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APPROVED
OCT 21 1976

8/10/21/76

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day: October 23

October 20, 1976

*Posted
10/22/76*

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *[Signature]*
SUBJECT: S. 507 - National Land Policy and Management Act of 1976

*Archives
10/22/76*

Attached for your consideration is S. 507, sponsored by Senators Haskell, Jackson and Metcalf.

The enrolled bill provides for management, protection and development of the lands under the Bureau of Land Management, Department of the Interior.

Unlike other Federal land management agencies such as the National Park Service or the National Forest Service, there is no single statutory statement of the Bureau's mission and authority. These must be gleaned from some three thousand land laws which have been accumulated over some 170 years. This piecemeal collection of laws is inadequate, incomplete, and sometimes conflicting.

S. 507 conforms to the broad structure of the Administration's proposed BLM Organic Act and does correct most of the problems associated with the lack of a single authority.

OMB, in recommending veto, points out several problems:

- Legislative Encroachment - Congress could disapprove several Secretarial actions.
- Mineral Development Loans - Low interest Federal loans could be made to States to relieve social and economic impacts.
- Grazing - Grazing permits would be issued for 10 years, reducing management flexibility.
- rights-of-Way - States could hold a veto over Federal rights-of-way.
- Compliance with State Pollution Laws - Bill would require procedural as well as substantive compliance with State air, water, noise and othr pollution standards.

OCT 21 1976



Agency Recommendations

Interior and Agriculture both urge your approval, pointing out that the bill is generally consistent with Administration policy, contains most of the authority we have requested, and is probably as good a bill as we can hope to get.

The Department of the Treasury would support disapproval of the bill. The Department of Justice cites constitutional concerns but defers to agencies involved.

OMB recommends disapproval. (See enrolled bill report at Tab A)

Staff Recommendations

Max Friedersdorf recommends approval of the bill and states: "Don Clausen has strong interest. Sen. Domenici supports bill".

Counsel's Office (Kilberg) recommends disapproval because of "unconstitutionality of provision allowing Congressional disapproval of certain Executive Branch actions by concurrent resolution."

Robert Hartmann recommends veto on constitutional grounds.

Recommendation

I recommend that you approve S. 507.

Although the legislative encroachment provision is constitutionally troublesome, the bill is generally consistent with your policies and has wide support from the Western ranchers, environmentalists and the mining interests.

Decision

Sign S. 507 at Tab B.

Veto S. 507 and sign Memorandum of Disapproval at Tab C which has been cleared by Doug Smith.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 19 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 507 - National Land Policy and
Management Act of 1976
Sponsors - Sen. Haskell (D) Colorado, Sen. Jackson
(D) Washington, and Sen. Metcalf (D) Montana

Last Day for Action

October 23, 1976 - Saturday

Purpose

Provides for the management, protection, and development
of the national resource lands, and for other purposes.

Agency Recommendations

Office of Management and Budget	Disapproval (Memorandum of Disapproval, attached)
Department of the Treasury	Supports Disapproval
Department of Justice	Cites constitutional concerns
Department of Commerce	No objection
Department of Defense	No objection
Federal Power Commission	No objection
Federal Energy Administration	No objection (Informally)
General Services Administration	No objection (Informally)
Department of the Interior	Approval
Department of Agriculture	Approval
Council on Environmental Quality	Approval
Environmental Protection Agency	Approval
Civil Service Commission	Approval



Background

The Bureau of Land Management (BLM), Department of the Interior, has extensive management responsibilities concerning (1) some 450 million acres of national resource lands (public domain); (2) additional millions of acres of lands that have been withdrawn from the public domain; (3) all reserved mineral interests of the United States contained in over 800 million acres, and (4) certain special Federal tracts. However, unlike other Federal land management agencies such as the National Park Service or the National Forest Service, there is no single statutory statement of the Bureau's mission and authority. These must be gleaned from some three thousand land laws which have been accumulated over some 170 years. This piecemeal collection of laws is inadequate, incomplete, and sometimes conflicting.

Since 1971, legislation has been actively considered in Congress to provide an Organic Act for BLM. Over this period, both the previous and the present Administrations submitted legislation that would establish clearly enunciated policies and provide comprehensive organic authority under which all BLM lands could be managed. Under the Administration proposal submitted to the Congress in 1975, the following basic authorities and principles were set forth:

- that national resource lands shall be managed under principles of multiple use, sustained yield, and protection of environmental quality;
- that the national interest will best be served by retaining these lands in Federal ownership;
- that the Secretary of the Interior inventory and classify the national resource lands and develop comprehensive land use plans for such lands giving priority to lands in critical environmental areas;
- that the Secretary have statutorily promulgated policy to guide all his discretionary activities relating to the national resource lands; and,
- that a multitude of archaic land disposal laws be repealed and more modern procedures be adopted for the sale (at fair market value), acquisition, withdrawal, and protection (including enforcement authorities) of these lands.

Although S. 507 conforms to the broad structure of the Administration's proposed BLM Organic Act, a number of undesirable features have also been incorporated into the bill, as enrolled. The basic framework of the bill is set forth below and the significant objectionable provisions are discussed thereafter.

As is the case of the Administration's proposal, S. 507 would provide for inventorying public lands, land use planning, management under principles of multiple use and sustained yield, retention of public lands in Federal ownership unless the public interest would be served by disposal, land acquisition and disposal under certain guidelines consistent with land use plans, payment of fair market value for any lands sold, public involvement in various BLM decisions, coordination with State and local planning, law enforcement, wilderness area identification and review, recordation of mining claims, granting of rights-of-way under a comprehensive environmentally sound system, establishing a working capital fund for the management of the public lands, and repeal of a number of outmoded disposal and right-of-way statutes. In addition, it would also set forth provisions on issuance, duration, and administration of grazing permits, require that a grazing fee study be made and that grazing advisory boards be created, establish a new procedure for granting, modifying and revoking withdrawals, and require that a study be made of certain existing withdrawals.

Several of the bill's provisions would be applicable to the administration of the National Forest System. These apply to land exchange, range management, and rights-of-way activities. In addition, the National Forest Townsite Act would be amended to have the effect of making national forest lands more available for townsites in the West or Alaska.

The enrolled bill would authorize appropriations of (1) \$20 million for withdrawal reviews, (2) \$3 million for the working capital fund, and (3) \$40 million for the development and management of the California Desert Conservation Area. The enrolled bill would also authorize such sums as may be necessary for carrying out the Act, and in this regard, the Secretary would be required every four years to seek an appropriation reauthorization for all BLM programs effective for fiscal year 1979.



As noted above, this legislation has a long legislative history, and the Administration has undertaken extensive efforts to achieve a bill that is generally consistent with its proposal. While the overall framework of the bill, as summarized above, does meet this test, there are a number of seriously objectionable features that have been retained. Each is discussed below.

Legislative Encroachment. By concurrent resolution, enacted within 90 days of congressional notification of the proposed executive action, the Congress could disapprove the five following Secretarial actions:

- the elimination of a principal land use (grazing; mining; forestry; etc.) for two or more years on tracts of 100,000 acres or more;
- the sale of public lands in excess of 2,500 acres;
- the withdrawal from multiple-use status of public lands for a specific purpose on tracts of 5,000 acres or more;
- the termination, in accordance with the recommendations of the President, of existing withdrawals that have been determined to be no longer valid; and,
- any decision to not honor a claim to public lands made by a person who has exercised unintentional trespass on such lands.

Although the concurrent resolution mechanism has replaced an even more objectionable one-house veto from an earlier bill, we continue to view these legislative encroachment measures as seriously objectionable on constitutional grounds. Moreover, they clearly impose substantial constraints upon the discretion of the Secretary to manage the public lands.

Mineral Development Loans. The enrolled bill would authorize the Secretary of the Interior to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of federally-owned minerals that are leased in such States.



The bill would require the Secretary to allocate the loans among the States in a fair and equitable manner, giving priority to the areas suffering the most severe impacts. The loans would bear an interest rate of 3 percent and would be limited to the amount of the anticipated mineral revenues to be received by the State over a 10-year period, except that in the case of Alaska the limit would be 55 percent of its anticipated revenues. As you recall, the State share of these mineral revenues was recently increased from 37 1/2 percent to 50 percent under provisions of the Federal Coal Leasing Act. Such loans would be paid back from these mineral revenues.

Although this provision can be viewed as simply an advance payment, the interest rate carries a heavy subsidy. In this regard, the Administration position on impact assistance has been that loan interest rates should be at not less than the Federal Treasury rate. This provision also lacks the customary safeguards associated with Federal loans (credit elsewhere test; reasonable assurance of repayment; etc.).

Grazing. The enrolled bill would stipulate that grazing permits be issued for 10-year terms except in limited cases. Moreover, grazing advisory boards would be authorized for the purpose of making recommendations for the development and utilization of public lands for livestock operations.

The 10-year term is a very arbitrary and inflexible requirement that reduces the Secretary's ability to properly manage range lands. The grazing boards would very likely have a single-use bias that would impair multiple-use management of these lands.

Rights-of-way. Most provisions in this title of the bill are generally sound, but one provision would require that each right-of-way permit require compliance with all State standards. This could lead to States holding a "veto" power over Federal rights-of-way, or at a minimum, control of rights-of-way in a manner that may not be in the public interest.

Compliance with State pollution law. S. 507 would require that land use plans developed by the Secretary provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans.

Under Executive Order 11752, Federal lands are now required to be in compliance with State, interstate, and local substantive requirements respecting control and abatement of pollution, but not the procedural requirements associated with State standards and regulations. S. 507 would substantially broaden existing State authorities and responsibilities on Federal lands by requiring Federal land use plans to comply with procedural as well as substantive requirements. This additional requirement is unduly burdensome with respect to existing Federal activities in public lands management and could be injurious to ongoing activities.

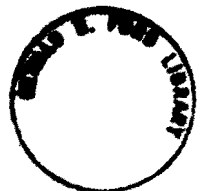
The Administration worked extensively with the Senate and House Interior Committees in an effort to produce an acceptable bill. In this regard, on August 27, 1976, Secretary Kleppe wrote the conferees to reiterate the Administration's serious concerns with respect to this legislation. The Secretary noted, as had been done on several previous occasions, that enactment of the bill would not be in accord with the President's program unless it was revised as recommended by the Administration.

Agency Views

The two agencies that would be most affected by S. 507, Interior and Agriculture, both recommend approval based on the assessment that the enrolled bill represents a reasonable compromise between divergent House and Senate approaches to the legislation. In its attached enrolled bill letter, Interior expresses the view that many of the Administration's concerns have been adequately addressed, and the Department concludes that:

"In view of the immediate need for the important and highly desirable authority granted by S. 507 and the lack of any indication that an Act entirely consistent with our views could be obtained in the near future, it is our view that approval of S. 507 would be in the public interest.

S. 507 is basically consistent with the broad policy objectives expressed in the Administration's proposed National Resource Lands Management Act and contains most of the authority requested by the Administration with respect to management of lands administered by the Secretary through the Bureau of Land Management."



Justice, in its attached enrolled bill letter, observes that the bill contains legislative encroachment measures that the Executive Branch has consistently opposed on constitutional grounds. However, the Department generally defers to Interior.

On the other hand, Treasury's enrolled bill letter supports a veto recommendation. Treasury is strongly opposed to the mineral development loans for essentially the same reasons cited above.

Arguments for Approval

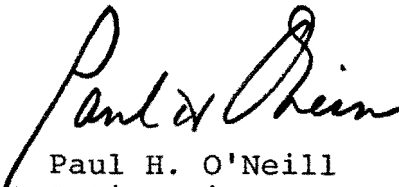
- The bill would place BLM on par with other natural resources agencies by providing a comprehensive statement in law of the Bureau's mission and authority.
- It would eliminate the need for numerable private relief bills by providing the Secretary with discretion to sell Federal mineral interests under prescribed conditions.
- It would provide for the modern land management tools and procedures designed to facilitate optimal use of the public lands.
- The bill would provide for the repeal of many ancient, conflicting, and outmoded laws that are now a hindrance to the effective management of the public lands.
- The bill's provision for mineral development loans could be beneficial in promoting energy production in the Western States.
- This legislation may be the best that can be expected from the Congress for some time, and a continuance of the status quo will further delay the full implementation of contemporary management procedures.
- S. 507 has the support of ranchers, environmentalists, and the mining interests.

Arguments against Approval

- Given that BLM has managed to do an acceptable job of managing the public lands under existing law, there is no compelling reason to accept the bill's serious constitutional and programmatic deficiencies simply in order to obtain new organic authority for the Bureau.
- Disapproval would be consistent with your disapproval of several bills in recent months which have contained related legislative encroachments (one-house or one-committee vetoes).
- S. 507 goes far beyond the Administration proposal in terms of mandating detailed and cumbersome management requirements, especially for withdrawals.
- Under the enrolled bill, there would be a significant, if not unprecedented, intrusion by the Congress into the daily management of a natural resources agency.
- The heavily subsidized mineral development loans raise serious questions of equity when considered in the context of the recent 12 1/2 percent increase, to 50 percent, in the States' share of mineral leasing receipts.
- The bill extends preferential rights to grazing interests and thus continues to favor this protected special interest group.
- S. 507 establishes a very undesirable policy by requiring that Federal actions (i.e., rights-of-way permits; land use plan pollution requirements) comply with State standards or procedures.

Conclusion

We believe the arguments against approval are stronger, and accordingly, we recommend disapproval. We have prepared a Memorandum of Disapproval for your consideration.


Paul H. O'Neill
Acting Director

Enclosures



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 14 1976

Dear Mr. Lynn:

This responds to your request for the views of this Department on S. 507, "To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development and enhancement of the public lands; and for other purposes."

We recommend that the President approve the enrolled bill.

S. 507 provides for the inventorying of the public lands, land use planning, management under principles of multiple use and sustained yield, retention of public lands in Federal ownership unless the public interest would be served by disposal, land acquisition and disposal under certain guidelines consistent with land use plans, payment of fair market value for any lands sold, public involvement, coordination with State and local planning, law enforcement, wilderness area identification and review, recordation of mining claims, granting of rights-of-way under a comprehensive environmentally sound system, and repeal of a number of outmoded disposal and right-of-way statutes. In addition, it contains provisions on issuance, duration, and administration of grazing authorizations, requires that a grazing fee study be made and that grazing advisory boards be established, establishes a new procedure for granting, modifying and revoking withdrawals, requires that a study be made of certain existing withdrawals, and establishes procedures for Congressional review of some secretarial decisions with respect to disposals, implementation of land use plans, and withdrawals.

Although S. 507 includes several provisions similar to provisions to which this Department has consistently objected, it nevertheless provides the major policy statements and authorities and includes the repealers that we consider critical to the most effective management of the public lands. The need for a comprehensive statutory mission statement, management authority and tools and for repeal of outmoded laws will grow even more crucial in the coming years when these lands and their resources will be even more intensely sought for a myriad of competing uses.



1. The one-House "veto" of various actions of the Secretary, provided for in the House Act has been changed to a concurrent resolution. While we continue to object in principle, we believe that this change is less objectionable from a Constitutional point-of-view. If the Act becomes law, we will carefully evaluate the impact of the time delays on those administrative actions which we are required to send to Congress for their oversight.

2. The specific grazing fee formula in the House Act to which we objected is not in S. 507, as enrolled. The requirement in S. 507, as enrolled for a study of the value of grazing on the public lands, is consistent with a review of various fee formula alternatives now being conducted by the Department of Agriculture and the Department of the Interior.

3. S. 507, as enrolled, includes the requirement that was contained in the House Act that grazing authorizations be issued for a term of ten years except in certain limited cases, and that two years' notice be given a permittee prior to cancellation of a permit in certain situations. However, new language has been added to these sections of the bill to make this requirement less objectionable. For example, new language is included which states that these provisions do not modify provisions of the Taylor Grazing Act or any other law, with respect to creation of any right to public lands by issuance of grazing permits. There are also provisions authorizing the Secretary to insert in grazing leases and permits terms and conditions he deems appropriate. Further, the authority of the Secretary to cancel, suspend, or modify a grazing permit has been clarified.

Finally, S. 507 as enrolled would not require the Secretary to include allotment management plans in any permit until they are completed or at the latest by October 1, 1988. This discretion with respect to inclusion of allotment management plans is consistent with our present plans concerning development and inclusion of allotment management plans. It should be noted that the Conference Report states that the grazing provisions will negate a court order barring issuance of 10-year leases and permits until environmental impact statements have been prepared. The grazing tenure provisions that are included in S. 507, as enrolled, are still somewhat confused and do not meet all of our objections. However, we believe that on balance, these provisions will not create problems sufficient to warrant disapproval of the Act by the President.

4. With respect to the provisions of the grazing advisory boards, we believe that while unnecessary, grazing boards with the narrow duties specified by the Conference Committee will not significantly interfere with or duplicate the duties of our present multiple-use boards.

5. The withdrawal provisions of the House Act to which we previously objected have been modified in two ways. The one-House veto has been changed to a concurrent resolution disapproving the Secretary's actions, and the time limitations and requirements for various actions have been lengthened. For example: most withdrawals could be for a term of twenty years rather than ten; emergency withdrawals would last three years rather than one; the segregative effect of an application would last for as long as two years rather than one; and fifteen years would be provided for the withdrawal review instead of ten. The requirements of the previous House Act with respect to documentation which would have to accompany submission of a withdrawal to the Congress for review have not been modified. However, we believe that the increased time period during which the segregation would be in effect and the increase in the maximum term of a withdrawal mitigate the administrative burden by those requirements.

6. Our objection to use of the term "reasonable costs" in the House Act has been largely accommodated by specification in S. 507, as enrolled, that "reasonable costs" include costs of environmental impact statements. Additional language authorizes the Secretary to take various factors into consideration in determining what costs are "reasonable costs." Although this provision partly overlaps and partly varies from other authorities and guidelines concerning reimbursement of costs, we believe that, since it is discretionary, it will not pose any major problems.

7. Our objection to the biennial reauthorization of appropriations for Bureau programs in the House Act remains, in concept. However, the provision has been modified to require quadrennial reauthorization and thus is less objectionable administratively.

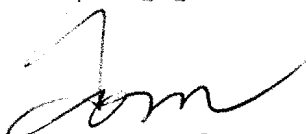
8. Our objections to a requirement in the right-of-way provisions that certain State standards be met by right-of-way grantees have not been accommodated.

Of the desirable provisions in the House Act which were not in the Senate Act, all except the authority to sell or donate excess wild horses and burros, are included in S. 507 as enrolled.

In view of the immediate need for the important and highly desirable authority granted by S. 507 and the lack of any indication that an Act entirely consistent with our views could be obtained in the near future it is our view that approval of S. 507 would be in the public interest.

S. 507 is basically consistent with the broad policy objectives expressed in the Administration's proposed National Resource Lands Management Act and contains most of the authority requested by the Administration with respect to management of lands administered by the Secretary through the Bureau of Land Management. Accordingly, we recommend that the President approve the enrolled bill.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "J. M.", is written over the typed name of the Secretary of the Interior.

Secretary of the Interior

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

October 13, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget

Dear Mr. Lynn:

In response to the request of your office, here is our report on the enrolled enactment S. 507, entitled "Federal Land Policy and Management Act of 1976."

The Department of Agriculture recommends that the President approve the enactment.

S. 507 in Title I, "Short Title; Policies; Definitions" makes a declaration of policy and provides definitions primarily applicable to lands administered by the Secretary of the Interior through the Bureau of Land Management (defined as public lands) with certain references to additional lands within the National Forest System or to all Federal lands. Title II, "Land Use Planning; Land Acquisition and Disposition", provides broad direction and authority to the Secretary of the Interior with regard to administration of public lands. It is applicable to the Secretary of Agriculture with regard to acquisition and exchange authorities and includes revision of the National Forest Townsite Act. Title III, "Administration", contains the basic organic authority for the Bureau of Land Management. Title IV, "Range Management" provides direction to both the Secretary of the Interior and Secretary of Agriculture on grazing fees, leases and permits, and advisory boards. Title V, "Rights-of-way" revises authorities for granting rights-of-way across public lands and National Forest System lands. Title VI, "Designated Management Areas" provides direction to the Secretary of the Interior on the California Desert Conservation Area, on the King Range, and on wilderness study. Finally, Title VII, "Effect on Existing Rights; Repeal of Existing Laws; Severability", provides for repeal of certain laws applicable to lands now administered by the Bureau of Land Management and the Forest Service.

S. 507 sets forth a general policy declaring that the lands which are now administered by the Bureau of Land Management are to be retained in Federal ownership. It provides organic authority for management of these lands by the Secretary of the Interior through the Bureau of Land Management. These aspects of the enactment are similar to the legislative proposal developed by the Secretary of the Interior. The enactment, however, goes far beyond that proposal and prescribes detailed management

requirements. In particular, we note that the new provisions pertaining to withdrawals appear to be unduly cumbersome. We also note that much of the President's authority to set aside land is repealed. We defer to the Secretary of the Interior for a detailed analysis of the withdrawal and other management requirements which are applicable primarily to the Department of the Interior. The enactment is also applicable to, and modifies, a number of the authorities of the Secretary of Agriculture relating to the administration of the National Forest System. We will comment on these provisions.

Throughout the development of S. 507 we urged that the legislation only apply to the Secretary of the Interior and lands administered by the Bureau of Land Management because the Secretary of Agriculture has comprehensive authorities for the administration of the National Forest System. We were only partially successful in our efforts to limit the scope of the legislation. As passed, S. 507 provides the Secretary of Agriculture with new or modified authorities for land exchange, range management, and rights-of-way, and revises the National Forest Townsite Act.

Under section 206, the land exchange authorities of the Secretary of Agriculture would be modified to require the equalization of values by the payment of money to the grantor or the Secretary, so long as payment does not exceed 25 per centum of the total value of the lands transferred out of Federal ownership. This new authority may expedite certain aspects of the exchange program. It will, however, also result in some new costs since the Forest Service will be required to make equalization payments in some cases.

Section 213 would revise the National Forest Townsite Act and have the effect of making National Forest lands more available for townsites. We would prefer to see this Act repealed rather than made more operative. We have previously accommodated townsite needs through our exchange program and would prefer to continue to use that approach in lieu of sale.

Insofar as they affect this Department, the new authorities for range management, which are contained in Title IV are similar to existing policies. The range management provisions originated in the House amendment to S. 507. We had major objections to the original amendment. Most of these objections were eliminated by the Conference Committee. S. 507 now provides for a 1-year grazing fee study. We and the Department of the Interior had already indicated to Congress a willingness to review our grazing fee structure. S. 507 also provides for 50 per centum of grazing fees to be placed in a range betterment fund. We do not believe this provision was necessary; however, it may be useful as a mechanism to encourage increased permittee participation in management programs. The provisions on grazing leases and permits and grazing advisory boards were revised in the Conference

Honorable James T. Lynn

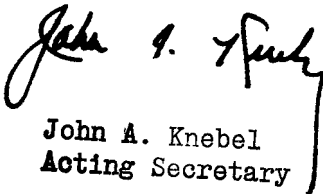
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Committee to closely parallel existing policy and should not cause significant changes in ongoing programs.

We believe the new rights-of-way authorities which are contained in Title V of S. 507 are generally sound, and that common authorities for both Secretaries in this area will facilitate interagency coordination and public service. The only major provision in this title to which we take strong exception is the requirement in subsection 505(a)(iii) and (iv) that all rights-of-way comply with all State standards. This provision may cause Federal-State conflicts. We would also like to point out that there is an overlap in authority for the issuance of rights-of-way between this enactment and existing authorities of the Federal Power Commission which will require interagency consultation in its implementation.

Based on our support for the enactment of organic authority for the Bureau of Land Management and on our conclusion that the provisions applicable to the National Forest System are not likely to create any serious problems in administration, we recommend that the President approve the enactment as representing a reasonable compromise between the divergent House and Senate approaches to the legislation.

Sincerely,


John A. Knebel
Acting Secretary

Department of Justice
Washington, D. C. 20530

October 18, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for the views of the Department of Justice on enrolled bill S. 507, "To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes."

The proposed legislation would provide what amounts to a new organic act for the Bureau of Land Management, Department of the Interior, and also would affect the administration of national forest lands. If approved, it would govern the management, use and disposal of public lands. In addition, it contains provisions relating to special problems.

Although the bill's extensive and detailed statutory criteria for the management, use and disposal of the public lands would appear certain to engender very extensive litigation seeking judicial review of the administration of the new legislation, I do not anticipate that the enactment of the bill would have an adverse effect on pending litigation.

However, five provisions in the bill are, in our view, unconstitutional. Sections 202(e) (management decisions), 203(c) (sales), 204(c) (withdrawals), 204(1) (withdrawals), and 214(b) (sales related to unintentional trespass) all provide that Congress may alter or overturn a decision of the Executive branch by passing a concurrent resolution.

These provisions are incompatible with the express provision in the Constitution that a resolution having the force and effect of law must be presented to the President, and, if disapproved, repassed by a two-thirds majority in the Senate and the House of Representatives. Art. I, §7. They extend to the Congress the power to prohibit or alter specific transactions or acts authorized by law without changing the law--and without following the constitutional process such a change would require. Moreover, they would involve the Congress directly in the performance of Executive functions in disregard of the fundamental principle of separation of powers. Congress can, by duly adopted legislation, authorize or prohibit such actions as the execution of sales, but Congress cannot itself participate in the Executive functions of deciding whether to enter into an executive decision either directly or through the disapproval procedures contemplated in this bill.

Nevertheless, whether or not executive approval of this bill should be withheld is a question with respect to which we defer to the agencies most directly concerned with the subject matter of the bill. Obviously, if the bill is otherwise unsatisfactory, the Congressional veto provisions provide an additional reason for not approving it. And if the President does sign the bill, he should state, as he has in the past, that he considers the provisions indicated to be unconstitutional.

Sincerely,

A handwritten signature in cursive script, reading "Michael M. Uhlmann". The signature is written in black ink and is positioned above the typed name and title.

Michael M. Uhlmann
Assistant Attorney General



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

OCT 18 1976

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:


This report responds to the request of your office for the views of this Department on the enrolled enactment of S. 507, the "Federal Land Policy and Management Act of 1976."

Under existing law, a portion of the Federal receipts from the development of mineral resources on Federal lands is earmarked to the State in which the Federal lands are located. Section 317(c) of the enrolled enactment would authorize the Secretary of the Interior to make loans to States and political subdivisions in order to relieve social or economic impacts occasioned by the development of mineral resources on Federal lands. Such loans would bear interest at a rate not to exceed 3 percent and would be repayable from the earmarked receipts.

The proposal contained in section 317(c) is not in accord with overall Administration Federal credit program policies. There is no requirement that the prospective borrower demonstrate that credit is not otherwise available on reasonable terms, which would help to minimize demands for Federal credit assistance, and no requirement that the Secretary of the Interior find reasonable assurance of repayment prior to making any loan. Also, to adequately protect the Federal interest, repayment should not be limited to the earmarked receipts, but should be a general claim on the resources of the borrower. The 3 percent interest rate is substantially below prevailing borrowing rates, both public and private, and thus would not only result in a significant interest rate subsidy, but would encourage demands for Federal loans regardless of the need of the borrowers for the interest rate subsidy. Moreover, the 3 percent rate would result in a variable interest rate subsidy as market rates of interest vary, which would result in inequities among borrowers using the program at different times and lead to the greatest demands for Federal credit assistance at the time of highest market rates of interest.

The Department has no independent knowledge of the need for the programs in the enrolled enactment and no comment on other provisions of the bill. However, based on the deficiencies in section 317(c), we would support a recommendation that the enrolled enactment not be approved by the President.

Sincerely yours,


Richard H. Bennett
General Counsel

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 507, the "Federal Land Policy and Management Act of 1976."

The bill would provide comprehensive organic authority to serve the Bureau of Land Management (BLM), Department of the Interior, in its role as the protector and manager of some 450 million acres of public lands that are located primarily in the Western States.

I fully support providing BLM with the authority it should have to properly execute its responsibilities, and my Administration submitted legislation to the 94th Congress that would have served this objective. Unfortunately, the enrolled bill contains serious constitutional and programmatic deficiencies that I find unacceptable.

The bill would subject five distinct land management actions proposed by the Secretary of the Interior, in one case those reflecting a Presidential decision, to disapproval by concurrent resolution of the Congress within a 90-day review period. This would be contrary to the general principle of separation of powers whereby Congress enacts laws but the President and the agencies of government execute them. Moreover, it would violate Article I, section 7 of the Constitution which requires that resolutions having the force of law be sent to the President for his signature or veto.

In addition, the bill would authorize the Secretary of the Interior to make loans at a three percent interest rate to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of federally-owned minerals that are leased in such States. In this regard, I fully supported the recent increase in the States' share of Federal mineral leasing revenues because it justifiably provided for assistance to communities affected

by the development of federally-owned minerals. However, in my judgment, to further provide for loans with such a heavily subsidized interest rate -- the U.S. Treasury currently has to pay about seven percent or above in borrowing money for comparable periods -- is inequitable and contrary to the best interests of the general taxpayer.

I am genuinely sorry that the Congress refused to heed numerous Administration recommendations which were designed to create a balanced and workable bill. As recently as August 27, 1976, Secretary Kleppe wrote the conferees concerning the problems cited above and numerous other problems in the bill -- some of which remain unsolved.

Unfortunately, the Congress did not adequately respond to the Administration's concerns, and accordingly, I am constrained to withhold my approval from the bill. However, the Administration will resubmit to the 95th Congress proposed legislation to provide new organic authority for BLM, and I hope that the Congress will act on it without delay. In the meantime, I will ask the Secretaries of the Interior and Agriculture to undertake the grazing fee studies called for in this bill and to hold the 1977 grazing fees at current levels until the studies are completed and forwarded to the Congress.

THE WHITE HOUSE,

To: J. Johnston
10-19-76
6:30 p.m.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 19 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 507 - National Land Policy and Management Act of 1976
Sponsors - Sen. Haskell (D) Colorado, Sen. Jackson (D) Washington, and Sen. Metcalf (D) Montana

Last Day for Action

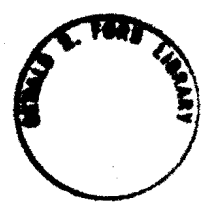
October 23, 1976 - Saturday

Purpose

Provides for the management, protection, and development of the national resource lands, and for other purposes.

Agency Recommendations

Office of Management and Budget	Disapproval (Memorandum of Disapproval attached)
Department of the Treasury	Supports Disapproval
Department of Justice	Cites constitutional concerns
Department of Commerce	No objection
Department of Defense	No objection
Federal Power Commission	No objection
Federal Energy Administration	No objection (Informally)
General Services Administration	No objection (Informally)
Department of the Interior	Approval
Department of Agriculture	Approval
Council on Environmental Quality	Approval
Environmental Protection Agency	Approval
Civil Service Commission	Approval



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 19

Time: 1000pm

FOR ACTION: George Humphreys *sign* cc (for information): Jack Marsh
 Max Friedersdorf *sign* Ed Schmults
 Bobbie Kilberg *veto* Steve McConahey *ga*
 Robert Hartmann

FROM THE STAFF SECRETARY

DUE: Date: October 20

Time: 100pm

SUBJECT:

S.507-National Land Policy and Management Act of 1976

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

please return to judy johnstag, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in response to your request for the views of this Department concerning S. 507, an enrolled enactment

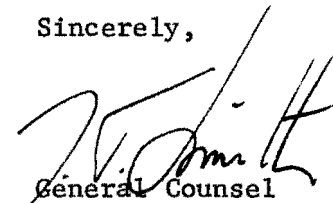
"To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes."

This legislation, to be cited as the "Federal Land Policy and Management Act of 1976", provides an organic act for the Bureau of Land Management, of the Department of the Interior. It repeals a large number of outmoded public land laws developed over a long period of years and replaces them with a modern statutory mandate for the BLM's management of the public lands under its jurisdiction.

The Department of Commerce would not object to approval of S. 507 by the President.

Approval of this legislation would not increase the budgetary requirements of this Department.

Sincerely,


General Counsel





GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

18 October 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

Reference is made to your request to the Department of Defense for a report on S. 507 of the 94th Congress, enrolled legislation cited as the "Federal Land Policy and Management Act of 1976." Among other things this legislation would establish public land policy; establish guidelines for its administration and provide for the management, protection, development and enhancement of the public lands. By definition in the legislation, "public lands" means any land or interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership. Excepted from this definition are lands on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.

Title I of the bill establishes the policy of the United States that public lands generally will be retained in Federal ownership and that the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts. Public lands will be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource and archeological values. Management is to be on the basis of multiple use and sustained yield.

Title II provides for land use planning and land acquisition and disposal. It requires the Secretary of the Interior to prepare and maintain a continuing inventory of all public lands and resources, giving priority to areas of critical environmental concern. Section 204 authorizes the Secretary, with limitations, to make, modify, extend or revoke public land withdrawals. New secretarial withdrawals of 5,000 acres or more in the aggregate would be subject to disapproval by concurrent resolution of both houses of Congress. This new withdrawal procedure would not affect the present requirements of the Engle Act (P.L. 85-337) for legislation for withdrawals of 5,000 acres or more for military purposes.

Title III provides for administration, with the Bureau of Land Management having at its head a Director appointed to the position by the President subject to the advice and consent of the Senate. Hunting and fishing would be allowed, with certain limits, on Bureau of Land Management and Forest Service Lands under State authorities. Certain enforcement authorities are granted to the Bureau of Land Management, reasonable filing and service charges are authorized, a working capital fund is established for management of the public lands and a percentage of the monies received from sales, bonuses, royalties of certain mineral revenues authorized for payment to the State in which the deposit is located for various dedicated purposes.

Title IV outlines terms and conditions for grazing leases and permits, directs a joint Department of Agriculture/Interior study on the value of grazing under their jurisdiction, directs the establishment of Grazing Advisory Boards and amends the Wild Horse and Burro Act of 1971 to allow the use of helicopters in herd management.

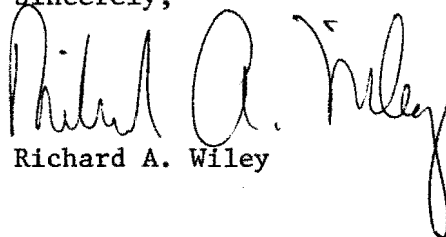
Title V authorizes the granting of rights-of-way over, upon, under and through the public lands and national forests under specified conditions. Section 503 requires rights-of-way in common (Corridors) to minimize adverse environmental impacts and the proliferation of separate rights-of-way.

Title VI establishes the California Desert Conservation Area which would be managed in accordance with multiple use principles, including mining. Section 603 requires the Bureau of Land Management to review, within 15 years, roadless areas of 5,000 acres or more for wilderness designation under specified conditions.

Title VII outlines the effects of this legislation on existing rights and repeals a number of laws relating to homesteading, small tracts, disposal and withdrawal.

Having reviewed the legislation in detail, the Department of Defense perceives several possible problem areas in the administration of the law and potential impact on the military use of public domain lands. However, these are not of sufficient import for the Department to interpose any objection to the signing of the bill by the President.

Sincerely,



Richard A. Wiley

FEDERAL POWER COMMISSION
WASHINGTON, D.C. 20426

S. 507 - 94th Congress
Enrolled Bill

OCT 18 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Miss Martha Ramsey
Legislative Reference Division
Room 7201
New Executive Office Building

Dear Mr. Lynn:

This letter is in response to Mr. Frey's Enrolled Bill Request of October 12, 1976, requesting the Commission's views and recommendations on S. 507, the "Federal Land Policy and Management Act".

S. 507 is the culmination of efforts within the Congress and the executive agencies during the last six years to revise and modernize the vast body of laws governing administration of public lands of the United States. In this respect the measure implements some of more general and basic recommendations of the Public Land Law Review Commission, a statutory body that conducted a six-year study in depth of the laws, policies, and administrative practices governing the use and disposal of Federal public lands. The report of this body, dated June 20, 1970, and entitled, One Third of the Nation's Land was submitted to the President and the Congress.

The Federal Power Commission in various letters to your office and the committees of Congress has discussed at some length the responsibilities and interests of our agency in relation to public lands administered by the Bureau of Land Management. Specifically, the Commission referred to its functions under Part I,



Section 24 of the Federal Power Act with respect to power site withdrawals and primary electric power transmission lines. Sections 501(a)(4) and 701(g)(4) of S. 507 protect the Commission's jurisdiction from any express or implied repeal or modification with regard to these matters.

Section 501(a)(4) provides that the Secretary of the Interior, with respect to the public lands and, the Secretary of Agriculture, with respect to lands within the National Forest System are authorized to grant, issue, or renew rights-of-way over, upon, under or through such lands for systems of generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Federal Power Act.

In a letter to the Chairman of House Interior Subcommittee on Public Lands, the Commission expressed concern that the provisions of this section of the bill might be interpreted to require an FPC license applicant for the construction and operation of power houses, transmission lines, or other project works necessary or convenient for the development, transmission, and utilization of power across any part of the public lands and reservations of the United States as required under Section 4(e) of the Federal Power Act, 16 U.S.C. 797(e), to obtain an additional license from the Secretary of the Interior (for public lands) or the Secretary of Agriculture (for national forest lands).

At present, under the mandate of the Federal Power Act, Section 4(e), the comments and recommended conditions on a permit are obtained from the Secretaries of the Interior and Agriculture prior to action by the Federal Power Commission. Section 4(e) mandates that licenses shall be issued only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which a reservation of lands was created or acquired, and shall be subject to and contain such conditions as the Secretary of the Department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation.

Honorable James T. Lynn

- 3 -

Since the Federal Power Act already provides these protections and the courts have interpreted Part I of the Act as conferring upon the Federal Power Commission broad responsibility for the comprehensive development of the water resources of the Nation, First Iowa Coop. v. FPC, 328 U.S. 152 (1945), the added requirement of a separate right-of-way permit could result in unnecessary, duplicative and time-consuming administrative procedures.

The Commission offers no objection to approval of the enrolled bill.

Sincerely yours,

A handwritten signature in cursive script, reading "Richard L. Dunham". The signature is written in black ink and is positioned above the printed name and title.

Richard L. Dunham
Chairman

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

October 14, 1976

MEMORANDUM FOR JAMES M. FREY
OFFICE OF MANAGEMENT AND BUDGET

ATTN: Ms. Ramsey

SUBJECT: Enrolled Bill, S. 507, "To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands, and for other purposes."

This is in response to your request for the Council's views on the subject enrolled bill.

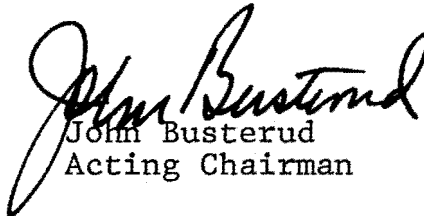
The Bureau of Land Management administers 450 million acres of public lands. It has had to do so without clear authority, relying on a myriad of conflicting, outdated statutes in managing the largest portion of our public lands.

The enrolled bill would provide strong, clear, and environmentally sound management authority to the BLM. The bill would accomplish the following objectives:

- (1) Provides policy direction to manage the public lands according to the principles of multiple use and sustained yield.
- (2) Provides authority for BLM to enforce regulations issued under the Act.
- (3) Directs the BLM to prepare land use plans for the lands it administers, using the principles of multiple use and sustained yield and a systematic interdisciplinary approach. Planning priority would be given to designating and protecting areas of critical environmental concern. To the extent possible, plans would be consistent with State, local and tribal plans.
- (4) Authorizes the Secretary of Interior to make low-interest loans to states and local areas in anticipation of mineral development, with royalties from the Mineral Leasing Act to be used for repayment.

- (5) Directs the Secretary of Interior to undertake a wilderness review of areas identified through the inventory and planning process as having wilderness potential.
- (6) Repeals numerous outdated land laws enacted when the policy of the government was to attract settlers to new lands.

The Council on Environmental Quality has followed the development of this legislation very closely and we are convinced that the bill will provide the basis for sound stewardship of BLM's National Resource Lands. I strongly recommend that the President sign this bill into law.


John Busterud
Acting Chairman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 15 1976

OFFICE OF THE
ADMINISTRATOR

Dear Mr. Lynn:

This is in response to your October 12, 1976 request for a report on S. 507, an enrolled bill "To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes."

The bill contains seven titles. Title I contains Congressional policy, including land management policy based on planning, multiple-use sustained-yield principles, and protection of natural and historical values.

Title II governs land use planning, and land acquisition and disposition. The title requires the Secretary of the Interior to inventory the public lands and their values and develop appropriate land use plans. The title permits the sale of public lands under specified conditions; the withdrawal, or revocation of the same, of lands from use; and the acquisition of lands. The Secretary of Agriculture is authorized to acquire access to National Forest lands. Both Secretaries are also required to exchange public lands for private if the public benefits thereby. The title also provides for the conveyance of mineral rights to private developers, and other administrative provisions.

Title III contains administrative provisions which, among other things, govern the management of the public lands, give the Secretary authority to enforce his regulations governing the public lands, authorize fees, establish a public lands management working capital fund, and authorize the Secretary to establish advisory councils. Other provisions of Title III cover the administration of the functions necessary to carry out the Act.

Title IV governs range management, authorizing the Secretaries of the Interior and Agriculture to establish grazing fees, limiting the term of and imposing requirements on grazing leases and permits, and establishing grazing advisory boards for areas having 500,000 acres of grazing land.

Under Title V the Secretaries of the Interior and Agriculture are authorized to grant rights-of-way, subject to certain requirements, for specified purposes. The Secretary of the Interior is authorized to construct timber harvesting access roads under cost-sharing terms. Rights-of-way are to be shared to the extent possible, and other provisions governing rights of way are also contained in Title V.

Title VI designates the California Desert as a Conservation Area and provides special management requirements for that area intended to protect it. The Title also provides for survey and investigation of the King Range National Conservation Area, and directs the Secretary to study qualifying areas for possible inclusion in the Wilderness System, while assuring that during review no unnecessary degradation occurs.

Title VII provides for the continuation of valid existing land use rights and authorizations, withdrawals, and certain other existing land use controls. The Title also repeals present laws governing homesteading, disposals, withdrawal, public lands administration, and rights-of-way.

The Environmental Protection Agency recommends that the President sign the bill into law.

S. 507 is an up-dated, concise, balanced statement of the authority of the Secretary of the Interior to administer this Nation's public lands. The enrolled bill repeals a great number of outmoded, often exploitation-oriented older laws and substitutes for them one general statement of authority. The bill is balanced in the sense that the Secretary is required, in making decisions on the use of land under his authority, to weigh such considerations as multiple-use sustained-yield and the preservation of environmental and esthetic values, as well as land use plans prepared in advance with public participation.


While the bill contains no specific provision for inter-agency review, we look forward to having an opportunity, under the Quality of Life Review procedures and the National Environmental Policy Act (NEPA) requirements, to comment on regulations and land use plans as they are developed. The bill's emphasis on land use planning, water quality, and other aspects of environmental protection implies an EPA role, given our responsibility for and knowledge of such matters.

Title II is of particular concern to us; its provisions closely affect our areas of responsibility, especially water quality control. For example, EPA will want to ensure that the implementation of section 202(c)(3), which protects critical environmental areas, gives adequate attention to such concerns as wetland protection and prevention of air and water quality deterioration.

Similarly, we view required land use plans as subject to NEPA review, giving us an opportunity to assist in assuring protection of the environment.

Other provisions of the Act entail environmental review owing to their possible effects, such as the rights-of-way provisions of Title V. Generally, we recommend an EPA-Interior interagency agreement such as that established on January 5, 1976, for "Coordination of Bureau of Land Management Planning with Planning Conducted Under Section 208 of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500)" to supplement the standard review procedures cited above and assure the inclusion of our knowledge and experience in the implementation process.

Sincerely yours,



Russell E. Train
Administrator

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

October 19, 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in response to your request for the Commission's views on enrolled S. 507, a bill "To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes."

This bill would establish overall Federal policy on land use planning, land acquisition and disposition, land use, occupancy, and development, range management, and rights-of-way. It would also repeal certain existing land laws, such as homesteading rights in Alaska. The Bureau of Land Management (BLM), Department of the Interior, would be responsible for administering the policies proposed in the bill.

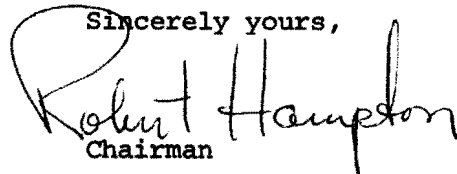
Our comments are limited to the personnel provisions of the bill. Section 301(a) provides for a Director of BLM to be appointed by the President, by and with the advice and consent of the Senate. This provision is appropriate.

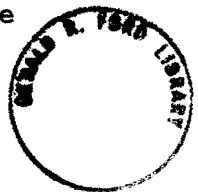
Section 301(c) provides for an Associate Director of the Bureau and as many Assistant Directors, and other employees, as may be necessary, to be appointed by the Secretary (of Interior) subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and to be paid in accordance with the provisions of chapter 51 and subchapter 3 (this should be written as subchapter III) of chapter 53 of such title relating to classification and General Schedule pay rates. This provision is appropriate.

We recommend that from the standpoint of the personnel provisions, the President sign enrolled S. 507.

By direction of the Commission:

Sincerely yours,


Chairman





THE WHITE HOUSE

10

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 19

Time: 1000pm

FOR ACTION: George Humphreys
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 20

Time: 100pm

SUBJECT:

S.507-National Land Policy and Management Act of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend disapproval because of unconstitutionality of provision allowing Congressional disapproval of certain Executive branch actions by concurrent resolution.

Bobbie Kilberg 10/20/76

MEMORANDUM
OF CALL

TO:

YOU WERE CALLED BY—

YOU WERE VISITED BY—

OF (Organization)

PLEASE CALL →

PHONE NO.
CODE/EXT. _____

WILL CALL AGAIN

IS WAITING TO SEE YOU

RETURNED YOUR CALL

WISHES AN APPOINTMENT

MESSAGE

S.507-

Add

Sen. Dimenici
Support

RECEIVED BY

DATE

TIME

[Handwritten signature]

THE WHITE HOUSE

10

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 19

Time: 1000pm

FOR ACTION: George Humphreys
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

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DUE: Date: October 20

Time: 100pm

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S.507-National Land Policy and Management Act of 1976

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

X ___ For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*Recommend Approval. Don Clausen &
has strong interest.*

Mef

*SEN. DOMENIC
SUPPORT*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 507, the "Federal Land Policy Management Act of 1976."

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I fully support providing BLM with the authority it should have to properly execute its responsibilities, and my Administration submitted legislation to the 94th Congress that would have served this objective. Unfortunately, the enrolled bill contains serious constitutional and programmatic deficiencies that I find unacceptable.

The bill would subject five distinct land management actions proposed by the Secretary of the Interior, in one case those reflecting a Presidential decision, to disapproval by concurrent resolution of the Congress within a 90-day review period. This would be contrary to the general principle of separation of powers whereby Congress enacts laws but the President and the agencies of government execute them. Moreover, it would violate Article I, section 7 of the Constitution which requires that resolutions having the force of law be sent to the President for his signature or veto.

In addition, the bill would authorize the Secretary of the Interior to make loans at a 3 percent interest rate to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of federally-owned minerals that are leased in such States. In this regard, I fully supported the recent increase in the States' share of Federal mineral leasing revenues because it justifiably provided for assistance to communities affected by the development of federally-owned minerals. However, in my judgment, to further provide for loans with such a heavily subsidized interest rate -- the U.S. Treasury currently has to pay 7 percent or above in borrowing money for comparable periods -- is inequitable and contrary to the best interests of the general taxpayer.

I am genuinely sorry that the Congress refused to heed numerous Administration recommendations which were designed to create a balanced and workable bill. As recently as August 27, 1976, Secretary Kleppe wrote the conferees concerning the problems cited above and numerous other problems in the bill -- some of which remain unsolved.

Unfortunately, the Congress did not adequately respond to the Administration's concerns, and accordingly, I am constrained to withhold my approval from the bill. However, the Administration will resubmit to the 95th Congress

proposed legislation to provide new organic authority for BLM, and I hope that the Congress will act on it without delay. In the meantime, I will ask the Secretaries of the Interior and Agriculture to undertake the grazing fee studies called for in this bill and to hold the 1977 grazing fees at current levels until the studies are completed and forwarded to the Congress.

THE WHITE HOUSE

October , 1976

10/20/76 - 8:55 am

THE WHITE HOUSE

10

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 19

Time: 1000pm

FOR ACTION: George Humphreys
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

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DUE: Date: October 20

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ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

10/20 - Copy sent for researching: nm
10/20 - Researched copy returned. nm

Wets my
British Research on
Recommend veto on construction grounds
RTA

10/20/76 - 8:55 am

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

J. L. Johnston

Date: October 19

Time: 1000pm

FOR ACTION: George Humphreys
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

*to DJS
10/20 12:38
G.A.M.*

FROM THE STAFF SECRETARY

DUE: Date: October 20

Time: 100pm

SUBJECT:

S.507-National Land Policy and Management Act of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

John Freely referred

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 507, the "Federal Land Policy ^{and} Management Act of 1976." *ok ok*

X

The bill would provide comprehensive organic authority to serve the Bureau of Land Management (BLM), Department of the Interior, in its role as the protector and manager of some 450 million acres of public lands that are located primarily in the Western States. *ok*

Attached backup

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Backup

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Attached backup

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mening
Roland Cook
D. G. Trueman
964-2045
David
4664
30yr. →
91 →
Product of
John
4864



ok

proposed legislation to provide new organic authority for BLM, and I hope that the Congress will act on it without delay. In the meantime, I will ask the Secretaries of the Interior and Agriculture to undertake the grazing fee studies called for in this bill and to hold the 1977 grazing fees at current levels until the studies are completed and forwarded to the Congress.

THE WHITE HOUSE

October , 1976

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 507, the "Federal Land Policy and Management Act of 1976."

The bill would provide comprehensive organic authority to serve the Bureau of Land Management (BLM), Department of the Interior, in its role as the protector and manager of some 450 million acres of public lands that are located primarily in the Western States.

I fully support providing BLM with the authority it should have to properly execute its responsibilities, and my Administration submitted legislation to the 94th Congress that would have served this objective. Unfortunately, the enrolled bill contains serious constitutional and programmatic deficiencies that I find unacceptable.

The bill would subject five distinct land management actions proposed by the Secretary of the Interior, in one case those reflecting a Presidential decision, to disapproval by concurrent resolution of the Congress within a 90-day review period. This would be contrary to the general principle of separation of powers whereby Congress enacts laws but the President and the agencies of government execute them. Moreover, it would violate Article I, section 7 of the Constitution which requires that resolutions having the force of law be sent to the President for his signature or veto.

In addition, the bill would authorize the Secretary of the Interior to make loans at a three percent interest rate to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of federally-owned minerals that are leased in such States. In this regard, I fully supported the recent increase in the States' share of Federal mineral leasing revenues because it justifiably provided for assistance to communities affected

by the development of federally-owned minerals. However, in my judgment, to further provide for loans with such a heavily subsidized interest rate -- the U.S. Treasury currently has to pay about seven percent or above in borrowing money for comparable periods -- is inequitable and contrary to the best interests of the general taxpayer.

I am genuinely sorry that the Congress refused to heed numerous Administration recommendations which were designed to create a balanced and workable bill. As recently as August 27, 1976, Secretary Kleppe wrote the conferees concerning the problems cited above and numerous other problems in the bill -- some of which remain unsolved.

Unfortunately, the Congress did not adequately respond to the Administration's concerns, and accordingly, I am constrained to withhold my approval from the bill. However, the Administration will resubmit to the 95th Congress proposed legislation to provide new organic authority for BLM, and I hope that the Congress will act on it without delay. In the meantime, I will ask the Secretaries of the Interior and Agriculture to undertake the grazing fee studies called for in this bill and to hold the 1977 grazing fees at current levels until the studies are completed and forwarded to the Congress.

THE WHITE HOUSE,