THE OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009
RULE XLIV COMPLIANCE

Mr. BINGAMAN. Mr. President, pursuant to rule XLIV of the Standing Rules of the Senate, I hereby certify that, to the best of my knowledge and belief, the Omnibus Public Land Management Act of 2009 does not contain any limited tax benefits, limited tariff benefits, or congressionally directed spending items, as those terms are defined in rule XLIV.

Rule XLIV broadly defines the term "congressionally directed spending item" to include " a provision ... included primarily at the request of a Senator ... authorizing ... a specific amount of discretionary budget authority ... for ... expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process."

The Omnibus Public Land Management Act of 2009 is a collection of over 150 public land bills that were reported from the Committee on Energy and Natural Resources during the 110th Congress, for which we have not been able to get unanimous consent to take up and pass during the 110th Congress. I have included them in the Omnibus Public Land Management Act of 2009 to facilitate their early consideration in the new Congress, and not "primarily at the request of a Senator."

Nevertheless, even though no Senator has specifically requested me to include a congressionally directed spending item in the Omnibus Public Land Management Act of 2009, in the interest of furthering the transparency and accountability of the legislative process, I have posted on the website of the Committee on Energy and Natural Resources a complete list of all provisions in the Omnibus Public Land Management Act of 2009 that authorize a specific amount of spending authority that is targeted to a specific State or locality, other than through a statutory or administrative formula-driven or competitive award process. The list includes the name of the principal sponsors of the Senate bills in the 110th Congress that have been incorporated in the Omnibus Public Land Management Act.

In addition, I have added several other non-public-land measures from the 110th Congress at the request of the Majority Leader. Most of these provisions were included in the Advancing America's Priorities Act (S. 3297) in the 110th Congress. They include: the Christopher and Dana Reeve Paralysis Act (subtitle B of title I of S. 3297); four parts of subtitle B, relating to oceans, of title V of S. 3297; and title VII of S. 3297, relating to the authorization of a greenhouse facility for the Smithsonian Institution. These provisions were determined not to constitute "congressionally directed spending items" in the Advancing Amercia's Priorities Act. See 153 Cong. Rec. S7509-7510 (daily ed. July 26, 2008).

In addition, I have added the Coastal and Estuarine Land Conservation Program Act (H.R. 1907 in the 110th Congress), and the Smithsonian Institution Facilities Authorization Act of 2008 (H.R. 6627 in the 110th Congress), at the request of the Majority Leader. The grant program established under Coastal and Estuarine Land Conservation Program Act (section 12507 in the Omnibus Public Land Management Act) does not constitute a congressionally directed spending item because the funds are to be allocated through a competitive grant process. The authorizations in the Smithsonian Institution Facilities Authorization Act (sections 15101 and 15102 of the Omnibus Public Land Management Act) do not appear to constitute congressionally directed spending items because they were requested by the Board of Regents of the Smithsonian Institution, and because they originated in the House of Representatives, where the committees of jurisdiction determined they did not constitute congressional earmarks. H. Rept. 110-842, part 1, at 5 (2008) (Committee on House Administration); H. Rept. 110-282, part 2, at 4 (2008) (Committee on Transportation and Infrastructure).

Finally, I have added the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act (H.R. 5293 in the 110th Congress), at the request of the Majority Leader. This Act ratifies a water rights settlement among the Shoshone-Paiute Tribes of the Duck Valley Reservation, individual water users, and the State of Nevada. Section 8 of H.R. 5293 (section 10807 of the Omnibus Public Land Management Act) creates two trust funds to settle the legal claims of the Shoshone-Paiute Tribes against the United States for compromising tribal water rights and failing to maintain the Duck Valley Indian Irrigation Project. They do not appear to constitute congressionally directed spending items because they were included to settle pending legal claims rather than "primarily at the request of a Senator," and because they originated in the House of Representatives, where the committee of jurisdiction determined that they did not constitute congressional earmarks. H. Rept. 110-815 at 11 (2008) (Committee on Natural Resources).

I ask unanimous consent that the list be printed in the Record following these remarks.

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Provisions in the Omnibus Public Land Management Act of 2009 authorizing appropriations in a specific amount for expenditure with or to an entity or targeted to a specific State, locality, or congressional district, other than through a statutory or administrative formula-driven or competitive award process:

Section	Program or entity	State	Principal Sponsor of Senate Bill in 110th Cong. (or Requester)
2501(b)	Rio Puerco Watershed	NM	Bingaman/Domenici
7101(c)	Keweenaw National Historical Park	MI	Levin
7111	Women's Rights National Historical Park	NY	Clinton
7405(g)	St. Augustine Commemoration Commission	FL	Martinez/Nelson
8001(h)	Sangre de Cristo National Heritage Area	CO	Salazar/Allard
8002(h)	Cache La Poudre National Heritage Area	CO	Allard/Salazar
8003(h)	South Park National Heritage Area	CO	Salazar
8004(h)	Northern Plains National Heritage Area	ND	Dorgan/Conrad
8005(h)	Baltimore National Heritage Area	MD	Mikulski/Cardin
8006(i)	Freedom's Way National Heritage Area	MA & NH	Kerry
8007(h)	Mississippi Hills National Heritage Area	MS	Cochran
8008(h)	Mississippi Delta National Heritage Area	MS	Cochran
8009(i)	Muscle Shoals National Heritage Area	AL	none
8010(h)	Kenai Mountains-Turnagain Arm NHA	AK	Murkowski
8201(c)	Quinebaug & Shetucket Nat. Heritage Corridor	CN	Dodd
9001(c)	Snake, Boise & Payette River Systems Study	ID	Craig

9002(b)	Sierra Vista Subwatershed Study	AZ	Kyl/McCain
9003(c)	San Diego Intertie Study	CA	none
9101(c)	Tumalo Irrigation Project	OR	Smith/Wyden
9102(d)	Madera Water Supply Project	CA	Feinstein
9103(e)	Eastern New Mexico Rural Water Project	NM	Bingaman/Domenici
9105(b)	Jackson Gulch Rehabilitation Project	CO	Salazar/Allard
9106(g)	Rio Grande Pueblos	NM	Bingaman
9108(j)	Santa Margarita River	CA	none
9109(a)	Elsinore Valley Municpal Water District	CA	none
9110(a)	North Bay Water Reuse Authority	CA	Feinstein/Boxer
9111(a)	Prado Basin Treatment Project	CA	Feinstein
9112(b)	Bunker Hill Groundwater Basin	CA	Feinstein
9114(a)	Yucaipa Valley Water District	CA	none
9301(3)	San Gabriel Basin Restoration Fund	CA	none
10009	San Joaquin Restoration Settlement	CA	Feinstein/Boxer
10203	Friant Division Improvements	CA	Feinstein/Boxer
10501	Reclamation Water Settlement Funds	NM	Bingaman/Domenici
10609(a)	Navajo-Gallup Water Supply Project	NM	Bingaman/Domenici
10609(b)	San Juan Conjunctive Use Wells	NM	Bingaman/Domenici
10609(c)	San Juan River Irrigation Projects	NM	Bingaman/Domenici
10609(d)	Other Irrigation Projects	NM	Bingaman/Domenici
10702(f)	Navajo Nation Water Trust Fund	NM	Bingaman/Domenici
10807(b)	Duck Valley Development Fund	NV	Reid/Ensign

10807(c)	Duck Valley Maintenance Fund	NV	Reid/Ensign
12107	National Institute for Undersea Science and Technology	MS	Reid (Cochran)
13006	National Tropical Botanical Garden	HI	Akaka
15101	Smithsonian Institution Mathias Laboratory	MD	Leahy (Dodd)
15102	Smithsonian Institution Panama Laboratory	Panama	Leahy (Dodd)
15103	Smithsonian Institution greenhouse	MD	Reid (Leahy/Dodd)