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107TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 107–150

MOUNT NEBO WILDERNESS BOUNDARY ADJUSTMENT ACT

JULY 23, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 451]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 451) to make certain adjustments to the boundaries of the Mount Nebo Wilderness Area, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mount Nebo Wilderness Boundary Adjustment Act".

SEC. 2. BOUNDARY ADJUSTMENTS.

(a) LANDS REMOVED.—The boundary of the Mount Nebo Wilderness is adjusted to exclude the following:

(1) MONUMENT SPRINGS.—The approximately 8.4 acres of land depicted on the Map as "Monument Springs".

(2) GARDNER CANYON.—The approximately 177.8 acres of land depicted on the Map as "Gardner Canyon".

(3) BIRCH CREEK.—The approximately 5.0 acres of land depicted on the Map as "Birch Creek".

(4) INGRAM CANYON.—The approximately 15.4 acres of land depicted on the Map as "Ingram Canyon".

(5) WILLOW NORTH A.—The approximately 3.4 acres of land depicted on the Map as "Willow North A".

(6) WILLOW NORTH B.—The approximately 6.6 acres of land depicted on the Map as "Willow North B".

(7) WILLOW SOUTH.—The approximately 21.5 acres of land depicted on the Map as "Willow South".

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(8) MENDENHALL CANYON.—The approximately 9.8 acres of land depicted on the Map as "Mendenhall Canyon".

(9) WASH CANYON.—The approximately 31.4 acres of land depicted on the Map as "Wash Canyon".

(b) LANDS ADDED.—Subject to valid existing rights, the boundary of the Mount Nebo Wilderness is adjusted to include the approximately 293.2 acres of land depicted on the Map for addition to the Mount Nebo Wilderness. The Utah Wilderness Act of 1984 (Public Law 94–428) shall apply to the land added to the Mount Nebo Wilderness pursuant to this subsection.

SEC. 3. MAP.

(a) DEFINITION.—For the purpose of this Act, the term "Map" shall mean the map entitled "Mt. Nebo Wilderness Boundary Adjustment", numbered 531, and dated May 29, 2001.

(b) MAP ON FILE.—The Map and the final document entitled "Mount Nebo, Proposed Boundary Adjustments, Parcel Descriptions (See Map #531)" and dated June 4, 2001, shall be on file and available for inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) CORRECTIONS.—The Secretary of Agriculture may make technical corrections to the Map.

SEC. 4. TECHNICAL BOUNDARY ADJUSTMENT.

The boundary of the Mount Nebo Wilderness is adjusted to exclude the approximately 21.26 acres of private property located in Andrews Canyon, Utah, and depicted on the Map as "Dale".

PURPOSE OF THE BILL

The purpose of H.R. 451 is to make certain adjustments to the boundaries of the Mount Nebo Wilderness Area, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Mount Nebo Wilderness Area is located in the Uinta National Forest in Juab County, Utah. The Mount Nebo area was designated a Wilderness Area in the Utah Wilderness Act of 1984 (Utah Wilderness Act). However, that Act inappropriately designated various parcels of public land as wilderness that also included improved water system developments for surrounding communities. These water developments provide clean drinking water for Juab County, and are in need of periodic maintenance.

Because motorized or mechanical equipment is prohibited from entering a formally-designated wilderness area, the necessary maintenance of these water systems has been deficient and they have begun to deteriorate. In a portion of the current Mt. Nebo Wilderness, the Willow Creek area, a concrete ditch recently became so dilapidated, that it was unable to sustain the flow of water. Due to the county's inability to sufficiently maintain the ditch using the proper equipment, the water caused substantial erosion before it was able to be repaired. Unless the current situation is corrected to allow for maintenance of these systems using motorized equipment, more large-scale damage, erosion, and disruptions in water supplies for communities is to be expected.

Under this legislation, approximately 279.3 acres would be excluded from wilderness status in the resulting boundary adjustment. However, approximately 293.2 acres of land currently classified as "roadless" would be added back as wilderness . Thus, there would be a ten (10) acre net gain in the overall size of the Mount Nebo Wilderness Area.

Further, this legislation removes a small portion of private land (21.26 acres) from within the borders of Mount Nebo Wilderness

Area which was improperly included in the Utah Wilderness Act. The Wilderness Act of 1964 states that only federally owned land may be included in the National Wilderness Preservation System.

COMMITTEE ACTION

H.R. 451 was introduced on February 6, 2001 by Congressman James Hansen (R–UT). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Forests and Forest Health. On April 25, 2001, the Subcommittee held a hearing on the bill. On June 21, 2001, the Subcommittee met to mark up the bill. Congressman James Hansen (R–UT) offered an amendment in the nature of a substitute to: (1) reduce the amount of land removed from the wilderness area in Wash Canyon, Mendenhall Canyon, Willow North A, Willow North B, Willow South, Ingram Creek, Birch Creek, Gardner Canyon and Monument Springs to minimum levels needed to service water facilities in these areas, while correspondingly reducing the amount of new land added to the wilderness area so that there would be a net gain in the size of the wilderness area of 13.9 acres; and (2) strike Section 5 of the bill, concerning water uses under the Utah Wilderness Act of 1984. It was adopted by voice vote. The bill was then forwarded to the Full Committee by voice vote. On June 27, 2001, the Full Resources Committee met to consider the bill. The bill, as amended, was then ordered 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 of the Constitution of the United States grants 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, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, the bill could affect direct spending and offsetting receipts. However, such impacts would be negligible.

3. *General Performance Goals and Objectives.*—This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

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, June 29, 2001.

Hon. JAMES V. HANSEN,
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. 451, the Mount Nebo Wilderness Boundary Adjustment Act.

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

Sincerely,

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

Enclosure.

H.R. 451—Mount Nebo Wilderness Boundary Adjustment Act

CBO estimates that enacting H.R. 451 would have no significant impact on the federal budget. Because the bill could affect direct spending and offsetting receipts, pay-as-you-go procedures would apply; but we estimate that any such impacts would be negligible. H.R. 451 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enactment of this legislation would benefit Juab County, Utah, by allowing it greater access to water supply facilities.

H.R. 451 would adjust the boundaries of the Mount Nebo Wilderness Area, located in Utah and administered by the Forest Service. The bill would remove from the wilderness area about 279 acres of federal lands that include water systems and facilities that cannot adequately be maintained because they are located within the wilderness area. To offset the removal of those lands, H.R. 451 would add about 293 acres of other federal lands administered by the Forest Service to the Mount Nebo Wilderness Area, subject to valid existing rights. Finally, H.R. 451 would correct the boundary of the wilderness area to exclude about 21 acres of private owned land.

Based on information from the Forest Service, CBO estimates that any increased costs incurred by the agency to update maps and move signs to reflect the revised boundaries of the wilderness area would be negligible. Changing the classification of classification of federal lands could affect whether new income-generating activities can occur on those lands. Thus, enacting this legislation could affect offsetting receipts, but we estimate that any such effects would be small. According to the Forest Service, none of the lands involved currently generate significant receipts, and they are

not expected to do so in the near future, regardless of whether they lie within or outside the wilderness area.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Robert A. Sunshine, 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 any State, local or tribal law.

CHANGES IN EXISTING LAW

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

DISSENTING VIEWS

As introduced, H.R. 451 would change the boundaries of a congressionally designated wilderness area. H.R. 451 would adjust the boundaries of the Mount Nebo Wilderness on the Uinta National Forest in Utah by removing approximately 429 acres and adding approximately 440 acres. The eight parcels to be excluded from wilderness include mines, and water transmission and storage facilities. The bill would also amend the Utah Wilderness Act of 1984 to facilitate motorized access to and installation and maintenance of all water systems in Utah wilderness.

Under existing law, water system operator permittees must get permission from the Regional Forester to maintain their systems by motorized access. Complying with stringent guidelines for wilderness management, the Forest Service has not routinely granted these requests. H.R. 451 addresses the difficulties and frustrations encountered by these operators by "cherry stemming" these areas out of the wilderness.

As amended, H.R. 451 removes the minimum amount of acreage necessary to allow motorized access for these facilities. Like the introduced bill, it adds more acreage to the wilderness area than is removed—approximately 293 and 279 acres respectively. Finally, it removes the global amendment to the Utah Wilderness Act of 1984. These amendments significantly improve the bill. Nevertheless, without language to restrict motorized use in areas removed from wilderness to repairing or maintaining existing facilities operating under current special use permits, H.R. 451 could lead to more widespread use of motorized vehicles in and around the wilderness and make boundary management difficult.

Changes to wilderness boundaries and management should not be made lightly nor done routinely. Wilderness bills are the results of lengthy, carefully negotiations; areas included and excluded from wilderness are rarely accidental. Legislation that overrides the Wilderness Act undermines the Act and degrades wilderness values. H.R. 451 addresses a unique situation but should not serve as precedent for significantly modifying congressionally designated wilderness boundaries.

JAY INSLEE.

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