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ON INTRODUCTION OF ROCKY MOUNTAIN NATIONAL PARK **WILDERNESS** AND INDIAN PEAKS
WILDERNESS EXPANSION ACT

May 15, 2007

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SECTION: Extension of Remarks

SPEAKER: Mr. UDALL of Colorado

TEXT: [*1052]

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HON. MARK UDALL

of colorado

in the house of representatives

Tuesday, May 15, 2007

Mr. UDALL of Colorado. Madam Speaker, today I am introducing a revised bill to designate as **wilderness** most of the lands within the Rocky Mountain National Park and to expand the Indian Peaks **Wilderness**.

The bill is cosponsored by my Colorado colleague, Representative Musgrave, and an identical measure is being introduced in the other body by Colorado's two Senators. Over a period of months, we have worked together to develop this bipartisan legislation that will provide important protection and management direction for some truly remarkable country, adding well over 200,000 acres in the park to the National **Wilderness** Preservation System.

The **wilderness** designation for the park will cover some 94 percent of the park, including Longs Peaks and other major mountains along the Great Continental Divide, glacial cirques and snow fields, broad expanses of alpine tundra and wet meadows, old-growth forests, and hundreds of lakes and streams, all untrammelled by human structures or passage. Indeed, examples of all the natural ecosystems that make up the splendor of the Park are included in the **wilderness** that would be designated by this bill. At the same time, the **wilderness** boundaries have been drawn so as to allow continued access for use of existing roadways, buildings and developed areas, privately owned land, and areas where additional facilities and roadwork will improve park management and visitor services. In addition, specific provisions are included to assure that there will be no adverse effects on continued use of existing water facilities.

The lands designated as **wilderness** will become part of the National **Wilderness** Preservation System that was established by the **Wilderness** Act and will be managed in accordance with that Act and the provisions of the bill. The bill's provisions amplify this by specifying that-(1) no

new reclamation projects will be allowed in the **wilderness** area; (2) nothing in the bill will create a "buffer zone" around the **wilderness** and that non-**wilderness** activities visible or audible from within the **wilderness** will not be prohibited; (3) the National Park Service can act to control fire, insects, and diseases, including use of mechanical tools within the **wilderness**; and (4) nothing in the bill will reduce or restrict the current authority of the National Park Service to manage the Park's lands and resources.

The bill is similar to measures previously introduced by my predecessor, Representative David Skaggs (as well as others introduced before that), and ones I introduced in the 107th, 108th, and 109th Congress. However, it does include a number of adjustments and refinements that reflect discussion within the Colorado delegation in Congress and with interested parties in Colorado.

Like [H.R. 4935](#) of the 109th Congress, the new bill includes designation of **wilderness** designation of more than 700 acres in the Twin Sisters area south of Estes Park. These lands were acquired by the United States and [*1053]

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made part of the park after submission to Congress of the original **wilderness** recommendation for the park in the 1970s, and so were not included in that recommendation. They are lands of a **wilderness** character and their designation will not conflict with any current uses. On the west side, the town of Grand Lake and Grand County requested that about 650 acres inward from the Park boundary around the town be omitted from the **wilderness** designation in order to allow the Park to respond to potential forest fire threats. As was the case previously, this bill accommodates that request.

Also like that previous measure, the bill responds to the request of the Town of Grand Lake, Grand County and the Headwaters Trails Alliance (a group composed of local communities in Grand County that seeks to establish opportunities for mountain biking) and the International Mountain Bicycling Association to omit from **wilderness** designation an area along the western park boundary, running south along Lake Granby from the Town to the park's southern boundary. This will allow the National Park Service to retain the option of authorizing construction of a possible future mountain bike route within this part of the park. Similarly, the bill would expand the Indian Peaks **Wilderness** Area by 1,000 acres in the area south of the park and north of Lake Granby. The lands involved are currently managed as part of the Arapaho National Recreation Area, which would accordingly be reduced by about 1,000 acres.

As did the previous bill, this bill includes a section that will authorize the National Park Service to lease an 11-acre property (the Leiffer tract) that was donated to the National Park Service in 1977. Located outside the park's boundaries, it has two buildings, including a house that is listed on the National Register of Historic Places. The Park Service would like to have the option of leasing it, but current law allows that only for "property administered ... as part of the National Park System," and this property does not qualify. The bill would allow the Park Service to lease the property as if it were located inside or contiguous to the park.

Also like previous measures, the bill addresses the question of possible impacts on water rights—something that can be a primary point of contention in Congressional debates over designating **wilderness** areas. It reflects the legal reality that it has long been recognized under the laws of the United States and Colorado, including a decision of the Colorado Supreme Court, that Rocky Mountain National Park already has extensive Federal reserved water rights arising from the creation of the national park itself. And it reflects the geographic reality that the park sits astride the continental divide, meaning there's no higher land around from which streams flow into the park, and thus there is no possibility of any diversion of water occurring upstream from the park. In recognition of these legal and practical realities, the bill includes a finding that because the park already has these extensive reserved rights to water, there is no need for any additional reservation or appropriation of such right, and an explicit disclaimer that the bill effects any such

reservation.

New provisions in this bill deal with the Grand River Ditch, created before Rocky Mountain National Park was established and partly located within the park. The owners of the ditch are currently working to conclude an agreement with the National Park Service with respect to operation and maintenance of the portion of the ditch within the park, and the bill provides that after conclusion of this agreement the strict liability standard of the Park Resources Protection Act (which now applies to any damage to park resources) will not apply so long as the ditch is operated and maintained in accordance with the agreement. The owners of the ditch would remain liable for damage to park resources caused by negligence or intentional acts, and the bill specifies that it will not limit or otherwise affect the liability of any individual or entity for damages to, loss of, or injury to any park resource resulting from any cause of event occurring before the bill's enactment. In addition, the bill specifies that its enactment will not restrict or otherwise affect any activity relating to the monitoring, operation, maintenance, repair, replacement, or use of the ditch that was authorized or approved by the National Park Service as of the date of the bill's enactment. And the bill also provides that use of water transported by the ditch for a main purpose (or main purposes) other than irrigation will not terminate or adversely affect the ditch's right-of-way.

Madam Speaker, the matters dealt with in this bill have a long history. The **wilderness** designations are based on National Park Service recommendations presented to Congress by President Richard Nixon. That they have not been acted on before this reflects the difficult history of **wilderness** legislation. One Colorado statewide **wilderness** bill was enacted in 1980, but it took more than a decade before the Colorado delegation and the Congress were finally able, in 1993, to pass a second statewide national forest **wilderness** bill. Since then, action has been completed on bills designating **wilderness** in the Spanish Peaks area of the San Isabel National Forest as well as in the Black Canyon of the Gunnison National Park, the Gunnison Gorge, the Black Ridge portion of the Colorado Canyons National Conservation Area, and the James Peak area of the Arapaho-Roosevelt National Forests.

We now need to continue making progress by providing **wilderness** designations for other deserving lands in Colorado, including lands that are managed by the Bureau of Land Management. And the time is ripe for finally resolving the status of the lands within Rocky Mountain National Park that are dealt with in this bill.

Lands covered by the bill are currently being managed protect their **wilderness** character. Formal **wilderness** designation will no longer leave this question to the discretion of the Park Service, but will make it clear that within the designated areas there will never be roads, visitor facilities, or other manmade features that interfere with the spectacular natural beauty and wildness of the mountains. This is especially important for a park like Rocky Mountain, which is relatively small by western standards. As nearby land development and alteration has accelerated in recent years, the pristine nature of the park's backcountry becomes an increasingly rare feature of Colorado's landscape. Further, the park's popularity demands definitive and permanent protection for wild areas against possible pressures for development within the park. While only about one tenth the size of Yellowstone National Park, Rocky Mountain sees nearly the same number of visitors each year as does our first national park. At the same time, designating these carefully selected portions of Rocky Mountain as **wilderness** will make other areas, now restricted under interim **wilderness** protection management, available for overdue improvements to park roads and visitor facilities.

In summary, Madam Speaker, this bill will protect some of our Nation's finest wild lands. It will protect existing rights. It will not limit any existing opportunity for new water development. It is bipartisan and will affirm the commitment of all Coloradans to preserving the features that make our State such a remarkable place to live. So, I think it deserves prompt enactment. For the information of our colleagues I am attaching a summary of the legislation:

Rocky Mountain National Park **Wilderness** Bill Summary

Wilderness Designation.-The bill designates as **wilderness** approximately 249,339 acres within Rocky Mountain National Park, in Colorado.

Wilderness Management.-The lands designated as **wilderness** become part of the National **Wilderness** Preservation System that was established by the **Wilderness** Act and will be managed in accordance with that Act and the provisions of the bill. The bill's provisions amplify this by specifying that-

(1) No new reclamation projects will be allowed in the **wilderness** area; (2) Nothing in the bill will create a "buffer zone" around the **wilderness** and that non-**wilderness** activities visible or audible from within the **wilderness** will not be prohibited; (3) The National Park Service can act to control fire, insects, and diseases, including use of mechanical tools within the **wilderness**; and (4) Nothing in the bill will reduce or restrict the current authority of the National Park Service to manage the Park's lands and resources.

Potential **Wilderness**.-Specified lands within the Park not now eligible for **wilderness** designation because they are being used for purposes inconsistent with such designation will be designated as **wilderness** when those uses end.

Wilderness Exclusions.-Specified lands within the Park are excluded from the **wilderness** designation and from the category of "potential **wilderness**." These lands include-(1) lands occupied by the Grand River Ditch and the lands 200 feet on each side of the ditch; (2) lands owned by the St. Vrain & Left Hand Water Conservancy District, including Copeland Reservoir and the Inlet Ditch from North St. Vrain Creek; (3) lands owned by the Wincentzen-Harms Trust; and (4) lands adjoining Grand Lake in an area called the "East Short Trail Area" discussed below.

Water Rights.-The bill includes findings about Colorado state court decisions holding that the Park already has existing sufficient water rights and that there is no need for the Federal Government to reserve or appropriate further water rights to fulfill the purposes of the **wilderness** designation; and the bill states that neither it nor any action taken out pursuant to it will constitute an express or implied reservation of water or water rights for any purpose.

Grand River Ditch.-The bill provides that-(1) lands occupied by the Grand River Ditch and the lands 200 feet on each side of the ditch are excluded from **wilderness**; (2) upon conclusion of an agreement between the National Park Service and the ditch's owners on operations and maintenance of the Grand River Ditch, the strict liability standard of the Park Resources Protection Act (which now applies to any damage to park resources) will not apply so long as the ditch is [*1054]

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operated and maintained in accordance with the agreement. The owners of the ditch would remain liable for damage to park resources caused by negligence or intentional acts; (3) the bill will not affect any liability for damage to park resources occurring before the bill's enactment; (4) the bill will not restrict any activity related to monitoring, operation, maintenance, repair, replacement, or use of the ditch that was authorized or approved by the National Park Service as of the date of the bill's enactment; and (5) use of water carried by the ditch for a purpose other than irrigation will not adversely affect the ditch's right-of-way.

Colorado-Big Thompson Project.-The bill includes provisions specifying that its enactment will not restrict any activity related to monitoring, operation, maintenance, repair, replacement, or use of the project's facilities that were allowed as of the date of the bill's enactment or prohibit or restrict the conveyance of water through the Alva B. Adams Tunnel for any purpose.

East Shore Trail.-The bill requires the National Park Service to identify an alignment for a bicycle

trail within the "East Shore Trail Area" that is excluded from the **wilderness**. The Park Service will decide whether to authorize construction of the trail and until construction is authorized, lands in the "East Shore Trail Area" will continue to be managed to maintain the option of its being designated as **wilderness** in the future.

Indian Peaks **Wilderness** and Arapaho Recreation Area.-The bill adjusts the boundaries of the Indian Peaks **Wilderness** and the Arapaho National Recreation Area so as to reduce the recreation area by about 1,000 acres and increase the **wilderness** by about 1,000 acres.

Leiffer Tract Lease Authority.-The bill allows the National Park Service to lease the "Leiffer tract," a parcel of Federal land located outside the Park's boundary but managed by the National Park Service that includes an historic cabin and several other buildings. Any lease would be under an existing law that requires leased property to be used for activities consistent with the purposes of the Park and compatible with National Park Service programs.