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OUTFITTER HUNTING CAMPS ON THE SALMON RIVER

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AUGUST 26, 2003—Ordered to be printed

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

R E P O R T

[To accompany S. 1003]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1003) to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River, 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 1, line 7, insert “as of June 6, 2003,” after “occupancy”.

PURPOSE OF THE MEASURE

S. 1003 amends section 3(a)(24) of the Wild and Scenic Rivers Act to authorize the established use and occupancy of three commercial outfitter hunting camps on the Salmon River in Idaho.

BACKGROUND AND NEED

Public Law 96-312, the Central Idaho Wilderness Act (CIWA) of 1980, designated over two million acres of the Idaho back country as the “River of No Return Wilderness” and 79 miles of the Salmon river as a “wild” component of the Wild and Scenic Rivers Act. The CIWA included a finding that “such protection can be provided without conflicting with established uses.” Section 9(b) of the CIWA states that the river corridor is to be managed under the Wild and Scenic Rivers Act, rather than the more restrictive provisions of the Wilderness Act.

Along this 79 mile stretch of the Salmon River are a number of “hunting camps.” Ten of the camps are privately owned and three are under Forest Service permit. The three permitted camps were established and in use prior to enactment of the CIWA. One highly visible hunting camp was allowed to be moved in 1987 to a new site where it is now screened from view, with the intent of enhancing the values that caused the river to be designated.

Although the legislative history accompanying the CIWA indicates an intent to provide for the continued use of the three camps, there is considerable uncertainty about the extent and nature of what is authorized. The uncertainty resulted in a lawsuit and a Federal district court judgment in September 2000, requiring the removal of the three camps. *Wilderness Watch v. United States Forest Service*, 143 F. Supp. 2d 1186 (d. Mont. 2000). S. 1003 will have the effect of over turning the court decision by authorizing the established use and occupancy of these three camps on the Salmon River.

LEGISLATIVE HISTORY

S. 1003 was introduced by Senator Craig on May 6, 2003 and is cosponsored by Senator Crapo. The Subcommittee on Public Lands and Forests held a hearing on S. 1003 on June 4, 2003. At its business meeting on July 23, 2003, the Committee on Energy and Natural Resources ordered S. 1003, as amended, favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 23, 2003, by a voice vote of a quorum present, recommends that the Senate pass S. 1003, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 1003, the Committee adopted an amendment that clarifies that the established use and occupancy of authorized by this Act is the level that existed as of June 6, 2003.

SECTION-BY-SECTION ANALYSIS

S. 1003 amends section 3(a)(24) of the Wild and Scenic Rivers Act, relating to the designation of the Salmon River by adding a new subparagraph. The new subparagraph provides that the established use and occupancy for three specific hunting camps on the Salmon River, shall continue to be authorized, subject to such reasonable regulation as the Secretary of Agriculture deems appropriate, including rules that would provide for termination for the non-compliance, and if terminated, re-offering the site through a competitive process.

Nothing in this Act is intended to restrict or otherwise limit the Secretary of Agriculture’s authority to administer the three permits at issue under the laws and regulations generally applicable to National Forest System lands.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 2003.

Hon. PETE V. DOMENICI,
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. 1003, a bill to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River.

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

Sincerely,

ROBERT A. SUNSHINE
(For Douglas Holtz-Eakin, Director).

Enclosure.

S. 1003—A bill to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River

S. 1003 would allow three hunting camps located on the Salmon River, a designated wild and scenic river in Idaho, to continue to operate. As the result of a lawsuit against the U.S. Forest Service, those camps are required to vacate, by December 31, 2005, the sites they presently occupy under special permits.

Based on information provided by the Forest Service, CBO estimates that enacting S. 1003 would have no significant impact on the Federal budget. Allowing the camps to continue to operate would result in increased offsetting receipts (of less than \$10,000 a year) beginning in fiscal year 2006 because the Forest Service would be able to continue collecting permit fees from them. (Such receipts are deposited in the general fund of the Treasury and cannot be spent without appropriation.)

S. 1003 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy 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. 1003. 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. 1003, as ordered reported.

EXECUTIVE COMMUNICATIONS

On July 23, 2003, 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. 1003. These reports had not been received at the time the report on S. 1003 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 MARK REY, UNDER SECRETARY, U.S. DEPARTMENT OF AGRICULTURE

S. 1003 would amend the Wild and Scenic Rivers Act to clarify the intent of Congress with respect to the continued use of three long-established commercial outfitter hunting camps on the Salmon River.

S. 1003 would direct the continued authorization of the use and occupancy of lands and maintenance or replacement facilities and structures for commercial recreation services at Stub Creek, Arctic Creek, and Smith Gulch. The Forest Service's special use permits for the camps would be subject to revocation only for noncompliance. If revoked, S. 1003 would require the Forest Service to reoffer the permits through a competitive process.

The hunting camps in question are located on the wild section of the Salmon Wild and Scenic River in the Frank Church-River of No Return Wilderness managed by the Salmon and Challis National Forests. The camps were in existence prior to the passage of the Central Idaho Wilderness Act of 1980, which designated the river segment as a component of the Wild and Scenic River system. One of the camps was relocated to Smith Gulch in 1988.

The camps operate under special use permits administered by the Forest Service and they provide unique, traditional services and experiences to the public in a setting that cannot be duplicated. Historically, the Forest Service had taken the position that the camps—and the associated permanent facilities that are at issue—are consistent with agency policy and the law. In 1995 the Forest Service reauthorized the special use permits for the camps through 2010.

In 2000, however, a Federal court found the permanent facilities to be in violation of the Wild and Scenic Rivers Act and ordered the Forest Service to have them removed. When the court ordered the Forest Service to remove these facilities, it also directed the agency to consider the needs of the camp owners in setting a timetable for removal. In January 2003, the Supervisor of the Salmon-Challis National Forest signed a Record of Decision (ROD) that continued use of the camps with temporary facilities and set

a schedule of removal of all permanent facilities at the three camps by December 31, 2005.

Mr. Chairman, in the context of these three camps the Department supports efforts to clarify congressional intent regarding permanent facilities within this designated river corridor. The Department would like to work with the Committee on amendments to the measure that would provide the Secretary maximum flexibility to make appropriate determinations regarding permit duration and other terms and conditions under which the use and occupancy of national forest system lands are authorized so that high quality, traditional, services that (1) meet the public needs, (2) adhere to the legal requirements related to special use authorizations on national forest system lands, and (3) are consistent with the public expectations for river corridors listed under the Wild and Scenic Rivers Act will be provided.

This concludes my statement. I would be happy to answer your questions.

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. 1003, 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):

Wild and Scenic Rivers Act

Public Law 90-542 (16 U.S.C. sec. 1274)

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Section 3(a)(24) SALMON, IDAHO.—

(A) * * *

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(D) The established use and occupancy as of June 6, 2003, of lands and maintenance of replacement of facilities and structures for commercial recreation services at Stub Creek located in Section 28, T24N, R14E, Boise Principal Meridian, at Arctic Creek located in Section 21, T25N, R12E, Boise Principal Meridian and at Smith Gulch located in Section 27, T25N, R12E, Boise Principal Meridian shall continue to be authorized, subject to such reasonable regulation as the Secretary deems appropriate, including rules that would provide for termination for non-compliance, and if terminated, referring the site through a competitive process.

(E)[D] Subject to existing rights of the State of Idaho, including the right of access, with respect to the beds of navigable streams, tributaries or rivers, dredge and placer mining in any form including any use of machinery for the removal of sand and gravel for mining purposes shall be prohibited within the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph; within the fifty-three mile segment of the Salmon River from Hammer

Creek downstream to the confluence of the Snake River; and within the Middle Fork of the Salmon River; and its tributary streams in their entirety: *Provided*, That nothing in this paragraph shall be deemed to prohibit the removal of sand and gravel, outside the boundaries of the River of No Return Wilderness or the Gospel-Hump Wilderness, above the high water mark of the Salmon River or the Middle Fork and its tributaries for the purposes of construction or maintenance of public roads: *Provided further*, That this paragraph shall not apply to any written mineral leases approved by the Board of Land Commissioners of the State of Idaho prior to January 1, 1980. (F)[E] The provisions of section 7(a) of this Act with respect of the licensing of dams, water conduits, reservoirs, powerhouses, transmission lines or other project works, shall apply to the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River.

(G)[F] For the purposes of the segment of the Salmon River designated as a component of the wild and Scenic Rivers System by this paragraph, there is hereby authorized to be appropriated from the Land and Water Conservation Fund, after October 1, 1980, not more than \$6,200,000 for the acquisition of lands and interests in lands.