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S. 1380

[Report No. 110–358]

To designate as wilderness certain land within the Rocky Mountain National Park and to adjust the boundaries of the Indian Peaks Wilderness and the Arapaho National Recreation Area of the Arapaho National Forest in the State of Colorado.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2007

Mr. SALAZAR (for himself and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JUNE 16, 2008

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To designate as wilderness certain land within the Rocky Mountain National Park and to adjust the boundaries of the Indian Peaks Wilderness and the Arapaho National Recreation Area of the Arapaho National Forest in the State of Colorado.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Rocky Mountain Na-
3 tional Park Wilderness and Indian Peaks Wilderness Ex-
4 pansion Act”.

5 **SEC. 2. PURPOSES.**

6 The purposes of this Act are—

7 (1) to include in the National Wilderness Pres-
8 ervation System certain land within the Rocky
9 Mountain National Park, Colorado, to protect—

10 (A) the enduring scenic and historic wil-
11 derness character and unique wildlife values of
12 the land; and

13 (B) the scientific, educational, inspira-
14 tional, and recreational resources, values, and
15 opportunities of the land; and

16 (2) to adjust the boundaries of the Indian
17 Peaks Wilderness and Arapaho National Recreation
18 Area of the Arapaho National Forest.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) MAP.—The term “Map” means the map en-
22 titled “Rocky Mountain National Park, Colorado
23 Wilderness Boundaries” and dated September 2006.

24 (2) PARK.—The term “Park” means the Rocky
25 Mountain National Park in the State.

1 ~~(3) POTENTIAL WILDERNESS LAND.~~—The term
2 “potential wilderness land” means—

3 ~~(A)~~ the land identified on the Map as po-
4 tential wilderness; and

5 ~~(B)~~ any land acquired by the United
6 States on or after the date of enactment of this
7 Act that is—

8 (i) located within the boundaries of
9 the Park; and

10 (ii) contiguous with any land des-
11 ignated as wilderness by section 4(a).

12 ~~(4) SECRETARY.~~—The term “Secretary” means
13 the Secretary of the Interior.

14 ~~(5) STATE.~~—The term “State” means the State
15 of Colorado.

16 ~~(6) TRAIL.~~—The term “Trail” means the East
17 Shore Trail established under section 5(a).

18 ~~(7) WILDERNESS.~~—The term “Wilderness”
19 means the Rocky Mountain National Park Wilder-
20 ness designated by section 4(a).

21 **SEC. 4. ROCKY MOUNTAIN NATIONAL PARK WILDERNESS.**

22 ~~(a) DESIGNATION.~~—In furtherance of the purposes of
23 the Wilderness Act (16 U.S.C. 1131 et seq.), there is des-
24 ignated as wilderness and as a component of the National
25 Wilderness Preservation System approximately 249,339

1 acres of land in the Park, as generally depicted on the
 2 Map, which shall be known as the “Rocky Mountain Na-
 3 tional Park Wilderness”.

4 (b) MAP AND BOUNDARY DESCRIPTION.—

5 (1) IN GENERAL.—As soon as practicable after
 6 the date of enactment of this Act, the Secretary
 7 shall submit to the Committee on Resources of the
 8 House of Representatives and the Committee on En-
 9 ergy and Natural Resources of the Senate a map
 10 and boundary description of the Wilderness.

11 (2) AVAILABILITY.—The map and boundary de-
 12 scription submitted under paragraph (1) shall be on
 13 file and available for public inspection in the Office
 14 of the Director of the National Park Service.

15 (3) CORRECTIONS.—The Secretary may correct
 16 clerical and typographical errors in the map and
 17 boundary description submitted under paragraph
 18 (1).

19 (4) EFFECT.—The map and boundary descrip-
 20 tion submitted under paragraph (1) shall have the
 21 same force and effect as if included in this Act.

22 (c) INCLUSION OF POTENTIAL WILDERNESS
 23 LAND.—

24 (1) IN GENERAL.—On publication in the Fed-
 25 eral Register of a notice by the Secretary that all

uses of a parcel of potential wilderness land inconsistent with the Wilderness Act (16 U.S.C. 1131 et seq.) have ceased, the parcel shall be—

(A) included in the Wilderness; and

(B) managed in accordance with this section.

(2) MAP AND BOUNDARY DESCRIPTION.—The Secretary shall modify the map and boundary description prepared under subsection (b) to reflect the inclusion of the parcel in the Wilderness.

(d) EXCLUSION OF CERTAIN LAND.—The boundaries of the Wilderness shall specifically exclude:

(1) The Grand River Ditch (including the main canal of the Grand River Ditch and a branch of the main canal known as the “Specimen Ditch”); the right-of-way for the Grand River Ditch; land 200 feet on each side of the marginal limits of the Ditch; and any associated appurtenances, structures, buildings, camps, and work sites in existence as of June 1, 1998.

(2) Land owned by the St. Vrain & Left Hand Water Conservancy District, including Copeland Reservoir and the Inlet Ditch to the Reservoir from the North St. Vrain Creek, comprising approximately 35.38 acres.

1 ~~(3) Lands owned by the Wincentzen-Harms~~
 2 ~~Trust, comprising approximately 2.75 acres.~~

3 ~~(4) Land within the area depicted as the “East~~
 4 ~~Shore Trail Area” on the map prepared under sub-~~
 5 ~~section (b)(1).~~

6 ~~(c) ADMINISTRATION.—~~

7 ~~(1) IN GENERAL.—Subject to valid existing~~
 8 ~~rights, any land designated as wilderness under sub-~~
 9 ~~section (a) or added to the Wilderness after the date~~
 10 ~~of enactment of this Act under subsection (c) shall~~
 11 ~~be administered by the Secretary in accordance~~
 12 ~~with—~~

13 ~~(A) the Wilderness Act (16 U.S.C. 1131 et~~
 14 ~~seq.); and~~

15 ~~(B) this Act.~~

16 ~~(2) EFFECTIVE DATE OF WILDERNESS ACT.—~~

17 ~~With respect to the land designated as Wilderness~~
 18 ~~by subsection (a) or added to the Wilderness after~~
 19 ~~the date of enactment of this Act under subsection~~
 20 ~~(c), any reference in the Wilderness Act (16 U.S.C.~~
 21 ~~1131 et seq.) to the effective date of the Wilderness~~
 22 ~~Act shall be deemed to be a reference to the date of~~
 23 ~~enactment of this Act or the date of enactment of~~
 24 ~~the Act adding the land to the Wilderness, respec-~~
 25 ~~tively.~~

1 (3) WATER RIGHTS.—

2 (A) FINDINGS.—Congress finds that—

3 (i) according to decisions of the State
4 courts, the United States has existing
5 rights to water within the Park;

6 (ii) the existing water rights are suffi-
7 cient for the purposes of the Wilderness;
8 and

9 (iii) based on the findings described in
10 clauses (i) and (ii), there is no need for the
11 United States to reserve or appropriate
12 any additional water rights to fulfill the
13 purposes of the Wilderness.

14 (B) NO RESERVATION OF WATER
15 RIGHTS.—Nothing in this Act or any action
16 carried out pursuant to this Act shall constitute
17 an express or implied reservation by the United
18 States of water or water rights for any purpose.

19 (4) GRAND RIVER DITCH.—

20 (A) LIABILITY.—Notwithstanding any
21 other provision of law, or any stipulation or ap-
22 plicable agreement, during any period in which
23 the Water Supply and Storage Company (or
24 any successor in interest to the Water Supply
25 and Storage Company with respect to the

1 Grand River Ditch) operates and maintains the
2 portion of the Grand River Ditch within the
3 Park in compliance with an operations and
4 maintenance agreement between the Water
5 Supply and Storage Company and the National
6 Park Service entered into on
7 _____; no individual or
8 entity who owns, controls, or operates the
9 Grand River Ditch shall be liable for any re-
10 sponse costs or for any damages to, loss of, or
11 injury to the resources of the Park resulting
12 from any cause or event (including, but not lim-
13 ited to, water escaping from any part of the
14 Grand River Ditch by overflow or as a result of
15 a breach, failure, or partial failure of any por-
16 tion of the Grand River Ditch, including the
17 portion of the ditch located outside the Park);
18 unless the damages to, loss of, or injury to the
19 resources are proximately caused by the neg-
20 ligence or an intentional act of the individual or
21 entity.

22 (B) LIMITATION.—Nothing in this section
23 limits or otherwise affects any liability of any
24 individual or entity for damages to, loss of, or
25 injury to any resource of the Park resulting

1 from any cause or event that occurred before
2 the date of enactment of this Act.

3 (C) ~~EXISTING ACTIVITIES.~~—Nothing in
4 this Act, including the designation of the Wil-
5 derness under this section, shall restrict or oth-
6 erwise affect any activity (including an activity
7 carried out in response to an emergency or cat-
8 astrophic event) on, under, or affecting the Wil-
9 derness or land excluded under subsection
10 (d)(1) relating to the monitoring, operation,
11 maintenance, repair, replacement, or use of the
12 Grand River Ditch that was authorized or ap-
13 proved by the Secretary as of the date of enact-
14 ment of this Act.

15 (D) ~~NO EFFECT.~~—Notwithstanding any
16 other provision of any previous or existing law,
17 any stipulation, or any agreement, or interpre-
18 tation thereof, use of water transported by the
19 Grand River Ditch for a main purpose or main
20 purposes other than irrigation shall not termi-
21 nate or adversely affect the right-of-way of the
22 Grand River Ditch, and such right-of-way shall
23 not be deemed relinquished, forfeited, or lost,
24 solely because such water is used for a main
25 purpose or main purposes other than irrigation.

1 ~~(5) COLORADO-BIG THOMPSON PROJECT AND~~
2 ~~WINDY GAP PROJECT.—~~

3 ~~(A) EXISTING ACTIVITIES.—~~Activities (in-
4 cluding activities that are necessary because of
5 emergencies or catastrophic events) on, under,
6 or affecting the Wilderness relating to the mon-
7 itoring, operation, maintenance, repair, replace-
8 ment, or use of the Alva B. Adams Tunnel at
9 its designed capacity and all other Colorado-Big
10 Thompson Project facilities located within the
11 Park that were allowed as of the date of enact-
12 ment of this Act under the Act of January 26,
13 1915 (16 U.S.C. 191)—

14 (i) shall be allowed to continue; and

15 (ii) shall not be affected by the des-
16 ignation of the Wilderness under this sec-
17 tion.

18 ~~(B) EFFECT.—~~Nothing in this Act or the
19 designation of the Wilderness shall prohibit or
20 restrict the conveyance of any water through
21 the Alva B. Adams Tunnel for any purpose.

22 ~~(C) NEW RECLAMATION PROJECTS.—~~Noth-
23 ing in the first section of the Act of January
24 26, 1915 (16 U.S.C. 191), shall be construed to
25 allow development in the Wilderness of any rec-

1 lamation project not in existence as of the date
2 of enactment of this Act.

3 ~~(6) NO BUFFER ZONE.—~~

4 ~~(A) IN GENERAL.—~~Nothing in this Act
5 creates a protective perimeter or buffer zone
6 around the Wilderness.

7 ~~(B) ACTIVITIES OUTSIDE WILDERNESS.—~~
8 The fact that a nonwilderness activity or use
9 can be seen or heard from within the Wilder-
10 ness shall not preclude the conduct of the activ-
11 ity or use outside the boundary of the Wilder-
12 ness.

13 ~~(7) FIRE, INSECT, AND DISEASE CONTROL.—~~In
14 accordance with section 4(d)(1) of the Wilderness
15 Act (16 U.S.C. 1133(d)(1)), the Secretary may take
16 such measures in the Wilderness as are necessary to
17 control fire, insects, and diseases, including the use
18 of mechanized tools, subject to such conditions as
19 the Secretary determines to be desirable.

20 ~~(8) MANAGEMENT AUTHORITY.—~~Nothing in
21 this Act shall be construed as reducing or restricting
22 the authority of the Secretary to manage the lands
23 and other resources within the Park pursuant to the
24 Act of January 26, 1915 (16 U.S.C. 191), and other

1 laws applicable to the Park as of the date of enact-
 2 ment of this Act.

3 **SEC. 5. EAST SHORE TRAIL AREA IN ROCKY MOUNTAIN NA-**
 4 **TIONAL PARK.**

5 (a) IN GENERAL.—Not later than 1 year after the
 6 date of enactment of this Act, the Secretary shall establish
 7 within the East Shore Trail Area in Rocky Mountain Na-
 8 tional Park an alignment line for a trail, to be known as
 9 the “East Shore Trail”, to maximize the opportunity for
 10 sustained use of the Trail without causing—

- 11 (1) harm to affected resources; or
- 12 (2) conflicts among users.

13 (b) BOUNDARIES.—

14 (1) IN GENERAL.—After establishing the align-
 15 ment line for the Trail under subsection (a), the
 16 Secretary shall—

17 (A) identify the boundaries of the Trail,
 18 which shall not extend more than 25 feet east
 19 of the alignment line or be located within the
 20 wilderness area; and

21 (B) modify the map of the Wilderness pre-
 22 pared under section 4(b)(1) so that the western
 23 boundary of the Wilderness is 50 feet east of
 24 the alignment line.

1 (2) ADJUSTMENTS.—To the extent necessary to
 2 protect National Park System resources, the Sec-
 3 retary may adjust the boundaries of the Trail, if the
 4 adjustment does not place any portion of the Trail
 5 within the boundary of the Wilderness.

6 (c) INCLUSION IN WILDERNESS.—On completion of
 7 the construction of the Trail, as authorized by the Sec-
 8 retary—

9 (1) any portion of the East Shore Trail Area
 10 that is not traversed by the Trail, that is not west
 11 of the Trail, and that is not within 50 feet of the
 12 centerline of the Trail shall be—

13 (A) included in the Wilderness; and

14 (B) managed as part of the Wilderness in
 15 accordance with section 4; and

16 (2) the Secretary shall modify the map and
 17 boundary description of the wilderness prepared
 18 under section 4(b)(1) to reflect the inclusion of the
 19 East Shore Trail Area land in the Wilderness.

20 (d) EFFECT.—Nothing in this section—

21 (1) requires the construction of the Trail along
 22 the alignment line established under subsection (a);
 23 or

1 (2) limits the extent to which any otherwise ap-
 2 plicable law or policy applies to any decision with re-
 3 spect to the construction of the Trail.

4 ~~(c) RELATION TO LAND OUTSIDE WILDERNESS.—~~

5 ~~(1) IN GENERAL.—~~Except as provided in this
 6 subsection, nothing in this Act shall affect the man-
 7 agement or use of any land not included within the
 8 boundaries of the Wilderness or the potential wilder-
 9 ness land.

10 ~~(2) MOTORIZED VEHICLES AND MACHINERY.—~~

11 No use of motorized vehicles or other motorized ma-
 12 chinery that was not permitted on March 1, 2006,
 13 shall be allowed in the East Shore Trail Area except
 14 as the Secretary determines to be necessary for use
 15 in—

16 ~~(A)~~ constructing the Trail, if the construc-
 17 tion is authorized by the Secretary; or

18 ~~(B)~~ maintaining the Trail.

19 ~~(3) MANAGEMENT OF LAND BEFORE INCLU-~~
 20 ~~SION.—~~Until the Secretary authorizes the construc-
 21 tion of the Trail and the use of the Trail for non-
 22 motorized bicycles, the East Shore Trail Area shall
 23 be managed—

24 ~~(A)~~ to protect any wilderness characteris-
 25 tics of the East Shore Trail Area; and

1 ~~(B)~~ to maintain the suitability of the East
 2 Shore Trail Area for inclusion in the Wilder-
 3 ness.

4 **SEC. 6. INDIAN PEAKS WILDERNESS AND ARAPAHO NA-**
 5 **TIONAL RECREATION AREA BOUNDARY AD-**
 6 **JUSTMENT.**

7 ~~(a)~~ INDIAN PEAKS WILDERNESS BOUNDARY AD-
 8 JUSTMENT.—Section ~~3~~(a) of the Indian Peaks Wilderness
 9 Area, the Arapaho National Recreation Area and the Or-
 10 egon Islands Wilderness Area Act (16 U.S.C. 1132 note;
 11 Public Law 95–450) is amended—

12 ~~(1)~~ by striking “seventy thousand acres” and
 13 inserting “74,195 acres”; and

14 ~~(2)~~ by striking “dated July 1978” and inserting
 15 “dated May 2007”.

16 ~~(b)~~ ARAPAHO NATIONAL RECREATION AREA BOUND-
 17 ARY ADJUSTMENT.—Section ~~4~~(a) of the Indian Peaks
 18 Wilderness Area, the Arapaho National Recreation Area
 19 and the Oregon Islands Wilderness Area Act (16 U.S.C.
 20 460jj(a)) is amended—

21 ~~(1)~~ by striking “thirty-six thousand two hun-
 22 dred thirty-five acres” and inserting “35,235 acres”;
 23 and

24 ~~(2)~~ by striking “dated July 1978” and inserting
 25 “dated May 2007”.

1 **SEC. 7. AUTHORITY TO LEASE LEIFFER TRACT.**

2 ~~(a) IN GENERAL.—Section 3(k) of Public Law 91–~~
 3 ~~383 (16 U.S.C. 1a–2(k))~~ shall apply to the parcel of land
 4 described in subsection (b).

5 ~~(b) DESCRIPTION OF THE LAND.—The parcel of land~~
 6 referred to in subsection (a) is the parcel of land known
 7 as the “Leiffer tract” that is—

8 ~~(1) located near the eastern boundary of Rocky~~
 9 Mountain National Park in Larimer County, Colo-
 10 rado; and

11 ~~(2) administered by the National Park Service.~~

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “Rocky Mountain Na-*
 14 *tional Park Wilderness and Indian Peaks Wilderness Ex-*
 15 *pansion Act”.*

16 **SEC. 2. DEFINITIONS.**

17 *In this Act:*

18 ~~(1) MAP.—The term “map” means the map enti-~~
 19 tled “Rocky Mountain National Park Wilderness Act
 20 of 2007” and dated September 2006.

21 ~~(2) PARK.—The term “Park” means Rocky~~
 22 Mountain National Park located in the State of Colo-
 23 rado.

24 ~~(3) SECRETARY.—The term “Secretary” means~~
 25 the Secretary of the Interior.

1 (4) *TRAIL.*—*The term “Trail” means the East*
 2 *Shore Trail established under section 5(a).*

3 (5) *WILDERNESS.*—*The term “Wilderness”*
 4 *means the wilderness designated by section 3(a).*

5 **SEC. 3. ROCKY MOUNTAIN NATIONAL PARK WILDERNESS.**

6 (a) *DESIGNATION.*—*In furtherance of the purposes of*
 7 *the Wilderness Act (16 U.S.C. 1131 et seq.), there is des-*
 8 *ignated as wilderness and as a component of the National*
 9 *Wilderness Preservation System approximately 249,339*
 10 *acres of land in the Park, as generally depicted on the map.*

11 (b) *MAP AND BOUNDARY DESCRIPTION.*—

12 (1) *IN GENERAL.*—*As soon as practicable after*
 13 *the date of enactment of this Act, the Secretary*
 14 *shall—*

15 (A) *prepare a map and boundary descrip-*
 16 *tion of the Wilderness; and*

17 (B) *submit the map and boundary descrip-*
 18 *tion prepared under subparagraph (A) to the*
 19 *Committee on Energy and Natural Resources of*
 20 *the Senate and the Committee on Natural Re-*
 21 *sources of the House of Representatives.*

22 (2) *AVAILABILITY; FORCE OF LAW.*—*The map*
 23 *and boundary description submitted under paragraph*
 24 (1)(B) *shall—*

1 (A) be on file and available for public in-
 2 specification in appropriate offices of the National
 3 Park Service; and

4 (B) have the same force and effect as if in-
 5 cluded in this Act.

6 (c) *INCLUSION OF POTENTIAL WILDERNESS.*—

7 (1) *IN GENERAL.*—On publication in the Federal
 8 Register of a notice by the Secretary that all uses in-
 9 consistent with the Wilderness Act (16 U.S.C. 1131 et
 10 seq.) have ceased on the land identified on the map
 11 as a “Potential Wilderness Area”, the land shall be—

12 (A) included in the Wilderness; and

13 (B) administered in accordance with sub-
 14 section (e).

15 (2) *BOUNDARY DESCRIPTION.*—On inclusion in
 16 the Wilderness of the land referred to in paragraph
 17 (1), the Secretary shall modify the map and boundary
 18 description submitted under subsection (b) to reflect
 19 the inclusion of the land.

20 (d) *EXCLUSION OF CERTAIN LAND.*—The following
 21 areas are specifically excluded from the Wilderness:

22 (1) *The Grand River Ditch (including the main*
 23 *canal of the Grand River Ditch and a branch of the*
 24 *main canal known as the Specimen Ditch), the right-*
 25 *of-way for the Grand River Ditch, land 200 feet on*

1 *each side of the center line of the Grand River Ditch,*
 2 *and any associated appurtenances, structures, build-*
 3 *ings, camps, and work sites in existence as of June*
 4 *1, 1998.*

5 *(2) Land owned by the St. Vrain & Left Hand*
 6 *Water Conservancy District, including Copeland Res-*
 7 *ervoir and the Inlet Ditch to the Reservoir from North*
 8 *St. Vrain Creek, comprising approximately 35.38*
 9 *acres.*

10 *(3) Land owned by the Wincenstsen-Harms*
 11 *Trust, comprising approximately 2.75 acres.*

12 *(4) Land within the area depicted on the map*
 13 *as the “East Shore Trail Area”.*

14 *(e) ADMINISTRATION.—Subject to valid existing rights,*
 15 *any land designated as wilderness under this section or*
 16 *added to the Wilderness after the date of enactment of this*
 17 *Act under subsection (c) shall be administered by the Sec-*
 18 *retary in accordance with this Act and the Wilderness Act*
 19 *(16 U.S.C. 1131 et seq.), except that—*

20 *(1) any reference in the Wilderness Act (16*
 21 *U.S.C. 1131 et seq.) to the effective date of that Act*
 22 *shall be considered to be a reference to the date of en-*
 23 *actment of this Act, or the date on which the addi-*
 24 *tional land is added to the Wilderness, respectively;*
 25 *and*

1 (2) *any reference in the Wilderness Act (16*
2 *U.S.C. 1131 et seq.) to the Secretary of Agriculture*
3 *shall be considered to be a reference to the Secretary.*

4 (f) *WATER RIGHTS.—*

5 (1) *FINDINGS.—Congress finds that—*

6 (A) *the United States has existing rights to*
7 *water within the Park;*

8 (B) *the existing water rights are sufficient*
9 *for the purposes of the Wilderness; and*

10 (C) *based on the findings described in para-*
11 *graphs (A) and (B), there is no need for the*
12 *United States to reserve or appropriate any ad-*
13 *ditional water rights to fulfill the purposes of the*
14 *Wilderness.*

15 (2) *EFFECT.—Nothing in this Act—*

16 (A) *constitutes an express or implied res-*
17 *ervation by the United States of water or water*
18 *rights for any purpose; or*

19 (B) *modifies or otherwise affects any exist-*
20 *ing water rights held by the United States for*
21 *the Park.*

22 (g) *FIRE, INSECT, AND DISEASE CONTROL.—The Sec-*
23 *retary may take such measures in the Wilderness as are*
24 *necessary to control fire, insects, and diseases, as are pro-*
25 *vided for in accordance with—*

1 (1) *the laws applicable to the Park; and*

2 (2) *the Wilderness Act (16 U.S.C. 1131 et seq.).*

3 **SEC. 4. GRAND RIVER DITCH AND COLORADO-BIG THOMP-**
 4 **SON PROJECTS.**

5 (a) *CONDITIONAL WAIVER OF STRICT LIABILITY.—*
 6 *During any period in which the Water Supply and Storage*
 7 *Company (or any successor in interest to the company with*
 8 *respect to the Grand River Ditch) operates and maintains*
 9 *the portion of the Grand River Ditch in the Park in compli-*
 10 *ance with an operations and maintenance agreement be-*
 11 *tween the Water Supply and Storage Company and the Na-*
 12 *tional Park Service, the provisions of paragraph (6) of the*
 13 *stipulation approved June 28, 1907—*

14 (1) *shall be suspended; and*

15 (2) *shall not be enforceable against the Company*
 16 *(or any successor in interest).*

17 (b) *AGREEMENT.—The agreement referred to in sub-*
 18 *section (a) shall—*

19 (1) *ensure that—*

20 (A) *Park resources are managed in accord-*
 21 *ance with the laws generally applicable to the*
 22 *Park, including—*

23 (i) *the Act of January 26, 1915 (16*
 24 *U.S.C. 191 et seq.); and*

1 (ii) *the National Park Service Organic*
 2 *Act (16 U.S.C. 1 et seq.);*

3 (B) *Park land outside the right-of-way cor-*
 4 *ridor remains unimpaired consistent with the*
 5 *National Park Service management policies in*
 6 *effect as of the date of enactment of this Act; and*

7 (C) *any use of Park land outside the right-*
 8 *of-way corridor (as of the date of enactment of*
 9 *this Act) shall be permitted only on a temporary*
 10 *basis, subject to such terms and conditions as the*
 11 *Secretary determines to be necessary; and*

12 (2) *include stipulations with respect to—*

13 (A) *flow monitoring and early warning*
 14 *measures;*

15 (B) *annual and periodic inspections;*

16 (C) *an annual maintenance plan;*

17 (D) *measures to identify on an annual*
 18 *basis capital improvement needs; and*

19 (E) *the development of plans to address the*
 20 *needs identified under subparagraph (D).*

21 (c) *LIMITATION.—Nothing in this section limits or oth-*
 22 *erwise affects—*

23 (1) *the liability of any individual or entity for*
 24 *damages to, loss of, or injury to any resource within*

1 *the Park resulting from any cause or event that oc-*
 2 *curred before the date of enactment of this Act; or*

3 (2) *Public Law 101–337 (16 U.S.C. 19jj et seq),*
 4 *including the defenses available under that Act for*
 5 *damage caused—*

6 (A) *solely by—*

7 (i) *an act of God;*

8 (ii) *an act of war; or*

9 (iii) *an act or omission of a third*
 10 *party (other than an employee or agent); or*

11 (B) *by an activity authorized by Federal or*
 12 *State law.*

13 (d) *COLORADO-BIG THOMPSON PROJECT AND WINDY*
 14 *GAP PROJECT.—*

15 (1) *IN GENERAL.—Nothing in this Act, including*
 16 *the designation of the Wilderness, prohibits or affects*
 17 *current and future operation and maintenance activi-*
 18 *ties in, under, or affecting the Wilderness that were*
 19 *allowed as of the date of enactment of this Act under*
 20 *the Act of January 26, 1915 (16 U.S.C. 191), relating*
 21 *to the Alva B. Adams Tunnel or other Colorado-Big*
 22 *Thompson Project facilities located within the Park.*

23 (2) *ALVA B. ADAMS TUNNEL.—Nothing in this*
 24 *Act, including the designation of the Wilderness, pro-*

1 *hibits or restricts the conveyance of water through the*
 2 *Alva B. Adams Tunnel for any purpose.*

3 (e) *RIGHT-OF-WAY.*—*Use of water transported by the*
 4 *Grand River Ditch for 1 or more purposes other than irri-*
 5 *gation shall not terminate or adversely affect the right-of-*
 6 *way of the Grand River Ditch if the Secretary determines*
 7 *that the change in purpose or use does not adversely affect*
 8 *the Park.*

9 (f) *NEW RECLAMATION PROJECTS.*—*Nothing in the*
 10 *first section of the Act of January 26, 1915 (16 U.S.C. 191),*
 11 *shall be construed to allow development in the Wilderness*
 12 *of any reclamation project not in existence as of the date*
 13 *of enactment of this Act.*

14 (g) *CLARIFICATION OF MANAGEMENT AUTHORITY.*—
 15 *Nothing in this section reduces or limits the authority of*
 16 *the Secretary to manage land and resources within the Park*
 17 *under applicable law.*

18 **SEC. 5. EAST SHORE TRAIL AREA.**

19 (a) *IN GENERAL.*—*Not later than 1 year after the date*
 20 *of enactment of this Act, the Secretary shall establish within*
 21 *the East Shore Trail Area in the Park an alignment line*
 22 *for a trail, to be known as the “East Shore Trail”, to maxi-*
 23 *mize the opportunity for sustained use of the Trail without*
 24 *causing—*

25 (1) *harm to affected resources; or*

1 (2) *conflicts among users.*

2 (b) *BOUNDARIES.—*

3 (1) *IN GENERAL.—After establishing the align-*
 4 *ment line for the Trail under subsection (a), the Sec-*
 5 *retary shall—*

6 (A) *identify the boundaries of the Trail,*
 7 *which shall not extend more than 25 feet east of*
 8 *the alignment line or be located within the Wil-*
 9 *derness; and*

10 (B) *modify the map of the Wilderness pre-*
 11 *pared under section 3(b)(1)(A) so that the west-*
 12 *ern boundary of the Wilderness is 50 feet east of*
 13 *the alignment line.*

14 (2) *ADJUSTMENTS.—To the extent necessary to*
 15 *protect Park resources, the Secretary may adjust the*
 16 *boundaries of the Trail, if the adjustment does not*
 17 *place any portion of the Trail within the boundary*
 18 *of the Wilderness.*

19 (c) *INCLUSION IN WILDERNESS.—On completion of the*
 20 *construction of the Trail, as authorized by the Secretary—*

21 (1) *any portion of the East Shore Trail Area*
 22 *that is not traversed by the Trail, that is not west of*
 23 *the Trail, and that is not within 50 feet of the center-*
 24 *line of the Trail shall be—*

25 (A) *included in the Wilderness; and*

1 (B) managed as part of the Wilderness in
2 accordance with section 3; and

3 (2) the Secretary shall modify the map and
4 boundary description of the Wilderness prepared
5 under section 3(b)(1)(A) to reflect the inclusion of the
6 East Shore Trail Area land in the Wilderness.

7 (d) *EFFECT.*—Nothing in this section—

8 (1) requires the construction of the Trail along
9 the alignment line established under subsection (a); or

10 (2) limits the extent to which any otherwise ap-
11 plicable law or policy applies to any decision with re-
12 spect to the construction of the Trail.

13 (e) *RELATION TO LAND OUTSIDE WILDERNESS.*—

14 (1) *IN GENERAL.*—Except as provided in this
15 subsection, nothing in this Act affects the manage-
16 ment or use of any land not included within the
17 boundaries of the Wilderness or the potential wilder-
18 ness land.

19 (2) *MOTORIZED VEHICLES AND MACHINERY.*—No
20 use of motorized vehicles or other motorized machin-
21 ery that was not permitted on March 1, 2006, shall
22 be allowed in the East Shore Trail Area except as the
23 Secretary determines to be necessary for use in—

24 (A) constructing the Trail, if the construc-
25 tion is authorized by the Secretary; or

1 (B) maintaining the Trail.

2 (3) *MANAGEMENT OF LAND BEFORE INCLU-*
 3 *SION.—Until the Secretary authorizes the construc-*
 4 *tion of the Trail and the use of the Trail for non-mo-*
 5 *torized bicycles, the East Shore Trail Area shall be*
 6 *managed—*

7 (A) to protect any wilderness characteristics
 8 of the East Shore Trail Area; and

9 (B) to maintain the suitability of the East
 10 Shore Trail Area for inclusion in the Wilderness.

11 **SEC. 6. NATIONAL FOREST AREA BOUNDARY ADJUST-**
 12 **MENTS.**

13 (a) *INDIAN PEAKS WILDERNESS BOUNDARY ADJUST-*
 14 *MENT.—Section 3(a) of the Indian Peaks Wilderness Area,*
 15 *the Arapaho National Recreation Area and the Oregon Is-*
 16 *lands Wilderness Area Act (16 U.S.C. 1132 note; Public*
 17 *Law 95–450) is amended—*

18 (1) by striking “seventy thousand acres” and in-
 19 serting “74,195 acres”; and

20 (2) by striking “, dated July 1978” and insert-
 21 ing “and dated May 2007”.

22 (b) *ARAPAHO NATIONAL RECREATION AREA BOUND-*
 23 *ARY ADJUSTMENT.—Section 4(a) of the Indian Peaks Wil-*
 24 *derness Area, the Arapaho National Recreation Area and*

1 *the Oregon Islands Wilderness Area Act (16 U.S.C.*
 2 *460jj(a)) is amended—*

3 *(1) by striking “thirty-six thousand two hundred*
 4 *thirty-five acres” and inserting “35,235 acres”; and*
 5 *(2) by striking “, dated July 1978” and insert-*
 6 *ing “and dated May 2007”.*

7 ***SEC. 7. AUTHORITY TO LEASE LEIFFER TRACT.***

8 *(a) IN GENERAL.—Section 3(k) of Public Law 91–383*
 9 *(16 U.S.C. 1a–2(k)) shall apply to the parcel of land de-*
 10 *scribed in subsection (b).*

11 *(b) DESCRIPTION OF THE LAND.—The parcel of land*
 12 *referred to in subsection (a) is the parcel of land known*
 13 *as the “Leiffer tract” that is—*

14 *(1) located near the eastern boundary of the Park*
 15 *in Larimer County, Colorado; and*

16 *(2) administered by the National Park Service.*

Calendar No. 790

110TH CONGRESS
2^D Session

S. 1380

[Report No. 110-358]

A BILL

To designate as wilderness certain land within the Rocky Mountain National Park and to adjust the boundaries of the Indian Peaks Wilderness and the Arapaho National Recreation Area of the Arapaho National Forest in the State of Colorado.

JUNE 16, 2008

Reported with an amendment