Calendar No. 224

106TH CONGRESS *1st Session* | SENATE | REPORT 106–116

OTAY MOUNTAIN WILDERNESS ACT OF 1999

JULY 21, 1999.—Ordered to be printed

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

REPORT

[To accompany H.R. 15]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 15) to designate a portion of the Otay Mountain region of California as wilderness, having considered the same, reports favorably thereon without amendment and recommends that the Act to pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 15 is to designate approximately 18,500 acres of the Otay Mountain region of California as a component of the National Wilderness Preservation System, to be administered by the Secretary of Interior.

BACKGROUND AND NEED

The Otay Mountains, near the U.S.-Mexico border, are a unique region with diverse natural values. The area provides good opportunities for solitude and primitive recreation. The area contains several sensitive species, including the only known population of the Mexican flannel bush, and the only known stand of Tecate Cypress.

In the 1980's the Bureau of Land Management recommended a large portion of these mountains be designated as wilderness, and this recommendation has received strong public support. Consistent with this recommendation, H.R. 15 designates 18,500 acres in the California Desert District of the Bureau of Land Management, California, as a component of the National Wilderness Preservation System.

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In recent years Otay Mountain's sensitive habitat has been damaged by illegal immigration and narcotics activity in the area. The Bureau of Land Management has worked closely with the U.S. Border Patrol to bring these problems under control.

LEGISLATIVE HISTORY

H.R. 15 was introduced on January 6, 1999, by Congressman Bilbray. On April 12, 1999, the bill passed the House by voice vote. The Senate companion measure, S. 848, was introduced by Senator Feinstein on April 21, 1999. The Subcommittee on Forests and Public Land Management held a hearing on H.R. 15 and S. 848 on June 23, 1999. At the business meeting on June 30, 1999, the Committee on Energy and Natural Resources ordered H.R. 15 reported favorably without amendment.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 30, 1999, by a voice vote of a quorum present recommends that the Senate pass H.R. 15 without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the Act the "Otay Mountain Wilderness Act of 1999."

Section 2 contains Congressional findings.

Section 3 designates the Otay Mountain Wilderness, comprising approximately 18,500 acres, as a component of the National Wilderness Preservation System.

Section 4 requires a map and legal description to be filed and provides that the boundary of the wilderness area is at least 100 feet from the United States-Mexico Border.

Section 5 states that all public lands within the Southern Otay Mountain Wilderness Study Area and the Western Otay Mountain Wilderness Study area which are not designated as wilderness have been adequately studied for wilderness designation and are no longer subject to the requirements of section 603 of the Federal Land Policy and Management Act of 1976.

Section 6(a) provides that the wilderness area is to be administered by the Secretary of the Interior, subject to valid existing rights, in accordance with the provisions of the Wilderness Act.

Subsection (b) provides that border operations, including drug interdiction and wildland fire management may continue within the wilderness' area so long as they are conducted in accordance with the Wilderness Act.

Section 7 requires subsequent land acquisitions within the wilderness area to be managed as wilderness.

Section 8 declares Congress' intent that no buffer or protective zones should exist on the perimeter of the Wilderness Are and is self explanatory.

Section 9 defines key terms used in the Act.

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, July 2, 1999.

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 H.R. 15, the Otay Mountain Wilderness Act of 1999.

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

Sincerely,

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

Enclosure.

H.R. 15—Otay Mountain Wilderness Act of 1999

CBO estimates that implementing H.R. 15 would not have a significant impact on the federal budget. Because H.R. 15 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 15 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

H.R. 15 would designate as wilderness about 18,500 acres of public land in the California Desert District of the Bureau of Land Management (BLM). According to BLM, because the agency already manages the land as a wilderness study area, designating it as wilderness would not result in any significant increase in administrative costs. In addition, based on information from BLM, we estimate that this wilderness designation is unlikely to have any effect on offsetting receipts.

On March 12, 1999, CBO prepared a cost estimate for H.R. 15 as ordered reported by the House Committee on Resources on March 3, 1999. The two versions of the legislation are identical, as are the two cost estimates.

The CBO staff contact is Victoria Heid Hall. 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 H.R. 15.

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 H.R. 15, as ordered reported.

EXECUTIVE COMMUNICATIONS

On June 30, 1999, the Committee on Energy and Natural Resources requested legislative reports from the Department of Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 15. These reports had not been received at the time the report on H.R. 15 was filed. When the 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 Bureau of Land Management at the Subcommittee hearing follows:

STATEMENT OF TOM FRY, (ACTING) DIRECTOR, BUREAU OF LAND MANAGEMENT

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to testify on S. 848 and H.R. 15, the Otay Mountain Wilderness Act(s) of 1999. I want to commend both Senator Dianne Feinstein and Congressman Brian Bilbray, for introducing companion legislation which recognizes the unique nature of the area by protecting its many outstanding and precious natural resources for generations to come.

The Administration strongly supports S. 848 and H.R. 15. The House bill was amended and reported by the House Resources Committee and passed by the House on April 12, 1999. The legislation would designate 18,500 acres of the Otay Mountain area in eastern San Diego County, adjacent to the U.S.-Mexico International Border, as BLM wilderness. Otay Mountain is located in an extremely unique and diverse area of the country. The area is important to San Diego's ongoing habitat conservation initiatives which the Department strongly supports. BLM currently manages Otay Mountain to preserve and maintain its wilderness character and we strongly support its continued protection and the wilderness designation envisioned in both S. 848 and H.R. 15.

I would like to provide a brief discussion of certain aspects of the area's history and resources to highlight the vast array of public land management issues in this scenic and ecologically diverse area. The Otay Mountain area has long been recognized by the public as a unique ecosystem. As early as 1962, the Secretary of the Interior created the Otay Mountain National Cooperative Land and Wildlife Management Area. Management direction for the area has focused on conservation of the area's flora, fauna, ecologic, geologic, cultural and scenic values as well as the protection of its wilderness values. In the 1980's, BLM established the Western and Southern Otay Mountain WSAs and, with strong public support (including a 1982 resolution from the San Diego Board of Supervisors), ultimately recommended a large portion of the WSAs as wilderness.

In addition to its natural attributes, the area has opportunities for solitude, open space and primitive recreation, and possesses nationally significant biological values. These include stands of rare Tecate Cypress and 15–20 other sensitive vegetative species. The proposed wilderness also contains an Area of Critical Environmental Concern which was established by BLM with strong public support. In addition, the City of San Diego has identified the region as a "core reserve" in open-space planning, and the California Department of Fish and Game and local universities have had a long interest in studying and monitoring the area's flora and fauna. Wilderness designation would secure a unique ecosystem in the National Wilderness Preservation System.

Unfortunatley, the area has experienced extensive resource damage in the last few years as a result of undocumented immigrants attempting to cross through the region. In addition, an October 1996 wildfire inflicted considerable short-term damage. However, with close coordination and onsite work among the BLM, California Department of Forestry and Fire Protection, the Border Patrol, the City, County, and other interests, a dramatic reduction in illegal traffic has occurred and the area appears to be restoring itself.

Finally, as a result of a recent court decision by the United States District Court for the District of Columbia which concerned maps that were not on file at the time legislation was enacted, we believe that it is essential for the Committee to work with the Department to develop a dated and filed map prior to the enactment of the legislation.

This concludes my statement and I would be glad to answer any questions you may have.

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 H.R. 15, as ordered reported.

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