

Calendar No. 477

107TH CONGRESS
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H. R. 1576

[Report No. 107-200]

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2001

Received; read twice and referred to the Committee on Energy and Natural
Resources

JUNE 28, 2002

Reported by Mr. BINGAMAN, without amendment

AN ACT

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “James Peak Wilder-
5 ness and Protection Area Act”.

1 **SEC. 2. WILDERNESS DESIGNATION.**

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

7 “(21) Certain lands in the Arapaho/Roosevelt
8 National Forest which comprise approximately
9 14,000 acres, as generally depicted on a map enti-
10 tled ‘Proposed James Peak Wilderness’, dated Sep-
11 tember 2001, and which shall be known as the
12 James Peak Wilderness.”.

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

19 “(c) The approximately 2,232 acres of Federal lands
20 in the Arapaho/Roosevelt National Forest generally de-
21 picted on the map entitled ‘Ranch Creek Addition to In-
22 dian Peaks Wilderness’ dated September 2001, are hereby
23 added to the Indian Peaks Wilderness Area.

24 “(d) The approximately 963 acres of Federal lands
25 in the Arapaho/Roosevelt National Forest generally de-
26 picted on the map entitled ‘Fourth of July Addition to

1 Indian Peaks Wilderness’ dated September 2001, are
2 hereby added to the Indian Peaks Wilderness Area.”.

3 (c) MAPS AND BOUNDARY DESCRIPTIONS.—As soon
4 as practicable after the date of the enactment of this Act,
5 the Secretary of Agriculture (hereafter in this Act referred
6 to as the “Secretary”) shall file with the Committee on
7 Resources of the House of Representatives and the Com-
8 mittee on Energy and Natural Resources of the Senate
9 a map and a boundary description of the area designated
10 as wilderness by subsection (a) and of the area added to
11 the Indian Peaks Wilderness Area by subsection (b). The
12 maps and boundary descriptions shall have the same force
13 and effect as if included in the Colorado Wilderness Act
14 of 1993 and the Indian Peaks Wilderness Area and Arap-
15 aho National Recreation Area and the Oregon Islands Wil-
16 derness Area Act, respectively, except that the Secretary
17 may correct clerical and typographical errors in the maps
18 and boundary descriptions. The maps and boundary de-
19 scriptions shall be on file and available for public inspec-
20 tion in the office of the Chief of the Forest Service, De-
21 partment of Agriculture and in the office of the Forest
22 Supervisor of the Arapaho/Roosevelt National Forest.

23 **SEC. 3. DESIGNATION OF JAMES PEAK PROTECTION AREA,**
24 **COLORADO.**

25 (a) FINDINGS AND PURPOSE.—

1 (1) FINDINGS.—The Congress finds the fol-
2 lowing:

3 (A) The lands covered by this section in-
4 clude important resources and values, including
5 wildlife habitat, clean water, open space, and
6 opportunities for solitude.

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

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

17 (2) PURPOSE.—The purpose of this section is
18 to provide for management of certain lands in the
19 Arapaho/Roosevelt National Forest in a manner con-
20 sistent with the 1997 Revised Land and Resources
21 Management Plan for this forest in order to protect
22 the natural qualities of these areas.

23 (b) DESIGNATION.—The approximately 16,000 acres
24 of land in the Arapaho/Roosevelt National Forest gen-
25 erally depicted on the map entitled “Proposed James Peak

1 Protection Area”, dated September 2001, are hereby des-
2 ignated as the James Peak Protection Area (hereafter in
3 this Act referred to as the “Protection Area”) .

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

18 (d) MANAGEMENT.—

19 (1) IN GENERAL.—Except as otherwise pro-
20 vided in this section, the Protection Area shall be
21 managed and administered by the Secretary in the
22 same manner as the management area prescription
23 designations identified for these lands in the 1997
24 Revision of the Land and Resource Management
25 Plan for the Arapaho/Roosevelt National Forest and

1 the Pawnee National Grasslands. Such management
2 and administration shall be in accordance with the
3 following:

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

8 (B) MINING WITHDRAWAL.—Subject to
9 valid existing rights, all Federal land within the
10 Protection Area and all land and interests in
11 land acquired for the Protection Area by the
12 United 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 con-
21 strued to affect discretionary authority of the
22 Secretary under other Federal laws to grant,
23 issue, or renew rights-of-way or other land use
24 authorizations consistent with the other provi-
25 sions of this 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
5 enactment of this Act, the Secretary, in
6 consultation with interested parties, shall
7 complete a review and inventory of all
8 roads and trails in the Protection Area on
9 which use was allowed on September 10,
10 2001, except those lands managed under
11 the management prescription referred to in
12 subparagraph (F). During the review and
13 inventory, 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
25 trails within the Protection Area that

1 the Secretary determines to be unde-
2 sirable, except those roads or trails
3 managed pursuant to paragraph (2)
4 of this subsection 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
11 roads and trails identified as open to use
12 in the inventory or established pursuant to
13 subparagraph (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 Sec-
17 retary 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 nonservice-
21 able through reasons other than neglect.

22 (ii) Nonpermanent roads as needed
23 for hazardous fuels reduction or other con-
24 trol of fire, insect or disease control
25 projects, or 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
10 harvesting shall be allowed within the Protec-
11 tion Area except to the extent needed for haz-
12 ardous fuels reduction or other control of fire,
13 insect or disease control projects, or protection
14 of public 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
8 Forest master permit numbered 4138.01 in a man-
9 ner that avoids negative impacts on public safety
10 and allows for compliance with Federal pipeline safe-
11 ty requirements. Such maintenance may include
12 vegetation management, road maintenance, ground
13 stabilization, and motorized vehicle access.

14 (3) PERMANENT FEDERAL OWNERSHIP.—All
15 right, title, and interest of the United States, held
16 on or acquired after the date of the enactment of
17 this Act, to lands within the boundaries of the Pro-
18 tection Area 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 enact-
4 ment of this Act.

5 (C) Nothing in this subsection shall be
6 construed as establishing a precedent with re-
7 gard to 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
12 among and between the State of Colorado and
13 other States.

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

19 (3) WATER INFRASTRUCTURE.—Nothing in this
20 Act (including the provisions related to establish-
21 ment or management of the Protection Area) shall
22 affect, impede, interfere with, or diminish the oper-
23 ation, existence, access, maintenance, improvement,
24 or construction of water facilities and infrastructure,
25 rights-of-way, or other water-related property, inter-

1 ests, and uses, (including the use of motorized vehi-
2 cles and equipment existing or located on lands with-
3 in the Protection Area) on any lands except those
4 lands managed under the management prescription
5 referred 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
9 is willing to transfer to the United States some or all of
10 the lands owned by the Board located within the Protec-
11 tion Area, the Secretary shall promptly seek to reach
12 agreement with the Board regarding terms and conditions
13 for acquisition of such lands by the United States by pur-
14 chase or exchange.

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
21 United States shall not acquire such lands without
22 the consent 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
2 such lands by motorized or other means as deter-
3 mined by the Forest Service and the landowner con-
4 sistent with applicable law and relevant and appro-
5 priate rules and regulations governing such access.

6 (c) REPORT.—

7 (1) IN GENERAL.—The Secretary shall submit
8 to 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
11 any agreement or the status of negotiations con-
12 ducted pursuant to—

13 (A) subsection (a), upon conclusion of an
14 agreement for acquisition by the United States
15 of 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
20 of 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 ex-
25 tent funds are available to the Secretary as of the

1 date of the report for the acquisition of the relevant
2 lands and whether additional funds need to be ap-
3 propriated or otherwise made available to the Sec-
4 retary for such 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
5 consult with the Clear Creek County commissioners and
6 with 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
21 Energy and Natural Resources and the Committee on Ap-
22 propriations of the Senate a report regarding the amount
23 of any additional funding required to implement this sec-
24 tion.

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

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

10 (b) ESTABLISHMENT.—If the results of the study re-
11 quired by subsection (a) indicate that establishment of
12 such a loop trail would be suitable and feasible, consistent
13 with the purpose set forth in section 3(a)(2), the Secretary
14 shall establish the loop trail in a manner consistent with
15 that 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 cre-
20 ate or imply the creation of protective perimeters or buffer
21 zones around any wilderness area or the Protection Area.
22 The fact that nonwilderness activities or uses can be seen
23 or heard from within a wilderness area or Protection Area
24 shall not, of itself, preclude such activities or uses up to
25 the boundary of the wilderness area or the Protection
26 Area.

1 (b) ROLLINS PASS ROAD.—If requested by one or
2 more of the Colorado Counties of Grand, Gilpin, and Boul-
3 der, the Secretary shall provide technical assistance and
4 otherwise cooperate with respect to repairing the Rollins
5 Pass road in those counties sufficiently to allow two-wheel-
6 drive vehicles to travel between Colorado State Highway
7 119 and U.S. Highway 40. If this road is repaired to such
8 extent, the Secretary shall close the motorized roads and
9 trails on Forest Service land indicated on the map entitled
10 “Rollins Pass Road Reopening: Attendant Road and Trail
11 Closures”, 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
16 in the National Wilderness Preservation System or to
17 make recommendations to Congress for such inclusion.

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

- 1 ervation System and make recommendations to Congress
- 2 regarding such inclusion.

Passed the House of Representatives December 11,
2001.

Attest:

JEFF TRANDAHL,

Clerk.

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