

114TH CONGRESS
2D SESSION

S. 3049

To designate the Organ Mountains and other public land as components of the National Wilderness Preservation System in the State of New Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 2016

Mr. UDALL (for himself and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To designate the Organ Mountains and other public land as components of the National Wilderness Preservation System in the State of New Mexico, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Organ Mountains-
5 Desert Peaks Conservation Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) MONUMENT.—The term “Monument”
2 means the Organ Mountains-Desert Peaks National
3 Monument established by Presidential Proclamation
4 9131 (79 Fed. Reg. 30431).

5 (2) SECRETARY.—The term “Secretary” means
6 the Secretary of the Interior.

7 (3) STATE.—The term “State” means the State
8 of New Mexico.

9 (4) WILDERNESS AREA.—The term “wilderness
10 area” means a wilderness area designated by section
11 3(a).

12 **SEC. 3. DESIGNATION OF WILDERNESS AREAS.**

13 (a) IN GENERAL.—In accordance with the Wilderness
14 Act (16 U.S.C. 1131 et seq.), the following areas in the
15 State are designated as wilderness and as components of
16 the National Wilderness Preservation System:

17 (1) ADEN LAVA FLOW WILDERNESS.—Certain
18 land administered by the Bureau of Land Manage-
19 ment in Doña Ana County comprising approximately
20 27,673 acres, as generally depicted on the map enti-
21 tled “Potrillo Mountains Complex” and dated April
22 18, 2016, which shall be known as the “Aden Lava
23 Flow Wilderness”.

24 (2) BROAD CANYON WILDERNESS.—Certain
25 land administered by the Bureau of Land Manage-

1 ment in Doña Ana County comprising approximately
2 13,902 acres, as generally depicted on the map enti-
3 tled “Desert Peaks Complex” and dated April 13,
4 2016, which shall be known as the “Broad Canyon
5 Wilderness”.

6 (3) CINDER CONE WILDERNESS.—Certain land
7 administered by the Bureau of Land Management in
8 Doña Ana County comprising approximately 16,935
9 acres, as generally depicted on the map entitled
10 “Potrillo Mountains Complex” and dated April 18,
11 2016, which shall be known as the “Cinder Cone
12 Wilderness”.

13 (4) ORGAN MOUNTAINS WILDERNESS.—Certain
14 land administered by the Bureau of Land Manage-
15 ment in Doña Ana County comprising approximately
16 19,197 acres, as generally depicted on the map enti-
17 tled “Organ Mountains Area” and dated April 19,
18 2016, which shall be known as the “Organ Moun-
19 tains Wilderness”, the boundary of which shall be
20 offset 400 feet from the centerline of Dripping
21 Springs Road in T. 23 S., R. 04 E., sec. 7, New
22 Mexico Principal Meridian.

23 (5) POTRILLO MOUNTAINS WILDERNESS.—Cer-
24 tain land administered by the Bureau of Land Man-
25 agement in Doña Ana and Luna counties comprising

1 approximately 125,854 acres, as generally depicted
2 on the map entitled “Potrillo Mountains Complex”
3 and dated April 18, 2016, which shall be known as
4 the “Potrillo Mountains Wilderness”.

5 (6) ROBLEDO MOUNTAINS WILDERNESS.—Cer-
6 tain land administered by the Bureau of Land Man-
7 agement in Doña Ana County comprising approxi-
8 mately 16,776 acres, as generally depicted on the
9 map entitled “Desert Peaks Complex” and dated
10 April 13, 2016, which shall be known as the
11 “Robledo Mountains Wilderness”.

12 (7) SIERRA DE LAS UVAS WILDERNESS.—Cer-
13 tain land administered by the Bureau of Land Man-
14 agement in Doña Ana County comprising approxi-
15 mately 11,114 acres, as generally depicted on the
16 map entitled “Desert Peaks Complex” and dated
17 April 13, 2016, which shall be known as the “Sierra
18 de las Uvas Wilderness”.

19 (8) WHITETHORN WILDERNESS.—Certain land
20 administered by the Bureau of Land Management in
21 Doña Ana and Luna counties comprising approxi-
22 mately 9,616 acres, as generally depicted on the
23 map entitled “Potrillo Mountains Complex” and
24 dated April 18, 2016, which shall be known as the
25 “Whitethorn Wilderness”.

1 (b) MAPS AND LEGAL DESCRIPTIONS.—

2 (1) IN GENERAL.—As soon as practicable after
3 the date of enactment of this Act, the Secretary
4 shall file maps and legal descriptions of the wilder-
5 ness areas with—

6 (A) the Committee on Energy and Natural
7 Resources of the Senate; and

8 (B) the Committee on Natural Resources
9 of the House of Representatives.

10 (2) FORCE OF LAW.—The maps and legal de-
11 scriptions filed under paragraph (1) shall have the
12 same force and effect as if included in this Act, ex-
13 cept that the Secretary may correct errors in the
14 maps and legal descriptions.

15 (3) PUBLIC AVAILABILITY.—The maps and
16 legal descriptions filed under paragraph (1) shall be
17 on file and available for public inspection in the ap-
18 propriate offices of the Bureau of Land Manage-
19 ment.

20 (c) MANAGEMENT.—Subject to valid existing rights,
21 the wilderness areas shall be administered by the Sec-
22 retary—

23 (1) as components of the National Landscape
24 Conservation System; and

25 (2) in accordance with—

1 (A) this Act; and

2 (B) the Wilderness Act (16 U.S.C. 1131 et
3 seq.), except that—

4 (i) any reference in the Wilderness
5 Act to the effective date of that Act shall
6 be considered to be a reference to the date
7 of enactment of this Act; and

8 (ii) any reference in the Wilderness
9 Act to the Secretary of Agriculture shall be
10 considered to be a reference to the Sec-
11 retary of the Interior.

12 (d) INCORPORATION OF ACQUIRED LAND AND IN-
13 TERESTS IN LAND.—Any land or interest in land that is
14 within the boundary of a wilderness area that is acquired
15 by the United States shall—

16 (1) become part of the wilderness area within
17 the boundaries of which the land is located; and

18 (2) be managed in accordance with—

19 (A) the Wilderness Act (16 U.S.C. 1131 et
20 seq.);

21 (B) this Act; and

22 (C) any other applicable laws.

23 (e) GRAZING.—Grazing of livestock in the wilderness
24 areas, where established before the date of enactment of
25 this Act, shall be administered in accordance with—

1 (1) section 4(d)(4) of the Wilderness Act (16
2 U.S.C. 1133(d)(4)); and

3 (2) the guidelines set forth in Appendix A of
4 the Report of the Committee on Interior and Insular
5 Affairs to accompany H.R. 2570 of the 101st Con-
6 gress (H. Rept. 101-405).

7 (f) MILITARY OVERFLIGHTS.—Nothing in this sec-
8 tion restricts or precludes—

9 (1) low-level overflights of military aircraft over
10 the wilderness areas, including military overflights
11 that can be seen or heard within the wilderness
12 areas;

13 (2) the designation of new units of special air-
14 space over the wilderness areas; or

15 (3) the use or establishment of military flight
16 training routes over the wilderness areas.

17 (g) BUFFER ZONES.—

18 (1) IN GENERAL.—Nothing in this section cre-
19 ates a protective perimeter or buffer zone around
20 any wilderness area.

21 (2) ACTIVITIES OUTSIDE WILDERNESS
22 AREAS.—The fact that an activity or use on land
23 outside any wilderness area can be seen or heard
24 within the wilderness area shall not preclude the ac-

1 tivity or use outside the boundary of the wilderness
2 area.

3 (h) PARAGLIDING.—The use of paragliding within
4 areas of the Potrillo Mountains Wilderness designated by
5 subsection (a)(5) in which the use has been established
6 before the date of enactment of this Act, shall be allowed
7 to continue in accordance with section 4(d)(1) of the Wil-
8 derness Act (16 U.S.C. 1133(d)(1)), subject to any terms
9 and conditions that the Secretary determines to be nec-
10 essary.

11 (i) CLIMATOLOGIC DATA COLLECTION.—Subject to
12 such terms and conditions as the Secretary may prescribe,
13 nothing in this Act precludes the installation and mainte-
14 nance of hydrologic, meteorologic, or climatologic collec-
15 tion devices in wilderness areas if the facilities and access
16 to the facilities are essential to flood warning, flood con-
17 trol, or water reservoir operation activities.

18 (j) FISH AND WILDLIFE.—Nothing in this Act af-
19 fects the jurisdiction of the State with respect to fish and
20 wildlife located on public land in the State, except that
21 the Secretary, after consultation with the New Mexico De-
22 partment of Game and Fish, may designate zones where,
23 and establish periods during which, no hunting or fishing
24 shall be permitted for reasons of public safety, administra-
25 tion, or compliance with applicable law.

1 (k) WITHDRAWALS.—

2 (1) IN GENERAL.—Subject to valid existing
3 rights, the Federal land within the wilderness areas
4 and any land or interest in land that is acquired by
5 the United States in the wilderness areas after the
6 date of enactment of this Act is withdrawn from—

7 (A) entry, appropriation, or disposal under
8 the public land laws;

9 (B) location, entry, and patent under the
10 mining laws; and

11 (C) operation of the mineral leasing, min-
12 eral materials, and geothermal leasing laws.

13 (2) PARCEL B.—The approximately 6,500 acres
14 of land generally depicted as “Parcel B” on the map
15 entitled “Organ Mountains Area” and dated April
16 19, 2016, is withdrawn in accordance with para-
17 graph (1), except that the land is not withdrawn for
18 purposes of the issuance of oil and gas pipeline
19 rights-of-way.

20 (3) PARCEL C.—The approximately 1,300 acres
21 of land generally depicted as “Parcel C” on the map
22 entitled “Organ Mountains Area” and dated April
23 19, 2016, is withdrawn in accordance with para-
24 graph (1), except that the land is not withdrawn
25 from disposal under the Act of June 14, 1926 (com-

1 monly known as the “Recreation and Public Pur-
2 poses Act”) (43 U.S.C. 869 et seq.).

3 (4) PARCEL D.—

4 (A) IN GENERAL.—The Secretary of the
5 Army shall allow for the conduct of certain rec-
6 reational activities on the approximately 2,050
7 acres of land generally depicted as “Parcel D”
8 on the map entitled “Organ Mountains Area”
9 and dated April 19, 2016 (referred to in this
10 paragraph as the “parcel”), which is a portion
11 of the public land withdrawn and reserved for
12 military purposes by Public Land Order 833
13 dated May 21, 1952 (17 Fed. Reg. 4822).

14 (B) OUTDOOR RECREATION PLAN.—

15 (i) IN GENERAL.—The Secretary of
16 the Army shall develop a plan for public
17 outdoor recreation on the parcel that is
18 consistent with the primary military mis-
19 sion of the parcel.

20 (ii) REQUIREMENT.—In developing
21 the plan under clause (i), the Secretary of
22 the Army shall ensure, to the maximum
23 extent practicable, that outdoor recreation
24 activities may be conducted on the parcel,

1 including, hunting, hiking, wildlife viewing,
2 and camping.

3 (C) CLOSURES.—The Secretary of the
4 Army may close the parcel or any portion of the
5 parcel to the public as the Secretary of the
6 Army determines to be necessary to protect—

7 (i) public safety; or

8 (ii) the safety of the military members
9 training on the parcel.

10 (D) TRANSFER OF ADMINISTRATIVE JURIS-
11 DICTION; WITHDRAWAL.—

12 (i) IN GENERAL.—On a determination
13 by the Secretary of the Army that military
14 training capabilities, personnel safety, and
15 installation security would not be hindered
16 as a result of the transfer to the Secretary
17 of administrative jurisdiction over the par-
18 cel, the Secretary of the Army shall trans-
19 fer to the Secretary administrative jurisdic-
20 tion over the parcel.

21 (ii) WITHDRAWAL.—On transfer of
22 the parcel under clause (i), the parcel shall
23 be—

1 (I) under the jurisdiction of the
2 Director of the Bureau of Land Man-
3 agement; and

4 (II) withdrawn from—

5 (aa) entry, appropriation, or
6 disposal under the public land
7 laws;

8 (bb) location, entry, and
9 patent under the mining laws;
10 and

11 (cc) operation of the mineral
12 leasing, mineral materials, and
13 geothermal leasing laws.

14 (iii) RESERVATION.—On transfer
15 under clause (i), the parcel shall be re-
16 served for management of the resources of,
17 and military training conducted on, the
18 parcel in accordance with a memorandum
19 of understanding entered into under sub-
20 paragraph (E).

21 (E) MEMORANDUM OF UNDERSTANDING
22 RELATING TO MILITARY TRAINING.—

23 (i) IN GENERAL.—If, after the trans-
24 fer of the parcel under subparagraph
25 (D)(i), the Secretary of the Army requests

1 that the Secretary enter into a memo-
2 randum of understanding, the Secretary
3 shall enter into a memorandum of under-
4 standing with the Secretary of the Army
5 providing for the conduct of military train-
6 ing on the parcel.

7 (ii) REQUIREMENTS.—The memo-
8 randum of understanding entered into
9 under clause (i) shall—

10 (I) address the location, fre-
11 quency, and type of training activities
12 to be conducted on the parcel;

13 (II) provide to the Secretary of
14 the Army access to the parcel for the
15 conduct of military training;

16 (III) authorize the Secretary or
17 the Secretary of the Army to close the
18 parcel or a portion of the parcel to the
19 public as the Secretary or the Sec-
20 retary of the Army determines to be
21 necessary to protect—

22 (aa) public safety; or

23 (bb) the safety of the mili-
24 tary members training; and

1 (IV) to the maximum extent
2 practicable, provide for the protection
3 of natural, historic, and cultural re-
4 sources in the area of the parcel.

5 (F) MILITARY OVERFLIGHTS.—Nothing in
6 this paragraph restricts or precludes—

7 (i) low-level overflights of military air-
8 craft over the parcel, including military
9 overflights that can be seen or heard with-
10 in the parcel;

11 (ii) the designation of new units of
12 special airspace over the parcel; or

13 (iii) the use or establishment of mili-
14 tary flight training routes over the parcel.

15 (I) POTENTIAL WILDERNESS AREA.—

16 (1) ROBLEDO MOUNTAINS POTENTIAL WILDER-
17 NESS AREA.—

18 (A) IN GENERAL.—Certain land adminis-
19 tered by the Bureau of Land Management,
20 comprising approximately 100 acres as gen-
21 erally depicted as “Potential Wilderness” on the
22 map entitled “Desert Peaks Complex” and
23 dated April 13, 2016, is designated as a poten-
24 tial wilderness area.

1 (B) USES.—The Secretary shall permit
2 only such uses on the land described in sub-
3 paragraph (A) that were permitted on the date
4 of enactment of this Act.

5 (C) DESIGNATION AS WILDERNESS.—

6 (i) IN GENERAL.—On the date on
7 which the Secretary publishes in the Fed-
8 eral Register the notice described in clause
9 (ii), the potential wilderness area des-
10 ignated under subparagraph (A) shall be—

11 (I) designated as wilderness and
12 as a component of the National Wil-
13 derness Preservation System; and

14 (II) incorporated into the
15 Robledo Mountains Wilderness des-
16 ignated by subsection (a)(6).

17 (ii) NOTICE.—The notice referred to
18 in clause (i) is notice that—

19 (I) the communications site with-
20 in the potential wilderness area des-
21 ignated under subparagraph (A) is no
22 longer used;

23 (II) the associated right-of-way is
24 relinquished or not renewed; and

1 (III) the conditions in the poten-
2 tial wilderness area designated by sub-
3 paragraph (A) are compatible with the
4 Wilderness Act (16 U.S.C. 1131 et
5 seq.).

6 (m) RELEASE OF WILDERNESS STUDY AREAS.—
7 Congress finds that, for purposes of section 603(c) of the
8 Federal Land Policy and Management Act of 1976 (43
9 U.S.C. 1782(c)), the public land in Doña Ana County ad-
10 ministered by the Bureau of Land Management not des-
11 ignated as wilderness by subsection (a)—

12 (1) has been adequately studied for wilderness
13 designation;

14 (2) is no longer subject to section 603(c) of the
15 Federal Land Policy and Management Act of 1976
16 (43 U.S.C. 1782(c)); and

17 (3) shall be managed in accordance with—

18 (A) the Federal Land Policy and Manage-
19 ment Act of 1976 (43 U.S.C. 1701 et seq.);

20 (B) this Act; and

21 (C) any other applicable laws.

22 **SEC. 4. BORDER SECURITY.**

23 (a) IN GENERAL.—Nothing in this Act—

24 (1) prevents the Secretary of Homeland Secu-
25 rity from undertaking law enforcement and border

1 security activities, in accordance with section 4(c) of
2 the Wilderness Act (16 U.S.C. 1133(c)), within the
3 wilderness areas, including the ability to use motor-
4 ized access within a wilderness area while in pursuit
5 of a suspect;

6 (2) affects the 2006 Memorandum of Under-
7 standing among the Department of Homeland Secu-
8 rity, the Department of the Interior, and the De-
9 partment of Agriculture regarding cooperative na-
10 tional security and counterterrorism efforts on Fed-
11 eral land along the borders of the United States; or

12 (3) prevents the Secretary of Homeland Secu-
13 rity from conducting any low-level overflights over
14 the wilderness areas that may be necessary for law
15 enforcement and border security purposes.

16 (b) WITHDRAWAL AND ADMINISTRATION OF CER-
17 TAIN AREA.—

18 (1) WITHDRAWAL.—The area identified as
19 “Parcel A” on the map entitled “Potrillo Mountains
20 Complex” and dated April 18, 2016, is withdrawn in
21 accordance with section 3(k)(1).

22 (2) ADMINISTRATION.—Except as provided in
23 paragraphs (3) and (4), the Secretary shall admin-
24 ister the area described in paragraph (1) in a man-

1 ner that, to the maximum extent practicable, pro-
2 tects the wilderness character of the area.

3 (3) USE OF MOTOR VEHICLES.—The use of
4 motor vehicles, motorized equipment, and mechan-
5 ical transport shall be prohibited in the area de-
6 scribed in paragraph (1) except as necessary for—

7 (A) the administration of the area (includ-
8 ing the conduct of law enforcement and border
9 security activities in the area); or

10 (B) grazing uses by authorized permittees.

11 (4) EFFECT OF SUBSECTION.—Nothing in this
12 subsection precludes the Secretary from allowing
13 within the area described in paragraph (1) the in-
14 stallation and maintenance of communication or sur-
15 veillance infrastructure necessary for law enforce-
16 ment or border security activities.

17 (c) RESTRICTED ROUTE.—The route excluded from
18 the Potrillo Mountains Wilderness identified as “Re-
19 stricted—Administrative Access” on the map entitled
20 “Potrillo Mountains Complex” and dated April 18, 2016,
21 shall be—

22 (1) closed to public access; but

23 (2) available for administrative and law enforce-
24 ment uses, including border security activities.

1 **SEC. 5. ORGAN MOUNTAINS-DESERT PEAKS NATIONAL**
 2 **MONUMENT.**

3 (a) **MANAGEMENT PLAN.**—In preparing and imple-
 4 menting the management plan for the Monument, the Sec-
 5 retary shall include a watershed health assessment to iden-
 6 tify opportunities for watershed restoration.

7 (b) **INCORPORATION OF ACQUIRED STATE TRUST**
 8 **LAND AND INTERESTS IN STATE TRUST LAND.**—

9 (1) **IN GENERAL.**—Any land or interest in land
 10 that is within the State trust land described in para-
 11 graph (2) that is acquired by the United States
 12 shall—

13 (A) become part of the Monument; and

14 (B) be managed in accordance with—

15 (i) Presidential Proclamation 9131

16 (79 Fed. Reg. 30431); and

17 (ii) any other applicable laws.

18 (2) **DESCRIPTION OF STATE TRUST LAND.**—

19 The State trust land referred to in paragraph (1) is
 20 the State trust land in T. 22 S., R 01 W., New Mex-
 21 ico Principal Meridian and T. 22 S., R. 02 W., New
 22 Mexico Principal Meridian.

23 (c) **LAND EXCHANGES.**—

24 (1) **IN GENERAL.**—Subject to paragraphs (3)
 25 through (6), the Secretary shall attempt to enter
 26 into an agreement to initiate an exchange under sec-

1 tion 2201.1 of title 43, Code of Federal Regulations
2 (or successor regulations), with the Commissioner of
3 Public Lands of New Mexico, by the date that is 18
4 months after the date of enactment of this Act, to
5 provide for a conveyance to the State of all right,
6 title, and interest of the United States in and to Bu-
7 reau of Land Management land in the State identi-
8 fied under paragraph (2) in exchange for the convey-
9 ance by the State to the Secretary of all right, title,
10 and interest of the State in and to parcels of State
11 trust land within the boundary of the Monument
12 identified under that paragraph or described in sub-
13 section (b)(2).

14 (2) IDENTIFICATION OF LAND FOR EX-
15 CHANGE.—The Secretary and the Commissioner of
16 Public Lands of New Mexico shall jointly identify
17 the Bureau of Land Management land and State
18 trust land eligible for exchange under this sub-
19 section, the exact acreage and legal description of
20 which shall be determined by surveys approved by
21 the Secretary and the New Mexico State Land Of-
22 fice.

23 (3) APPLICABLE LAW.—A land exchange under
24 paragraph (1) shall be carried out in accordance

1 with section 206 of the Federal Land Policy and
2 Management Act of 1976 (43 U.S.C. 1716).

3 (4) CONDITIONS.—A land exchange under para-
4 graph (1) shall be subject to—

5 (A) valid existing rights; and

6 (B) such terms as the Secretary and the
7 State shall establish.

8 (5) VALUATION, APPRAISALS, AND EQUALI-
9 ZATION.—

10 (A) IN GENERAL.—The value of the Bu-
11 reau of Land Management land and the State
12 trust land to be conveyed in a land exchange
13 under this subsection—

14 (i) shall be equal, as determined by
15 appraisals conducted in accordance with
16 subparagraph (B); or

17 (ii) if not equal, shall be equalized in
18 accordance with subparagraph (C).

19 (B) APPRAISALS.—

20 (i) IN GENERAL.—The Bureau of
21 Land Management land and State trust
22 land to be exchanged under this subsection
23 shall be appraised by an independent,
24 qualified appraiser that is agreed to by the
25 Secretary and the State.

1 (ii) REQUIREMENTS.—An appraisal
2 under clause (i) shall be conducted in ac-
3 cordance with—

4 (I) the Uniform Appraisal Stand-
5 ards for Federal Land Acquisitions;
6 and

7 (II) the Uniform Standards of
8 Professional Appraisal Practice.

9 (C) EQUALIZATION.—

10 (i) IN GENERAL.—If the value of the
11 Bureau of Land Management land and the
12 State trust land to be conveyed in a land
13 exchange under this subsection is not
14 equal, the value may be equalized by—

15 (I) making a cash equalization
16 payment to the Secretary or to the
17 State, as appropriate, in accordance
18 with section 206(b) of the Federal
19 Land Policy and Management Act of
20 1976 (43 U.S.C. 1716(b)); or

21 (II) reducing the acreage of the
22 Bureau of Land Management land or
23 State trust land to be exchanged, as
24 appropriate.

1 (ii) CASH EQUALIZATION PAY-
2 MENTS.—Any cash equalization payments
3 received by the Secretary under clause
4 (i)(I) shall be—

5 (I) deposited in the Federal Land
6 Disposal Account established by sec-
7 tion 206(a) of the Federal Land
8 Transaction Facilitation Act (43
9 U.S.C. 2305(a)); and

10 (II) used in accordance with that
11 Act.

12 (6) LIMITATION.—No exchange of land shall be
13 conducted under this subsection unless mutually
14 agreed to by the Secretary and the State.

○