FRANK MOORE WILD STEELHEAD SPECIAL MANAGEMENT AREA DESIGNATION ACT

SEPTEMBER 8, 2016.—Ordered to be printed

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

REPORT

[To accompany S. 1448]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1448) to designate the Frank Moore Wild Steelhead Sanctuary in the State of Oregon, 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. SHORT TITLE.
This Act may be cited as the “Frank Moore Wild Steelhead Special Management Area Designation Act”.

SEC. 2. FINDINGS.
Congress finds that—
(1) Frank Moore has committed his life to family, friends, his country, and fly fishing;
(2) Frank Moore is a World War II veteran who stormed the beaches of Normandy along with 150,000 troops during the D-Day Allied invasion and was awarded the Chevalier of the French Legion of Honor for his bravery;
(3) Frank Moore returned home after the war, started a family, and pursued his passion of fishing on the winding rivers in Oregon;
(4) as the proprietor of the Steamboat Inn along the North Umpqua River in Oregon for nearly 20 years, Frank Moore, along with his wife Jeanne, shared his love of fishing, the flowing river, and the great outdoors, with visitors from all over the United States and the world;
(5) Frank Moore has spent most of his life fishing the vast rivers of Oregon, during which time he has contributed significantly to efforts to conserve fish habitats and protect river health, including serving on the State of Oregon Fish and Wildlife Commission;
(6) Frank Moore has been recognized for his conservation work with the National Wildlife Federation Conservationist of the Year award, the Wild
Steelhead Coalition Conservation Award, and his 2010 induction into the Fresh Water Fishing Hall of Fame; and

(7) in honor of the many accomplishments of Frank Moore, both on and off the river, approximately 99,653 acres of Forest Service land in the State of Oregon should be designated as the “Frank Moore Wild Steelhead Special Management Area”.

SEC. 3. DEFINITIONS.

In this Act:

(1) MAP.—The term “Map” means the map entitled “Frank Moore Wild Steelhead Special Management Area Designation Act” and dated June 23, 2016.

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(3) SPECIAL MANAGEMENT AREA.—The term “Special Management Area” means the Frank Moore Wild Steelhead Special Management Area designated by section 4(a).

(4) STATE.—The term “State” means the State of Oregon.

SEC. 4. FRANK MOORE WILD STEELHEAD SPECIAL MANAGEMENT AREA, OREGON.

(a) DESIGNATION.—The approximately 99,653 acres of Forest Service land in the State, as generally depicted on the Map, is designated as the “Frank Moore Wild Steelhead Special Management Area”.

(b) MAP; LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Special Management Area.

(2) FORCE OF LAW.—The map and legal description prepared under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(3) AVAILABILITY.—The map and legal description prepared under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(c) ADMINISTRATION.—Subject to valid existing rights, the Special Management Area shall be administered by the Secretary—

(1) in accordance with all laws (including regulations) applicable to the National Forest System; and

(2) in a manner that—

(A) conserves and enhances the natural character, scientific use, and the botanical, recreational, ecological, fish and wildlife, scenic, drinking water, and cultural values of the Special Management Area;

(B) maintains and seeks to enhance the wild salmonid habitat of the Special Management Area;

(C) maintains or enhances the watershed as a thermal refuge for wild salmonids; and

(D) preserves opportunities for recreation, including primitive recreation.

(d) FISH AND WILDLIFE.—Nothing in this section affects the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(e) ADJACENT MANAGEMENT.—Nothing in this section—

(1) creates any protective perimeter or buffer zone around the Special Management Area; or

(2) modifies the applicable travel management plan for the Special Management Area.

(f) WILDFIRE MANAGEMENT.—Nothing in this section prohibits the Secretary, in cooperation with other Federal, State, and local agencies, as appropriate, from conducting wildland fire operations in the Special Management Area, consistent with the purposes of this Act, including the use of aircraft, machinery, mechanized equipment, fire breaks, backfires, and retardant.

(g) VEGETATION MANAGEMENT.—Nothing in this section prohibits the Secretary from conducting vegetation management projects within the Special Management Area in a manner consistent with—

(1) the purposes described in subsection (c); and

(2) the applicable forest plan.

(h) PROTECTION OF TRIBAL RIGHTS.—Nothing in this section diminishes any treaty rights of an Indian tribe.

(i) WITHDRAWAL.—Subject to valid existing rights, the Federal land within the boundaries of the Special Management Area river segments designated by subsection (a) is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and
3

(3) disposition under all laws relating to mineral and geothermal leasing or mineral materials.

2. Amend the title so as to read: “A bill to designate the Frank Moore Wild Steelhead Special Management Area in the State of Oregon.”

PURPOSE

The purpose of S. 1448 is to designate the Frank Moore Wild Steelhead Special Management Area in the State of Oregon.

BACKGROUND AND NEED

S. 1448 designates approximately 99,653 acres of U.S. Forest Service (USFS) land in the headwaters of the North Umpqua River in Oregon as the Frank Moore Wild Steelhead Special Management Area. The purpose of the designation is to protect the prime steelhead habitat important for recreational fishing and clean drinking water and to honor Frank Moore, a military hero and conservationist.

Frank Moore served in the military during World War II and stormed the beaches of Normandy along with 150,000 troops during the D-Day Allied invasion. He was awarded the Chevalier of the French Legion of Honor for his bravery. Following the war, he returned home to Oregon, started a family, pursued his passion of fishing on the winding rivers of Oregon, and owned and operated the Steamboat Inn along the North Umpqua River.

From 1971 to 1974, Mr. Moore served on the State of Oregon Fish and Wildlife Commission. Throughout his life, Mr. Moore has shared his passion for fishing, the river, and the outdoors with visitors from around the world. He was recognized for his conservation work by receiving the National Wildlife Federation Conservationist of the Year award and the Wild Steelhead Coalition Conservation Award, and was inducted into the Fresh Water Fishing Hall of Fame.

LEGISLATIVE HISTORY

S. 1448 was introduced by Senators Wyden and Merkley on May 21, 2015. The Subcommittee on Public Lands, Forests, and Mining held a hearing on the bill on October 8, 2015. The text of S. 1448 was also incorporated into S. 132, the Oregon and California Land Grant Act of 2015, introduced on January 8, 2015. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 132 on July 16, 2015.

In the 113th Congress, similar legislation to S. 1448 was included in S. 1784, introduced by Senator Wyden on December 9, 2013. The Committee on Energy and Natural Resources held a full committee hearing on S. 1784 on February 6, 2014. The Committee ordered S. 1784 favorably reported with an amendment in the nature of a substitute on November 13, 2014 (S. Rept. 113–307).

The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 1448 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. 1448, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 1448, 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 changes the land management designation to a special management area and strikes provisions relating to road building, decommissioning, and density in the special management area. The amendment also clarifies that the designation will not affect the management of adjacent land, wildfire management operations or vegetation management in the Area consistent with the purposes of the Act or modify the travel management plan for the Area.

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

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides a short title.

Section 2. Findings

Section 2 contains the findings.

Section 3. Definitions

Section 3 contains definitions.

Section 4. Frank Moore Wild Steelhead Special Management Area, Oregon

Section 4 designates approximately 99,653 acres of USFS land in Oregon as the “Frank Moore Wild Steelhead Special Management Area” (Area).

Subsection (b) directs the Secretary to prepare a map and legal description for the Area and make them available to the public in the appropriate offices of the Forest Service.

Subsection (c) requires the Area to be administered in accordance with all laws applicable to the National Forest System and in a manner that conserves and enhances certain uses and values described in the section.

Subsection (d) indicates that the Secretary’s administration of the Area does not affect the jurisdiction of the state with respect to fish and wildlife in Oregon.

Subsection (e) provides that there are no buffer zones around the Area and that the Section does not modify the applicable travel management plan for the Area.

Subsection (f) clarifies that the designation does not prohibit the Secretary, in cooperation with other Federal State and local agencies, from conducting wildfire management operations in the area consistent with the purposes of the Act.
Subsection (g) clarifies that the designation does not prohibit the Secretary from carrying out vegetation management if it is consistent with the purposes described in subsection (c).

Subsection (h) clarifies that the designation does not diminish the treaty rights of Indian tribes.

Subsection (i) withdraws the Area river segments from all forms of entry, appropriation, or disposal under public land laws, location, entry, and patent under mining laws and disposition under all laws relating to mineral and geothermal leasing or mineral materials.

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 12, 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. 1448, the Frank Moore Wild Steelhead Special Management Area Designation Act.

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.

S. 1448—Frank Moore Wild Steelhead Special Management Area Designation Act

S. 1448 would designate 100,000 acres of land administered by the Forest Service in Oregon as a special management area and would prohibit mineral development on those lands. Based on information provided by the agency, CBO estimates that implementing the legislation would not affect the federal budget. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

The Forest Service currently manages the affected lands for conservation purposes, therefore, designating those lands as a special management area would not affect administrative costs. In addition, based on information from the Forest Service, CBO does not expect that any minerals would be developed on the affected lands that would generate income for the federal government over the next 10 years. Thus, designating those lands would not affect offsetting receipts, which are treated as reductions in direct spending.

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. 1448 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, and tribal governments.
The CBO staff contact for this estimate is Jeff LaFave. The 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 S. 1448. 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. 1448, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1448, 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. 1448 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.