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SENATE

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{ 114-319

MAINTENANCE OF COMMERCIAL RECREATION SERVICES AT SMITH GULCH, IDAHO

SEPTEMBER 6, 2016.—Ordered to be printed

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

R E P O R T

[To accompany S. 1777]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1777) to amend the Wild and Scenic Rivers Act to authorize the Secretary of Agriculture to maintain or replace certain facilities and structures for commercial recreation services at Smith Gulch in Idaho, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike all after the enacting clause and insert the following:

SECTION 1. MAINTENANCE OR REPLACEMENT OF FACILITIES AND STRUCTURES AT SMITH GULCH.

The authorization of the Secretary of Agriculture to maintain or replace facilities or structures for commercial recreation services at Smith Gulch under section 3(a)(24)(D) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(24)(D))—

(1) may include improvements or replacements that the Secretary of Agriculture determines—

(A) are consistent with section 9(b) of the Central Idaho Wilderness Act of 1980 (16 U.S.C. 1281 note; Public Law 96—312); and

(B) would reduce the impact of the commercial recreation facilities or services on wilderness or wild and scenic river resources and values; and

(2) authorizes the Secretary of Agriculture to consider including, as appropriate—

(A) hydroelectric generators and associated electrical transmission facilities;

(B) water pumps for fire suppression;

(C) transitions from propane to electrical lighting;

(D) solar energy systems;

(E) 6-volt or 12-volt battery banks for power storage; and

(F) other improvements or replacements which are consistent with this section that the Secretary of Agriculture determines appropriate.

2. Amend the title so as to read: “A bill to authorize the Secretary of Agriculture to maintain or replace certain facilities and structure for commercial recreation services at Smith Gulch in Idaho, and for other purposes.”.

PURPOSE

The purpose of S. 1777 is to authorize the Secretary of Agriculture to maintain or replace certain facilities and structures for commercial recreation services at Smith Gulch in Idaho.

BACKGROUND AND NEED

Smith Gulch is located within the main Salmon Wild River corridor in the Frank Church-River of No Return Wilderness in Idaho. Both the Wild and Scenic River and Wilderness were designated in the Central Idaho Wilderness Act of 1980 (16 U.S.C. 1132). The Act mandates that the main Salmon River corridor be managed according to the requirements of the Wild and Scenic Rivers Act.

In 2004, Congress amended the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) to direct the U.S. Forest Service (USFS) to continue the established use and occupancy of three commercial recreation services including the services at Smith Gulch (Public Law 108 447). Currently, the USFS does not interpret the 2004 Act as providing the authority to allow the Lodge at Smith Gulch to make improvements or replacements to the facilities and structures needed to provide recreational services that require the use of certain mechanized equipment.

LEGISLATIVE HISTORY

S. 1777 was introduced by Senators Risch and Crapo on July 15, 2015. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 1777 on April 21, 2016.

In the 113th Congress, Representative Simpson introduced a bill similar to S. 1777, H.R. 4283. The Subcommittee on Public Lands and Environmental Regulation held a hearing on H.R. 4283 on June 10, 2014. The Committee on Natural Resources reported H.R. 4283 favorably with an amendment in the nature of a substitute on June 19, 2014. The House of Representatives passed H.R. 4283, as amended, by a vote of 398–1 on September 8, 2015. No similar legislation was introduced in the Senate during the 113th Congress.

In the House of Representatives, Representative Simpson introduced a similar bill, H.R. 2312, on May 13, 2015.

The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 1777 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. 1777, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 1777, the Committee adopted an amendment in the nature of a substitute and an amendment to the title.

The amendment in the nature of a substitute would provide clarification that the authorization of the Secretary of Agriculture to maintain or replace facilities and structures for commercial services at Smith Gulch under the Wild and Scenic Rivers Act may include improvements or replacements that are consistent with the Central Idaho Wilderness Act and would reduce impacts on wilderness or wild and scenic river resources and values. In addition, the amendment authorizes the Secretary to consider including certain other improvements or replacements listed in the amendment or other improvements or replacements that the Secretary deems appropriate. The amendment does not amend the Wild and Scenic Rivers Act as the original bill did.

SECTION-BY-SECTION ANALYSIS

Section 1. Maintenance or replacement of facilities and structures at Smith Gulch

Section 1 provides clarification that the authorization of the Secretary of Agriculture to maintain or replace facilities and structures for commercial services at Smith Gulch under the Wild and Scenic Rivers Act may include improvements or replacements that are consistent with the Central Idaho Wilderness Act of 1980 and would reduce impacts on wilderness or wild and scenic river resources and values. Section 1 also authorizes the Secretary to consider including, as appropriate, certain other improvements or replacements including hydroelectric generators and associated electrical transmission facilities; water pumps for fire suppression, transitions from propane to electrical lighting; solar energy systems; 6-volt or 12-volt battery banks for power storage; and other improvements or replacements that are consistent with these that the Secretary deems appropriate.

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 8, 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. 1777, a bill to amend the Wild and Scenic Rivers Act to authorize the Secretary of Agriculture to maintain or replace certain facilities and structures for commercial recreation services at Smith Gulch in Idaho, and for other purposes.

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).

Enclosure.

S. 1777—A bill to amend the Wild and Scenic Rivers Act to authorize the Secretary of Agriculture to maintain or replace certain facilities and structures for commercial recreation services at Smith Gulch in Idaho, and for other purposes

S. 1777 would authorize the Forest Service to allow three providers of commercial recreation services in the Salmon-Challis National Forest in Idaho to construct or improve certain facilities. Those recreation services currently operate under special use permits that do not allow those types of projects. Under the bill, if the operators of those recreation services request authorization to undertake those projects, the agency would be required to conduct environmental reviews. Any costs to carry out those reviews would be covered by cost-recovery fees assessed on the recreation services.

Based on information provided by the Forest Service, CBO estimates that enacting the bill would increase offsetting receipts from cost-recovery fees and associated direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that any net effect on direct spending would be negligible. Enacting the bill would not affect revenues.

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. 1777 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. 1777. 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. 1777, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1777, 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 April 21, 2016, Subcommittee on Public Lands, Forests, and Mining hearing on S. 1777 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. 1777, To amend the Wild and Scenic Rivers Act.

The Department opposes S. 1777 because it would create a negative precedent for other commercial recreation service providers on wild and scenic rivers across the nation. We hope to work with Senator Risch and Senator Crapo to find a solution that is mutually beneficial to their constituents and the Forest Service.

More than 200 rivers in 40 states and the Commonwealth of Puerto Rico comprise the National Wild and Scenic River System. More than 12,000 river miles are protected reflecting tremendous geographic diversity, from the remote rivers of Alaska, Idaho and Oregon to rivers threading through the rural countryside of Massachusetts, New Hampshire, and Ohio.

Smith Gulch is located within the Main Salmon Wild River corridor, located within the Frank Church-River of No Return Wilderness in Idaho. Both the Wild River and Wilderness were designated as such by the Central Idaho Wilderness Act of 1980 (16 U.S.C. 1132). The Act mandates that the Main Salmon River corridor be managed according to the requirements of the Wild and Scenic Rivers Act.

Public Law 108-447, enacted in 2004, amended the Wild and Scenic Rivers Act, 16 U.S.C. § 1274(a)(24)(D), and directed that the Forest Service continue to authorize the established use and occupancy of three commercial recreation services within the Main Salmon River Corridor, including the services at Smith Gulch. Such continued authorization is to be subject to such reasonable regulation as the Secretary deems appropriate, including rules that would provide for revocation for noncompliance, and upon revocation, reoffering the concession through a competitive process.

The facilities and structures for commercial recreation services at Smith Gulch in Idaho are authorized and operated under a 20-year Term Special Use permit to River of No Return Lodge, Inc. (Permit #NFK299), issued and administered by the Salmon-Challis National Forest. The current permit authorizes gas-powered water pumps for emergency fire suppression. The permit is authorized under the authority of the Act of March 4, 1915, as amended July 28, 1956, (16 U.S.C. 497). This permit is issued with provisions and terms similar to those of recreation fa-

ilities throughout the National Forest System. The permit takes into account the location and surroundings of facilities and improvements, the public values affected by such an operation, and any specific public health and safety concerns.

The Forest Service has in place appropriate policies to accommodate the needs of a recreation service business operating at this location. Consistent with statutory guidance, the policies allow for such facilities and structures needed to provide the authorized recreation services. Smith Gulch operates under these policies and requirements; just as other similarly authorized businesses within the Main Salmon Wild River Corridor. For example, the management plan for the Frank Church River of No Return Wilderness already allows for the use of chainsaws in the Salmon River corridor by permit; the Smith Gulch operation has obtained such a permit annually.

The Department encourage the operators of the recreation service business at Smith Gulch to work with the appropriate local Forest Service officials to resolve any issues related to their utilizing existing agency regulations, policies and authorities. Allowing new facilities at this operation, including those that do not conform with the Wilderness Act and the Wild and Scenic Rivers Act, opens the door to others seeking similar exceptions in the wild river corridor of the Main Salmon River, elsewhere in the Frank Church-River of No Return Wilderness. The Department believes that this would create an undesirable precedent for the National Wild and Scenic Rivers System.

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.

