Public Law 107–216
107th Congress

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.

Aug. 21, 2002
[H.R. 1576]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

James Peak Wilderness and Protection Act. 16 USC 539*l*.

SECTION 1. SHORT TITLE.

This Act may be cited as the "James Peak Wilderness and Protection Area Act".

SEC. 2. WILDERNESS DESIGNATION.

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

"(21) Certain lands in the Arapaho/Roosevelt National Forest which comprise approximately 14,000 acres, as generally depicted on a map entitled 'Proposed James Peak Wilderness', dated September 2001, and which shall be known as the James Peak Wilderness.".

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

"(c) The approximately 2,232 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled 'Ranch Creek Addition to Indian Peaks Wilderness' dated September 2001, are hereby added to the Indian Peaks Wilderness Area.

"(d) The approximately 963 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled 'Fourth of July Addition to Indian Peaks Wilderness' dated September 2001, are hereby added to the Indian Peaks Wilderness Area.".

(c) MAPS AND BOUNDARY DESCRIPTIONS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and a boundary description of the area designated as wilderness by subsection (a) and of the area added to the Indian Peaks Wilderness Area by subsection (b). The maps and boundary descriptions shall have the same force and effect as if included in the Colorado Wilderness Act of 1993 and the Indian Peaks

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Wilderness Area and Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act, respectively, except that the Secretary may correct clerical and typographical errors in the maps and boundary descriptions. The maps and boundary descriptions shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture and in the office of the Forest Supervisor of the Arapaho/Roosevelt National Forest.

16 USC 539*l*.

SEC. 3. DESIGNATION OF JAMES PEAK PROTECTION AREA, COLORADO.

(a) FINDINGS AND PURPOSE.—

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

(A) The lands covered by this section include important resources and values, including wildlife habitat, clean water, open space, and opportunities for solitude.

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

(C) These lands should be managed in a way that affords permanent protection to their resources and values while permitting continued recreational uses in appropriate locales and subject to appropriate regulations.

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

(b) DESIGNATION.—The approximately 16,000 acres of land in the Arapaho/Roosevelt National Forest generally depicted on the map entitled "Proposed James Peak Protection Area", dated September 2001, are hereby designated as the James Peak Protection Area (hereafter in this Act referred to as the "Protection Area").

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

(d) MANAGEMENT.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Protection Area shall be managed and administered by the Secretary in the same manner as the management area prescription designations identified for these lands in the 1997 Revision of the Land and Resource Management Plan for the Arapaho/Roosevelt National Forest and the Pawnee National Grasslands. Such management and administration shall be in accordance with the following:

(A) GRAZING.—Nothing in this Act, including the establishment of the Protection Area, shall affect grazing on lands within or outside of the Protection Area.

(B) MINING WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Protection Area and all land and interests in land acquired for the Protection Area by the United States are withdrawn from—

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

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

(iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

Nothing in this subparagraph shall be construed to affect discretionary authority of the Secretary under other Federal laws to grant, issue, or renew rights-of-way or other land use authorizations consistent with the other provisions of this Act.

(C) MOTORIZED AND MECHANIZED TRAVEL.—

(i) REVIEW AND INVENTORY.—Not later than two years after the date of the enactment of this Act, the Secretary, in consultation with interested parties, shall complete a review and inventory of all roads and trails in the Protection Area on which use was allowed on September 10, 2001, except those lands managed under the management prescription referred to in subparagraph (F). During the review and inventory, the Secretary may— Deadline.

(I) connect existing roads and trails in the inventoried area to other existing roads and trails in the inventoried area for the purpose of mechanized and other nonmotorized use on any lands within the Protection Area as long as there is no net gain in the total mileage of either roads or trails open for public use within the Protection Area; and

(II) close or remove roads or trails within the Protection Area that the Secretary determines to be undesirable, except those roads or trails managed pursuant to paragraph (2) of this subsection or subsection (e)(3).

(ii) AFTER COMPLETION OF INVENTORY.—After completion of the review and inventory required by clause (i), the Secretary shall ensure that motorized and mechanized travel within the Protection Area shall be permitted only on those roads and trails identified as open to use in the inventory or established pursuant to subparagraph (D).

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

(i) Roads and trails established to replace roads or trails of the same character and scope which have become nonserviceable through reasons other than neglect.

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

(iii) Roads determined to be appropriate for reasonable access under section 4(b)(2).

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

(v) Construction of a trail for nonmotorized use following the corridor designated as the Continental Divide Trail.

(E) TIMBER HARVESTING.—No timber harvesting shall be allowed within the Protection Area except to the extent needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or protection of public health or safety.

Applicability.

(F) SPECIAL INTEREST AREA.—The management prescription applicable to the lands described in the 1997 Revision of the Land and Resource Management Plan as the James Peak Special Interest Area shall also be applicable to all the lands in the Protection Area that are bounded on the north by Rollins Pass Road, on the east by the Continental Divide, and on the west by the 11,300 foot elevation contour as shown on the map referred to in subsection (b). In addition, motorized vehicle use shall not be permitted on any part of the Rogers Pass trail.

(2) NATURAL GAS PIPELINE.—The Secretary shall allow for maintenance of rights-of-ways and access roads located within the Protection Area to the extent necessary to operate the natural gas pipeline permitted under the Arapaho/Roosevelt National Forest master permit numbered 4138.01 in a manner that avoids negative impacts on public safety and allows for compliance with Federal pipeline safety requirements. Such maintenance may include vegetation management, road maintenance, ground stabilization, and motorized vehicle access.

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

(e) ISSUES RELATED TO WATER.—

(1) STATUTORY CONSTRUCTION.—

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

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

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future protection area designation.

(D) Nothing in this Act shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States.

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

(3) WATER INFRASTRUCTURE.—Nothing in this Act (including the provisions related to establishment or management of the Protection Area) shall affect, impede, interfere with, or diminish the operation, existence, access, maintenance, improvement, or construction of water facilities and infrastructure, rights-of-way, or other water-related property, interests, and uses, (including the use of motorized vehicles and equipment existing or located on lands within the Protection Area) on any lands except those lands managed under the management prescription referred to in subsection (d)(1)(F).

SEC. 4. INHOLDINGS. 16 USC 539*l*–1.

(a) STATE LAND BOARD LANDS.—If the Colorado State Land Board informs the Secretary that the Board is willing to transfer to the United States some or all of the lands owned by the Board located within the Protection Area, the Secretary shall promptly seek to reach agreement with the Board regarding terms and conditions for acquisition of such lands by the United States by purchase or exchange.

(b) JIM CREEK INHOLDING.—

(1) ACQUISITION OF LANDS.—The Secretary shall enter into negotiations with the owner of lands located within the portion of the Jim Creek drainage within the Protection Area for the purpose of acquiring the lands by purchase or exchange, but the United States shall not acquire such lands without the consent of the owner of the lands.

(2) LANDOWNER RIGHTS.—Nothing in this Act shall affect any rights of the owner of lands located within the Jim Creek drainage within the Protection Area, including any right to reasonable access to such lands by motorized or other means as determined by the Forest Service and the landowner consistent with applicable law and relevant and appropriate rules and regulations governing such access.

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning any agreement or the status of negotiations conducted pursuant to—

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

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

(2) FUNDING INFORMATION.—The report required by this subsection shall indicate to what extent funds are available to the Secretary as of the date of the report for the acquisition of the relevant lands and whether additional funds need to be appropriated or otherwise made available to the Secretary for such purpose.

(d) MANAGEMENT OF ACQUISITIONS.—Any lands within the James Peak Wilderness or the Protection Area acquired by the United States after the date of the enactment of this Act shall

be added to the James Peak Wilderness or the Protection Area, respectively, and managed accordingly.

16 USC 539*l*–2.

SEC. 5. JAMES PEAK FALL RIVER TRAILHEAD.

(a) SERVICES AND FACILITIES.—Following the consultation required by subsection (c), the Forest Supervisor of the Arapaho/Roosevelt National Forest in the State of Colorado (in this section referred to as the "Forest Supervisor") shall establish a trailhead and corresponding facilities and services to regulate use of National Forest System lands in the vicinity of the Fall River basin south of the communities of Alice Township and St. Mary's Glacier in the State of Colorado. The facilities and services shall include the following:

(1) Trailhead parking.

(2) Public restroom accommodations.

(3) Trailhead and trail maintenance.

(b) PERSONNEL.—The Forest Supervisor shall assign Forest Service personnel to provide appropriate management and oversight of the area described in subsection (a).

(c) CONSULTATION.—The Forest Supervisor shall consult with the Clear Creek County commissioners and with residents of Alice Township and St. Mary's Glacier regarding—

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

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

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

(B) for public health; and

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

(d) REPORT.—After the consultation required by subsection (c), the Forest Supervisor shall submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.

16 USC 539*l*–3.

SEC. 6. LOOP TRAIL STUDY; AUTHORIZATION.

Deadline.

(a) STUDY.—Not later than three years after funds are first made available for this purpose, the Secretary, in consultation with interested parties, shall complete a study of the suitability and feasibility of establishing, consistent with the purpose set forth in section 3(a)(2), a loop trail for mechanized and other non-motorized recreation connecting the trail designated as "Rogers Pass" and the trail designated as "Rollins Pass Road".

(b) ESTABLISHMENT.—If the results of the study required by subsection (a) indicate that establishment of such a loop trail would be suitable and feasible, consistent with the purpose set forth in section 3(a)(2), the Secretary shall establish the loop trail in a manner consistent with that purpose.

16 USC 539*l*–4.

SEC. 7. OTHER ADMINISTRATIVE PROVISIONS.

(a) BUFFER ZONES.—The designation by this Act or by amendments made by this Act of wilderness areas and the Protection Area in the State of Colorado shall not create or imply the creation of protective perimeters or buffer zones around any wilderness area or the Protection Area. The fact that nonwilderness activities

or uses can be seen or heard from within a wilderness area or Protection Area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area or the Protection Area.

(b) ROLLINS PASS ROAD.—If requested by one or more of the Colorado Counties of Grand, Gilpin, and Boulder, the Secretary shall provide technical assistance and otherwise cooperate with respect to repairing the Rollins Pass road in those counties sufficiently to allow two-wheel-drive vehicles to travel between Colorado State Highway 119 and U.S. Highway 40. If this road is repaired to such extent, the Secretary shall close the motorized roads and trails on Forest Service land indicated on the map entitled "Rollins Pass Road Reopening: Attendant Road and Trail Closures", dated September 2001.

SEC. 8. WILDERNESS POTENTIAL. 16 USC 539*l*–5.

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

(b) EVALUATION OF CERTAIN LANDS.—In connection with the first revision of the land and resources management plan for the Arapaho/Roosevelt National Forest after the date of the enactment of this Act, the Secretary shall evaluate the suitability of the lands managed under the management prescription referred to in section 3(d)(1)(F) for inclusion in the National Wilderness Preservation System and make recommendations to Congress regarding such inclusion.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 1576:

HOUSE REPORTS: No. 107–316 (Comm. on Resources).
SENATE REPORTS: No. 107–200 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 147 (2001): Dec. 11, considered and passed House.
Vol. 148 (2002): Aug. 1, considered and passed Senate.