

Subcommittee on Federal Lands

Tom McClintock, Chairman

Hearing Memorandum

June 18, 2018

To: All Subcommittee on Federal Lands Members

From: Majority Committee Staff— Chris Marklund
Subcommittee on Federal Lands (x67736)

Hearing: Legislative hearing on **H.R. 5148 (Rep. Greg Gianforte)**, To release certain wilderness study areas in the State of Montana.
June 21, 2018, 10:00 AM; 1324 Longworth House Office Building

H.R. 5148, *Protect Public Use of Public Lands Act*

Summary of the Bill

H.R. 5148, introduced by Representative Greg Gianforte (R-MT-At Large), releases land within Wilderness Study Areas managed by the U.S. Forest Service (USFS) in Montana that have been determined by USFS to be unsuitable for inclusion in the National Wilderness Preservation System for multiple use management.

Cosponsors

None.

Witnesses

The Honorable Greg Gianforte
Member of Congress, Montana At-Large

The Honorable Greg Chilcott
Commissioner, 2nd District
Ravalli County, Montana

Mr. Chris French
Associate Deputy Chief, National Forest System
Forest Service
U.S. Department of Agriculture
Washington, DC

Background

Montana has 42 Wilderness Study Areas (WSA), seven of which are managed by the Forest Service.¹ The other 35 are managed by the Bureau of Land Management.² H.R. 5148 releases five USFS-managed units, totaling approximately 449,000 acres.

The Wilderness Act of 1964 (16 U.S.C. 1131 et seq.) established the National Wilderness Preservation System to maintain, in natural condition, some of America's wildest areas for the "use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness."³ It described wilderness lands as areas "where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain."⁴ It required that the Secretaries of Agriculture and Interior review within 10 years most of the public lands and evaluate "primitive" roadless areas greater than 5,000 acres in size for their wilderness character and prepare suitability recommendations for the President to share with Congress. Under the Wilderness Act, Congress reserves the sole authority to designate federal lands as wilderness.

Generally, the Wilderness Act prohibits commercial activities, motorized uses, and the building of roads, structures and facilities. Wilderness designations have been criticized for restricting public access and recreation opportunities, and prohibiting "the use of motorized tools and mechanized vehicles in watershed management, trail maintenance, noxious weed control, and fire protection,"⁵ which impact the health and safety of neighboring lands and communities. Proponents of wilderness argue these restrictions help maintain the primitive nature of designated wilderness. In general, even though they have not been designated by Congress as part of the National Wilderness Preservation System, lands identified as WSAs are managed as if they were wilderness (sometimes referred to as "de facto wilderness").

In 1977, the Montana Wilderness Study Act (Public Law 95-150) extended WSA status to USFS-managed lands in Montana. Specifically, it required that the USFS review and make suitability recommendations on nine specific WSAs within five years. It further required that until Congress acts, and subject to valid existing rights, USFS must manage these areas of wilderness study "to maintain their present existing wilderness character and potential for inclusion in the National Wilderness Preservation System."⁶ This has led to a regime of de facto wilderness management in areas that Congress has not designated as part of the National Wilderness Preservation System. Congressional action is required to return these public lands to management for multiple use and active management.

¹ Forest Service, https://data.fs.usda.gov/geodata/other_fs/wilderness/stateMap.php?stateID=MT, last visited on June 15, 2018.

² Bureau of Land Management, https://www.blm.gov/sites/blm.gov/files/uploads/WSAs_Q4_2016.pdf, last visited on June 15, 2018.

³ 16 U.S.C. 1131.

⁴ Ibid.

⁵ McPherson, Hans. "Letter in Support of the Release of All Wilderness Study Areas that have been Designated as WSAs for More than Five Years ." Received by Representative Greg Gianforte, Montana Farm Bureau Federation, 2 Feb. 2018, Bozeman, Montana.

⁶ Public Law 95-150.

The bill intends to release those acres determined to be unsuitable for designation as wilderness by the USFS. If enacted, this bill would release approximately 450,000 acres of USFS land for broader multiple use, ensuring greater diversity of access to public lands and a wider array of management options available to land managers.

West Pioneer Wilderness Study Area

The West Pioneer WSA is made up of approximately 151,000 acres of land within the Beaverhead-Deerlodge National Forest (BDL). H.R. 5148 would return the entirety of the West Pioneer WSA to multiple use.

In 1979, the USFS released a Final Environmental Impact Statement (FEIS)⁷ and study of the West Pioneer WSA, assessing the area as “not contributing significantly to the National Wilderness Preservation System.”⁸ The 1979 study went on to find that the non-wilderness designation “will permit the greatest dispersed motorized recreation use, primarily snowmobile use... It provides an opportunity for both roaded and roadless forms of primitive recreation activity.”⁹ The 2009 BDL Forest Plan upheld the 1979 recommendation that the West Pioneer WSA be given a non-wilderness designation.¹⁰

The West Pioneer WSA was among the seven WSAs requested by the Montana Legislature to be released.¹¹ A recent letter from the Beaverhead County Commissioners outlined the need for Congress to act on the USFS’ decision to manage the area as non-wilderness and release the West Pioneer WSA.

Blue Joint Wilderness Study Area

The Blue Joint WSA is made up of approximately 61,000 acres in the Bitterroot National Forest. H.R. 5148 would return approximately 32,500 acres of the Blue Joint WSA not recommended for wilderness classification by the USFS to multiple use.

In 1987, the Blue Joint WSA was split into two pieces by the USFS – 32,500 acres were recommended to be managed as non-wilderness and 28,500 recommended to be added to the Frank Church-River of No Return Wilderness.¹² Within the area not recommended for wilderness, there are 11 active mines, 1172 acres are open for livestock grazing, 44,089 acres are suitable for timber management and there is one utility corridor. Prior to the 2016 Bitterroot

⁷ Prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

⁸ United States Department of Agriculture, Forest Service. “Final Environmental Impact Statement (FEIS) and Study of the West Pioneer Wilderness Study Area.” 1979.

⁹ Ibid.

¹⁰ United States Department of Agriculture, Forest Service. “Beaverhead-Deerlodge National Forest Land and Resource Management Plan.” 2009.

¹¹ 2017 MT H.J. 9, Resolution supporting the release of certain wilderness study areas.

¹² United States Department of Agriculture, Forest Service. “Final Environmental Impact Statement (FEIS) and Study of the Blue Joint Wilderness Study Area.” 1987.

Travel Plan, the area was open to motorized/mechanized activities, including 10 trails totaling 64,000 acres open to snowmobiles and 63 miles for off highway vehicles and mountain bikes.¹³

The Blue Joint WSA was among the seven WSAs requested by the Montana Legislature to be released.¹⁴ A recent letter from the Ravalli County Commissioners encouraged Congress to release the Blue Joint WSA to multiple-use management.

Sapphire Wilderness Study Area

The Sapphire WSA is made up of approximately 94,000 acres within the Bitterroot and the BDL National Forests. H.R. 5148 would return the entirety of the Sapphire WSA to multiple use.

In 1987, USFS released a FEIS and study of the Sapphire WSA, noting:

Mining activity is visible on 250 acres of private land. Fire lines and primitive roads are evident in Martin Creek as are several other roads within the exterior boundary...Most of the boundary is poorly defined by topography, lying mid-slope immediately above roads and development.¹⁵

As a result of this study, USFS did not recommend the Sapphire WSA for inclusion in the National Wilderness Preservation System.

The Sapphire WSA was among the seven WSAs requested by the Montana Legislature to be released.¹⁶ A recent letter from the Ravalli County Commissioners outlined the need for Congress to act on the USFS' decision to manage the area as non-wilderness and release the Sapphire WSA.

Middle Fork Judith Wilderness Study Area

The Middle Fork Judith WSA is made up of approximately 81,000 acres in the Lewis and Clark National Forest. H.R. 5148 would return the entirety of the Middle Fork Judith WSA to multiple use.

In 1982, USFS released an FEIS and study of the Big Snowies and Middle Fork Judith WSAs and recommended the Middle Fork Judith WSA be managed as non-wilderness, finding among other things that the Middle Fork Judith WSA contained 64 miles of road and 150 mines and prospects.¹⁷ The Draft Revised Forest Plan for the Helena–Lewis and Clark National Forest currently undergoing public comment upholds the finding that the area is not recommended as

¹³ Based on information provided by the bill's sponsor to the House Committee on Natural Resources.

¹⁴ 2017 MT H.J. 9.

¹⁵ United States Department of Agriculture, Forest Service. "Final Environmental Impact Statement (FEIS) and Study of the Sapphire Wilderness Study Area." 1987.

¹⁶ 2017 MT H.J. 9.

¹⁷ United States Department of Agriculture, Forest Service. "Final Environmental Impact Statement (FEIS) and Study of the Big Snowies and Middle Fork Judith Wilderness Study Areas." 1982.

wilderness, noting, “Motorized trails to the north and east and private land inholdings accessed by open road impact solitude.”¹⁸

The Middle Fork Judith WSA was among the seven WSAs requested by the Montana Legislature to be released.¹⁹ A recent letter from the Judith County Commissioners outlined the need for Congress to act on the USFS decision to manage the area as non-wilderness and release the Middle Fork Judith WSA.²⁰

Big Snowies Wilderness Study Area

The Big Snowies WSA is made up of approximately 91,000 acres of land within the Lewis and Clark National Forest. H.R. 5148 would return the entirety of the Big Snowies WSA to multiple use.

In 1982, USFS released its FEIS and study of the Big Snowies and Middle Fork Judith WSA and recommended the Big Snowies WSA be managed as non-wilderness. The study found:

The Big Snowies contain 50 miles of road: 14 miles of primitive road and 36 miles of low standard road. Almost every stream bottom on the periphery has a road which penetrates into the study area for varying distances. Motorized recreation takes place on these roads and some trails.²¹

The Big Snowies WSA was among the seven WSAs requested by the Montana Legislature to be released.²² Recent letters from the Judith and Fergus County Commissioners outlined the need for Congress to act on the USFS’ decision to manage the area as non-wilderness and release the Big Snowies WSA.²³

Congressman Gianforte has introduced a similar bill, H.R. 5149, that would release nearly 360,000 acres within 23 WSAs on lands managed by the Bureau of Land Management.

Congressman Gianforte’s bills supporting the release of Montana WSAs have received letters of support from: the Beaverhead County Board of Commissioners, the Board of Prairie County Commissioners, the Garfield County Board of Commissioners, the Montana Stockgrowers Association, the Valley County Board of Commissioners, the Montana Association of Counties, the Madison County Board of Commissioners, the Phillips County

¹⁸ United States Department of Agriculture, Forest Service. “Draft Revised Forest Plan Helena – Lewis and Clark National Forest Appendix F.” 2018.

¹⁹ 2017 MT H.J. 9, Resolution supporting the release of certain wilderness study areas

²⁰Based on information provided by the bill’s sponsor to the House Committee on Natural Resources.

²¹ United States Department of Agriculture, Forest Service. “Final Environmental Impact Statement (FEIS) and Study of the Big Snowies and Middle Fork Judith Wilderness Study Areas.” 1982.

²² 2017 MT H.J. 9, Resolution supporting the release of certain wilderness study areas

²³Based on information provided by the bill’s sponsor to the House Committee on Natural Resources.

Board of Commissioners, the Powell County Board of Commissioners and the Montana Farm Bureau Federation.²⁴

Cost

A Congressional Budget Office cost estimate has not yet been completed for this bill.

Administration Position

Unknown.

Major Provisions/Section-by-Section Analysis of H.R. 5148

Section 2. Release of Certain Wilderness Study Areas in the State of Montana. Releases the following areas from WSA status, including the requirement that they be managed “to maintain their present existing wilderness character and potential for inclusion in the National Wilderness Preservation System.”²⁵

WSA Unit Name	Unit Size (acres)
Big Snowies	91,000
Blue Joint	32,500 (part of a 61,000-acre parcel, part of which was recommended as suitable for management as wilderness)
Middle Fork Judith	81,000
Sapphire	94,000
West Pioneer	151,000

Effect on Current Law (Ramseyer)

None.

²⁴ Based on information provided by the bill’s sponsor to the House Committee on Natural Resources.

²⁵ Public Law 95-150.