

Calendar No. 449

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-233

SPANISH PEAKS WILDERNESS ACT OF 1999

MARCH 9, 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 503]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 503) designating certain land in the San Isabel National Forest in the State of Colorado as the “Spanish Peaks Wilderness”, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 3, strike lines 5 through 16 and insert the following:

“SEC. 3. ACCESS.

“(a) IN GENERAL.—The Secretary shall allow the continuation of historic uses of the Bulls Eye Mine Road established before the date of enactment of this Act, subject to such terms and conditions as the Secretary may provide.

“(b) PRIVATELY OWNED LAND.—Access to any privately owned land within the wilderness areas designated under section 2 shall be provided in accordance with section 5 of the Wilderness Act (16 U.S.C. 1134 et seq.).”

PURPOSE OF THE MEASURE

The purpose of S. 503 is to designate certain land in the San Isabel National Forest in the State of Colorado as the “Spanish Peaks Wilderness.”

BACKGROUND AND NEED

S. 503 amends the Colorado Wilderness Act of 1993 by including 18,000 acres of land in the San Isabel National Forest as the Span-

ish Peaks Wilderness. Spanish Peaks had been considered for inclusion in previous wilderness bills. However, because of unresolved issues it was not designated in the past. Those issues included access to various inholdings, the use of the Bulls Eye Mine road, and potential coal bed methane production on portions of the land. Those issues have now been resolved.

LEGISLATIVE HISTORY

S. 503 was introduced by Senator Allard on March 2, 1999. The Subcommittee on Forests and Public Land Management held a hearing on S. 503 on June 23, 1999. At the business meeting on February 10, 2000, the Committee on Energy and Natural Resources ordered S. 503 reported favorably with an amendment. On September 14, 1999, the House passed a companion bill, H.R. 898, by voice vote.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on February 10, 2000, by a voice vote of a quorum present recommends that the Senate pass S. 503 if amended as described herein.

COMMITTEE AMENDMENTS

The committee amendment corrects a factual error in the bill. The map identifying the wilderness area excludes the Bulls Eye Mine road. However, the bill as introduced refers to the road as within the wilderness area. The committee amendment deletes the inaccurate provision.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title.

Section 2 designates the Spanish Peaks Wilderness area by amending the Colorado Wilderness Act and provides a map reference that designates the boundary.

Section 3(a) addresses the management of the Bulls Eye Mine road. The subsection directs the Secretary of Agriculture to allow for the continuation of historic uses of the road established before the date of enactment of this Act, subject to such terms and conditions as the Secretary may prescribe. The Committee notes that the Bulls Eye Mine road—which has been excluded from the Spanish Peaks Wilderness—is currently closed. This section is not intended to restrict or otherwise limit the Secretary's management authority with respect to the road, including any decision to open or close the road, nor does it require the Secretary to improve or maintain the road. However, the Committee expects that the Secretary will consult with local citizens and other interested parties regarding the implementation of this Act with respect to the road.

Subsection (b) addresses access to any privately owned land in the wilderness area.

Section 4 provides conforming amendments.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure as amended follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 22, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 503, 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 Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

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

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 503—Spanish Peaks Wilderness Act of 1999

S. 503 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 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 would 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 2000-2005 period, subject to appropriation of the necessary amounts.

Because S. 503 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 contains 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.

On May 13, 1999, CBO transmitted a cost estimate for H.R. 898, the Spanish Peaks Wilderness Act of 1999, as ordered reported by the House Committee on Resources on May 5, 1999. The two bills are substantively identical, as are the cost estimates.

The CBO staff contact is Mark Grabowicz. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 503.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 503, as ordered reported.

EXECUTIVE COMMUNICATIONS

On June 23, 1999, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth Executive agency recommendations on S. 503. These reports had not been received at the time the report on S. 503 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Forest Service at the Subcommittee hearing follows:

STATEMENT OF DENNY BSCHOR, DIRECTOR, RECREATION, HERITAGE, AND WILDERNESS RESOURCES, FOREST SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

S. 503, SPANISH PEAKS WILDERNESS ACT OF 1999

The Administration would support S. 503, which designates the Spanish Peaks Wilderness within the San Isabel National Forest in the State of Colorado, if it were amended to contain the Bullseye Mine road within the boundary of the wilderness. The Administration objects to the exclusion of the road, which is actually more like a trail, from the wilderness for reasons which I will discuss shortly.

The Spanish Peaks area is a worthy addition to the National Wilderness Preservation System (Wilderness System). The Spanish Peaks are the easternmost peaks of the Rocky Mountains and the 13,626 foot summit of West Spanish Peak is a prominent landmark visible across the high plains for many miles. The peaks were added to the National Registry of Natural Landmarks in 1977. Their unique location, geology, and significant elevation gradient provide singular habitats for plant and animal communities. Water rights, which have often been at issue in Colorado wilderness debates, should not present a problem, as the Spanish Peaks are located in a headwaters area while

the water users are located downstream and outside of the area to be designated.

The Spanish Peaks have long been the subject of considerable interest for their potential inclusion in the Wilderness System. The Endangered American Wilderness Act of 1978 (P.L. 96-560) directed the Secretary of Agriculture to review the Spanish Peaks Wilderness Study Area and report recommendations for suitability of the area for inclusion in the Wilderness System. The Forest Service evaluated the suitability of the area for wilderness as part of the forest planning process and did not recommend wilderness designation for the area, due to the numerous private property interests within the area.

The Colorado Wilderness Act of 1993 (P.L. 103-77) created the Spanish Peaks Planning Area and directed the Forest Service to study the area and report to Congress concerning the status of private property interests within the area. The Congress further directed the agency to expedite this study in the 1994 interior appropriations bill. The Forest Service completed this study and forwarded it to the Congress in 1995.

Significant private property interests including private land, patented and unpatented mining claims, and oil and gas leases within the study area boundaries have been of greatest concern regarding the suitability of the area as wilderness. There were 825 acres in 7 separate inholdings within the 20,000 acre study area in 1995, which caused concern that the area could not be successfully administered as wilderness. In testimony before the 103rd and 105th Congresses addressing the Spanish Peaks area, the Forest Service highlighted concerns about its ability to preserve wilderness values because of the significant amount of private property within the wilderness.

We wish to express our appreciation to the Colorado delegation and to the Congress for their willingness to see the issues resolved before going ahead with wilderness designation. As we have often found, resolving such issues after designation is problematic.

Since the 1995 study, the Forest Service has made the acquisition of lands within this area a high priority, and the Wilderness Land Trust has acquired some of the inholdings which will eventually be turned over to the Forest Service, but 110 interior acres still remain in private ownership. Because of their location, they cannot be excluded from the wilderness by adjusting the boundaries, so they will remain as inholdings unless the Forest Service acquires them.

BULLSEYE MINE ROAD

S. 503 would exclude the Bullseye Mine road from the wilderness area. The Forest Service is concerned about the future management of this road and cannot support its exclusion from the wilderness area.

The road provides access to mining claims. Historically, the road has been limited to foot traffic and pack-animal travel, and this use would not be precluded by wilderness designation. The road is currently managed as a non-forest system road and is closed to motorized traffic. The forest does not anticipate changing this management direction. Whether the road is included in the area designated as wilderness, the Forest Service does not anticipate opening this road to motorized use because they would severely degrade the wilderness values of the area, in addition to causing many other problems.

- A concern for public health and safety—The road is very steep and narrow which does not lend itself to being an enjoyable, drivable road for the majority of the recreating public.

- Erosion and water quality—For the most part, the road traverses above and in-line with a live drainage coming off the West Peak. Maintenance of the road would increase the sedimentation reaching the drainage.

- Road maintenance—It would be costly and difficult to maintain such a road at the expense of others which receive much higher use by the general public.

However, should the owners of the Bullseye Mine request access to their patented claim, access would be governed by section 1323(a) of the Alaska National Interest Lands Conservation Act (ANILCA) and section 7 of the Colorado Wilderness Act of 1993.

The Administration would strongly recommend an amendment authorizing the Secretary to adjust the wilderness boundary to include the Bullseye Mine road. We also recommend deleting section 3 of the bill, relating to access within the wilderness area, because this provision is unnecessary and raises concerns about whether section 1323(a) of ANILCA would govern access to private inholdings within the wilderness area.

The Forest Service looks forward to working with the Committee and Senator Allard on the inclusion of this beautiful area in our national wilderness preservation system.

CLOSING

Mr. Chairman, the Administration supports S. 953, "Terry Peak Land Conveyance Act of 1999", but recommends one technical amendment, and supports S. 1088, the "Arizona National Forest Improvement Act of 1999". The Administration would support S. 503, the "Spanish Peaks Wilderness Act of 1999" if amended to adjust the wilderness boundary to include the Bullseye Mine road.

This concludes my statement, I would be happy to answer any questions you and the Members of the Subcommittee might have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 503, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

COLORADO WILDERNESS ACT OF 1993**Public Law 103-77 (107 Stat. 756)**

* * * * *

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:

(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.”

○