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U.S. GOVERNMENT
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Calendar No. 823

110TH CONGRESS
2d Session

SENATE

REPORT
110–391

WILD MONONGAHELA ACT: A NATIONAL LEGACY FOR WEST VIRGINIA'S SPECIAL PLACES

JUNE 16, 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 H.R. 5151]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 5151) to designate as wilderness additional National Forest System lands in the Monongahela National Forest in the State of West Virginia, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. On page 6, strike lines 10 through 12 and insert the following: "1131 et seq.)."

2. On page 6, line 15, insert "(a) IN GENERAL.—" before "The boundary".

3. On page 6, between lines 23 and 24, insert the following:

(b) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Monongahela National Forest, as confirmed by subsection (a), shall be considered to be the boundaries of the Monongahela National Forest as of January 1, 1965.

PURPOSE

The purpose of H.R. 5151 is to designate as wilderness additional National Forest System land in the Monongahela National Forest in the State of West Virginia, to adjust certain boundaries, and to enhance non-motorized recreational trail opportunities.

BACKGROUND AND NEED

The Monongahela National Forest is composed of over 919,000 acres of Federal land in 10 counties located in the eastern portion of West Virginia. The forest hosts approximately three million visitors annually. Currently, the forest has five wilderness areas comprising 78,041 acres: Otter Creek, Dolly Sods, Laurel Fork North, and Laurel Fork, and the Cranberry Wilderness. These wilderness areas range in elevation from just under 2,000 feet to over 4,000 feet, and they include rare ecosystems and habitat for threatened and endangered species.

The Monongahela National Forest revised its land and resource management plan in 2006 and, in the process, inventoried and evaluated 18 roadless areas for their wilderness potential. As a result, the National Forest recommended four areas representing nearly 27,700 acres for wilderness study and protection, including Cheat Mountain in Randolph County, an expansion of the Cranberry Wilderness in Webster and Pocahontas Counties, an expansion of the Otter Creek Wilderness in Tucker County, and Roaring Plains West in Pendleton and Randolph Counties. In addition, the Forest Service determined that three areas (Big Draft in Greenbrier County, an expansion of the Dolly Sods Wilderness in Tucker County, and Spice Run in Greenbrier and Pocahontas Counties) were eligible for wilderness designation, but it instead designated all three areas as "semiprimitive nonmotorized areas" in order to permit certain mechanized activities, while at the same time protecting their roadless characteristics.

H.R. 5151 would permanently protect most of these areas as wilderness, including two of the three areas recommended for wilderness designation and the four areas that were found to have wilderness characteristics, but designated as "semiprimitive nonmotorized areas" in the 2006 forest plan.

LEGISLATIVE HISTORY

H.R. 5151 was introduced on January 29, 2008, by Representative Rahall. A hearing was held on the bill on February 26, 2008, and it was ordered reported with an amendment by the Natural Resources Committee on April 2, 2008. The House of Representatives passed H.R. 5151, as amended, on April 22, 2008, by a vote of 368–17.

Senators Byrd and Rockefeller introduced a similar bill, S. 2581, on January 30, 2008. The Subcommittee on Public Lands and Forests held a hearing on that bill on April 15, 2008.

At its business meeting on May 7, 2008, the Committee on Energy and Natural Resources ordered H.R. 5151 favorably reported, with an amendment.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on May 7, 2008, by voice vote of a quorum present, recommends that the Senate pass H.R. 5151, if amended as described herein.

COMMITTEE AMENDMENTS

The Committee recommends three amendments. The first removes unnecessary language regarding the effective date of the Wilderness Act. The second adds a heading. The third adds language clarifying that the Land and Water Conservation Fund may be used to acquire outstanding interests in the land included in the confirmed boundaries of the Monongahela National Forest.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title.

Section 2(a) designates approximately 37,771 acres of National Forest System land within the Monongahela National Forest, as follows:

Paragraph (1) designates approximately 5,144 acres to be known as the "Big Draft Wilderness", as generally depicted on the referenced map;

Paragraph (2) designates approximately 11,951 acres as an addition to the Cranberry Wilderness designated by section 1(1) of Public Law 97–466, as generally depicted on the referenced map;

Paragraph (3) designates approximately 7,156 acres as an addition to the Dolly Sods Wilderness designated by section 3(a)(13) of Public Law 93–622, as generally depicted on the referenced map;

Paragraph (4) designates approximately 698 acres as an addition to the Otter Creek Wilderness designated by section 3(a)(14) of Public Law 93–622, as generally depicted on the referenced map;

Paragraph (5) designates approximately 6,792 acres to be known as the "Roaring Plains West Wilderness", as generally depicted on the referenced map; and

Paragraph (6) designates approximately 6,030 acres to be known as the "Spice Run Wilderness", as generally depicted on the referenced map.

Subsection (b)(1) directs the Chief of the Forest Service to file a map and legal description of each wilderness area designated or expanded by subsection (a) with the relevant congressional committees and to keep them on file and available to the public.

Paragraph (2) states that the maps and legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the maps and legal descriptions.

Subsection (c) states that the designated wilderness areas shall be administered in accordance with the Wilderness Act, subject to valid existing rights. Subsection (c) also clarifies that the Secretary may continue to authorize a running race in the vicinity of the referenced wilderness areas.

Subsection (d) provides that, with respect to the land designated as wilderness by subsection (a), any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be the date of enactment of this Act.

Subsection (e) states that nothing in this Act affects the jurisdiction or responsibility of the State of West Virginia with respect to wildlife and fish, as provided by section 4(d)(7) of the Wilderness Act.

Section 3 adjusts the boundary of the Laurel Fork South Wilderness to exclude two parcels of land which contain existing easements for access to private property.

Section 4(a) confirms that the boundaries of the Monongahela National Forest include certain tracts of land that have been acquired by the Forest Service, as generally depicted on the referenced map.

Subsection (b) clarifies that the Land and Water Conservation Fund may be used to acquire outstanding interests in the land included in the confirmed boundaries of the Monongahela National Forest.

Section 5 requires the Secretary of Agriculture to develop a plan to provide for enhanced hiking, bicycling, and equestrian trail opportunities on non-wilderness lands in the Monongahela National Forest. The Secretary of Agriculture is directed to submit a report to Congress on the implementation of the plan not later than two years after the date of the enactment of this Act.

COST AND BUDGETARY CONSIDERATIONS

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

H.R. 5151—Wild Monongahela Act: A National Legacy for West Virginia's Special Places

H.R. 5151 would designate approximately 38,000 acres of the Monongahela National Forest in West Virginia as wilderness. The act also would adjust the boundary of the forest and require the Secretary of Agriculture to develop a plan to enhance trails within the forest.

Assuming the availability of appropriated funds, CBO estimates that implementing the legislation would cost $1.4 million over the 2009–2013 period. The funds would be used to survey and mark the wilderness area as well as to develop the trail plan. Enacting this legislation would have no net impact on direct spending and would not affect revenues.

H.R. 5151 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.

On April 15, 2008, CBO transmitted a cost estimate for H.R. 5151 as ordered reported by the House Committee on Natural Resources on April 2, 2008. The two versions of the legislation are similar, and the estimated costs of enacting the legislation are identical.

The CBO staff contact for this estimate is Tyler Kruzich. The estimate was approved by Peter H. Fontaine, 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. 5151.

The Act 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. 5151.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 5151 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

The views of the Administration were included in testimony received by the Committee at a hearing on S. 2581 (which is identical to H.R. 5151, as introduced) on April 15, 2008.

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

S. 2581 would designate about 47,128 acres of the Monongahela National Forest as wilderness, adding to three existing wilderness areas and designating four new ones. The Department supports designation of Cheat Mountain, Cranberry Expansion, Dry Fork Expansion, and Roaring Plains West as wilderness. For all four areas, wilderness designation would be consistent with recommendations by the Monongahela National Forest in its 2006 forest plan revision.

We do not object to wilderness designation for the other three areas proposed by the bill. In the environmental impact statement that accompanied the 2006 forest plan revision, the Monongahela National Forest determined that Big Draft, the Dolly Sods Expansion, and Spice Run are all available for wilderness designation. The Monongahela National Forest designated all three areas as "semiprimitive nonmotorized" in order to help maintain their roadless attributes over time while still permitting other established uses.

The Monongahela National Forest has five existing wilderness areas, all of which offer outstanding wilderness experiences. I have personally visited some of the seven areas proposed in this bill, and I believe that all seven areas have outstanding wilderness attributes. All are rugged forested land minimally affected by outside forces, with natural processes operating and vestiges of human impacts (such as old roads and clearcuts) rapidly healing over. Ranging in elevation from just under 2,000 feet to over 4,000 feet, these landscapes harbor rare ecosystems (such as high-elevation red spruce) and habitat for federally listed species.

That is why the Monongahela National Forest recommended four of the seven areas for wilderness study in its revised forest plan in 2006: Cheat Mountain, Cranberry Expansion, Dry Fork Expansion, and Roaring Plains West. These units represent nearly 27,700 acres recommended

for wilderness study. The Department supports their inclusion in this bill.

In its forest plan revision, after consulting with the public, the Monongahela National Forest decided not to include Big Draft, the Dolly Sods Expansion, and Spice Run among the areas recommended for wilderness. Instead, we designated all three as semiprimitive nonmotorized areas, one of the most restrictive allocations that the Forest Service can give. This management prescription protects their naturalness while permitting such popular and relatively low-impact uses as mountain biking. It also allows the manipulation of vegetation to create wildlife openings.

However, we recognize the wilderness eligibility of all three areas, and their designation as wilderness would be consistent with values that the Monongahela National Forest's revised forest plan is designed to protect. In other locations, the Monongahela National Forest maintains opportunities for mountain biking and for manipulating vegetation to improve wildlife habitat. Therefore, the Department would not object to including Big Draft, the Dolly Sods Expansion, and Spice Run in this bill if boundary adjustments and other issues are addressed.

If all seven areas are designated as wilderness, we would suggest adjusting some of the proposed boundaries to avoid conflicts and make the wilderness areas more manageable. Some proposed boundaries appear to be based on the boundaries of the roadless areas analyzed during the 2006 forest plan revision. Those roadless area boundaries were not intended to define wilderness boundaries. Adjustments should be made to account for mapping errors; to provide access to state and private land; to exclude developed sites and managed wildlife openings; to add offsets for powerlines and other features inconsistent with wilderness; and to align the boundaries with existing wilderness boundaries.

The largest boundary question regards the southwestern corner of the proposed Spice Run unit, an area of 974 acres. This area lies outside the area that the Monongahela National Forest evaluated for wilderness in its 2006 forest plan because it did not meet the criteria for roadless areas. Should it become designated wilderness, motorized access to three adjacent parcels of private land could become an issue.

We would like to work with the bill's sponsors and the subcommittee to adjust the boundaries to accommodate these and other concerns. The Forest Service has prepared a set of proposed boundary adjustments, taking care to ensure that our proposed adjustments would not detract from the overall wilderness legislation. We would welcome the opportunity to provide this information to the subcommittee.

Removing most of the structures incompatible with wilderness would not be necessary if our proposed boundary adjustments were made. Even with the adjustments, however, a hiking shelter and about 9 miles of road would re-

main within the wilderness boundaries. The shelter would likely be allowed to deteriorate and then be removed. Unless converted to trails, the roads (currently closed to vehicular traffic) would require decommissioning to protect water quality and other natural resource values. The Monongahela National Forest would conduct an analysis to determine the appropriate management actions and then make the investments needed, subject to available appropriations, to remove culverts, construct trail, or contour the land to reduce erosion.

We strongly support the spirit of this legislation, and we confirm that all seven areas proposed for wilderness designation meet the criteria for wilderness. Working with the subcommittee, we are confident that we can remedy boundary deficiencies and establish final wilderness boundaries that are sound and manageable.

The House Committee on Natural Resources approved an Amendment in the Nature of a Substitute to H.R. 5151. This amendment includes updated acreage figures resulting from boundary adjustments to the Big Draft Wilderness, the Cranberry Expansion, the Dolly Sods Expansion, the Otter Creek Expansion Proposed Wilderness, the Roaring Plains West Wilderness, and the Spice Run Wilderness. These adjustments address concerns raised by the Department in our previous testimony, and we support them.

H.R. 5151, as amended, allows for the continuation of a competitive running event in the vicinity of the Dolly Sods Wilderness and the Roaring Plains West Wilderness. Forest Service policy does not permit competitive events in wilderness. Our intent would be to work with the sponsors to find a suitable alternative for the competitive event.

Section 3 was added to H.R. 5151 to adjust the boundary to the Laurel Fork South Wilderness by 123 acres. Section 4 was added to confirm that the Monongahela National Forest boundary includes recently acquired tracts of land. The Department supports these changes to the bill. Section 4 should be amended to include reference to the Land and Water Conservation Fund Act (LWCFA) because expenditures of LWCFA funds are restricted to forest boundaries as they existed on the original date of the Act.

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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 H.R. 5151 as ordered reported.

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