

Senate Amendments to H.R. 146— Omnibus Public Land Management Act of 2009 (*Rahall, D-WV*)

Key Conservative Concerns

Take-Away Points

- Blocks millions of acres from new oil and gas leasing, logging, mining, and all other business activity in these areas.
- Eliminates 1.2 million acres from mineral leasing and energy exploration in Wyoming alone - withdrawing **331 million barrels of recoverable oil and 8.8 trillion cubic feet of natural gas** from domestic energy supply.
- Designates more than **2 million acres of land as wilderness areas**; permanently eliminating human access for energy exploration or recreational opportunities.
- Eliminates a proposed terminal site for importing liquefied natural gas (LNG) in Massachusetts by designating a river that runs through a city as “wild and scenic”.
- Authorizes **\$5.5 billion** of new discretionary spending over five years and **\$900 million** of direct spending.
- Makes collecting fossils an illegal activity, creating overreaching criminal and civil penalties for thousands of amateur paleontologists.
- **Pork Projects:** \$3.5 million to the city of St. Augustine, FL for a birthday party, \$200,000 for a tropical botanical garden in Hawaii, \$250,000 to study the birthplace of Alexander Hamilton in the U.S. Virgin Islands, and \$37 million for a park in New Jersey that is not even supported by the National Park Service.

For more details on these concerns, see below.

Order of Business: The bill is scheduled to be considered on March 25, 2009, under a closed rule.

On March 11, 2009, House Republicans defeated identical legislation (S. 22) under suspension of the rules. After defeat, the Senate considered the legislation again by bringing up the House-passed Revolutionary War and War of 1812 Battlefield Protection

Act (H.R. 146) and replacing its text with the text of the House-passed Omnibus Lands Package (S. 22). Procedurally, this means the House can only “concur” with the Senate amendment and prevents House Republicans from offering a motion to recommit.

Additional Background: Before consideration of H.R. 146, the Senate passed by voice vote several amendments offered by Senator Tom Coburn (R-OK) that exempt individuals who unknowingly pick up fossils from being subject to criminal penalty and limit the government’s authority to seize property. However, some conservatives may be still concerned that the underlying bill still does not adequately protect amateur paleontologists and scientists, since H.R. 146 continues to include steep and overreaching criminal and civil penalties, resulting in punishments that many conservatives believe do not fit the crime.

H.R. 146 contains an amendment authored by Representative Altmire (D-PA) intended to address the concern that the underlying legislation affects hunting, gaming, or other forms of traditional recreation. The Bush Administration codified regulations that allowed Americans to carry concealed firearms on public lands in January of this year. The amendment also clarifies that that states have the authority to manage fish and wildlife. While the National Rifle Association does not take a position on H.R. 146 as a whole, they are in *support of the Altmire provision* stating “the meaningful protections provided by the Altmire amendment are critical to preserve access for sportsman and the authority of the state to manage state wildlife populations.”

However, the Gun Owners of America (GOA) believe the Altmire amendment is insufficient and misses the point. On March 19, 2009, a Washington D.C based District Judge blocked the Bush Administrations regulation that allows citizens to carry concealed firearms in national parks and wildlife refuges in accordance with state laws. Some conservatives have expressed concern that this ruling undermines the Altmire language and renderings it meaningless. The *GOA will key vote H.R. 146 as an “anti-gun” vote.*

Summary: H. 146 is an omnibus federal lands bill that would authorize the Secretary of Interior to study, establish, and redesignate numerous National Parks, National Wildernesses, National Heritage Areas, National Trails, National Scenic River designations, and codify the National Landscape Conservation System (NLCS). H.R. 146 would also authorize land conveyances and exchanges, federal boundary adjustments, memorials, museums, reclamation projects, and commissions. Additionally, the bill authorizes programs for ocean exploration, local water infrastructure, underwater research, and paralysis research. For a more detailed summary of the legislation, please review the [February 11th Legislative Bulletin](#).

Conservative Concerns: Some conservatives may be concerned that this 1,246 page bill is being considered under “suspension of the rules”. This procedural motion is intended to be reserved for non-controversial matters. The CRS report describing the provisions in this bill used the word “controversial” 37 times.

H.R. 146 creates eighty new federal wilderness designations or additions to public land that withdraw more than 3 million acres of land from energy leasing. In Wyoming alone, these restrictions eliminate access to an estimated 331 million barrels of oil and 8.8 trillion cubic feet of natural gas. Last summer, Americans were calling on Congress to reduce the price of oil after facing gasoline prices costing over \$4 a gallon this summer. Many conservatives believe that it is the wrong strategy to further limit the ability to increase domestic production, and to continue to increase our reliance on foreign imports.

Some conservatives may also be concerned that many of the land designations included in H.R. 146 severely limit private property rights. Heritage and Wilderness area designations can lead to restrictive federal zoning and land-use planning to block energy development. In Heritage areas, management plans can restrict how residential and commercial property owners utilize their private property without any notice or warning.

Some conservatives may also be concerned that H.R. 146 couples non-controversial land bills with contentious federal designations that limit land use and are opposed by some residents and Members within the designations. Some conservatives may be concerned that non-controversial land bills are attached to H.R. 146 in order to garner votes for disputed designations that had difficulty passing under suspension of the rules in the 110th Congress. By contrast, properly managed public lands can simultaneously contribute to energy independence, wildlife conservation, outdoor recreation and the advancement of science and technology.

Committee Action: None.

Administration Position: No Statement of Administration Policy (SAP) is available.

RSC Bonus Fact: The federal government already owns nearly 650 million acres of land, which amounts to 30 percent of the total land area of the United States. The District of Columbia, established by the Constitution as the federal city, has only 24.7% of its total acreage owned by the federal government. Twelve states rank above DC in federal land ownership. 85% of Nevada is federally owned and the federal government occupies more than 45% of the land in California.

Cost to Taxpayers: While CBO has not prepared a complete cost estimate for all of the provisions of H.R. 146 that would authorize discretionary spending subject to appropriation, they have estimated that the total discretionary spending that would be necessary to carry out the legislation is more than \$5.5 billion over five years, subject to appropriation. In addition, they estimate direct spending would increase by more than \$900 million after 2019.

Does the Bill Expand the Size and Scope of the Federal Government? Yes, the bill creates new federal land designations, limits multiple use of public lands, restricts energy development, and expands the jurisdiction of the Department of Interior.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? Yes, it expands federal land ownership by more than 3 million acres. Many conservatives would argue that federal land acquisition erodes private property ownership rights.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee report designating compliance with clause 9 of rule XXI is unavailable.

Constitutional Authority: A committee report citing constitutional authority is not available.

Outside Organizations opposed to the legislation:

- U.S. Chamber of Commerce
- American Motorcycle Association (key vote)
- Gun Owners of America (key vote)
- Property Rights Alliance (key vote)
- Citizens Against Government Waste (key vote)
- Alliance for Worker Freedom (key vote)
- Americans for Prosperity (key vote)
- National Taxpayers Union (significantly weighted)
- Recreational Off Highway Vehicles Association
- Western Business Roundtable
- Americans for Tax Reform
- American Conservative Union
- Competitive Enterprise Institute

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