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TITLE: INTRODUCTION OF THE JAMES PEAK **WILDERNESS**, JAMES PEAK PROTECTION AREA AND **WILDERNESS** STUDY AREA ACT

SPEAKER: Mr. UDALL of Colorado

TEXT: [*E614]

HON. MARK UDALL

of Colorado

in the House of Representatives

Tuesday, April 24, 2001

Mr. UDALL of Colorado . Mr. Speaker, today I am introducing a bill to protect a key part of the high alpine environment along Colorado's Continental Divide.

The 13,294-foot James Peak is the predominant feature in a 26,000 acre roadless area within the Arapaho-Roosevelt National Forest just north and east of Berthoud Pass. The James Peak roadless area straddles the Continental Divide within 4 counties (Gilpin, Clear Creek, Grand and Boulder). It is the largest unprotected roadless area on the Northern Front Range. The area offers outstanding recreational opportunities for hiking, skiing, fishing, and backpacking.

I have been interested in **wilderness** protection for the James Peak area since my election to Congress in 1998. In 1999, I introduced a bill ([H.R. 2177](#)) in the 106th Congress that would have designated about 22,000 of the James Peak roadless area as **wilderness**, including about 8,000 acres in Grand County. This proposal was designed to renew discussions for the appropriate management of these lands that qualify for **wilderness** consideration.

The bill I am introducing today--the James Peak **Wilderness**, James Peak Protection Area and **Wilderness** Study Area Act--is the product of nearly two years of subsequent discussions with county officials, interested groups, and the general public.

The previous bill had broad support. However, after its introduction, the County Commissioners of Grand County--which includes the western side of the James Peak area--expressed some concerns with the proposed **wilderness** designation for the lands in that county. They indicated that in their view any such legislation needed to make accommodation for any "dispersed recreation" opportunities in the area and needed to address private inholdings. The Commissioners also indicated that the Rollins Pass road should be excluded from **wilderness**.

I agreed to work with Grand County on these and a number of other issues. We held several discussions, including a public meeting in Grand County. After that, the Grand County Commissioners indicated that they could not "entirely support H.R. 2177 as presented," and outlined a "James Peak Protection Area" alternative.

The Commissioners' "protection area" alternative did not spell out all details, but its essence was that instead of designation of **wilderness** there should be designation of a "protection area" that would include the lands in Grand County proposed for **wilderness** in my previous bill and also an additional 10,000 acres of national forest land. The Commissioners' proposals also would have allowed for a section of high tundra above Rollins Pass along the divide to be open to motorized and mechanized recreation (snowmobiles and mountain bikes).

I gave serious attention to this alternative and also carefully considered the views of a variety of interested individuals and groups who had concerns about it. Based on that, on February 12, 2001, I released a more detailed legislative proposal for public review and comment.

This proposal was based on the Commissioners' "protection area" alternative. It would have designated as **wilderness** 14,000 acres of the James Peak roadless area in Boulder, Clear Creek and Gilpin Counties. It also would have designated 18,000 acres in Grand County as a "James

The proposal included language to spell out in more detail the management regime of the "protection area." These provisions (including a ban on hardrock mining, a ban on campgrounds, and a ban on timber cutting) were largely based the management rules for the Bowen Gulch "backcountry recreation" area and the existing "special interest area" Forest Service management under the 1997 Forest Plan. Inclusion of the latter provision was at the request of the Grand County Commissioners.

Following the release of this proposal, I met with the Grand County Commissioners to discuss this proposal and for the option of **wilderness** for some lands in the Grand County part of the James Peak roadless area. This was a productive meeting. We discussed a number of issues, most of which have been addressed in the bill that I am introducing today. In summary, those issues included:

(1) Prohibiting Motorized and Mechanized Recreation Atop Rollins Pass--Although this area was identified as a possible location for motorized and mechanized recreation in the previous proposal, all agreed (including the snowmobile and mountain bike users) that this area should not be available for such use.

(2) Reopening the Rollins Pass Road--The Commissioners and the users of the Rollins Pass road (also known as the Corona Pass road) indicated an interest in reopening this road for two-wheel drive traffic. Presently, this road is blocked due to the closure of the Needle Eye tunnel and degrading railroad trestles. As a result, a number of motorized recreational users have been creating roads and trails to bypass these blockages. The users of Rollins Pass road indicated that if this road could be reopened, then they would be willing to work with the Forest Service to close these bypasses. The Grand County Commissioners agreed with this suggestion.

(3) The Berthoud Pass Ski Area--The Commissioners expressed an interest in drawing any proposed boundaries near Berthoud Pass to accommodate the existing Berthoud Pass Ski Area's permitted boundary. Everyone agreed that this should be done.

(4) Private Inholdings--The Commissioners expressed an interest in ensuring that the

rights of private inholders be preserved.

(5) Forest Service Management--The Commissioners requested that the proposal include specific language indicating that the "protection area" would be managed according to the 1997 Forest Plan. In addition, the Commissioners and recreational users requested that this management be flexible enough to allow the Forest Service to relocate trails, roads or areas in order to address future management issues.

(6) **Wilderness** Addition to Indian Peaks--The Commissioners expressed support for including the approximately 2,000-acre **wilderness** addition to Indian Peaks--an area that was "recommended for **wilderness**" in the 1997 Forest Plan.

(7) Buffer Zone--The Commissioners indicated an interest in considering the inclusion of language that would prohibit the establishment of a restrictive "buffer zone" around the area. This provision would ensure that the existence of a "protection area"/**wilderness** area would not lead to managerial restrictions on the lands outside the proposed boundaries.

(8) Telecommunication Opportunities on Mount Eva--The Commissioners also indicated an interest in keeping the top of Mt. Eva open for telecommunication facilities as this area was used in the past for such activity. However, the State Land Board permitted the previous facilities on Mt. Eva as the intention was to site these facilities on the State Land Board section. But the facilities were mistakenly located on Forest Service land. Nevertheless, these facilities were removed when the company went bankrupt. In addition, there are no access roads or services to this area. Given all of these difficulties, it was suggested that other locations for these options may be more appropriate.

(9) Rogers Pass Trail--Members of the public also expressed interest in keeping this trail open and available for mountain bike recreational use. It is unclear whether this trail is in fact open to such use. Nevertheless, the Grand County Commissioners indicated that they would like to pursue the option of allowing such use of this trail.

(10) Prohibition of Land Exchanges--The Commissioners expressed an interest in having the bill prohibit any further land exchanges in the area to prevent further development from encroaching into Forest Service areas.

I reworked my proposal to incorporate these issues. It was my hope that in accommodating these concerns in the bill, that the Grand County Commissioners would reconsider some **wilderness** protection for the lands in the James Peak roadless area south of Rollins Pass. However, the three Grand County Commissioners were divided on this question (one Commissioner did suggest extending the **wilderness** boundary westwards over the Divide and down to timberline in Grand County).

Nevertheless, the Grand County Commissioners did express support for the **wilderness** addition to the Indian Peaks **Wilderness** Area, support for the "protection area" to be managed according to the 1997 Forest Plan and for the adjustments that I had made based on their input. Regrettably, however, they expressed opposition to any **wilderness** designation now for lands south of Rollins Pass or Rogers Pass.

The Commissioners also indicated a concern that such a designation might have some effect on water rights. I think it is clear that there are no grounds for such concerns. Careful review has convinced me that there are no water rights except those for national forest purposes and no diversion facilities in the portion of the James Peak roadless area south of Rollins Pass. In addition, if any such rights do exist, they would not be extinguished by **wilderness** designation. Furthermore, as any **wilderness** designation for this area would be governed by the 1993 Colorado **Wilderness** Act, the courts would

be barred from considering any assertion that the designation involved a federal reserved water right. Further, this area is essentially a headwaters area. **Wilderness** protection would thus ensure that water would continue to flow out of this area--unimpeded--for downstream users and benefits.

The Grand County Commissioners did indicate that they understood and found acceptable the Forest Service's process for periodic review of the way it manages national forest lands in Grand County. Further, the Commissioners indicated they would not oppose having the Forest

Accordingly, the bill I am introducing today provides for such a renewed study of these lands. It designates the James Peak roadless lands in Grand County south of Rollins Pass as a "**wilderness** study area" and directs the Forest Service to re-look at this area for suitability as **wilderness**. This provision will preserve the status quo on approximately 8,000 acres south of Rollins Pass by keeping this area in its current roadless and pristine state. The bill would require the Forest Service to report its recommendations for these 8,000 acres within three years. It will then be up to Congress to decide regarding the future management of these lands.

This part of the bill also addresses the Roger Pass trail issue--an issue of importance to the Grand County Commissioners and users of this trail. While I believe that this trail should be included in **wilderness** (it is within the proposed **wilderness** study area), the bill directs that the Forest Service evaluate whether and to what extent this trail should be managed for mechanized recreational use.

I believe that the bill I am introducing today keeps faith with my commitment to work with local County Commissioners and others. It addresses a majority of the issues that were raised.

These lands are indeed special. They contain a number of high alpine lakes and tundra ecosystems. This area also represents one of the last remaining unprotected stretches of the Continental Divide that comprises the Northern Front Range Mountain Backdrop.

With the population growth occurring along the Front Range of Colorado, I am concerned that if we do not protect these special lands for future generations, we could lose a critical resource for future generations. That is why I am introducing this bill and why I will work hard for its enactment into law.

For the benefit of our colleagues, I am attaching a fact sheet that summarizes the main provisions of the bill.

James Peak **Wilderness**, James Peak Protection Area and **Wilderness** Study Area Act

Summary--The bill would designate the James Peak **Wilderness** Area, add to the existing Indian Peaks **Wilderness** Area, designate a James Peak Protection Area and a James Peak **wilderness** study area, all within the Arapaho Roosevelt National Forest in Colorado.

Background: In 1999, Congressman Mark Udall introduced the James Peak **Wilderness** Act (H.R. 2177) which would have designated about 22,000 acres of land in the Arapaho-Roosevelt National Forest as **wilderness** north of Berthoud Pass and south of the Indian Peaks **Wilderness** Area. Since then, there have been further discussions with county governments, the Forest Service, and the public. On January 31, 2000, the Grand County Commissioners proposed the alternative of designating lands in that county as a "protection area" instead of **wilderness**. On February 12, 2001, Congressman Udall released a proposal that was similar to the [*E616]

Grand County "protection area" proposal. This bill is a refined version of that proposal resulting from discussions with the Grand County Commissioners and other interested parties.

The Lands: The 13,294-foot James Peak is the predominant feature in a 26,000-acre roadless area within the Arapaho-Roosevelt National Forest just north and east of Berthoud Pass. The James Peak roadless area straddles the Continental Divide within 4 counties (Gilpin, Clear Creek, Grand and Boulder). It is the largest unprotected roadless area on the Northern Front Range. The area offers outstanding recreational opportunities for hiking, skiing, fishing, and backpacking, including the popular South Boulder Creek trail and along the Continental Divide National Scenic Trail. It also includes the historic Rollins Pass road which provides access for mechanized and motorized recreation in the area.

James Peak is one of the highest rated areas for biological diversity on the entire Arapaho National Forest, including unique habitat for wildlife, miles of riparian corridors, stands of old growth forests, and threatened and endangered species. The area includes a dozen spectacularly situated alpine lakes, including Forest Lakes, Arapaho Lakes, and Heart Lake. Many sensitive species such as wolverine, lynx, and pine marten only thrive in **wilderness** settings. Adding James Peak to the chain of protected lands from Berthoud Pass to the Wyoming boundary will promote movement of these species and improve their chances for survival.

What the bill does: James Peak **Wilderness**: The bill would designate over 14,000 acres of the James Peak area in Clear Creek, Gilpin and Boulder Counties as the James Peak **Wilderness** Area; Indian Peaks **Wilderness** Area Addition: The bill would add about 2,000 acres in Grand County to the existing Indian Peaks **Wilderness** area (these acres were recommended for **wilderness** in the Forest Service's 1997 revised plan); James Peak Protection Area: The bill would designate about 18,000 acres in Grand County as the James Peak Protection Area and provide the following: Forest Service to manage the area consistent with the management directions for this area under the 1997 Forest Plan for the Arapaho-Roosevelt National Forest; No transfer of federal lands by exchange or otherwise; Forest Service required to designate appropriate roads, trails and areas for motorized and mechanized recreation.

James Peak **Wilderness** Study Area: The bill would designate about 8,000 acres in the part of the Protection Area generally south of the Rollins Pass Road as a **wilderness** study area. For these lands, the bill would direct the Forest Service to do the following--study

Fall River Trailhead: The bill would establish a new trailhead and Forest Service facilities in the Fall River basin east of the proposed **wilderness** area--to be done in collaboration with Clear Creek County and the nearby communities of St. Mary's Glacier and Alice Township

General provisions: The bill also would: encourage but not require the Forest Service to acquire two non-federal inholdings within the **wilderness** study area; prohibit the creation of a restrictive buffer zone around the **wilderness** area, the Protection Area or **wilderness** study area; direct the Forest Service to work with the respective counties if the Rollins Pass road is reopened to two-wheel drive traffic.

What the bill does not do: Designate any portion of the James Peak Roadless Area in Grand County as **wilderness**: The bill would not create **wilderness** in the James Peak roadless area in Grand County. Instead, it would designate a James Peak Protection Area, subject to use and management restrictions, as proposed by the County Commissioners and within that would designate a **wilderness** study area.

Restrict Off-Road Vehicle Use Throughout the Area: The bill would prohibit motorized and mountain bike recreation use in the **wilderness and wilderness** study areas, but would allow this use, consistent with the Forest Service's management directives, in the Protection Area. Furthermore, the bill would require the Forest Service to identify appropriate roads, trails and areas for such use within three years. Such identifications can be revised by appropriate Forest Service processes.

Affect Water Rights: The bill would not affect any existing water rights. In addition, all lands designated by the bill are headwaters areas.

Affect the Berthoud Pass Ski Area: The bill would exclude this Ski Area's existing permitted boundary.

Affect Search and Rescue Activities: The bill would not affect the activities related to the health and safety of persons within the area. Such necessary activities will be allowed, including the need to use mechanized equipment to perform search and rescue activities.