

H.R.146

Omnibus Public Land Management Act of 2009 (Engrossed Amendment as Agreed to by Senate)

Subtitle N--Rocky Mountain National Park Wilderness, Colorado

SEC. 1951. DEFINITIONS.

In this subtitle:

- (1) MAP- The term `map' means the map entitled `Rocky Mountain National Park Wilderness Act of 2007' and dated September 2006.*
- (2) PARK- The term `Park' means Rocky Mountain National Park located in the State of Colorado.*
- (3) SECRETARY- The term `Secretary' means the Secretary of the Interior.*
- (4) TRAIL- The term `Trail' means the East Shore Trail established under section 1954(a).*
- (5) WILDERNESS- The term `Wilderness' means the wilderness designated by section 1952(a).*

SEC. 1952. ROCKY MOUNTAIN NATIONAL PARK WILDERNESS, COLORADO.

(a) Designation- In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is designated as wilderness and as a component of the National Wilderness Preservation System approximately 249,339 acres of land in the Park, as generally depicted on the map.

(b) Map and Boundary Description-

(1) IN GENERAL- As soon as practicable after the date of enactment of this Act, the Secretary shall--

(A) prepare a map and boundary description of the Wilderness; and

(B) submit the map and boundary description prepared under subparagraph (A) to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

(2) AVAILABILITY; FORCE OF LAW- The map and boundary description submitted under paragraph (1)(B) shall--

(A) be on file and available for public inspection in appropriate offices of the National Park Service; and

(B) have the same force and effect as if included in this subtitle.

(c) Inclusion of Potential Wilderness-

(1) *IN GENERAL*- On publication in the Federal Register of a notice by the Secretary that all uses inconsistent with the Wilderness Act (16 U.S.C. 1131 et seq.) have ceased on the land identified on the map as a `Potential Wilderness Area', the land shall be--

(A) included in the Wilderness; and

(B) administered in accordance with subsection (e).

(2) *BOUNDARY DESCRIPTION*- On inclusion in the Wilderness of the land referred to in paragraph (1), the Secretary shall modify the map and boundary description submitted under subsection (b) to reflect the inclusion of the land.

(d) *Exclusion of Certain Land*- The following areas are specifically excluded from the Wilderness:

(1) The Grand River Ditch (including the main canal of the Grand River Ditch and a branch of the main canal known as the Specimen Ditch), the right-of-way for the Grand River Ditch, land 200 feet on each side of the center line of the Grand River Ditch, and any associated appurtenances, structures, buildings, camps, and work sites in existence as of June 1, 1998.

(2) Land owned by the St. Vrain & Left Hand Water Conservancy District, including Copeland Reservoir and the Inlet Ditch to the Reservoir from North St. Vrain Creek, comprising approximately 35.38 acres.

(3) Land owned by the Wincenstsen-Harms Trust, comprising approximately 2.75 acres.

(4) Land within the area depicted on the map as the `East Shore Trail Area'.

(e) *Administration*- Subject to valid existing rights, any land designated as wilderness under this section or added to the Wilderness after the date of enactment of this Act under subsection (c) shall be administered by the Secretary in accordance with this subtitle and the Wilderness Act (16 U.S.C. 1131 et seq.), except that--

(1) any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act, or the date on which the additional land is added to the Wilderness, respectively; and

(2) any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the Secretary of Agriculture shall be considered to be a reference to the Secretary.

(f) *Water Rights*-

(1) *FINDINGS*- Congress finds that--

(A) the United States has existing rights to water within the Park;

(B) the existing water rights are sufficient for the purposes of the Wilderness; and

(C) based on the findings described in subparagraphs (A) and (B), there is no need for the United States to reserve or appropriate any additional water rights to fulfill the purposes of the Wilderness.

(2) *EFFECT- Nothing in this subtitle--*

- (A) constitutes an express or implied reservation by the United States of water or water rights for any purpose; or*
- (B) modifies or otherwise affects any existing water rights held by the United States for the Park.*

(g) Fire, Insect, and Disease Control- The Secretary may take such measures in the Wilderness as are necessary to control fire, insects, and diseases, as are provided for in accordance with--

- (1) the laws applicable to the Park; and*
- (2) the Wilderness Act (16 U.S.C. 1131 et seq.).*

SEC. 1953. GRAND RIVER DITCH AND COLORADO-BIG THOMPSON PROJECTS.

(a) Conditional Waiver of Strict Liability- During any period in which the Water Supply and Storage Company (or any successor in interest to the company with respect to the Grand River Ditch) operates and maintains the portion of the Grand River Ditch in the Park in compliance with an operations and maintenance agreement between the Water Supply and Storage Company and the National Park Service, the provisions of paragraph (6) of the stipulation approved June 28, 1907--

- (1) shall be suspended; and*
- (2) shall not be enforceable against the Company (or any successor in interest).*

(b) Agreement- The agreement referred to in subsection (a) shall--

(1) ensure that--

(A) Park resources are managed in accordance with the laws generally applicable to the Park, including--

- (i) the Act of January 26, 1915 (16 U.S.C. 191 et seq.);*
- and*
- (ii) the National Park Service Organic Act (16 U.S.C. 1 et seq.);*

(B) Park land outside the right-of-way corridor remains unimpaired consistent with the National Park Service management policies in effect as of the date of enactment of this Act; and

(C) any use of Park land outside the right-of-way corridor (as of the date of enactment of this Act) shall be permitted only on a temporary basis, subject to such terms and conditions as the Secretary determines to be necessary; and

(2) include stipulations with respect to--

- (A) flow monitoring and early warning measures;*
- (B) annual and periodic inspections;*
- (C) an annual maintenance plan;*
- (D) measures to identify on an annual basis capital improvement needs; and*

- (E) the development of plans to address the needs identified under subparagraph (D).
- (c) *Limitation-* Nothing in this section limits or otherwise affects--
- (1) the liability of any individual or entity for damages to, loss of, or injury to any resource within the Park resulting from any cause or event that occurred before the date of enactment of this Act; or
 - (2) Public Law 101-337 (16 U.S.C. 19jj et seq.), including the defenses available under that Act for damage caused--
 - (A) solely by--
 - (i) an act of God;
 - (ii) an act of war; or
 - (iii) an act or omission of a third party (other than an employee or agent); or
 - (B) by an activity authorized by Federal or State law.
- (d) *Colorado-Big Thompson Project and Windy Gap Project-*
- (1) *IN GENERAL-* Nothing in this subtitle, including the designation of the Wilderness, prohibits or affects current and future operation and maintenance activities in, under, or affecting the Wilderness that were allowed as of the date of enactment of this Act under the Act of January 26, 1915 (16 U.S.C. 191), relating to the Alva B. Adams Tunnel or other Colorado-Big Thompson Project facilities located within the Park.
 - (2) *ALVA B. ADAMS TUNNEL-* Nothing in this subtitle, including the designation of the Wilderness, prohibits or restricts the conveyance of water through the Alva B. Adams Tunnel for any purpose.
- (e) *Right-of-Way-* Notwithstanding the Act of March 3, 1891 (43 U.S.C. 946) and the Act of May 11, 1898 (43 U.S.C. 951), the right of way for the Grand River Ditch shall not be terminated, forfeited, or otherwise affected as a result of the water transported by the Grand River Ditch being used primarily for domestic purposes or any purpose of a public nature, unless the Secretary determines that the change in the main purpose or use adversely affects the Park.
- (f) *New Reclamation Projects-* Nothing in the first section of the Act of January 26, 1915 (16 U.S.C. 191), shall be construed to allow development in the Wilderness of any reclamation project not in existence as of the date of enactment of this Act.
- (g) *Clarification of Management Authority-* Nothing in this section reduces or limits the authority of the Secretary to manage land and resources within the Park under applicable law.

SEC. 1954. EAST SHORE TRAIL AREA.

- (a) *In General-* Not later than 1 year after the date of enactment of this Act, the Secretary shall establish within the East Shore Trail Area in the Park an alignment line for a trail, to be known as the `East Shore Trail', to maximize the opportunity for sustained use of the Trail without causing--
- (1) harm to affected resources; or
 - (2) conflicts among users.

(b) Boundaries-

(1) IN GENERAL- After establishing the alignment line for the Trail under subsection (a), the Secretary shall--

(A) identify the boundaries of the Trail, which shall not extend more than 25 feet east of the alignment line or be located within the Wilderness; and

(B) modify the map of the Wilderness prepared under section 1952(b)(1)(A) so that the western boundary of the Wilderness is 50 feet east of the alignment line.

(2) ADJUSTMENTS- To the extent necessary to protect Park resources, the Secretary may adjust the boundaries of the Trail, if the adjustment does not place any portion of the Trail within the boundary of the Wilderness.

(c) Inclusion in Wilderness- On completion of the construction of the Trail, as authorized by the Secretary--

(1) any portion of the East Shore Trail Area that is not traversed by the Trail, that is not west of the Trail, and that is not within 50 feet of the centerline of the Trail shall be--

(A) included in the Wilderness; and

(B) managed as part of the Wilderness in accordance with section 1952; and

(2) the Secretary shall modify the map and boundary description of the Wilderness prepared under section 1952(b)(1)(A) to reflect the inclusion of the East Shore Trail Area land in the Wilderness.

(d) Effect- Nothing in this section--

(1) requires the construction of the Trail along the alignment line established under subsection (a); or

(2) limits the extent to which any otherwise applicable law or policy applies to any decision with respect to the construction of the Trail.

(e) Relation to Land Outside Wilderness-

(1) IN GENERAL- Except as provided in this subsection, nothing in this subtitle affects the management or use of any land not included within the boundaries of the Wilderness or the potential wilderness land.

(2) MOTORIZED VEHICLES AND MACHINERY- No use of motorized vehicles or other motorized machinery that was not permitted on March 1, 2006, shall be allowed in the East Shore Trail Area except as the Secretary determines to be necessary for use in--

(A) constructing the Trail, if the construction is authorized by the Secretary; or

(B) maintaining the Trail.

(3) MANAGEMENT OF LAND BEFORE INCLUSION- Until the Secretary authorizes the construction of the Trail and the use of the Trail for non-motorized bicycles, the East Shore Trail Area shall be managed-

(A) to protect any wilderness characteristics of the East Shore Trail Area; and

(B) to maintain the suitability of the East Shore Trail Area for inclusion in the Wilderness.

SEC. 1955. NATIONAL FOREST AREA BOUNDARY ADJUSTMENTS.

(a) Indian Peaks Wilderness Boundary Adjustment- Section 3(a) of the Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (16 U.S.C. 1132 note; Public Law 95-450) is amended--

(1) by striking `seventy thousand acres' and inserting `74,195 acres'; and

(2) by striking `, dated July 1978' and inserting `and dated May 2007'.

(b) Arapaho National Recreation Area Boundary Adjustment- Section 4(a) of the Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (16 U.S.C. 460jj(a)) is amended--

(1) by striking `thirty-six thousand two hundred thirty-five acres' and inserting `35,235 acres'; and

(2) by striking `, dated July 1978' and inserting `and dated May 2007'.

SEC. 1956. AUTHORITY TO LEASE LEIFFER TRACT.

(a) In General- Section 3(k) of Public Law 91-383 (16 U.S.C. 1a-2(k)) shall apply to the parcel of land described in subsection (b).

(b) Description of the Land- The parcel of land referred to in subsection (a) is the parcel of land known as the `Leiffer tract' that is--

(1) located near the eastern boundary of the Park in Larimer County, Colorado; and

(2) administered by the National Park Service.