Nothing in this legislation would affect the jurisdiction of the State of New Mexico with respect to fish and wildlife located on public lands in the State. Hunting would continue to be subject to State law.

## **How will these designations affect restoration projects in the area?**

Designating these areas as wilderness or National Conservation Areas does not preclude restoration activities. In fact, by designating these areas, the BLM will be able to access new sources of funding through the National Landscape Conservation System for various grassland restoration projects, management activities, and law enforcement in the region. Currently these areas are ineligible for these additional funds.

## **Will BLM and the NM State Land Office exchange lands in the NCA or Wilderness Areas?**

BLM has been working with the State Land Office on land exchanges to consolidate land holdings in other parts of New Mexico, and could pursue potential exchanges if the legislation is enacted, but the BLM and State are under no obligation to do so. If an exchange does not occur, the State Land Office is under no obligation to change management procedures on land included within the boundaries of federally protected areas, and access to State property will not be affected.

# Border Security

The security of our Nation's borders is critical and has been carefully considered in the crafting of this legislation. Although the current Wilderness Study Areas (WSA) have been managed as wilderness for decades and have not been a particularly significant crossing point for illegal immigrants, the Organ Mountains – Desert Peaks Wilderness Act includes several provisions aimed at ensuring that security needs are appropriately addressed.

In response to input from the Border Patrol, a number of changes were made to the legislation to allow more area for Border Patrol activities than exists today, and they will facilitate Border Patrol monitoring and enforcement along the U.S.-Mexico border.

These changes culminated in the planned release of approximately 16,000 acres of existing WSA along the southern boundary of the West Potrillo Mountains WSA. Release means that the area will no longer be managed as WSA and will not become wilderness through this bill, creating a buffer of non-wilderness in that area stretching from 2 to 6.5 miles from the U.S.-Mexico Border, adding a continuous buffer north of Hwy 9, and doubling the non-wilderness acreage available for use by Border Patrol. Right now, there is a buffer of between less than ½ mile to 3 miles and no buffer north of Hwy 9.

Additional changes consist of excluding 8,000 acres south of the East Potrillo Mountains from the bill completely, and designating almost 34,000 acres in the Broad Canyon area as National Conservation Area (NCA) instead of wilderness. Overall, changes totaling about 58,000 acres were made to accommodate Border Patrol needs in order to give agents the flexibility they need to fulfill their mission.

Throughout much of the Southern border, Border Patrol has begun using ground radar and camera Mobile Surveillance Systems (MSS), which have been very effective in detecting unlawful entries. Also at the request of the Border Patrol, specific tactical sites were removed from the designation area to accommodate the placement of MSS where they cannot be used today. The provisions of the Act will also create ample room for SBInet infrastructure in the future which will include arrays of sensors, cameras and communication equipment. Language included in the text of the Act reinforces the Wilderness Act of 1964 by stating that overflights as well as light and noise created outside of the wilderness areas are acceptable, allowing full use as necessary of the non-wilderness areas and airspace above wilderness.

Separate from the buffer mentioned above, a number of roads within the wilderness areas will remain open for use by the public, which Border Patrol can use as well. However, Border Patrol will have additional vehicular access to closed roads and non-road areas, as well as the ability to land helicopters, should they need it based on a Memorandum of Understanding between federal agencies that is already in use and functioning as intended.

As mentioned above, the existing WSA along the border has been managed as wilderness for a long time without the increases in illegal activity that have been seen in other areas. This is despite a large increase in illegal immigration during the first half of the decade in neighboring Luna County where there is no WSA right along the border.

Nationwide, Border Patrol staffing has doubled since 2002, now reaching a force of approximately 20,000 agents, and the number of individuals apprehended for illegally entering the United States across the Mexican border has dropped to levels not seen since the

1970s. Along the New Mexico-Mexico border, the improvements have been even more dramatic. The additional personnel and resources deployed along our border have helped reduce apprehensions by approximately 88 percent over the last five years in the El Paso Sector, which includes the entire State of New Mexico. The staffing level at New Mexico's border stations has more than tripled since 2003 when my office began the Border Security Task Force, which is still active today. Tactical infrastructure, including technology, has also been significantly enhanced, and Doña Ana and Luna Counties now have either pedestrian or vehicular fencing on 100% of their borders with Mexico between the Santa Teresa and Columbus Ports of Entry. This fencing has significantly reduced the incidence of vehicles penetrating the border at high speeds, and the distance it spans includes the entirety of border near the areas to be designated as wilderness and well beyond.

Despite these improvements, border security continues to be a top priority. The Organ Mountains - Desert Peaks Wilderness Act was crafted in a way to ensure that Border Patrol can continue to maintain its vigilance, expand infrastructure over what is in place today, and even more effectively carry out its duty to protect our southern border.

# Congressional Grazing Guidelines

**HOUSE REPORT NO. 101-405**  
**February 21, 1990**  
**[To accompany H.R. 2570]**

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 2570) to provide for the designation of certain public lands as wilderness in the State of Arizona, having considered the same report favorably thereon with an amendment and recommend that the bill as amended do pass. The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following in lieu thereof:

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Arizona Desert Wilderness Act of 1990."

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## APPENDIX A. - GRAZING GUIDELINES

Section 4(d)(4)(2) of the Wilderness Act states: "the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture".

The legislative history of this language is very clear in its intent that livestock grazing, and activities and the necessary facilities to support a livestock grazing program, will be permitted to continue in National Forest wilderness areas, when such grazing was established prior to classification of an area as wilderness.

Including those areas designated in 1964 by the Wilderness Act, Congress has designated a large number of wilderness areas, including areas which are managed the Forest Service, Fish and Wildlife Service, and Bureau of Land Management. A number of these areas contain active grazing program, which are conducted pursuant to existing authorities. In all such cases, when enacting legislation classifying an area as wilderness, it has been the intent of the Congress that the cited language of the Wilderness Act would apply to grazing within wilderness areas administered by all Federal agencies.

To avoid any possible confusion, however, the Committee believes it would appropriate to reiterate the guidelines and policies (which have been set out previously in the Committee's Report on H.R. 5487 of the 96th Congress, House Report N. 96-617) that are to be utilized by BLM in implementing the relevant provisions of the Wilderness Act with respect to livestock grazing in the wilderness areas designated by this bill. It is the intention of the Committee that these guidelines and policies be considered in the overall context of the purposes and direction of the Wilderness Act of 1964 and this bill, and that they be promptly, fully, and diligently implemented and made available to Bureau of Land Management personnel at all levels and to all holders of permits for grazing in the wilderness areas designated by this bill.

The guidelines and policies are as follows:

1. There shall be no curtailments of grazing in wilderness areas simply because an area is, or has been designated as wilderness, nor should wilderness designations be used an excuse by administrators to slowly "phase out" grazing. Any adjustments in the numbers of livestock permitted to graze in wilderness areas should be made as a result of revisions in the normal grazing and land management planning and policy setting process, giving consideration to legal mandates, range condition, and the protection of the range resource from deterioration.

It is anticipated that the number of livestock permitted to graze in wilderness would remain at the approximate levels at the time an area enters the wilderness system. If land management plans reveal conclusively that increased livestock numbers or animal unit months (AUMs) could be made available with no adverse impact on wilderness values such as plant communities, primitive recreation, and wildlife populations or habitat, some increases in AUMs may be permissible. This is not to imply, however, that wilderness lends itself to AUM or livestock increases and construction of substantial new facilities that might be appropriate for intensive grazing management in non-wilderness areas.

2. The maintenance of supporting facilities, existing in an area prior to its classification as wilderness (including fences, line cabins, water wells and lines, stock tanks, etc.), is permissible in wilderness. Where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment. This may include, for example, the use of backhoes to maintain stock ponds, pickup trucks for major fence repairs, or specialized equipment to repair stock watering facilities. Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness. For example, motorized equipment need not be allowed for the placement of small quantities of salt or other activities where such activities can reasonably and practically be accomplished on horseback or foot. On the other hand, it may be appropriate to permit the occasional use of motorized equipment to haul large quantities of salt to distribution points. Moreover, under the rule of reasonableness, occasional use of motorized equipment should be permitted where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment. Such motorized equipment uses will normally only be permitted in those portions of a wilderness area where they had occurred prior to the area's designation as wilderness or are established by prior agreement.

3. The replacement or reconstruction of deteriorated facilities or improvements should not be required to be accomplished using "natural materials", unless the material and labor costs of using natural materials are such that their use would not impose unreasonable additional costs on grazing permittees.

4. The construction or new improvements or replacement of deteriorated facilities in wilderness is permissible if in accordance with these guidelines and management plans governing the area involved. However, the construction of new improvements should be primarily for the purpose of resource protection and the more effective management of these resources rather than to accommodate increased numbers of livestock.

5. The use of motorized equipment for emergency purposes such as rescuing sick animals or the placement of feed in emergency situations is also permissible. This privilege is to be exercised only in true emergencies, and should not be abused by permittees.

In summary, subject to the conditions and policies outlined in this report, the general rule of thumb on grazing management in wilderness should be that activities or facilities established prior to the date of an area's designation as wilderness should be allowed to remain in place and may be replaced when necessary for the permittee to properly administer the grazing program. Thus, if livestock grazing activities and facilities were established in an area at the time Congress determined that the area was suitable for wilderness and placed the specific area in the wilderness system, they should be allowed to continue. With respect to areas designated as wilderness prior to the date of this Act, these guidelines shall not be considered as a direction to reestablish uses where such uses have been discontinued.