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SENATE

{ REPORT
105-97

EAGLES NEST WILDERNESS

OCTOBER 6, 1997.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 588]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 588) to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the Slate Creek Addition, having considered the same, reports favorably thereon with an amendment and recommends 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. SLATE CREEK ADDITION TO EAGLES NEST WILDERNESS, ARAPAHO AND WHITE RIVER NATIONAL FORESTS, COLORADO.

(a) SLATE CREEK ADDITION.—If, before December 31, 2000, the United States acquires the parcel of land described in subsection (b)—

(1) on acquisition of the parcel, the parcel shall be included in and managed as part of the Eagles Nest Wilderness designated by Public Law 94-352 (16 U.S.C. 1132 note; 90 Stat. 870); and

(2) the boundary of Eagles Nest Wilderness is adjusted to reflect the inclusion of the parcel.

(b) DESCRIPTION OF ADDITION.—The parcel referred to in subsection (a) is the parcel generally depicted on a map entitled “Slate Creek Addition-Eagles Nest Wilderness”, dated February 1997, comprising approximately 160 acres in Summit County, Colorado, adjacent to the Eagles Nest Wilderness.

PURPOSE

The purpose of S. 588 is to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the Slate Creek Addition.

BACKGROUND AND NEED FOR LEGISLATION

This legislation provides that the 160-acre Slate Creek parcel in Summit County, Colorado, will be added to the Eagles Nest Wilderness and administered as part of the Wilderness Area if the land is acquired by the United States within the next four years. The 160-acre parcel is proposed for acquisition by the United States in a land exchange. However, the current owners of the tract are unwilling to convey the land unless it is added to the Eagles Nest Wilderness and permanently managed as wilderness. Currently, Eagles Nest Wilderness surrounds the Slate Creek parcel on three sides, but the parcel is outside the official wilderness boundary. Therefore, legislation is required to add this parcel to the boundaries of the legislation. The proposed addition is supported by the Summit County Board of County Commissioners, the Summit County Open Space Advisory Council, The Wilderness Land Trust and a number of environmental organizations.

LEGISLATIVE HISTORY

S. 588 was introduced on April 6, 1997, by Senator Campbell. On June 18, 1997, the Subcommittee on Forest and Public Land Management held a hearing on S. 588. On September 24, 1997, the Committee met to mark up S. 588. The bill was ordered favorably reported by voice vote to the Senate with an amendment in the nature of a substitute making some technical changes requested by the Administration. A companion bill H.R. 985, passed the House by voice vote on June 3, 1997.

SECTION-BY-SECTION ANALYSIS

Section 1(a) provides that, if the United States acquires the Slate Creek Parcel before December 31, 2000, the parcel shall be included in, and managed as part of, the Eagles Nest Wilderness. This section also directs the Secretary of Agriculture to adjust the boundaries to reflect addition. Section 1(b) describes the proposed addition of land.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 24, 1997, by a unanimous voice vote of the quorum present, recommends that the Senate pass S. 588, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 588, the Committee adopted an amendment in the nature of a substitute that incorporates changes recommended by the Administration and makes technical and clarifying modifications.

COST AND BUDGETARY CONSIDERATIONS

The cost and budgetary considerations prepared by the Congressional Budget Office are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 1997.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 588, a bill to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the Slate Creek Addition.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 588—A bill to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the Slate Creek Addition

CBO estimates that enacting this bill would have no significant impact on the federal budget. S. 588 would not affect direct spending or receipts; therefore, pay-as-you-go procedures do not apply. S. 588 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no significant impact on the budgets of state, local, or tribal governments.

S. 588 would direct the Secretary of Agriculture to adjust the boundaries of the Eagles Nest Wilderness within the Arapaho and White River National Forests, Colorado, to include about 160 acres of land depicted on a map entitled "Slate Creek Addition-Eagles Nest Wilderness" if the United States acquires that land on or before December 31, 2000. The U.S. Forest Service is currently negotiating to acquire the privately held land, which is adjacent to the Eagles Nest Wilderness. According to the Forest Service, the land has been appraised at a fair market value of approximately \$160,000. However, the owners want assurance that the land would be designated as wilderness, and legislation is required to change the boundaries of a wilderness area. Thus, enacting S. 588 would make it more likely that the Forest Service would purchase the land within the next few years. In any case, outlays for the purchase are subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Victoria V. Heid. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 588. The bill is not a regulatory measure in the sense of impos-

ing Government-established standards or significant economic responsibilities on private individuals and business.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 588, as ordered reported.

EXECUTIVE COMMUNICATIONS

The Administration testified in favor of the legislation at a June 18, 1997 hearing held by the Subcommittee on Forests and Public Land Management. Legislative reports from the Department of Agriculture, and the Office of Management and Budget setting forth Executive agency recommendations on S. 588 were unavailable when the report was filed. When these reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

The Administration testimony is attached.

STATEMENT OF ROBERT JOSLIN, DEPUTY CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, I am Bob Joslin, the new Deputy Chief of the Forest Service for National Forest System. I am pleased to be here to share the Administration's views on S. 588.

S. 588, Expansion of the Eagles Nest Wilderness within Arapaho and White Rivers National Forests, Colorado

The Administration supports enactment of S. 588, if amended as recommended in the attached Supplemental Statement.

S. 588 is designed to change the Eagles Nest Wilderness boundary to include a 160 acre parcel of private property, known as Slate Creek, upon its conveyance to the Federal Government. Representatives of the current owners of the Slate Creek parcel, Howard and Jeanette Moser, and the Forest Service have entered into an agreement to begin negotiations on an exchange. The Mosers want to exchange their property and have it become wilderness. Because the property is outside of the existing wilderness boundary, yet surrounded on three sides by wilderness, it is necessary to provide for its inclusion in the wilderness upon conveyance to the United States.

In 1976 Congress passed Public Law 94-352, creating the Eagles Nest Wilderness. When the Forest Service signed the official legal description of the wilderness boundary a "cherry stem" was created to exclude the privately held Slate Creek parcel from wilderness designation. The property has wilderness characteristics and, had it been held in the public trust, would have been included in the Eagles Nest Wilderness.

The bill, as currently written, directs the Secretary of Agriculture to adjust the boundary upon conveyance of the parcel. In order to eliminate additional administrative steps, we recommend the bill be amended to legislate the

boundary adjustment upon conveyance. Our recommended amendments are contained in the attached Supplemental Statement.

The amended bill would assure that negotiations can continue in good faith and facilitates the exchange and adjustment of the wilderness boundary.

SUPPLEMENTAL STATEMENT—U.S. DEPARTMENT OF
AGRICULTURE

The italic language reflects proposed Administration technical additions, and bracketed language, deletions to the legislative language.

S. 588, To provide for the expansion of the Eagles Nest Wilderness within Arapaho and White
River National Forests, Colorado

SECTION 1. SLATE CREEK ADDITION TO EAGLES NEST WILDERNESS, ARAPAHO AND WHITE RIVER NATIONAL FORESTS, COLORADO

(a) SLATE CREEK ADDITION.—If **the parcel of land identified in subsection (b) is conveyed to the United States on or before December 31, 2000,** such parcel shall be included in, and managed as part of, the Eagles Nest Wilderness designated by Public Law 94–352 (90 Stat. 870; 16 U.S.C. 1132 note). **Upon conveyance of such parcel, the boundary of the Eagles Nest Wilderness is hereby adjusted accordingly to include the parcel.**

(b) DESCRIPTION OF ADDITION.—The parcel referred to in subsection (a) is generally depicted on a map entitled “Slate Creek Addition-Eagles Nest Wilderness”, dated February 1997, *and shall be available for public inspection in the office of the Forest Supervisor of the White River National Forest. The parcel* **and** comprises approximately 160 acres in Summit County, Colorado, adjacent to the Eagles Nest Wilderness.

SUPPLEMENTAL STATEMENT—U.S. DEPARTMENT OF
AGRICULTURE

The italic language reflects proposed Administration technical additions, and bracketed language, deletions to the legislative language.

S. 750, To consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes

SECTION 1. EXCHANGE OF CERTAIN MINERAL INTERESTS IN BILLINGS COUNTY, NORTH DAKOTA

(a) PURPOSE.—The purpose of this section is to consolidate certain mineral interests in the Little Missouri National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral in-

terests in order to enhance land management capability and environmental and wildlife protection.

(b) EXCHANGE.—[Notwithstanding any other provision of law—] *Subject to existing applicable laws—*

(1) if, [not later than 45 days after the date of enactment of this Act,] Burlington Resources Oil & Gas Company (referred to in this section as “Burlington” and formerly known as Meridian Oil Inc.), conveys title acceptable to the Secretary of Agriculture (referred to in this section as the “Secretary”) to all *Burlington oil and gas mineral* rights and interests on *all lands* identified for exchange on the map entitled “Billings County, North Dakota, Consolidated Mineral Exchange—November 1995” by quitclaim deed acceptable to the Secretary, the Secretary shall convey to Burlington, subject to valid existing rights, by quitclaim deed, all *Federal oil and gas mineral* rights and interests on *all lands* identified for exchange on that map; and

(2) if Burlington makes the conveyance under paragraph (1) and, [not later than 180 days after the date of enactment of this Act,] the owners of the remaining non-oil and gas mineral interests identified on that map convey title acceptable to the Secretary to all rights, title, and interests in the interests held by them, by quitclaim deed acceptable to the Secretary, the Secretary shall convey to those owners, subject to valid existing rights, by exchange deed, all Federal rights, title, and interests in National Forest System lands and National Grasslands in the State of North Dakota as are agreed to by the Secretary and the owners of those interests.

(c) LEASEHOLD INTERESTS.—As a condition precedent to the conveyance of interests by the Secretary to Burlington under this section, all leasehold and contractual interests in the oil and gas interests to be conveyed by Burlington to the United States under this section shall be released, to the satisfaction of the Secretary.

(d) APPROXIMATE EQUAL VALUE OF EXCHANGES WITH OTHER INTEREST OWNERS.—The values of the interests to be exchanged under subsection (b)(2) shall be approximately equal, as determined by the Secretary.

(e) LAND USE.—

(1) EXPLORATION AND DEVELOPMENT.—The Secretary shall grant to Burlington, and its successors and assigns, the use of Federally-owned surface lands to explore for and develop interests conveyed to Burlington under this Act, subject to applicable Federal and State laws.

(2) SURFACE OCCUPANCY AND USE.—Rights to surface occupancy and use that Burlington would have absent the exchange under this Act on its interests conveyed under this Act shall apply to the same extent

on the federally owned surface estate overlying oil and gas rights conveyed to Burlington under this Act.

(f) ENVIRONMENTAL PROTECTION FOR ENVIRONMENTALLY SENSITIVE LANDS.—All activities of Burlington, and its successors and assigns, relating to exploration and development on environmentally sensitive National Forest System lands, as described in the “Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota”, executed by the Forest Service and Burlington and dated November 2, 1995, shall be subject to the terms of the memorandum.

(g) MAP.—The map referred to in subsection (b) shall be provided to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, kept on file in the office of the Chief of the Forest Service, and made available for public inspection in the office of the Forest Supervisor of the Custer National Forest within 45 days after the date of enactment of this Act.

[(h) OTHER LAWS.—The exchange under subsection (b)(1) shall be deemed to meet the requirements of all other Federal laws, including all land exchange laws, environmental laws, and cultural laws (such as the National Historic Preservation Act (16 U.S.C. 470 et seq.)), and no further compliance with any other law shall be required in order to implement the exchanges.]

(i) CONTINUATION OF MULTIPLE USE.—Nothing in this Act shall limit, restrict, or otherwise effect the application of the principle of multiple use (including outdoor recreation, range, timber, watershed, and fish and wildlife purposes) in any area of the Little Missouri National Grasslands. Federal grazing permits or privileges in areas designated on the map entitled “Billings County, North Dakota, Consolidated Mineral Exchange—November 1995” or those lands described in the “Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota”, shall not be curtailed or otherwise limited as a result of the exchange authorized by this Act.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act S. 588, as ordered reported.