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TEXT:

[*S14967]

The Senate proceeded to consider the conference report.

Mr. SIMPSON. Mr. President, I rise to join my colleague, the senior Senator from Wyoming, Malcolm Wallop, and many others in this body, in opposition to this bill.

I share my colleagues' strong concerns about the many problems this legislation will create for private property owners, those who enjoy recreation on these lands, and those who derive their livelihoods from these lands.

I would also remind my colleagues that this issue is not a new one to the Congress. Our former colleague, Senator Alan Cranston, had introduced legislation on this issue in both the 101st and 102d Congress.

Throughout those years, he modified his legislation many times. I am informed that many of the changes he adopted to ease the concerns of others [*S14968] are not incorporated in this legislation. That is, indeed, unfortunate.

It is my view, Mr. President, that the cost of this legislation will most adversely affect many people who will likely never see or drive by this proposed **wilderness** system.

Mr. President, the costs of land acquisition alone for this proposal will "break the bank" for the rest of the country. I will provide just three examples. There are many more that can, and likely will, be discussed on the floor during the remaining hours of this Congress.

I would urge my colleagues to keep a question in mind as we discuss the costs of this legislation: "What will be the source for these funds? Will they come from general revenue, or will they come from some other source, such as the Land and Water Conservation Fund?"

The Land and Water Conservation Fund is funded from taxes assessed from offshore oil and gas production. Perhaps some of my colleagues would like to keep that thought in mind before they cast their votes.

The money must come from somewhere. But in any case, it will ultimately come from our taxpaying constituents.

One portion of the proposed California Desert **Wilderness** System would be the East Mojave National Scenic Area: known as EMNSA.

The EMNSA would comprise 1.5 million acres; 200,000 acres of that is now in State or private

ownership. Those lands will have to be purchased.

Even if the powers of condemnation are used, which could prove to be necessary, the Constitution requires payment of "just compensation."

Even using very conservative estimates, that compensation will be a great deal of money. For example, up to 36,090 acres of private land would be acquired to create up to 20 new **wilderness** areas. That will be in addition to taking 818,978 acres of Federal land and 39,424 acres of State land out of multiple use.

Just 3 years ago, the Bureau of Land Management estimated the cost of acquiring the private lands in this single proposed **wilderness** area.

The private lands in this area range from homesites, to presently producing gold mines. Since 1988, the BLM has been managing these lands and has been negotiating for exchanges and acquisitions. They have not been very successful.

It is clear that the price of these lands will be higher than anticipated if full acquisition is to take place without using the power of condemnation.

The most recent estimate available, based on the 1991 report of the BLM, is that the costs of acquiring the 144,000 acres of private land within the proposed East Mojave Park could range from \$ 36 to \$ 57.6 million. If Congress requires these "inholdings" to be acquired, most of the private land will have to be acquired by direct purchase.

The same problem exists for State land acquisitions. Purchase of those lands could add another \$ 13.75 to \$ 22 million in land acquisition for the State lands.

We are already approaching a potential cost-conservatively-of up to \$ 79.6 million for a single portion of the vast undertaking which is the "California Desert Protection Act."

Land costs, as given in the BLM report, do not include the administrative costs associated with acquisition and exchanges. Both the National Park Service and the BLM would bear additional administrative costs in the millions of dollars to perform such duties as: Surveys, appraisals, adjudication, mineral reports, and appraisals, hazardous materials clearances, cultural clearances, and endangered species clearances.

In a 1986 National Park Service analysis of the proposed park units, the Park Service cites full, fee-simple, title acquisition as the principal land protection method. The report concluded that this was the only method of preventing "incompatible" economic uses and development.

"Incompatible uses" is another way of saying "multiple use." Make no mistake about it, this legislation would "lock up" land which has been used for a variety of legitimate and nonharmful purposes ever since this portion of our country was settled.

The entire East Mojave Park-which is already protected as the "East Mojave National Scenic Area"-would be withdrawn from entry under this legislation. Many of the lands in this area are already strongly protected under various classifications.

When Congress protected the East Mojave region, by designating it as a national scenic area in 1988, most of that area was designated as multiple use lands. Some areas, referred to as "class L" were afforded greater protections. Those protections are in effect today and work very well to preserve sensitive natural, scenic, ecological and cultural resources. The remaining multiple use lands provide for lower intensity, and carefully controlled, multiple use activities such as recreation.

The land management plan for this area already works well to protect the resources of this region.

There are currently 41,125 acres withdrawn from mineral development. There are 3,065 areas designated as Public Water Reserves. That designation places strict controls on agricultural use--indeed, it prohibits agricultural and mining development.

The East Mojave is currently protected by a special designation within the California Desert Conservation Area which has its own management plan and protection measures.

It is not necessary or efficient to add additional "layers" of management by making this all a national park.

The BLM has several other special designation areas in this region, including areas of critical environmental concern, research areas, and national natural landmarks. These areas are already "locked up" from any human impacts.

There are many other thorny problems that must be addressed if this legislation is enacted.

And, I would again point out to my colleagues that I am speaking with reference to a single portion of the proposed park: The East Mojave. It is a fraction of the total scope of this legislation. There is much, much more.

There are presently four waste dumps in the proposed East Mojave portion of the park. One of these is managed by the county as a solid waste disposal facility. The remainder are on private lands near three towns. These sites could already contain hazardous waste.

The Federal Government will have to pick up the tab to clean these sites. While some might argue that the Government could leave them alone and do nothing, I would ask, then, what purpose is being served by making a trash dump a national park?

Certainly, these sites will need to be cleaned sometime in the future if this legislation is enacted into law. Undoubtedly that will be at great cost.

Mr. President, there is much more I could say with respect to the proposed East Mojave Park portion of the proposed legislation. However, there is another proposed addition I wish to speak about, and I know that there are others who wish to speak.

So I will conclude my discussion of the East Mojave with this observation: The valuable resources, scenic and ecological, which exist in this area are already protected. The public may enjoy these lands under current designation with no fear of any future development. This legislation is not necessary to protect any resources and will be nothing more than a very expensive Federal land grab for the areas that remain in private or State ownership.

I would now call my colleagues' attention to another portion of this legislation: Proposed additions to the Death Valley National Monument.

Mr. President, designation as a "national monument" is not something to be taken lightly. Strong restrictions on human activity accompany such designation. Our Nation's first national monument was Devils' Tower, in northeastern Wyoming.

I have some degree of knowledge about how such resources are managed and I can assure my colleagues that this is one of the single most restrictive land use designations that the Government can impose. Virtually every imaginable human activity is strictly controlled, regulated, and in most cases, prohibited. A "national monument" is, indeed, protected.

This legislation would add four separate parcels to the already existing Death Valley National Monument. It would then be designated as the Death Valley National Park. That "redesignation," in my view, actually removes some protection under current law. [*S14969]

I do not believe that any of these lands are appropriate for park designation.

The first parcel that would be designated as a national park is the "Saline parcel." This parcel is approximately 910,000 acres. There are significant issues that are yet to be resolved and the sheer size of this parcel raises many tough administrative problems.

Among the many significant issues raised by the proposal to declare these lands as a national park are the following:

Economic impacts on mining and ranching operations.

Administrative costs to the Government associated with boundary locations, surveys, and inholding acquisition costs.

The difficulty of determining park and **wilderness** boundaries.

One **wilderness**, the Inyo, would be managed by three different agencies of the Government: The Park Service, BLM, and U.S. Fish and Wildlife Service.

\$ 1.7 million would be spent for survey work alone.

There are air traffic conflicts for military overflights.

The change in management status will have severe impacts on local economies and rural lifestyles.

Disposition of 1,121 mining claims involving hundreds of valid existing rights will be a very expensive undertaking-all paid for by the taxpayer.

62 active mining plans of operation would have to be terminated.

Two grazing allotments would be taken and 29 range projects would have to be eliminated.

Elimination of the last major herds of wild horses and burrows that are solely on public lands could be required.

Park designation would eliminate hunting, and would severely restrict bighorn sheep and other wildlife management projects.

Park designation would place severe restrictions on future utility development for California cities: Powerline and pipeline approvals would be most difficult to obtain.

Recreational uses would be restricted or eliminated. Activities such as "rochhounding," car camping, hunting, and access to the elderly and disabled would be severely curtailed.

This area is very popular with the general public, Mr. President, and the public enjoys a variety of benign uses. Expanding this into a giant, monolithic, national park would eliminate many of those activities. I do not see how the general public or the resource will be best served by this legislation.

The second parcel that would be included is the 207,000 acre "Owlshead" parcel. Analysis of the wisdom of designating these holdings as a national park have raised the same issues I have just

listed.

In addition to those problems, inclusion of this land as a national park would raise troubling law enforcement problems. The BLM agents who currently have jurisdiction are physically located an hour closer than any National Park Service personnel would be.

Nearly 3,000 acres of private land would become inholdings-many of these lands are held under existing mineral patents.

Another 9,300 acres of State land would have to be acquired, either through purchase or exchange.

Existing access routes would be curtailed or eliminated. This area is a popular area for recreation with the public. That would be eliminate or severely curtailed.

The third parcel proposed for acquisition, "Saddle Peak", also raised all of the above issues and concerns. This area contains 3,000 acres and is also heavily used for recreation purposes. Those activities would end or be severely restricted.

The fourth proposed parcel to be designated in this portion of the proposed California Desert National Park is the Greenwater parcel. This includes 258,000 acres of land. Designation of this parcel as national park raises all of the above concerns and even more, Mr. President. Including this land as national park would also require moving an entire town.

The town of Ryan is a mining town. People live and work and workship there. This legislation tells those good people that they simply do not matter. It tells them that their lives and contributions are insignificant when compared to the perceived "need" for still another national park.

This legislation is not just about a park in a single state, Mr. President. This legislation is about people.

Southern California is one of the most densely populated ares of our county. The people who live there need open spaces to which they can go to relax and, yes, to "recreate." We do them no service by placing even more restrictions on use of those public lands than already exist.

But this legislation impacts more than the good people of California. During the continuing debate over Federal land management policy in the West, in particular the rangeland reform proposals, we have heard much about how the "public lands" belong to more than just the residents of a particular State.

That same philosophy should apply to this debate as well, Mr. President.

Designation of national park lands on the scale contemplated in this legislation will certainly impact all of our constituents.

Our constituents may wish to travel to this area. They may wish to stop and enjoy themselves and to share the recreational experiences that currently exist for those who reside there. Sadly, Mr. President, this legislation will make the California desert as nothing more than a "scenic byway." The public may drive through only.

The public may be permitted to stop long enough to take a photograph, but then must leave. The public may stay only in designated campsites or a few designated lodging facilities.

There must be areas of our public lands that are truly open. That is why a Federal policy of differing levels of protection exists.

National park designation does not "open" lands, it closes them. If any one of my colleagues doubts that, I would suggest a brief trip to the nearest national park.

Upon entering, you will likely be given reading material telling you briefly what you may "see," but then telling you the many things you may not "do": Most parks that I am familiar with a long list of restrictions on public activity.

That is not "public" land. That is not "recreation" and that is not "ecosystem management." That is only about building barriers to human access and charging visitation fees.

There are many "costs" associated with this legislation. I do not believe we have seriously considered all of those costs in this debate.

There are the monetary costs. I mentioned those briefly regarding only a single portion of this tremendously broad proposal.

Those costs will be very high indeed and we have still not been provided with a true and accurate estimate for the total Federal expenditures that will result from this legislation.

But there are also a great many costs that cannot be quantified in dollars. There are costs to the people who will lose their lifestyles. There are the costs to the people who use these lands for recreation and relaxation and who will lose that treasured freedom-where will they go next? They will go somewhere, and the added pressure resulting from that "recreation migration" will have its own unique costs on other economies and lifestyles in other areas.

So there are also the costs imposed by this legislation in terms of freedoms lost. People will lose the freedom of movement that they currently enjoy and that will, Mr. President, result in a social cost that no one can adequately describe or quantify.

In closing, Mr. President, the more we consider this sweeping legislation, the more we come to realize that there are a great many problems that have not been considered. If considered, they have been dismissed as "unimportant."

I disagree. I believe it is very important to be very cautious with such legislation. We should err on the side of caution and we should defer to maintaining current, proven, management practices rather than sweeping change when a need for change has not been identified.

I strongly urge my colleagues to vote "nay" on the coming cloture vote. This legislation is too costly and it is just not necessary. [*S14970]

Mr. DOLE. Mr. President, during the last few days Congress has been discussing the conference report filed for the California Desert Protection Act. While we can all agree that there is a need to preserve this natural resource, there are many areas of concern as to the approach for that preservation.

More than 7.5 million acres of desert **wilderness** and 5.5 million acres of national parks and preserves are created through this legislation. Of primary concern is that no new funding is provided to manage these new park units or **wilderness** areas. Until we find a way to better care for the parks we already have, adding new park lands will only stretch our existing limited resources.

Significant land acquisitions required by this legislation will also add to the overall costs. I am concerned that private property rights of individuals affected by these acquisitions are not adequately protected. I continue to support the need for a takings impact assessment before going forward with any administrative or legislative rules.

We also need to address the broader economic impact of this legislation. The potential prohibition of multiple-use activities such as grazing or mining may restrict future activity that provides an important economic base for this region.

As I have mentioned before, traditionally the Senate has given latitude to the Senators from the State in which the land lies. However, I would like to enter for the record a letter from the four Members of the U.S. House of Representatives who represent the area in question and are in opposition to this legislation. Their views in concern for the areas they represent should not be overlooked.

House of Representatives,

Washington, DC, September 23, 1994.

Hon. Robert Dole,

Senate Republican Leader,

Washington, DC. Dear Senator Dole: As representatives of the California Desert, we would like to convey our strong opposition to the Senate consideration of S. 21, the California Desert Protection Act, and urge you and your colleagues to oppose the motion to invoke cloture.

S. 21 is based on a myth-that the deserts of California are currently unprotected, and open to the ravages of greedy corporations and careless off-roaders who would destroy the desert for pure pleasure or the almighty dollar. This is a useful emotional lever, but it is patently false. The facts are these: in its passage of the landmark Federal Land and Policy Management Act of 1976 (FLPMA), Congress among other things mandated that a plan be prepared for the protection of the California deserts. At the direction of Secretary Cecil Andrus, an Advisory Committee representing the various desert user groups was formed to analyze and evaluate the California Desert Conservation Area for **wilderness** or nonwilderness designation. After an extensive outreach program which included years of public hearings and over 40,000 public comments, the Advisory Committee proposed that 2.3 million acres in 62 **wilderness** areas be preserved-far less than the eight million acre land grab we are considering today. Although these recommendations were introduced by the five desert Congressmen as H.R. 2379, our bill was never given a proper hearing by the House Committee on Natural Resources.

The second flaw of S. 21 is the enormous cost to the taxpayers of acquiring and managing the nearly eight million acres of proposed **wilderness** and park land protected by the bill. Not only does this measure fail to provide the funds necessary to acquire private inholdings, but it also neglects the 26-year, \$ 1.2 billion backlog in land acquisition faced by the National Park Service. Moreover, the Park Service admits an additional 37-year, \$ 5.6 billion backlog in capitol construction and maintenance costs. By adding over three million acres to our already beleaguered system, three certainties will result: increases in visitation, decreases in budgets and staff, and accelerated deterioration of our National Parks.

The third, and perhaps the most troubling, shortcoming of S. 21 is the omission of the thoughts and views of desert residents-most of whom are the best and most knowledgeable caretakers of this resource. Since this debate began, we have collectively received thousands of calls and letters from people who fear they will be locked out of the desert they have enjoyed for generations. Under a **wilderness** designation, areas will be accessible only on foot or on horseback, a daunting challenge considering the extreme heat and ruggedness of the terrain. Only the most physically able will be able to enjoy these expanses, underscoring the lack of foresight exercised by the armchair environmentalists who drafted S. 21.

We had hoped to help Senator Feinstein craft a sound desert bill in this Congress, but our offers of assistance were repeatedly ignored. Aside from a few minor concessions, none of our concerns

saw the light of day until the legislation reached the House floor. This treatment and the resulting lack of balance in the compromise bill leaves us with no recourse but to oppose S. 21. It angers us that we have been painted into this corner, and we resent the hardball tactics of Senator Feinstein and a small band of her environmental allies. Without a doubt, the California Desert Protection Act will incur consequences and set unwanted precedents that will affect not only California, but also every other state in the Union. For these reasons, we respectfully request that you oppose the motion to invoke cloture. In a time when the federal government should be reined in, we are facing a dangerous expansion of federal authority under this legislation-at a price taxpayers cannot afford.

We thank you for your time and your consideration, and are available to you individually or as a group should you have any questions.

Sincerely,

POSITION ON VOTE

Mr. FAIRCLOTH. Mr. President, if the Senate had conducted a rollcall vote on adoption of the conference report to accompany S. 21, the California Desert Protection Act of 1994, I would have voted in the negative.

VOTE

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to the conference report.

The conference report was agreed to.

Mr. FORD. Madam President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.