

CONGRESSIONAL RECORD -- *EXTENSIONS*

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**REFERENCE:** Vol. 147, No. 174

**SECTION:** Extension of Remarks

**TITLE:** JAMES PEAK WILDERNESS AND PROTECTION AREA ACT

**SPEAKER:** Mr. UDALL of Colorado

**TEXT:** [\*E2302]

speech of

HON. MARK UDALL

of Colorado

in the House of Representatives

Tuesday, December 11, 2001

Mr. UDALL of Colorado . Mr. Speaker, the House passed this bill earlier this week. While it was discussed at some length on the floor, and is further explained in the report of the Resources Committee, for the benefit of all with an interest in it here is an outline of the main provisions of the bill.

In this outline, I am including the latest acreage numbers by the Forest Service, based on more precise estimates they have made while developing the official map of the lands affected by the bill. I am including these because, of course, where the acreage estimates in the bill text are different, it is the map that will control and will show exactly what the bill would do.

Section-by-Section Analysis

SHORT TITLE

Section 1: provides a short title, namely James Peak Wilderness and Protection Area Act.

WILDERNESS

Section 2 amends two previous wilderness Acts; the effect is to (1) designate about 17,000 acres in Boulder, Clear Creek, and Gilpin Counties, Colorado, as the "James Peak Wilderness"; and (2) enlarge the Indian Peaks Wilderness by addition of three tracts that in total amount to about 3,350 acres.

PROTECTION AREA

Section 3 designates about 19,000 acres of national forest land as the "James Peak Protection Area". Except as provided in this section, the protection area is to be managed in accordance with the relevant management prescriptions identified in the 1997 revision of the forest plan for the Arapaho/Roosevelt National Forest. The principal exceptions specified in the section include\_

(1) Withdrawal.\_The entire protection area is withdrawn, subject to valid existing rights, from all forms of appropriation or disposal under the public land laws as well as from location, entry, and patent under the mining laws and from operation of the mineral leasing, mineral materials, and geothermal leasing laws;

(2) Timber harvest.\_The entire protection area is closed to timber harvesting except to the extent needed for insect or disease control projects, hazardous fuel reduction or other measures for control of fire, or protection of the public health and safety;

(3) Retention.\_The United States must retain all its right, title, and interest in lands within the boundaries of the protection area, including both those held as of the date of enactment and those acquired thereafter.

(4) Special interest management.\_The "special interest area" management prescriptions identified in the forest plan as applicable to certain lands are also made applicable to additional contiguous lands, as indicated on a referenced map of the protection area. Together, these lands add up to about 7,000 acres.

#### ROADS, TRAILS, AND VEHICLES

Section 3 also includes provisions specifically related to use of lands within the protection area by motorized and mechanized vehicles, including\_

(1) Inventory.\_Subsection 3(d)(1)(C) provides for a review and inventory of existing roads and trails in a portion of the protection area where use was officially allowed by the Forest Service on September 10, 2001. Lands subject to the "special interest area" management prescriptions are excluded from this process. The intention is that in conducting this review and inventory the Forest Service involve the public so that all interested groups and individuals are consulted and included in this process. The review and inventory are to be completed within two years after enactment of the bill, and during that period the Forest Service is authorized to connect existing roads and trails in the area subject to the review and inventory to other existing roads and trails in that area, so long as there is no net gain in the mileage of either roads or trails open to public use in that area. The purpose of this authorization is to enable the Forest Service to provide a more functional and ecologically sound but not more extensive network of transportation routes in this part of the protection area.

(2) Closure.\_Subsection 3(d)(1)(C) also authorizes closure or removal of existing roads or trails anywhere in the protection area that the Forest Service determines to be undesirable, except as specified in subsection 3(d)(2) or subsection 3(e)(3). The intention is that roads and trails closed under this authority will be removed and revegetated in a way that assures their full rehabilitation and restricts them from further use.

(3) Prohibition on new roads and trails.\_Subsection 3(d)(1)(D) prohibits establishment of new roads or trails in the protection area, subject to certain specified exceptions, including an allowance for nonpermanent roads and trails that will be retained only for the period needed for temporary management purposes.

#### WATER

Subsection 3(d)(e) deals with the relationship between the protection area and water rights.

It specifies that the bill (1) does not constitute an express or implied reservation of any water or water rights with respect to lands in the protection area; (2) will not affect any existing water rights in Colorado; (3) will not limit, alter, modify, or amend any interstate compacts or equitable apportionment decrees that apportion water among and between Colorado and other states; and (4) does not constitute a precedent with respect to any future protection area designation.

The subsection also requires the Secretary of Agriculture to follow Colorado law in order to obtain any new water rights with respect to the protection area, and explicitly states (in paragraph (3)) that the bill will have no effect on existing water facilities or infrastructure, or associated water-related property, interests, and uses, in the portion of the protection area not subject to the "special interest area" management prescriptions.

With regard to the provisions related to water facilities or infrastructure, it should be noted that this part of the National Forest has been a municipal watershed for the City and County of Denver and other communities for more than eight decades, without serious adverse effects on the resources and values of these lands. Section 3(e)(3) is included to make clear that nothing in this bill will interfere with the continuation of that use. Toward that end, it specifies that the bill will not interfere with operation and maintenance of water facilities and infrastructure, including, but not limited to, the Moffat Tunnel, the Fraser River Water Collection system or the Englewood water collection system. Nothing in the bill will give the Forest Service any additional rights of oversight, regulation or acquisition in regard to any water facilities located in the protection area. As a result, access to such facilities, as well as any necessary work in connection with them\_including construction or repair of roads or other uses of rights-of-way\_will continue to be subject only to any conditions or restrictions that would have been applicable or could become applicable in the absence of this legislation.

#### INHOLDINGS

Section 4 addresses non-federal lands located within the protection area. It provides for acquisition of any such lands by the United States by purchase or exchange with the consent of the owner, a report to Congress concerning the status of negotiations toward that end, and for management of any such lands as part of the protection area upon their acquisition by the United States.

#### FALL RIVER TRAILHEAD

Section 5 directs the Forest Service to locate a new trailhead and appropriate attendant facilities in the Fall River basin area southeast of the James Peak Wilderness Area. The Forest Service is to consult with Clear Creek County, local communities and the interested public on the location and establishment of this trailhead. The purpose of this trailhead is to provide access to this region of the James Peak Wilderness Area while also alleviating impacts to the communities of Alice Township and St. Mary's Glacier from wilderness use and recreation.

#### LOOP TRAIL STUDY

Section 6 directs the Forest Service to undertake a study to determine whether or not it would be both feasible and desirable to establish within the protection area a loop trail for non-motorized recreational use that would connect the existing "Rogers Pass" trail and the existing "Rollins Pass" road. This study is to be done in consultation with interest

parties, which the Committee intends will result in a thorough public-involvement process. It is important to note that neither this section nor the provisions for review and inventory in section 3(d)(1)(C) presume that mechanized recreation will be permitted on the existing Rogers Pass trail. Instead, ultimate decisions regarding such use and management will be made by the Forest Service consistent with the 1997 Forest Plan and the provisions of the bill.

#### OTHER PROVISIONS

Subsection 7(a) specifies that the bill's designation of wilderness will not result in the creation of buffer zones outside the boundaries of the wilderness areas.

Subsection 7(b) provides for technical assistance with respect to repair of the Rollins Pass road, if requested by one or more of the affected counties. The intention is that if the Rollins Pass road is reopened the cut-offs, bypasses and detours that have been created by motorized and mechanized vehicles will be closed so that the impacts caused by these detours are halted and the affected lands can [\*E2303] recover and be restored to their natural character.

#### WILDERNESS POTENTIAL

Subsection 8(a) makes clear that nothing in the bill will preclude or restrict the authority of the Secretary of Agriculture to evaluate the suitability of lands in the protection area for future wilderness designation or to make recommendations to Congress for such designation at any time. Subsection 8(b) specifies that such evaluation of the part of the protection area subject to "special interest area" management prescriptions shall be done in connection with the first revision of the relevant forest plan after the date of enactment of the bill.