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BLACKFOOT CLEARWATER STEWARDSHIP ACT

JANUARY 9, 2024.—Ordered to be printed

Mr. MANCHIN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 2149]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2149) to sustain economic development and recreational use of National Forest System land in the State of Montana, to add certain land to the National Wilderness Preservation System, to designate new areas for recreation, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purposes of S. 2149 are to direct the Secretary of Agriculture to complete a landscape assessment and develop a 10-year schedule for forest restoration projects on certain National Forest lands in the Lolo National Forest in Montana, and to designate certain National Forest lands in the State as recreation areas or as components of the National Wilderness Preservation System.

BACKGROUND AND NEED

The Seeley Lake District of the Lolo National Forest in west-central Montana lies in a heavily forested valley, bordered by the Swan Mountain range to the east and the Mission Mountains range to the west. The area provides numerous opportunities for diverse four-season recreation such as snowmobiling, cross-country skiing, hiking, hunting, and fishing. The Forest also provides timber to support the forest products industry.

Over the past 6 years a collaborative group comprised of various organizations and stakeholders have worked to develop landscape-scale planning within the 400,000-acre Blackfoot Clearwater Stew-

ardship Project area. The collective planning effort is designed to provide for forest restoration treatments, designate certain areas for recreation, and permanently protect certain landscapes and fish and wildlife habitat through wilderness designation. S. 2149 would advance this collective planning effort by addressing specifically the restoration, conservation, and recreation aspects of the project area.

LEGISLATIVE HISTORY

S. 2149 was introduced by Senator Tester on June 22, 2023. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 2149 on July 12, 2023.

Senator Tester introduced similar legislation in the 117th Congress, S. 1493, on April 29, 2021. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 1493 on October 19, 2021.

Similar legislation, S. 1765, was introduced in the 116th Congress by Senator Tester on June 10, 2019. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 1765 on September 16, 2020 (S. Hrg. 116–380).

During the 115th Congress, Senator Tester introduced similar legislation, S. 507, on March 2, 2017. The Subcommittee on Public Lands, Forests, and Mining held a hearing on the bill on February 7, 2018 (S. Hrg. 115–502).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on September 21, 2023, by a majority voice vote of a quorum present, recommends that the Senate pass S. 2149. Senator Lee asked to be recorded as voting no.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents

Subsection (a) provides the short title of the bill, the “Blackfoot Clearwater Stewardship Act.”

Subsection (b) provides a table of contents for the bill.

Section 2. Definitions

Section 2 defines key terms used in the bill.

TITLE I—FOREST RESTORATION

Sec. 101. Landscape assessment

Subsection (a) directs the Secretary of Agriculture (Secretary), in collaboration with interested parties, to conduct a landscape assessment of the Steely Lake Ranger District in the Lolo National Forest (District) no later than 3 years after the date of enactment of this Act.

Subsection (b) requires the landscape assessment to consider ecological conditions of the forests and watersheds in the District and to identify restoration actions needed for ecosystem sustainability, resilience, and health by assisting in the recovery of forest ecosystems.

Subsection (c) provides that the Secretary may fulfill the requirements of this section by using any landscape assessment underway at the date of enactment of this Act that contains the components required under subsection (b).

Subsection (d) requires the Secretary to develop a 10-year schedule of restoration projects following the completion of the landscape assessment.

Sec. 102. Environmental review of collaboratively developed restoration projects

Subsection (a) defines a collaboratively developed restoration project to be in accordance with the requirements of the Collaborative Forest Landscape Restoration Program established by section 4003(b) of Public Law 111–11 (16 U.S.C. 7303(b)).

Subsection (b) allows a collaboratively developed restoration project to be carried out in accordance with hazardous fuel reduction projects under the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6514–6516).

Subsection (c) authorizes the Secretary to request a meeting with an objector to any of the collaboratively developed restoration project within the District.

TITLE II—RECREATION

Sec. 201. Otatsy Recreation Management Area

Subsection (a) establishes the 2,013 acre Otatsy Recreation Management Area in the Lolo National Forest as depicted on the map and subject to valid existing rights.

Subsection (b) requires the Secretary to manage the recreation management area in accordance with this section, to conserve, protect, and enhance the scenic, fish and wildlife, recreational, backcountry heritage, and other natural resource values of the recreation management area, and any laws applicable to the National Forest System.

Subsection (c) prohibits permanent roads and timber harvesting on federal land within the recreation management area. It also prohibits the use of motorized and mechanized vehicles and the establishment of temporary roads within the area, except as necessary to provide for snowmobile use, meeting the minimum requirements of administration of the area, and to protect public health and safety.

Subsection (d) provides that the use of snowmobiles shall be allowed in the recreation management area between December 1 and April 1, during periods of adequate snow cover, and subject to terms and conditions the Secretary deems necessary.

Subsection (e) authorizes the Secretary to carry out measures the Secretary determines to be necessary to control fire, insects, and diseases, and allows for the coordination of those activities with State and local agencies.

Subsection (f) withdraws the recreation management area from all forms of entry, appropriation, or disposal under the public land laws; location, entry and patent under the mining laws; and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

Sec. 202. Spread Mountain Recreation Area

Subsection (a) establishes the 3,835 acre Spread Mountain Recreation Area as depicted on the map and subject to valid existing rights.

Subsection (b) requires the Secretary to manage the recreation area in accordance with this section, to conserve, protect, and enhance the scenic, fish and wildlife, recreational, backcountry heritage, and other natural resource values of the recreation area, and any laws applicable to the National Forest System.

Subsection (c) prohibits permanent roads and timber harvesting on federal land within the recreation area. It also prohibits the use of motorized and mechanized vehicles and the establishment of temporary roads within the area, except as necessary to meet the minimum requirements of administration of the area, and to protect public health and safety.

Subsection (d) provides that nothing in this section prohibits the use of mechanized vehicles, access by pedestrians, or horse travel and any construction of trails for these uses within the recreation area.

Subsection (e) authorizes the Secretary to carry out measures the Secretary determines to be necessary to control fire, insects, and diseases, and allows for the coordination of those activities with State and local agencies.

Subsection (f) withdraws the area for inclusion in the recreation area from all forms of entry, appropriation, or disposal under the public land laws; location, entry and patent under the mining laws; and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

Sec. 203. Trail-based recreation

Subsection (a) defines the term “collaboratively developed” to include multiple interested persona representing diverse interests, and to be transparent and non-exclusive.

Subsection (b) authorizes the Secretary to analyze a collaboratively-developed proposal if submitted no later than 5 years after the date of enactment of this Act, in accordance with the National Environmental Policy Act of 1969, and subject to appropriations, to provide for the construction of any routes included in the proposal. The subsection also requires the Secretary to complete the analysis no later than 3 years after the Secretary receives the proposal, and to give priority to expanding motorized and non-motorized recreational trail opportunities within the district that are in the public interest.

Subsection (c) authorizes the Secretary to accept volunteer services and contributions from non-Federal sources to construct and maintain recreational trails.

Subsection (d) requires the Secretary to carry out this section in compliance with the laws generally applicable to the National Forest System and this Act.

Subsection (e) states that nothing in this section affects the ownership or management of, or any other right relating to, any non-Federal land (including any interests in land).

TITLE III—CONSERVATION

Sec. 301. Designation of wilderness areas

Section 301 designates the following areas as additions to existing National Forest wilderness areas in Montana, and as components of the National Wilderness Preservation System:

Paragraph (1) designates the 39,422 acre North Fork Blackfoot-Monture Creek Addition and the 7,784 acre Grizzly Basin of the Swan Range Addition to be a part of the Bob Marshall Wilderness.

Paragraph (2) designates the 4,462 acre West Fork Clearwater Addition to be a part of the Mission Mountain Wilderness.

Paragraph (3) designates the 27,392 acre North Fork Blackfoot-Monture Creek Addition to be a part of the Scapegoat Wilderness.

Sec. 302. Administration of wilderness areas

Subsection (a) directs the Secretary to manage the wilderness area additions designated by this title in accordance with the Wilderness Act.

Subsection (b) provides that any land within the boundary of a wilderness area designated in section 301 shall become a part of the wilderness area in which the land is located, be withdrawn from the public lands and mining laws, and be managed in accordance with the Wilderness Act.

Subsection (c) withdraws any land designated as wilderness in section 301 from all forms of entry, appropriation, or disposal under the public land laws; location, entry and patent under the mining laws; and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

Subsection (d) authorizes the Secretary, in accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), to carry out measures the Secretary determines to be necessary in the wilderness areas designated in section 301 to control fire, insects, and diseases, and allows for the coordination of those activities with State and local agencies.

Subsection (e) requires the Secretary, in accordance with section 5(a) of the Wilderness Act (16 U.S.C. 1134(a)), to provide the owner of private lands within the boundary of a wilderness area designated in section 301 access to their land.

Subsection (f) provides that nothing in this title affects the jurisdiction or responsibilities of the State of Montana with respect to fish and wildlife including hunting, fishing, and trapping.

Subsection (g) clarifies that nothing in this title prevents the installation or maintenance of hydrological, meteorological, or climatological instrumentation in a wilderness area designated in section 301, if the Secretary determines that it is necessary to advance scientific, educational, or conservation purposes of the wilderness area.

Subsection (h) permits the continued use of livestock grazing if it was established before the date of enactment of this Act, and requires grazing to be in accordance with the Wilderness Act and the grazing guidelines described in House Report 96-617.

Subsection (i) authorizes commercial recreational services (including authorized outfitting and guide activities) to operate within the wilderness areas to the extent necessary for activities that fulfill the recreational or other wilderness purposes of the areas, in

accordance with section 4(d)(5) of the Wilderness Act (16 U.S.C. 133(d)(5)). The Secretary is not required to modify any permit to provide outfitting and guide services within the wilderness areas if the Secretary determines that such services are in compliance with the Wilderness Act.

Subsection (j) provides that the designation of a wilderness addition in section 301 shall not create any protective perimeter or buffer zone around the wilderness area and the fact that any non-wilderness activity that can be seen or heard within the wilderness area shall not preclude the activity from occurring.

Sec. 303. Maps and legal description

Subsection (a) requires the Secretary to file a map and legal description of the Otatsy Recreation Management Area, the Spread Mountain Recreation Area, and each wilderness area designated under this Act.

Subsection (b) requires the Secretary to submit the maps and legal description to the House and Senate authorizing committees.

Subsection (c) provides that the maps and legal descriptions filed under subsection (b) shall have the same force and effect as if included in this title.

Subsection (d) requires the maps and legal description to be on file and publically available in the appropriate offices of the Forest Service and Bureau of Land Management.

TITLE IV—EFFECT

Sec. 401. Protection of tribal treaty rights

This section clarifies that nothing in this Act alters, modifies, enlarges, diminishes, or abrogates the treaty rights of any Indian Tribe.

COST AND BUDGETARY CONSIDERATIONS

The Committee has requested, but has not yet received, the Congressional Budget Office's estimate of the cost of S. 2149 as ordered reported. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at www.cbo.gov.

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. 2149. 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. 2149, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2149, 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 Forest Service at the Subcommittee on Public Lands, Forests, and Mining hearing on S. 2149 held on July 12, 2023, follows:

TESTIMONY OF CHRIS FRENCH, DEPUTY CHIEF UNITED STATES DEPARTMENT OF AGRICULTURE FOREST SERVICE

S. 2149, "BLACKFOOT CLEARWATER STEWARDSHIP ACT"

S. 2149, the Blackfoot Clearwater Stewardship Act, is a multi-faceted bill affecting the Lolo National Forest (Lolo) in Montana. USDA supports this bill and strongly appreciates Senator Tester's commitment to Montana's natural resources and public lands. We recognize that the proposed bill is the product of a collaborative effort, and we appreciate that this legislation would provide benefits to Montana's communities and the Lolo National Forest. We look forward to working with the subcommittee and Senator Tester as the bill progresses.

The bill directs the Secretary of Agriculture to develop a landscape assessment of watershed conditions and restoration needs on the Seeley Lake Ranger District within three years of enactment. It further directs the Secretary, in collaboration with interested parties, to develop a 10-year schedule of restoration projects as soon as practicable following the assessment. Restoration projects developed pursuant to the Act may be implemented using the authorities found in the Healthy Forests Restoration Act of 2003.

Additionally, the bill would establish a 2,013-acre Otatsy Recreation Management Area in which recreational motorized and mechanized uses and temporary roads generally would be prohibited and snowmobiles would be allowed during the winter, as determined by the Secretary. S. 2149 also would establish a 3,835-acre Spread Mountain Recreation Area in which motorized use generally would be prohibited but mechanized use would be allowed. S. 2149 would require the Secretary to analyze, within three years of receipt, a collaboratively developed proposal to improve motorized and non-motorized recreational trail opportunities within the district if such a proposal is submitted within five years of enactment. Finally, the bill would designate an additional 79,060 acres to the National Wilderness Preservation System.

The Lolo Land Management Plan revision, which includes extensive public engagement, has begun. The land management plan revision includes a forest-wide assessment to inform the development of desired conditions and objectives for the restoration and maintenance of ecological conditions across the plan area. It identifies priority watersheds for restoration using the National Watershed Condition Framework. As that effort overlaps with and informs the requirements in Title 1, we would like to work with

the bill sponsor to coordinate the desired outcomes of this legislation with our plan revision process.

Title II, section 203, would require the Forest Service to prepare a NEPA analysis for any collaboratively developed proposal to improve motorized and non-motorized recreational trail opportunities within the Ranger District within three years of receipt of the proposal. USDA would like to work with the bill sponsor to align this work with the land management plan revision process to enhance efficiency.

USDA recognizes and appreciates that the bill is the product of a collaborative effort. The concepts embodied in this legislation—such as recognizing collaboratively developed landscape scale restoration and recreation proposals—are greatly appreciated. USDA shares Senator Tester's respect for and commitment to collaboration, and the Forest Service is working with and will continue to work with Senator Tester on modifications to ensure that implementation of the bill will complement the Lolo National Forest land management plan revision process.

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 S. 2149, as ordered reported.

