

## Calendar No. 588

114TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
114-315

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### OWYHEE WILDERNESS BOUNDARY MODIFICATIONS ACT

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SEPTEMBER 6, 2016.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1167]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1167) to modify the boundaries of the Pole Creek Wilderness, the Owyhee River Wilderness, and the North Fork Owyhee Wilderness and to authorize the continued use of motorized vehicles for livestock monitoring, herding, and grazing in certain wilderness areas in the State of Idaho, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

1. Strike sections 3 and 4 and insert the following:

#### SEC. 3. LIMITED MOTORIZED USE FOR LIVESTOCK OPERATIONS.

(a) **IN GENERAL.**—The holder of a grazing permit within the Pole Creek Wilderness and the Owyhee River Wilderness designated by subtitle F of title I of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1032) (referred to in this section as the “wilderness areas”) shall be allowed continued limited motorized use in the wilderness areas to support livestock operations in accordance with this section if—

(1) the use occurred prior to the designation of the wilderness areas; and

(2) the Secretary of the Interior (referred to in this section as the “Secretary”), as part of the minimum requirements analysis required under subsection (b)(1) and consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (House Report 101-405), has authorized the permittee to conduct limited motorized use within the wilderness areas as of the date of enactment of this Act.

(b) **MINIMUM REQUIREMENTS ANALYSIS.**—

(1) **IN GENERAL.**—The Secretary shall conduct a minimum requirements analysis for motorized use within the wilderness areas as part of the renewal process for the affected grazing permit.

(2) INCLUSION.—As part of the analysis conducted under paragraph (1), the Secretary shall analyze the impacts of limited motorized use for livestock operations on vegetation, wildlife, and cultural resources within the wilderness areas.

(3) EFFECT.—Nothing in this section prohibits the Secretary from modifying or terminating motorized use for livestock operations within the wilderness areas authorized under this section if, based on the analysis required under this subsection, the Secretary finds that the motorized use within the wilderness areas is not consistent with—

(A) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(B) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (House Report 101–405).

(c) INTERIM AUTHORIZATION.—Until the date on which the analysis described in subsection (b) is completed, the Secretary shall permit limited motorized use for livestock operations in the wilderness areas at not more than the level authorized as of the date of enactment of this Act, subject to such terms and conditions as the Secretary determines necessary.

#### PURPOSE

The purpose of S. 1167 is to modify the boundaries of the Pole Creek Wilderness, the Owyhee River Wilderness, and the North Fork Owyhee Wilderness and to authorize the continued limited use of motorized vehicles for livestock monitoring, herding, and grazing in certain wilderness areas in the State of Idaho.

#### BACKGROUND AND NEED

Owyhee County encompasses over 7,600 square miles in the southwestern corner of Idaho. The County is a diverse landscape of magnificent canyons and rivers, and rugged, remote backcountry. Ranching is the traditional and predominant activity in the County.

In 2000, the Owyhee County Commissioners, along with the Shoshone Paiute Tribes, began a collaborative effort known as the Owyhee Initiative to resolve decades-old land and resource management issues in Owyhee County, Idaho. Over time, the Initiative expanded into a working group that included local, state, and federal officials, local ranchers, recreation interests, environmental organizations, and others. On May 10, 2006, the Owyhee Initiative Agreement was signed by 12 representatives from organizations and entities involved in the Owyhee Initiative Working Group.

This Owyhee Initiative Agreement became the basis for legislation that was included in subtitle F of the Omnibus Public Lands Management Act (OPLMA) that was enacted into law on March 30, 2009 (Public Law 111–11). The legislation designated 517,025 acres of public land as components of the National Wilderness Preservation System; released 199,000 acres managed as wilderness study areas for multiple use; and, designated approximately 316 miles of rivers as components of the Wild and Scenic Rivers System.

In addition, subtitle F of the OMPLA permitted grazing to continue in the designated wilderness areas subject to such reasonable regulations, policies, and practices as the Secretary considered necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines described in Appendix A of House Report 101–405. Section 4(d)(4) of the Wilderness Act provides that livestock grazing, where established prior to the designation of a wilderness area, shall be permitted to continue, subject to such reasonable regulations as are deemed necessary by the Sec-

retary. The grazing guidelines referenced in the House Report state: “where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment.”

In 2012, the Bureau of Land Management (BLM) issued a revised manual for the management of designated wilderness areas. The updated guidelines do not permit the use of motorized equipment for herding or routine inspections for livestock management, regardless of whether or not these activities occurred prior to the wilderness designation. In 2015, the BLM finalized the Owyhee Canyonlands Wilderness and Wild and Scenic Rivers Management Plan that incorporates the 2012 BLM manual wilderness management guidelines. The Owyhee Initiative stakeholders have expressed concern about the implementation of the OPLMA by the BLM.

S. 1167 modifies the boundaries of the Pole Creek, Owyhee River, and North Fork Owyhee Wilderness Areas designated in 2009 reducing the size of these wilderness areas by approximately 800 acres. In addition, S. 1167 authorizes the Secretary to continue to permit the existing motorized limited use for livestock operations in the Pole Creek and the Owyhee River Wilderness Areas if certain conditions are met and the Secretary conducts certain analyses as part of the permit renewal process.

#### LEGISLATIVE HISTORY

S. 1167 was introduced by Senators Crapo and Risch on April 30, 2015. In the House of Representatives, Representative Raul Labrador introduced a similar bill, H.R. 2171, on April 30, 2015.

In the Senate, the Subcommittee on Public Lands, Forests and Mining held a hearing on S. 1167 on April 21, 2016.

The Committee on Energy and Natural Resources met in open business session on July 13, 2016 and ordered S. 1167 favorably reported as amended.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2016, by a majority voice vote of a quorum present, recommends that the Senate pass S. 1167, if amended, as described herein.

#### COMMITTEE AMENDMENT

During its consideration of S. 1167, the Committee adopted an amendment to strike sections 3 and 4 regarding livestock grazing in the wilderness areas designated in OPLMA and to insert a new section 3. The amendment’s new section 3 would authorize the Secretary of the Interior to continue limited motorized use for livestock operations for the affected grazing permit if the use occurred prior to the designation of the wilderness areas and the Secretary has authorized such use as of the date of enactment of this Act. The amendment would also require the Secretary to conduct a minimum requirements analysis for motorized use within the wilderness areas when the affected grazing permit is renewed and provides an interim authorization for the motorized use until such analysis is complete.

The amendment is further described in the section-by-section analysis.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 contains the short title, the “Owyhee Wilderness Areas Boundary Modification Act.”

##### *Section 2. Owyhee Wilderness area boundary modifications*

Subsection (a) modifies the boundaries of the North Fork Owyhee Wilderness, the Owyhee River Wilderness, and the Pole Creek Wilderness areas to exclude certain lands as depicted on the maps.

Subsection (b) allows the Secretary of the Interior (Secretary) to correct minor errors in the maps and requires that the maps be available in the appropriate office of the BLM.

##### *Section 3. Limited motorized use for livestock operations*

Subsection (a) authorizes the Secretary to continue limited motorized use for livestock operations within the Pole Creek and Owyhee River Wilderness Areas for the affected grazing permit if the use occurred prior to the designation of the wilderness areas and Secretary has authorized such use as of the date of enactment of this Act.

Subsection (b) requires the Secretary to conduct a minimum requirements analysis for motorized use within the wilderness areas when the affected grazing permit is renewed.

Subsection (c) provides an interim authorization until the minimum requirements analysis is completed for the Secretary to continue the limited motorized use for livestock operations in the wilderness areas at the level authorized as of the date of enactment of this Act.

#### 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 5, 2016.*

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 S. 1167, the Owyhee Wilderness Areas Boundary Modifications Act.

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

Sincerely,

MARK P. HADLEY  
(For Keith Hall, *Director*).

Enclosure.

*S. 1167—Owyhee Wilderness Areas Boundary Modifications Act*

S. 1167 would modify the boundaries of three wilderness areas in Idaho. The bill also would require the Bureau of Land Management (BLM) to conduct analyses when certain grazing permits are renewed to determine the minimum requirements for the use of motorized vehicles to manage livestock in the affected areas.

Based on information provided by BLM, CBO estimates that implementing the bill would have no significant effect on the federal budget. The adjustments to the wilderness boundaries would reduce the total amount of wilderness by less than 800 acres and would not significantly affect the management of the affected lands. In addition, the analyses required under the bill would be required for fewer than 5 permits and those analyses would largely consist of reviews that would occur under current law.

Enacting the bill would not affect direct spending or revenues; therefore, 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 2027.

S. 1167 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, 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. 1167. 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. 1167, as ordered reported.

## CONGRESSIONALLY DIRECTED SPENDING

S. 1167, 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 Bureau of Land Management at the April 21, 2016, Subcommittee on Public Lands, Forest, and Mining, hearing on S. 1167 follows:

STATEMENT OF MIKE POOL, ACTING DEPUTY DIRECTOR FOR OPERATIONS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Thank you for inviting the Department of the Interior to testify on S. 1167, the Owyhee Wilderness Areas Boundary

Modifications Act. This bill would modify the boundaries of the Pole Creek, Owyhee River, and North Fork Owyhee Wilderness Areas; authorize the use of motorized vehicles for livestock monitoring, herding, and gathering in six wilderness areas in Idaho; and require the Secretary of the Interior to submit a report describing livestock grazing management activities that were authorized in these six areas prior to their designation as wilderness in 2009.

The BLM acknowledges the dedicated efforts of stakeholders to collaborate on issues concerning wilderness management in this region of Idaho. Generally, the BLM supports stakeholder-driven efforts to refine management boundaries, provided those solutions further the purposes of the original enabling legislation and represent a balanced approach to enhancing manageability. The Administration, however, strongly opposes S. 1167, because of broad management changes that would lift essential protections from wilderness areas. In particular, we oppose provisions for the use of motorized vehicles in wilderness areas because the language undermines the longstanding definition and spirit of wilderness as established in the Wilderness Act of 1964. We would like the opportunity to work with the sponsor and Subcommittee on other concerns detailed below.

#### BACKGROUND

The Omnibus Public Land Management Act of 2009 (OPLMA; Public Law 111–11, Subtitle F) designated six wilderness areas in southwest Idaho—the Big Jacks Creek Wilderness (approximately 52,826 acres), the Bruneau-Jarbridge Rivers Wilderness (approximately 89,996 acres), the Little Jacks Creek Wilderness (approximately 50,929 acres), the North Fork Owyhee Wilderness (approximately 43,413 acres), the Owyhee River Wilderness (approximately 267,328 acres), and the Pole Creek Wilderness (approximately 12,533 acres), in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.). These six wilderness areas lie within the Northern Basin and Range, an elevated plateau with mountains separated by canyons draining into the Pacific Ocean via the Snake and Columbia rivers. These provisions were derived in part from legislation introduced by Senator Crapo and developed based on the recommendations of the Owyhee Initiative, a collaborative stakeholder group. In April 2015, the BLM finalized the Owyhee Canyonlands Wilderness and Wild and Scenic Rivers Management Plan. This plan establishes the management framework for the BLM’s management of these six Idaho wilderness areas.

Under section 1503(b)(3) of OPLMA, livestock grazing in these six wilderness areas is “allowed to continue, subject to such reasonable regulations, policies, and practices as the Secretary considers necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines described in Appendix A of House Report 101905.” Since passage of OPLMA, however, the Owyhee

Initiative and certain other stakeholders have expressed concerns with the BLM's implementation of OPLMA, specifically related to cross-country, motorized herding in wilderness areas, which the BLM has determined to be inconsistent with the Wilderness Act of 1964, OPLMA, and Appendix A of House Report 101-405.

S. 1167

S. 1167 would modify the boundaries of the Pole Creek, Owyhee River, and North Fork Owyhee Wilderness Areas; authorize the use of motorized vehicles for livestock monitoring, herding, and gathering in six wilderness areas in the State of Idaho; and require the Secretary of the Interior to submit a report describing livestock grazing management activities that were authorized in these six areas prior to their designation as wilderness in 2009.

*Owyhee Wilderness Areas Boundary Modifications (Section 2)*

Section 2 of the bill would adjust the designated boundaries of the Pole Creek, Owyhee River, and North Fork Owyhee Wilderness Areas. The BLM supports some, but opposes other adjustments identified in this section, as described in detail below.

Under Section 2, the Noon Creek Cherrystem of the North Fork Owyhee Wilderness Area would be extended an additional 0.84 miles to the historically used corrals at Big Springs Camp. The BLM opposes this boundary modification because public motorized access to this site could result in negative impacts to wilderness characteristics and vandalism or damage to existing range improvements at the Big Springs Camp. The BLM currently has discretionary authority to allow motorized administrative access to this site for livestock grazing permittees.

In addition, Section 2 of the bill would shift the northeastern boundary of the Owyhee River Wilderness from a section line to the existing Dickshooter Road, removing about one section of land from the wilderness area and opening about one mile of the road to motorized travel. While the proposed change may improve certain aspects of the manageability of the area, the BLM would like to work with the sponsor to assess whether the cherrystem to the Kincaid Reservoir is necessary. The BLM already has discretionary authority to allow motorized administrative access to the Kincaid Reservoir for livestock grazing permittees. We also encourage the sponsor and Subcommittee to consider balancing the removal of the protected status of this general area with possible new protections elsewhere in the Owyhee region in order to maintain the careful balance established in the original legislation.

Section 2 of the bill also proposes one modification to the boundary of the Pole Creek Wilderness along the Mud Flat Road. The BLM supports this modification, which would allow for legal use of a historic and popular motorized vehicle pullout and car camping site from the wilderness,

thereby allowing the BLM to concentrate vehicle use in an already disturbed area and reducing impacts to other areas with wilderness characteristics.

Finally, the BLM has identified some minor technical errors in the maps referenced in this legislation and would like to provide the sponsor and Subcommittee with updated maps that reflect the latest data.

*Use of Motorized Vehicles for Livestock Monitoring, Herding & Grazing (Section 3)*

Section 3 of the bill would authorize the use of motorized vehicles for livestock monitoring, herding, and gathering in the six wilderness areas in the State of Idaho that were designated in OPLMA. While the BLM acknowledges the collaborative work of stakeholders in this region, the BLM opposes this section of the bill because the language undermines the longstanding definition and spirit of wilderness as established in the Wilderness Act of 1964.

*Report on Livestock Grazing Management Activities (Section 4)*

Section 4 of the bill would require the Secretary of the Interior to submit a report to Congress describing all livestock grazing management activities that were authorized in the six wilderness areas in the State of Idaho designated by OPLMA. The BLM notes that an extensive list of wilderness range improvement projects and the operations associated with those facilities has already been developed as mandated by Congress in Section 1503(b)(3)(B) of OPLMA and this inventory was included as Appendix D of the 2015 Owyhee Canyonlands Wilderness and Wild and Scenic Rivers Management Plan. Therefore, the BLM recommends deleting this section of the bill.

CONCLUSION

Thank you again for the opportunity to testify on S. 1167, the Owyhee Wilderness Areas Boundary Modifications Act. While we appreciate the sponsor's work on this legislation, the Administration strongly opposes the bill as it is currently written. We look forward to working with the sponsor and the Subcommittee on these management issues.

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.