

CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

S. 1592—A BILL TO CLARIFY THE DESCRIPTION OF CERTAIN FEDERAL LAND UNDER THE NORTHERN ARIZONA LAND EXCHANGE AND VERDE RIVER BASIN PARTNERSHIP ACT OF 2005 TO INCLUDE ADDITIONAL LAND IN THE KAIBAB NATIONAL FOREST

(December 22, 2015)

S. 1592 would amend current law to clarify that the Secretary of Agriculture is authorized to convey about 238 acres of federal land to a summer camp in Arizona. Under current law, the Secretary is authorized to convey 212 acres to the camp.

Based on information provided by the Forest Service, CBO estimates that implementing the legislation would not affect the federal budget. Because CBO expects that the acreage that could be conveyed under the bill would not generate any income over the next 10 years, enacting S. 1592 would not affect direct spending. Enacting the bill also would not affect revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 1592 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year period beginning in 2026.

S. 1592 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would modify the terms of a land exchange between the federal government and a private business, which would have a small incidental effect on property taxes collected by the state and local governments in Arizona. That effect, however, would not result from an intergovernmental mandate as defined in UMRA.

The CBO staff contacts for this estimate are Jeff LaFave (for federal costs) and Jon Spertl (for intergovernmental mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CBO COST ESTIMATE—S. 2069

Ms. MURKOWSKI. Mr. President, in compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources has obtained from the Congressional Budget Office an estimate of the costs of S. 2069, Mount Hood Cooper Spur Land Exchange Clarification Act, as reported from the committee. The full estimate is available on CBO's Web site, [www.cbo.gov](http://www.cbo.gov).

Mr. President, I ask unanimous consent that the summary of the estimate be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

S. 2069—A BILL TO AMEND THE OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009 TO MODIFY PROVISIONS RELATING TO CERTAIN LAND EXCHANGES IN THE MT. HOOD WILDERNESS IN THE STATE OF OREGON

(January 5, 2016)

S. 2069 would amend current law to modify the terms of a land exchange between the Forest Service and the Mt. Hood Meadows ski area in Oregon. The bill would reduce the amount of land the agency would be authorized to convey to the ski area from 120 acres to 107 acres. The bill also contains provisions aimed at expediting the exchange.

Based on information provided by the Forest Service, CBO estimates that imple-

menting the legislation would not affect the federal budget. Because CBO expects that enacting the bill would not affect whether the exchange would occur or when it would take place, we estimate that enacting the bill would not affect direct spending. Enacting the bill also would not affect revenues. Therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 2069 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year period beginning in 2026.

S. 2069 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANAGEMENT OF  
PUBLIC LANDS AND RESOURCES

Mr. BARRASSO. Mr. President, I wish to speak about a column written by Ms. Karen Budd-Falen, a Wyoming attorney, entitled "Major Regulatory Expansion of ESA Listing and Critical Habitat Designation." The article was published in the Wyoming Livestock Roundup on March 19, 2016.

Through a variety of rules, regulations, and seemingly innocuous proposals, agencies under this administration have gone outside their congressionally given authorities and willfully ignored the intent of the very statutes that authorize Federal management of public lands and resources.

In the article, Karen raises a series of concerns, concerns I share, about the United States Fish and Wildlife Service's calculated efforts to change key parts of the Endangered Species Act. Through a series of administrative revisions, the Service has substantially changed the way critical habitat is designated for species listed for protection under the act. Critical habitat, as Karen recognizes in her article, is "... generally habitat upon which the species depends for survival. Importantly critical habitat can include both private and/or federal land and water." Karen outlines that, through piecemeal revisions, the Service has effectively removed all limitations of this definition.

No longer will the Service be limited to enact Federal policy on a precise area where a species lives. Now a Federal agency may implement any number of restrictions on a "significant portion" of the range a species may or may not inhabit, for an undetermined period of time. The Service has made it clear that even "potential habitat" can be controlled, even if it is unclear whether the species will ever use that area.

Karen also raises concerns about notification of private landowners, consideration of economic impacts, and the undeniable link between changes the Service has made and an increase in Federal permitting. The link between these changes and the intent of this administration is clear: any action taken on any land, no matter whether private or public, can now be consid-

ered under Federal jurisdiction if the Service so chooses. Not only is this arbitrary, but it is a clear case of Federal overreach.

In Wyoming, we know that the most successful habitat conservation efforts are conducted by people on the ground who have a vested interest in the health of wildlife and the landscape they inhabit. These people are local business owners, local landowners, ranchers, and State experts. These people understand both the needs of the landscape and the scope of appropriate conservation efforts, things that Washington officials seemingly fail to grasp or willfully ignore.

Unfortunately, the alarm that Karen has sounded is one of many currently deafening the American people. Karen has likened the Service's critical habitat reforms to the Environmental Protection Agency's controversial waters of the United States campaign. The comparison is apt. This administration has perpetuated a culture of Big Government by ignoring the biological, economic, and social realities of its irresponsible policies.

Federal actions such as this dilute the effectiveness of successful conservation efforts and create limitless uncertainty for private landowners. I urge my colleagues to continue to stand with rural Americans who must not bear the brunt of irresponsible Federal overreach.

Mr. President, I ask unanimous consent to have printed in the RECORD the article written by Karen Budd-Falen.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wyoming Livestock Roundup;  
Mar. 19, 2016]

MAJOR REGULATORY EXPANSION OF ESA  
LISTING AND CRITICAL HABITAT DESIGNATION  
(By Karen Budd-Falen)

While private property owners were vehemently protesting the EPA's expansion of jurisdiction under the Clean Water Act, the U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration Fisheries, collectively FWS, were bit-by-bit expanding the federal government's overreach on private property rights and federal grazing permits through the Endangered Species Act (ESA). This expansion is embodied in the release of four separate final rules and two final policies that the FWS admits will result in listing more species and expanding designated critical habitat.

To understand the expansiveness of the new policies and regulations, a short discussion of the previous regulations may help. Prior to the Obama changes, a species was listed as threatened or endangered based upon the "best scientific and commercial data available." With regard to species that are potentially threatened or endangered "throughout a significant portion of its range" but not all of the species' range, only those species within that "significant portion of the range" are listed not all species throughout the entire range.

Once the listing is completed, FWS is mandated to designate critical habitat. Critical habitat is generally habitat upon which the species depends for survival. Importantly critical habitat can include both private and/or federal land and water. Critical habitat is