

DONA ANA COUNTY PLANNED GROWTH, OPEN
SPACE, AND RANGELAND PRESERVATION ACT
OF 2008

AN EXECUTIVE SUMMARY
OF PROPOSED FEDERAL LEGISLATION
DRAFTED BY
PEOPLE FOR PRESERVATION OF OUR WESTERN HERITAGE

NOVEMBER 28, 2007

This project has taken longer than expected because of the multiple interests and views considered in order to draft proposed legislation that accommodates the concerns and expectations of the entire community. The people of Dona Ana County drove the process. Each of the areas designated as Wilderness Study Areas (WSAs) pursuant to the Federal Land Policy and Management Act (FLPMA) along with other areas proposed for designation as Wilderness or National Conservation Areas (NCAs) was reviewed and investigated. Designation alternatives, including wilderness, that would provide protection for special features of each area were considered. As the process expanded, it was obvious that the application of a single legislative designation for protection beyond that currently provided by BLM administration would not be the best course of action. Nine “**Standards of Expectations**” were developed from citizen input and reflected in the draft legislation. They are:

- 1. Retention of open space;**
- 2. Provision for planned economic and population growth;**
- 3. Unrestricted application of Homeland Security and law enforcement activities;**
- 4. Prevention of unlawful use of off-road vehicles;**
- 5. Continued access for all segments of the public;**
- 6. Perpetuation of historical ranching operations;**
- 7. Access for flood control and water capture projects;**
- 8. Enhancement of wildlife and rangeland health; and,**
- 9. True fidelity to historical Wilderness concepts and law.**

After writing several conceptual drafts, we concluded that the best way to draft the proposal was to follow the format of the bill originally drafted for Senator Domenici. Our draft is substantially completed and will be available for review by community leaders, experts in the field of federal lands management, law enforcement, water management, range management, and others who have provided insightful and authoritative information and consultation in this effort. The document will then be made available for review by local governing entities and community organizations before it is submitted to Senators Domenici and Bingaman and to Congressman Pearce.

It is our intent that legislation, when adopted by Congress, will provide for the conservation, protection, and enhancement of recreation, wildlife, livestock grazing, and scenic values; conserve and protect the open spaces and unique resources within specific areas; accommodate the long term planned population and economic growth in Dona Ana County; and that such legislation will allow for effective law enforcement and Homeland Security activities. The following comments about the draft should be viewed in that context since changes or additions may occur after review by these parties.

Title of Bill:

Dona Ana County Planned Growth, Open Space, and Rangeland Preservation Act of 2008

Purpose of Bill:

The purpose of the bill is to accommodate the long-term population and economic growth of Dona Ana County, New Mexico, to maintain and preserve the open spaces provided by federal lands in Dona Ana County, and to accommodate and enhance the Standards of Expectations of the citizens of Dona Ana County.

Title I. Special Preservation Areas

The scope of such an Act should include the establishment of special preservation for areas that fail to fit the broader emphasis elevated by the **Standards of Expectations** noted herein. Such is the case of three areas within the County. Prominently featured in the viewscape of the Mesilla Valley are the **Dona Ana Mountains, Tortugas Mountain, and Picacho Peak**. Of the three, the Dona Anas and Picacho Peak should be afforded full protection from development by withdrawal from all forms of entry, appropriation, or disposal under the public land laws; location, entry and patent under the mining laws; and operation of the mineral leasing, mineral materials and geothermal leasing laws. These lands could never be sold or exchanged and would be permanently preserved for the public's enjoyment. Tortugas, on the other hand, has numerous existing Rights-of-way, split ownership, and leases that exclude it from consideration as an area of special preservation. Future alternative considerations for this site can allow a different means of protection.

Title II. Establishment of Rangeland Preservation Areas

This title replaces Titles III and IV in Senator Domenici's proposal that provided for Wilderness designations and for NCAs. As proposed, this title provides for the establishment of three separate Rangeland Preservation Areas. The concept of a "Rangeland Preservation Area" stems from the input and evidence that the citizenry of Dona Ana County has provided. These Standards of Expectations were found not to fit any single designation. Rather, the need to broaden the scope of a designation to encompass the spirit and the stewardship of local control was apparent. "Rangeland Preservation Area" was deemed appropriate. It encompasses and implies **Rangeland** with the large expanses of our county accommodating the presence of citizens, wildlife and livestock. It implies **Preservation** of the domain and historical significance of a healthy soil and plant community, wildlife, livestock, and the social fabric of this county. It implies **Area** and abundant permanent open space with demarcation of areas of special concern.

The **Organ Mountains Rangeland Preservation Area** will consist of approximately 78,345 acres the federal lands bounded by WSMR and Fort Bliss on the east, the Jornada Experimental Range on the north, the NM/TX state line on the south, and the line established by the recent agreement between the Las Cruces Homebuilders and NMWA on the west.

The **Las Uvas Mountains Watershed and Rangeland Preservation Area** will consist of approximately 11,067 acres of lands currently designated as the Las Uvas Wilderness Study Area.

The **Robledo Mountains Watershed and Rangeland Preservation Area** will consist of approximately 12,946 acres of lands currently designated as the Robledo Mountains Wilderness Study Area.

The **Potrillo National Security and Rangeland Preservation Area** will consist of approximately 182,472 acres of the lands currently designated as the West Potrillos, Mount Riley, and Aden Lava Flow Wilderness Study Areas.

Title II comments. This legislative designation will create areas similar to NCAs, but it is anticipated that restrictions will be minimal and will accommodate the Standards of Expectations noted herein. First and foremost, Rangeland Preservation Areas will be withdrawn from disposal under the public land laws, location, entry, and patent under the mining laws, and disposal under the mineral leasing, mineral materials, and geothermal leasing laws. **These lands will never be sold or exchanged for development.** Secondly except under the requirements of Homeland Security and law enforcement activities, motorized vehicles will be confined to roads designated under the management plan of the Area. **These lands will be protected from degradation from unethical off road damage.** Thirdly, the historical public access will continue without new restrictions. **All segments of the public will enjoy access to these lands.** Fourthly, the historical grazing of livestock and everyday management activities by ranchers will continue under multiple-use management administered by the BLM. **The social fabric of the area tied to these lands will be recognized and preserved.**

This title will provide for return of the existing WSAs to multiple-use management and the withdrawal of the federal lands in those areas from disposal and from the mining and mineral leasing laws. Provisions will be made for management of the Rangeland Preservation Areas in a manner consistent with this Act and the standards and provisions of FLPMA.

There has been substantial support expressed for wilderness in the Organ Mountains. If the standards of the Wilderness Act of 1964 are strictly applied, that is, if the fidelity of the act is maintained inviolate, the presence of roads, mines, and other existing facilities would disallow such a designation. If the logic is extended to only the upper elevations, the fidelity to wilderness remains in jeopardy in that the area, which is not “untrammeled by man”, would be bounded by military reservations and by the fastest growing city in New Mexico. If applied today, the law and the spirit of the Act would be violated and could thereafter be used to overtly stretch the measure of the law. The **Organ Mountains Rangeland Preservation Area** is the flagship designation of the proposed legislation, and will not disregard conditions existing in the area.

The debate on the greater Broad Canyon Complex brought to light the importance of that area to the future of the County. Livestock operating concerns and restrictions on law enforcement actions in the Robledo, Las Uvas, and Broad Canyon wilderness proposals, and the significance of the Broad Canyon watershed cannot be underestimated. The opportunity for the construction of off channel storage, expanded flood control devices, and the sourcing of future water supplies are simply too important to allow wilderness

lockdown. The importance is reflected in the two areas that dominate the higher elevations of this complex, the **Las Uvas Mountains Watershed and Rangeland Preservation Area** and the **Robledo Mountains Watershed and Rangeland Preservation Area**.

Notwithstanding rancher concerns about wilderness, that possibility was repeatedly discussed for any or all of the areas proposed for wilderness. It was concluded that wilderness designation would render livestock grazing impractical or impossible in most or all of the areas because of the prohibition of roads and limitations or prevention of use of motor vehicles. Of equal or greater concern were the restrictions that would be placed on national security activities along the border. Opinions of experts are that the designation of any wilderness along the Mexican border would constitute an amplified national security threat. National Security is just too important. The **Potrillo National Security and Rangeland Preservation Area** preserves the heritage of that border area and draws special attention to the vital importance of protecting our borders.

Title III. New Mexico State University Land Exchange

The proposal endorses the exchange of 7,800 acres of surface estate from the Chihuahuan Desert Rangeland Research Center for the subsurface estate under the remaining 56,000 acres occupied by the Center.

Title IV. Disposal of Public Lands for Community Growth

This title will contain provisions as previously proposed by Senator Domenici. It is critical to the future quality of life in the county to provide an alternative to rampant growth into the farmlands of the Rio Grande Valley. This title will provide for participation of local governing bodies and citizens in the selection and timing of federal lands to be sold or exchanged for development.

As proposed, 20% of sale proceeds will be allocated to the County and its communities. The balance will be used to pay sale costs, acquisition of environmentally sensitive land, recreation enhancement, wildlife habitat, and rangeland improvements. The provision for rangeland improvement is an addition to Senator Domenici's proposal, which we view as critical and central to the preservation of wildlife habitat and rangeland health.

A land disposal advisory board is proposed and shall consist of the Las Cruces District manager of the BLM, one representative of the County, one from the City of Las Cruces, a member of the business community, a member of the ranching community holding an active grazing allotment within the County, a member from the conservation community, and one member shall be a representative of the EBID Board.

Title V. Authorization of Appropriations

This final title authorizes the appropriation of sums needed to carry out the act.

ADDENDUM A. Adjustment of boundary line of “Organ Mountains RPA”

As originally set forth in the conceptual process of the Federal Legislation drafted by People for Preservation of Our Western Heritage, the draft version was to be altered as defining information was discovered and or requested by parties to the process that had duties, responsibilities, investments, or substantive stakes in the final version of the Act. Such an adjustment was required as more information was learned of the expansion of Ft. Bliss and the interaction thereof between the State of New Mexico Land Office, South Valley citizens and economic development officials, and the Department of Defense. As such, the boundary line of the Organ Mountain RPA was adjusted as noted on the map of record dated November 28, 2007. The adjustment will accommodate Ft. Bliss noise buffering and allow more reasonable and intrinsically correct RPA boundary assignment to the Disposal Lands as defined by the Bureau of Land Management inventory of same from 1991.