

AMERICA'S WILDERNESS PROTECTION ACT

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JULY 25, 2002.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. HANSEN, from the Committee on Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4620]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4620) to accelerate the wilderness designation process by establishing a timetable for the completion of wilderness studies on Federal lands, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 4620 is to accelerate the wilderness designation process by establishing a timetable for the completion of wilderness studies on Federal lands, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Wilderness Act of 1964 (16 U.S.C. 1131 et seq.) established the national wilderness preservation system including a process under which wilderness areas are designated. That law specifically states that the Secretary of Agriculture (for the U.S. Forest Service) and the Secretary of the Interior (for the National Park Service and the U.S. Fish and Wildlife Service) had ten years (and ten years only) to determine wilderness suitability or nonsuitability and then report these findings to the President. The President would then advise the House of Representatives and the Senate regarding that recommendation. After reviewing the recommenda-

tion, Congress has the option to designate or not designate wilderness through legislation. It is noteworthy that the 1964 Wilderness Act has no specific mention of wilderness study areas and had the clear intent that all the reviews of all the land would be completed by September 3, 1974. In fact, the 1964 Act had defined timetables, all ending within ten years, for wilderness recommendations for which the President would advise Congress.

In 1976, the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.) created Wilderness Study Areas (WSAs). WSAs are lands solely administered by the Bureau of Land Management and subject to a review process that determines the suitability or nonsuitability of areas as wilderness. The term WSA has been used to describe any land area under study by any federal agency for wilderness designation, such as potential wilderness, proposed wilderness, or recommended wilderness, even though there is no general statutory authorization for the use of these substitute terms. These alternate terms have been infrequently used in specific wilderness authorizing legislation.

Regardless of the term used, no provision of law has provided for WSA completion and the release of WSAs. WSAs are now studied and then held in that status in perpetuity—even after the actual studies are finished. This problem is exacerbated by a federal court decision which held that the character of the WSAs cannot be altered in any way. This is an even more restrictive status than an actual designated wilderness area. In practical terms all WSAs are de facto wilderness areas, are managed as such by the federal agencies, and, thus, not available for other multiple uses. This is both poor public policy and poor land management.

H.R. 4620 would alleviate this problem by establishing a timetable for wilderness study area completion. Under H.R. 4620 all existing WSAs would be released from this status at the earlier of: 10 years from enactment of H.R. 4620; the date the relevant Secretary determines that an area is unsuitable for designation as wilderness; or the date the area is designated by Congress. Land areas with subsequent WSA status would be released using the same criteria. H.R. 4620 also mandates that all land released from WSA status would revert to the land use status it had immediately before becoming a WSA. All areas released from WSA status could not be studied any further for wilderness designation.

COMMITTEE ACTION

H.R. 4620 was introduced on April 30, 2002 by Congressman C.L. “Butch” Otter (R-ID). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation, and Public Lands and to the Subcommittee on Forests and Forest Health. On June 6, 2002, the Subcommittee on National Parks, Recreation, and Public Lands held a hearing on the bill. On July 10, 2002, the Full Resources Committee met to consider the bill. The Subcommittee on National Parks, Recreation, and Public Lands and the Subcommittee on Forests and Forest Health was discharged from further consideration of the bill. Congressman Mark Udall (D-CO) offered an amendment to change the short title of the bill. The amendment was defeated by voice vote. The bill 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, enactment of this bill could result in increased revenues to the United States as well as related increase spending, but any such effect on the federal budget would be less than \$500,000 per year.

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, July 22, 2002.

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. 4620, the America's Wilderness Protection Act.

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

Sincerely,

STEVEN M. LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4620—America's Wilderness Protection Act

H.R. 4620 would establish a 10-year deadline for completing wilderness studies on federal lands and would authorize the Secretary of the Interior or the Secretary of Agriculture to release wilderness study areas (WSAs) from that status. CBO estimates that enacting this bill would have no significant impact on the federal budget over the next 10 years. H.R. 4620 could affect direct spending (including offsetting receipts); therefore, pay-as-you-go procedures would apply, but CBO expects that any such effects would not exceed \$500,000 in any of the next several years. H.R. 4620 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.

The Wilderness Act and the Federal Land Policy and Management Act authorize the Secretary of the Interior and the Secretary of Agriculture to establish WSAs on federal lands and to study those areas for potential designation as wilderness. Once a WSA is established by either Secretary, legislation is required to change the classification of the study area to either a wilderness or non-wilderness area. Until legislation is enacted to make that determination, the WSA is essentially managed as wilderness and remains closed to new income-generating activities. Currently, more than 50 million acres of federal lands are included in more than 600 WSAs. According to the Department of the Interior (DOI) and the Forest Service, most of those WSAs were established well over 10 years ago and probably will remain in that status for at least 10 more years.

H.R. 4620 would authorize the Secretary of the Interior and the Secretary of Agriculture to allow nonwilderness uses on WSAs by releasing them from WSA status. In addition, under H.R. 4620, those existing WSAs that are not released from that status by the secretaries would be automatically released 10 years after enactment. Finally, under the bill, any new WSAs could be studied for a maximum of 10 years before being released from that status.

Releasing lands with WSAs to nonwilderness uses could open them to new income-generating activities, particularly new mineral leasing and development, that otherwise would be prohibited under current law. According to DOI and the Forest Service, however, federal lands with the highest leasing potential generally lie outside of WSAs. Thus, we expect that any increase in offsetting receipts from mineral leasing and development under H.R. 4620 would be negligible relative to the amounts generated from such activities on all federal onshore lands, which we estimate will total about \$1.2 billion in 2002. Any increase in offsetting receipts would be partially offset by a corresponding increase in direct spending for payments to share those receipts with local jurisdictions. Hence, we estimate that the net impact on direct spending under H.R. 4620 would not exceed \$500,000 in any of the next several years.

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

“The idea of wilderness needs no defense; only more defenders.”—
Edward Abbey

The title of this legislation is disingenuous. If enacted, H.R. 4620 will destroy tens of millions of acres of potential wilderness and we oppose it.

While the Majority’s justifications for this legislation are muddled, the facts underlying the wilderness debate are straightforward. Congress directed¹ the Secretaries of Agriculture and Interior to recommend “primitive” areas within our National Forests, Parks, Wildlife Refuges and Public Lands suitable for permanent designation as wilderness. The Secretaries complied with this directive and, between 1974 and 1991, recommended tens of millions of acres for designation and tens of millions of acres for release from further study.

Congress also specified that, “during the period of review of such areas, and *until Congress has determined otherwise*, the Secretary shall continue to manage such lands * * * in a manner so as to not impair the suitability of such areas for preservation as wilderness,” (emphasis added). The Secretaries have complied with this directive as well and tens of millions of acres are currently being managed as if they were wilderness while Congress considers whether they should be formally designated.

The Majority claims to be concerned that consideration of these proposed wilderness areas is taking too long and offers H.R. 4620 as the solution. The only problem with this position is that any and all fault for a lack of progress on wilderness designations lies squarely with that same Majority and the solution they propose would only make matters worse. Their position here is like that of an arsonist who shows up at a fire he started and offers to extinguish it with gasoline.

Attempts by the Majority to blame environmental organizations or the land management agencies for the slow pace of wilderness designations are simply not credible. The agencies made their recommendations years ago and are constrained by law to manage these areas to preserve their wilderness characteristics until Congress tells them to do otherwise. As for environmental organizations, while we are sure they would like the authority to designate wilderness, they don’t have it, so it is unclear how this can be blamed on them.

The ball is squarely in the Majority’s court. There are at least a dozen major wilderness proposals pending before this Committee, potentially affecting Colorado, Utah, Washington, Idaho, Montana, Oregon, Wyoming and California, and the Majority has refused

¹ See the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.) and The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)

even to hold hearings on any of them. The fact is, we have seen the enemy of wilderness designation and that enemy is the Majority.

Further, the solution to this manufactured problem proposed by H.R. 4620 would facilitate the *release* of wilderness study areas, while simultaneously retarding progress on wilderness *designations*. While the Majority consistently opposed granting the previous Secretary even the most basic authority to manage public lands without Congressional involvement, H.R. 4620 would transfer to the current Secretary sweeping new power to release millions of acres of wilderness study areas without Congressional approval. In this way, such releases could be accomplished quickly and without bothersome accountability.

In addition, this legislation creates an arbitrary, ten-year time limit, after which any wilderness study area not already released by the Secretary would be released automatically. Thus, the Majority could destroy these remaining study areas by creating a powerful disincentive for wilderness opponents to enter into any negotiations over the next decade.

We oppose H.R. 4620 because the only way Congress can address wilderness issues responsibly is through more work, not less. Any Member who opposes a wilderness study area should have the courage to introduce legislation to release that area and allow a full public debate of that proposal. Likewise, the Majority should allow a full public debate of the many proposals to designate wilderness pending before this Committee and allow those measures to be considered by the full House.

The language of the 1965 Wilderness Act is eloquent in its definition of the resource we are trying to protect. "A wilderness * * * is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain * * * an area retaining its primeval character and influence, without permanent improvements or human habitation." The number of acres meeting this definition is small and ever shrinking and while the work required to offer permanent protection to these areas is difficult, it is also our responsibility. That responsibility should not be shirked and so H.R. 4620 should not be approved.

NICK RAHALL.
 GEORGE MILLER.
 GRACE F. NAPOLITANO.
 DONNA M. CHRISTENSEN.
 DALE E. KILDEE.
 RUSH HOLT.
 HILDA L. SOLIS.
 MARK UDALL.
 BETTY MCCOLLUM.
 PETE DEFAZIO.
 NEIL ABERCROMBIE.
 FRANK PALLONE, Jr.
 ANÍBAL ACEVEDO-VILÁ.
 ED MARKEY.
 ROBERT A. UNDERWOOD.
 ENI FALEOMAVAEGA.

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RON KIND.

