

Committee Reports

103d Congress

House Rept. 103-181

103 H. Rpt. 181

COLORADO WILDERNESS ACT OF 1993

DATE: July 19, 1993. Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

SPONSOR: Mr. Miller of California, from the Committee on Natural Resources, submitted the following

REPORT

(To accompany H.R. 631)

(Including cost estimate of the Congressional Budget Office)

TEXT: The Committee on Natural Resources, to whom was referred the bill (H.R. 631) to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, 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 out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) Short Title. This Act may be cited as the "Colorado Wilderness Act of 1993".

(b) Definitions.

(1) As used in this Act with reference to lands in the National Forest System, the term "the Secretary" means the Secretary of Agriculture.

(2) As used in this Act with respect to lands not in the National Forest System, the term "the Secretary" means the Secretary of the Interior.

SECTION 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) Certain lands in the Gunnison Resource Area administered by the Bureau of Land Management which comprise approximately 3,390 acres, as generally depicted on a map entitled "American Flats Additions to the Big Blue Wilderness Proposal (American Flats)", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the wilderness area designated by section 102(a)(1) of Public Law 96-560 and renamed Uncompahgre Wilderness by section 3(f) of this Act.

(2) Certain lands in the Gunnison Resource Area administered by the Bureau of Land Management which comprise approximately 815 acres, as generally depicted on a map entitled "Bill Hare Gulch and Larson Creek Additions to the Big Blue Wilderness", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the wilderness area designated by section 102(a)(1) of Public Law 96-560 and renamed Uncompahgre Wilderness by section 3(f) of this Act.

(3) Certain lands in the Pike and San Isabel National Forest which comprise approximately 43,410 acres, as generally depicted on a map entitled "Buffalo Peaks Wilderness Proposal", dated January, 1993, and which shall be known as the Buffalo Peaks Wilderness.

(4) Certain lands in the Gunnison National Forest and in the Powderhorn Primitive Area administered by the Bureau of Land Management which comprise approximately 60,100 acres, as generally depicted on a map entitled "Powderhorn Wilderness Proposal", dated January, 1993, and which shall be known as the Powderhorn Wilderness.

(5) Certain lands in the Routt National Forest which comprise approximately 20,750 acres, as generally depicted on a map entitled "Davis Peak Additions to Mount Zirkel Wilderness Proposal", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the Mount Zirkel Wilderness designated by Public Law 88-555, as amended by Public Law 96-560.

(6) Certain lands in the Gunnison National Forest which comprise approximately 33,060 acres, as generally depicted on a map entitled "Fossil Ridge Wilderness Proposal", dated January, 1993, and which shall be known as the Fossil Ridge Wilderness.

(7) Certain lands in the San Isabel National Forest which comprise approximately 22,040 acres, as generally depicted on a map entitled "Greenhorn Mountain Wilderness Proposal", dated January, 1993, and which shall be known as the Greenhorn Mountain Wilderness.

(8) Certain lands within the Pike National Forest which comprise approximately 14,700 acres, as generally depicted on a map entitled "Lost Creek Wilderness Addition Proposal", dated January, 1993, which are hereby incorporated in and shall be deemed to

be a part of the Lost Creek Wilderness designated by Public Law 96-560: Provided, That the Secretary is authorized to acquire, only by donation or exchange, various mineral reservations held by the State of Colorado within the boundaries of the Lost Creek Wilderness additions designated by this Act.

(9) Certain lands in the Gunnison National Forests which comprise approximately 5,500 acres, as generally depicted on a map entitled "O-Be-Joyful Addition to the Raggeds Wilderness Proposal", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the Raggeds Wilderness designated by Public Law 96-560.

(10) Certain lands in the Rio Grande and San Isabel National Forests and lands in the San Luis Resource Area administered by the Bureau of Land Management which comprise approximately 226,455 acres, as generally depicted on four maps entitled "Sangre de Cristo Wilderness Proposal (North Section)", "Sangre de Cristo Wilderness Proposal (North Middle Section)", "Sangre de Cristo Wilderness Proposal (South Middle Section)", and "Sangre de Cristo Wilderness Proposal (South Section)", all dated January, 1993, and which shall be known as the Sangre de Cristo Wilderness.

(11) Certain lands in the Routt National Forest which comprise approximately 47,140 acres, as generally depicted on a map entitled "Service Creek Wilderness Proposal (Sarvis Creek Wilderness)", dated January, 1993, and which shall be known as the Sarvis Creek Wilderness.

(12) Certain lands in the San Juan National Forest which comprise approximately 31,100 acres, as generally depicted on two maps, one entitled "South San Juan Wilderness Expansion Proposal, Montezuma Peak" and the other entitled "South San Juan Wilderness Expansion Proposal, V-Rock Trail", both dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the South San Juan Wilderness designated by Public Law 96-560.

(13) Certain lands in the White River National Forest which comprise approximately 8,330 acres, as generally depicted on a map entitled "Spruce Creek Addition to the Hunter-Fryingpan Wilderness Proposal", dated January, 1993, and which are hereby incorporated in and shall be deemed to be part of the Hunter Fryingpan Wilderness designated by Public Law 95-327: Provided, That no right, or claim of right, to the diversion and use of waters by the Fryingpan-Arkansas Project shall be prejudiced, expanded, diminished, altered, or affected by this Act, nor shall anything in this Act be construed to expand, abate, impair, impede, limit, interfere with, or prevent the construction, operation, use, maintenance, or repair of the project facilities and diversion systems to their full extent.

(14) Certain lands in the Arapaho National Forest which comprise approximately 8,095 acres, as generally depicted on a map entitled "Byers Peak Wilderness Proposal", dated January, 1993, and which shall be known as the Byers Peak Wilderness.

(15) Certain lands in the Arapaho National Forest which comprise approximately 12,300 acres, as generally depicted on a map entitled "Vasquez Peak Wilderness Proposal", dated January, 1993, and which shall be known as the Vasquez Peak Wilderness.

(16) Certain lands in the San Juan National Forest which comprise approximately 28,740 acres, as generally depicted on a map entitled "West Needle Wilderness Proposal and Weminuche Additions", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the Weminuche Wilderness designated by Public Law 93-632, as amended by Public Law 96-560.

(17) Certain lands in the Rio Grande National Forest which comprise approximately 25,640 acres, as generally depicted on a map entitled "Wheeler Addition to the La Garita Wilderness Proposal", dated January, 1993, and which shall be incorporated in and shall be deemed to be a part of the La Garita Wilderness designated by Public Law 96-560.

(18) Certain lands in the Arapaho National Forest which comprise approximately 13,175 acres, as generally depicted on a map entitled "Farr Wilderness Proposal", dated January, 1993, and which shall be known as the Ptarmigan Peak Wilderness.

(19) Certain lands in the Arapaho National Forest which comprise approximately 6,990 acres, as generally depicted on a map entitled "Bowen Gulch Additions to Never Summer Wilderness Proposal", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the Never Summer Wilderness designated by Public Law 96-560.

(b) Maps and Descriptions. As soon as practicable after the date of enactment of this Act, the appropriate Secretary shall file a map and a boundary description of each area designated as wilderness by this Act with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Each map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary is authorized to correct clerical and typographical errors in such boundary descriptions and maps. Such 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 the Office of the Director of the Bureau of Land Management, Department of the Interior, as appropriate.

### SECTION 3. ADMINISTRATIVE PROVISIONS.

(a) In General.

(1) Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary of Agriculture or the Secretary of the Interior, as appropriate, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to any wilderness areas designated by this Act, any reference in the

Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(2) Administrative jurisdiction over those lands designated as wilderness pursuant to paragraphs (2) and (10) of section 2(a) of this Act, and which, as of the date of enactment of this Act, are administered by the Bureau of Land Management, is hereby transferred to the Forest Service and such lands are hereby added to the appropriate National Forest.

(b) Grazing. Grazing of livestock in wilderness areas designated by this Act shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), as further interpreted by section 108 of Public Law 96-560, and, as regards wilderness managed by the Bureau of Land Management, the guidelines set forth in Appendix A of House Report 101-405 of the 101st Congress.

(c) State Jurisdiction. As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Colorado with respect to wildlife and fish in Colorado.

(d) Conforming Amendment. Section 2(e) of the Endangered American Wilderness Act of 1978 (92 Stat. 41) is amended by striking "Subject to" and all that follows through "System."

(e) Buffer Zones. Congress does not intend that the designation by this Act of wilderness areas in the State of Colorado creates or implies the creation of protective perimeters or buffer zones around any wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(f) Wilderness Name Change. The wilderness area designated as "Big Blue Wilderness" by section 102(a)(1) of Public Law 96-560, and the additions thereto made by paragraphs (1) and (2) of section 2(a) of this Act, shall hereafter be known as the Uncompahgre Wilderness. Any reference to the Big Blue Wilderness in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Uncompahgre Wilderness.

(g) Boundaries and Authorizations to Use Lands.

(1) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of affected National Forests, as modified by this section, shall be considered to be the boundaries of such National Forests as of January 1, 1965.

(2) Nothing in this subsection shall affect valid existing rights of any person under the authority of law. (3) Authorizations to use lands transferred by this section which were issued prior to the date of enactment of this Act shall remain subject to the laws and regulations under which they were issued, to the extent consistent with this Act. Such

authorizations shall be administered by the Secretary of Agriculture. Any renewal or extension of such authorizations shall be subject to the laws and regulations pertaining to the Forest Service, Department of Agriculture, and the applicable law, including this Act. The change of administrative jurisdiction resulting from the enactment of this section shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

#### SECTION 4. WILDERNESS RELEASE.

(a) Repeal of Wilderness Study Provisions. Sections 105 and 106 of the Act of December 22, 1980 (Public Law 96-560), are hereby repealed.

(b) Initial Plans. Section 107(b)(2) of the Act of December 22, 1980 (Public Law 96-560), is amended by striking out "except those lands remaining in further planning upon enactment of this Act, areas listed in sections 105 and 106 of this Act, or previously congressional designated wilderness study areas,".

#### SEC. 5. FOSSIL RIDGE RECREATION MANAGEMENT AREA.

(a) Establishment.

(1) In order to conserve, protect, and enhance the scenic, wildlife, recreational, and other natural resource values of the Fossil Ridge area, there is hereby established the Fossil Ridge Recreation Management Area (hereinafter referred to as the "recreation management area").

(2) The recreation management area shall consist of certain lands in the Gunnison National Forest, Colorado, which comprise approximately 43,900 acres, as generally depicted as "Area A" on a map entitled "Fossil Ridge Wilderness Proposal", dated January, 1993.

(b) Administration. The Secretary of Agriculture shall administer the recreation management area in accordance with this section and the laws and regulations generally applicable to the National Forest System.

(c) Withdrawal. Subject to valid existing rights, all lands within the recreation management area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from disposition under the mineral and geothermal leasing laws, including all amendments thereto.

(d) Timber Harvesting. No timber harvesting shall be allowed within the recreation management area except to the extent that would be permitted in wilderness under section 4(d)(1) of the Wilderness Act for necessary control of fire, insects, and diseases, and for public safety.

(e) Livestock Grazing. The designation of the recreation management area shall not be construed to prohibit, or change the administration of, the grazing of livestock within the recreation management area.

(f) Development. No developed campgrounds shall be constructed within the recreation management area. After the date of enactment of this Act, no new roads or trails may be constructed within the recreation management area.

(g) Off-Road Recreation. Motorized travel shall be permitted within the recreation management area only on those established trails and routes existing as of July 1, 1991, on which such travel was permitted as of such date, except that other trails and routes may be used where necessary for administrative purposes or to respond to an emergency. No later than one year after the date of enactment of this Act, the Secretary shall identify such routes and trails and shall prepare and make available to the public a map showing such routes and trails. Nothing in this subsection shall be construed as precluding the Secretary from closing any trail or route from use for purposes of resource protection or public safety.

#### SECTION 6. BOWEN GULCH PROTECTION AREA.

(a) Establishment.

(1) There is hereby established in the Arapaho National Forest, Colorado, the Bowen Gulch Protection Area (hereinafter in this Act referred to as the "protection area").

(2) The protection area shall consist of certain lands in the Arapaho National Forest, Colorado, which comprise approximately 11,600 acres, as generally depicted as "Area A" on a map entitled "Bowen Gulch Additions to Never Summer Wilderness Proposal", dated January, 1993.

(b) Administration. The Secretary shall administer the protection area in accordance with this section and the laws and regulations generally applicable to the National Forest System.

(c) Withdrawal. Subject to valid existing rights, all lands within the protection area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from disposition under the mineral and geothermal leasing laws, including all amendments thereto.

(d) Development. No developed campgrounds shall be constructed within the protection area. After the date of enactment of this Act, no new roads or trails may be constructed within the protection area.

(e) Timber Harvesting. No timber harvesting shall be allowed within the protection area except to the extent that would be permitted in wilderness under section 4(d)(1) of the Wilderness Act for necessary control of fire, insects, and diseases, and for public safety.

(f) Motorized Travel. Motorized travel shall be permitted within the protection area only on those designated trails and routes existing as of July 1, 1991, and only during periods of adequate snow cover. At all other times, mechanized, non-motorized travel shall be permitted within the protection area.

(g) Management Plan. During the revision of the Land and Resource Management Plan for the Arapaho National Forest, the Forest Service shall develop a management plan for the protection area, after providing for public comment.

#### SECTION 7. OTHER LANDS.

Nothing in this Act shall affect ownership or use of lands or interests therein not owned by the United States or access to such lands available under other applicable law.

#### SECTION 8. WATER.

(a) Findings, Purpose, and Definition.

(1) Congress finds that

(A) the lands designated as wilderness by this Act are located at the headwaters of the streams and rivers on those lands, with few, if any, actual or proposed water resource facilities located upstream from such lands and few, if any, opportunities for diversion, storage, or other uses of water occurring outside such lands that would adversely affect the wilderness values of such lands; and

(B) the lands designated as wilderness by this Act are not suitable for use for development of new water resource facilities, or for the expansion of existing facilities; and

(C) therefore, it is possible to provide for proper management and protection of the wilderness value of such lands in ways different from those utilized in other legislation designating as wilderness lands not sharing the attributes of the lands designated as wilderness by this Act.

(2) The purpose of this section is to protect the wilderness values of the lands designated as wilderness by this Act by means other than those based on a federal reserved water right.

(3) As used in this section, the term "water resource facility" means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures.

(b) Restrictions on Rights and Disclaimer of Effect.

(1) Neither the Secretary of Agriculture nor the Secretary of the Interior, nor any other officer, employee, representative, or agent of the United States, nor any other person, shall assert in any court or agency, nor shall any court or agency consider, any claim to or for water or water rights in the State of Colorado, which is based on any construction of any portion of this Act, or the designation of any lands as wilderness by this Act, as constituting an express or implied reservation of water or water rights.

(2)(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 Piedra, Roubideau, and Tabeguache areas identified in section 9 of this Act, or the Bowen Gulch Protection Area or the Fossil Ridge Recreation Management Area identified in sections 5 and 6 of this Act.

(B) Nothing in this Act shall be construed as a creation, recognition, disclaimer, relinquishment, or reduction of any water rights of the United States in the State of Colorado existing before the date of enactment of this Act, except as provided in subsection (g)(2) of this section.

(C) Except as provided in subsection (g) of this section, nothing in this Act shall be construed as constituting an interpretation of any other Act or any designation made by or pursuant thereto.

(D) Nothing in this section shall be construed as establishing a precedent with regard to any future wilderness designations.

(c) New or Expanded Projects.

Notwithstanding any other provision of law, on and after the date of enactment of this Act neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the areas described in sections 2, 5, 6 and 9 of this Act or the enlargement of any water resource facility within the areas described in sections 2, 5, 6 and 9 of this Act.

(d) Access and Operation.

(1) Subject to the provisions of this subsection (d), the Secretary shall allow reasonable access to water resource facilities in existence on the date of enactment of this Act within the areas described in sections 2, 5, 6 and 9 of this Act, including motorized access where necessary and customarily employed on routes existing as of the date of enactment of this Act.

(2) Existing access routes within such areas customarily employed as of the date of enactment of this Act may be used, maintained, repaired, and replaced to the extent necessary to maintain their present function, design, and serviceable operation, so long as such activities have no increased adverse impacts on the resources and values of the areas

described in sections 2, 5, 6 and 9 of this Act than existed as of the date of enactment of this Act.

(3) Subject to the provisions of subsections (c) and (d), the Secretary shall allow water resource facilities existing on the date of enactment of this Act within areas described in sections 2, 5, 6 and 9 of this Act to be used, operated, maintained, repaired, and replaced to the extent necessary for the continued exercise, in accordance with Colorado state law, of vested water rights adjudicated for use in connection with such facilities by a court of competent jurisdiction prior to the date of enactment of this Act: Provided, That the impact of an existing facility on the water resources and values of the area shall not be increased as a result of changes in the adjudicated type of use of such facility as of the date of enactment of this Act.

(4) Water resource facilities, and access routes serving such facilities, existing within the areas described in sections 2, 5, 6 and 9 of this Act on the date of enactment of this Act shall be maintained and repaired when and to the extent necessary to prevent increased adverse impacts on the resources and values of the areas described in sections 2, 5, 6 and 9 of this Act.

(e) Existing Projects. Except as provided in subsections (c) and (d) of this section, the provisions of this Act related to the areas described in sections 2, 5, 6, and 9 of this Act, and the inclusion in the National Wilderness Preservation System of the areas described in section 2 of this Act, shall not be construed to affect or limit the use, operation, maintenance, repair, modification, or replacement of water resources facilities in existence on the date of enactment of this Act within the boundaries of the areas described in sections 2, 5, 6, and 9 of this Act.

(f) Monitoring and Implementation. The Secretaries of Agriculture and the Interior shall monitor the operation of and access to water resource facilities within the areas described in sections 2, 5, 6, and 9 of this Act and take all steps necessary to implement the provisions of this section.

(g) Interstate Compacts and North Platte River.

(1) Nothing in this Act, and nothing in any previous Act designating any lands as wilderness, 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. Except as expressly provided in this section, nothing in this Act shall affect or limit the development or use by existing and future holders of vested water rights of Colorado's full apportionment of such waters.

(2) Notwithstanding any other provision of law, neither the Secretary of Agriculture nor any other officer, employee, or agent of the United States, or any other person, shall assert in any court or agency of the United States or any other jurisdiction any rights, and no court or agency of the United States shall consider any claim or defense asserted by any person based upon such rights, which may be determined to have been established

for waters of the North Platte River for purposes of the Platte River Wilderness Area established by Public Law 98-550, located on the Colorado-Wyoming State boundary, to the extent such rights would limit the use or development of water within Colorado by present and future holders of vested water rights in the North Platte River and its tributaries, to the full extent allowed under interstate compact or United States Supreme Court equitable decree. Any such rights shall be exercised as if junior to, in a manner so as not to prevent, the use or development of Colorado's full entitlement to interstate waters of the North Platte River and its tributaries within Colorado allowed under interstate compact or United States Supreme Court equitable decree.

#### SECTION 9. PIEDRA, ROUBIDEAU, AND TABEGUACHE AREAS.

(a) Areas. The provisions of this section shall apply to the following areas:

(1) Certain lands in the San Juan National Forest, Colorado, comprising approximately 62,550 acres, as generally depicted on the map entitled "Piedra Area" dated January, 1993; and

(2) Certain lands in the Uncompahgre National Forest, Colorado, comprising approximately 19,650 acres, as generally depicted on the map entitled "Roubideau Area" dated January, 1993; and

(3) Certain lands in the Uncompahgre National Forest, Colorado and in the San Juan Resource Area administered by of the Bureau of Land Management, comprising approximately 17,240 acres, as generally depicted on the map entitled "Tabeguache Area" dated January, 1993.

(b) Management.

(1) Subject to valid existing rights, the areas described in subsection (a) are withdrawn from all forms of location, leasing, patent, disposition, or disposal under public land, mining, and mineral and geothermal leasing laws of the United States.

(2) The areas described in subsection (a) shall not be subject to any obligation to further study such lands for wilderness designation.

(3) Until Congress determines otherwise, and subject to the provisions of section 8 of this Act, activities within such areas shall be managed by the Secretary of Agriculture and the Secretary of the Interior, as appropriate, so as to maintain the areas presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(4) Livestock grazing in such areas shall be permitted and managed to the same extent and in the same manner as of the date of enactment of this Act. Except as provided by this Act, mechanized or motorized travel shall not be permitted in such areas: Provided,

That the Secretary may permit motorized travel on trail number 535 in the San Juan National Forest during periods of adequate snow cover.

(c) Data Collection. The Secretary of Agriculture and the Secretary of the Interior, in consultation with the Colorado Water Conservation Board, shall compile data concerning the water resources of the areas described in subsection (a) and existing and proposed water resource facilities affecting such values.

#### SECTION 10. SPANISH PEAKS PLANNING AREA STUDY.

(a) Report. Not later than three years from the date of enactment of this Act, the Secretary shall report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the status of private property interests located within the Spanish Peaks planning area of the San Isabel National Forest in Colorado, as generally depicted on a map entitled "Spanish Peaks Further Planning Area Study", dated January, 1993.

(b) Contents of Report. The report required by this section shall identify the location of all private property situated within the exterior boundaries of the Spanish Peaks planning area; the nature of such property interests; the acreage of such private property interests; and the Secretary's views on whether the owners of said properties would be willing to enter into either a sale or exchange of these properties at fair market value if such a transaction became available in the near future.

(c) No Authorization of Eminent Domain. Nothing contained in this Act authorizes, and nothing in this Act shall be construed to authorize, the acquisition of real property by eminent domain.

(d) Management. Notwithstanding the provisions of section 4(a) of this Act, for a period of three years from the date of enactment of this Act, the Secretary shall manage the Spanish Peaks planning area as provided by section 105(c) of Public Law 96-560.

#### SECTION 11. PUMPING PLANT NAME CHANGE.

The facility of the Bureau of Reclamation, Department of the Interior, known as the Granby Pumping Plant of the Colorado-Big Thompson Project, in the State of Colorado, shall hereafter be known as the Farr Pumping Plant. Any reference to the Granby Pumping Plant in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Farr Pumping Plant.

#### Purpose

H.R. 631, as amended, would designate as wilderness approximately 611,700 acres in Colorado managed by the Forest Service and Bureau of Land Management, would specify the future management of other national forest and public lands in that State, and would rename one existing wilderness area.

1

H.R. 631 was introduced on January 26, 1993 by Representatives Skaggs, McInnis, and Schroeder.

### Background and Need

In 1980, the enactment of P.L. 96-560, Congress specified the future management of most of the Colorado national forest lands with regard to which the President, pursuant to the Wilderness Act, previously had made recommendations relating to wilderness designation, including recommendations resulting from the Forest Services "RARE II" review process.

Regarding 11 other areas in Colorado, however, P.L. 96-560 provided for further study and for the submission of recommendations for their future management as components of the National Wilderness Preservation System or otherwise.

This bill is the product of the Committees consideration of Administration recommendations regarding those 11 areas and of proposals for future management of some other portions of Colorados National Forests.

The bill also addresses the future management of some public lands in Colorado managed by the Bureau of Land Management (BLM) that, pursuant to section 603 of the Federal Land Policy and Management Act of 1976, have been studied for possible designation as wilderness. (Under the bill as reported, some of these public lands would be transferred to management by the Forest Service while others would continue to be managed by the BLM.) However, decisions about the future management of the majority of public lands administered by the BLM in Colorado that were studied for possible wilderness designation have left for future legislation.

After enactment of P.L. 96-560, more than a decade elapsed before both the House and Senate again acted on a Colorado wilderness bill. The primary reason for the long delay was the fact that because of Executive Branch policies and judicial decisions, Congressional decisions about wilderness in the west came to involve explicit decisions about water and water law.

The importance of water for wilderness has long been recognized, and the Committees report about the Colorado wilderness areas designated in 1980 noted that "their natural production of invaluable supplies of high quality water provide(s) a compelling reason for preserving them in their natural state." but the Committee then was of opinion that specific provisions related to water were not a necessary component of wilderness legislation, and neither the 1980 Colorado wilderness legislation or previous wilderness bills had contained such provisions.

However, a 1985 U.S. District Court decision in Colorado cast serious doubt on the propriety of the Reagan Administrations policy of effectively relinquishing any claims to

water rights for wilderness areas that were designated by legislation with no explicit water-rights provisions. Largely in response to this decision and revisions in Administration policies, the Senate began to insist on including in wilderness legislation provisions to specify whether designation of a wilderness area involved a reservation of water by the national government.

Accordingly, since 1986 laws designating wilderness on western National Forests or BLM-managed public lands have included an explicit reservation of a Federal water right. Examples include Public Law 100-225, related to the El Malpais National Monument, National Conservation Area, and wilderness areas; the Nevada Wilderness Protection Act of 1989 (P.L. 101-195); the Arizona Desert Wilderness Act of 1990 (P.L. 101-628); and the Los Padres Condor Range and River Protection Act (P.L. 102-301).

In August, 1991, the Senate passed a bill (S. 1029 of the 102d Congress) to provide for designation as wilderness or otherwise of additional areas in Colorado not designated in 1980. That bill included an express disclaimer stating that nothing therein or in "any other Act" was to be construed as constituting "either an express or implied reservation of water or water rights" arising from the designation (as wilderness or otherwise) of the lands covered by the bill. The bill also specified that the Secretary of Agriculture was to enter into a contractual arrangement with a Colorado State agency regarding certain in-stream-flow filings established under State law with respect to the Piedra area, designated as wilderness by the bill.

In July, 1992, the Committee on Interior and Insular Affairs amended the bill, omitting all provisions dealing with water, and ordered it favorably reported.

In its Report on the amended version of the bill (H. Rpt. 102-810 Part I), the Committee explained that it had deleted the disclaimer and other water-related provisions of the bill as passed by the Senate because "Their inclusion would have been inconsistent with the Committee's action including an express reservation to the United States of water rights for wilderness designated by other legislation recently enacted or passed by the House of Representatives . . ."

The report explained further that "Instead the Committee substitute is silent with respect to water and water rights. However, this silence should not be construed as meaning that the Committee believes that proper protection of the water resources of wildernesses not an important aspect of the management of wilderness, especially in Colorado and other States in the more arid regions of the Nation. . . . In reporting S. 1029, as amended by the Committee substitute, the Committee has acted to afford the entire House of Representatives an opportunity to decide what provisions should be included regarding the water resources of the wilderness areas designated by the bill and the rights and responsibilities of the National Government with respect to proper management and protection of those resources."

On September 14, 1992, the House passed S. 1029 with further revisions, including an express reservation of water with respect to each wilderness designated by the bill. There

followed discussions between the Chairman and other Members of the Committee and interested Senators, and on October 8, 1992, the Senate passed a revised version of the bill that included water-related provisions reflecting these discussions; but the house took no further action prior to sine die adjournment.

Section 8 of H.R. 631 as reported includes water-related provisions like those passed by the Senate in October, 1992. In summary, its purpose is to provide protection for wilderness similar to that which would result from implementation of a federal reserved water right while precluding any effective assertion of such a right. Its principal effects are

(1) to limit the jurisdiction otherwise available to a court or agency under any Act of Congress (including the so-called McCarran Amendment, 43 U.S.C. 666, which affords a waiver of sovereign immunity so as to permit joinder of the United States in certain State proceedings related to water rights), so that there could be no consideration of any claim to water or water rights involving a construction of the bill as effecting a reservation to the United States of water rights with respect to lands that the bill designates as wilderness; and

(2) to restrict the ability of any U.S. officer or employee or any other person to act on behalf of the United States to assert any such claim; and

(3) to prevent Federal approval or assistance for new or enlarged water-related facilities within wilderness areas and to constrain, partly directly and partly by providing additional authority for administrative actions, various water-related activities that could have an adverse impact on wilderness resources and values.

It should be noted that the Committee's acceptance of section 8 of H.R. 631 reflects two specific factors: the fact that the lands the bill designates as wilderness are solely and entirely headwaters areas, and the interaction between the provisions of section 8 and the State of Colorado's system for adjudication and administration of water and water rights. Therefore, the favorable reporting of H.R. 631 should not be read as indicating that the Committee would find similar provisions adequate to protect downstream wilderness areas or headwaters wilderness areas outside Colorado.

#### The Committee Amendments

The Committee adopted a number of amendments, primarily technical in nature but also including provisions related to nomenclature and to use of routes and trails in the Fossil Ridge Recreation Management Area. As a general rule, the Committee does not favor naming wilderness areas after living persons, even persons associated with the establishment or expansion of the National Wilderness Preservation System, and therefore agreed to the request of Representative Skaggs and former Senator Wirth to delete the proposed naming of one area as the "Wren and Tim Wirth Wilderness". The revised trail and road provisions are discussed in more detail in the Section-by-Section Analysis portion of this Report.

## Section-by-Section Analysis

Section 1 provides a short title, namely the "Colorado Wilderness Act of 1993", and a definition for the term "the Secretary". Areas Designated as Wilderness

Section 2 (a) would designate 19 areas to be managed as wilderness (either as separate components of the National Wilderness Preservation System or as additions to existing units of that System). These areas are as follows: Areas Acreage

American flats (addition to existing wilderness) 3,390

Bill Hare/Larson Creek (addition to existing wilderness; transfer to Forest Service from BLM) 815

Bowen Gulch (addition to existing wilderness) 6,990

Buffalo Peaks 43,410

Davis Peak (addition to existing wilderness) 20,750

Fossil Ridge 33,060

Greenhorn Mountain 22,040

Lost Creek (addition to existing wilderness) 14,700

O-Be-Joyful (addition to existing wilderness) 5,500

Powderhorn (part managed by BLM) 60,100

Ptarmigan Peak 13,175

Sangre De Cristo 226,455

Sarvis Creek 47,140

South San Juan (addition to existing wilderness) 31,100

Spruce Creek (addition to existing wilderness) 8,330

St. Louis Peak (renamed "Byers Peak") 8,095

Vasquez Peak 12,300

West Needles-Weminuche (additions to existing wilderness) 28,740

Wheeler (addition to existing wilderness) 25,640

A more detailed description of these areas follows:

American Flats, Bill Hare Gulch/Larson Creek:

These additions to the existing "Big Blue Wilderness" (which the bill renames as Uncompahgre Wilderness) are located north of Lake City, Colorado. Bureau of Land Management (BLM) wilderness studies determined these additions would be a logical extension of the wilderness, especially with regard to American Flats, an area above treeline marked by undulating hills that form the watershed divide separating Cow Creek and Wildhorse Creek from Henson Creek. They provide unobstructed views of Wetterhorn and Uncompahgre Peaks and much of the San Juan Mountains. Comprised mostly of alpine tundra, but including (in the Bill Hare Gulch and Larson Creek areas) some lower-elevation ponderosa pine and spruce/fir forests these areas are a summer habitat for several species of big game. Hinsdale and Ouray counties are popular with tourists and outdoor enthusiasts, including off-road vehicle users who especially enjoy the scenery along the Engineer Pass Road. As was true of the House-passed Colorado wilderness bill of 1992, special care was taken to exclude from wilderness several patented mining claims in the south portion of the American Flats addition.

Bowen Gulch

This area was considered for wilderness designation during the Forest Services "RARE II" review, but was not recommended for wilderness designation. The area is adjacent to the Continental Divide and is unusual for Colorado because of its abundant rainfall, caused by the effects of the mountains on the prevailing westerly winds, and one of the most important stands of old-growth trees in the State including some as large as five feet in diameter and more than 600 years in age. In 1984, prior to adoption of new policies for protection of old-growth, the Forest Service carried out the environmental analysis of a proposed sale of timber in this area, and in 1988 completed a sale contract allowing harvesting of timber in the Bowen Gulch area. However, the Louisiana Pacific Company, in response to controversy about the sale, agreed not to log the area if substitute timber were provided, which the Committee understands has now been done. The reported bill designates a portion of the Bowen Gulch area as an addition to the existing Never Summer Wilderness, and, in section 6, prohibits timber harvest on another portion that is also withdrawn from mineral exploration or development and designated as the "Bowen Gulch Protection Area".

Buffalo Peaks

This wilderness area is located some 10 miles southeast of Leadville, Colorado, between the South Platte River and Arkansas River drainages, within Lake, Park and Chaffee counties. The areas rolling terrain, subalpine meadows, and timbered basins provide habitat for bighorn sheep. Roads once existed in the area, but they have been closed since

1971 and there is little, if any conflict with grazing or off-road vehicle use. The wilderness boundaries have been drawn to avoid most patented mining claims and an electronic site near South Peak.

#### Davis Peak

Left as a Further Planning Area in 1980, the Davis Peak addition to the Mt. Zirkel Wilderness Area is a lower-elevation area that includes a portion of the Encampment River. The bill as reported includes in wilderness the Manzanares Lake area, but excludes the Dome Peak area, which is managed for timber production, livestock grazing and motorized recreation, as well as the area which serves as the Big Creek campground water collection system and the South Hog Fork Creek drainage, one of the highest producing watersheds in the state.

#### Fossil Ridge

The bill as reported provides for wilderness designations of a portion of the Fossil Ridge Wilderness Study Area, between Crested Butte and Gunnison, Colorado, designated in 1980 by P.L. 96-560. The Forest Service once identified this as among the highest-ranking potential wilderness areas in Colorado, but has failed to manage the area to adequately maintain its wilderness character in particular, by allowing excessive use of mechanized equipment for recreation. Nonetheless, the area remains a very special place, marked by alpine lakes, notable wildlife values (including mountain goats and elk) and the fossil-bearing limestone strata that give the area its name. The remainder of the wilderness study area is included within the "Fossil Ridge Recreation Management Area" designated by section 5.

#### Greenhorn Mountain

This rugged, broken, and ecologically diverse part of the southern Front Range is part of a slightly larger area designated as a Wilderness Study Area by P.L. 96-560 in 1980. At the suggestion of the Forest Service, the boundaries of this area have been drawn to designate as wilderness lands within a "Greenhorn Mountain Cherrystem" that were excluded from wilderness in past proposals. The "Greenhorn Mountain Cherrystem" was closed in 1987 and subsequently ripped and reseeded, leaving only a four-foot-wide hiking trail.

#### Lost Creek

This addition to the existing Lost Creek Wilderness Area is directly south of Denver, Colorado, near Kenosha Pass. The boundaries are the same as in the House-based bill of 1992, and include South Twin Cone Peak at the northern end of the Platte River Mountains as well as the upper reaches of Rock and Shutetown Creeks and Foster Gulch.

#### O Be Joyful

This area was considered for wilderness in 1980, but not designated, because of the need for further consideration of possible conflicts. While some possible conflicts may still remain, inclusion of the area in wilderness (as an addition to the existing Raggeds Wilderness) will provide protection for important resource values and the areas status as a part of the municipal watershed for the community of Crested Butte. The boundaries include the Oh-Be-Joyful Peak (part of the Ruby Range), Pass, and Creek from which the area takes its name as well as the Peeler Lakes.

### Powderhorn

Even this areas most famous visitor, Alferd Packer, must have been awed by the expanse of alpine tundra, the largest in the "lower-48" States, found within this area, much of which has been managed by the BLM as the Powderhorn Primitive Area. (Part of the area bears the name "Cannibal Plateau", a reminder of Packers notoriety). The boundaries straddle the line between Gunnison and Hinsdale Counties; the portion of the wilderness which has been managed as the Powerhorn Primitive Area will continue to be managed by the Bureau of Land Management, while the remainder will continue under management of the Forest Service.

### Ptarmigan Peak (formerly Williams Fork)

This wilderness area includes a variety of high-altitude terrain on both sides of the Continental Divide stretching from Woods Mountain and Herman Lake, north and east of the eastern portal of the Eisenhower Interstate Highway tunnel, west to Ptarmigan Pass, and then northwest nearly to Ute Peak in the Williams Mountains.

### Sangre de Cristo

The Sangre de Cristo Wilderness is by far the most complex area dealt with in this bill. The area is generally located between the towns of Salida and Alamosa, in Custer, Fremont, Saguache, Huerfano and Alamosa counties. The Mountains themselves rise steeply from the floor of the San Luis Valley, location of some of Colorados oldest settlements (the name Sangre de Cristo, or "Blood of Christ", is said to have been bestowed by Juan De Onate in 1647 and to refer to the red hues tinting the range at sunset). Extending from northern New Mexico into central Colorado, the range, with its 30 peaks rising above 13,000 feet (7 rise above 14,000), forms a natural barrier between Southeast and Southwest Colorado and causes the wind currents responsible for formation of the remarkable dunes in the Great Sand Dunes National Monument on its western flank. While the South Colony Lakes road is not included in the Sangre de Cristo Wilderness designated in subsection 2(a), and therefore may be managed to permit motorized use, the Committee intends that the Forest Service strictly and universally prohibit (and physically restrict) any motorized access into the lands included in this wilderness area, including the South Colony Lakes and the sensitive alpine tundra areas in that vicinity. As in the House-passed bill of 1992, the boundary of the wilderness area has been drawn so as to exclude from wilderness a number of private holdings (including patented mining claims) in the Como Lake and Blanca Peak areas, and, in addition, H.R.

631 as reported also omits from wilderness the portion of the wilderness study area south of Como Lake, in the vicinity of Tobin Creek.

#### Sarvis Creek

This area is a low-elevation forest, different from most of the states wilderness areas that are characterized by ruggedness of terrain. It has extraordinary wildlife habitat, and is used for recreation by many Steamboat Springs residents. The boundaries exclude from wilderness Walton Peak in the north because of the need for continued accessibility to an electronic transmission site and a popular snowmobile trail near Forest Road 100. The boundary will not impact the work the Forest Service has been doing to prepare a thorough Environmental Impact Statement (EIS) on the proposed Lake Catamount Ski Area near Steamboat Springs. The Silver Creek Trail is included within the wilderness, but the Committee has drawn the northeastern boundary of this area so as to exclude from wilderness the Routt Divide Trail, partly within wilderness under other proposals, so that it can continue to be managed to permit mechanized use, including use by bicycles, if and as authorized by the Forest Service.

#### South San Juan Addition

The South San Juan Wilderness is located east of Pagosa Springs, Colorado. The lands that would be added to this existing wilderness area by the bill as reported include the V-Rock and Montezuma Peak Wilderness Study Areas. This is one of the "wildest" areas in Colorado, and not only attracts fishermen, backpackers, cross-country skiers, rock climbers, hunters, and horseback riders, but also is prime habitat for endangered species. The Colorado Division of Wildlife believes the area is suitable habitat for grizzly bears (and the last confirmed grizzly bear presence in Colorado occurred in the existing South San Juan Wilderness), as well as for wolverines and river otters. According to Forest Service data, less than nine percent of this areas acreage is suitable for timber harvesting, and no sales have been planned. The Committee understands that the Forest Service and the U.S. Geological Survey have noted the presence of oil, gas and minerals, but consider them too small and isolated to be mined.

#### Spruce Creek

The Spruce Creek area is surrounded by the existing Hunter-Fryingpan Wilderness Area, northeast of Aspen, and is appropriate for management as an addition to that wilderness. It was considered for wilderness in 1980, but was not designated because of perceived conflicts with timber harvesting that have now been resolved. The bill as reported includes provisions to make clear that that the addition of this area to wilderness will not interfere with continued operation of the Fryingpan-Arkansas project.

#### St. Louis Peak ("Byers Peak Wilderness") and Vasquez Peak

These areas, in Grand County, Colorado, are a high, rugged, expanse of tundra and rock, mostly above treeline, that straddles the Continental Divide. Because of their proximity to

Denver, they are an important recreational resource, attracting many visitors. Their forests provide little commercial timber. Some unpatented mining claims do exist within the areas, but no exploration activities have recently taken place. While the Vasquez Peak Wilderness Study Area (WSA) was recommended for wilderness, the Forest Service felt there were too many "external influences" to recommend such designation for the adjacent St. Louis Peaks area. However, the Committee has decided that both areas should be designated as wilderness.

#### Weminuche and the West Needles

These additions to the existing Weminuche Wilderness provide wilderness designation for lands on both sides of the Animas River (and the famous narrow-gauge railroad) from about 4 miles south of Silverton to the Teft Spur, just downstream from the mouth of Crazy Woman Gulch. This is some of the most spectacular mountainous country in Colorado. Some of these lands were originally omitted from National Forests status (remaining public lands managed by the Bureau of Land Management and its predecessor agencies) because of possible mineral significance, and, pursuant to section 603 of the Federal Land Policy and Management Act of 1976 ("FLPMA"), the Needle Creek, West Needles contiguous, Whitehead Gulch, and Weminuche Contiguous areas were identified as wilderness study areas subject to interim management pending a Congressional decision as to their possible inclusion in the National Wilderness Preservation System. In December, 1981, then-Secretary of the Interior James G. Watt directed that these areas no longer be subject to such interim management, but by enactment of section 12 of the Public Lands and National Park Act of 1983 (P.L. 98-141), Congress added some of these lands to the National Forest System, directing they be managed as part of the West Needles Wilderness Study Area, and directed that the remainder continue to be managed pursuant to section 603 of FLPMA. The reported bill adds to the existing wilderness the same lands as in the House-passed Colorado wilderness bill of 1992.

#### Wheeler Area (addition to La Garita Wilderness)

This area is truly special and offers visitors some spectacular views of a rather unique part of Colorado. High in the La Garita Mountains east of Creede, the pancake rocks and pinnacles of the area have long been recognized as an unusual resource, and were given the administrative designation of "geologic area" prior to being included within the lands for which a special study status was established by P.L. 96-560 in 1980. The bill includes the area previously designated as the Wheeler Geologic Area (part of the area required to be studied by section 105(b) of P.L. 96-560) within wilderness, while omitting from wilderness the road leading to the geologic area itself, in recognition that the viewpoint at the end of the road is a popular recreation site. The designation of wilderness in this area will not preclude Forest Service installation of toilets, picnic facilities, and similar small structures outside the wilderness boundaries.

#### Maps and Legal Descriptions

Subsection 2(b) provides for preparation and appropriate filing of maps and legal descriptions of the areas the bill would designate as wilderness.

#### Administrative Provisions

Section 3 includes a number of administrative provisions providing for appropriate management of the areas designated as wilderness (including the management of livestock grazing), making clear that the bill will not affect the jurisdiction or responsibilities of the State of Colorado relating to wilderness, and changing the name of the Big Blue Wilderness.

Under subsection 3(f), the Big Blue Wilderness, as designated by P.L. 96-560 and as it would be expanded by additions made by this bill, would be renamed as the "Uncompahgre Wilderness," as originally provided in the Senate version of that 1980 legislation and in recognition that much of these lands were part of the Uncompahgre Primitive Area prior to enactment of P.L. 96-560.

#### Wilderness Study Release

Section 4 would repeal the provisions of P.L. 96-560 dealing with areas dealt with in this bill.

#### Fossil Ridge and Bowen Gulch

Section 5 would designate 43,900 acres of National Forest lands as the "Fossil Ridge Recreation Management Area." The area would be established to conserve, protect, and enhance its scenic, wildlife, recreational, and other natural resource values; would be withdrawn (subject to valid existing rights) from mineral entry and from mineral and geothermal leasing; would be closed to timber harvesting to the same extent as if the area were designated as wilderness; and would be closed to construction of developed campgrounds and new roads or trails. The area would be closed to non-emergency motorized travel except on existing trails or routes where such travel was permitted as of July 1, 1991, as identified on a map to be made available within one year after enactment of the bill, and motorized use even of these identified routes and trails could be curtailed for resource protection or public safety. Designation of the area would not prohibit or change the administration of livestock grazing on the lands involved.

The provisions of the section related to identification of trails or routes open to non-emergency motorized travel can be implemented through essentially ministerial actions, and are not intended to either trigger a process of formal revision or amendment of any applicable National Forest management plans, or to preclude future plan revision or amendment in the regular course of implementation of the National Forest Management Act. The Committee understands that the Forest Service has begun the identification process, and therefore expects compliance with the year-after-enactment deadline for completion of this process and preparation of a publicly-available map reflecting its results.

Section 6 would designate 11,600 acres of National Forest lands as the "Bowen Gulch Protection Area". While all of the Bowen Gulch area would be appropriate for management as wilderness, the portion covered by section 6 has been given a different status so as to accommodate snowmobiling and use of mountain bicycles under appropriate regulations. The area would be withdrawn from mineral entry and from mineral and geothermal leasing; would be closed to new developed campgrounds, roads, and trails; would be closed to timber harvesting to the same extent as if designated a wilderness; and would be closed to motorized travel except for snowmobile use on designated trails and routes in existence on July 1, 1991 during periods of adequate snow cover (but open to mechanized, non-motorized travel). The Forest Service would be required to develop a management plan for the area during revision of the relevant National Forest plan.

Section 7 provides that nothing in the bill will affect ownership or use of lands therein not owned by the United States or access to such lands available under other applicable law. The Committee is aware that within the wilderness areas designated by the bill there are some lands and interests (e.g., mining claims) that are not owned by the United States, and notes that under the Wilderness Act such inholdings in National Forest wilderness areas cannot be acquired without the consent of the owner, and that adequate access is required to be provided to the owner by existing law.

#### Water

Section 8 addresses water and water resource facilities. Subsection 8(a) recites findings upon which the section is based, states the sections purpose, and provides a definition of the term "water resource facility" as used in the section.

As stated in the findings, section 8 is entirely premised on certain specific characteristics of the lands designated as wilderness by section 2(a) of the bill, namely

- (1) these lands are located at the headwaters of the streams and rivers located on those lands, with few if any opportunities for diversion, storage, or other uses of water that could occur outside these areas that would adversely affect the wilderness values of the areas;
- (2) these lands are not suitable for use for development of new water resource facilities or the expansion of existing water resource facilities; and
- (3) therefore, proper management and protection of the wilderness values of the specific areas covered by section 2(a) can be provided for in ways different from those employed with regard to wilderness lands lacking these particular attributes.

This being the case, section 8 is intended to protect the wilderness values of the lands described in section 2(a) by means other than those based on assertion of Federal reserved water rights.

## Restriction

Subsection 8(b)(1) would prohibit any person (including the Secretary of Agriculture or any other person) from acting as the agent of the United States in asserting in any court or agency any claim for water or water rights in Colorado based on construing any portion of the bill (or the designation by the bill of any lands as wilderness) as constituting either an express or implied reservation of water or water rights. It also would deny any court or agency any statutory jurisdiction to consider any such claim: a restriction encompassing any jurisdiction otherwise available under any Act of Congress. (Of course, nothing in this Act could have the effect of altering the original jurisdiction of the Supreme Court of the United States under clause 2 of section 2 of Article III of the Constitution, which could be altered or restricted only through an amendment of the Constitution itself).

The effect of enactment of paragraph 8(b)(1) will be to deny anyone (including but not limited to a person holding an established office of the national government) the authority to assert on behalf of the United States, and to deny a court or agency any statutory jurisdiction to consider, a claim that the bills designation as wilderness of the lands described in section 2(a) has the effect of reserving to the United States any water or water right with respect to those lands. The scope and applicability of paragraph 8(b)(1) has been carefully limited in order that the withdrawal of statutory jurisdiction over a particular type of claim will in all other respects leave completely undisturbed the general body of law (including the so-called "McCarran amendment", 66 Stat. 5460; 43 U.S.C. 666) regarding the jurisdictions of U.S. and State courts and agencies with respect to water.

## Scope and Effect

Paragraph 8(b)(2) clarifies several aspects of the bills effects with regard to water or water rights. Subparagraph (b)(2)(A) states that nothing in the bill constitutes or is to be construed as either an express or implied reservation of any water or water right with respect to the Piedra, Roubideau, and Tabequache areas identified in section 9, the Bowen Gulch Protection Area identified in section 5, or the Fossil Ridge Recreation Management Area identified in section 6. These areas are not designated as wilderness.

Subparagraph (b)(2)(B) states that nothing in the bill is to be construed as a creation, recognition, disclaimer, relinquishment, or reduction of any water rights of the United States in Colorado existing before the bills enactment, except as provided in subsection 8(g)(2). Thus, with the one exception cited, the bill would have no effect on any existing United States water rights in Colorado.

Subparagraph (b)(2)(C) provides that with the exception of subsection 8(g)(2), nothing in the bill is to be construed as constituting an interpretation of any other Act or any designation made by or pursuant thereto; and subparagraph (b)(2)(D) provides that nothing in section 8 is to be construed as establishing a precedent with regard to any future wilderness designations.

## Water Resource Facilities

Subsection 8(c) deals with water resource facilities (meaning irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, transmission and other ancillary facilities, and other water diversion, storage, and carriage structures).

This subsection would prohibit any U.S. officer, employee, or agent (including the President) from funding, assisting, authorizing, licensing, or permitting the development of any new water resource facility or the enlargement of any existing water resource facility within any of the areas described in sections 2, 5, 6, or 9 that is, the Fossil Ridge Recreation Management Area, the Bowen Gulch Protection Area, the Piedra, Roubideau, and Tabeguache Areas, and the lands the bill designates as wilderness. This prohibition would apply notwithstanding any other provision of law (e.g., 16 U.S.C. 1133(d)(4)).

## Access and Operation

Subsection 8(d) addresses access to and operation of existing water resource facilities within the areas described in sections 2, 5, 6, and 9 of the bill. Paragraph (d)(1) would direct the relevant Secretary to allow reasonable access to such facilities in existence on the date of enactment of the bill, including motorized access where necessary and customarily employed on routes in existence on that date, subject to the provisions of this subsection.

Paragraph (d)(2) specifies that existing access routes within the areas described in sections 2, 5, 6, and 9 customarily employed as of the date of the bills enactment may be used, maintained, repaired and replaced to the extent necessary to maintain their present function, so long as such activities have no greater adverse effects on the areas resources and values. This means that such facilities may be repaired or replaced to maintain their present functions in a way that lessens their adverse effects on natural values. The relevant Secretary is responsible for supervising the implementation of this and the other provisions of section 8.

Paragraph (d)(3) provides that, subject to subsections 8(c) and 8(d), the relevant Secretary is to allow water resource facilities in existence on the date of the bills enactment within the areas described in sections 2, 5, 6, and 9 to be used, operated, repaired, maintained, and replaced to the extent necessary for the continued exercise, in accordance with Colorado law, of vested water rights adjudicated prior to the bills date of enactment by a court of competent jurisdiction for use in connection with such facilities. The paragraph also specifies that the impact of an existing facility within an area described in section 2, 5, 6, or 9 on the water resources and values of such an area shall not be increased as a result of any change (as compared with the type of use adjudicated as of the date of enactment of the bill) in the adjudicated type of use of such a facility. The effect of these provisions is to ensure that an existing ditch, reservoir, or other water resource facility within any of these areas can be operated only under a valid right adjudicated for that

specific structure prior to the date of the bills enactment. The paragraph should not be read as allowing new water rights to be initiated or adjudicated for use in connection with such a facility, or as allowing the point of diversion or place of storage of existing water rights (either within or outside the areas) to be transferred to any existing facility within the areas. Changes in the type of water use adjudicated in connection with facilities in existence as of the date of enactment are allowed only if the impact of the affected facility on the water resources and values of the area is not increased as a result of any such change.

As noted, the reference in paragraph (d)(3) to "vested water rights" relates only to rights adjudicated for use in connection with facilities in existence as of the date of the bills enactment. It should also be noted that the reference in the same paragraph to "the continued exercise" of such rights "in accordance with Colorado State law" is intended to make clear that the principles of Colorado water law will remain applicable, including principles (such as those dealing with abandonment) related to the continued effectiveness of water rights. Thus, this paragraph does not afford to such "vested water rights" any relief from the maintenance requirements of State law; and the paragraphs requirement that the Secretary allow activities necessary for the continued exercise of such rights will not apply in those cases in which, under Colorado law, such rights have become ineffective through abandonment or otherwise. The relevant Secretary, as land manager, can and should take appropriate steps on behalf of the landowner (the United States) to enforce relevant principles of Colorado water law in such cases, for example by prohibiting activities covered by this paragraph.

Paragraph (d)(4) is a mandatory requirement that water resource facilities, and access routes serving such facilities, in existence on the date of the bills enactment within the areas described in sections 2, 5, 6, and 9 shall be maintained and repaired when and to the extent necessary to prevent increased adverse impacts on the resources and values of those areas.

### Savings Clause

Subsection 8(e) is a savings clause, stating that except as provided in subsections 8(c) and 8(d), neither the provisions of the bill related to the Fossil Ridge Recreation Management Area, the Bowen Gulch Protection Area, the Piedra, Roubideau, and Tabeguache Areas, and the lands designated as wilderness by section 2(a), nor the wilderness status of the lands so designated by section 2(a), are to be construed to affect or limit the use, operation, maintenance, repair, modification, or replacement of water resource facilities in existence on the date of the bills enactment within the boundaries of any of these areas. The intent of subsection 8(e) is to make clear that subsections 8(c) and 8(d) are the only parts of the bill that govern such use, operation, maintenance, repair, modification, or replacement of existing water resource facilities within these areas.

### Monitoring and Implementation

Subsection 8(f) provides that the Secretaries of Agriculture and the Interior are to monitor the operation of and access to water resource facilities within the areas described in sections 2, 5, 6, and 9 of the bill and are to take all steps necessary to implement the provisions of section 8 of the bill. This provision is a practical recognition that implementation of section 8 will require vigilant, careful, and ongoing efforts by the Federal land managers to ensure that the requisite protection of wilderness and other values will be achieved, consistent with the specified protections for existing water resource facilities and associated water rights.

#### Interstate Compacts and the North Platte River

Subsection 8(g) has two paragraphs. Paragraph 8(g)(1) provides that nothing in the bill or in any previous Act designating any lands as wilderness is to 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. This paragraph also states that except as expressly provided in section 8, nothing in the bill will affect or limit the development or use of Colorado's full apportionment of such waters by existing and future holders of vested water rights.

Paragraph 8(g)(2), like paragraph 8(b)(1), would withdraw statutory jurisdiction of courts and agencies to consider certain water-related claims, but this paragraph relates solely to the Platte River Wilderness established by P.L. 98-550, which is located on the boundary between Colorado and Wyoming. This paragraph provides that no person (including the Secretary of Agriculture or any other officer, employee, or agent of the United States) shall assert in any court or agency (of the U.S. or other jurisdiction) any rights, and no U.S. court or agency shall consider any claim or defense based on such rights, which may be determined to have been established for waters of the North Platte River for purposes of such wilderness area, to the extent that such rights would limit the use or development of water within Colorado by present and future holders of vested water rights in the North Platte River and its tributaries to the full extent allowed under interstate compact or applicable U.S. Supreme Court equitable decree. The paragraph also provides that any such U.S. rights are to be exercised so as not to prevent the use or development of Colorado's full entitlement to interstate waters of the North Platte and its Colorado tributaries allowed under interstate compact or U.S. Supreme Court equitable decrees. This means that while existing water rights associated with wilderness or other Federal reservations may still be recognized in the North Platte and its tributaries, such rights associated with this specific wilderness area may not be asserted or exercised in a way that would prevent Colorado from using its full entitlement under Federal law to the waters of the North Platte system. The effect of this is to make clear that the bill is not intended to legislatively modify the apportionment decree of the United States Supreme Court in *Nebraska v. Wyoming*, 325 U.S. 589 (1945), modified, 345 U.S. 981 (1953). Like paragraph 8(b)(1), paragraph 8(g)(2) of course can have no effect on the original jurisdiction of the Supreme Court of the United States under the Constitution, but its enactment will withdraw any and all statutory jurisdiction (including any available under the McCarran Amendment, 43 U.S.C. 666) to consider the specific type of claim to which it applies.

## Illustrative Situations

The following hypothetical situations illustrate how section 8 would affect some decisions and land-management actions relating to existing or proposed water resource facilities. (For convenience, the term "ditch" is used in most of these examples, although ditches are only one of the types of water resource facilities covered by section 8; and the term "area" is used to refer to any area described in sections 2, 5, 6, or 9 of the bill):

1. An existing ditch in an area has historically been used for one or more beneficial uses (e.g., irrigation, municipal, or domestic use) in accordance with a water right adjudicated prior to the enactment of the bill for use in connection with that ditch. The ditch's owner seeks to change the point of diversion to a new ditch to be constructed within an area. This would not be permissible, because section 8(c) would prohibit the construction of the new ditch, whether or not it was to be used in the exercise of a water right adjudicated prior to enactment. Also, section 8(d)(3) would allow exercise in an area only of vested water rights adjudicated prior to enactment for use in connection with the same facilities through which the water will be used after enactment.
2. There are two existing ditches within the same area. One ("ditch A") has been used in connection with a vested water right adjudicated prior to enactment for use in connection with that ditch. The owner of ditch A seeks to change the point of diversion to the other ditch ("ditch B"). This would not be permissible, regardless of whether ditch B is upstream or downstream of ditch A, because the water right associated with ditch A had not been adjudicated before enactment for use in connection with ditch B.
3. A vested water right was adjudicated prior to enactment for use in connection with an existing ditch within an area. The ditch's owner applies to the relevant Colorado water court for permission to change the point of diversion to a new structure to be built at a downstream location outside any area, and to discontinue use of the existing ditch. Nothing in the bill would prohibit this change, which would be regulated solely by Colorado law.
4. An existing ditch in an area has historically been used for irrigation of lands located outside any area, in accordance with a vested water right adjudicated prior to enactment of the bill in connection with that ditch. The ditch's owner applies to the relevant Colorado water court for permission to change the type of use (e.g., from irrigation use to municipal water-supply use by a nearby town outside the area) with no change in the point of diversion within the area. This action would be permissible, provided that the change in the type of use did not result in any change in the timing or amount of diversions at the location of the ditch within the area. Under section 8(f), the relevant Secretary will have a continuing obligation to ensure compliance with the conditions the bill imposes on proposed changes in types of uses of affected water rights, either by participation in State water adjudication proceedings or through other effective steps; if the Secretary does participate in such State proceedings, the Secretary (like other participants) may invoke any applicable doctrines of Colorado water law, such as those

requiring that future use of a changed water right must be limited to its actual historic use.

5. An existing ditch in an area has not been used for such a period of time as to raise the issue of whether under Colorado law the associated water right has effectively been abandoned, when the ditch owner seeks to resume use of the ditch for exercise of a water right adjudicated prior to the bills enactment. The relevant Secretary would be required to monitor the use of the ditch, and to take such action as necessary to ensure that it is not used in violation of applicable State doctrines, such as those related to abandonment and historic use. These actions could include refusal of access for use of a water right which the Secretary has reason to believe would be considered to have been abandoned under applicable Colorado water law, or the initiation of proceedings for a judicial determination of abandonment.

6. An existing ditch in an area has historically been used for irrigation of a limited amount of lands outside any area under a vested water right adjudicated prior to enactment in the amount of 10 cubic feet per second ("cfs") for use in connection with that ditch. The ditches owner begins to increase the amount and/or frequency of diversions, within the decreed limit of 10 cfs, in order to irrigate additional lands. This action would be impermissible, because section 8 would authorize only continued exercise of vested water rights in accordance with Colorado law, and Colorado water law prohibits the enlarged use of an irrigation right on additional lands, not historically irrigated by exercise of that right, without water court approval. Under section 8(f), the relevant Secretary would be required to monitor the use of the ditch and to take appropriate steps to enforce the restrictions imposed by the bill, which could include refusal of access to the ditch for a use impermissible under State law, invocation of State remedies for such an impermissible use, or the initiation of judicial proceedings for a declaration that such an enlarged use is improper.

7. An existing ditch in an area has been historically used in connection with a vested water right adjudicated prior to enactment, but a spring flood breaches the ditch, resulting in erosion and gulying on a hillside within the area. Under section 8(d)(4), the ditch owner is obligated to promptly make repairs to prevent continuing resource damage, and under section 8(f) the relevant Secretary is obligated to monitor the operation of the ditch and to enforce the requirement for prompt repair and restoration of affected resources.

8. A storage facility within an area is used to store water for which the facility owner has a vested water right adjudicated prior to enactment. The storage facility requires repairs, and the owner seeks to expand the facility in connection with performing these repairs. Repair of the facility, using existing access routes customarily employed as of the date of the bills enactment, is explicitly allowed by section 8(d), so long as neither the repairs themselves nor the operation of the facility after the repairs creates increased adverse impacts on the resources and values of the area as compared with any such impacts as of the date of enactment; but under section 8(c) it would be impermissible to enlarge any water resource facility within the area, whether or not the enlargement would be incidental to necessary repairs.

## Piedra, Roubideau, and Tabeguache Areas

Section 9 provides management requirements for the Piedra area (62,550 acres) in the San Juan National Forest and two areas Roubideau (19,650 acres) and Tabeguache (17,240 acres) in the jointly-managed Grand Mesa, Uncompahgre, and Gunnison National Forests. Each of these areas is withdrawn from all forms of location, leasing, patent, and disposition under the public land laws, the mining laws, and the mineral and geothermal leasing laws. Section 9 specifies that no further study for possible wilderness designations is required for any of these areas, but that until Congress determines otherwise activities within these areas are to be managed so as to maintain the present wilderness character of the areas and their potential for inclusion in the National Wilderness Preservation System. The section specifies that livestock grazing will be permitted and managed in the areas to the same extent and in the same manner as of the date of the bills enactment. The section specifies that except as provided elsewhere in the bill (i.e., in section 8) mechanized or motorized travel generally will not be permitted in the areas. The section also provides that motorized travel on a specified trail in the general Piedra area (but omitted from the "Piedra Area" described on the referenced map) will be limited to snowmobiles and may be allowed only when there is adequate snow cover. A description of each of these areas follows:

### Piedra

The Piedra area is characterized by notable mid-elevation forest and canyons as well as a stretch of the Piedra River. It would have been designated as wilderness by S. 1029 of the 102nd Congress as passed by the Senate in 1991, and was described in Senate Report 102-129.

### Roubideau

This area, like the Tabeguache Roadless Area, was targeted by the Forest Service for timber cutting before public outcry forced the Forest Service to re-evaluate its position. A prime feature of the area, which is located 15 miles west of Montrose, Colorado, is Roubideau Creek, which has carved one of Colorados most unique canyons. Named after a French fur trapper, the creek originates in sub-alpine spruce and aspen forests high on the Uncompahgre Plateau before it flows 20 miles into the Gunnison River. The area is rich in native cutthroat trout, beaver, black bear, deer, bobcat, and cougar, as well as golden eagles and other birds.

### Tabeguache

The Forest Services Tabeguache Roadless Area and an adjacent BLM wilderness study area, both in Montrose County, encompass one of the last pristine canyons of the Uncompahgre Plateau, the higher country that divides the drainage of the Uncompahgre and Gunnison Rivers from that of the Dolores. The areas have exposed geologic strata that represent a time-span of nearly 100 million years and they afford opportunities for

relatively low-elevation, year-round recreational uses such as horseback riding, hiking, camping, and fishing. The roadless area was recommended for wilderness designation by the Forest Service during RARE II, and the BLM has also found its wilderness study area to be suitable for wilderness designation, and such designation was recommended by the President in 1992. The BLM portion has extremely high cultural values, including evidence of both the Anasazi and Fremont cultures.

### Spanish Peaks Area

Section 10 would require the Secretary of Agriculture to continue to manage the Spanish Peaks Area (as defined by an appropriate map reference) as provided by the Colorado Wilderness Act of 1980 (i.e., as a wilderness study area) for 3 years after the bills enactment, notwithstanding the provisions of section 4(a) of the bill. It would also require the Secretary, before the end of this three-year period, to report as to the location, acreage, and nature of all private property interests located within the Spanish Peaks area, and the Secretary's views as to whether the owners of these interests would be willing to transfer these to the United States (by sale or exchange) on a fair-market-value basis if that could be done in the near future. The Committee encourages the Secretary to submit this report without unnecessary delay. Subsection 9(c) clarifies that nothing in the bill is to be construed as a grant of new authority for Federal acquisition of property by eminent domain. It does not affect any existing authority for such acquisitions. (Of course, if this area were to be designated as wilderness, the Wilderness Act would preclude this method of Federal acquisition of inholdings).

A description of this area follows:

In 1977, the Spanish Peaks, or Wayatoya ("Breasts of the World"), were designated as a National Natural Area because of outstanding scenic values, and this area has also been inventoried for potential historic recognition because the two volcanic peaks (easternmost extensions of the Rocky Mountains) served as a landmark to some of Colorado's early settlers. In fact, the trail between Bent's Old Fort and Taos, New Mexico, passes within sight of Spanish Peaks. Although some private inholdings currently exist within the area, the Forest Service has been working to acquire them through exchanges.

Section 11 would rename the existing Bureau of Reclamation Granby pumping plant (part of the Colorado-Big Thompson project) as the "Farr Pumping Plant".

### Other Areas

The Committee notes that there are a number of roadless areas within Colorado's National Forests and public lands omitted from wilderness or whose management is not addressed by the bill as reported, including but not limited to the Chama Basin (adjacent to the South San Juan Wilderness), Kannah Creek, Kebler Pass, Pole Creek, San Miguel Peak, Troublesome, Ute Creek, and lands in the vicinity of Tobin Creek in the Sangre de Cristo Range, and further notes that these areas have significant values associated with their undeveloped, roadless condition. Even in those cases where such areas are not subject to

specific management requirements under applicable existing law, the Committee intends that the Forest Service and the BLM continue to be mindful of those values in the course of planning and when making decisions regarding specific proposed uses of these lands.

Legislative History and Committee Recommendation On June 8, 1993, the Subcommittee on National Parks, Forests, and Public Lands held a hearing on H.R. 631 and on June 17 adopted amendments and ordered the bill as amended favorably reported to the Full Committee.

On June 30, 1993, the Committee on Natural Resources adopted amendments and ordered the bill as amended favorably reported to the House by a voice vote.

#### Oversight Statement

The Committee on Natural Resources will have continuing responsibility for oversight of the implementation of H.R. 631 after its enactment. No reports or recommendations were received pursuant to Rule X, clause 2(b)(2) of the Rules of the House.

#### Inflationary Impact; Cost; and Budget Act Compliance

In the opinion of the Committee, enactment of H.R. 631 will have no inflationary impact on the national economy and will involve only costs that are reasonable in view of the benefits derived. The estimate of the Congressional Budget Office follows:

U.S. Congress,  
Congressional Budget Office,  
Washington, DC, July 9, 1993.  
Hon. George Miller,  
Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.

Dear Mr. Chairman:

The Congressional Budget Office has reviewed H.R. 631, the Colorado Wilderness Act of 1993, as ordered reported by the House Committee on Natural Resources on June 30, 1993. CBO estimates that enactment of H.R. 631 would result in additional costs of \$2 million to \$3 million over the next five years, assuming appropriation of the necessary amounts. Enactment of H.R. 631 could affect direct spending by reducing offsetting receipts, and therefore the bill would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. We do not expect such reductions in receipts to be significant.

H.R. 631 would designate over 611,000 acres of National Forest System land and Bureau of Land Management holdings in Colorado as part of the National Wilderness Preservation System. Three additional units of federal land totaling about 155,000 acres would be permanently protected under conservation plans that are less restrictive than

wilderness designations. Finally, the bill would require the Forest Service to report on the status of private property within the Spanish Peaks further planning area.

Based on information from the Forest Service and the Bureau of Land Management, CBO estimates that costs for creating and executing wilderness area management plans would total about \$300,000 annually. Surveying and boundary work would cost from \$50,000 to \$250,000 per year for up to ten years.

The National Wilderness Preservation System Act stipulates that all timber located in units of the National Wilderness Preservation System is no longer available for timber harvesting. Because most of the land specified in this bill is not currently available for timber harvest, and much of the timber that is available would likely be replaced by timber in other areas, we would not expect there to be a significant reduction in timber receipts over the next five years.

Lands designated as wilderness are also no longer available for mineral exploration and development. We expect that no significant loss of mineral receipts would result from this bill because H.R. 631 provides that mineral resources could be removed under valid existing rights. The bill would bar new claims, but any effect of that prohibition would be minor because there have been few new mining claims in the affected areas in recent years.

Enactment of this bill would not impose significant costs on state and local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,  
Robert D. Reischauer, Director.  
Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Act of December 22, 1980

AN ACT To designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes.

TITLE I

\* \* \* \* \*

Sec. 105. (a) The Secretary of Agriculture shall review and within three years after the date of enactment of this Act, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability for inclusion in the National Wilderness Preservation System of the following lands:

(1) the Buffalo Peaks Wilderness Study Area, consisting of approximately fifty-six thousand nine hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Buffalo Peaks Wilderness Study Area Proposal", dated June 1980;

(2) the Fossil Ridge Wilderness Study Area, consisting of approximately fifty-four thousand seven hundred acres in the Gunnison National Forest, as generally depicted on a map entitled "Fossil Ridge Wilderness Study Area Proposal", dated December 1979;

(3) the Greenhorn Mountain Wilderness Study Area, consisting of approximately twenty-two thousand three hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Greenhorn Mountain Wilderness Study Area Proposal", dated June 1980;

(4) the South San Juan Wilderness Expansion Study Area, consisting of approximately thirty-two thousand eight hundred acres in the San Juan National Forest, as generally depicted on a map entitled "Montezuma Peak-V Rock Trail Wilderness Study Area", dated June 1980;

(5) the Piedra Wilderness Study Area, consisting of approximately forty-one thousand five hundred acres in the San Juan National Forest, as generally depicted on a map entitled "Piedra Wilderness Study Area Proposal", dated June 1980;

(6) the Sangre de Cristo Wilderness Study Area, consisting of approximately two hundred and twenty-one thousand acres in the Rio Grande and San Isabel National Forests, as generally depicted on a map entitled "Sangre de Cristo Wilderness Study Area Proposal", dated June 1980;

(7) the Spanish Peaks Wilderness Study Area, consisting of approximately nineteen thousand six hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Spanish Peaks Wilderness Study Area Proposal", dated June 1980;

(8) the Vasquez Peak Wilderness Study Area, consisting of approximately twelve thousand eight hundred acres in the Arapaho National Forest, as generally depicted on a map entitled "Vasquez Peak Wilderness Study Area Proposal", dated September 1980;  
and

(9) the West Needle Wilderness Study Area, consisting of approximately fifteen thousand eight hundred acres in the San Juan National Forest, as generally depicted on a map entitled "West Needle Wilderness Study Area Proposal", dated June 1980.

(b) The Secretary of the Interior and the Secretary of Agriculture shall review jointly the Wheeler Geologic Study Area consisting of approximately fourteen thousand acres in the Gunnison National Forest, as generally depicted on a map entitled "Wheeler Geologic Study Area Proposal", dated November 1980, and within three years following the date of enactment of this Act shall report to the President and to Congress their recommendations for management of the lands in such study area. In making such review and report, such Secretaries shall consider

(1) the natural, historical, cultural, scenic, economic, educational, scientific, energy, mineral, and geologic values of the study area;

(2) the management and protection of fragile geologic resources within the area;

(3) possible land management options or designations including national park, national monument, or national recreation area designation; addition to the National Wilderness Preservation System; special administrative designations; and management under the general laws and regulations applicable to the National Forest System;

(4) the effect of possible land management options on consumers, national security, and national, State and local economies, including timber harvest, tourism, grazing, energy, water, mineral, and other commercial activities;

(5) the need for additional mineral exploration in such area; and

(6) the suitability and desirability of permanent or temporary road or other mechanized access into the study area, with special attention to access by the elderly and the handicapped.

(c) Subject to valid existing rights, the study areas designated by subsections (a) and (b) of this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: Provided, That with respect to grazing of livestock and oil, gas, or mineral exploration and development activities, such study areas shall be administered according to the laws generally applicable to the National Forest System.

Sec. 106. (a) The Secretary of Agriculture shall review and within three years after the date of enactment of this Act, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability for inclusion in the National Wilderness Preservation System of the following area:

(1) the Oh-Be-Joyful Wilderness Study Area, consisting of approximately five thousand five hundred acres in the Gunnison National Forest, as generally depicted on a map entitled "Oh-Be-Joyful Wilderness Study Area Proposed", dated November 1980.

(b) Subject to valid existing rights, the Oh-Be-Joyful Wilderness Study Area shall be administered by the Secretary of Agriculture so as to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: Provided, That such management requirement shall not extend beyond a period of two years from the date of submission to Congress of the Presidents recommendation that such area be designated as wilderness, or beyond the date of submission to Congress of the Presidents recommendation that such area not be designated as wilderness: Provided further, That, with respect to oil, gas and mineral exploration and development operations in such study area, the terms of the Wilderness Act of 1964 shall apply.

Sec. 107. (a) \* \* \*

(b) On the basis of such review, the Congress hereby determines and directs that

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Colorado, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Colorado;

(2) with respect to the National Forest System lands in the State of Colorado which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, areas listed in sections 105 and 106 of this Act, or previously congressional designated wilderness study areas, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Range Land Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;