

SPANISH PEAKS WILDERNESS ACT OF 1999

JUNE 7, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 898]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 898) designating certain land in the San Isabel National Forests in the State of Colorado as the “Spanish Peaks Wilderness”, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 898 is to designate certain land in the San Isabel National Forest in the State of Colorado as the “Spanish Peaks Wilderness.”

BACKGROUND AND NEED FOR LEGISLATION

The mountains known as the Spanish Peaks are two volcanic peaks in Las Animas and Huerfano Counties, Colorado, whose Native American name is Wayatoya. The eastern peak rises to 12,683 feet above sea level, while the summit of the western peak reaches 13,626 feet. The two served as landmarks not only for Native Americans but also for some of Colorado’s other early settlers and for travelers along the trail between Bent’s Old Fort on the Arkansas River and Taos, New Mexico.

The Spanish Peaks portion of the San Isabel National Forest was included in 1977 on the National Registry of Natural Landmarks.

The Spanish Peaks area has outstanding scenic, geologic, and wilderness values, including a spectacular system of over 250 free-standing dikes and ramps of volcanic materials radiating from the peaks. The State of Colorado has designated the Spanish Peaks as a natural area, and they are a popular destination for hikers.

The Forest Service reviewed the Spanish Peaks area for possible wilderness designation as part of its second roadless area review and evaluation and in 1979 recommended designation of 19,750 acres as wilderness. Concerns about private land inholdings in the area prompted Congress, in the Colorado Wilderness Act of 1980, to instead provide for its continued management as a wilderness study area.

A decade later, the Colorado Wilderness Act of 1993 included provisions for long-term management of all the other wilderness study areas in Colorado's national forests. However, questions about the land-ownership pattern in the Spanish Peaks area prompted the Forest Service to change its mind about designating the Spanish Peaks as wilderness. Therefore, the 1993 Act required continued management of the Peaks as a wilderness study area for 3 years—until August 13, 1996. The 1993 Act also required the Forest Service to report to Congress the extent of non-Federal holdings, with an eye towards acquisition of those holdings by the federal government with the owners' consent.

The required report was submitted in 1995. It indicated that within the wilderness study area, there were about 825 acres where the United States owned neither the surface estate nor the mineral rights, and about 440 additional acres where the United States owned the surface estate but not the minerals. Since then, through voluntary sales, the United States has acquired most of the inholdings. Today only 166 acres of inholdings remain, and the Forest Service is in the process of or making efforts to acquire 134 of those acres.

H.R. 898 would designate as wilderness about 18,000 acres of the San Isabel National Forest, including both of the Spanish Peaks as well as the slopes below and between them. This includes most of the lands originally recommended for wilderness by the Forest Service, but with boundary revisions that will exclude some private lands. The author of H.R. 898 has made significant efforts to address local concerns about the wilderness designation, including: (1) adjusting the boundary slightly to exclude certain lands that are likely to have the capacity for mineral production; and (2) excluding from the wilderness a road that locals use for access to a portion of the area.

The lands covered by this bill are not only striking for their beauty and value but also offer important recreational opportunities. The bill would simply add the Spanish Peaks area to the list of areas designated as wilderness by the Colorado Wilderness Act of 1993. As a result, all the provisions of the 1993 Act—including the provisions related to water—would apply to the Spanish Peaks just as they do to the other areas on that list. As with the other areas now on that list, the Spanish Peaks is a headwaters area, which for all practical purposes eliminates the possibility of water conflicts. There are no water diversions within the area.

COMMITTEE ACTION

H.R. 898 was introduced on March 2, 1999, by Congressman Scott McInnis (R-CO). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Forests and Forest Health. On April 22, 1999, the Subcommittee held a hearing on the bill, where Ron Stewart, Deputy Chief, Programs and Legislation, Forest Service, testified that the Administration was opposed to H.R. 898 because it excluded the Bulls Eye Mine Road from the wilderness designation. On April 27, 1999, the Subcommittee met to mark up the bill. No amendments were offered and the bill was then ordered favorably reported to the Full Committee by voice vote. On May 5, 1999, the Full Resources Committee met to consider the bill. No amendments were offered and the bill was then ordered favorably reported to the House of Representatives by voice vote.

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 Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. *Cost of Legislation.*—Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.*—As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill could result in potential changes in offsetting receipts but “such effect would be insignificant.”

3. *Government Reform Oversight Findings.*—Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. *Congressional Budget Office Cost Estimate.*—Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 13, 1999.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 898, the Spanish Peaks Wilderness Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Victoria Heid Hall.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 898—Spanish Peaks Wilderness Act of 1999

H.R. 898 would amend the Colorado Wilderness Act of 1993 (Public Law 103-77) by designating about 18,000 acres of federal land within the San Isabel National Forest in Colorado as the Spanish Peaks Wilderness. The land is managed as a wilderness study area under current law. The bill would allow for the continuation of historic uses of the Bulls Eye Mine Road, subject to terms and conditions set by the Secretary of Agriculture, and would allow access to privately owned land within the wilderness areas.

CBO estimates that enacting this bill would have no significant impact on the federal budget. The provision allowing historic use of the Bulls Eye Mine Road could be interpreted to require the Forest Service to reopen the road for motorized uses. (The road was built in the late 19th century for foot traffic and pack-animal travel, and it is currently closed to motorized traffic.) Based on information from the Forest Service, we estimate that reopening the road for use by motorized vehicles and providing ongoing maintenance would cost as much as \$100,000 over the 2000-2004 period, subject to appropriation of the necessary amounts.

Because H.R. 898 also could affect direct spending as a result of potential changes in offsetting receipts, pay-as-you-go procedures would apply; however, we estimate that any such effect would be insignificant. This bill would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

The CBO staff contact is Victoria Heid Hall. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**SECTION 2 OF THE COLORADO WILDERNESS ACT OF
1993**

SEC. 2. ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS.—The following lands in the State of Colorado are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) * * *

* * * * *

(20) *SPANISH PEAKS WILDERNESS.*—*Certain land in the San Isabel National Forest that—*

(A) comprises approximately 18,000 acres, as generally depicted on a map entitled “Proposed Spanish Peaks Wilderness”, dated February 10, 1999; and

(B) shall be known as the “Spanish Peaks Wilderness”.

* * * * *

ADDITIONAL VIEWS

The Spanish Peaks are a very special part of Colorado. They deserve and need inclusion in the National Wilderness Preservation System, a status that has been too long delayed. In fact, I had hoped that designation of this area as wilderness would be completed last year; I regret that the Senate did not act on the Spanish Peaks wilderness bill sponsored by my predecessor, Representative David Skaggs, and Representative McNinnis after it was favorably reported by the Committee and passed by the House under unanimous consent. So, I am glad that this year the Committee did not delay in its consideration of H.R. 898, of which I am a cosponsor.

This year's bill differs from the Skaggs-McInnis bill in a few respects, notably the exclusion from wilderness of an old road, known as the Bull's Eye Mine Road, and the inclusion of language related to that road. Because some questions have been raised about the scope and effect of that language, contained in subsection 3(1), I think it appropriate to provide further explanation of that subsection.

Section 3(1) states that insofar as the road is covered by the bill, the Secretary of Agriculture—which, in practice means the USDA Forest Service—is to allow continuation of historic uses established prior to the bill's enactment, subject to such terms and conditions as the Secretary may prescribe.

It is important to note that the bill does not specify exactly what uses are covered by this section—that factual question is left to the determination of the Forest Service. Similarly, the bill does not attempt to specify the terms and conditions that are to apply to any such uses, leaving that completely to the Secretary's discretion and thus allowing the Forest Service to take into account any and all relevant factors, including but not limited to, resource protection, health and safety, and changes in conditions on or affecting the road itself.

In regard to this point, it is useful to note that at the Subcommittee hearing on the bill Representative Hill asked whether Representative McNinnis agreed that under section 3(1) "if the Secretary [of Agriculture] wanted to continue to limit the use of the road to hiking and horseback, it [sic] could continue to do that," to which Mr. McNinnis responded, "That is my interpretation." As a cosponsor of the bill, that is my interpretation as well.

Also, it should be noted that neither this subsection nor any other part of the bill has the effect of requiring the United States to undertake any improvement or maintenance of the road. This is important because, as the Forest Service's witness explained at the hearing, "We [the Forest Service] are in no position to make commitments to keep that road open * * * this would not be a priority road to maintain, and, given that, if people were using it and it were not safe, we would be subject to a significant amount of liabil-

ity.” Because nothing in the bill would have the effect of committing the United States to improve or maintain the road, and because the Secretary has full discretion to condition its use, the bill will not expose the United States to any such liability.

Thus, while the inclusion of Section 3(1) has added an element that was not part of the Skaggs-McInnis bill as passed by the House in the last Congress, nothing in that section will preclude the Forest Service from properly managing the Spanish Peaks Wilderness or any other part of the San Isabel National Forest.

MARK UDALL.

