

YELLOWSTONE GATEWAY PROTECTION ACT

OCTOBER 23, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 4644]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4644) to withdraw certain National Forest System land in the Emigrant Crevice area located in the Custer Gallatin National Forest, Park County, Montana, from the mining and mineral leasing laws of the United States, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 4644 is to withdraw certain National Forest System land in the Emigrant Crevice area located in the Custer Gallatin National Forest, Park County, Montana, from the mining and mineral leasing laws of the United States.

BACKGROUND AND NEED FOR LEGISLATION

The National Park System contains 417 areas covering nearly 84 million acres in every State, the territories, and the District of Columbia.¹ These federal lands serve as recreational destinations for individuals around the U.S. and the world. National park visitors generate and support significant economic activity within park gateway economies. As the Department of the Interior's Fiscal Year 2019 Budget Request notes, visitors to our national parks spend more than \$18.4 billion in local communities, supporting nearly

¹ National Park Service. Main Site, <https://www.nps.gov/aboutus/national-park-system.htm>.

318,000 jobs and contributing \$34.9 billion into the national economy.²

According to the National Park Service, federal lands received 330,882,751 recreational visits in 2017, which mirrored record-setting numbers seen in 2016.³ More specifically, an estimated 4.1 million people visited Yellowstone National Park and its surrounding areas, spending a total of \$498.8 million in its neighboring communities.⁴ That spending contributed to the support of 7,354 jobs with a cumulative benefit to the local economy of \$629.6 million.⁵

On November 22, 2016, the Bureau of Land Management published a Federal Register notice detailing an application had been filed to formally withdraw nearly 30,370 acres of National Forest System lands from location, entry, and patent under mining laws and disposition under all laws pertaining to mineral and geothermal leasing.⁶ The proposed withdrawal is within the Custer Gallatin National Forest, Park County, Montana, near Yellowstone National Park. Managed by the Yellowstone and Gardiner Ranger Districts, these federal lands consist of two plots: Emigrant (15,795 acres) and Crevice (14,575 acres).

Located 26 miles south of Livingston, Montana, the Emigrant area encircles the Emigrant Creek, Mill Creek, Arrastra Creek, and Sixmile Creek drainages. The parcel also contains 316 acres of non-federal lands that would otherwise not be subject to the withdrawal, unless the land was obtained by the United States.⁷

Adjacent to the northern boundary of Yellowstone National Park and to the northeast of Gardiner, Montana, lies the Crevice withdrawal area, comprising 14,575 acres, of which 1,352 acres are non-federal lands that would not be subject to the withdrawal.⁸

This area also includes three existing withdrawals, totaling over 4,300 acres, that date back to the early 1900s. The first, Executive Order 3053, signed February 28, 1919, serves as a game preserve.⁹ The second is Power Site Reserve 527, which was withdrawn for water power sites. The final existing site is identified as Power Site Classification 94, dated May 2, 1925. Since none of the existing withdrawals close the land to entry under the mining laws, the proposed withdrawal area would overlap these existing withdrawals if enacted.¹⁰

On September 21, 2018, the U.S. Forest Service completed an environmental assessment of the proposed withdrawal and recommended, through the Bureau of Land Management, that the

²Department of the Interior. Interior Budget Request 2018, <https://www.doi.gov/ocl/interior-budget-request>.

³National Park Service. Office of Communications 2018, <https://www.nps.gov/orgs/1207/02-28-2018-visitation-certified.htm>.

⁴National Park Service. Yellowstone Data 2018, <https://www.nps.gov/yell/learn/news/18019.htm>.

⁵National Park Service. Yellowstone Data 2018, <https://www.nps.gov/yell/learn/news/18019.htm>.

⁶USDA Forest Service. Emigrant Crevice Withdrawal: Economics 2018, https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT343_278865.pdf.

⁷USDA Forest Service. Emigrant Crevice Withdrawal: Economics https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT3_4278865.pdf.

⁸USDA Forest Service. Emigrant Crevice Withdrawal: Economics https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT3_4278865.pdf.

⁹*Id.* at 2.

¹⁰*Id.*

Secretary of the Interior withdraw the area in question from mineral entry for 20 years, subject to valid existing rights.¹¹

The purpose of the withdrawal in H.R. 4644 is to permanently preserve the scenic integrity, wildlife corridors, and recreation values and opportunities in the historic Emigrant Mining District and the Jardine/Crevice Mining District.¹²

H.R. 4644 has broad local support, including from the Yellowstone Gateway Business Coalition, which represents over 400 businesses and thousands of men and women employed near Yellowstone National Park.¹³ That being said, no recent economic analysis has been conducted to determine the potential value of critical minerals or other materials which may be available in the proposed withdrawal areas.

SECTION-BY-SECTION ANALYSIS OF H.R. 4644

Section 2. Withdrawal

- Subject to valid existing rights in existence on the date of enactment of this Act, the National Forest System land and interests in the National Forest System land, as depicted on the map entitled “Emigrant Crevice Proposed Withdrawal Area” and dated November 10, 2016, is withdrawn from:

- (1) location, entry, and patent under the mining laws; and

- (2) disposition under all laws pertaining to mineral and geothermal leasing.

- Nothing in this Act affects any recreational use, including hunting or fishing, that is authorized on land within the area depicted on the map under applicable law as of the date of enactment of the Act.

- Any land or interest in land within the area depicted on the map that is acquired by the United States after the date of enactment of this Act shall, on acquisition, be immediately withdrawn in accordance with this section.

COMMITTEE ACTION

H.R. 4644 was introduced on December 14, 2017, by Congressman Greg Gianforte (R-MT). The bill was referred to the Committee on Natural Resources and within the Committee, to the Subcommittee on Energy and Mineral Resources. The Subcommittee held a hearing on the bill on June 21, 2018. On September 26, 2018, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Paul A. Gosar (R-AZ) offered an amendment designated 132; it was not adopted by a bipartisan roll call vote of 10 yeas and 21 nays, as follows:

¹¹ USFS, Emigrant Crevice Locatable Mineral Withdrawal, Project Documents, Recommendation Letter 2018, https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT3_4428944.pdf.

¹² USDA Emigrant Crevice Mineral Withdrawal Environmental Assessment https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT3_4278748.pdf.

¹³ Letter to Rep. Gianforte (R-MT) from Yellowstone Gateway Business Coalition.

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 09.26.18

Recorded Vote #:7

Meeting on / Amendment on: FC Markup Gosar [132] to HR 4644 (Rep. Greg Gianforte)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. McEachin, VA</i>		X	
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Brown, MD</i>		X	
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA			
<i>Ms. Bordallo, Guam</i>		X		<i>Mr. Clay, MO</i>			
Mr. Lamborn, CO				Mr. Hice, GA	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Gomez, CA</i>		X	
Mr. Wittman, VA				Mrs. Radewagen, AS	X		
<i>Mr. Sablan, CNMI</i>		X		<i>Ms. Velázquez, NY</i>		X	
Mr. McClintock, CA	X			Mr. Webster, FL			
<i>Ms. Tsongas, MA</i>		X		Mr. Bergman, MI			
Mr. Pearce, NM				Ms. Cheney, WY	X		
<i>Mr. Huffman, CA</i>		X		Mr. Johnson, LA			
Mr. Thompson, PA	X			Ms. González-Colón, PR		X	
<i>Mr. Lowenthal, CA</i>		X		Mr. Gianforte, MT		X	
Mr. Gosar, AZ	X			Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>		X					
Mr. Tipton, CO	X						
<i>Ms. Hanabusa, HI</i>		X					
Mr. LaMalfa, CA	X						
<i>Ms. Barragán, CA</i>		X					
Mr. Denham, CA							
<i>Mr. Soto, FL</i>		X		TOTAL:	10	21	

Congressman Paul A. Gosar (R-AZ) offered an amendment designated 133; it was not adopted by a bipartisan roll call vote of 10 yeas and 22 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 09.26.18

Recorded Vote #:8

Meeting on / Amendment on: FC Markup Gosar [133] to HR 4644 (Rep. Greg Gianforte)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. McEachin, VA</i>		X	
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Brown, MD</i>		X	
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA	X		
<i>Ms. Bordallo, Guam</i>		X		<i>Mr. Clay, MO</i>			
Mr. Lamborn, CO				Mr. Hice, GA	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Gomez, CA</i>		X	
Mr. Wittman, VA				Mrs. Radewagen, AS	X		
<i>Mr. Sablan, CNMI</i>		X		<i>Ms. Velázquez, NY</i>		X	
Mr. McClintock, CA	X			Mr. Webster, FL			
<i>Ms. Tsongas, MA</i>		X		Mr. Bergman, MI			
Mr. Pearce, NM				Ms. Cheney, WY	X		
<i>Mr. Huffman, CA</i>		X		Mr. Johnson, LA			
Mr. Thompson, PA		X		Ms. González-Colón, PR		X	
<i>Mr. Lowenthal, CA</i>		X		Mr. Gianforte, MT		X	
Mr. Gosar, AZ	X			Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>		X					
Mr. Tipton, CO	X						
<i>Ms. Hanabusa, HI</i>		X					
Mr. LaMalfa, CA	X						
<i>Ms. Barragán, CA</i>		X					
Mr. Denham, CA							
<i>Mr. Soto, FL</i>		X		TOTAL:	10	22	

Congressman Paul A. Gosar (R-AZ) offered an amendment designated 135; it was not adopted by a bipartisan roll call vote of 9 yeas and 23 nays, as follows:

Committee on Natural Resources

U.S. House of Representatives

115th Congress

Date: 09.26.18

Recorded Vote #:9

Meeting on / Amendment on: FC Markup Gosar [135] to HR 4644 (Rep. Greg Gianforte)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. McEachin, VA</i>		X	
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR		X	
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Brown, MD</i>		X	
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA		X	
<i>Ms. Bordallo, Guam</i>		X		<i>Mr. Clay, MO</i>			
Mr. Lamborn, CO				Mr. Hice, GA	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Gomez, CA</i>		X	
Mr. Wittman, VA				Mrs. Radewagen, AS	X		
<i>Mr. Sablan, CNMI</i>		X		<i>Ms. Velázquez, NY</i>		X	
Mr. McClintock, CA	X			Mr. Webster, FL			
<i>Ms. Tsongas, MA</i>		X		Mr. Bergman, MI			
Mr. Pearce, NM				Ms. Cheney, WY	X		
<i>Mr. Huffman, CA</i>		X		Mr. Johnson, LA			
Mr. Thompson, PA	X			Ms. González-Colón, PR		X	
<i>Mr. Lowenthal, CA</i>		X		Mr. Gianforte, MT		X	
Mr. Gosar, AZ	X			Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>		X					
Mr. Tipton, CO	X						
<i>Ms. Hanabusa, HI</i>		X					
Mr. LaMalfa, CA	X						
<i>Ms. Barragán, CA</i>		X					
Mr. Denham, CA							
<i>Mr. Soto, FL</i>		X		TOTAL:	9	23	

Congressman Paul A. Gosar (R-AZ) offered an amendment designated 136; it was not adopted by a bipartisan roll call vote of 11 yeas and 21 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 09.26.18

Recorded Vote #:10

Meeting on / Amendment on: FC Markup Gosar [136] to HR 4644 (Rep. Greg Gianforte)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. McEachin, VA</i>		X	
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Brown, MD</i>		X	
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA	X		
<i>Ms. Bordallo, Guam</i>		X		<i>Mr. Clay, MO</i>			
Mr. Lamborn, CO				Mr. Hice, GA	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Gomez, CA</i>		X	
Mr. Wittman, VA				Mrs. Radewagen, AS	X		
<i>Mr. Sablan, CNMI</i>		X		<i>Ms. Velázquez, NY</i>		X	
Mr. McClintock, CA	X			Mr. Webster, FL			
<i>Ms. Tsongas, MA</i>		X		Mr. Bergman, MI			
Mr. Pearce, NM				Ms. Cheney, WY	X		
<i>Mr. Huffman, CA</i>		X		Mr. Johnson, LA			
Mr. Thompson, PA	X			Ms. González-Colón, PR		X	
<i>Mr. Lowenthal, CA</i>		X		Mr. Gianforte, MT		X	
Mr. Gosar, AZ	X			Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>		X					
Mr. Tipton, CO	X						
<i>Ms. Hanabusa, HI</i>		X					
Mr. LaMalfa, CA	X						
<i>Ms. Barragán, CA</i>		X					
Mr. Denham, CA							
<i>Mr. Soto, FL</i>		X		TOTAL:	11	21	

Congressman Paul A. Gosar (R-AZ) offered an amendment designated 137; it fell on a point of order. Congressman Paul A. Gosar (R-AZ) offered an amendment designated 139; it fell on a point of order. No additional amendments were offered, and the bill was ordered favorably reported to the House of Representatives by a bipartisan roll call of 28 yeas and 4 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 09.26.18

Recorded Vote #:11

Meeting on / Amendment on: FC Markup Favorably Report HR 4644 (Rep. Greg Gianforte)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mr. McEachin, VA</i>	X		
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR	X		
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Brown, MD</i>	X		
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA	X		
<i>Ms. Bordallo, Guam</i>	X			<i>Mr. Clay, MO</i>			
Mr. Lamborn, CO				Mr. Hice, GA		X	
<i>Mr. Costa, CA</i>	X			<i>Mr. Gomez, CA</i>	X		
Mr. Wittman, VA				Mrs. Radewagen, AS	X		
<i>Mr. Sablan, CNMI</i>	X			<i>Ms. Velázquez, NY</i>	X		
Mr. McClintock, CA		X		Mr. Webster, FL			
<i>Ms. Tsongas, MA</i>	X			Mr. Bergman, MI			
Mr. Pearce, NM				Ms. Cheney, WY			
<i>Mr. Huffman, CA</i>	X			Mr. Johnson, LA			
Mr. Thompson, PA	X			Ms. González-Colón, PR	X		
<i>Mr. Lowenthal, CA</i>	X			Mr. Gianforte, MT	X		
Mr. Gosar, AZ		X		Mr. Curtis, UT	X		
<i>Mr. Beyer, VA</i>	X						
Mr. Labrador, ID	X						
<i>Mr. Gallego, AZ</i>	X						
Mr. Tipton, CO	X						
<i>Ms. Hanabusa, HI</i>	X						
Mr. LaMalfa, CA		X					
<i>Ms. Barragán, CA</i>	X						
Mr. Denham, CA							
<i>Mr. Soto, FL</i>	X			TOTAL:	28	4	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 19, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4644, the Yellowstone Gateway Protection Act.

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

Sincerely,

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

Enclosure.

H.R. 4644—Yellowstone Gateway Protection Act

H.R. 4644 would withdraw roughly 30,000 acres of land in the Custer Gallatin National Forest in Montana from mining laws and mineral and geothermal leasing, subject to valid existing rights. That is, the bill would not allow new mining or other related activities on those lands, which are adjacent to the northern boundary of Yellowstone National Park.

The Department of the Interior is reviewing a public land order to withdraw those lands from location and entry under mining laws for a period of 20 years. Through November 22, 2018, no new mining claims will be accepted on those lands. If the department chooses not to implement the order, the lands will be open to new mining claims after that date. Using information from the department, CBO estimates that implementing the order will produce no significant change in administrative costs; therefore, implementing the bill also would have no significant effect on spending subject to appropriation.

Because the affected lands currently produce no income from mineral or geothermal leasing (and are not expected to do so in the future), CBO estimates that enacting the bill would not affect offsetting receipts, which are treated as reductions in direct spending. Because enacting H.R. 4644 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4644 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 4644 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Janani Shankaran. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to withdraw certain National Forest System land in the Emigrant Crevice area located in the Custer Gallatin National Forest, Park County, Montana, from the mining and mineral leasing laws of the United States.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.