104TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
104–155

BLM REAUTHORIZATION ACT OF 1995

JUNE 22, 1995.—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

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 1077]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1077) to authorize the Bureau of Land Management, 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 AND STATUTORY REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "BLM Reauthorization Act of 1995".

(b) STATUTORY REFERENCE.—As used in this Act, the term "Act" means the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

SEC. 2. AUTHORIZATION AND FUTURE REAUTHORIZATIONS.

(a) AUTHORIZATION.—Section 318(a) of the Act (43 U.S.C. 1748(a)) is amended by striking out "October 1, 1978" and by inserting in lieu thereof "October 1, 2001".

(b) FUTURE REAUTHORIZATIONS.—Section 318(b) of the Act is amended by striking "May 15, 1977, and not later than May 15 of each second even-numbered year thereafter" and by inserting in lieu thereof "January 1, 1999, and January 1 of each third odd-numbered year thereafter".

PURPOSE OF THE BILL

The purpose of H.R. 1077 is to authorize the Bureau of Land Management in the Department of the Interior.

99–006

BACKGROUND AND NEED FOR LEGISLATION

The Federal Land Management Policy Act of 1976 (FLPMA) required that the Bureau of Land Management BLM) be reauthorized by Congress every four years beginning in 1978. Pursuant to FLPMA, one quadrennial reauthorization was enacted in 1978 and expired in 1982. The BLM is the only Congressionally-chartered agency in the Department of the Interior that is not permanently authorized. Annual appropriations have continued since 1982 only because the House of Representatives has adopted rules waiving points of order against consideration of appropriations for the unauthorized BLM programs.

In 1989, then-Interior Appropriations Subcommittee Chairman Sidney Yates asked Congressman Bruce Vento to attempt to reauthorize BLM. Although this effort began initially as a ''clean'' four-year authorization, it attracted controversial proposals from the national preservation movement. Although authorization bills passed the House in 1989 and 1991, they quickly died in the Senate because of opposition by Republican Senators on the Energy and Natural Resources Committee.

On May 25, 1993, the Subcommittee on National Parks, Forests and Public Lands held a hearing on H.R. 1603, a lengthy bill that contained very controversial provisions regarding buffer zones, RS 2477 right-of-way, biological diversity, and national conservation areas. At the hearing, then-Director Baca requested that BLM be reauthorized for one year to enable the new Clinton Administration to provide more meaningful legislative input toward a longer reauthorization bill in the future.

As a result of the hearing, Congressman Vento introduced H.R. 2530 on June 24, 1993. The bill amended FLPMA to provide for a ''clean'' reauthorization until October 1, 1994. H.R. 2530 passed the House on September 13, 1993, under Suspension of Rules, but was never considered in the Senate.

The Committee is greatly concerned that funds authorized by H.R. 1077 could be used to administer a soda ash leasing program with potential deficiencies. The Committee's concern relates, in particular, to a proposed soda ash royalty rate increase that is now under consideration by BLM and the Department of the Interior. The Committee strongly believes that the Department has provided no analytical support whatsoever for any increase. While the Department has noted that a disparity exists between royalty rates currently charged on public and private lands in Wyoming, the Committee believes that the rate for private lands is the product of monopoly power and accordingly cannot be viewed as representing fair market value under FLPMA. The Committee also believes that the Department has not adequately analyzed the adverse trade consequences that would be associated with a rate increase or adequately compared these consequences to the impact of an increase on the public fisc, which the Committee believes would amount to an inconsequentially small increase in revenues or an actual revenue loss. Therefore, the Committee directs the Department not to proceed with a rate increase until it has conducted a study, in consultation with the Department of Commerce, the Office of U.S. Trade Representative, and the Office of Management

and Budget, to determine whether any proposed increase would accord with the FLPMA's concept of fair market value and whether any benefits to the government associated with the increase would justify the corresponding costs of the increase. The study should then be submitted to the Committee for its review prior to the implementation of any increase.

COMMITTEE ACTION

H.R. 1077 was introduced on February 28, 1995, by National Parks, Forests and Lands Subcommittee Chairman James V. Hansen. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Forests and Lands. On March 9, 1995, the Subcommittee held a hearing on H.R. 1077, where Acting Director Dombeck of the BLM testified in support. On March 29, 1995, the Subcommittee met to mark up H.R. 1077. Congressman Wes Cooley offered an amendment to change the bill from a permanent authorization to a six-year reauthorization. Congressman Bill Richardson offered an amendment to the Cooley amendment to reduce the period of reauthorization to four years; this amendment failed by voice vote. Congressman Bruce Vento then offered an amendment to the Cooley amendment to authorize the Secretary of the Department of the Interior to transmit to Congress a report on the suitability and feasibility of transferring any portion of the public lands administered by the BLM to the States in which the lands are located. The Vento amendment failed on a rollcall vote of 8 to 12, as follows:

RECORDED VOTES

Date: March 29, 1995.
Bill Number(s): H.R. 1077.
Amendment Number: 3.
Yeas: 8; Nays: 12.

Members (Republican)	Yea	Nay	Present	Members (Democrats)	Yea	Nay	Present
Mr. Hansen, Chairman		X		Mr. Richardson	X		
Mr. Duncan		X		Mr. Rahall	X		
Mr. Hefley		X		Mr. Vento	X		
Mr. Doolittle				Mr. Kildee	X		
Mr. Allard		X		Mr. Williams			
Mr. Pombo		X		Mr. Faleomavaega	X		
Mr. Torkildsen		X		Mr. Studds	X		
Mr. Hayworth		X		Mr. Romero-Barcelo	X		
Mr. Cubin		X		Mr. Deal			
Mr. Cooley		X		Mr. Hinchey	X		
Mrs. Chenoweth		X		Mr. Underwood	X		
Mrs. Smith		X					
Mr. Radanovich							
Mr. Shadegg		X					

The Cooley amendment was then adopted by voice vote. The bill, as amended, was then ordered favorably reported to the Full Committee in the presence of a quorum.

On May 17, 1995, the Full Resources Committee met to consider H.R. 1077. Congressman Bill Richardson offered an amendment to provide for a six year reauthorization with provisions to begin the future reauthorization process; the amendment was adopted by

voice vote. Ranking Minority Member George Miller offered an amendment to authorize the Secretary of the Interior to transmit to Congress a report on the suitability and feasibility of transferring any portion of the public lands administered by BLM to the States in which the lands are located; this amendment failed on voice vote. An amendment to require the Secretary of the Interior to consider the views of the Department of Commerce and the United States Trade Representative regarding export market factors when determining "fair market value" for royalty rate purposes on Federal mineral leases was offered by Congresswoman Cubin and withdrawn. The bill as amended was then ordered favorably reported to the House of Representatives, in the presence of a quorum.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1077 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) 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 H.R. 1077. However, clause 7(d) 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 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1077 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI 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 and Oversight on the subject of H.R. 1077.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 24, 1995.

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. 1077, the BLM Reauthorization Act of 1995.

Enactment of H.R. 1077 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, *Director*).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1077.

2. Bill title: The BLM Reauthorization Act of 1995.

3. Bill status: As ordered reported by the House Committee on Resources on May 17, 1995.

4. Bill purpose: H.R. 1077 would authorize the appropriation of such sums as may be necessary to carry out the activities of the Bureau of Land Management (BLM) for six fiscal years—1996 through 2001. The bill also would revise the timetable for submission of BLM's budget information to the Congress.

5. Estimated cost to the Federal Government: The following table shows estimated authorization levels for all BLM accounts authorized by the Federal Land Policy and Management Act of 1976 (FLPMA). Because the bill does not provide specific authorization levels for these accounts, the table shows two alternative sets of authorization levels for fiscal years 1996–2000—the 1995 appropriations without any adjustment for inflation and the 1995 appropriations with adjustment for inflation. Outlay estimates are based on historical spending rates for the affected BLM programs and assume that appropriations will be provided before the start of each fiscal year.

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Projected spending under current law:						
Budget authority[1]	636	0	0	0	0	0
Estimated outlays	653	100	8	0	0	0
Without Adjustment for Inflation						
Proposed changes:						
Estimated authorization	0	636	636	636	636	636
Estimated outlays	0	534	628	636	636	636
Projected spending under H.R. 1077:						
Estimated authorization	636	636	636	636	636	636
Estimated outlays	653	635	636	636	636	636

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000
With Adjustment for Inflation						
Proposed changes:						
Estimated authorization	0	663	689	715	742	772
Estimated outlays	0	557	676	711	738	767
Projected spending under H.R. 1077:						
Estimated authorization	636	663	689	715	742	772
Estimated outlays	653	658	684	711	738	767

[1] The 1995 spending level is the amount actually appropriated for programs authorized by this bill.

The costs of this bill fall within budget function 300.

6. Basis of estimate: Under current law, authorizations for BLM spending expired in 1982 for the accounts authorized by FLPMA. Congress has continued to provide funds to these accounts in annual appropriations bills, however. BLM accounts authorized by FLPMA are: Management of Lands and Resources; Construction and Access; Range Improvements; Service Charges, Deposits and Forfeitures; and Miscellaneous Trust Funds. Appropriations for these five accounts total $636 million in fiscal year 1995. Other BLM accounts not authorized by FLPMA—and which would not, therefore, be affected by enactment H.R. 1077–are excluded from this estimate.

7. Pay-as-you-go considerations: None.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Victoria V. Heid.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 1077.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as 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):

SECTION 318 OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

APPROPRIATION AUTHORIZATION

SEC. 318. (A) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after [October 1, 1978] *October 1, 2001,* any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of the date of approval of this Act or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

(b) Consistent with section 607 of the Congressional Budget Act of 1974, beginning [May 15, 1977, and not later than May 15 of each second even numbered year therafter] *January 1, 1999, and January 1 of each third odd-numbered year thereafter*, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the four-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to Office of Management and Budget, the funding levels which he determined can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

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DISSENTING VIEWS

We strongly object to the views expressed by the Majority in the report accompanying this bill as they relate to the issue of federal royalty rates for trona, or soda ash.

Rep. Barbara Cubin did offer an amendment on the subject of royalty rates for trona, however, she withdrew it upon advice from Counsel that it was not germane to H.R. 1077 and would be subject to a point of order.

We are alarmed that the Majority would abuse the legislative process by inserting language in a report intended to implement an amendment that was not germane to the bill nor even discussed during Committee deliberation on the bill. This has not been the practice of this Committee in past years under Democratic leadership. Moreover, the inclusion of the trona royalty language violates the principles established in section 407 of "Jefferson's Manual" which states that a committee "can only act when together, and not by separate consultation and consent—nothing being the report of the committee but what has been agreed to in committee actually assembled." This is a very disturbing precedent set by those who present themselves to the public as reformers of Congress.

Secondly, the stated concerns expressed in the report language are contradicted by testimony taken during an oversight hearing held on May 9, 1995, by the Subcommittee on Energy and Minerals. Officials from the Department of the Interior testified at great length and expressed in no uncertain terms that they had been analyzing this issue with great care and caution since 1992. So we fail to understand where the Majority's assertion that there is "no analytical support whatsoever for any lease" to justify raising the federal royalty rate from five percent to eight percent.

Indeed, the Assistant Secretary for Land and Minerals of the Department of the Interior testified that he was considering an increase in the federal royalty rate on trona to attain fair market value for the depletion of this public resource. Union Pacific Resources, a private entity, collects an 8% royalty on leases directly adjacent to federal lands. We do not agree with the Majority argument that the private rate is "the product of monopoly power and accordingly cannot be viewed as representing fair market value under FLPMA."

Land ownership within the Green River Basin in Wyoming is divided primarily among by the Federal Government (55.7%), Union Pacific Resources (38.1%) and the State of Wyoming (6.2%). The railroad's land was granted in a checkerboard pattern, approximately ½ mi squares, intermittent with federal land along the right-of-way. Consequently, all Wyoming trona operations are carried out on a mix of federal, state and private lands. And, because the majority of soda ash is made synthetically, which is more ex-

pensive to manufacture, Wyoming's natural soda ash is extremely competitive in world markets.

The Wyoming soda ash industry is thriving and has experienced steady growth since 1982. U.S. exports have increased by 281 percent since the last royalty increase in 1962—33 years ago. The trona industry is experiencing a growing international market demand accompanied by all time highs in production and greater foreign ownership of trona producing industries. Foreign investment in U.S. soda ash operations has risen from less than 10 percent in 1981 to 46 percent in 1993.

One of the top domestic producers recently announced that net corporate earnings were up in the first quarter of 1995, with industrial minerals, including trona, making a particularly hefty contribution to the healthy bottom line. And, four of the five largest and most profitable producers announced that they will be raising their prices by $15 dollars per ton effective July 1, 1995. These facts alone make the case for increasing the royalty rate for extraction of this valuable mineral from our public lands.

Raising the federal royalty rate from 5 to 8 percent as proposed, amounting to only 90 cents per ton, would increase gross federal receipts to about $21 million from $13 million; which means that about $10 million would go to the federal treasury instead of $6 million. We question how the Majority can assert that this is "an inconsequentially small increase in revenues"—especially when the State of Wyoming, which will receive one half of the total, is facing a serious budget shortfall. In these lean times, we should be applauding the Administration's proposal to collect more revenues from an extractive industry operating on public lands not attempting to thwart their efforts through corrupt and underhanded means.

As a Nation, we cannot afford to give away the public's minerals. Regretfully, we urge the Department to ignore the language inserted into the report accompanying this bill and instead to impose fair fees on extracting our Nation's mineral wealth. The bottom line is fairness. In this context, fairness is letting the Department of Interior set the royalty rate without Congressional meddling.

GEORGE MILLER.
NICK RAHALL.
NEIL ABERCROMBIE.
BILL RICHARDSON.

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