

WESTERN ECONOMIC SECURITY TODAY ACT OF 2023

—————
FEBRUARY 9, 2024.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed
—————

Mr. WESTERMAN, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3397]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3397) to require the Director of the Bureau of Land Management to withdraw a rule of the Bureau of Land Management relating to conservation and landscape health, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Western Economic Security Today Act of 2023” or the “WEST Act of 2023”.

SEC. 2. WITHDRAWAL OF BLM PROPOSED RULE.

The Director of the Bureau of Land Management—

(1) shall withdraw the proposed rule of the Bureau of Land Management entitled “Conservation and Landscape Health” (88 Fed. Reg. 19583 (April 3, 2023)); and

(2) shall not take any action to finalize, implement, or enforce the proposed rule described in paragraph (1) or any substantially similar rule.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 3397 is to require the Director of the Bureau of Land Management to withdraw a rule of the Bureau of Land Management relating to conservation and landscape health.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3397, the Western Economic Security Today (WEST) Act of 2023, would require the Director of the Bureau of Land Management (BLM) to withdraw the agency's proposed "Conservation and Landscape Health" Rule (Rule). The bill also prevents the BLM from issuing a substantially similar rule in the future.

On April 3, 2023, the BLM published in the Federal Register a proposed rule, "Conservation and Landscape Health," with a 75-day comment period. The Rule would broadly allow the BLM to lease lands under new and vaguely defined conservation leases, incorporate new standards when evaluating traditional multiple use decisions, expedite designations of new Areas of Critical Environmental Concern (ACECs), and apply land health standards to all public lands. The administration's proposed Rule would have considerable implications, fundamentally changing the way the BLM carries out its multiple use and sustained yield mandate under the Federal Land Policy and Management Act of 1976 (FLPMA). Overall, the Rule poses many concerns. In the Rule, BLM cites increases in "authorized uses" currently happening on BLM lands as the reason for the Rule. This suggests the intent of this Rule is to fundamentally disrupt the balance of multiple use.

H.R. 3397 is necessary to ensure that the BLM continues to operate within its statutory mandate outlined under FLPMA. The proposed Rule goes beyond the agency's existing authority and within the proposed Rule, the agency is proposing several actions that have no clear basis in any existing statute. In particular, the Rule proposes elevating conservation as a "use" under FLPMA though no such language exists in that statute. Over 100 questions for the record and numerous letters to the agency from the Committee requesting clarification on basic aspects of the Rule have gone unanswered.

The BLM proposed Rule is a seismic shift in public land management and presents a fundamental threat to rural communities across the West. Thousands of rural economies depend on access to BLM lands for energy and mineral development, grazing, timber production, and recreation. These uses often overlap on BLM land and co-exist with each other, just as FLPMA intends. Meaningful conservation work continues to occur simultaneously with, and often to the benefit of, other uses. If certain uses of public lands are prohibited, family and small businesses, multi-generation ranches, local communities, and schools will suffer from lack of economic opportunity, access, and tax revenue.

Several outstanding concerns with the Rule remain including: lack of stakeholder engagement and public input; usurping Congressional authority by redefining the intent of FLPMA without Congressional authorization; endangering rural economies by cutting off multiple uses without conducting a thorough economic analysis; endangering national security by allowing potential foreign adversaries to lease public lands; removing transparency and accountability from BLM decision making regarding restrictive land-use designations; and locking up lands from grazing, mineral and energy development, timber production, and recreation and access.

COMMITTEE ACTION

H.R. 3397 was introduced on May 17, 2023, by Rep. John Curtis (R-UT). An identical bill was introduced in the Senate on May 3, 2023, by Senator John Barrasso (R-WY). H.R. 3397 was referred to the Committee on Natural Resources. On June 15, 2023, the Committee on Natural Resources held a legislative hearing on the bill. On June 21, 2023, the Committee on Natural Resources met to consider the bill. Rep. Curtis (R-UT) offered an amendment in the nature of a substitute, designated Curtis ANS___045, to establish the short title of the bill as the “Western Economic Security Today (WEST) Act of 2023” and to require that the BLM Director shall not issue a substantially similar rule once it is withdrawn.

Ranking Member Raúl Grijalva (D-AZ) offered an amendment to the amendment in the nature of a substitute, designated Grijalva #1, that would nullify the bill if the BLM provided a public comment period of at least 30 days. The amendment to the amendment in the nature of a substitute offered by Ranking Member Grijalva (D-AZ) was not adopted by a roll call vote of 13 yeas to 18 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: June 21, 2023

Roll Call# 1

Meeting on / Amendment on: **Grijalva #1 to Curtis ANS_045 to H.R. 3397 (Rep. Curtis)**, To require the Director of the Bureau of Land Management to withdraw a rule of the Bureau of Land Management relating to conservation and landscape health.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA		X		Mr. Sablan, CNMI	X		
Mr. McClintock, CA				Mr. Huffman, CA	X		
Mr. Gosar, AZ				Mr. Gallego, AZ			
Mr. Graves, LA				Mr. Neguse, CO			
Mrs. Radewagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL				Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR		X		Ms. Stansbury, NM			
Mr. Fulcher, ID		X		Mrs. Peltola, AK		X	
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT		X		Mr. Mullin, CA			
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X		
Mr. Carl, AL				Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT				Mr. Magaziner, RI	X		
Mrs. Boebert, CO				Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI			
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Moylan, Guam		X		Ms. Lee, NV	X		
Mr. Hunt, TX		X					
Mr. Collins, GA		X					
Ms. Luna, FL							
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	13	18	

Rep. Sydney Kamlager-Dove (D-CA) offered an amendment to the amendment in the nature of a substitute, designated Kamlager-Dove #2, that would prohibit the bill from taking effect until the Secretary determines that there is not an adverse impact on tribal cultural or sacred sites. The amendment to the amendment in the nature of a substitute offered by Rep. Kamlager-Dove (D-CA) was not adopted by a roll call vote of 16 yeas to 19 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: June 21, 2023

Roll Call# 2

Meeting on / Amendment on: **Kamlager Dove#2 to Curtis ANS_045 to H.R. 3397 (Rep. Curtis)**, To require the Director of the Bureau of Land Management to withdraw a rule of the Bureau of Land Management relating to conservation and landscape health.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA		X		Mr. Sablan, CNMI	X		
Mr. McClintock, CA				Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ			
Mr. Graves, LA				Mr. Neguse, CO	X		
Mrs. Radewagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL				Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR		X		Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT		X		Mr. Mullin, CA			
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X		
Mr. Carl, AL				Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO				Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI			
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Moylan, Guam		X		Ms. Lee, NV	X		
Mr. Hunt, TX		X					
Mr. Collins, GA		X					
Ms. Luna, FL							
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	16	19	

Rep. Susie Lee (D–NV) offered an amendment to the amendment in the nature of a substitute, designated Lee___027, that would remove the restriction on the BLM from issuing a substantially similar rule. The amendment to the amendment in the nature of a substitute offered by Rep. Lee (D–NV) was not adopted by a roll call vote of 16 yeas to 20 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: June 21, 2023

Roll Call# 3

Meeting on / Amendment on: Lee_027 to Curtis ANS_045 to H.R. 3397 (Rep. Curtis), To require the Director of the Bureau of Land Management to withdraw a rule of the Bureau of Land Management relating to conservation and landscape health.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA		X		Mr. Sablan, CNMI	X		
Mr. McClintock, CA				Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ			
Mr. Graves, LA		X		Mr. Neguse, CO	X		
Mrs. Radewagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL				Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR		X		Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT		X		Mr. Mullin, CA			
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X		
Mr. Carl, AL				Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO				Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI			
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Moylan, Guam		X		Ms. Lee, NV	X		
Mr. Hunt, TX		X					
Mr. Collins, GA		X					
Ms. Luna, FL							
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	16	20	

The amendment in the nature of a substitute, designated Curtis ANS 045, offered by Rep. Curtis (R-UT) was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by a roll call vote of 20 yeas to 16 nays, as follows:

Committee on Natural Resources

U.S. House of Representatives

118th Congress

Date: June 21, 2023

Roll Call# 4

Meeting on / Amendment on: **On Favorably Reporting, as amended, H.R. 3397 (Rep. Curtis)**, To require the Director of the Bureau of Land Management to withdraw a rule of the Bureau of Land Management relating to conservation and landscape health.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman	X			Mr. Grijalva, AZ, Ranking		X	
Mr. Lamborn, CO	X			Ms. Napolitano, CA		X	
Mr. Wittman, VA	X			Mr. Sablan, CNMI		X	
Mr. McClintock, CA				Mr. Huffman, CA		X	
Mr. Gosar, AZ	X			Mr. Gallego, AZ			
Mr. Graves, LA	X			Mr. Neguse, CO		X	
Mrs. Radewagen, AS	X			Mr. Levin, CA		X	
Mr. LaMalfa, CA	X			Ms. Porter, CA		X	
Mr. Webster, FL				Ms. Leger Fernandez, NM		X	
Ms. González-Colón, PR	X			Ms. Stansbury, NM		X	
Mr. Fulcher, ID	X			Mrs. Peltola, AK		X	
Mr. Stauber, MN	X			Ms. Ocasio-Cortez, NY		X	
Mr. Curtis, UT	X			Mr. Mullin, CA			
Mr. Tiffany, WI	X			Ms. Hoyle, OR		X	
Mr. Carl, AL				Ms. Kamlager-Dove, CA		X	
Mr. Rosendale, MT	X			Mr. Magaziner, RI		X	
Mrs. Boebert, CO				Ms. Velázquez, NY			
Mr. Bentz, OR	X			Mr. Case, HI			
Ms. Kiggans, VA	X			Mrs. Dingell, MI		X	
Mr. Moylan, Guam	X			Ms. Lee, NV		X	
Mr. Hunt, TX	X						
Mr. Collins, GA	X						
Ms. Luna, FL							
Mr. Duarte, CA	X						
Ms. Hageman, WY	X						
				TOTAL:	20	16	

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Committee on Natural Resources held on June 15, 2023.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the bill as the “Western Economic Security Today Act of 2023,” or the “WEST Act of 2023.”

Section 2. Withdrawal of BLM proposed rule

Section 2 requires the Director of the BLM to withdraw the proposed rule entitled “Conservation and Landscape Health” and restricts any action to finalize or implement the proposed rule or any similar rule.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

H.R. 3397, WEST Act of 2023			
As ordered reported by the House Committee on Natural Resources on June 21, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	a	a	a
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	a	a	a
Spending Subject to Appropriation (Outlays)	0	0	0
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	a	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	a	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

a. CBO has no basis on which to estimate the direct spending effects of enacting H.R. 3397.

H.R. 3397 would direct the Bureau of Land Management (BLM) to withdraw the proposed rule, “Conservation and Landscape

Health,” as published in the *Federal Register* in April 2023.¹ The bill also would prohibit BLM from implementing any substantially similar rule.

Under the proposed regulation, BLM would lease federal land for conservation purposes to private entities or individuals in return for rent and other fees, which would be recorded in the budget as offsetting receipts (or reductions in direct spending). Some of those receipts would be available for spending without further appropriation. The proposed rule does not specify the amount of land that BLM would make available, and it does not define acceptable conservation practices for leased land, terms of leases, or fee structures. Rather, BLM requested public feedback to help inform its decisions about the nature of such leases.

CBO cannot determine the extent that conservation leases implemented under the proposed rule would affect land that under current law will generate receipts from other activities. (Some land under BLM’s jurisdiction generates receipts from the sale of timber or the mining of oil, natural gas, or other subsurface minerals.)

CBO expects that prohibiting the proposed rule would have direct spending effects. The government would forgo receipts from the conservation leases but could gain receipts from activities that would not occur under those leases. However, CBO has no basis to estimate the magnitude or direction of those effects because they depend on still-undetermined provisions of the proposed conservation leases.

The CBO staff contact for this estimate is Lilia Ledezma. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to require the Director of the Bureau of Land Management to withdraw a rule of the Bureau of Land Management relating to conservation and landscape health.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 3397 contains no unfunded mandates as defined in the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

¹“Conservation and Landscape Health,” 88 Fed. Reg. 19583 (April 3, 2023), <https://tinyurl.com/54pv4w6j>.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

As ordered reported by the Committee on Natural Resources, H.R. 3397 makes no changes in existing law.

DISSENTING VIEWS

H.R. 3397 would require the Director of the Bureau of Land Management (BLM) to withdraw the proposed rule submitted by BLM entitled “Conservation and Landscape Health” (88 Fed. Reg. 19583 (April 3, 2023)), which the agency is commonly referring to as the Public Lands Rule. In addition to withdrawing the proposed rule, the bill would further prohibit the Director from taking any steps to finalize, implement, or enforce the proposed rule or any similar rule.

H.R. 3397 is a continuation of the majority’s effort to undermine conservation and block meaningful efforts by the Biden administration to promote the long-term stewardship of America’s Public Lands—as shown by the majority rushing the bill through Committee before the public comment period on the rule had even closed.

As BLM manages more than 245 million acres of public lands, roughly one-tenth of the country, it is critical that BLM has the tools to improve the resilience of public lands in the face of a changing climate; conserve important wildlife habitat and intact landscapes; plan for development; and better recognize unique cultural and natural resources on public lands.

The BLM’s stewardship of our public lands and resources is guided by the Federal Land Policy and Management Act of 1976 (FLPMA), which established BLM’s multiple-use and sustained yield mission. The multiple-use mandate requires BLM to manage public lands for a variety of uses, ranging from energy development, grazing, mining, recreation, and conservation. Sustained yield requires BLM to manage resources to ensure their continued availability for current and future generations. BLM is responsible for ensuring that a variety of uses can coexist on public lands and that the uses are balanced to ensure they are compatible and sustainable over time.¹

The proposed rule would clarify that conservation is a “use” on par with any of the other land uses that BLM prioritizes under FLPMA and that BLM should provide balanced management of America’s public lands; establish a conservation leasing program that would allow community groups to conduct conservation programs, including mitigation and restoration activities, on public lands; and prioritize the designation and protection of Areas of Critical Environmental Concern (ACECs) in land use plans and provide consistent and clear direction on their use.

The proposed rule does not change BLM’s existing land management planning process, and it continues to allow grazing, drilling, and other extraction on BLM lands. It does not impede develop-

¹ Federal Land Policy and Management Act of 1976. 43 U.S.C. <https://www.govinfo.gov/content/pkg/USCODE-2021-title43/pdf/USCODE-2021-title43-chap35-subchapl-sec1702.pdf>.

ment on public lands or require the use of conservation leasing. Instead, the rule creates more opportunities and tools for local communities to shape the management of their lands.

In their opposition to the proposed rule, Committee Republicans have continuously highlighted opposition from some in rural communities but have failed to appropriately consider the extensive support from the conservation and outdoor recreation communities, as well as the Affiliated Tribes of Northwest Indians and the National Congress of American Indians, among other organizations—many of which are based in rural communities.²

Overall, the proposed rule emphasizes that the multiple-use mission of BLM, including energy development, mining, grazing, timber, recreation, and other uses, will continue. The goal is to facilitate responsible development through informed planning, which considers the compatibility of various land uses and provides opportunities for compensatory mitigation on public lands. BLM-managed lands are crucial economic and ecological landscapes that drive tourism and recreation, provide habitat for imperiled wildlife, and house irreplaceable cultural resources. The proposed rule is an important step in protecting public lands and resources from the impacts of climate change and elevates conservation without outweighing other considerations. H.R. 3997 would completely curtail these efforts.

RAÚL M. GRIJALVA,
Ranking Member.



²Resources, Act Now for Public Lands <https://actnowforpubliclands.org/resources>.