

## Calendar No. 651

110TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
110-299

### IDAHO WILDERNESS BOUNDARY MODIFICATION ACT OF 2008

APRIL 10, 2008.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1802]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1802) to adjust the boundaries of the Frank Church River of No Return Wilderness in the State of Idaho, 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. SHORT TITLE.

This Act may be cited as the “Idaho Wilderness Boundary Modification Act of 2008”.

#### SEC. 2. PURPOSES.

The purposes of this Act are—

- (1) to adjust the boundaries of the wilderness area; and
- (2) to authorize the Secretary to sell the land designated for removal from the wilderness area due to encroachment.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) LAND DESIGNATED FOR EXCLUSION.—The term “land designated for exclusion” means the parcel of land that is—

- (A) comprised of approximately 10.2 acres of land;
- (B) generally depicted on the survey plat entitled “Proposed Boundary Change FCRONRW Sections 15 (unsurveyed) Township 14 North, Range 13 East, B.M., Custer County, Idaho” and dated November 14, 2001; and
- (C) more particularly described in the survey plat and legal description on file in—

- (i) the office of the Chief of the Forest Service, Washington, DC; and
- (ii) the office of the Intermountain Regional Forester, Ogden, Utah.

(2) **LAND DESIGNATED FOR INCLUSION.**—The term “land designated for inclusion” means the parcel of National Forest System land that is—

- (A) comprised of approximately 10.2 acres of land;
- (B) located in unsurveyed section 22, T. 14 N., R. 13 E., Boise Meridian, Custer County, Idaho;
- (C) generally depicted on the map entitled “Challis National Forest, T.14 N., R. 13 E., B.M., Custer County, Idaho, Proposed Boundary Change FCRONRW” and dated September 19, 2007; and
- (D) more particularly described on the map and legal description on file in—

- (i) the office of the Chief of the Forest Service, Washington, DC; and
- (ii) the Intermountain Regional Forester, Ogden, Utah.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(4) **WILDERNESS AREA.**—The term “wilderness area” means the Frank Church River of No Return Wilderness designated by section 3 of the Central Idaho Wilderness Act of 1980 (16 U.S.C. 1132 note; 94 Stat. 948).

#### **SEC. 4. BOUNDARY ADJUSTMENT.**

(a) **ADJUSTMENT TO WILDERNESS AREA.**—

(1) **INCLUSION.**—The wilderness area shall include the land designated for inclusion.

(2) **EXCLUSION.**—The wilderness area shall not include the land designated for exclusion.

(b) **CORRECTIONS TO LEGAL DESCRIPTIONS.**—The Secretary may make corrections to the legal descriptions.

#### **SEC. 5. CONVEYANCE OF LAND DESIGNATED FOR EXCLUSION.**

(a) **IN GENERAL.**—Subject to subsection (b), to resolve the encroachment on the land designated for exclusion, the Secretary may sell for consideration in an amount equal to fair market value—

- (1) the land designated for exclusion; and
- (2) as the Secretary determines to be necessary, not more than 10 acres of land adjacent to the land designated for exclusion.

(b) **CONDITIONS.**—The sale of land under subsection (a) shall be subject to the conditions that—

- (1) the land to be conveyed be appraised in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions;
- (2) the person buying the land shall pay—
  - (A) the costs associated with appraising and, if the land needs to be resurveyed, resurveying the land; and
  - (B) any analyses and closing costs associated with the conveyance;
- (3) for management purposes, the Secretary may reconfigure the description of the land for sale; and
- (4) the owner of the adjacent private land shall have the first opportunity to buy the land.

(c) **DISPOSITION OF PROCEEDS.**—

(1) **IN GENERAL.**—The Secretary shall deposit the cash proceeds from a sale of land under subsection (a) in the fund established under Public Law 90–171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a).

(2) **AVAILABILITY AND USE.**—Amounts deposited under paragraph (1)—

- (A) shall remain available until expended for the acquisition of land for National Forest purposes in the State of Idaho; and
- (B) shall not be subject to transfer or reprogramming for—
  - (i) wildland fire management; or
  - (ii) any other emergency purposes.

#### **PURPOSE**

The purpose of S. 1802 is to adjust the boundaries of the Frank Church River of No Return Wilderness in the State of Idaho.

#### **BACKGROUND AND NEED**

The Frank Church River of No Return Wilderness, within the Salmon-Challis National Forest in Idaho, was designated by section 3 of the Central Idaho Wilderness Act of 1980 (16 U.S.C. 1132 note).

S. 1802 makes a small modification to the boundary of the wilderness located around a private ranch. Specifically, the bill would remove wilderness designation on approximately ten acres that currently contain a road and a water development. These improvements pre-dated the wilderness designation. In addition, S. 1802 adds approximately ten acres of existing national forest system land to the wilderness.

#### LEGISLATIVE HISTORY

S. 1802 was introduced by Senator Craig on July 17, 2007. The Subcommittee on Public Lands and Forests held a hearing on the bill on September 20, 2007 (S. Hrg. 110–216). The Committee on Energy and Natural Resources ordered the bill favorably reported with an amendment in the nature of a substitute at its business meeting on January 30, 2008.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on January 30, 2008, by a voice vote of a quorum present, recommends that the Senate pass S. 1802, if amended as described herein.

#### COMMITTEE AMENDMENT

During its consideration of S. 1802, the Committee adopted an amendment in the nature of a substitute. The amendment more accurately describes the land and clearly provides the Secretary with authority to sell the land excluded from the wilderness as well as not more than ten additional acres of adjoining land.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* contains the short title.

*Section 2* contains the purposes.

*Section 3* contains the definitions.

*Section 4* adjusts the wilderness area by including the lands designated for inclusion and excluding the lands designated for exclusion.

*Section 5(a)* states that, subject to subsection (b) and in order to resolve the encroachment on the land designated for exclusion, the Secretary may sell, for consideration in an amount equal to fair market value, the land designated for exclusion as well as not more than ten acres of land adjacent to the land designated for exclusion.

Subsection (b) sets forth a list of conditions that must be met in order to complete the sale of land authorized by subsection (a).

Subsection (c) requires the Secretary to deposit the cash proceeds from a sale of land under subsection (a) into the fund established under Public Law 90–171. This subsection also states that the proceeds shall remain available until expended for the acquisition of and for National Forest purposes in the State of Idaho. Finally, the subsection prohibits the proceeds from being used for wildland fire management or any other emergency purposes.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

*S. 1802—Idaho Wilderness Boundary Modification Act of 2007*

S. 1802 would authorize the Secretary of Agriculture to sell up to 20 acres of Forest Service land in the Frank Church River of No Return Wilderness in Idaho.

Any costs associated with the sale of the land would be paid by a private buyer, and the Forest Service would be authorized to spend any proceeds to purchase other property in Idaho. Therefore, enacting S. 1802 would have no net effect on direct spending. The legislation would not affect revenues.

S. 1802 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 CBO staff contact for this estimate is Tyler Kruzich. This estimate was approved by Theresa Gullo, 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. 1802. 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. 1802, as ordered reported.

## CONGRESSIONALLY DIRECTED SPENDING

S. 1802, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

## EXECUTIVE COMMUNICATIONS

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL  
FOREST SYSTEM, U.S. FOREST SERVICE, DEPARTMENT OF  
AGRICULTURE

S. 1802, Idaho Wilderness Boundary Modification Act of  
2007

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Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you to provide the Department's views on the bills which are on the agenda today.

S. 1802, Idaho Wilderness Boundary Modification Act of  
2007

This bill would adjust the boundaries of the Frank Church River of No Return Wilderness and provide authorization for a land ownership adjustment to resolve conflicts related to unauthorized improvements.

The Department would support the bill if amended to correct the survey description and provide for a more appropriate manner in which to resolve the associated land issues.

The Diamond D Ranch consists of three separate parcels of private land located in the Challis National Forest and surrounded by the Frank Church River of No Return Wilderness near Stanley, Idaho. In 2001, a boundary survey identified several unauthorized improvements associated with the ranch on National Forest System lands, including a portion of a water diversion and transmission pipeline in the designated wilderness area. Most of the unauthorized improvements, which also include fences, roads, and borrow pits, predate wilderness designation. The ranch owner has offered to enter into negotiations with the Forest Service to effect an exchange of the lands containing unauthorized improvements for other interests that could be more desirable for National Forest management.

The wilderness configuration in this vicinity is an approximately 10.2 acre triangular shaped area between two private parcels. Due to the adjacency of private lands and the unauthorized improvements, this area lacks the characteristics normally associated with designated wilderness. The bill would retract the wilderness boundary to exclude the 10.2 acres and expand the wilderness boundary to add approximately the same acreage to the wilderness in a nearby location. This would adjust the Frank Church River of No Return Wilderness with no net loss of designated wilderness, while improving its overall wilderness characteristics.

In addition, through a waiver of qualifying criteria, the bill would give the Secretary the discretion to use the Small Tracts Act (P.L. 97-465) in order for the Forest Service to address the unauthorized improvements.

The Department supports the bill's goals of improving wilderness characteristics while resolving longstanding land management issues. However, as written, the bill contains technical errors in the survey description of the lands proposed to be excluded and included in the wilderness. It also contains a technical error in the description of the lands that would be subject to the waiver of the Small Tracts Act acreage requirement. In addition, the Department would prefer to use a different land adjustment authority than the Small Tracts Act, which is not appropriate to this situation.

The Department would like to work with the bill's sponsor and the committee to make these technical corrections and provide for a more appropriate land adjustment au-

thority. We will support the bill with these amendments and appreciate the opportunity to enhance the Frank Church River of No Return Wilderness.

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Mr. Chairman and members of the committee, this concludes my testimony. I am happy to answer any questions you may have at this time.

#### 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 bill S. 1802, as ordered reported.

