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**SPEAKER:** Mr. BOND; Mr. HARKIN; Mr. McCONNELL; Mr. CAMPBELL; Mr. GRASSLEY; Mr. KOHL; Mr. HATCH; Mr. FRIST; Mr. KENNEDY; Mr. BIDEN; Mrs. CARNAHAN; Mrs. HUTCHISON; Mr. KERRY; Mr. HOLLINGS

**TEXT:** [\*S11941]

By Mr. CAMPBELL:

**S. 1711.** A bill to designate the James Peak **Wilderness** and the James Peak Protection Area in the State of Colorado, and for other purposes; to the [\*S11944] Committee on Energy and Natural Resources.

Mr. CAMPBELL . Mr. President, today I introduce the "James Peak **Wilderness** and Protection Area Act." This language is the product of years of detailed negotiations regarding an area of great majesty in my home State of Colorado.

When discussing public lands issues, the potential uses for land are as varied and numerous as the diverse groups of users. Oftentimes, one camp is pitted against another, each convinced that its view is right to the point that it necessarily excludes the other interested party. And the result is that nothing viable happens. No land is protected and no uses of land are preserved. Instead, we read of angry exchanges, that if it were not for one side being so stubborn in its view, then we would have had a bill, while ignoring their own immobile position.

This bill, I am very proud to say, is different from the all-too-common discourse that I described.

This bill stands as a testament to what can be achieved when interested parties stop for a moment and listen to each other. I would like to take this moment to commend the work of my friends in the House, Representatives Udall and McInnis for their efforts on this issue.

The "James Peak **Wilderness** and Protection Area Act" respects the diverse uses of Colorado's lands and recognizes those differences accordingly. This bill designates about 14,000 acres in Boulder, Clear Creek, and Gilpin Counties as **Wilderness**, and enlarges the existing Indian Peaks **Wilderness** by an additional 3,195 acres. Further, this carefully balanced approach designates 16,000 acres of national forest land as the "James Peak Protection Area." The Protection Area in Grand County would disallow development of the land, but would permit recreational use for the public's continued enjoyment.

I am pleased with the careful compromises that were necessary in crafting this bill and

proudly introduce it today. I only wish this kind of cooperation was more evident in the other discussions about public lands in America.

I hope for quick passage of this important bill.

I ask unanimous consent that the text of the bill be printed in the Record.

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

S. 1711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "James Peak **Wilderness, Wilderness** Study, and James Peak Protection Area Act".

#### SEC. 2. DEFINITIONS.

In this Act:

- (1) Board.\_The term "Board" means the Colorado State Land Board.
- (2) Forest supervisor.\_The term "Forest Supervisor" means the Forest Supervisor of the Arapaho National Forest and Roosevelt National Forest.
- (3) Management plan.\_The term "management plan" means the 1997 Revision of the Land and Resource Management Plan for the Arapaho and Roosevelt National Forests and the Pawnee National Grasslands.
- (4) Protection area.\_The term "Protection Area" means the James Peak Protection Area designated by section 4(b).
- (5) Secretary.\_The term "Secretary" means the Secretary of Agriculture.
- (6) Special interest area.\_The term "special interest area" means the land in the Protection Area that is bounded\_
  - (A) on the north by Rollins Pass Road;
  - (B) on the east by the Continental Divide; and
  - (C) on the west by the 11,300-foot elevation contour, as depicted on the map entitled "Proposed James Peak Protection Area", dated September 2001.
- (7) State.\_The term "State" means the State of Colorado.

#### SEC. 3. **WILDERNESS** DESIGNATION.

(a) James Peak **Wilderness**.\_Section 2(a) of the Colorado **Wilderness** Act of 1993 (Public Law 103-77; 107 Stat. 756) is amended by adding at the end the following:

"(20) James peak **wilderness**.\_Certain land in the Arapaho National Forest and Roosevelt National Forest comprising approximately 14,000 acres, as generally depicted

on the map entitled Proposed James Peak **Wilderness'**, dated September 2001, and which shall be known as the James Peak **Wilderness'**".

(b) Addition to the Indian Peaks **Wilderness** Area.\_Section 3 of the Indian Peaks **Wilderness** Area, the Arapaho National Recreation Area and the Oregon Islands **Wilderness** Area Act (Public Law 95-450; 92 Stat. 1095) is amended by adding at the end the following:

"(c) Additional Land.\_In addition to the land described in subsection (a), the Indian Peaks **Wilderness** Area shall include\_

"(1) the approximately 2,232 acres of Federal land in the Arapaho National Forest and Roosevelt National Forest, as generally depicted on the map entitled Ranch Creek Addition to Indian Peaks **Wilderness'**, dated September 2001; and

"(2) the approximately 963 acres of Federal land in the Arapaho National Forest and Roosevelt National Forest, as generally depicted on the map entitled Fourth of July Addition to Indian Peaks **Wilderness'**, dated September 2001."

(c) Maps and Legal Descriptions.\_

(1) In general.\_As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate\_

(A) a map and legal description of the area designated as **wilderness** by the amendments made by subsection (a); and

(B) a map and legal description of the area added to the Indian Peaks **Wilderness** Area by the amendments made by subsection (b).

(2) Effect.\_The maps and legal descriptions shall have the same force and effect as if included in\_

(A) the Colorado **Wilderness** Act of 1993 (Public Law 103-77; 107 Stat. 756); and

(B) the Indian Peaks **Wilderness** Area, the Arapaho National Recreation Area and the Oregon Islands **Wilderness** Area Act (Public Law 95-450; 92 Stat. 1095).

(3) Corrections.\_The Secretary may correct technical errors in the maps and legal descriptions.

(4) Availability.\_Copies of the maps and legal descriptions shall be on file and available for public inspection in\_

(A) the office of the Chief of the Forest Service; and

(B) the office of the Forest Supervisor.

#### SEC. 4. DESIGNATION OF JAMES PEAK PROTECTION AREA.

(a) Findings and Purpose.\_

(1) Findings.\_Congress finds that\_

(A) the Protection Area includes important resources and values, including wildlife

habitat, clean water, open space, and opportunities for solitude;

(B) the Protection Area includes areas that are suitable for recreational uses, including the use of snowmobiles and other motorized and nonmotorized vehicles; and

(C) the Protection Area should be managed in a way that protects the resources and values of the Protection Area while permitting continued recreational uses, subject to appropriate regulations.

(2) Purpose.\_The purpose of this section is to provide for management of certain land in the Arapaho National Forest and Roosevelt National Forest in a manner that\_

(A) is consistent with the management plan; and

(B) protects the natural qualities of the land.

(b) Designation.\_The approximately 16,000 acres of land in the Arapaho National Forest and Roosevelt National Forest generally depicted on the map entitled "Proposed James Peak Protection Area", dated September 2001, is designated as the "James Peak Protection Area".

(c) Map and Legal Description.\_

(1) In general.\_As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and legal description of the Protection Area.

(2) Effect.\_The map and legal description shall have the same force and effect as if included in this Act.

(3) Corrections.\_The Secretary may correct clerical and typographical errors in the map and legal description.

(4) Availability.\_The map and legal description shall be on file and available for public inspection in\_

(A) the office of the Chief of the Forest Service; and

(B) the office of the Forest Supervisor.

(d) Management.\_

(1) In general.\_Except as otherwise provided in this section, the Secretary shall manage and administer the Protection Area in accordance with the management plan.

(2) Grazing.\_Nothing in this Act, including the establishment of the Protection Area, affects grazing on land in or outside of the Protection Area.

(3) Withdrawals.\_

(A) In general.\_Subject to valid existing rights, all Federal land in the Protection Area (including land and interests in land acquired for the Protection Area by the United States after the date of enactment of this Act) is withdrawn from\_

(i) all forms of entry, appropriation, or disposal under the public land laws;

- (ii) location, entry, and patent under the mining laws; and
- (iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(B) Effect.\_Nothing in subparagraph (A) affects the discretionary authority of the Secretary under other Federal law to grant, issue, or renew any right-of-way or other land use authorization consistent with this Act.

(4) Motorized and mechanized travel.\_ [\*S11945]

(A) Review and inventory.\_

(i) In general.\_Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with any interested parties, shall complete a review and inventory of all roads and trails in the Protection Area (excluding the special interest area) on which use was allowed on September 10, 2001.

(ii) Connection.\_In conducting the review and inventory under clause (i), the Secretary may connect any existing road or trail in the inventory area to another existing road or trail in the inventory area for the purpose of mechanized and nonmotorized use, if the connection results in no net gain in the total mileage of roads or trails open for public use in the Protection Area.

(iii) Closure.\_In conducting the review and inventory under clause (i), the Secretary may close or remove any road or trail in the Protection Area that the Secretary determines to be undesirable, except those roads or trails managed under paragraph (7).

(iv) Designated areas.\_As soon as practicable after completion of the review and inventory under clause (i), the Secretary shall prohibit motorized and mechanized travel in the Protection Area, except on roads and trails\_

(I) identified as being open to use in the inventory; or

(II) established under paragraph (5).

(B) Rogers pass trail.\_Notwithstanding any other provision of this Act, a motorized vehicle shall not be permitted on any part of the Rogers Pass Trail.

(5) New roads and trails.\_

(A) In general.\_Except as provided in subparagraph (B), no road or trail shall be established in the Protection Area after the date of enactment of this Act.

(B) Establishment.\_The Secretary may establish\_

(i) a new road or trail to replace a road or trail of the same character and scope that has become nonserviceable because of a reason other than neglect;

(ii) as necessary, nonpermanent roads for\_

(I) hazardous fuel reduction;

(II) fire, insect, or disease control projects; or

(III) other management purposes;

(iii) any road determined to be appropriate for reasonable access under section 5(b)(3);

(iv) a loop trail established under section 7; or

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

(6) Timber Harvesting.\_No timber harvesting shall be allowed within the Protection Area, except to the extent necessary for\_

(A) hazardous fuel reduction;

(B) a fire, insect, or disease control project; or

(C) protection of public health or safety.

(7) Special interest area.\_The management prescription applicable to the land referred to in the management plan as the James Peak Special Interest Area shall apply to the special interest area.

(e) Natural Gas Pipeline.\_

(1) Maintenance.\_The Secretary shall allow for maintenance of rights-of-way and access roads located in the Protection Area\_

(A) to the extent necessary to operate the natural gas pipeline permitted under the Arapaho/Roosevelt National Forest master permit numbered 4138.01; and

(B) in a manner that\_

(i) does not have a negative effect on public safety; and

(ii) allows for compliance with Federal pipeline safety requirements.

(2) Inclusions.\_Maintenance under paragraph (1) may include\_

(A) vegetation management;

(B) road maintenance;

(C) ground stabilization; and

(D) motorized vehicle access.

(f) Permanent Federal Ownership.\_All right, title, and interest of the United States, held on or acquired after the date of enactment of this Act, in and to land within the boundaries of the Protection Area shall be retained by the United States.

(g) Water Rights.\_

(1) Effect of this act.\_Nothing in this Act\_

(A) constitutes an express or implied reservation of any water or water right with respect

to land within the Protection Area;

(B) affects any conditional or absolute water right in the State in existence on the date of enactment of this Act;

(C) establishes a precedent with regard to any future Protection Area designation; or

(D) limits, alters, modifies, or amends any interstate compact or equitable apportionment decree that apportions water among and between the State and other States.

(2) Colorado water law.—The Secretary shall be subject to all procedural and substantive laws of the State in order to obtain and hold any new water rights with respect to the Protection Area.

(3) Water infrastructure.—Nothing in this Act affects, impedes, interferes with, or diminishes the operation, existence, access, maintenance, improvement, or construction of a water facility or infrastructure, right-of-way, or other water-related property, interest, or use (including the use of motorized vehicles and equipment on land within the Protection Area) on any land except the land in the special interest area.

#### SEC. 5. ACQUISITION OF LAND.

(a) Board Land.—The Secretary may acquire by purchase or exchange land in the Protection Area owned by the Board.

(b) Jim Creek Drainage.—

(1) In general.—The Secretary may acquire by purchase or exchange land in the Jim Creek drainage in the Protection Area.

(2) Consent of landowner.—The Secretary may acquire land under this subsection only with the consent of the landowner.

(3) Effect.—Nothing in this Act affects the rights of any owner of land located within the Jim Creek drainage in the Protection Area, including any right to reasonable access to the land by motorized or other means, as determined by the Chief of the Forest Service and the landowner, in accordance with applicable law (including regulations).

(c) Report.—

(1) In general.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning any agreement or the status of negotiations for the acquisition of land under—

(A) subsection (a), on the earlier of—

(i) the date on which an agreement for acquisition by the United States of land referred to in subsection (a) is entered into; or

(ii) 1 year after the date of enactment of this Act; and

(B) subsection (b), on the earlier of—

(i) the date on which an agreement for acquisition by the United States of land referred to in subsection (b) is entered into; or

(ii) 1 year after the date of enactment of this Act.

(2) Requirements.\_A report under paragraph (1) shall include information on funding, including\_

(A) to what extent funds are available to the Secretary for the acquisition of the land, as of the date of the report; and

(B) whether additional funds need to be appropriated or otherwise made available to the Secretary for the acquisition of the land.

(d) Management of Acquisitions.\_Any land within the James Peak **Wilderness** or the Protection Area acquired by the United States after the date of enactment of this Act shall be added to the James Peak **Wilderness** or the Protection Area, respectively.

#### SEC. 6. JAMES PEAK FALL RIVER TRAILHEAD.

(a) Services and Facilities.\_

(1) In general.\_Following the consultation required by subsection (c), the Forest Supervisor shall establish a trailhead, facilities, and services for National Forest System land that is located\_

(A) in the vicinity of the Fall River basin; and

(B) south of the communities of Alice Township and St. Mary's Glacier in the State.

(2) Inclusions.\_The facilities and services under paragraph (1) shall include\_

(A) parking for the trailhead;

(B) public restroom accommodations; and

(C) maintenance of the trailhead and trail.

(b) Personnel.\_The Forest Supervisor shall assign Forest Service personnel to provide appropriate management and oversight of the area specified in subsection (a)(1).

(c) Consultation.\_The Forest Supervisor shall consult with the commissioners of Clear Creek County and with residents of Alice Township and St. Mary's Glacier in the State regarding\_

(1) the appropriate location of facilities and services in the area specified in subsection (a)(1); and

(2) appropriate measures that may be needed in this area\_

(A) to provide access by emergency or law enforcement vehicles;

(B) for public health; and

(C) to address concerns regarding impeded access by local residents.

(d) Report.\_As soon as practicable after the consultation required by subsection (c), the Forest Supervisor shall submit to the Committee on Resources and the Committee on

Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.

#### SEC. 7. LOOP TRAIL STUDY.

(a) Study.\_Not later than 3 years after the date on which funds are first made available to carry out this section, the Secretary, in consultation with interested parties, shall complete a study of the suitability and feasibility of establishing, consistent with the purpose described in section 4(a)(2), a loop trail for mechanized and other nonmotorized recreation that connects the trail designated as "Rogers Pass" and the trail designated as "Rollins Pass Road".

(b) Establishment.\_If the results of the study required by subsection (a) indicate that establishment of a loop trail would be suitable and feasible, the Secretary shall establish the loop trail.

#### SEC. 8. ADMINISTRATIVE PROVISIONS.

(a) No Buffer Zones.\_

(1) In general.\_The designation by this Act or by amendments made by this Act of **wilderness** areas under section 3 and the Protection Area in the State shall not establish any express or implied protective perimeter or buffer zone around a **wilderness** area or the Protection Area.

(2) Surrounding land.\_The fact that the use of, or conduct of an activity on, land that shares a boundary with a **wilderness** area or the Protection Area may be seen or heard from a **wilderness** area or the Protection Area shall not, in and of itself, preclude the conduct of the use or activity. [\*S11946]

(b) Rollins Pass Road.\_

(1) In general.\_If requested by 1 or more of Grand, Gilpin, or Boulder Counties in the State, the Secretary, with respect to the repair of the Rollins Pass road in those counties, shall provide technical assistance and otherwise cooperate with the counties to permit 2-wheel-drive vehicles to travel between Colorado State Highway 119 and U.S. Highway 40.

(2) Closure of motorized roads and trails.\_If Rollins Pass road is repaired in accordance with paragraph (1), the Secretary shall close the motorized roads and trails on Forest Service land indicated on the map entitled "Rollins Pass Road Reopening: Attendant Road and Trail Closures," dated September 2001.

#### SEC. 9. WILDERNESS POTENTIAL.

(a) In General.\_Nothing in this Act precludes or restricts the authority of the Secretary\_

(1) to evaluate the suitability of land in the Protection Area for inclusion in the National **Wilderness** Preservation System; or

(2) to make recommendations to Congress on the inclusion of land evaluated under paragraph (1) in the National **Wilderness** Preservation System .

(b) Evaluation of Certain Lands.\_As part of the first revision of the management plan

carried out after the date of the enactment of this Act, the Secretary shall\_

(1) evaluate the suitability of the special interest area for inclusion in the National **Wilderness** Preservation System; and

(2) make recommendations to Congress on the inclusion of land evaluated under paragraph (1) for inclusion in the National **Wilderness** Preservation System.