ARAPAHO NATIONAL FOREST BOUNDARY ADJUSTMENT ACT OF 2015

DECEMBER 16, 2015.—Ordered to be printed

Ms. Murkowski, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 1324]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1324) to adjust the boundary of the Arapaho National Forest, Colorado, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 1324 is to adjust the boundary of the Arapaho National Forest, Colorado.

BACKGROUND AND NEED

Between Rocky Mountain National Park and the Bowen Gulch Protection Area on the Arapaho National Forest is a 10-lot subdivision known as the “Wedge.” The Rocky Mountain Nature Association and the Trust for Public Land, in partnership with the U.S. Forest Service and the National Park Service, have worked for 20 years to acquire these Wedge lots, which are part of the Colorado River headwaters and are highly visible from Trail Ridge Road, the main road that traverses Rocky Mountain National Park. Currently, the Forest Service owns seven of the Wedge lots but these parcels do not have national forest status as the boundary of Arapaho National Forest has never been adjusted to include the lots within the Arapaho National Forest.

H.R. 1324 would adjust the boundary of the Arapaho National Forest in the State of Colorado to incorporate 92.95 additional acres. Federal land to be included in the new boundary will become
part of the Bowen Gulch Protection Area established under section 6 of the Colorado Wilderness Act of 1993. Owners of non-Federal lands within the new boundary who historically have accessed their lands through lands included in the Arapaho expansion would have continued right of motorized access to their lands across an existing roadway.

H.R. 1324 requires the Secretary of Agriculture to obtain written permission from the private land owners of the lots to include the lots within the new boundary. The bill also authorizes the Secretary of Agriculture to acquire non-Federal lands from willing sellers within the new boundary.

Completion of these acquisitions would ensure the protection of the view shed of Rocky Mountain National Park and the resource values of the Bowen Gulch Protection Area within the Arapaho National Forest. Without financial support from the Land and Water Conservation Fund (LWCF), the only options available to the Federal government to acquire the remaining parcels are through existing administrative authorities, such as donation or exchange. These administrative authorities, however, are only available if Congress modifies the boundary of the Arapaho National Forest to include the Wedge within the national forest. H.R. 1324 accomplishes this boundary adjustment.

LEGISLATIVE HISTORY

In the 113th Congress, the House introduced a similar bill to H.R. 1324, H.R. 4846, on June 11, 2014. The House Natural Resources Subcommittee on Public Lands and Environmental Regulation held a hearing on the bill on September 9, 2014, and the Natural Resources Committee ordered the bill reported as amended on September 18, 2014. The House of Representatives passed H.R. 4846 as amended under suspension of the rules on November 13, 2014.

H.R. 1324 was introduced in the 114th Congress by Representative Polis on March 4, 2015. On March 25, 2015, the House Natural Resources Committee ordered H.R. 1324 reported. The House of Representatives passed H.R. 1324 under suspension of the rules by a vote of 381–30 on April 28, 2015. The bill was received by the Senate and referred to the Committee on Energy and Natural Resources.

On May 12, 2015, Senators Bennet and Gardner introduced a similar bill, S. 1295. The Subcommittee on Public Lands, Forest, and Mining held a hearing on both H.R. 1324 and S. 1295 on October 8, 2015.

On November 19, 2015, the Committee on Energy and Natural Resources met in open business session and on a voice vote ordered H.R. 1324 favorably reported without amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on November 19, 2015, by a majority voice vote of a quorum present, recommends that the Senate pass H.R. 1324.
SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title, “Arapaho National Forest Boundary Adjustment Act of 2015.”

Section 2(a) adjusts the boundary of the Arapaho National Forest to include approximately 92.95 acres. Privately owned lots may only be included within the boundary adjustment area if the Secretary obtains written permission for inclusion from the lot owners. Section 2(b) designates all Federal land within the boundary adjustment area as part of the Bowen Gulch Protection Area. Section 2(c) makes the boundary effective as of January 1, 1965, for purposes of LWCF (authorizing acquisition of lands within the boundaries of the national forest). Section 2(d) clarifies that nothing in the Act opens privately owned land within the boundary adjustment area to public motorized use. Section 2(e) allows for continued motorized access for the owners of non-Federal land within the boundary adjustment area to their private land across certain access points historically used by the owners.

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,

Hon. Lisa Murkowski,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1324, the Arapaho National Forest Boundary Adjustment Act of 2015.

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

Sincerely,

Keith Hall.

Enclosure.

H.R. 1324—Arapaho National Forest Boundary Adjustment Act of 2015

H.R. 1324 would modify the boundary of the Arapaho National Forest in Colorado to include an additional 93 acres of land. Based on information provided by the Forest Service, CBO estimates that implementing the legislation would have no significant effect on the federal budget. We expect that any additional costs to revise brochures, maps, and signs to reflect the new boundary would not be significant because such revisions would take place in conjunction with scheduled reprinting and routine maintenance.

Because enacting H.R. 1324 would not affect direct spending or revenues, pay-as-you-go procedures do not apply. CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 1324 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.
On April 6, 2015, CBO transmitted a cost estimate for H.R. 1324, the Arapaho National Forest Boundary Adjustment Act of 2015, as ordered reported by the House Committee on Natural Resources on March 25, 2015. The two versions of the legislation are similar, and the estimated costs are the same.

The CBO staff contact for this estimate is Jeff LaFave. This estimate was approved by H. Samuel Papenfuss, 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 H.R. 1324. 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 H.R. 1324, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 1324, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the U.S. Forest Service at the October 8, 2015, Subcommittee on Public Lands, Forests, and Mining hearing on S. 1295, the Senate companion bill to H.R. 1324, follows:

STATEMENT OF GLENN CASAMASSA, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 1295, S. 1448, S. 1941, and S. 1942.

S. 1295, THE “ARAPAHO NATIONAL FOREST BOUNDARY ADJUSTMENT ACT”

S. 1295 would modify the boundary of the Arapaho National Forest in the State of Colorado to incorporate approximately 92.95 acres of land currently outside the proclaimed National Forest boundary. All Federal land within the new boundary would be included in the Bowen Gulch Protection Area established under section 6 of the Colorado Wilderness Act of 1993. S. 1295 requires the Secretary to obtain written permission from the owners of lots to include the lots in the boundary adjustment. Private land owners have provided letters of support.

The Federal lands within the new boundary would be closed to motorized use by the public. S. 1295 allows for
continued motorized access over historical routes by owners of non-Federal land within the new boundary.

The Department supports S. 1295. It would provide National Forest status for parcels previously purchased. It would also allow the Forest Service to use its existing land exchange authorities to acquire additional parcels from willing landowners within the new boundary. Completion of these acquisitions would ensure protection of the Rocky Mountain National Park view-shed and the resource values of the Bowen Gulch Protection Area. We would also like to work with the Committee to clarify that motorized use for administrative purposes within the new boundary area is allowed.

S. 1448, THE “FRANK MOORE WILD STEELHEAD SANCTUARY DESIGNATION ACT”

The Department supports S. 1448, which establishes the “Frank Moore Wild Steelhead Sanctuary”. The area proposed for designation (Steamboat Creek) represents the major spawning tributary for wild steelhead in the North Umpqua River, and serves as an important sanctuary for conservation and long term persistence of this highly valued fisheries resource. Scientific studies and data indicate this area provides an important thermal refuge for wild steelhead production in the basin. Its designation and associated watershed restoration activities will aid in promoting a resilient landscape for wild steelhead conservation into the future in the face of changing climate.

Frank Moore is a legendary fly angler, wild fish conservationist, and World War II veteran who stormed the beaches of Normandy, France in 1944 for the D-Day allied invasion. He survived and together with his wife of 70+ years, Jeanne, built and were the long-time proprietors of the world-renowned Steamboat Inn along the North Umpqua River. In 2010, Frank Moore was inducted into the Fresh Water Fishing Hall of Fame, and is also featured in the recent, critically acclaimed documentary “Mending the Line.”

This designation is a tribute to Frank Moore and his service to our country in more ways than one. In a TED Talk last year (TEDxPortland, May 15, 2014), one of the viewers commented: “Absolutely amazing . . . I am 19 and my generation needs role models like this man.”

S. 1941, THE “CRAGS, COLORADO LAND EXCHANGE ACT OF 2015”

S. 1941 would require a land exchange between the United States and Broadmoor Hotel, Inc. (BHI). The United States would convey an 83 acre tract of National Forest System Land and a non-exclusive perpetual easement for access in exchange for a 320 acre parcel and a permanent trail easement for a section of the Barr trail owned by BHI. Both exchange parcels are located within the Pike National Forest.
The Department generally supports S. 1941 but would like to work with the committee on concerns with the bill. For example, we would like to help develop language that would ensure the northern boundary of the land conveyed is located to provide adequate space for Forest Service road maintenance and administration.

The National Forest parcel that would be conveyed in the exchange has long been encumbered with significant resort improvements managed under special use authorization. In return for this parcel, the United States would receive an isolated inholding that the Forest Service has placed a high priority on acquiring. The inholding has significant recreational values and provides additional access for the public to the National Forest.

As a result, the exchange will eliminate potentially significant development in a sensitive area in exchange for conveying Federal land where development impacts have already occurred. In addition, the United States would secure legal access on a segment of the very popular Barr trail. This trail provides an important recreational access to the Pike National Forest.

S. 1942, the “ELKHORN RANCH AND WHITE RIVER NATIONAL FOREST CONVEYANCE ACT LAND EXCHANGE ACT OF 2015”

S. 1942 would direct the conveyance of a 148 acre parcel of National Forest System land to the Gordman-Leverich Partnership. The parcel is located within the White River National Forest.

While the Administration has serious reservations about the use of Federal lands to compensate a private landowner, acknowledging the unusual circumstances in this specific case, the Department does not oppose S. 1942. The bill would resolve a long standing title issue associated with the property.

A dependent resurvey, which is a survey dependent upon prior surveys of record, was completed in 1949, and established a property monument approximately 2,100 feet from the corner, relied upon by the original homesteaders. This meant that this parcel of national forest land had been managed as private land. 43 U.S.C. 772, enacted in 1909, provided for such resurveys and guaranteed that the bona fide rights of landowners would be protected.

Because this land survey discrepancy only came to light within the past 15 years, and because the parcel has never been managed as National Forest, protection of the bona fide rights of landowners is appropriate. Resolution of this title issue will end a long-standing title claim in an efficient, fair manner.

This concludes my remarks. I would be happy to answer any questions. Thank you for the opportunity to testify.
CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill as ordered reported.