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105TH CONGRESS }  
1st Session }

SENATE

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### RAGGEDS WILDERNESS, WHITE RIVER NATIONAL FOREST BOUNDARY ADJUSTMENT

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OCTOBER 6, 1997.—Ordered to be printed

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

### REPORT

[To accompany S. 589]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 589) to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous lands surveys, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. BOUNDARY ADJUSTMENT AND LAND CONVEYANCE, RAGGEDS WILDERNESS, WHITE RIVER NATIONAL FOREST, COLORADO.**

(a) FINDINGS.—Congress finds that—

(1) certain landowners in Gunnison County, Colorado, who own real property adjacent to the portion of the Raggeds Wilderness in the White River National Forest, Colorado, have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that the landowners reasonably believed were accurate;

(2) in 1993, a Forest Service resurvey of the Raggeds Wilderness established accurate boundaries between the wilderness area and adjacent private lands; and

(3) the resurvey indicates that a small portion of the Raggeds Wilderness is occupied by adjacent landowners on the basis of the earlier erroneous land surveys.

(b) PURPOSE.—It is the purpose of this section to remove from the boundaries of the Raggeds Wilderness certain real property so as to permit the Secretary of Agriculture to use the authority of Public Law 97-465 (commonly known as the “Small Tracts Act”) (16 U.S.C. 521c et seq.) to convey the property to the landowners who occupied the property on the basis of erroneous land surveys.

(c) BOUNDARY ADJUSTMENT.—The boundary of the Raggeds Wilderness, Gunnison and White River National Forests, Colorado, as designated by section 102(a)(16) of Public Law 96-560 (94 Stat. 3267; 16 U.S.C. 1132 note), is hereby modified to exclude from the area encompassed by the wilderness a parcel of real property approximately 0.86-acres in size situated in the SW<sup>1</sup>/<sub>4</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 28, Township 11 South, Range 88 West of the 6th Principal Meridian, as depicted on the map entitled “Encroachment-Raggeds Wilderness”, dated November 17, 1993.

(d) MAP.—The map described in subsection (c) shall be on file and available for inspection in the appropriate offices of the Forest Service, Department of Agriculture.

(e) CONVEYANCE OF LAND REMOVED FROM WILDERNESS AREA.—The Secretary of Agriculture shall use the authority provided by Public Law 97-465 (commonly known as the “Small Tracts Act”) (16 U.S.C. 521c et seq.) to convey all right, title, and interest of the United States in and to the real property excluded from the boundaries of the Raggeds Wilderness under subsection (c) to the owners of real property in Gunnison County, Colorado, whose real property adjoins the excluded real property and who have occupied the excluded real property in good faith reliance on an erroneous survey.

#### PURPOSE OF THE BILL

The purpose of S. 589 is to direct for a boundary adjustment and land conveyance of federal lands in the Raggeds Wilderness within the White River National Forest, Colorado, in order to correct the effects of earlier erroneous land surveys.

#### BACKGROUND AND NEED FOR THE LEGISLATION

In 1993, following a boundary survey, an encroachment into the Raggeds Wilderness Area was discovered in the White River National Forest, just west of the Town of Marble, Colorado. The encroachment consists of approximately 400 feet of power line and 450 feet of road. In addition, portions of four subdivision lots extend into the wilderness. The road is a county road and provides the sole legal access to the four lots. The entire encroachment is less than one acre of land. Portions of Section 28, Township 11 South, Range 88 West became private land through the homesteading process in the late 1800s. In 1959, the area was surveyed and subdivided as the Crystal Meadows Subdivision, lots were sold, roads constructed and utilities installed. Landowners in the area have used the roads and built homes since 1959. In 1982, Public Law 96-560 created the Raggeds Wilderness. In 1988, the Bureau of Land Management, acting under the request of the Forest Service, surveyed Section 28. In 1993, the Forest Service posted and marked the federal boundary. During the posting process, the Forest Service identified the encroachment in an area where the private/federal property line is coincident with the boundary of the Raggeds Wilderness.

The Bureau of Land Management and Forest Service surveys found that the original survey of the Crystal Meadows subdivision in 1959 was erroneous. Although less than one acre is affected, the Forest Service cannot settle the matter under existing authority in the Small Tracts Act because the lands in question are within the Raggeds Wilderness. The wilderness boundary may only be modified by an act of Congress.

#### SUMMARY OF MAJOR PROVISIONS

S. 589 adjusts the boundary of the Raggeds Wilderness and directs the Secretary of Agriculture to convey the affected property

to the private landowners under the authority of Small Tracts Act (16 U.S.C. 521c–521i).

#### LEGISLATIVE HISTORY

S. 589 was introduced on April 16, 1997 by Senator Campbell. On June 18, 1997, the Subcommittee on Forests and Public Land Management held a hearing on S. 589. At the business meeting on September 24, 1997, the Committee on Energy and Natural Resources ordered S. 589, as amended, favorably reported.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 24, 1997, by a unanimous voice vote of the quorum present, recommends that the Senate pass S. 589, if amended as described herein.

#### COMMITTEE AMENDMENT

During the consideration of S. 589, the Committee adopted an amendment in the nature of a substitute that incorporates changes recommended by the Administration and makes technical and clarifying modifications.

#### COST AND BUDGETARY CONSIDERATIONS

The cost and budgetary considerations prepared by Congressional Budget Office are as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 26, 1997.*

Hon. FRANK H. MURKOWSKI,  
*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. 589, a bill to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 589.—A bill to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys*

CBO estimates that enacting S. 589 would have no significant impact on the federal budget. The bill would adjust the boundaries of the Raggeds Wilderness Area in Colorado to exclude about one acre of land on which roads and other improvements were inadvertently constructed. Enacting this bill would allow the Secretary

of Agriculture to sell the property under the Small Tracts Act. Based on information from the Forest Service, CBO estimates that enacting S. 589 would increase offsetting receipts as a result of the sale, but that the increase would total less than \$5,000. This amount would be considered the proceeds of an asset sale.

Under the Balanced Budget Act of 1997, proceeds from an asset sale are counted in determining compliance with pay-as-you-go requirements only if the sale does not result in a financial cost to the government over time. CBO estimates that the asset sale under S. 589 would not result in such a cost. Hence, pay-as-you-go procedures would apply to the bill, but the decrease in direct spending would be negligible.

S. 589 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no impact on the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Victoria V. Heid. This estimate was approved by Robert A. Sunshine, 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. 589. 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. 589, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

The administration testified in favor of the legislation at a June 18, 1997 hearing held by the Subcommittee on Forests and Public Land Management. Legislative reports from the Department of Agriculture, the Department of Interior, and the Office of Management and Budget setting forth Executive agency recommendations on S. 589 were unavailable at the time the report was filed. When 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 at the committee hearing follows:

Mr. Chairman and members of the subcommittee: I am Bob Joslin, the new Deputy Chief of the Forest Service for the National Forest System. I am pleased to be here to share the Administration's views on S. 589.

*S. 589, Boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado*

The Administration recommends passage of S. 589, a bill to provide a boundary adjustment involving the Raggeds

Wilderness, White River National Forest, Colorado, to allow a land conveyance to correct the effects of earlier erroneous land surveys.

S. 589 would modify the Raggeds Wilderness boundary to exclude a less than one acre parcel. It would also authorize the Secretary of Agriculture to convey the parcel to private landowners who unknowingly encroached on the Wilderness for fair market value under the provisions of the Small Tracts Act. The encroachment consists of approximately 400 feet of a powerline, 450 feet of a road, and portions of four subdivision lots. The road provides the sole legal access to the four lots, including one year-round residence.

The land within the subdivision became private land through the homesteading process in the late 1800's. In 1959, the area was surveyed and subdivided as Crystal Meadows Subdivision; lots were sold, roads constructed, and utilities installed. Landowners in the area have occupied homes since 1959. In 1980 Congress passed Public Law 96-560, creating the Raggeds Wilderness. The private/federal property line adjacent to the subdivision is the Wilderness boundary.

Subsequent Federal surveys discovered that the 1959 survey of the Crystal Meadows subdivision was done improperly. Portions of the four residential lots, the subdivision road, and related infrastructure extend 62 feet into the Raggeds Wilderness.

The Forest Service has the authority to resolve some encroachments under the Small Tracts Act but does not have authority to dispose of lands within a designated Wilderness area. The small parcel of land involved in this encroachment does not have wilderness characteristics and, had this survey error been detected at the time, the area would probably have been exempted from the Raggeds Wilderness.

A similar version of this bill was introduced by Congressman McInnis (H.R. 2438). It has been modified to statutorily adjust the boundary of the Raggeds Wilderness allowing the Secretary to convey the lands, for consideration, using existing authority. We appreciate Senator Campbell's willingness to work with us on this legislation.

#### 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 Act, S. 589, as ordered reported.