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JAMES PEAK WILDERNESS AND PROTECTION AREA ACT

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DECEMBER 5, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. HANSEN, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 1576]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1576) to designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “James Peak Wilderness and Protection Area Act”.

**SEC. 2. WILDERNESS DESIGNATION.**

(a) **INCLUSION WITH OTHER COLORADO WILDERNESS AREAS.**—Section 2(a) of the Colorado Wilderness Act of 1993 (Public Law 103–77; 107 Stat. 756; 16 U.S.C. 1132 note) is amended by adding at the end the following new paragraph:

“(21) Certain lands in the Arapaho/Roosevelt National Forest which comprise approximately 14,000 acres, as generally depicted on a map entitled ‘Proposed James Peak Wilderness’, dated September 2001, and which shall be known as the James Peak Wilderness.”.

(b) **ADDITION TO THE INDIAN PEAKS WILDERNESS AREA.**—Section 3 of the Indian Peaks Wilderness Area and Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (Public Law 95–450; 92 Stat. 1095; 16 U.S.C. 1132 note) is amended by adding at the end the following new subsections:

“(c) The approximately 2,232 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled ‘Ranch Creek Addition to Indian Peaks Wilderness’ dated September 2001, are hereby added to the Indian Peaks Wilderness Area.

“(d) The approximately 963 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled ‘Fourth of July Addition to Indian Peaks Wilderness’ dated September 2001, are hereby added to the Indian Peaks Wilderness Area.”.

(c) MAPS AND BOUNDARY DESCRIPTIONS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the “Secretary”) shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and a boundary description of the area designated as wilderness by subsection (a) and of the area added to the Indian Peaks Wilderness Area by subsection (b). The maps and boundary descriptions shall have the same force and effect as if included in the Colorado Wilderness Act of 1993 and the Indian Peaks Wilderness Area and Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act, respectively, except that the Secretary may correct clerical and typographical errors in the maps and boundary descriptions. The maps and boundary descriptions shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture and in the office of the Forest Supervisor of the Arapaho/Roosevelt National Forest.

**SEC. 3. DESIGNATION OF JAMES PEAK PROTECTION AREA, COLORADO.**

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds the following:

(A) The lands covered by this section include important resources and values, including wildlife habitat, clean water, open space, and opportunities for solitude.

(B) These lands also include areas that are suitable for recreational uses, including use of snowmobiles in times of adequate snow cover as well as use of other motorized and nonmotorized mechanical devices.

(C) These lands should be managed in a way that affords permanent protection to their resources and values while permitting continued recreational uses in appropriate locales and subject to appropriate regulations.

(2) PURPOSE.—The purpose of this section is to provide for management of certain lands in the Arapaho/Roosevelt National Forest in a manner consistent with the 1997 Revised Land and Resources Management Plan for this forest in order to protect the natural qualities of these areas.

(b) DESIGNATION.—The approximately 16,000 acres of land in the Arapaho/Roosevelt National Forest generally depicted on the map entitled “Proposed James Peak Protection Area”, dated September 2001, are hereby designated as the James Peak Protection Area (hereafter in this Act referred to as the “Protection Area”).

(c) MAP AND BOUNDARY DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and a boundary description of the Protection Area. The map and boundary description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and boundary description. The map and boundary description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and in the office of the Forest Supervisor of the Arapaho/Roosevelt National Forest.

(d) MANAGEMENT.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Protection Area shall be managed and administered by the Secretary in the same manner as the management area prescription designations identified for these lands in the 1997 Revision of the Land and Resource Management Plan for the Arapaho/Roosevelt National Forest and the Pawnee National Grasslands. Such management and administration shall be in accordance with the following:

(A) GRAZING.—Nothing in this Act, including the establishment of the Protection Area, shall affect grazing on lands within or outside of the Protection Area.

(B) MINING WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Protection Area and all land and interests in land acquired for the Protection Area by the United States are withdrawn from—

- (i) all forms of entry, appropriation, or disposal under the public land laws;
- (ii) location, entry, and patent under the mining laws; and
- (iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

Nothing in this subparagraph shall be construed to affect discretionary authority of the Secretary under other Federal laws to grant, issue, or renew rights-of-way or other land use authorizations consistent with the other provisions of this Act.

(C) MOTORIZED AND MECHANIZED TRAVEL.—

(i) REVIEW AND INVENTORY.—Not later than two years after the date of the enactment of this Act, the Secretary, in consultation with interested parties, shall complete a review and inventory of all roads and trails in the Protection Area on which use was allowed on September 10, 2001, except those lands managed under the management prescription referred to in subparagraph (F). During the review and inventory, the Secretary may—

(I) connect existing roads and trails in the inventoried area to other existing roads and trails in the inventoried area for the purpose of mechanized and other nonmotorized use on any lands within the Protection Area as long as there is no net gain in the total mileage of either roads or trails open for public use within the Protection Area; and

(II) close or remove roads or trails within the Protection Area that the Secretary determines to be undesirable, except those roads or trails managed pursuant to paragraph (2) of this subsection or subsection (e)(3).

(ii) AFTER COMPLETION OF INVENTORY.—After completion of the review and inventory required by clause (i), the Secretary shall ensure that motorized and mechanized travel within the Protection Area shall be permitted only on those roads and trails identified as open to use in the inventory or established pursuant to subparagraph (D).

(D) NEW ROADS AND TRAILS.—No new roads or trails shall be established within the Protection Area except those which the Secretary shall establish as follows:

(i) Roads and trails established to replace roads or trails of the same character and scope which have become nonserviceable through reasons other than neglect.

(ii) Nonpermanent roads as needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or other management purposes.

(iii) Roads determined to be appropriate for reasonable access under section 4(b)(2).

(iv) A loop trail established pursuant to section 6.

(v) Construction of a trail for nonmotorized use following the corridor designated as the Continental Divide Trail.

(E) TIMBER HARVESTING.—No timber harvesting shall be allowed within the Protection Area except to the extent needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or protection of public health or safety.

(F) SPECIAL INTEREST AREA.—The management prescription applicable to the lands described in the 1997 Revision of the Land and Resource Management Plan as the James Peak Special Interest Area shall also be applicable to all the lands in the Protection Area that are bounded on the north by Rollins Pass Road, on the east by the Continental Divide, and on the west by the 11,300 foot elevation contour as shown on the map referred to in subsection (b). In addition, motorized vehicle use shall not be permitted on any part of the Rogers Pass trail.

(2) NATURAL GAS PIPELINE.—The Secretary shall allow for maintenance of rights-of-ways and access roads located within the Protection Area to the extent necessary to operate the natural gas pipeline permitted under the Arapaho/Roosevelt National Forest master permit numbered 4138.01 in a manner that avoids negative impacts on public safety and allows for compliance with Federal pipeline safety requirements. Such maintenance may include vegetation management, road maintenance, ground stabilization, and motorized vehicle access.

(3) PERMANENT FEDERAL OWNERSHIP.—All right, title, and interest of the United States, held on or acquired after the date of the enactment of this Act, to lands within the boundaries of the Protection Area shall be retained by the United States.

(e) ISSUES RELATED TO WATER.—

(1) STATUTORY CONSTRUCTION.—

(A) Nothing in this Act shall constitute or be construed to constitute either an express or implied reservation of any water or water rights with respect to the lands within the Protection Area.

(B) Nothing in this Act shall affect any conditional or absolute water rights in the State of Colorado existing on the date of the enactment of this Act.

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future protection area designation.

(D) Nothing in this Act shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States.

(2) COLORADO WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State of Colorado in order to obtain and hold any new water rights with respect to the Protection Area.

(3) WATER INFRASTRUCTURE.—Nothing in this Act (including the provisions related to establishment or management of the Protection Area) shall affect, impede, interfere with, or diminish the operation, existence, access, maintenance, improvement, or construction of water facilities and infrastructure, rights-of-way, or other water-related property, interests, and uses, (including the use of motorized vehicles and equipment existing or located on lands within the Protection Area) on any lands except those lands managed under the management prescription referred to in subsection (d)(1)(F).

#### SEC. 4. INHOLDINGS.

(a) STATE LAND BOARD LANDS.—If the Colorado State Land Board informs the Secretary that the Board is willing to transfer to the United States some or all of the lands owned by the Board located within the Protection Area, the Secretary shall promptly seek to reach agreement with the Board regarding terms and conditions for acquisition of such lands by the United States by purchase or exchange.

(b) JIM CREEK INHOLDING.—

(1) ACQUISITION OF LANDS.—The Secretary shall enter into negotiations with the owner of lands located within the portion of the Jim Creek drainage within the Protection Area for the purpose of acquiring the lands by purchase or exchange, but the United States shall not acquire such lands without the consent of the owner of the lands.

(2) LANDOWNER RIGHTS.—Nothing in this Act shall affect any rights of the owner of lands located within the Jim Creek drainage within the Protection Area, including any right to reasonable access to such lands by motorized or other means as determined by the Forest Service and the landowner consistent with applicable law and relevant and appropriate rules and regulations governing such access.

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning any agreement or the status of negotiations conducted pursuant to—

(A) subsection (a), upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (a), or 1 year after the date of the enactment of this Act, whichever occurs first; and

(B) subsection (b), upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (b), or 1 year after the date of the enactment of this Act, whichever occurs first.

(2) FUNDING INFORMATION.—The report required by this subsection shall indicate to what extent funds are available to the Secretary as of the date of the report for the acquisition of the relevant lands and whether additional funds need to be appropriated or otherwise made available to the Secretary for such purpose.

(d) MANAGEMENT OF ACQUISITIONS.—Any lands within the James Peak Wilderness or the Protection Area acquired by the United States after the date of the enactment of this Act shall be added to the James Peak Wilderness or the Protection Area, respectively, and managed accordingly.

#### SEC. 5. JAMES PEAK FALL RIVER TRAILHEAD.

(a) SERVICES AND FACILITIES.—Following the consultation required by subsection (c), the Forest Supervisor of the Arapaho/Roosevelt National Forest in the State of Colorado (in this section referred to as the “Forest Supervisor”) shall establish a trailhead and corresponding facilities and services to regulate use of National Forest System lands in the vicinity of the Fall River basin south of the communities of Alice Township and St. Mary’s Glacier in the State of Colorado. The facilities and services shall include the following:

- (1) Trailhead parking.
- (2) Public restroom accommodations.
- (3) Trailhead and trail maintenance.

(b) PERSONNEL.—The Forest Supervisor shall assign Forest Service personnel to provide appropriate management and oversight of the area described in subsection (a).

(c) **CONSULTATION.**—The Forest Supervisor shall consult with the Clear Creek County commissioners and with residents of Alice Township and St. Mary’s Glacier regarding—

- (1) the appropriate location of facilities and services in the area described in subsection (a); and
- (2) appropriate measures that may be needed in this area—
  - (A) to provide access by emergency or law enforcement vehicles;
  - (B) for public health; and
  - (C) to address concerns regarding impeded access by local residents.

(d) **REPORT.**—After the consultation required by subsection (c), the Forest Supervisor shall submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.

**SEC. 6. LOOP TRAIL STUDY; AUTHORIZATION.**

(a) **STUDY.**—Not later than three years after funds are first made available for this purpose, the Secretary, in consultation with interested parties, shall complete a study of the suitability and feasibility of establishing, consistent with the purpose set forth in section 3(a)(2), a loop trail for mechanized and other nonmotorized recreation connecting the trail designated as “Rogers Pass” and the trail designated as “Rollins Pass Road”.

(b) **ESTABLISHMENT.**—If the results of the study required by subsection (a) indicate that establishment of such a loop trail would be suitable and feasible, consistent with the purpose set forth in section 3(a)(2), the Secretary shall establish the loop trail in a manner consistent with that purpose.

**SEC. 7. OTHER ADMINISTRATIVE PROVISIONS.**

(a) **BUFFER ZONES.**—The designation by this Act or by amendments made by this Act of wilderness areas and the Protection Area in the State of Colorado shall not create or imply the creation of protective perimeters or buffer zones around any wilderness area or the Protection Area. The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area or Protection Area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area or the Protection Area.

(b) **ROLLINS PASS ROAD.**—If requested by one or more of the Colorado Counties of Grand, Gilpin, and Boulder, the Secretary shall provide technical assistance and otherwise cooperate with respect to repairing the Rollins Pass road in those counties sufficiently to allow two-wheel-drive vehicles to travel between Colorado State Highway 119 and U.S. Highway 40. If this road is repaired to such extent, the Secretary shall close the motorized roads and trails on Forest Service land indicated on the map entitled “Rollins Pass Road Reopening: Attendant Road and Trail Closures”, dated September 2001.

**SEC. 8. WILDERNESS POTENTIAL.**

(a) **IN GENERAL.**—Nothing in this Act shall preclude or restrict the authority of the Secretary to evaluate the suitability of lands in the Protection Area for inclusion in the National Wilderness Preservation System or to make recommendations to Congress for such inclusion.

(b) **EVALUATION OF CERTAIN LANDS.**—In connection with the first revision of the land and resources management plan for the Arapaho/Roosevelt National Forest after the date of the enactment of this Act, the Secretary shall evaluate the suitability of the lands managed under the management prescription referred to in section 3(d)(1)(F) for inclusion in the National Wilderness Preservation System and make recommendations to Congress regarding such inclusion.

**PURPOSE OF THE BILL**

The purpose of H.R. 1576 is to designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes.

**BACKGROUND AND NEED FOR LEGISLATION**

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 in four counties

(Gilpin, Clear Creek, Boulder and Grand). The lands in Gilpin, Clear Creek and Boulder Counties are within the borders of Congressman Mark Udall's district, while the portion in Grand County falls in Congressman Scott McInnis' district. The area offers outstanding recreational opportunities for hiking, skiing, fishing, and backpacking, including the popular South Boulder Creek trail and the Continental Divide National Scenic Trail. It also includes the historic Rollins Pass Road that provides access for mechanized and motorized recreation in the area. James Peak is one of the highest-rated areas for biological diversity in 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.

In the 105th Congress, former Congressman David Skaggs and in the 106th Congress, Congressman Mark Udall introduced bills seeking to designate 22,000 acres in the James Peak area as wilderness. Citing Grand County's repeated expressions of opposition to the measure, however, most members of the Colorado Congressional delegation were unwilling to lend their support to the legislation. H.R. 1576 represents a compromise agreement that designates wilderness and creates a "Protection Area" for other parts of James Peak.

#### COMMITTEE ACTION

H.R. 1576 was introduced on April 24, 2001, by Congressman Mark Udall (D-CO). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Forests and Forest Health. On July 26, 2001, the Subcommittee held a hearing on the bill. On October 3, 2001, the Full Resources Committee met to consider the bill. The Subcommittee was discharged from further consideration of the measure by unanimous consent. Congressman Scott McInnis (R-CO) offered an amendment in the nature of a substitute to designate those segments of the James Peak Area in Clear Creek, Gilpin and Boulder Counties as wilderness (as called for in H.R. 1576 as introduced); designate the 18,000 acres in Grand County as a Protection Area, locking-in the existing management plan which provides substantial protections for the landscape; eliminate provisions in H.R. 1576 that would designate 8,000 acres within the Protection Area as a Wilderness Study Area; direct the U.S. Forest Service to reevaluate during the next revision to the relevant Forest Plan the wilderness suitability of those Protection Area lands that H.R. 1576 would designate as a Wilderness Study Area; withdraw the Protection Area from mineral and mining entry, subject to existing rights, while prohibiting timber harvesting except for hazardous fuels treatment; generally prohibiting the construction of new roads (with certain narrowly drawn exceptions) while protecting existing motorized and mechanized routes in the Protection Area; protect access rights to water facilities and infrastructure in Protection Area; and create stringent safeguards for implicated water rights in the Protection Area by requiring the Forest Service to acquire any new water rights under the procedural and substantive requirements of Colorado water law. The amendment was adopted by voice vote. The bill, as

amended, was then ordered favorably reported to the House of Representatives by voice vote.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 provides a short title for the bill, the “James Peak Wilderness and Protection Area Act.”

##### *Section 2. Wilderness designation*

Section 2 amends two existing wilderness laws, the Colorado Wilderness Act of 1993 (Public Law 103–77) and the Indian Peaks Wilderness Area and Arapaho National Recreation Act and the Oregon Islands Wilderness Area Act (Public Law 95–450). The amendments designate about 14,000 acres in Boulder, Clear Creek, and Gilpin Counties, Colorado, as the “James Peak Wilderness” and enlarge the Indian Peaks Wilderness by 3,195 acres.

##### *Section 3. Designation of the James Peak Protection Area, Colorado*

Section 3 designates about 16,000 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 cover four areas. First, 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. Second, 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 public health and safety. Third, the United States retains all right, title, and interest in lands within the boundaries of the Protection Area, including those held as of the date of enactment and those acquired thereafter. Fourth, 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.

Section 3 also includes provisions specifically related to use of lands within the Protection Area by motorized and mechanized vehicles. 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 Committee intends that in the conduct of this review and inventory the Forest Service should 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 subject to the review and inventory to other existing roads and trails in the Area, so long as there

is no net gain in the mileage of either roads or trails open to public use in the Protection 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. 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 Committee intends 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. Subsection 3(d)(1)(D) prohibits the 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.

Subsection 3(d)(e) deals with the relationship between the Protection Area and water rights. The subsection 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 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. The Committee intends that nothing in this bill shall affect access to and through the east and west portals of the Moffat Tunnel.

#### *Section 4. 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.

#### *Section 5. James Peak 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.

*Section 6. Loop Trail study; authorization*

Section 6 directs the Forest Service to undertake a study to determine if 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. The Committee notes 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.

*Section 7. Other administrative 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 Committee intends that if the Rollins Pass road is reopened, the cut-offs, bypasses and detours that have been created by motorized and mechanized vehicles are to be closed so that the impacts caused by these detours are halted and the affected lands can recover and be restored to their natural character.

*Section 8. 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.

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 Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE  
XIII

1. *Cost of Legislation.*—Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has in-

cluded in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.*—As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill could result in a loss of offsetting receipts but this would amount to less than \$15,000 a year.

3. *General Performance Goals and Objectives.*—This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. *Congressional Budget Office Cost Estimate.*—Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, November 7, 2001.

Hon. JAMES V. HANSEN,  
*Committee on Resources,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1576, the James Peak Wilderness and Protection Area Act.

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

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 1576—James Peak Wilderness and Protection Area Act*

H.R. 1576 would reclassify about 33,195 acres of lands within the Arapaho and Roosevelt National Forests located in Colorado and administered by the Forest Service. CBO estimates that implementing H.R. 1576 would cost about \$600,000 over the next two years. The bill could affect direct spending (including offsetting receipts); therefore, pay-as-you-go procedures would apply, but we estimate that any such effects would not exceed \$15,000 in any year. H.R. 1576 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

H.R. 1576 would designate as wilderness about 17,195 acres of federal lands within the Arapaho and Roosevelt National Forests in Colorado. The bill also would designate 16,000 acres of other lands within those forests as the James Peak Protection Area and would authorize the Secretary of Agriculture to acquire nonfederal lands within that area. Subject to valid existing rights, the bill would withdraw federal lands within the proposed protection area

from mining and mineral and geothermal leasing and development, and would prohibit timber harvesting within the area except under certain circumstances. Finally, the bill would direct the Forest Service to establish a new trailhead and related facilities near the Fall River basin in Colorado, study the feasibility of connecting two existing trails, and implement the results of that study.

Based on information from the Forest Service, CBO estimates that designating the wilderness and protection areas would not significantly affect the agency's costs to manage those areas. We estimate that acquiring nonfederal lands within the proposed protection area would cost less than \$200,000 in 2002, assuming the availability of appropriated funds. We also estimate that building the new trailhead and related facilities would cost \$300,000 over the next two years, and that completing the trails feasibility study and implementing its recommendations would cost about \$100,000 in 2002.

Withdrawing lands within the proposed protection area from mining and mineral and geothermal leasing and development and prohibiting timber harvesting on those lands could reduce offsetting receipts if, under current law, the lands are expected to generate income from those activities. Based on information from the Forest Service, we estimate that any such forgone receipts would not exceed \$15,000 a year.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-

4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

### SECTION 2 OF THE COLORADO WILDERNESS ACT OF 1993

#### SEC. 2. ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS.—The following lands in the State of Colorado are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) \* \* \*

\* \* \* \* \*

*(21) Certain lands in the Arapaho/Roosevelt National Forest which comprise approximately 14,000 acres, as generally depicted on a map entitled "Proposed James Peak Wilderness",*

*dated September 2001, and which shall be known as the James Peak Wilderness.*

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**SECTION 3 OF THE INDIAN PEAKS WILDERNESS AREA AND ARAPAHO NATIONAL RECREATION AREA AND THE OREGON ISLANDS WILDERNESS AREA ACT**

INDIAN PEAKS WILDERNESS AREA

SEC. 3(a) \* \* \*

\* \* \* \* \*

*(c) The approximately 2,232 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled "Ranch Creek Addition to Indian Peaks Wilderness" dated September 2001, are hereby added to the Indian Peaks Wilderness Area.*

*(d) The approximately 963 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled "Fourth of July Addition to Indian Peaks Wilderness" dated September 2001, are hereby added to the Indian Peaks Wilderness Area.*

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