

Union Calendar No. 191

107TH CONGRESS
1ST SESSION

H. R. 1576

[Report No. 107-316]

To designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2001

Mr. UDALL of Colorado introduced the following bill; which was referred to the Committee on Resources

DECEMBER 5, 2001

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 24, 2001]

A BILL

To designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “James Peak Wilderness*
3 *and Protection Area Act”.*

4 **SEC. 2. WILDERNESS DESIGNATION.**

5 (a) *INCLUSION WITH OTHER COLORADO WILDERNESS*
6 *AREAS.—Section 2(a) of the Colorado Wilderness Act of*
7 *1993 (Public Law 103–77; 107 Stat. 756; 16 U.S.C. 1132*
8 *note) is amended by adding at the end the following new*
9 *paragraph:*

10 *“(21) Certain lands in the Arapaho/Roosevelt*
11 *National Forest which comprise approximately*
12 *14,000 acres, as generally depicted on a map entitled*
13 *‘Proposed James Peak Wilderness’, dated September*
14 *2001, and which shall be known as the James Peak*
15 *Wilderness.”.*

16 (b) *ADDITION TO THE INDIAN PEAKS WILDERNESS*
17 *AREA.—Section 3 of the Indian Peaks Wilderness Area and*
18 *Arapaho National Recreation Area and the Oregon Islands*
19 *Wilderness Area Act (Public Law 95–450; 92 Stat. 1095;*
20 *16 U.S.C. 1132 note) is amended by adding at the end the*
21 *following new subsections:*

22 *“(c) The approximately 2,232 acres of Federal lands*
23 *in the Arapaho/Roosevelt National Forest generally depicted*
24 *on the map entitled ‘Ranch Creek Addition to Indian Peaks*
25 *Wilderness’ dated September 2001, are hereby added to the*
26 *Indian Peaks Wilderness Area.*

1 “(d) *The approximately 963 acres of Federal lands in*
2 *the Arapaho/Roosevelt National Forest generally depicted*
3 *on the map entitled ‘Fourth of July Addition to Indian*
4 *Peaks Wilderness’ dated September 2001, are hereby added*
5 *to the Indian Peaks Wilderness Area.’.*”

6 (c) *MAPS AND BOUNDARY DESCRIPTIONS.—As soon as*
7 *practicable after the date of the enactment of this Act, the*
8 *Secretary of Agriculture (hereafter in this Act referred to*
9 *as the “Secretary”)* shall file with the Committee on Re-
10 *sources of the House of Representatives and the Committee*
11 *on Energy and Natural Resources of the Senate a map and*
12 *a boundary description of the area designated as wilderness*
13 *by subsection (a) and of the area added to the Indian Peaks*
14 *Wilderness Area by subsection (b). The maps and boundary*
15 *descriptions shall have the same force and effect as if in-*
16 *cluded in the Colorado Wilderness Act of 1993 and the In-*
17 *dian Peaks Wilderness Area and Arapaho National Recre-*
18 *ation Area and the Oregon Islands Wilderness Area Act,*
19 *respectively, except that the Secretary may correct clerical*
20 *and typographical errors in the maps and boundary de-*
21 *scriptions. The maps and boundary descriptions shall be*
22 *on file and available for public inspection in the office of*
23 *the Chief of the Forest Service, Department of Agriculture*
24 *and in the office of the Forest Supervisor of the Arapaho/*
25 *Roosevelt National Forest.*

1 **SEC. 3. DESIGNATION OF JAMES PEAK PROTECTION AREA,**
2 **COLORADO.**

3 (a) *FINDINGS AND PURPOSE.*—

4 (1) *FINDINGS.*—*The Congress finds the following:*

5 (A) *The lands covered by this section in-*
6 *clude important resources and values, including*
7 *wildlife habitat, clean water, open space, and op-*
8 *portunities for solitude.*

9 (B) *These lands also include areas that are*
10 *suitable for recreational uses, including use of*
11 *snowmobiles in times of adequate snow cover as*
12 *well as use of other motorized and nonmotorized*
13 *mechanical devices.*

14 (C) *These lands should be managed in a*
15 *way that affords permanent protection to their*
16 *resources and values while permitting continued*
17 *recreational uses in appropriate locales and sub-*
18 *ject to appropriate regulations.*

19 (2) *PURPOSE.*—*The purpose of this section is to*
20 *provide for management of certain lands in the Arap-*
21 *aho/Roosevelt National Forest in a manner consistent*
22 *with the 1997 Revised Land and Resources Manage-*
23 *ment Plan for this forest in order to protect the nat-*
24 *ural qualities of these areas.*

25 (b) *DESIGNATION.*—*The approximately 16,000 acres of*
26 *land in the Arapaho/Roosevelt National Forest generally de-*

1 *picted on the map entitled “Proposed James Peak Protec-*
2 *tion Area”, dated September 2001, are hereby designated*
3 *as the James Peak Protection Area (hereafter in this Act*
4 *referred to as the “Protection Area”).*

5 (c) *MAP AND BOUNDARY DESCRIPTION.*—As soon as
6 *practicable after the date of the enactment of this Act, the*
7 *Secretary shall file with the Committee on Resources of the*
8 *House of Representatives and the Committee on Energy and*
9 *Natural Resources of the Senate a map and a boundary*
10 *description of the Protection Area. The map and boundary*
11 *description shall have the same force and effect as if in-*
12 *cluded in this Act, except that the Secretary may correct*
13 *clerical and typographical errors in the map and boundary*
14 *description. The map and boundary description shall be on*
15 *file and available for public inspection in the office of the*
16 *Chief of the Forest Service, Department of Agriculture, and*
17 *in the office of the Forest Supervisor of the Arapaho/Roo-*
18 *sevelt National Forest.*

19 (d) *MANAGEMENT.*—

20 (1) *IN GENERAL.*—Except as otherwise provided
21 *in this section, the Protection Area shall be managed*
22 *and administered by the Secretary in the same man-*
23 *ner as the management area prescription designations*
24 *identified for these lands in the 1997 Revision of the*
25 *Land and Resource Management Plan for the Arap-*

1 *aho/Roosevelt National Forest and the Pawnee Na-*
2 *tional Grasslands. Such management and adminis-*
3 *tration shall be in accordance with the following:*

4 (A) *GRAZING.*—*Nothing in this Act, includ-*
5 *ing the establishment of the Protection Area,*
6 *shall affect grazing on lands within or outside of*
7 *the Protection Area.*

8 (B) *MINING WITHDRAWAL.*—*Subject to valid*
9 *existing rights, all Federal land within the Pro-*
10 *tection Area and all land and interests in land*
11 *acquired for the Protection Area by the United*
12 *States are withdrawn from—*

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

15 (ii) *location, entry, and patent under*
16 *the mining laws; and*

17 (iii) *the operation of the mineral leas-*
18 *ing, mineral materials, and geothermal*
19 *leasing laws, and all amendments thereto.*

20 *Nothing in this subparagraph shall be construed*
21 *to affect discretionary authority of the Secretary*
22 *under other Federal laws to grant, issue, or*
23 *renew rights-of-way or other land use authoriza-*
24 *tions consistent with the other provisions of this*
25 *Act.*

1 (C) *MOTORIZED AND MECHANIZED TRAV-*

2 *EL.—*

3 (i) *REVIEW AND INVENTORY.—Not*
4 *later than two years after the date of the en-*
5 *actment of this Act, the Secretary, in con-*
6 *sultation with interested parties, shall com-*
7 *plete a review and inventory of all roads*
8 *and trails in the Protection Area on which*
9 *use was allowed on September 10, 2001, ex-*
10 *cept those lands managed under the man-*
11 *agement prescription referred to in sub-*
12 *paragraph (F). During the review and in-*
13 *ventory, the Secretary may—*

14 (I) *connect existing roads and*
15 *trails in the inventoried area to other*
16 *existing roads and trails in the inven-*
17 *toried area for the purpose of mecha-*
18 *nized and other nonmotorized use on*
19 *any lands within the Protection Area*
20 *as long as there is no net gain in the*
21 *total mileage of either roads or trails*
22 *open for public use within the Protec-*
23 *tion Area; and*

24 (II) *close or remove roads or trails*
25 *within the Protection Area that the*

1 *Secretary determines to be undesirable,*
2 *except those roads or trails managed*
3 *pursuant to paragraph (2) of this sub-*
4 *section or subsection (e)(3).*

5 *(ii) AFTER COMPLETION OF INVEN-*
6 *TORY.—After completion of the review and*
7 *inventory required by clause (i), the Sec-*
8 *retary shall ensure that motorized and*
9 *mechanized travel within the Protection*
10 *Area shall be permitted only on those roads*
11 *and trails identified as open to use in the*
12 *inventory or established pursuant to sub-*
13 *paragraph (D).*

14 *(D) NEW ROADS AND TRAILS.—No new*
15 *roads or trails shall be established within the*
16 *Protection Area except those which the Secretary*
17 *shall establish as follows:*

18 *(i) Roads and trails established to re-*
19 *place roads or trails of the same character*
20 *and scope which have become nonserviceable*
21 *through reasons other than neglect.*

22 *(ii) Nonpermanent roads as needed for*
23 *hazardous fuels reduction or other control of*
24 *fire, insect or disease control projects, or*
25 *other management purposes.*

1 (iii) Roads determined to be appro-
2 priate for reasonable access under section
3 4(b)(2).

4 (iv) A loop trail established pursuant
5 to section 6.

6 (v) Construction of a trail for non-
7 motorized use following the corridor des-
8 ignated as the Continental Divide Trail.

9 (E) *TIMBER HARVESTING.*—No timber har-
10 vesting shall be allowed within the Protection
11 Area except to the extent needed for hazardous
12 fuels reduction or other control of fire, insect or
13 disease control projects, or protection of public
14 health or safety.

15 (F) *SPECIAL INTEREST AREA.*—The man-
16 agement prescription applicable to the lands de-
17 scribed in the 1997 Revision of the Land and
18 Resource Management Plan as the James Peak
19 Special Interest Area shall also be applicable to
20 all the lands in the Protection Area that are
21 bounded on the north by Rollins Pass Road, on
22 the east by the Continental Divide, and on the
23 west by the 11,300 foot elevation contour as
24 shown on the map referred to in subsection (b).

1 *In addition, motorized vehicle use shall not be*
2 *permitted on any part of the Rogers Pass trail.*

3 (2) *NATURAL GAS PIPELINE.—The Secretary*
4 *shall allow for maintenance of rights-of-ways and ac-*
5 *cess roads located within the Protection Area to the*
6 *extent necessary to operate the natural gas pipeline*
7 *permitted under the Arapaho/Roosevelt National For-*
8 *est master permit numbered 4138.01 in a manner*
9 *that avoids negative impacts on public safety and al-*
10 *lows for compliance with Federal pipeline safety re-*
11 *quirements. Such maintenance may include vegeta-*
12 *tion management, road maintenance, ground sta-*
13 *bilization, and motorized vehicle access.*

14 (3) *PERMANENT FEDERAL OWNERSHIP.—All*
15 *right, title, and interest of the United States, held on*
16 *or acquired after the date of the enactment of this Act,*
17 *to lands within the boundaries of the Protection Area*
18 *shall be retained by the United States.*

19 (e) *ISSUES RELATED TO WATER.—*

20 (1) *STATUTORY CONSTRUCTION.—*

21 (A) *Nothing in this Act shall constitute or*
22 *be construed to constitute either an express or*
23 *implied reservation of any water or water rights*
24 *with respect to the lands within the Protection*
25 *Area.*

1 (B) *Nothing in this Act shall affect any*
2 *conditional or absolute water rights in the State*
3 *of Colorado existing on the date of the enactment*
4 *of this Act.*

5 (C) *Nothing in this subsection shall be con-*
6 *strued as establishing a precedent with regard to*
7 *any future protection area designation.*

8 (D) *Nothing in this Act shall be construed*
9 *as limiting, altering, modifying, or amending*
10 *any of the interstate compacts or equitable ap-*
11 *portionment decrees that apportion water among*
12 *and between the State of Colorado and other*
13 *States.*

14 (2) *COLORADO WATER LAW.—The Secretary shall*
15 *follow the procedural and substantive requirements of*
16 *the law of the State of Colorado in order to obtain*
17 *and hold any new water rights with respect to the*
18 *Protection Area.*

19 (3) *WATER INFRASTRUCTURE.—Nothing in this*
20 *Act (including the provisions related to establishment*
21 *or management of the Protection Area) shall affect,*
22 *impede, interfere with, or diminish the operation, ex-*
23 *istence, access, maintenance, improvement, or con-*
24 *struction of water facilities and infrastructure, rights-*
25 *of-way, or other water-related property, interests, and*

1 *uses, (including the use of motorized vehicles and*
 2 *equipment existing or located on lands within the*
 3 *Protection Area) on any lands except those lands*
 4 *managed under the management prescription referred*
 5 *to in subsection (d)(1)(F).*

6 **SEC. 4. INHOLDINGS.**

7 *(a) STATE LAND BOARD LANDS.—If the Colorado*
 8 *State Land Board informs the Secretary that the Board is*
 9 *willing to transfer to the United States some or all of the*
 10 *lands owned by the Board located within the Protection*
 11 *Area, the Secretary shall promptly seek to reach agreement*
 12 *with the Board regarding terms and conditions for acquisi-*
 13 *tion of such lands by the United States by purchase or ex-*
 14 *change.*

15 *(b) JIM CREEK INHOLDING.—*

16 *(1) ACQUISITION OF LANDS.—The Secretary*
 17 *shall enter into negotiations with the owner of lands*
 18 *located within the portion of the Jim Creek drainage*
 19 *within the Protection Area for the purpose of acquir-*
 20 *ing the lands by purchase or exchange, but the United*
 21 *States shall not acquire such lands without the con-*
 22 *sent of the owner of the lands.*

23 *(2) LANDOWNER RIGHTS.—Nothing in this Act*
 24 *shall affect any rights of the owner of lands located*
 25 *within the Jim Creek drainage within the Protection*

1 *Area, including any right to reasonable access to such*
 2 *lands by motorized or other means as determined by*
 3 *the Forest Service and the landowner consistent with*
 4 *applicable law and relevant and appropriate rules*
 5 *and regulations governing such access.*

6 *(c) REPORT.—*

7 *(1) IN GENERAL.—The Secretary shall submit to*
 8 *the Committee on Resources of the House of Rep-*
 9 *resentatives and the Committee on Energy and Nat-*
 10 *ural Resources of the Senate a report concerning any*
 11 *agreement or the status of negotiations conducted pur-*
 12 *suant to—*

13 *(A) subsection (a), upon conclusion of an*
 14 *agreement for acquisition by the United States of*
 15 *lands referred to in subsection (a), or 1 year*
 16 *after the date of the enactment of this Act,*
 17 *whichever occurs first; and*

18 *(B) subsection (b), upon conclusion of an*
 19 *agreement for acquisition by the United States of*
 20 *lands referred to in subsection (b), or 1 year*
 21 *after the date of the enactment of this Act,*
 22 *whichever occurs first.*

23 *(2) FUNDING INFORMATION.—The report re-*
 24 *quired by this subsection shall indicate to what extent*
 25 *funds are available to the Secretary as of the date of*

1 *the report for the acquisition of the relevant lands*
2 *and whether additional funds need to be appropriated*
3 *or otherwise made available to the Secretary for such*
4 *purpose.*

5 (d) *MANAGEMENT OF ACQUISITIONS.—Any lands*
6 *within the James Peak Wilderness or the Protection Area*
7 *acquired by the United States after the date of the enact-*
8 *ment of this Act shall be added to the James Peak Wilder-*
9 *ness or the Protection Area, respectively, and managed ac-*
10 *cordingly.*

11 **SEC. 5. JAMES PEAK FALL RIVER TRAILHEAD.**

12 (a) *SERVICES AND FACILITIES.—Following the con-*
13 *sultation required by subsection (c), the Forest Supervisor*
14 *of the Arapaho/Roosevelt National Forest in the State of*
15 *Colorado (in this section referred to as the “Forest Super-*
16 *visor”)* shall establish a trailhead and corresponding facili-
17 *ties and services to regulate use of National Forest System*
18 *lands in the vicinity of the Fall River basin south of the*
19 *communities of Alice Township and St. Mary’s Glacier in*
20 *the State of Colorado. The facilities and services shall in-*
21 *clude the following:*

- 22 (1) *Trailhead parking.*
- 23 (2) *Public restroom accommodations.*
- 24 (3) *Trailhead and trail maintenance.*

1 (b) *PERSONNEL.*—*The Forest Supervisor shall assign*
2 *Forest Service personnel to provide appropriate manage-*
3 *ment and oversight of the area described in subsection (a).*

4 (c) *CONSULTATION.*—*The Forest Supervisor shall con-*
5 *sult with the Clear Creek County commissioners and with*
6 *residents of Alice Township and St. Mary's Glacier*
7 *regarding—*

8 (1) *the appropriate location of facilities and*
9 *services in the area described in subsection (a); and*

10 (2) *appropriate measures that may be needed in*
11 *this area—*

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

14 (B) *for public health; and*

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

17 (d) *REPORT.*—*After the consultation required by sub-*
18 *section (c), the Forest Supervisor shall submit to the Com-*
19 *mittee on Resources and the Committee on Appropriations*
20 *of the House of Representatives and the Committee on En-*
21 *ergy and Natural Resources and the Committee on Appro-*
22 *priations of the Senate a report regarding the amount of*
23 *any additional funding required to implement this section.*

1 **SEC. 6. LOOP TRAIL STUDY; AUTHORIZATION.**

2 (a) *STUDY*.—Not later than three years after funds are
3 first made available for this purpose, the Secretary, in con-
4 sultation with interested parties, shall complete a study of
5 the suitability and feasibility of establishing, consistent
6 with the purpose set forth in section 3(a)(2), a loop trail
7 for mechanized and other nonmotorized recreation con-
8 necting the trail designated as “Rogers Pass” and the trail
9 designated as “Rollins Pass Road”.

10 (b) *ESTABLISHMENT*.—If the results of the study re-
11 quired by subsection (a) indicate that establishment of such
12 a loop trail would be suitable and feasible, consistent with
13 the purpose set forth in section 3(a)(2), the Secretary shall
14 establish the loop trail in a manner consistent with that
15 purpose.

16 **SEC. 7. OTHER ADMINISTRATIVE PROVISIONS.**

17 (a) *BUFFER ZONES*.—The designation by this Act or
18 by amendments made by this Act of wilderness areas and
19 the Protection Area in the State of Colorado shall not create
20 or imply the creation of protective perimeters or buffer zones
21 around any wilderness area or the Protection Area. The fact
22 that nonwilderness activities or uses can be seen or heard
23 from within a wilderness area or Protection Area shall not,
24 of itself, preclude such activities or uses up to the boundary
25 of the wilderness area or the Protection Area.

1 (b) *ROLLINS PASS ROAD*.—If requested by one or more
2 of the Colorado Counties of Grand, Gilpin, and Boulder,
3 the Secretary shall provide technical assistance and other-
4 wise cooperate with respect to repairing the Rollins Pass
5 road in those counties sufficiently to allow two-wheel-drive
6 vehicles to travel between Colorado State Highway 119 and
7 U.S. Highway 40. If this road is repaired to such extent,
8 the Secretary shall close the motorized roads and trails on
9 Forest Service land indicated on the map entitled “Rollins
10 Pass Road Reopening: Attendant Road and Trail Clo-
11 sures”, dated September 2001.

12 **SEC. 8. WILDERNESS POTENTIAL.**

13 (a) *IN GENERAL*.—Nothing in this Act shall preclude
14 or restrict the authority of the Secretary to evaluate the
15 suitability of lands in the Protection Area for inclusion in
16 the National Wilderness Preservation System or to make
17 recommendations to Congress for such inclusion.

18 (b) *EVALUATION OF CERTAIN LANDS*.—In connection
19 with the first revision of the land and resources manage-
20 ment plan for the Arapaho/Roosevelt National Forest after
21 the date of the enactment of this Act, the Secretary shall
22 evaluate the suitability of the lands managed under the
23 management prescription referred to in section 3(d)(1)(F)
24 for inclusion in the National Wilderness Preservation Sys-

- 1 *tem and make recommendations to Congress regarding such*
- 2 *inclusion.*

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