

Anatomy of a Land Bill

NOTE: groups proposing third way alternatives should seek professional assistance when crafting draft legislation. Assistance is available from a variety of sources, including BRC.

Definitions

Often found at the very beginning of the legislation, this section defines the terms used in the text.

Findings and/or Purpose

Findings are usually statements of facts that provide the rationale for the legislation. A purpose section is sometimes included, which is a straightforward statement of what the legislation will do. This is sometimes where the “resource values” are found.

Designation of Wilderness or other special interest areas

If your legislation includes Wilderness or any other special designation, its usually found in the front of the bill. NOTE: If your area contains sensitive or endangered species, or other sensitive natural resource, this is the place to prove you are the REAL environmentalist by establishing specific management that would actually benefit the bird, bug, bog or beast that's threatened. For example, a Utah bill included the establishment of the Red Cliffs National Conservation Area and funded a Habitat Conservation Area to protect the endangered desert tortoise. Both of these areas allow some motorized and mountain bike uses.

IMPORTANT NOTE: Special area designations can be suggested that address long-running recreation management conflicts. By formally establishing what uses are allowed, it will provide some certainty that those uses will continue into the future. An example is the Bridgeport Winter Recreation Area in the Eastern Sierra and Northern San Gabriel Wilderness bill and the Cow Mountain Recreation Area in the Northern California Coastal Wild Heritage Wilderness Act. (See samples)

Administration, travel and transportation management and specific management provisions

An administration section is often used to specify which agency will manage your designation. These can very general or very specific and sometimes reference specific roads, trails and areas. Many third way alternatives require the managing agency to complete a recreation or travel plan within a certain period of time.

As noted above, some legislation is very specific about management issues such as recreation, livestock grazing, hunting and other uses. You can get as specific as you want, including identifying the travel plan within the legislation itself.

This is another section that is extremely important to craft the language carefully. Proponents should seek assistance with these important sections.

Withdrawal

Insofar as providing protection from development, this section is where that happens. You will notice in our samples that the withdrawal section has the same language as a stand-alone wilderness bill. This removes or “withdraws” all ability for mineral, oil and gas and other heavy commercial uses.

You can expect Wilderness activists to say your bill isn't as protective as Wilderness. This is a common myth. Any third way proposal can carry the same level of protection (or more) from development as any Wilderness bill. The key is the specific language ultimately adopted by Congress.

Buffer Zone

The term buffer zone is often misunderstood. You won't be establishing a buffer zone around Wilderness, rather, you will ensure such buffer zones will not be created. This section bans the creation of any protective perimeter or buffer zone around any area designated as Wilderness. This section will state that simply because an activity or use on land outside Wilderness can be seen or heard within the Wilderness shall not preclude the activity or use outside the boundary of the Wilderness. Such language is extremely important from a multiple-use advocate's perspective.

Access to private lands

The fact that provisions guaranteeing private citizens access to their "landlocked" property are now common is perhaps a sad commentary on how far federal land managing agencies have strayed from their mandates. Private property owners are wise to insist on such provisions.

Water rights and other valid existing rights

Almost all land bills these days will include provisions expressly stating congressional intent to protect valid existing rights and will routinely provide that no federal reserved water right is established or implied.

Land disposal, transfer and acquisition

Believe it or not, some of the largest commercial development of public lands was made possible by a Wilderness bill. Third way proposals often allow public lands near communities to be sold or transferred to the state or local government. These sections also provide instructions on where and how the money from land sales can be spent.

Land transfers between state and federal agencies are also fairly common. And some bills have provided funds to buy lands from "willing sellers."

However, privatizing public lands is extremely controversial. In some ways, it is even more controversial than Wilderness.

Release

Third way alternatives often include releasing Wilderness Study Areas. WSA's are most often found on BLM lands and many are not suitable or manageable as Wilderness. As WSA's can only be removed by act of Congress, third way alternatives often provide opportunities to do this.

Authorization of appropriation

Usually at the end of legislation, this provision can provide for or direct use of funding to implement the provisions in the bill.