

EMIGRANT WILDERNESS PRESERVATION ACT OF 1999

NOVEMBER 1, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 359]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 359) to clarify the intent of Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance and operation of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated in that Public Law, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 359 is to clarify the intent of Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance and operation of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness was designated in that Public Law.

BACKGROUND AND NEED FOR LEGISLATION

Between 1931 and 1954 local sporting enthusiasts and back country users, led by Tuolumne County resident Fred Leighton, built and constructed a series of 18 dams and concrete weirs throughout the portion of the Stanislaus National Forest which later came to be known as the Emigrant Wilderness Area. These dams were built from native rock so as to blend in naturally with their surroundings. Most of these dams do not exceed two feet in height. The largest dam is approximately seven feet tall. Until the utilization of air stocking, both local sporting groups and later the

California Department of Fish and Game stocked the lakes with fish. The last dam was built in 1954, 20 years before wilderness designation was considered for the area.

The Emigrant Wilderness Area was designated in 1974 by Public Law 93-632. At the time, many local users and groups were opposed to wilderness designation, because of the restrictions which accompanied the new status. As federal wilderness, no motorized activity is allowed within the wilderness boundaries, even for search and rescue purposes.

Although not specifically indicated within the legislation, it is generally believed to have been the intent of Congress to preserve and leave in place the 18 "check dam" structures. Among others, the Chief Recreation Officer for the Stanislaus National Forest, has repeatedly gone on record as stating it was his belief these dams were to be maintained. Additionally, report language for the 1974 Act explained:

Within the area recommended for wilderness designation, there are drift fences (5 miles) which will be maintained, but several cabins and barns will be removed within ten years. Two snow cabins will be retained. *The weirs and small dams will likewise be retained.*

House Report No. 93-989, p. 10, April 11, 1974 [emphasis added].

In 1990, the Stanislaus National Forest staff, under direction from then Regional Forester Blain Cornell, prepared and put out for public comment an updated management plan for the Stanislaus National Forest. Among other items, staff's final recommendation was to preserve 12 of the 18 dams and allow the remaining six to deteriorate naturally. The final draft of the document received two appeals. The Wilderness Coalition in Davis, California, appealed the decision because it did not remove all 18 dams. The local president of the Tuolumne County Sportsmen's Association appealed because the decision did not preserve all of the dams. In a series of letters from the Wilderness Coalition to Cornell's office, legal action was threatened if their position was not upheld.

Despite the best evidence, the Deputy Regional Forester, overturned the local staff's findings and directed that all the dams be removed within a five-year period. After a large public outcry on the part of the County Board of Supervisors, local staff, and dam supporters, the Forest Service Regional office reversed its findings and directed the Stanislaus staff to redo the entire management plan. In the interim, no further maintenance, at public or private expense, would be allowed.

The Forest Service subsequently completed a new management plan for the Emigrant Wilderness. Under the selected alternative, the Forest Service will continue to maintain eight of the dams for their historical value and allow the rest to deteriorate through a policy of non-repair.

H.R. 359 provides for the Secretary of Agriculture to enter into a cooperative agreement with a non-federal entity to retain, maintain and operate at private expense the 18 small check dams and weirs located within the Emigrant Wilderness boundary. The work would be done under terms and conditions established by the Sec-

retary and without use of mechanized transport or motorized equipment. The bill authorizes \$20,000 to be appropriated to cover administrative costs incurred by the Secretary to comply with the National Environmental Policy Act.

A number of conservation, fisheries and recreation organizations, as well as local governments, support H.R. 359, including the Tuolumne County Alliance for Resources and Environment, California Trout and the Backcountry Horsemen of California. The Central Sierra Wilderness Watch opposes the bill.

In the 105th Congress, the House of Representatives passed H.R. 1663, nearly identical to the current H.R. 359, by a vote of 424 to 2. The legislation failed to reach the Senate Floor.

COMMITTEE ACTION

H.R. 359 was introduced on January 19, 1999, by Congressman John T. Doolittle (R-CA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Forests and Forest Health. On February 23, 1999, the Subcommittee held a hearing on the bill, where the Administration opposed H.R. 359 for technical reasons and concerns about recovering all costs of maintenance of the small structures. Witnesses from the Backcountry Horsemen and California Trout supported the bill, while Central Sierra Wilderness Watch testified against it. On April 27, 1999, the Subcommittee met to mark up the bill. No amendments were offered and the bill was favorably reported to the Full Committee by voice vote. On May 5, 1999, the Full Resources Committee met to consider the bill. No amendments were offered and the bill was favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. *Cost of Legislation.* Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.* As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not

contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. *Government Reform Oversight Findings.* Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. *Congressional Budget Office Cost Estimate.* Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 11, 1999.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 359, the Emigrant Wilderness Preservation Act of 1999.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

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CBO estimates that enacting this bill would have no significant impact on the federal budget. Enacting the bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 359 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. State and local governments might incur some costs as a result of the bill's enactment, but these costs would be voluntary.

H.R. 359 would direct the Secretary of Agriculture to enter into a cooperative agreement with a nonfederal entity to retain, maintain, and operate at private expense 18 concrete dams and weirs in the Emigrant Wilderness within the Stanislaus National Forest, California. According to the Forest Service, under a management decision made in 1998 the Forest Service will continue to maintain 8 of the 18 structures and allow the others to deteriorate without repair. Under H.R. 359, all 18 structures would be maintained at private expense. The bill would authorize the appropriation of \$20,000 to cover the costs of environmental reviews. Based on information from the Forest Service, CBO estimates that the total cost to conduct such environmental analyses could exceed the amount authorized. Nevertheless, we estimate that implementing the bill would cost less than \$50,000 over the 2000–2004 period, assuming appropriation of the necessary sums.

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

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

This bill is not intended to preempt State, local, or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

