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WILD SKY WILDERNESS ACT OF 2003

AUGUST 26, 2003.—Ordered to be printed

Filed, under authority of the order of the Senate of July 29 (legislative day, July 21), 2003

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

R E P O R T

[To accompany S. 391]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 391) to enhance ecosystem, protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Beginning on page 1, strike line 6 and all that follows through page 4, line 13.
2. On page 4, line 14, strike “**SEC. 3**” and insert “**SEC. 2**”.
3. On page 5, line 13, strike “**SEC. 4**” and insert “**SEC. 3**”.
4. On page 6, line 14, strike “trail” and insert “trails”.
5. On page 7, line 1, insert “telecommunications” after “County”.
6. On page 7, line 10, insert “to be” after “determines”.
7. On page 7, line 17, strike “**SEC. 5**” and insert “**SEC. 4**”.
8. On page 7, line 22, strike “section 3(a)(1)” and insert “section 2(a)(1)”.
9. On page 8, line 3, strike “assure” and insert “ensure”.
10. On page 8, line 9, strike “**SEC. 6**” and insert “**SEC. 5**”.
11. On page 9, line 2, strike “snowtel site” and insert “telemetry site to monitor snow pack”.
12. On page 9, line 12, strike “snowtel” and insert “telemetry”.

13. On page 9, line 15, strike “secretary” and insert “Secretary”.

PURPOSE OF THE MEASURE

The purpose of S. 391 is to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River Valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness in the Mt. Baker-Snoqualmie National Forest.

BACKGROUND AND NEED

The Wild Sky Wilderness is located just a few hours from over half of Washington’s population and will provide key recreational opportunities to the booming population of the Puget Sound region as well as creating a vital link to other Cascade Wilderness Areas. Additionally, these areas will provide a safe and healthy home for important fish and wildlife populations.

One of the main goals of this bill is protecting and promoting high-quality open space and recreational opportunities for the growing Puget Sound region. More than 2.4 million people live in King, Snohomish, and Skagit counties. All of these areas are within close proximity to the area, and population of the area continues to grow, leading to increasing loss of open space.

Another important goal to be achieved by enactment of S. 391 is to place lowlands into the wilderness system in Washington State. Current wilderness areas in western Washington State are primarily high-elevation and, while important, do not reflect a wide range of ecological systems. S. 391 designates lowlands around the North Fork Skykomish river and its many creeks as wilderness. The bill establishes the 106,000 acre Wild Sky Wilderness Area in the Mt. Baker-Snoqualmie National Forest.

LEGISLATIVE HISTORY

S. 391 was introduced by Senator Murray and Senator Cantwell on February 13, 2003. The Subcommittee on Public Lands and Forests held a hearing on June 4, 2003. The bill was favorably reported by the Committee, with amendments on July 23, 2003. A similar bill, S. 2565, was ordered reported by the Committee on October 3, 2002. The text of the bill passed the Senate on November 20, 2002, as Title V of S. 2222.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 23, 2003, by a voice vote of a quorum present, recommends that the Senate pass S. 391 if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 391, the Committee adopted several technical and clarifying amendments. The amendments struck the finding and statement of policy, redesignated the sections, and it made technical and clarifying changes.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title for the Act as the “Wild Sky Act of 2003”.

Section 2(a) adds approximately 106,000 acres of National Forest System lands in the State of Washington to the National Wilderness Preservation System.

Section (b) directs the Secretary of Agriculture (“Secretary”) to file a map and legal description with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

Section 3(a) requires the Secretary to manage the lands designated in section 3 in accordance with the Wilderness Act (16 U.S.C. 1131 et. seq.).

The Committee is aware that some National Forest lands designated as Wilderness by S. 391 contain culverts and a bridge. The Committee understands that some of the culverts and the bridge are in disrepair. In fact, the General Accounting Office recently reported that the Forest Service’s culvert maintenance backlog totals \$331 million in Washington and Oregon (GAO-02-596T). The GAO report concludes that the Forest Service has not made sufficient funds available for culvert maintenance.

The Committee anticipates that the Forest Service will eventually remove most, if not all, of the culverts and could need to remove the bridge after this area is designated as Wilderness. However, the Committee is aware that such removal may not occur in a timely manner given the current state of the Forest Service’s maintenance backlog. In the interim, the Forest Service may find that continued maintenance is necessary with respect to a particular culvert or culverts in order to avoid damage to fisheries and soil resources.

Section 4(c) of the Wilderness Act prohibits among other things, the use of motor vehicles, motorized equipment, or other forms of mechanized transport, “except as necessary to meet minimum requirements for the Administration of the area for the purpose of this Act * * *” The Committee believes that the Forest Service’s ability to properly maintain affected culverts can be accomplished consistent with the authority of the Wilderness Act. The Committee recognizes that the Forest Service may determine that the use of motorized or mechanized equipment is necessary to accomplish maintenance activities. In fact, the Committee notes that the Federal land management agencies’ wilderness management guidelines explicitly state that the term “minimum tool” is not synonymous with “primitive tool” and in some cases an agency may determine that minimum tool includes motor vehicles, or other motorized or mechanized equipment.

Subsection (b) requires the Secretary to consult with interested parties and to establish a hiking trail plan to develop a system of hiking and equestrian trails within or adjacent to the wilderness designated by this Act in a manner consistent with the Wilderness Act.

Subsection (c) authorizes the Secretary to use helicopter access to construct and maintain, in a manner compatible with the preservation of the wilderness environment, a Forest Service communica-

tion repeater site to provide improved communication for safety and health purposes.

Subsection (d) authorizes the use of float planes on Lake Isabel where such use has already been established.

Subsection (e) states that the designation under this Act shall not preclude the operation and maintenance of the evergreen mountain lookout.

Section 4(a) authorizes the Secretary to acquire lands identified as "Priority Acquisition Lands" on the identified map and adjust the boundaries of the Snoqualmie National Forest and the Wild Sky Wilderness to encompass any land acquired pursuant to this section.

Subsection (b) states that, consistent with section 5(a) of the Wilderness Act, the Secretary shall assure adequate to private inholdings within the Wild Sky Wilderness.

Subsection (c) states that valuation of private lands shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area as a result of this Act.

Section 5 directs the Secretary to exchange certain lands with the Chelan County Public Utility District.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 2003.

Hon. PETE V. DOMENICI,
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. 391, the Wild Sky Wilderness Act of 2003.

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

Sincerely,

ROBERT A. SUNSHINE
(For Douglas Holtz-Eakin, Director).

Enclosure.

S. 391—Wild Sky Wilderness Act of 2003

Summary: S. 391 would designate the Wild Sky Wilderness on 106,000 acres of federal lands within the Mount Baker-Snoqualmie National Forest in Washington and would authorize the Secretary of Agriculture to acquire nonfederal lands and interests within the proposed wilderness. The bill would require the Secretary to prepare a plan to establish hiking trails within the proposed wilderness and report to the Congress on the implementation of that plan. Finally, S. 391 would direct the Secretary to convey to a local public utility district a permanent easement to operate a snow-monitoring device on 1.82 acres of national forest land in exchange for roughly 372 acres of land owned by that district.

CBO estimates that implementing S. 391 would cost \$18 million over the 2004–2008 period, assuming appropriation of the necessary amounts. The bill could affect direct spending (including offsetting receipts), but we estimate that any such effects would be negligible. S. 391 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 391 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, millions of dollars				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	7	5	5	1	0
Estimated outlays	7	5	4	1	1

Basis of estimate: CBO estimates that implementing S. 391 would cost \$18 million over the 2004–2008 period, assuming appropriation of the necessary amounts. We also estimate that the bill could increase direct spending, but that any such effects would not be significant in any year. For this estimate, CBO assumes that S. 391 will be enacted near the start of fiscal year 2004 and that necessary funds will be provided near the start of each year. Estimates of outlays are based on historical spending patterns for similar activities.

Spending subject to appropriation

Based on information from the Forest Service, CBO estimates that designating the proposed wilderness would increase the agency's administrative costs by roughly \$250,000 a year. We also estimate that the agency would spend: \$6 million over the 2004–2006 period to remove 27 miles of road that currently exist within the proposed wilderness; \$4 million over the 2004–2007 period to design and implement a system of trails; and up to \$7 million over the 2004–2006 period to acquire nonfederal lands and interests within the proposed wilderness.

Direct spending

Designating federal lands as wilderness could result in forgone offsetting receipts (a credit against direct spending) if, under current law, those lands would generate income from activities such as timber harvesting and mining. According to the Forest Service, however, those lands currently generate no significant receipts and are not expected to do so over the next 10 years. Hence, CBO estimates that any forgone receipts under S. 391 would be negligible.

Intergovernmental and private-sector impact: S. 391 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Megan Carroll. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, 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. 391. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

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. 391, as ordered reported.

EXECUTIVE COMMUNICATIONS

The Committee on Energy and Natural Resources has requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth Executive agency recommendations on S. 391. These reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the United States Forest Service at the Subcommittee hearing follows:

STATEMENT OF MARK REY, UNDER SECRETARY, DEPARTMENT OF AGRICULTURE

S. 391 would designate approximately 106,000 acres of additional wilderness on the Mt. Baker-Snoqualmie National Forest in the State of Washington. It directs the Secretary to assure adequate access to private in-holdings within the Wild Sky Wilderness and establish a trail plan for hiking and equestrian trails within and adjacent to the wilderness. The bill authorizes the use of helicopter access to construct and maintain a joint Forest Service and Snohomish County repeater site to provide improved communication for safety, health, and emergency services.

S. 391 also requires the Secretary to exchange specified lands with the Chelan County Public Utility District if the District offers to the Secretary approximately 371.8 acres within the Mt. Baker-Snoqualmie National Forest, in exchange for a permanent easement, including helicopter access, consistent with such levels as used as of the date of this bill's enactment, to maintain an existing snotel site on 1.82 acres on the Wenatchee National Forest. The snotel site is currently used to monitor the snow pack for calculating expected runoff into hydroelectric projects. If, after the exchange occurs, Chelan County notifies the Secretary that they no longer need to maintain the snotel site, the easement will be extinguished and all rights conveyed by this exchange would revert to the United States.

The Department does not oppose the designation of the Wild Sky Wilderness as a component of the National Wilderness Preservation System. We recognize and commend the delegation for its collaborative approach and local in-

volvement that contribute to bipartisan support for this bill. However, the Department would like to work with the Committee to improve S. 391.

While the vast majority of the lands described in S. 391 are appropriate for wilderness designation, the Department has significant concerns with approximately 16,000 acres. These acres would not be considered suitable for wilderness designation under the provisions of the 1964 Wilderness Act or under existing Forest Service regulations and planning direction. The Department believes that the current allocation of these lands under the Mt. Baker-Snoqualmie Forest Plan continues to be the most suitable designation for these acres.

The lands that we believe are appropriate for designation under the Wilderness Act, approximately 90,000 acres, consist of all of the Eagle Rock Roadless Area and portions of Glacier Peak A, B, K, and L. These areas retain their undeveloped character and are largely without permanent improvements or human habitation. Limiting the wilderness designation to these lands would address many of the Department's concerns.

The areas we propose for exclusion from wilderness designation include low elevation forests that have been utilized for timber harvest and mining over the last 80 years, still showing visible evidence of road building, logging and mining activities. The areas also include approximately 27 miles of existing roads, some of which are all weather, drivable, and graveled. Several of the roads receive significant visitor use associated with recreation opportunities. The Rapid River Road is such a travel way and we recommend excluding it, in its entirety, from wilderness designation. The types of recreation experiences enjoyed by users along the Rapid River Road corridor include driving for pleasure, nature photography, fishing, picnicking and dispersed camping at a number of pull-off sites along the road. In the winter snowmobiles use this road as a part of the snowmobile trail system, traveling to its end point.

Another concern lies with roads, both outside and adjacent to the proposed wilderness boundary that have narrow corridors subject to landslide and river bank erosion. This situation poses significant public access and resource management issues, as the proximity of the proposed boundary could result in constraints related to necessary repairs and road reconstruction work. We would like to work with the Committee on more appropriate boundaries.

Further, we propose the exclusion of most of the approximately 2,400 acres of private patented mining claims and private timberlands. A boundary adjustment in the Silver Creek drainage would remove most of the private lands from the proposed Wilderness.

Finally, the approach to naming these disconnected areas of land collectively as the Wild Sky Wilderness may cause public confusion, particularly since some of the areas proposed for designation are immediately adjacent to the existing Henry M. Jackson Wilderness. In order to mini-

mize administrative costs and reduce public confusion, the Department suggests designating only Eagle Rock Roadless Area as Wild Sky Wilderness. The Glacier Peak Roadless Areas A, B, K, and L should become additions to the adjacent Henry M. Jackson Wilderness.

The Department supports the administrative provisions in the bill, particularly provisions for a repeater site to provide improved communications for safety and health purposes. The Department also supports the provisions for land exchange in the Glacier Peak Wilderness and provisions for management of the existing snowtel site in that wilderness.

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 bill S. 391 as ordered reported.

