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SECTION: Senate

TITLE: NORTHERN CALIFORNIA COASTAL WILD HERITAGE **WILDERNESS** ACT

SPEAKER: Mr. BINGAMAN; Mrs. BOXER

TEXT: [*S10537]

The bill ([H.R. 233](#)) to designate certain National Forest System lands in the Mendocino and Six Rivers National Forests and certain Bureau of Land Management lands in Humboldt, Lake, Mendocino, and Napa Counties in the State of California as **wilderness**, to designate the Elkhorn Ridge Potential **Wilderness** Area, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes was considered, read the third time, and passed.

section 10

Mr. BINGAMAN . Mr. President, I would like to enter into a colloquy with Senators Domenici, Boxer, and Feinstein concerning a provision in H.R. 233, the Northern California Wild Heritage **Wilderness** Act. Although I strongly supported the Senate companion measure, [S. 128](#), which passed the Senate last year, I am concerned with some of the changes made by bill as passed by the House of Representatives. Of particular concern is section 10, dealing with commercial fishing permits in Redwood National and State Parks in California. The section directs the Secretary of the Interior to issue permits for authorized vehicle access for commercial surf fishing at designated beaches within both the National and State Parks. The section provides that the number of permits [*S10538] shall be limited to the number of valid permits that are held on the date of enactment of this Act, and that the permits "so issued shall be perpetual and subject to the same conditions as the permits held on the date of enactment of this Act."

I understand from the National Park Service and the bill sponsors that presently 15 permits are issued for commercial surf fishing within the park. I was concerned that the language stating that the permits shall be perpetual might be construed as creating a right vesting in the permit holder, which would be contrary to the way permits are issued throughout the National Park System. However, I understand that the intent of this language is simply to ensure that the National Park Service not reduce the number of permits issued below the current level of valid permits, assuming there is sufficient demand for the remaining permits. Furthermore, I understand that there is no intent for the requirements of section 10 to be construed as an

implied waiver of applicable laws, including the National Park Service Organic Act and the Endangered Species Act, but rather a directive to the Park Service to discontinue its plan to completely phase out these permits. I would like to ask Senator Domenici, the chairman of the Committee on Energy and Natural Resources, and Senators Boxer and Feinstein, the Senate sponsors, whether they agree with me that it is their intent that the language in section 10 does not create a property right and whether they also agree that the sole purpose of the language is to limit the number of permits to the number of valid permits in existence as of the date of enactment of H.R. 233.

Mrs. BOXER. I agree with Senator Bingaman's understanding. It is not our intent to create any new right with respect to these permits.

Mrs. FEINSTEIN. I agree with the Senator from New Mexico.

Mr. DOMENICI. I agree.

Mr. BINGAMAN. The language in section 10 requires the Secretary of the Interior to issue permits allowing for authorized vehicle access to designated beaches, including Gold Bluff Beach, within Prairie Creek Redwoods State Park, which is located within the broader national park boundary. This provision is unusual in that, on its face, it appears to require the Secretary to authorize access to a beach that is within a State Park and managed by the California Department of Parks and Recreation. However, I understand that nothing in this section is intended to override the responsibilities of the State of California and its management of state park. Is that the understanding of the chairman and bill sponsors as well?

Mrs. BOXER. I agree. The language in this bill does not impose requirements on the State of California.

Mrs. FEINSTEIN. I agree.

Mr. DOMENICI. I agree.

Mr. BINGAMAN. I thank my colleagues for helping to clarify this issue. I ask unanimous consent that a letter from Congressman Thompson, the sponsor of H.R. 233, be printed in the Record. His letter indicates his agreement with our colloquy. Based on the common understanding of the purpose and intent of section 10, I will support passage of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

House of Representatives,

Washington, DC, July 27, 2006.

Hon. Jeff Bingaman,

Ranking Member, Senate Energy and Natural Resources Committee,

Dirksen Senate Office Building, Washington, DC.

Hon. Dianne Feinstein,

U.S. Senate,

Washington, DC.

Hon. Barbara Boxer,

U.S. Senate,

Washington, DC.

Dear Ranking Member Bingaman, Senator Feinstein and Senator Boxer: I would like to take this opportunity to clarify my intent on a provision in H.R. 233, the Northern California Wild Heritage Act.

Section 10, which deals with commercial fishing permits in Redwood National and State Parks in California, directs the Secretary of the Interior to issue permits for authorized vehicle access for commercial surf fishing at designated beaches within both the National and State Parks. The section provides that the number of permits shall be limited to the number of valid permits that are held on the date of enactment of this Act, and that the permits "so issued shall be perpetual and subject to the same conditions as the permits held on the date of enactment of this Act."

I want to clarify that this language should not be construed as creating a right vesting in the permit holder, which would be contrary to the way permits are issued throughout the National Park System. The intent of this language is simply to ensure that the National Park Service not reduce the number of permits issued below the current level of valid permits, assuming there is sufficient demand for the remaining permits. Furthermore, there is no intent for the requirements of Section 10 to be construed as an implied waiver of applicable laws, including the National Park Service Organic Act and the Endangered Species Act, but rather a directive to the Park Service to discontinue its plan to completely phase out these permits. The language in Section 10 does not create a property right and the sole purpose of the language is to limit the number of permits to the number of valid permits in existence as of the date of enactment of H.R. 233.

In addition, the language in Section 10 requires the Secretary of the Interior to issue permits allowing for authorized vehicle access to designated beaches, including Gold Bluff Beach, within Prairie Creek Redwoods State Park, which is located within the broader national park boundary. However, nothing in this section is intended to override the responsibilities of the State of California and its the management of the state park.

Thank you very much for all your time and effort on this very important bill. I appreciate the opportunity to clarify this issue.

Sincerely,

Mike Thompson,

Member of Congress.

Mrs. BOXER . Mr. President, this is a great day for California.

After years of hard work by my colleagues, Senator Feinstein and Congressman Mike Thompson and I, the Northern California Coastal Wild Heritage **Wilderness** Act passed the Congress today. It now goes to the President's desk for his signature.

I want to thank my colleague, Senator Feinstein, and Congressman Mike Thompson for all of their great work on this bill. Without their tireless support, we would not have gotten to this point.

Anyone who has ever visited California or been fortunate enough to live there is keenly aware of the State's natural beauty indeed, more than most States, California's wild beauty is an essential part of its identity.

California's natural beauty and way of life has enticed millions to come and live there but that very enticement is now threatened by exponential growth_35,900,000 people live in my State, according to the 2004 U.S. Census estimate, and that figure is growing by leaps and bounds daily.

That is why so many Californians have come together to support this bill and protect some of the last great natural places in the State.

Thousands of average citizens and over 200 local businesses, outdoor groups, and other interests support the bill these include Harwood Industries, the Adventures Edge Mountain Bike Store, and K.B. Homes, the largest homebuilder in California.

There have been 23 supportive votes or resolutions from city councils, county boards of supervisors, tribal councils, and other boards since 2001.

Our Governor, Arnold Schwarzenegger, supports it, as do 40 former or current local elected officials of both parties in Lake, Mendocino, Napa, and Humboldt Counties.

When one considers what we are trying to preserve, it is easy to see why Congressman Thompson and I have such broad support for our legislation. I would like to share a few examples.

First and foremost is the spectacular King Range, the wildest portion of California's coast_it boasts the longest stretch of undeveloped coastline in the lower 48 States. Next, I would like to share Cache Creek it is home to the second largest wintering bald eagle population in California and a herd of rare Tule elk, which is the world's smallest elk. Cache Creek is popular with white water rafters for its rapids and scenery.

Next, the Middle Fork Eel River, which hosts 30 to 50 percent of the State's summer-run steelhead trout population, an endangered species, and critical to California's fishermen and tribes. It also has spectacular ancient forests of oak pine and fir. Our bill provides improved

protections for this pristine area.

These are but three of the dozens of examples I could show you today. Californians want to protect the sanctity of these lands, and our bill does just that. [*S10539]

Before I conclude, there are some people I need to thank. First, I again thank Senator Feinstein, my partner in the Senate on this bill. Her work on the Energy and Natural Resources Committee was invaluable, and John Watts of her staff helped greatly. Congressman Thompson tirelessly championed this bill in the House, and Jonathan Birdsong, his legislative director, put in countless hours of work to accomplish this.

I also thank Senators Bingaman and Domenici of the Energy and Natural Resources Committee. They, along with Senators Craig and Wyden, have worked very well with me to protect these special places and helped me move this bill forward. Finally I need to thank David Brooks and Frank Gladics of the Energy Committee staff for working so carefully and conscientiously on this bill.

God has given Americans an exceptionally beautiful treasure in its wild landscape, and my State is blessed with some of its best.

We must be good stewards of that gift and share it with future generations that is what Theodore Roosevelt, John Muir, John Wesley Powell, Ansel Adams, and other great Americans did, and we have places like Yosemite and Yellowstone to cherish because of their actions.

Mr. President, because the Congress passed this bill today, future generations will be thanking us for preserving places like the King Range and other parts of the stunning, wild, and unspoiled northern California coast.