SRP05853

88TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 1538

NATIONAL WILDERNESS PRESERVATION SYSTEM

JULY 2, 1964.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ASPINALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 9070]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 9070) to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following language:

SHORT TITLE

SECTION 1. This Act may e cited as the "Wilderness Act".

WILDERNESS SYSTEM ESTABLISHED STATEMENT OF POLICY

SEC. 2. (a) In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as "wilderness areas", and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no Federal lands shall be designated as "wilderness areas" except as provided for in this Act or by a subsequent Act.

(b) The inclusion of an area in the National Wilderness Preservation System notwithstanding, the area shall continue to be managed by the Department and agency having jurisdiction thereover immediately before its inclusion in the National Wilderness Preservation System unless otherwise provided by Act of

Congress. No appropriation shall be available for the payment of expenses or salaries for the administration of the National Wilderness Preservation System as a separate unit nor shall any appropriations be available for additional personnel stated as being required solely for the purpose of managing or administering areas solely because they are included within the National Wilderness Preservation System.

DEFINITION OF WILDERNESS

(c) A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land and is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

NATIONAL WILDERNESS PRESERVATION SYSTEM—EXTENT OF SYSTEM

SEC. 3. (a) All areas, except the San Gorgonio Wild Area, within the national forests classified at least 60 days before the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "wilderness", "wild", or "canoe" are hereby designated as wilderness areas. The Secretary of Agriculture shall—

(1) Within one year after the effective date of this Act, file a map and legal description of each wilderness area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made.

(2) Maintain, available to the public, records pertaining to said wilderness areas, including maps and legal descriptions, copies of regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications. Maps, legal descriptions, and regulations pertaining to wilderness areas within their respective jurisdictions also shall be available to the public in the offices of regional foresters, national forest supervisors, and forest rangers.

(b) The Secretary of Agriculture shall, within ten years after the enactment of this Act, review, as to its suitability or nonsuitability for preservation as wilderness, each area in the national forests classified on the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "primitive" and report his findings to the President. The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation as "wilderness" or other reclassification of each area on which review has been completed, together with maps and a definition of boundaries. Such advice shall be given with respect to not less than one-third of all the areas now classified as "primitive" within three years after the enactment of this Act, not less than two-thirds within seven years after the enactment of this Act, and the remaining areas within ten years after the enactment of this Act. Each recommendation of the President for designation as "wilderness" shall become effective only if so provided by an Act of Congress. Areas classified as "primitive" on the effective date of this Act shall continue to be administered under the rules and regulations affecting such areas on the effective date of this Act until Congress has determined otherwise; except that: (1) the Secretary of Agriculture, with the approval of the President, may determine that any portion of such primitive areas may be declassified and administered as other unclassified national forest land and upon such determination shall cause the same to be done, but no such determination shall become effective with respect to any primitive area or any portion of a primitive area which exceeds five thousand acres until 60 calendar days (which 60 days, however, shall not included days on which either the Senate or the House of Representatives is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) after

the Secretary has notified the President of the Senate and the Speaker of the House of Representatives of his intention to declassify such primitive area or portion of a primitive area; (2) primitive areas, as constituted on the effective date of this Act, may be increased in size by the President at the time he submits his recommendations to the Congress provided no such area is increased by more than five thousand acres with not more than one thousand two hundred and eighty acres of such increase in any one compact unit; and (3) if it is proposed to increase any primitive area by more than five thousand acres or by more than one thousand two hundred and eighty acres in any one compact unit such increase in size shall not become effective until acted upon by Congress. Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of primitive areas or recommending the addition of any contiguous area of national forest lands predominantly of wilderness value.

(c) Within ten years after the effective date of this Act the Secretary of the Interior shall review roadless portions of parks, monuments, and other units of the national park system, and portions of wildlife refuges and game ranges under the jurisdiction of the Secretary of the Interior on the effective date of this Act and shall report to the President his recommendations. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to each such portion for which review has been completed, together with maps and definitions of boundaries. Each such recommendation calling for a change in status shall become effective only if so provided by an Act of Congress. Nothing contained herein shall, by implication or otherwise, be construed to lessen the present statutory authority of the Secretary of the Interior with respect to the maintenance of roadless areas within units of the national park system.

(d)(1) The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommendations to the President with respect to the suitability of any area for preservation as wilderness—

(A) give such public notice of the proposed action as they deem appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

(B) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the respective Secretaries involved deem appropriate, including notices in the Federal Register and in newspapers of general circulation in the area: *Provided*, That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;

(C) at least thirty days before the date of a hearing advise the Governor of each State and the governing board of each county, or in Alaska the borough, in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing.

(2) Any views submitted to the appropriate Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

(3) There shall further be included, with any recommendations to the President and to Congress with respect to the suitability of any area for preservation as wilderness, a concise statement identifying the specific values in the particular area that warrant the preservation of the area as wilderness, together with an identification of any other wilderness areas being preserved because of the presence of similar values, indicating the acreage of each such area and the total acreage of all areas preserved by reason of the presence of the same or similar values.

(e) Any modification or adjustment of boundaries of any wilderness area shall be recommended by the appropriate Secretary after public notice of such proposal and public hearing or hearings as provided in subsection (d) of this section. The proposed modification of adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only in the same manner as provided for in subsections (b) and (c) of this section.

USE OF WILDERNESS AREAS

SEC. 4. (a) The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and national wildlife refuge systems are established and administered and—

(1) Nothing in this Act shall be deemed to be in interference with the purpose for which national forests are established as set forth in the Act of June 4, 1897 (30 Stat. 11), and the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215).

(2) Nothing in this Act shall modify the restrictions and provisions of the Shipstead-Nolan Act (Public Law 539, Seventy-first Congress, July 10, 1930; 46 Stat. 1020), the Thye-Blatnik Act (Public Law 733, Eightieth Congress, June 22, 1948; 62 Stat. 568), and the Humphrey-Thye-Blatnik-Andresen Act (Public Law 607, Eighty-fourth Congress, June 22, 1956; 70 Stat. 326), as applying to the Superior National Forest or the regulations of the Secretary of Agriculture.

(3) Nothing in this Act shall modify the statutory authority under which units of the national park system are created. Further, the designation of any area of any park, monument, or other unit of the national park system as a wilderness area pursuant to this Act shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system in accordance with the Act of August 25, 1916, the statutory authority under which the area was created, or any other Act of Congress which might pertain to or affect such area, including, but not limited to, the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 432 et seq.); section 3(2) of the Federal Power Act (16 U.S.C. 796(2)); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

PROHIBITION OF CERTAIN USES

(c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purposes of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

SPECIAL PROVISIONS

(d) The following special provisions are hereby made:

(1) Within wilderness areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(2) Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

(3) Notwithstanding any other provisions of this Act, until midnight December 31, 1989, the United States mining laws and all laws pertaining to mineral leasing shall, to the same extent as applicable prior to the effective date of this Act, extend

SRP05857

to those national forest lands designated by this Act as "wilderness areas"; subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral location and development and exploration, drilling, and production, and use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations including where essential the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing prospecting, location, and, in oil and gas leasing, discovery work, exploration, drilling, and production, as soon as they have served their purpose. Mining locations lying within the boundaries of said wilderness areas shall be held and used solely for mining or processing operations and uses reasonably incident thereto; and hereafter, subject to valid existing rights, all patents issued under the mining laws of the United States affecting national forest lands designated by this Act as wilderness areas shall convey title to the mineral deposits within the claim, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available, and if the timber is cut under sound principles of forest management as defined by the national forest rules and regulations, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as otherwise expressly provided in this Act: *Provided*, That, unless hereafter specifically authorized, no patent within wilderness areas designated by this Act shall issue after December 31, 1989, except for the valid claims existing on or before December 31, 1989. Mining claims located after the effective date of this Act within the boundaries of wilderness areas designated by this Act shall create no rights in excess of those rights which may be patented under the provisions of this subsection. Mineral leases, permits, and licenses covering lands within national forest wilderness areas designated by this Act shall contain such reasonable stipulations as may be prescribed by the Secretary of Agriculture for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased, permitted, or licensed. Subject to valid rights then existing, effective January 1, 1990, the minerals in lands designated by this Act as wilderness areas are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(4) Within wilderness areas in the national forests designated by this Act, (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial; and (2) the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

(5) Other provisions of this Act to the contrary notwithstanding, the management of the Boundary Waters Canoe Area, formerly designated as the Superior, Little Indian Sioux, and Caribou Roadless Areas, in the Superior National Forest, Minnesota shall be in accordance with regulations established by the Secretary of Agriculture in accordance with the general purpose of maintaining, without unnecessary restrictions on other uses, including that of timber, the primitive character of the area, particularly in the vicinity of lakes, streams, and portages: *Provided*, That nothing in this Act shall preclude the continuance within the area of any already established use of motorboats.

(6) Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.

(7) Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(8) To the extent that it is not incompatible with wilderness preservation, the Secretary of Agriculture shall, in national forest wilderness areas designated by this Act, permit hunting and fishing: *Provided*, That nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in wilderness areas.

SRP05858

SEC. 5. The Secretary of Agriculture shall identify, set aside, and classify for public recreational use an area of approximately three thousand five hundred acres within the San Gorgonio Wild Area on the San Bernardino National Forest that he finds most suitable for the installation and development of facilities necessary for skiing utilization. The Secretary shall, within three years after the enactment of this Act, review the suitability of the other lands within the San Gorgonio Wild Area as constituted on the effective date of this Act, for preservation as wilderness, identify those portions that he believes should be classified as "wilderness", and report his findings to the President. The President shall advise the United States Senate and House of Representatives of his recommendation with respect to the designation as "wilderness" or other reclassification of lands presently within the San Gorgonio Wild Area, submitting therewith maps and a definition of boundaries. Pending review by the Secretary of Agriculture, the submission of recommendations by the President, and action by Congress on the President's recommendations, the Secretary of Agriculture may: (1) continue to manage lands not required for public skiing within the San Gorgonio Wild Area under regulations governing management of wild areas on the effective date of this Act; or (2) with the approval of the President, declassify any of the lands presently within the San Gorgonio Wild Area not suitable for management as "wilderness" and not required for skiing development and administer them as other unclassified national forest land.

STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS

SEC. 6. (a) In any case where State-owned or privately owned land is completely surrounded by national forest lands within areas designated by this Act as wilderness, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and their successors in interest, or the State-owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture: *Provided, however,* That the United States shall not transfer to a State or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

(b) In any case where valid mining claims, or other valid occupancies are wholly within a designated national forest wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.

(c) Subject to the appropriation of funds by Congress, the Secretary of Agriculture is authorized to acquire privately owned land within the perimeter of any are a designated by this Act as wilderness if (1) the owner concurs in such acquisition or (2) the acquisition is specifically authorized by Congress.

GIFTS, BEQUESTS, AND CONTRIBUTIONS

SEC. 7. (a) The Secretary of Agriculture may accept gifts or bequests of land within wilderness areas designated by this Act for preservation as wilderness. The Secretary of Agriculture may also accept gifts or bequests of land adjacent to wilderness areas designated by this Act for preservation as wilderness if he has given sixty days advance notice thereof to the President of the Senate and the Speaker of the House of Representatives. Land accepted by the Secretary of Agriculture under this section shall become part of the wilderness area involved. Regulations with regard to any such land may be in accordance with such agreements, consistent with the policy of this Act, as are made at the time of such gift, or such conditions, consistent with such policy as may be included in, and accepted with, such bequest.

(b) The Secretary of Agriculture or the Secretary of the Interior is authorized to accept private contributions and gifts to be used to further the purposes of this Act.

ANNUAL REPORTS

SEC. 8. At the opening of each session of Congress, the Secretaries of Agriculture and Interior shall jointly report to the President for transmission to Congress on the status of the wilderness system, including a list and descriptions of the areas in the system, regulations in effect, and other pertinent information, together with any recommendations they may care to make.

SRP05859

Other Bills Considered

In addition to H.R. 9070, which was introduced by Representative Saylor, the committee considered the following bills for the establishment of a National Wilderness Preservation System: H.R. 295 (Bennett of Florida), H.R. 930 (Saylor), H.R. 991 (Cohelan), H.R. 1023 (Baldwin), H.R. 1114 (Reuss), H.R. 2001 (Dingell), H.R. 2530 (O'Hara of Illinois), H.R. 2880 (Hosmer), H.R. 2894 (Miller of California), H.R. 3878 (Quie), H.R. 5246 (Shelley), H.R. 5808 (Wydler), H.R. 7877 (Lindsay), H.R. 9101 (Quie), H.R. 9162 (Dingell), H.R. 9163 (Reuss), H.R. 9164 (O'Hara of Illinois), H.R. 9165 (Bennett of Florida), H.R. 9520 (Cohelan), H.R. 9558 (Udall), H.R. 10630 (Conte), H.R. 10752 (Mrs. St. George), and S. 4, which passed the Senate on April 9, 1963.

Purpose

H.R. 9070, as amended, establishes a National Wilderness Preservation System. This system will comprise federally owned areas, each of 5,000 acres or more, designated by Congress as "Wilderness areas" because of the undeveloped character of their lands and the need to protect and manage them in order to preserve, as far as possible, the natural conditions that now prevail.

Background

The reservation and retention of some public lands to protect their natural status has long been an objective in the management of the Federal public domain. From among the areas set aside for retention as national forests, the first area specifically designated for wilderness preservation was earmarked in 1924 in the Gila National Forest, N. Mex.

In 1926 roadless areas were given initial protection in the Superior National Forest, Minn. Subsequently the complex of several areas in this forest was designated as the Boundary Waters Canoe Area.

The Secretary of Agriculture in 1929, by regulation, established procedures for the designation of primitive areas in the national forests. This regulation was superseded in 1939 by regulations identified as U–1 and U–2, which now are published in 36 CFR 251.20 and 251.21 establishing procedures for the designation of wilderness and wild areas. Under the regulations wilderness areas are those in excess of 100,000 acres and may be designated only by the Secretary of Agriculture; wild areas consist of lands between 5,000 and 100,000 acres and may be designated by the Chief of the Forest Service.

Simultaneously with the establishment of the new regulations, the Forest Service undertook a review of the 73 primitive areas that had been established between 1929 and 1939 to determine which ones should be designated in whole or in part as either wilderness or wild areas.

Since 1930 the Secretary of Agriculture and the Chief of the Forest Service have, by administrative action, set aside within the national forests 88 wilderness-type areas, i.e., wilderness, wild, primitive, and canoe.

SRP05860

A summary of existing national forest areas administratively designated as having wilderness characteristics is as follows:

Type	*Acres*
Wilderness areas (18)	6, 898, 014
Wild areas (35)	1, 336, 254
Canoe area (1)[1]	886, 673
Subtotal	9, 120, 941
Primitive areas (34)	5, 477, 740
Total, wilderness-type areas (88)	14, 598, 681

[1] The Boundary Waters Canoe Area, Superior National Forest, Minn., is the only one in this category.

Except for the Boundary Waters Canoe Area, none of the areas has been granted statutory recognition. Having been established by administrative action of the executive branch, any of the wilderness, wild and primitive areas could be similarly declassified and abolished by administrative action. In the alternative the administrators could, if they so desired, change the rules governing the uses allowed or prohibited within such areas.

A statutory framework for the preservation of wilderness would permit long-range planning and assure that no future administrator could arbitrarily or capriciously either abolish wilderness areas that should be retained or make wholesale designations of additional areas in which use would be limited.

This committee accordingly endorses the concept of a legislatively authorized wilderness preservation system. Furthermore, by establishing explicit legislative authority for wilderness preservation, Congress is fulfilling its responsibility under the U.S. Constitution to exercise jurisdiction over the public lands.

Basic Principles

In approaching the development of specific legislation, the committee was determined to act in the national interest with due regard to regional and local interests. It is submitted that H.R. 9070, as amended, is such a bill. The underlying principles of this measure are:

1. Areas to be designated as "wilderness" for inclusion in the wilderness system should be so designated by affirmative act of Congress.

   (*a*) Those areas currently designated as "wilderness," "wild," and "canoe" have been defined with precision and could be given statutory designation immediately, if all other criteria are satisfied.

   (*b*) Areas currently designated as "primitive" have not been defined with precision and should not be considered for inclusion in the wilderness system until completion of a thorough review during which all interested parties have an opportunity to be heard.

   (*c*) Areas within units of the national park system and the national wildlife system that might qualify for inclusion in the wilderness system should not be considered for inclusion in the wilderness system until completion of a thorough review during which all interested parties have an opportunity to be heard.

2. Uses not incompatible with wilderness preservation should be permitted in areas included within the wilderness system.

SRP05861

3. Currently authorized uses that are incompatible with wilderness preservation should be phased out over a reasonable period of time.

Provisions of H.R. 9070 as Amended

In harmony with the principles set forth above, H.R. 9070, as amended, designates as "wilderness" all but one of the areas classified by the Department of Agriculture or the Chief of the Forest Service 60 days before the effective date of the act as "wilderness," "wild," and "canoe" and provides for their inclusion in a National Wilderness Preservation System. The one exception is the San Gorgonio Wild Area comprised of 33,898 acres of land in the San Bernardino National Forest, which will be discussed separately. Accordingly, 9,087,043 acres of land in national forests would be included at the inception of the National Wilderness Preservation System, if at enactment more than 60 days will have elapsed from the date on which the most recent administrative designations of "wilderness" and "wild" were accomplished.[1]

COMPATIBLE USES

In those areas designated as "wilderness" grazing would be permitted where previously established subject to reasonable regulations deemed necessary by the Secretary of Agriculture. Specific provision is made for performance of commercial services "to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes" of the areas concerned. Hunting and fishing would be permitted to the extent not incompatible with wilderness preservation.

The bill further provides that, except as specifically provided, no commercial enterprise and no permanent roads would be authorized. The use of aircraft and motorboats may be permitted where these uses have become established.

Prospecting for mineral or other resources would be allowed if so conducted as to be compatible with the preservation of the wilderness environment. In addition, the Geological Survey and the Bureau of Mines are to survey the designated wilderness areas on a planned recurring basis to determine presence of mineral values.

Temporary roads and the use of motorized equipment would be authorized to meet minimum requirements for administration, including emergencies.

PHASEOUT OF NEW MINING ACTIVITY

The bill as reported by the committee limits to 25 years the applicability of the mining laws, and all laws pertaining to mineral leasing, in the national forest lands designated by the act as "wilderness areas." In order to effect maximum wilderness preservation it is further provided that locators of claims staked after the effective date

[1] The following designations have not been in effect for 60 days or more:
1. Shining Rock Wild Area was established May 7, 1964, on 13,400 acres of land in Pisgah National Forest, N.C.
2. South Warner Wild Area, was established June 8, 1964, on 69,507 acres of land in Modoc National Forest, Calif. (reclassified from the South Warner Primitive Area).
3. Cabinet Mountains Wild Area was established June 26, 1964, on 94,272 acres of land in Kaniksu and Kootenai National Forests, Mont. (reclassified from the Cabinet Mountains Primitive Area).

SRP05862

of the act will, on the issuance of patent, obtain title to the mineral deposits alone with only such use of the surface as may reasonably be required in connection with the mining operation. Effective January 1, 1990, the minerals in the national forest lands designated as "wilderness areas" would be withdrawn from further appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing.

CONSIDERATION OF OTHER AREAS

The bill provides that within 10 years after its enactment the Secretary of Agriculture shall review all primitive areas and the Secretary of the Interior shall review portions of the national park system and the national wildlife refuge system for the purpose of reporting to the President as to the suitability or nonsuitability of additional areas for classification as wilderness and their inclusion in the National Wilderness Preservation System. The President will transmit his recommendations to Congress and no recommendation will become effective unless so provided by an act of Congress.

Before making any recommendation to the President the Secretary of Agriculture and the Secretary of the Interior would be required to give widespread notice of the proposed action, hold public hearings, and obtain the views of interested Federal departments and agencies as well as State and local government officials. During the review period the Secretary of Agriculture could, with the approval of the President, declassify any primitive area.

GENERAL PROVISIONS

The bill further establishes incidental procedures concerning the management of the wilderness areas designated therein, authorizes the Secretary of Agriculture to accept land in wilderness areas, and authorizes both the Secretary of Agriculture and the Secretary of the Interior to accept contributions and gifts to further the purposes of the act. Annual reports would be submitted to the Congress.

USE OF MOUNT SAN GORGONIO

The long-range use of Mount San Gorgonio in the San Bernardino National Forest, Calif., presented the committee with one of the most difficult problems it had to resolve. As indicated above, it was the committee decision to exclude all of the San Gorgonio area from the wilderness system at this time with provision for an undefined portion to be included at a later date.

Forest Service action

The peak of San Gorgonio Mountain, together with areas on either side, were classified in 1931 by the Forest Service as the San Gorgonio Primitive Area. In 1947, after a public hearing on a proposal to provide a winter sports development for skiing, the Forest Service decided that, in its opinion, "wilderness was the predominant value and that the winter sports development should be rejected."

Acting under the regulations that had gone into effect after the initial classification, the Chief of the Forest Service in 1956 reclassified the primitive area and designated it as the San Gorgonio Wild Area on 33,898 acres of national forest land.

SRP05863

The expanding population in southern California—quite frequently referred to as the Los Angeles megalopolis—coupled with increased leisure time for many people and new interests in winter sports led to the recent renewal of requests to the Forest Service for development of a portion of the San Gorgonio Wild Area for intensified skiing use. Nonetheless, there continued and remains considerable public support in this same area for maintenance of the wild area in an undeveloped state.

The Chief of the Forest Service on October 16, 1963, rejected an application for a special use permit to authorize installation of ski lifts and associated facilities. This decision has been appealed to the Secretary of Agriculture and the appeal is pending before the Secretary.

The issue

As indicated above, there is no unanimity of opinion within the communities adjacent to Mount San Gorgonio. During hearings on wilderness legislation considerable testimony and material was furnished to the committee by numerous witnesses presenting the arguments for and against the competing uses.

It was maintained quite convincingly that the introduction of ski lifts, access roads to the ski lifts, and adjacent parking areas would be incompatible with the continued designation of the immediate surrounding area for wilderness preservation.

The issue presents a test of the underlying principle that Congress should exercise its responsibility under the Constitution to affimatively prescribe regulations for the management, use, and disposal of public lands. The committee, therefore, decided to meet the issue squarely and utilize this bill as a vehicle by which Congress could act to provide that the San Gorgonio Wild Area either be preserved in its entirety as wilderness or used in part for general recreational skiing.

Conclusion

Based on all the considerations involved the committee decided that the public interest would best be served by devoting a portion of Mount San Gorgonio to development with facilities to permit recreational skiing use by the general public.

Outdoor Recreation Resources Review Commission

This conclusion is supported by the findings and conclusions of the Outdoor Recreation Resources Review Commission, whose recommendations were based first on the premise that "The natural heritage of our Nation must be preserved in two senses," involving (1) protection of some areas in a manner "as nearly in their original state as possible" and (2) "opportunity for a wide variety of recreation uses that do not require the strict preservation of resources in their natural condition."

The second goal of the Commission was set forth as "the wise development of our recreation resources," pointing out that the larger number of our citizens require outdoor recreation serviced with "basic facilities—roads, picnic tables, sanitation."

"A third basic goal," according to the Commission report, which was submitted to the President January 31, 1962, "is accessibility—an opportunity for all Americans to know and enjoy the outdoors."

SRP05864

This goal was identified as "one of the central problems of outdoor recreation over the next 40 years. * * * To achieve accessibility, existing areas must be further developed, and in many instances new sites must be acquired."

A balance in use

As indicated above, the committee recognizes the position of the competing demands for the use of that portion of San Bernardino Forest presently designated as the San Gorgonio Wild Area. It is submitted that the provision in H.R. 9070, as amended, effects a balance by providing reasonable access for a major population center to a mass recreational activity while, at the same time, providing for the preservation of some of the area in its natural state.

The bill provides that the Secretary of Agriculture shall identify and set aside 3,500 acres out of the 33,398-acre wild area for development with ski facilities. It is then provided that the Secretary shall make a review within a 3-year period of the suitability of remaining lands within the San Gorgonio Wild Area for their preservation as wilderness and report his findings to the President who will, in turn, advise the Congress.

The result

The committee assumes that, after the Secretary of Agriculture has identified for skiing development the area most suitable for that purpose, he will provide for the location of ski lifts in such a manner as to reduce, if not eliminate, the intrusion of roads into the area presently designated as the San Gorgonio Wild Area and also require all installations to be made in such a manner as to provide maximum possible preservation of the remaining area in its present condition. It is anticipated that this solution will provide outdoor recreation possibilities for everyone: those who, as stated by the Outdoor Recreation Resources Review Commission, "seek a completely natural environment," as well as the "major number [who] prefer activities in less primitive surroundings."

Committee Amendment

The committee amendment strikes all after the enacting clause and incorporates the provisions of the bill described above. These are further detailed below.

SECTION-BY-SECTION ANALYSIS

Section 1 provides for act to be cited as "The Wilderness Act."

Section 2 provides for the establishment of a National Wilderness Preservation System composed of such federally owned areas as are designated by Congress as "wilderness areas," in order to make certain that there is left to the American people in years to come unimpaired areas in their natural state. A definition of "wilderness" is likewise contained in the section. Areas incorporated in the wilderness system would continue to be managed by the department and agency having jurisdiction at time of inclusion in the wilderness system and no appropriation could be obtained for management of the wilderness system as such.

SRP05865

Section 3 provides for the designation as wilderness of all areas, except the San Gorgonio Wild Area, within the national forests classified at least 60 days before the effective date of the act as "wilderness," "wild," or "canoe." The Secretary of Agriculture is required to file a map and legal description of each wilderness area with the respective Committees on Interior and Insular Affairs and thereafter to maintain records pertaining to the use and management of wilderness areas.

It is further provided in this section that, within 10 years after enactment, the Secretary of Agriculture shall review national forest areas classified as "primitive" and the Secretary of the Interior shall review portions of the national park system and of the national wildlife system to determine suitability or nonsuitability of additional areas for designation as wilderness. The respective Secretaries would report to the President, who would submit his recommendations to the Congress but no recommendation could become effective unless so provided by an act of Congress.

The section further establishes the procedure for public notice and hearings prior to submission of recommendations for preservation of additional areas as wilderness.

Section 4 provides the general framework concerning the uses permitted and prohibited in wilderness areas (grazing is permitted where previously established, commercial services are authorized only as necessary to realize recreational or other wilderness purposes but are otherwise prohibited, hunting and fishing are permitted to extend not incompatible with wilderness preservation, aircraft and motorboats may be permitted where established, and the mining and mineral leasing laws remain applicable for a 25-year period after which new mining and mineral leasing activity is prohibited); preserves the integrity of several statutes governing national forests and national parks; and establishes conditions under which emergency or other special uses may be granted.

Section 5 contains the provision discussed above in detail concerning the use of the San Gorgonio Wild Area.

Section 6 is concerned with non-Federal lands within and completely surrounded by national forest wilderness areas designated by H.R. 9070 as wilderness.

Section 7 authorizes the Secretary of Agriculture to accept gifts or bequests of land for the expansion of wilderness areas designated by the act and authorizes both the Secretary of Agriculture and the Secretary of the Interior to accept contributions and gifts to further the purposes of the Act.

Section 8 requires submission of annual reports to Congress.

Cost

It is anticipated that there will be no significant increase in budgetary requirements as a result of enactment of H.R. 9070, as amended.

SRP05866

Departmental Recommendations

The executive departments and agencies involved have recommended enactment of wilderness legislation, as indicated in the reports below:

Executive Office of the President,
Bureau of the Budget,
Washington, D.C., December 6, 1963.

Hon. Wayne Aspinall,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is in response to your letter of November 22, 1963, requesting reports on 19 listed bills, all dealing with wilderness protection.

Since the beginning of his administration, President Kennedy repeatedly supported the objectives of wilderness preservation and protection. He did so in the belief that a nation such as ours, which had conquered vast wilderness areas on its way to preeminence in the world, had a peculiar and unique responsibility to preserve portions of our country in a state approaching that in which our forefathers found it.

A wilderness preservation program would appear to accomplish three main objectives. First, it would provide specific examples of unmodified islands of nature for the use, education, and enlightenment of the generations which will follow us. Second, it would tend to spread the pressures upon our recreational resources which will become increasingly overburdened as the years go by. Third, it would tend to promote the economic interests of those communities which could become supply and accommodation bases for those using the preserved areas. Just as we in the present are the beneficiaries of the foresight of those who brought into existence in 1872 the first national park and created a statutory framework in 1916 for the administration of a series of national parks and monuments, we believe that the provision of a statutory base for wilderness and primitive areas would be in the national interest.

We believe that it is necessary and desirable to resolve as soon as possible the issues which have grown up around the subject of wilderness legislation. Accordingly, while we have previously indicated our support of other legislation for accomplishing the objectives sought by the 19 wilderness bills transmitted with your request of November 22, 1963, we nevertheless recognize that H.R. 9162, H.R. 9163, H.R. 9164, and H.R. 9165 represent a carefully considered and balanced effort at compromise and that they would provide a substantial measure of improved protection for wilderness areas, as well as orderly arrangements through which additional suitable wilderness areas could be given statutory protection.

In all the circumstances, therefore, and if amended as recommended by the Department of Agriculture, we regard these measures as acceptable and recommend favorable committee action thereon.

Sincerely yours,

Phillip S. Hughes,
Assistant Director for Legislative Reference.

SRP05867

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., December 12, 1963.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. ASPINALL: Your committee has requested a report on 19 bills relating to the establishment of a National Wilderness Preservation System.

We have previously indicated to the Congress our strong support for the enactment of legislation that will provide adequately for wilderness preservation. We wish to reaffirm this position. The Department submitted a favorable recommendation on S. 4 as introduced in the 88th Congress. After considering carefully the various proposals, we recommend the enactment of H.R. 9162 (or one of the identical bills, H.R. 9163, H.R. 9164, or H.R. 9165) if it is amended as suggested below. In our opinion, H.R. 9162 offers an equitable solution to the various wilderness questions that heretofore have been unresolved.

H.R. 9162 designates as wilderness areas the parts of the national forests that have been classified administratively as "wilderness," "wild," or "canoe." In addition, it requires the Secretary of Agriculture to review the areas of the national forests classified administratively as "primitive," and requires the Secretary of the Interior to review portions of the national park system and the national wildlife refuges and game ranges under his jurisdiction, with respect to their suitability for preservation as wilderness. The appropriate Secretary is then required to submit recommendations to the President who, in turn, is required to submit his recommendations to the Congress. Each recommendation of the President to designate an area as wilderness becomes effective only by a subsequent act of Congress. These subsequent acts will need to contain any provisions that are deemed appropriate with respect to nonwilderness uses of the areas, the acquisition of State and privately owned lands within the areas, and the acceptance of gifts or bequests of land or private contributions for wilderness purposes.

The Department of Agriculture suggests the deletion of the sentence on page 5 of the bill, beginning on line 8 and ending on line 13. We concur in this recommendation and believe the deletion of this sentence is essential to an effective bill. The purpose of the amendment is to make it clear that the Department of Agriculture may continue to administer these areas as primitive unless Congress affirmatively passes legislation providing otherwise.

In addition to this amendment, we are enclosing several technical and perfecting amendments, which we believe are desirable to remove ambiguities.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

SRP05868

TECHNICAL AMENDMENTS TO H.R. 9162

1. Page 10, lines 15 and 16, delete "laws of the United States pertaining to mineral leasing and mining" and insert "the United States mining laws and all laws pertaining to mineral leasing."

The reference to laws of the United States "pertaining to" mining has no precise meaning. For example, it might be construed to include the Materials Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601 et seq.), as amended. We assume that such construction was not intended. The amendment will clarify the subject because the term "United States mining laws" has a well-established meaning and has been given congressional recognition in many statutes.

2. Page 12, lines 6 and 7, delete the words "issued under the Mineral Leasing Act" and insert ", permits, and licenses."

This deletion is made because there are several mineral leasing acts which apply to the national forest areas designated by this act as wilderness. They are the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181), as amended; the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351–359); and the mineral leasing authority granted to the Secretary of Agriculture under a number of statutes with respect to certain acquired lands. This authority of the Secretary of Agriculture was transferred to the Secretary of the Interior by Reorganization Plan No. 3 of 1946 (60 Stat. 1099). See title 43, Code of Federal Regulations, sec. 200.31 et seq.

This amendment contains a reference to permits and licenses because the Secretary of the Interior also has authority under the above laws to issue these instruments with respect to certain minerals.

3. Page 12, line 12, change the period in this line to a comma, and insert "permitted, or licensed."

The reason for this amendment is the same as given for the insertion under amendment No. 2.

4. Page 12, lines 16 and 17, delete the words "leasing under the Mineral Leasing Act" and insert "disposition under all laws pertaining to mineral leasing."

The reasons for this amendment are the same as those given for amendment No. 2.

5. Page 12, line 5, delete the word "filed" and insert the word "existing."

The use of the word "filed" is ambiguous. In the context of the bill an argument might be made that the word referes to a claim for which an application for patent has been filed. We believe this meaning was not intended and that the proper reference is to valid claims existing on the 1973 date. It should be noted that the mere filing, of a notice of location under State law does not necessarily indicate that the claim is valid.

6. Page 11, line 8, delete the words "and patents to mining claims".

The deletion of these words in this provision of the bill will leave no doubt that the bill does not purport to constrict the rights of any prior patentees under the mining laws with respect to the use of the surface of the patented lands. It could not do so in any event, without provision for just compensation. A similar provision with respect to subsequent patentees is contained in other provisions of this subsection, so these words serve no useful purpose.

7. Page 11, line 11, insert the words ", subject to valid existing rights," between the words "hereafter" and "all".

SRP05869

The requirement of the bill that all patents issued after the effective date of this act shall convey title to mineral deposits with a reservation to the United States of all title to the surface of the lands must be subject to "valid existing rights". The owner of a valid mining claim perfected under the mining laws prior to the effective date of this act has already acquired a possessory title to the surface of the land and any patent issued on such a claim after the effective date of this act must convey title to both the land and mineral deposits therein, unless provision is made for just compensation. See Solicitor's Opinion, M-36467 (August 28, 1957).

8. Page 12, line 6, insert the following after "1973":

"Mining claims located after the effective date of this Act within the boundaries of wilderness areas designated by this Act shall create no rights in excess of those rights which may be patented under the provisions of this subsection."

In order for the bill to constrict the rights acquired by a mineral patentee of a mining claim located subsequent to the effective date of this Act, it must likewise constrict the rights acquired under such locations, which this amendment will do.

9. Page 14, line 14, delete "either (1)"; and on lines 17 through 19 delete "(2) vacant, unreserved, and unappropriated mineral or nonmineral lands in the same State, not exceeding the value of the surrounded land, in exchange for the surrounded land", and insert the following: "the State-owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of the Interior or the Secretary of Agriculture".

In the case of State-owned land completely surrounded by land within a national forest wilderness area, the bill provides two alternatives: (1) The State may be given reasonable access rights, or (2) the State land may be exchanged for "vacant, unreserved, and unappropriated mineral or nonmineral lands in the same State".

The Department of the Interior now has authority to make such exchanges under the Taylor Grazing Act. The Department of Agriculture also has authority to acquire inholdings in exchange for national forest lands (act of March 20, 1922, 42 Stat. 465, as amended, 43 Stat. 1090; act of March 1, 1911, 36 Stat. 961, as amended, and other acts applicable to specific areas).

We believe that the language of the bill under consideration should refer to both of these existing authorities. The present law would not be changed.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., December 9, 1963.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request of November 22, 1963, for a report on 19 listed bills, all of which are to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

This Department has consistently recommended the enactment of wilderness legislation insofar as it would affect the national forests, beginning with such legislative proposals in the 85th Congress and

SRP05870

furthered by our strong support of legislation introduced in the 88th Congress with a few suggested amendments. We strongly support the objective of providing statutory status for wilderness-type areas.

We recognize that H.R. 9162, H.R. 9163, H.R. 9164, and H.R. 9165, which are identical, represent the combined result of intensive efforts for a solution to provision of statutory protection for wilderness areas and provision for orderly expansion of the system.

We believe that H.R. 9162, H.R. 9163, H.R. 9164, and H.R. 9165 would be progressive legislation for goals long sought. Therefore, insofar as they would affect this Department, we recommend favorable action on them by your committee provided they are amended as hereinafter recommended.

The sentence starting in line 8 on page 5 would deal with the status of primitive areas as they exist on the date of the act or as modified "during the 10 years after the enactment of this Act or until such time as an Act of Congress with respect thereto has become effective." This language could be construed as meaning that after 10 years following the date of the act primitive areas could no longer be administered as such by the Secretary of Agriculture unless an act of Congress with respect thereto had become effective before the expiration of the 10 years.

We have previously expressed our support for provisions which would have made the primitive areas a part of the wilderness system and which would have provide for their review and action, or opportunity for action, both by the executive branch and the Congress as to their continued administration as a part of the system. The treatment of primitive areas has been one of the major issues with respect to wilderness legislation. We now agree with the provisions of these bills that would provide for the review of the primitive areas and for their designation as wilderness areas and their administration as a part of the wilderness system only if so provided by an act of Congress. These provisions would provide an orderly arrangement.

The national forest lands which are now classified as primitive areas have been so classified and have been administered as primitive areas since 1939 or earlier. We do not believe it should be required that these areas would cease to be administered as primitive areas without consideration of the facts relating to the particular areas that would be so affected. These facts would be ascertained in the review provided for such areas and could be considered in connection with the recommendations which would be required to be submitted as to each such area. We, therefore, recommend that the sentence beginning in line 8 on page 5 be deleted.

Another provision on which we wish to comment for purposes of clarification is that in section 5(b) concerning ingress or egress to privately owned lands and property rights. We understand that the reference in lines 4 and 5 on page 15 to "other such areas similarly situated" refers to other surrounded areas of private holdings within wilderness areas, and that this reference does not compare the surrounded areas of private holdings within wilderness areas to private holdings surrounded by Federal lands which are not in wilderness areas.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

CHARLES MURPHY.

SRP05871

DEPARTMENT OF THE ARMY,
Washington, D.C., January 9, 1964.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H.R. 295, H.R. 930, H.R. 991, H.R. 1023, H.R. 1114, H.R. 2001, H.R. 2530, H.R. 2880, H.R. 2894, H.R. 3878, H.R. 5246, H.R. 5808, H.R. 7877, H.R. 9070, H.R. 9101, H.R. 9162, H.R. 9163, H.R. 1964, and H.R. 9165, 88th Congress, bills to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes. The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on these bills.

These bills would establish a National Wilderness Preservation System to be composed of certain areas within the national forests, the national park system, the national wildlife refuges, and game ranges, and such additional public lands as may be included under procedures set forth in the bills, in order to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. The wilderness system would be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use and, in order to attain these objectives, the bills would impose certain restrictions on use and developments within the system.

Section 3 of the various bills sets out the areas of Federal lands in the national forests, park system and wildlife refuges and game ranges which are to be designated as part of the wilderness preservation system, or considered for such designation. In each bill a procedure is established that will assure review of every area by the Congress prior to its final inclusion in the wilderness system. Section 3(d)(1)(C) of H.R. 9070, H.R. 9101, H.R. 9162, H.R. 9163, H.R. 9164, and H.R. 9165 would also assure pertinent Federal agencies, including the Department of Defense, the opportunity to participate in such review. The Department of the Army, on behalf of the Department of Defense, favors such a provision. With respect to the other differing procedures established in the various bills, the Department of the Army defers to the Department of Agriculture and the Department of the Interior, as the Departments having the primary interest in this matter, for expression of views as to the merits of the proposed procedures.

The Department of the Army, on behalf of the Department of Defense, is in favor of the National Wilderness Preservation System designed, as it is, for the permanent good of the whole people. Insofar as defense interests are concerned, the President's authority, as stated in the special provisions of the bills, to establish and maintain facilities needed in the public interest is sufficient to insure that any specific areas within the wilderness system which might become necessary for the national defense would be readily available.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

SRP05872

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

CYRUS R. VANCE, *Secretary of the Army.*

FEDERAL POWER COMMISSION—REPORT ON H.R. 295, H.R. 930, H.R. 991, H.R. 1023, H.R. 1114, H.R. 2001, H.R. 2530, H.R. 2880, H.R. 2894, H.R. 3878, H.R. 5246, H.R. 5808, H.R. 7877, H.R. 9070, H.R. 9101, H.R. 9162, H.R. 9163, H.R. 9164, AND H.R. 9165, 88TH CONGRESS

Bills to establish a National Wilderness Preservation System for the permanent good of the whole people and for other purposes

The bills included in this report have been divided into five separate groups,[1] those in each being identical. All are known as the Wilderness Act and would establish, in accordance with certain prescribed procedures, a National Wilderness Preservation System of federally owned areas for the purpose of securing "for the American people of present and future generations the benefits of an enduring resource of wilderness." Representative bills from each groups will be discussed in the following order: H.R. 5808, H.R. 9162, and H.R. 295, H.R. 930, and H.R. 9070 considered as a unit.

H.R. 5808 (group 1)

H.R. 5808, introduced in the House on April 23, 1963, by Representative Wydler, is identical with S. 4 as passed by the Senate on April 9, 1963. The committee is referred to the Commission report on S. 4 which is printed in Senate Report No. 109, 88th Congress, 1st session, April 3, 1963, at page 31. This report was supplemented by a letter from the Chairman of the Commission to Senator Clinton P. Anderson, dated March 8, 1963, which is printed in hearings on S. 4 before the Senate Committee on Interior and Insular Affairs, 88th Congress, 1st session, February 28 and March 1, 1963, at page 274. There has been no appreciable change in the figures contained in the March 8, 1963, report with respect to the amount of licensed and potential kilowatts of capacity of hydroelectric sites located in primitive areas.[2]

This Commission's interest in the bill arises from the fact that it would set up a wilderness system embracing lands and powersites having existing and potential power value subject to the Commission's authority under part I of the Federal Power Act. Section 4(e) of the Power Act (16 U.S.C. 797) provides that licenses shall be issued within reserved lands of the United States "only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired * * *." In addition, the licenses shall contain such conditions as are deemed necessary for the adequate protection and utilization of the reserved lands involved.

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[1] Group 1: H.R. 5808. Group 2: H.R. 9162, H.R. 9163, H.R. 9164, and H.R. 9165. Group 3: H.R. 295 and H.R. 5246. Group 4: H.R. 930, H.R. 991, H.R. 1023, H.R. 1114, H.R. 2001, H.R. 2530, H.R. 2880, H.R. 2894, H.R. 3878, and H.R. 7877. Group 5: H.R. 9070 and H.R. 9101.

[2] Under the provisions of H.R. 9162 and H.R. 9070 an act of Congress is required to incorporate primitive areas within the wilderness system.

SRP05873

Section 6(c)(2) of H.R. 5808 authorizes the President to permit the establishment and maintenance of reservoirs, water conservation works, transmission lines, and other facilities needed in the public interest within specific national forest and public domain areas in the wilderness system "upon his determination that such use or uses * * * will better serve the interest of the United States and the people thereof than will its denial." Section 11 of the bill states that nothing therein "shall be construed as superseding, modifying, repealing, or otherwise affecting the provisions of the Federal Power Act (16 U.S.C. 792–825r)."[3] Read together we interpret the bill as providing that the Federal Power Commission's jurisdiction to issue licenses authorizing the use of lands in the wilderness system for power purposes would not be affected, provided that the above-noted finding of consistency and noninterference with the purposes of the wilderness reservation can be made under section 4(e) of the Federal Power Act.

The bill would not incorporate in the wilderness system as of its effective date any lands presently within wildlife refuges or game ranges, but sets up procedures under which portions of such refuges and ranges may subsequently be incorporated into the system. It is assumed that when future recommendations are made to the Congress by the President to incorporate additional areas into the system, this Commission will be requested to advise the Congress as to the power potential affected by any such recommendations.

None of the bill's provisions would vacate or rescind any power withdrawal or power reservation created prior to its enactment. Furthermore, sections 3(a) and 6(b) which specifically preserve existing private rights in lands placed in the wilderness system, clearly would protect a licensee's right to continue the use of any such lands under authority of a license previously issued by the Commission.

As interpreted above, the Commission favors the purpose of H.R. 5808 to create a wilderness system and offers no objection to its enactment.

H.R. 9162 (group 2)

H.R. 9162, together with identical companion bills, H.R. 9163, H.R. 9164, and H.R. 9165, was introduced in the House on November 19, 1963. The Commission's interest in this bill is the same as its interest in H.R. 5808 discussed above.

The bill would not incorporate in the wilderness system as of its effective date any lands presently within wildlife refuges, game ranges, or primitive areas of national forests, but sets up procedures under which portions of such refuges, ranges, and primitive areas may subsequently be incorporated into the system. It is assumed that when future recommendations are made to the Congress by the President to incorporate additional areas into the system, this Commission will be requested to advise the Congress as to the power potential affected by any such recommendations.

None of the bill's provisions would vacate or rescind any power withdrawal or power reservation created prior to its enactment. Section 4(c) of the bill which specifically preserves existing private rights in lands placed in the wilderness system, clearly would protect a licensee's

[3] This provision was originally proposed by the Federal Power Commission as an amendment to the predecessors of this bill.

SRP05874

right to continue the use of any such lands under authority of a license previously issued by the Commission.

H.R. 9162 contains no provision comparable to section 11 of H.R. 5808.[4] The specific reference to power projects in section 4(e) of the bill which authorizes the President to permit certain power uses [5] in specific wilderness areas in national forests "upon his determination that such use or uses * * * will better serve the interests of the United States and the people thereof than will its denial," emphasizes the need for an adequate savings clause in order to safeguard the public interest in the development of waterpower resources on lands belonging to the United States through licenses under the Federal Power Act and to eliminate any misunderstanding that may otherwise exist. For the reasons given in the preceding report on H.R. 5808, the Commission recommends that the bill be amended by adding a new subsection 4(j) to read as follows:

"Nothing in this Act shall be construed as superseding, modifying, repealing, or otherwise affecting the provisions of the Federal Power Act (16 U.S.C. 792–825r).

H.R. 295, H.R. 930, and H.R. 9070 (groups 3, 4, and 5)

H.R. 930 and H.R. 9070 are subject to the same deficiencies as H.R. 9162; namely, failure to include a provision comparable to section 11 of H.R. 5808 preserving the Federal Power Commission's jurisdiction to issue licenses authorizing the use of lands in the wilderness system for power purposes. All three bills include special provisions [6] comparable to section 6(c)(2), H.R. 5808, and section 4(e), H.R. 9162, authorizing the President to permit power uses in specific areas in national forests. The Commission's views on the necessity of the savings clause and the interpretation to be placed on the special provisions are fully stated in the above discussion on H.R. 5808 and H.R. 9162. In addition, H.R. 295 [7] and H.R. 930 are defective in that they make no provisions for public notice and hearing or for obtaining the views of interested Federal agencies with respect to the inclusion of lands within the wilderness system. For these reasons the Commission does not favor the enactment of H.R. 295, H.R. 930, and H.R. 9070 as now drafted.

FEDERAL POWER COMMISSION,
By JOSEPH C. SWIDLER, *Chairman.*

TREASURY DEPARTMENT,
ASSISTANT SECRETARY,
Washington, April 28, 1964.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for this Department's views on S. 4 (88th Cong., 1st sess.) entitled "An act

[4] For a detailed description of the reasons in support of a savings clause, we suggest that the committee refer to and incorporate by reference our testimony at the hearings on S. 174 on this subject during the 87th Cong. (See hearings on Feb. 27, 1961, before Senate Committee on Interior and Insular Affairs on S. 174, 87th Cong., pp. 68–76; also hearings on May 8, 1962, before Subcommittee on Public Lands of the House Committee on Interior and Insular Affairs on S. 174, 87th Cong., pp. 1229–1242.)

[5] These power uses include the establishment and maintenance of reservoirs, water conservation works, power projects, transmission lines, and other facilities needed in the public interest.

[6] These provisions identified by section are H.R. 295, sec. 6(c)(2); H.R. 930, sec. 6(c)(2); H.R. 9070, sec. 4(d)(3)—specifies "power projects."

[7] Sec. 11, H.R. 295, savings clause, is identical to sec. 11, H.R. 5808.

SRP05875

to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes."

S. 4 would allow certain Federal lands to be set aside in a wilderness system for the use and enjoyment of the American people. Section 8 of the bill would authorize the Secretary of the Interior and the Secretary of Agriculture to accept private contributions and gifts to be used to further the purposes of the act. The second sentence of section 8 would provide that—

"Any such contributions or gifts shall, for purposes of Federal income, estate, and gift taxes, be considered a contribution or gift to or for the use of the United States for an exclusively public purpose, and may be deducted as such under the provisions of the Internal Revenue Code of 1954, subject to all applicable limitations and restrictions contained therein."

Sections 170, 2055, and 2522 of the Internal Revenue Code now provide that gifts to or for the use of the United States for exclusively public purposes are allowable as deductions for Federal income, estate, and gift tax purposes. Therefore, there is no need for a specific provision in S. 4 to accomplish this result. The Department believes that tax provisions generally should not be incorporated in nontax legislation and that the incorporation is in S. 4 of a tax provision, which is not necessary to achieve the objectives of the bill, would provide an undesirable precedent in other areas.

In view of the foregoing, the Department recommends that the second sentence of section 8 be deleted from S. 4.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends enactment of H.R. 9070, as amended.

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