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### BLACK CANYON NATIONAL PARK AND GUNNISON NATIONAL CONSERVATION AREA ACT OF 1999

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JUNE 8 (legislative day, JUNE 7), 1999.—Ordered to be printed

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

### REPORT

[To accompany S. 323]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 323) to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends 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 “Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999”.

#### SEC. 2. FINDINGS.

Congress finds that—

- (1) Black Canyon of the Gunnison National Monument was established for the preservation of its spectacular gorges and additional features of scenic, scientific, and educational interest;
- (2) the Black Canyon of the Gunnison and adjacent upland include a variety of unique ecological, geological, scenic, historical, and wildlife components enhanced by the serenity and rural western setting of the area;
- (3) the Black Canyon of the Gunnison and adjacent land provide extensive opportunities for educational and recreational activities, and are publicly used for hiking, camping, and fishing, and for wilderness value, including solitude;
- (4) adjacent public land downstream of the Black Canyon of the Gunnison National Monument has wilderness value and offers unique geological, paleontological, scientific, educational, and recreational resources;
- (5) public land adjacent to the Black Canyon of the Gunnison National Monument contributes to the protection of the wildlife, viewshed, and scenic qualities of the Black Canyon;

(6) some private land adjacent to the Black Canyon of the Gunnison National Monument has exceptional natural and scientific value; that; would be threatened by future development pressures;

(7) the benefits of designating public and private land surrounding the national monument as a national park include greater long-term protection of the resources and expanded visitor use opportunities; and

(8) land in and adjacent to the Black Canyon of the Gunnison Gorge is—

(A) recognized for offering exceptional multiple use opportunities;

(B) recognized for offering natural, cultural, scenic, wilderness, and recreational resources; and

(C) worthy of additional protection as a national conservation area, and with respect to the Gunnison Gorge itself, as a component of the national wilderness system.

### SEC. 3. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term “Conservation Area” means the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres surrounding the Gunnison Gorge as depicted on the Map.

(2) MAP.—The term “Map” means the map entitled “Black Canyon of the Gunnison National Park and Gunnison Gorge NCA—1/22/99”. The map shall be on file and available for public inspection in the offices of the Department of the Interior.

(3) PARK.—The term “Park” means the Black Canyon of the Gunnison National Park established under section 4 and depicted on the Map.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

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

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

(b) ADMINISTRATION.—Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management which are identified on the map for inclusion in the park to the administrative jurisdiction of the National Park Service. The Secretary shall administer the park in accordance with this Act and laws generally applicable to units of the National Park System, including the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (16 U.S.C. 1,2–4), and the Act entitled “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes, approved August 21, 1935 (16 U.S.C. 416 et seq.).

(c) MAPS AND LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and a legal description of the park with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and maps. The maps and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) WITHDRAWAL.—Subjects to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

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

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

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

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

(3) With respect to the grazing permits and leases referenced in this subsection, the Secretary shall allow grazing to continue, subject to periodic renewal, for a period equal to the lifetime of the holder of the grazing permit or lease as of the date of enactment of this Act.

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

(a) **ADDITIONAL ACQUISITIONS.**—

(1) **IN GENERAL.**—The Secretary may acquire land or interests in land depicted on the Map as proposed additions.

(2) **METHOD OF ACQUISITION.**—

(A) **IN GENERAL.**—Land or interests in land may be acquired by—

- (i) donation;
- (ii) transfer;
- (iii) purchase with donated or appropriated funds; or
- (iv) exchange.

(B) **CONSENT.**—No land or interest in land may be acquired without the consent of the owner of the land.

(b) **BOUNDARY REVISION.**—After acquiring land for the Park, the Secretary shall—  
(1) revise the boundary of the Park to include newly-acquired land within the boundary; and

(2) administer newly-acquired land subject to applicable laws (including regulations).

(c) **BOUNDARY SURVEY.**—As soon as practicable and subject to the availability of funds the Secretary shall complete an official boundary survey of the Park.

(d) **HUNTING ON PRIVATELY OWNED LANDS.**—

(1) **IN GENERAL.**—The Secretary may permit hunting on privately owned land added to the Park under this Act, subject to limitations, conditions, or regulations that may be prescribed by the Secretary.

(2) **TERMINATION OF AUTHORITY.**—On the date that the Secretary acquires fee ownership of any privately owned land added to the Park under this Act, the authority under paragraph (1) shall terminate with respect to the privately owned land acquired.

**SEC. 6. EXPANSION OF THE BLACK CANYON OF THE GUNNISON WILDERNESS.**

(a) **EXPANSION OF BLACK CANYON OF THE GUNNISON.**—The Black Canyon of the Gunnison Wilderness, as established by subsection (b) of the first section of Public Law 94-567 (90 Stat. 2692), is expanded to include the parcel of land depicted on the Map as “Tract A” and consisting of approximately 4,419 acres.

(b) **ADMINISTRATION.**—The Black Canyon of the Gunnison Wilderness shall be administered as a component of the Park.

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

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

(b) **MANAGEMENT OF CONSERVATION AREA.**—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area to protect the resources of the Conservation Area in accordance with—

- (1) this Act;
- (2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
- (3) other applicable provisions of law.

(c) **WITHDRAWAL.**—Subject to valid existing rights, all Federal lands within the Conservation Area are hereby withdrawn from all forms of entry, appropriation or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

(d) **HUNTING, TRAPPING AND FISHING.**—

(1) **IN GENERAL.**—The Secretary shall permit hunting, trapping, and fishing within the Conservation Area in accordance with applicable laws (including regulations) of the United States and the State of Colorado.

- (2) EXCEPTION.—The Secretary, after consultation with the Colorado Division of Wildlife, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons concerning—
- (A) public safety;
  - (B) administration; or
  - (C) public use and enjoyment.
- (e) USE OF MOTORIZED VEHICLES.—In addition to the use of motorized vehicles on established roadways, the use of motorized vehicles in the Conservation Area shall be allowed—
- (1) to the extent the use is compatible with off-highway vehicle designations as described in the management plan in effect on the date of enactment of this Act; or
  - (2) to the extent the use is practicable under a management plan prepared under this Act.
- (f) CONSERVATION AREA MANAGEMENT PLAN.—
- (1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall—
    - (A) develop a comprehensive plan for the long-range protection and management of the Conservation Area; and
    - (B) transmit the plan to—
      - (i) the Committee on Energy and Natural Resources of the Senate; and
      - (ii) the Committee on Resources of the House of Representatives.
  - (2) CONTENTS OF PLAN.—The plan—
    - (A) shall describe the appropriate uses and management of the Conservation Area in accordance with this Act;
    - (B) may incorporate appropriate decisions contained in any management or activity plan for the area completed prior to the date of enactment of this Act;
    - (C) may incorporate appropriate wildlife habitat management plans or other plans prepared for the land within or adjacent to the Conservation Area prior to the date of enactment of this Act;
    - (D) shall be prepared in close consultation with appropriate Federal, State, county, and local agencies; and
    - (E) may use information developed prior to the date of enactment of this Act in studies of the land within or adjacent to the Conservation Area.
  - (g) BOUNDARY REVISIONS.—The Secretary may make revisions to the boundary of the Conservation Area following acquisition of land necessary to accomplish the purposes for which the Conservation Area was designated.

**SEC. 8. DESIGNATION OF WILDERNESS WITHIN THE CONSERVATION AREA.**

- (a) GUNNISON GORGE WILDERNESS.—
- (1) IN GENERAL.—Within the Conservation Area, there is designated as wilderness, and as a component of the National Wilderness Preservation System, the Gunnison Gorge Wilderness, consisting of approximately 17,700 acres, as generally depicted on the Map.
  - (2) ADMINISTRATION.—
    - (A) WILDERNESS STUDY AREA EXEMPTION.—The approximately 300-acre portion of the wilderness study area depicted on the Map for release from section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall not be subject to section 603(c) of that Act.
    - (B) INCORPORATION INTO NATIONAL CONSERVATION AREA.—The portion of the wilderness study area described in subparagraph (A) shall be incorporated into the Conservation Area.
  - (b) ADMINISTRATION.—Subject to valid rights in existence on the date of enactment of this Act, the wilderness areas designated under this Act shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.
  - (c) STATE RESPONSIBILITY.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act or in the Wilderness Act shall affect the jurisdiction or responsibilities of the State of Colorado with respect to wildlife and fish on the public land located in that State.
  - (d) MAPS AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of this section, the Secretary of the Interior shall file a map and a legal description of the Gunnison gorge Wilderness with the Committee on Energy and

Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. This map and description shall have the same force and effect as if included in this Act. The Secretary of the Interior may correct clerical and typographical errors in the map and legal description. The map and legal description shall be on file and available in the office of the Director of the BLM.

**SEC. 9. WITHDRAWAL.**

Subject to valid existing rights, the Federal lands identified on the Maps as “BLM Withdrawal (Tract B)” (comprising approximately 1,154 acres) are hereby withdrawn from all forms of entry, appropriation or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

**SEC. 10. WATER RIGHTS.**

(a) EFFECT ON WATER RIGHTS.—Nothing in this Act shall—

- (1) constitute an express or implied reservation of water for any purpose; or
- (2) affect any water rights in existence prior to the date of enactment of this Act, including any water rights held by the United States.

(b) ADDITIONAL WATER RIGHTS.—Any new water right that the Secretary determines is necessary for the purposes of this Act shall be established in accordance with the procedural and substantive requirements of the laws of the State of Colorado.

**SEC. 11. STUDY OF LANDS WITHIN AND ADJACENT TO CURECANTI NATIONAL RECREATION AREA.**

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, acting through the Director of the National Park Service, shall conduct a study concerning land protection and open space within and adjacent to the area administered as the Curecanti National Recreation Area.

(b) PURPOSE OF STUDY.—The study required to be completed under subsection (a) shall—

- (1) assess the natural, cultural, recreational and scenic resource value and character of the land within and surrounding the Curecanti National Recreation Area (including open vistas, wildlife habitat, and other public benefits);
- (2) identify practicable alternatives that protect the resource value and character of the land within and surrounding Curecanti National Recreation Area;
- (3) recommend a variety of economically feasible and viable tools to achieve the purposes described in paragraphs (1) and (2); and
- (4) estimate the costs of implementing the approaches recommended by the study.

(c) SUBMISSION OF REPORT.—Not later than 3 years from the date of enactment of this Act, the Secretary shall submit a report to Congress that—

- (1) contains the findings of the study required by subsection (a);
- (2) makes recommendations to Congress with respect to the findings of the study required by subsection (a); and
- (3) makes recommendations to Congress regarding action that may be taken with respect to the land described in the report.

(d) ACQUISITION OF ADDITIONAL LAND AND INTERESTS IN LAND.—

(1) IN GENERAL.—Prior to the completion of the study required by subsection (a), the Secretary may acquire certain private land or interests in land as depicted on the Map entitled ‘Proposed Additions to the Curecanti National Recreation Area,’ dated 01/25/99, totaling approximately 1,065 acres and entitled ‘Hall and Fitti properties’.

(2) METHOD OF ACQUISITION.—

(A) IN GENERAL.—Land or an interest in land under paragraph (1) may be acquired by—

- (i) donation;
- (ii) purchase with donated or appropriated funds; or
- (iii) exchange.

(B) CONSENT.—No land or interest in land may be acquired without the consent of the owner of the land.

(C) BOUNDARY REVISIONS FOLLOWING ACQUISITION.—Following the acquisition of land under paragraph (1), the Secretary shall—

- (i) revise the boundary of the Curecanti National Recreation Area to include newly-acquired land; and
- (ii) administer newly-acquired land according to applicable laws (including regulations).

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

PURPOSE OF THE MEASURE

The purpose of S. 323, as ordered reported, is to expand the boundaries of the Black Canyon of the Gunnison National Monument, to redesignate the Monument a national park, and to establish the Gunnison Gorge National Conservation Area, to be administered by the Bureau of Land Management.

BACKGROUND AND NEED

The Black Canyon of the Gunnison National Monument was established by Presidential Proclamation on March 2, 1933. The Monument's boundary was expanded in 1938, 1939, 1960 and 1984. In 1976, approximately 11,180 acres within the Monument was designated as wildernesses.

Carved by the Gunnison River Black Canyon of the Gunnison National Monument's dark gray walls of schist and gneiss are penetrated only by slanting rays of sunlight. The National Monument contains 20,766 acres, of which all but 120 acres are Federally owned. It is located near Montrose, Colorado, approximately 250 miles south west of Denver. The park receives approximately 230,000 visitors per year. Black Canyon shares its eastern boundary with Curecanti National Recreation Area, which is administered by the National Park Service under a cooperative agreement with the Bureau of Reclamation. Curecanti National Recreation Area receives approximately 1.1 million visitors per year.

Popular recreational activities at the Black Canyon of the Gunnison National Monument include: sightseeing, fishing, hiking, climbing, kayaking, photography, wildlife watching and camping. Wildlife in the area include: deer, elk, black bear, coyote, mountain lion, bighorn sheep, peregrine falcon and bald eagles. The Gunnison River provides excellent trout fishing. Entrance fees at the south rim and camping fees at both the south rim and the north rim are collected.

Gunnison Gorge Wilderness Study Area, managed by the Bureau of Land Management to preserve its scenic and recreational values, is downstream of the Black Canyon of the Gunnison National Monument. It offers a wild and pristine backcountry experience. The Gorge offers a technical and remote experience for rafters, kayakers and whitewater canoeists. Recreation user fees are required for both day use and overnight camping. Under the provisions of this legislation, the vast majority of the Gunnison Gorge Wilderness Study Area will be designated as a National Conservation Area.

LEGISLATIVE HISTORY

Similar bills were introduced by Representative Campbell in the 102nd Congress (H.R. 2925 on July 17, 1991) and by Senator Campbell in the 103rd Congress (S. 2284 on July 14, 1994) and 104th Congress (S. 1424 on November 19, 1995). S. 1424 was passed by the Senate as part of the Omnibus Parks and Public Lands Management Act of 1996 but was subsequently deleted from

the Omnibus Parks and Public Lands Management Act by the House of Representatives.

All of the above mentioned bills, while not identical, would have redesignated the Black Canyon of the Gunnison National Monument as a national park and designated the Gunnison Gorge as a national conservation area.

S. 232 was introduced January 28, 1999 by Senator Campbell. The Subcommittee on National Parks, Historic Preservation and Recreation held a hearing on S. 323 on March 24, 1999.

At its business meeting on May 19, 1999, the Committee on Energy and Natural Resources ordered S. 323, favorably reported, as amended.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 19, 1999, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 323, as amended as described herein.

#### COMMITTEE AMENDMENTS

During the consideration of S. 323, the Committee adopted an amendment in the nature of a substitute.

In addition to making several technical, clarifying and conforming changes to S. 323, the amendment directs the Secretary of the Interior to allow the grazing of livestock within the park to continue where authorized under existing permits or leases, at no more than the current level, subject to applicable laws and National Park Service regulations. The Secretary of the Interior shall allow grazing to continue, subject to periodic renewal, for the lifetime of the current permit or lease holder.

The amendment makes clear that with respect to a specific grazing permit or lease scheduled to expire according to the terms of a settlement by the U.S. Claims Court, the termination of such lease or permit is unaffected by this Act and will terminate on the previously scheduled date.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* designates the bill's short title as the "Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999."

*Section 2* lists the Congressional findings of the bill.

*Section 3* defines certain key terms used in the bill.

*Section 4(a)* establishes the Black Canyon of the Gunnison National Park and abolishes the Black Canyon of the Gunnison National Monument. All of the Monument's lands and interest in lands are incorporated into the new national park. Funds made available for the national monument shall be available for the national park.

Subsection (b) directs the Secretary to transfer lands under the jurisdiction of the Bureau of Land Management, as identified on the map, which are added to the park to the jurisdiction of the National Park Service. The park is to be administered in accordance with this Act and laws applicable to units of the National Park

System. Specific reference is made to “An Act to establish a National Park Service, approved August 25, 1916 (16 U.S.C. 1, 2–4) and “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, approved August 21, 1935 (16 U.S.C. 461 et seq.)”

Subsection (c) directs the Secretary to file maps and a legal description of the park with Senate Committee on Energy and Natural Resources and the House Committee on Resources as soon as practicable after the enactment of this Act. The maps and legal description must be on file and available for public inspection in appropriate National Park Service offices.

Subsection (d) withdraws, subject to valid existing rights, all Federal lands within the park from all forms of entry, appropriation, or disposal under the public land laws, the mining laws and laws relating to mineral and geothermal leasing.

Subsection (e)(1)(A) directs the Secretary to allow grazing to continue where authorized under permits or leases in existence as of the date of the enactment of this Act, consistent with the requirements of this subsection, including the limitation in paragraph (3).

Paragraph (1)(B) states that nothing in this subsection is to be construed to extend grazing privileges for any party or their assignee in any area of the park, where prior to the enactment of the Act, such use was scheduled to expire under the terms of a settlement by the U.S. Claims Court affecting property which had been incorporated into Black Canyon of the Gunnison National Monument.

Paragraph (1)(C) allows the Secretary to accept voluntary termination of grazing leases or permits.

Paragraph (2) allows grazing to continue in wilderness areas where authorized by permits in existence as of the date of the enactment of this Act, subject to regulations, policies and practices as the Secretary of the Interior deems necessary. It is to be consistent with this Act, the Wilderness Act and other applicable NPS laws and regulations.

Paragraph (3) directs that grazing in the park will continue, subject to periodic renewal, for the lifetime of the holder of the permit or lease as of the date of enactment of this Act.

*Section 5* (a) permits acquisitions of land or interests in land depicted within the park by donation, transfer, purchase with donated or appropriated funds or exchange. No land or interest in land may be acquired without the consent of the owner.

Subsection (b) directs the Secretary to revise the boundary to include new lands and to administer those lands subject to applicable laws and regulations.

Subsection (c) directs the Secretary to complete an official boundary survey as soon as practicable, subject to the availability of funds.

Subsection (d) permits hunting on privately owned lands added to the park, subject to prescribed limitations, conditions or regulations until the Secretary acquires fee ownership of such lands.

*Section 6* expands the Black Canyon of the Gunnison Wilderness, established by Public Law 94–567 to include land depicted on the map as “Tract A” and consisting of approximately 4,419 acres. It is to be administered as a component of the park.

*Section 7* (a) establishes the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres.

Subsection (b) directs that it be managed by the Bureau of Land Management in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws.

Subsection (c) withdraws land from all forms of entry, appropriation or disposal under public land laws; location, entry and patent under the mining laws; and operation of the mineral leasing and geothermal leasing laws, subject to valid existing rights.

Subsection (d) permits hunting, trapping and fishing within the conservation area in accordance with State and Federal laws. However, after consultation with the Colorado Division of Wildlife, regulations may be issued designating zones, and/or establishing periods where no hunting or trapping shall be permitted due to public safety, administration or public use and enjoyment.

Subsection (e) permits the use of motorized vehicles on established roadways and to the extent the use is compatible with off-highway designations described in the management plan in effect of the date of the enactment of the act, or to the extent the use is practicable under a plan prepared under this Act.

Subsection (f)(1) directs the Secretary to prepare a comprehensive long-range management plan for the Conservation Area within 4 years and to transmit the plan to the Senate Committee on Energy and Natural Resources and to the House Committee on Resources.

Paragraph (2) specifies the plan is to describe appropriate uses and management of the Conservation Area and that it may incorporate appropriate decisions contained in plans completed prior to the date of enactment of this Act, including wildlife habitat management plans. It is to be prepared in close consultation with appropriate Federal, State, county and local agencies and may incorporate appropriate plans, decisions or information developed prior to the enactment of act.

Subsection (g) permits the Secretary to make revisions to the boundary of the Conservation Area.

*Section 8* (a) designates the Gunnison Gorge Wilderness Area, approximately 17,700 acres, as a component of the National Wilderness Preservation System. An approximately 300-acre portion of the wilderness study area (depicted on the map for release from section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782)) is released from wilderness study status and shall not be subject to section 603(c) of that Act.

Subsection (b) states that subject to valid rights in existence on the date of enactment of this Act, the wilderness area is to be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) except that any reference to the effective date of the Wilderness Act is deemed to be a reference to the effective date of this Act. Any reference to the Secretary of Agriculture is to be a reference to the Secretary of the Interior.

Subsection (c) provides that nothing in this Act or the Wilderness Act shall affect the jurisdiction of the State of Colorado with respect to wildlife and fish on public land.

Subsection (d) directs the Secretary to file maps and a legal description of the Gunnison Gorge Wilderness with the Senate Committee on Energy and Natural Resources and the House of Representatives Committee on Resources as soon as practicable after the enactment of this Act. Corrections for clerical and typographical errors may be made. The map and legal description are to be on file and available for public inspection in the office of the Director of the BLM.

*Section 9* withdraws land identified on the maps as “Tract B” from all forms of entry, appropriation or disposal under public land laws; location, entry and patent under the mining laws; and operation of the mineral leasing and geothermal leasing laws.

*Section 10* states that nothing in this act shall constitute any reservation of water for any purpose or affect water rights in existence prior to the date of enactment of this Act, including rights held by the United States. Any new water rights shall be in accordance with the procedural and substantive requirements of the laws of the State of Colorado. The committee notes that whatever water rights are held by the United States for the Black Canyon of the Gunnison National Monument, including purposes and priority dates, are not affected by the redesignation of the monument as a national park.

*Section 11* (a) instructs the Secretary, acting through the Director of the National Park Service, within 3 years, to conduct a study concerning land protection and open space within and adjacent to Curecanti National Recreation Area.

Subsection (b) requires the study to address the natural, cultural, recreational and scenic value and character of the land; identify alternatives to protect the land; recommend a variety of economically feasible and viable tools to protect the land; and estimate the associated costs recommended by the study.

Subsection (c) directs the Secretary, within 3 years, to submit a report to Congress that contains the findings and makes recommendations in respect to the study required by subsection (a) and regarding action that may be taken with respect to the land described in the report.

Subsection (d) authorizes the Secretary to acquire approximately 1,065 acres of privately owned land known as the “Hall and Fitti properties.” It permits acquisitions of land or interests in land depicted on the map through donation, purchase with donated or appropriated funds or exchange. No land may be acquired without the consent of the owner. It also directs the Secretary to revise the boundary of Curecanti National Recreation Area to include new lands and to administer those lands subject to applicable laws and regulations.

*Section 12* authorizes appropriations necessary to carry out the Act.

#### COST AND BUDGETARY CONSIDERATIONS

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

*S. 323—Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999*

Summary: Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 323 would cost the federal government \$5.5 million over the next five years. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 323 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budgets of state, local, or tribal governments.

Description of the bill's major provisions: S. 323 would redesignate the Black Canyon of the Gunnison National Monument in Colorado as the Black Canyon of the Gunnison National Park. The bill would direct the Secretary of the Interior to transfer jurisdiction over about 7,000 acres adjacent to the existing national monument from the Bureau of Land Management (BLM) to the National Park Service (NPS) for incorporation into the new park. Subject to existing rights, all federal acreage within the park, including that transferred from the BLM, would be withdrawn from entry, appropriation, and disposal under public land and mining laws, and thus could not be sold, leased, or otherwise used for commercial purposes. (Grazing within the park, however, would continue until existing permits expire.)

Section 5 of the bill would authorize the NPS to acquire up to approximately 2,500 additional acres for the park by donation, purchase, transfer, or exchange. The NPS would revise the boundaries of the park once it acquires such lands and would conduct an official boundary survey of the park as soon as possible thereafter. Section 6 would expand the Black Canyon of the Gunnison Wilderness to include an additional 4,419 acres of land. This

S. 323 also would establish the Gunnison Gorge National Conservation Area (NCA). Section 7 would direct the BLM to administer the 57,725-acre NCA in accordance with this bill, the Federal Land Policy and Management Act of 1976, and other applicable laws. Lands within the NCA would be withdrawn from entry, appropriation, and disposal under public land and mining laws. This section would require the BLM to develop a comprehensive plan for protection and management of the NCA. If the agency acquires land for the NCA (as it may under existing authority), it would revise the area's boundaries accordingly. Also, section 8 would designate about 17,700 acres of land within the NCA as the Gunnison Gorge Wilderness. Section 9 also would protect other BLM lands outside of the NCA by withdrawing them under public land and mining laws.

Section 11 would require the NPS to conduct a study of the areas adjacent to the Curecanti National Recreation Area in order to assess resources and identify alternatives to protect them. This section would permit the NPS to acquire two tracts of land for inclusion in the NRA before the land protection study is completed.

Finally, section 12 would authorize the appropriation of whatever amounts are necessary to implement the legislation.

Estimated cost to the Federal Government: CBO estimates that the NPS and the BLM would spend a total of about \$1 million to complete the studies and plans required by S. 323 over the next

three or four years. In addition, we estimate that the NPS would spend about \$3 million to acquire land at Black Canyon and Curecanti. (BLM may also acquire land for the NCA, but the agency already has authority to acquire property in this area under other statutes.) CBO estimates that the cost of developing property acquired at the two park units would not exceed \$1.5 million in total. We estimate that additional annual expenses to operate the NCA and the two park units once the bill has been implemented would not be significant. All estimates are based on information provided by the NPS and the BLM. For purposes of these estimates, CBO assumes that the necessary amounts would be appropriated as required.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 323 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

Estimate prepared by: Deborah Reis.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 323. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of S. 323, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

At the Subcommittee hearing a representative from the National Park Service testified in support of S. 323, if amended.

#### STATEMENT OF STEPHEN SAUNDERS, DEPUTY ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you to address S. 323, a bill to redesignate Black Canyon of the Gunnison National Monument as a national park and to establish the Gunnison Gorge National Conservation Area. We support this legislation with the amendments mentioned in this testimony. We further would like to work with the committee on other minor technical changes.

If enacted, S. 323 would authorize the expansion of Black Canyon of the Gunnison National Monument and redesignate the monument as a national park. The bill would establish the Gunnison Gorge National Conservation Area, and authorize a study of the lands within and

adjacent to Curecanti National Recreation Area. The bill would also formally designate recommended wilderness within Black Canyon National Park and the Gunnison Gorge NCA.

We thank Senator Campbell for his continued interest and for his support in developing legislation that benefits the community and remains true to the spirit and mission of both the National Park Service and the Bureau of Land Management.

REDESIGNATION OF BLACK CANYON OF THE GUNNISON  
NATIONAL MONUMENT

Black Canyon of the Gunnison National Monument was established by Presidential proclamation in 1933 to preserve the spectacular gorges of the Gunnison River. And while legislation has since expanded and refined the monument's boundary and designated approximately 11,000 acres of wilderness, the significant resources have remained the gorge and canyon walls. In 1989, in response to P.L. 100-446, the National Park Service prepared the "Resource/Boundary Evaluation for Lands Adjacent to the Black Canyon of the Gunnison National Monument". The resource assessment determined that the lower gorge of the Gunnison River contained significant natural resources and opportunities for public enjoyment. It was also determined that these resources were directly related to the purpose for which the monument was established but were not represented within Black Canyon. The resources primarily involve geologic formations hundreds of feet thick that have eroded away from the monument portion of the landscape. These features would add a nationally significant and geologic aspect to the monument that is currently non-existent.

One of the study's alternatives recommended expanding the monument's boundaries to include these features and redesignation as a national park. The alternative was based upon long-standing NPS management policy and practice that a national park must include size, unique natural qualities and superlative scenery, as well as recreational opportunities. During the public involvement process of the study, the question was posed as to whether or not it was possible to change the status to a national park without additional resources being added. The National Park Service responded in that study and since, that we could not support a change in designation for the sake of "greater status" or without the addition of downstream lands to increase the size and diversity of the monument. At the same time, public opinion has generally supported the continued management of lands and existing recreational activities by the Bureau of Land Management in the Gunnison Gorge.

Since the completion of that study, the National Park Service and the Bureau of Land Management have worked on a variety of proposals to accomplish these objectives.

We believe S. 323 does accomplish the balance we have been seeking. Section 4 of the legislation would add almost 4,500 acres of river, inner canyon and uplands downstream of the monument now managed by the Bureau of Land Management to Black Canyon of the Gunnison National Monument. These added lands contain both resource and recreational diversity. At the area called Signal Hill, visitors would gain a new vantage of the incredible canyon below which some say rivals the Grand Canyon. In section 5, the Secretary is authorized to purchase three privately owned tracts comprising about 2,500 acres that are critical to the protection of the monument and the experience of the more than 200,000 visitors who come to the area each year. The largest tract is adjacent to the South Rim Drive and forms the scenic backdrop for the canyon rim. Two smaller tracts would protect the rural nature of the monument and offer potential new recreational opportunities to the extraordinary Red Rock Canyon area.

We believe these additions qualify Black Canyon for a change in designation. An area that qualifies for national park status represents an area that contains a wide range of resources, all of which have been determined to be nationally significant. We believe the proposal before you does that. The National Park Service and Bureau of Land Management will work together to manage both sites for the benefit of visitors and protection of these outstanding resources.

#### CREATION OF THE GUNNISON GORGE NATIONAL CONSERVATION AREA

The BLM-managed Gunnison Gorge and its surrounding lands offer outstanding scenery, backcountry hiking, camping and horseback riding, exceptional whitewater boating and world-class Gold Medal trout fishing in a remote and spectacular wild river canyon. The area is home to many species of wildlife including bighorn sheep, mule deer, elk, river otter, ringtail cats, mountain lion, bald and golden eagles, osprey, chukar, and peregrine falcon. The area combines a wide range of natural beauty, outstanding wilderness qualities, unique geologic features, sensitive riparian areas, critical wildlife habitat, and diverse recreational opportunities. S. 323 will allow the BLM to preserve these important aspects of the area for generations to come.

Section 7 of the legislation would establish the Gunnison Gorge National Conservation Area (NCA). The NCA would include over 57,000 acres. This area is currently managed as a Special Recreation Management Area and no major change in uses would be anticipated with the NCA designation. The designation would protect these lands for the future. Current users of the NCA area are primarily recreationists. This includes commercial and private boaters, anglers, mountain bikers, hikers and hunters.

The only significant non-recreational commercial use within the proposed NCA is grazing. The BLM authorizes

nine grazing permittees with a total of 3,800 AUMs (primarily winter/spring sheep permits). We do not expect any changes in grazing within the NCA.

The area has also been the site of a successful Recreation Fee Demonstration Project. A fee is charged at the four trailheads entering the gorge. In 1998, the demonstration project raised nearly \$20,000. Those funds are being used for trail upgrades, riparian improvement projects (primarily weed removal), facility repairs and an interpretive trail program involving local schoolchildren. Recognizing the importance of the area to the local community, a seasonal pass is offered which may be obtained either by paying a fee or providing volunteer service. Last year, more than 40 individuals took advantage of the latter option.

Section 8 of the bill creates the Gunnison Gorge Wilderness within the NCA. The wilderness would comprise slightly less than 18,000 acres. These lands (with one small exception) are currently identified as a Wilderness Study Area (WSA) and have been managed under interim management criteria since 1979. The small Smith Fork area in the northeastern section of the proposed wilderness comprises 1,294 acres. While not part of the WSA, it is managed under Interim Management Policy (IMP) criteria and in 1991 was recommended by the BLM as suitable for wilderness designation.

One parcel of approximately 300 acres is being removed from WSA status. This parcel, described in section 9(a)(2)(A) of the bill, is not appropriate for wilderness designation. It is unmanageable in terms of IMP criteria and is the location of a popular motorcycle trail. The bill would place this parcel within the NCA, giving it the protection necessary while preserving its use for off-highway vehicles.

Additionally, in section 6 of the bill a 4,460 acres parcel currently managed as part of the WSA would be transferred to the National Park Service (NPS) and will be included in the existing Black Canyon of the Gunnison Wilderness. This area is largely inaccessible except by raft or kayak and is upstream of the main river put-in at the base of the Chukar Trail. The BLM and NPS have agreed to work cooperatively to develop management agreements for this area.

Section 9 of the legislation withdraws approximately 1,554 acres of BLM-managed public lands from future entry under the mineral and public lands laws. This will prohibit any new development of these lands, popularly known as Jones Draw. Because these lands are a popular local hunting area, they are not appropriate for inclusion within the park. However, the BLM agrees that it is important to protect these lands. This withdrawal will have no effect on any current uses of these lands, including the predominant use—hunting. Additionally, we have two grazing permittees in that area who will be unaffected by the withdrawal.

The BLM is recommending four minor amendments of a technical nature. The first amendment would change the title of subsection 7(d) from “Permitted Uses” to “Hunting, Trapping and Fishing.” This change in title more accurately reflects what the section addresses and eliminates any confusion that uses not listed in this section might not be allowed.

Our second amendment is to subsection 7(f)(E). We propose replacing the word “shall” with “may”. We believe “may” more accurately reflects the intent and would not prohibit the use of information developed after the date of enactment.

Our third amendment, to subsection 8(b), insures that proper references are made to the Wilderness Act. Our final proposed amendment would add a new subsection 9(d), which requires the development of maps and legal descriptions for the Gunnison Gorge Wilderness following passage. This is standard language typically included in wilderness legislation.

#### LAND USE STUDY FOR CURECANTI NATIONAL RECREATION AREA

Between 1965 and 1976 three dams (Wayne N. Aspinall Unit) were completed that created three lakes on the Gunnison River to provide Upper Basin water storage, irrigation and hydroelectric power as part of the Upper Colorado River Storage Project (P.L. 84-485, April 11, 1956). The project also created recreation opportunities and fish and wildlife conservation programs. These lakes and surrounding cliffs and mesas form the nucleus of Curecanti National Recreation Area.

The National Park Service has managed Curecanti National Recreation Area under a Secretarial Agreement since 1965. In a subsequent agreement between the Bureau of Reclamation and the National Park Service agreed that it would recommend legislation to formally establish the national recreation area. Legislation to accomplish this has been introduced several times, beginning in 1991. Each time there was no final action.

Section 11 of S. 323 does not call for the establishment by statute of the Curecanti National Recreation Area. Instead, it proposes a study of the area to determine the best and most effective protection strategies. The National Park Service proposes to work closely with the two county governments, appropriate agencies, interested parties, and the public to evaluate natural, cultural and recreational resource needs, including scenic resources, and to consider alternative approaches for best protecting these resources. So much has changed since 1965 that it would be more appropriate to formally establish Curecanti NRA following further evaluation of resources, changing uses, and changed expectations. Section 11 would also authorize the acquisition of two properties from willing sellers.

The NPS is recommending two amendments to the legislation. The first amendment would address a minor boundary encroachment issue by allowing the Secretary to sell or exchange land parcels of ten acres or less where persons have encroached on the recreation area who in good faith relied on a survey, title search or other land description that indicated no such encroachment. This authority would expire two years after enactment of this act or completion of an official boundary survey, whichever is later. We will be glad to provide the committee with suggested language for this amendment. The second amendment is to section 11(d)(1), where we recommend including the most recent map reference, by changing the date to read 1/25/99.

We welcome the opportunity to work with the committee and Senator Campbell. We appreciate the committee's interest in this legislation, and look forward to working with you on our technical corrections. I would be happy to respond to any questions that you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 323, as ordered reported.

