

The Honorable Jeff Bingaman  
Chair  
Senate Energy & Natural Resources Committee  
304 Dirksen Senate Building  
Washington, DC 20510

Dear Senator Bingaman:

On behalf of the Western Business Roundtable (The Roundtable), I am writing to express our grave concerns over inclusion --within S. 3213, the Omnibus Public Land Management Act of 2008 -- of the "National Landscape Conservation System Act" (S. 1139), a bill to statutorily establish the National Landscape Conservation System (NLCS) within the Bureau of Land Management (BLM). New information has come to light recently that particularly argues for the removal of the NLCS language from S. 3213.

It is our understanding that, within the past week, the U.S. Department of Interior's Inspector General has begun an investigation into the NLCS. Various news sources have reported that emails and other documents obtained by staff of the House Resources Committee show extensive collaboration between top officials of the NLCS and various environmental lobbyists. These documents indicate close, inappropriate, and possibly illegal, coordination on the legislation between federal employees and a coalition of groups that included the Wilderness Society and the National Wildlife Federation.

As you undoubtedly know, federal law prohibits federal employees from using appropriated funds or their official positions to lobby Congress. If these accusations prove to be accurate, federal employees at NLCS actively supported and participated in efforts designed (directly or indirectly) to encourage government officials to favor the NLCS legislation. This would be in clear violation of 18 U.S. Code § 1913.

These ethical improprieties add to our pre-existing concern over S. 1139. There is much at stake here for the West. As you know, in 2000, then-Interior Secretary Bruce Babbitt created the NLCS through administrative mandate. The NLCS covers a vast amount of territory of various types and quality. It currently consists of more than 40 million acres of federal lands administered by the BLM including 15 national monuments, 13 national conservation areas, 177 wilderness areas, 608 wilderness study areas, 2,052 miles of wild and scenic rivers, and over 5,350 miles of national scenic and historic trails. The vast majority of these lands are located in 12 Western states.

One of our chief concerns with the NLCS language in S.3213 is that it introduces the vague and amorphous concept of 'values' into BLM management protocols. Sec. 3 (c)(2) of the bill calls for "...protect[ing] the values for which the components of the system were designated." The term "values"

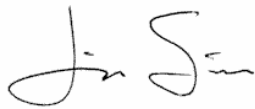
is a wholly new concept to the BLM and would be the first time legislation directed the BLM to manage and operate lands under its jurisdiction according to this nebulous and malleable term. The National Park Service, for example, interprets similar language to require it to manage for subjective qualities such as “viewsheds,” “soundscapes” and even “smellscapes.” This language could threaten the BLM’s historical policy of multiple-use access and many current and vital public land uses such as recreation, grazing, mining, and oil and gas production and many other long-standing uses of the public lands that might be superseded by new management priorities.

Additional management requirements set forth in the NLCS language are likewise vague. For example, Sec. 3(c) (1) would require management of a public land unit in accordance with any law or regulation “relating to” that unit. Whether a law or regulation “relates to” a unit would be subject to litigation, which is an open invitation for environmental groups to unduly influence how our public lands should be managed. Opening up additional BLM management decisions to more litigation would only further exacerbate the challenges BLM already faces in responding to changes in priorities, circumstances, and budgets.

Given this new evidence, in addition to the very grave substantive problems with this controversial piece of legislation, we strongly urge you to use your authority as chief author of S. 3213. to ensure that S. 1139 or any similar language to statutorily establish the NLCS within the BLM not be allowed to move forward at this time. At a minimum, the Inspector General and/or the Justice Department need adequate time to investigate possible misconduct by public officials at the NLCS. To do otherwise would run the risk of codifying bad policy and condone scandalous and illegal behavior.

We thank you for your consideration of this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Sims". The signature is fluid and cursive, with the first name "Jim" and last name "Sims" clearly distinguishable.

Jim Sims  
President and CEO  
Western Business Roundtable

cc:

Secretary of Interior Dirk Kempthorne  
House Resources Committee  
Senate Energy and Public Works Committee

*The Roundtable is a non-profit business trade association comprised of CEOs and senior executives of organizations doing business in the Western United States. Our member companies are involved in a broad range of industries, including agricultural products, accounting, chemicals, coal, construction and construction materials, conventional and renewable energy production, energy services, engineering,*

*financial services, internet technologies, manufacturing, mining, oil and gas, pharmaceuticals, pipelines, telecommunications, and public and investor-owned utilities. We work for a common sense, balanced approach to economic development and environmental conservation, and we support public policies that encourage economic growth, opportunity and freedom of enterprise.*