H.R. 1576 AND H.R. 1772

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FORESTS AND FOREST HEALTH

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

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H.R. 1576, THE "JAMES PEAK WILDERNESS, WILDERNESS STUDY, AND PROTECTION AREA ACT"; AND H.R. 1772, TO PROVIDE FOR AN EXCHANGE OF CERTAIN PROPERTY BETWEEN THE UNITED STATES AND EPHRAIM CITY, UTAH

Thursday, July 26, 2001
U.S. House of Representatives
Subcommittee on Forests and Forest Health
Committee on Resources
Washington, DC

The Subcommittee met, pursuant to call, at 10:04 a.m., in Room 1334, Longworth House Office Building, Hon. Scott McInnis [Chairman of the Subcommittee] presiding.H.R. 1772

STATEMENT OF HON. SCOTT MCINNIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. MCINNIS. The Committee will come to order. The Subcommittee on Forests and Forest Health will come to order. Today, the Subcommittee on Forests and Forest Health will consider H.R. 1772, a bill to provide for exchange of certain property between the United States and an area in Utah, and H.R. 1576, the James Peak Wilderness Study and Protection Area Act.

I ask unanimous consent that Representative Chris Cannon have permission to sit on the dais and participate in the hearing. Mr. Cannon took one elevator, and I took the other, and we made a little bet as to who would be here first. His elevator is obviously not working.

[Laughter.]

Mr. MCINNIS. So I would expect him here momentarily.

Under Committee Rule 4(g), the Chairman and the Ranking Member can make opening statements. If any other members have statements, they can be included in the hearing under unanimous consent. So we are going to wait for—all right; I have four pages to read. This is exciting.

The first bill for consideration is H.R. 1772. The legislation would allow Ephraim City to acquire 0.7 acres of land located in the Manti-LaSal National Forest. Mr. Cannon, I won the bet.

[Laughter.]

Mr. McINNIS. To repair some of the city's administrative office buildings, and in exchange, the city would convey 3.2 acres of its land to the Forest Service for a seed warehouse for wild land restoration purposes. I understand that some may have been process oriented; there may be some with process-oriented concerns with this bill, but we ought to be able to work that out. I do not see much disagreement in this bill. I think we can move rather rapidly.

The second bill is H.R. 1576, the James Peak Wilderness, Wilderness Study and Protection Area, introduced by my friend and colleague from Colorado, Congressman Udall. At the outset, let me say I admire the energy and the effort that Mr. Udall has put forth and that his staff has put into this bill as well, even though I have serious substantive concerns with the bill as introduced. I am hopeful we can overcome these differences and move this bill forward. If we cannot overcome these differences, the bill does not move. And to this point, Mr. Udall and I have had a number of meetings, and I think that this can be resolved satisfactorily to all the parties, and later on, I will speak about some compromise language that I have incorporated which I think, actually, Mr. Udall, goes back to your position in February. So I think we are going to be able to work this out.

But for those of you who are not aware, I do have a special interest in this special piece of legislation, because the majority of land impacted by the proposal actually falls within the borders of my Congressional district. Now, just for the guests in here, the Third Congressional District of Colorado, which geographically is larger than the State of Florida, contains almost all of the mountains of Colorado. The area is truly spectacular, and there is no denying that it deserves special protection, and that is something that all the sides agree upon.

Where there has not been agreement over the years, however, is on the question of—wow, that helped out—how and under what designation the James Peak area should be protected. While Gilpin, Clear Creek and Boulder Counties, all in Mr. Udall's district, have long supported wilderness designation for those lands within the borders of their counties, Grand County, which is in my district, has not. Grand County's opposition is a primary reason this bill did not progress in either the 105th or 106th Congresses. I should tell the Committee as the Committee knows, probably, based on my history and for our guests today that one of the fundamental requirements for a piece of wilderness bill, one, either for me to sponsor or for two, to move through this Committee is a requirement that the locally-elected officials support the concept of the bill, and I think we have got a compromise that we can support.

But we will hear in a few moments that Grand County is prepared to support the bill if certain key modifications are made. With the Grand County Commissioners' help, I have drafted a compromise plan. The language I would offer is an amendment to Mr. Udall's bill at the Subcommittee markup that would designate those portions of the James Peak area in Grand County as a special protection area, a designation that would significantly restrict motorized and mechanized use while prohibiting timber harvesting as well as mineral exploration in the area; but at the same time,

the designation would better accommodate the needs and desires of the local community, allowing, for example, Rogers Pass Trail and the Continental Divide Trail to be allowed for the use of mountain bikers.

As for the rest of the James Peak landscape, the compromise plan would designate those segments in Boulder, Clear Creek and Gilpin Counties wilderness, something that the leaders of these respective counties have said that they clearly would like, and we will hear from one of those leaders, Mr. Sill, in a moment. My friend Mr. Newberry from Grand County will testify more about the details of our compromise proposal in a few minutes. So let me make one final point about our plan specifically: as introduced, Mr. Udall's bill would designate 8,000 acres within the protection area as a wilderness study area, something the Grand County Commissioners have flatly and I think justifiably said they cannot and will not support. The commissioners correctly point out that there is no practical or functional difference between wilderness and wilderness study area on the ground, and that is correct.

At the end of the day, if the county commissioners cannot support it, I cannot either, which means the bill does not move out of this Committee, especially since these commissioners have offered an alternative proposal which would create substantial safeguards for the area. Even the local Forest Service district ranger says that he opposes a proposed wilderness study area designation.

In the final analysis, if Mr. Udall and my friends in the environmental community will support the compromise proposal I have crafted, which, by the way, was built on discussions with Mr. Udall; with the county commissioners and with people in the environmental community, a proposal which would provide substantial protections for this awe-inspiring area, I will do everything I can to see that this bill makes it through the House of Representatives before the end of the year. If that type of support does not emerge, as I said previously, the fate of the James Peak bill is uncertain at best, although I clarified it by saying it was certain: it is not moving out of the Committee.

Negotiations on this legislation have taken place over several years, and we have never been closer to reaching an agreement than we are today. I hope in the coming days, we can overcome these last obstacles and get this bill through Congress and to the President. I look forward to hearing the testimony of my colleagues as well as other witnesses.

[The prepared statement of Mr. McInnis follows:]

Statement of the Honorable Scott McInnis, Chairman, Subcommittee on Forests and Forest Health

Today the Subcommittee on Forests and Forest Health will consider H.R. 1772, a bill to provide for an exchange of certain property between the United States and Ephraim City, Utah, and H.R. 1576, the "James Peak Wilderness, Wilderness Study, and Protection Area Act".

The first bill up for consideration is H.R. 1772. This legislation would allow Ephraim City to acquire .7 acres of land located in the Manti–LaSal National Forest to repair some of the City's administrative office buildings and, in exchange, the City would convey 3.2 acres of its land to the Forest Service for a seed warehouse for wildland restoration purposes. I understand that some may have process-oriented concerns with this bill, but I'm confident that we'll be able to work those out to everyone's satisfaction.

The second bill being considered is HR 1576, the James Peak Wilderness, Wilderness Study Area, and Protection Area Act introduced by my friend and colleague from Colorado, Congressman Udall. At the outset, let me say that I admire the energy and effort Mr. Udall and his staff have put into this bill, even though I have some serious substantive concerns with the bill as introduced. I'm hopeful that we can overcome these differences and move this bill forward.

For those not aware, I have a special interest in this particular piece of legislation, that's because the majority of the land impacted by the proposal actually falls within the borders of my Congressional District. The area truly is spectacular; there's no denying that it deserves special protection. That's something all sides agree on.

Where there hasn't been agreement over the years, however, is on the question of actually how, and under what designation, the James Peak Area should be protected. While Gilpin, Clear Creek and Boulder Counties, all in Mr. Udall's District, have long supported wilderness designation for those lands within the borders of their counties, Grand County, in my District, has not. Grand County's opposition is the primary reason that this bill didn't progress in either the 105th or 106th Congresses.

But today, as we'll hear in just a few moments, Grand County is prepared to support the bill if certain key modifications are made. With the Grand County Commissioners help, I have drafted a compromise plan, language I would offer as an amendment to Mr. Udall's bill at Subcommittee markup, that would designate those portions of the James Peak area in Grand County as a Special Protection Area, a designation that would significantly restrict motorized and mechanized use, while prohibiting timber harvesting as well as mineral exploration in the area. But at the same time, the designation would better accommodate the needs and desires of the local community, allowing, for example, Roger's Pass Trail and the Continental Divide Trail to be looped for the use of mountain bikers.

As for the rest of the James Peak landscape, the compromise plan would designate those segments in Boulder, Clear Creek and Gilpin Counties Wilderness, something that the leaders of these respective communities have said very clearly that they want. And we'll hear from one of those leaders, Web Sill, in just a moment.

My friend James Newbury from Grand County will testify more about the details of our compromise proposal in a minute, so I'll only make one final point about our plan specifically. As introduced, Congressman Udall's bill would designate 8,000 acres within the Protection Area as a Wilderness Study Area, something that the Grand County Commissioners have flatly said they cannot and will not support. The Commissioners correctly point out that there is no practical or functional difference between Wilderness and Wilderness Study Areas on the ground. And at the end of the day, if my County Commissioners can't support it, I can't either in this case - especially since these Commissioners have offered an alternative proposal that would create substantial safeguards for the area. Even the local Forest Service District Ranger has said that he opposes the proposed WSA designation.

In the final analysis, if Mr. Udall and my friends in the environmental community will support the compromise proposal I have crafted, a proposal which would provide substantial protections for this awe-inspiring area, I'll do everything I can to see to it that this bill makes its way through the House of Representatives before the end of the year. If that type of support doesn't emerge, the fate of the James Peak bill is uncertain at best. Negotiations on this legislation have taken place over several years and we've never been closer to reaching an agreement than we are today. I hope that in the coming days we can overcome these last obstacles and get this bill through Congress and to the President.

I look forward to hearing the testimony of my colleague, as well as our other witnesses today.

Mr. McINNIS. Mr. Inslee is not in, so I will reserve his comments. I am going to give you, Mr. Udall, comments when we get to your bill.

Before we begin, I want to take the prerogative of the Chairman and read an article of a situation occurring as we speak right now in Colorado, an article which we have discussed in this Committee: "The off-again, on-again Mad Creek fire near Steamboat Springs grew Wednesday, yesterday, from 70 acres to 300 acres in a wilderness area where high winds downed 20,000 acres of trees in 1997.

'The fire is still within the boundary we set a few weeks ago,' said Punky Moore, who now works with officials at the Rout National Forest.' The fire is burning intensely and spreading rapidly. We have one crew of 20 hotshot fighters on the perimeter and two more on the way."

"Lightning on July 8 started the Mad Creek fire about 11 miles north of Steamboat. The flames were doused by rains last week and revived in this week's hot, dry weather. Last Wednesday, the fire was moving southeast in the strong afternoon winds. The fire is now running, and it is intense. The 3,000 acre containment area in the wilderness area includes 1,000 acres of dead trees from the blowdown. The high volume of dry fuel raised the threat of a blowup." And I might add that it was a blowup that kill four firefighters a week and a half ago.

"The use of mechanical devices, including power tools and helicopters, is banned in a wilderness area, but because of the risks of fire exploding inside," i.e., a blowup, "firefighters have permission to use power saws to fell dead, standing trees. If the fire spreads further, forest supervisor Mary Peterson has okayed the use of helicopters only to drop off firefighters and tote water buckets. There will be no slurry bombers." They will not allow slurry bombers or heavy equipment.

Ironically, the next sentence in this article is: "Fire safety is our highest priority," that being said despite the fact that they have just denied slurry bombers the ability to go in and control this fast-spreading fire.

Back to this: "firefighter safety is our highest priority, and we won't put them in a blowdown, because there is too much dead timber, and it's too dangerous,' said the Rout National Forest spokesman." I will skip a little bit here.

"In Steamboat, smoke from the blaze was visible, and residents were very wary of the risk. We're monitoring and reassessing it every day." So my point in bringing this up today is that here, we have got the extremes of a wilderness being put to the detriment a week and a half after we have lost four firefighters, and now, we are prohibiting slurry bombers from going in there and trying to contain this fire, which is not far from Steamboat, and I can tell you that we were on the phone this morning with the Forest Service supervisor demanding that slurry bombers be allowed to stand by, especially if there is any kind of threat whatsoever to firefighters to get in there and drop that slurry and get this situation under control.

We will go back now to the regular meeting, and Mr. Cannon, what I am going to do today is to take your bill first. That is not very controversial, as I see it. We can go ahead and get you up and out. So if you would like to go ahead and make a statement, you may proceed.

STATEMENT OF HON. CHRIS CANNON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. CANNON. Thank you very much, Mr. Chairman.

I appreciate your holding this hearing today on H.R. 1772, the Ephraim City Land Conveyance Bill. The bill will effect a land conveyance from the United States Forest Service to the City of

Ephraim, Utah. Ephraim was founded in 1854 by American and Scandinavian pioneers. These settlers transported rocks into the valley and constructed a secure fort. The secure fort drew many other settlers and eventually evolved into what is now the modern City of Ephraim.

The administrative buildings of Ephraim were built in the 1930's with a rock and mortar foundation. Unfortunately, the foundations are crumbling; in fact, one part of the city office, the floor slopes approximately six inches over a 20-foot span. For the past 5 years, the city has been looking into obtaining better city offices to house the legislative, administrative and public safety functions and staff of the city.

They have evaluated many alternatives to correct the problem, including restoration of the current building. The city leaders have come to the conclusion that the only feasible and cost-effective alternative is to raze the building and construct new offices in its place. The new building will be in keeping with the community's Scandinavian heritage.

In order for the city to construct these new buildings, the city must obtain a small amount of Forest Service land located directly behind the current offices. This land currently has several small buildings used as storage for wild seed and other things. Among other things, this land, though, would serve as a parking lot and provide additional space for construction and staging activities. Ephraim City is willing to exchange 3.2 acres of land in its industrial park, so this is pretty high value land, for the seven-tenths of an acre of Forest Service land. The Forest Service would continue to issue a special use permit for the industrial park land to the Utah Division of Wildlife Resources. The Division has recently been evaluating alternatives for increasing their seed storage capacity. They would like to build a state-of-the-art seed storage and mixing facility in Ephraim, Utah. The transfer of land would provide that opportunity.

As the city began working with the local Forest Service, it became clear that an exchange could not be administratively achieved in time for the city to replace its buildings. When you live around this much Federal land, even the simplest transactions can be complicated. I understand that the Forest Service has some concerns regarding this legislation as drafted, including concerns over NEPA exclusion language and equal value provisions. I thought that such provisions would help to expedite this critical trade; however, I would be happy to work with the Forest Service to resolve these concerns. In fact, we have already initiated appraisals of both parcels and expect to have results before we come back from the August recess.

Mr. Chairman, I look forward to working with you on this legislation and thank you once again for holding this hearing. I might point out that the testimony from the Forest Service, from Mr. Bschor, suggests that this can be handled administratively. I would certainly like to ask Mr. Bschor some questions about that. I thank you and yield back.

[The prepared statement of Mr. Cannon follows:]

Statement of the Honorable Chris Cannon, a Representative in Congress from the State of Utah

Mr Chairman, thank you for holding this hearing today on H.R. 1772, the Ephraim City Land Conveyance Bill. This bill will effect a land conveyance from the United States Forest Service to Ephraim City, Utah.

Ephraim City was founded in 1854 by American and Scandinavian pioneers. These settlers transported rocks into the valley and constructed a secure fort. This secure fort drew many other settlers, and eventually evolved into the modern city of Ephraim.

The administrative buildings of Ephraim City were built in the 1930s with a rock and mortar foundation. Unfortunately, the foundations are crumbling. In fact, in one part of the city office, the floor slopes approximately six inches over a twenty foot span.

For the past five years, the City has been looking into obtaining better city offices to house the legislative, administrative, and public safety functions and staff of the City. They have evaluated many alternatives to correct this problem, including restoration of the current building. The city leaders have come to the conclusion that the only feasible and cost-effective alternative is to raze the current building and construct new offices in its place. The new building will be in keeping with the community's Scandinavian heritage.

In order for the city to construct these new buildings, the city must obtain a small amount of Forest Service land, located directly behind the current offices. This land currently has several small buildings used as seed storage space. Among other things, this land would serve as a parking lot, and provide additional space for construction staging activities.

Ephraim City is willing to exchange 3.2 acres of land located in its industrial park for the seven tenths of an acre of Forest Service land. The Forest Service would continue to issue a special use permit for the industrial park land to the Utah Division of Wildlife Resources. The Division has recently been evaluating alternatives for increasing their seed storage space. They would like to build a state of the art seed storage and mixing facility in Ephraim City. The transferred land would provide that opportunity.

As the City began working with the local Forest Service, it became clear that an exchange could not be administratively achieved in time for the City to replace its buildings. When you live around this much federal land, even the simplest transactions can be complicated.

I understand that the Forest Service has some concerns regarding the legislation as drafted, including concerns over NEPA exclusion language and equal value provisions. I had thought that such provisions would help to expedite this critical trade. However, I will be happy to work with the Forest Service to resolve these concerns. In fact, we have already initiated appraisals of both parcels and expect to have results before we come back from the August recess.

Mr. Chairman, I look forward to working with you on this legislation and thank you once again for holding this hearing.

Mr. MCINNIS. Thank you, Mr. Cannon.

Mr. Bschor will be on our second panel, which will follow immediately. Do we have any questions for Mr. Cannon?

Seeing no questions, we will go ahead and move to Mr. Bschor. If you would come on up and take a seat, welcome back to the Committee. We appreciate, Denny, your taking the time to come over here today. I would remind you that we attempt to restrict statements to under 5 minutes. That timer on your table will indicate that for you, but thank you again for coming to the Committee, and you may proceed.

STATEMENT OF DENNY BSCHOR, DIRECTOR, RECRUITMENT, HERITAGE AND WILDERNESS RESOURCES, USDA FOREST SERVICE

Mr. BSCHOR. Good morning, Mr. Chairman, members of the Subcommittee, and thank you for this opportunity to discuss the views

of the administration on H.R. 1772, Ephraim Land Exchange, and H.R. 1576, the James Peak Wilderness.

The administration looks forward to working with the Chairman and the Subcommittee on the issues addressed by these bills, and in the interests of time, I would like to summarize my testimony and with your permission, submit our written comments for the record.

But again, with the Ephraim Land Exchange, H.R. 1772, the administration does not object to exchanging these lands. However, we would like to explore with the Committee other authorities which presently exist that could be used, such as the Town Site Act, and as Representative Cannon emphasized, Section 1(c) of H.R. 1772 determines that this exchange is not a major Federal action under NEPA, the National Environmental Policy Act. The administration opposes Section 1(c) based on the fact that numerous issues concerning exchanges of this type do occur and may still be unknown and for the other reason that there is historical significance for the U.S. parcel that would be exchanged out of.

If the Committee determines specific legislation is warranted, the administration would be willing to work with the Committee to ensure the exchange is equitable and environmentally sound. That is all I have to say about the Ephraim exchange, and should I go on to the other bill, or do you want questions here?

Mr. McINNIS. Denny, I think what we will do is stop right now with that bill and see if there are any questions for the witness.

[The prepared statement of Mr. Bschor follows:]

Statement of Dennis Bschor, Director of Recreation, Heritage, and Wilderness Resources, Forest Service, United States Department of Agriculture

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to discuss the views of the Administration on H.R. 1772, Ephraim Utah Land Exchange and H.R. 1576, James Peak Wilderness. I am Dennis Bschor, Director of Recreation, Heritage, and Wilderness Resources for the USDA Forest Service. The Administration looks forward to working with the Chairman and the Subcommittee on the issues addressed by these bills.

H.R. 1772, which provides for an exchange of certain property between the United States and Ephraim City, Utah.

H.R. 1772 would authorize the Secretary of Agriculture to convey a 0.7-acre parcel of land to Ephraim City, Utah, if Ephraim City, Utah conveys all right, title, and interest in a 3.226-acre parcel of land to the United States. H.R. 1772 deems the lands authorized to be exchanged as equal value. The Administration does not object to exchanging the lands with Ephraim City, Utah included in H.R. 1772. However, we would like to explore with the Committee the other authorities, which presently exist, that could be used to accomplish this exchange.

The Forest Service can meet the objectives of the bill through current statute that allows the Forest Service to convey this parcel to Ephraim City, Utah for land or cash value. For example, under the Townsite Act, the Secretary of Agriculture may convey, for fair market value, up to 640 acres of land to established communities located adjacent to national forests in Alaska and in the contiguous western states. Moreover, under various additional land exchange Acts, the Secretary of Agriculture can exchange national forest system lands with State and local governments.

In addition, section 1(c) of H.R. 1772 determines this exchange is not a major Federal action for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). The Administration opposes section 1(c). There are numerous issues concerning an exchange of this type, including historic significance of the US parcel, that should be addressed as part of a participatory and transparent process that NEPA provides. We believe that, in this case, the requirements of NEPA would be satisfied with analysis and documentation that can be expeditiously provided in an Environmental Assessment and that the exchange should be subject to the NEPA process.

If the Committee determines that specific legislation is warranted, the Administration would be willing to work with the Committee to ensure that the exchange is equitable and environmentally sound.

H.R. 1576 - James Peak Wilderness, Wilderness Study, and Protection Area Act

In summary, H.R. 1576 designates two areas as wilderness areas, one area as a wilderness study area, and one area as a protection area. In addition, H.R. 1576 addresses acquisition of State and private lands within the protected areas and directs the Forest Supervisor to construct a trailhead in the Fall River basin and provide technical assistance to local governments in repairing Rollins Pass Road.

Section 2 of H.R. 1576 would designate approximately 14,000 acres of land within the Arapaho and Roosevelt National Forests as the James Peak Wilderness and add approximately 2,232 acres of the Arapaho and Roosevelt National Forests known as the Ranch Creek Addition to the Indian Peaks Wilderness.

Section 3 of the bill would designate 18,000 acres of the Arapaho and Roosevelt National Forests as the James Peak Protection Area. This area would be managed consistent with the direction established in the 1997 Revised Land and Resource Management Plan (LRMP) for the Arapaho and Roosevelt National Forests. Approximately 8,000 acres of the 18,000-acre James Peak Protection Area would be managed as a wilderness study area to maintain the wilderness character for future consideration as wilderness. Section 3 also requires the Secretary to restrict the use of motorized and mechanized travel to designated routes within the Protection Area. This section instructs the Secretary to prepare a report to Congress concerning the suitability of lands within the wilderness study area for inclusion in the National Wilderness Preservation System. The report will also determine whether non-motorized vehicles should be permitted on the Rogers Pass Trail.

Section 4 of the bill directs the Secretary to negotiate with the owners of inholdings on a willing seller basis to acquire those lands within the Protection Area. This section also directs the Secretary to prepare a report concerning the status of negotiations and acquisition.

Section 5 of the bill directs the Secretary to establish a trailhead in the Fall River basin to regulate use of national forest system land in the Fall River basin south of the communities of Alice and St. Mary's Glacier and to prepare a report to Congress identifying the funding needed to implement this section.

Section 6 of the bill states that no buffers to wilderness will be created and directs the Secretary, upon request, to assist with repair of the Rollins Pass road. If repairs are completed, the Secretary is to close to motorized travel the roads and trails shown on the Rollins Pass road and trail closure map.

The 1997 Revised LRMP recommended wilderness designation for the Ranch Creek Addition to the Indian Peaks Wilderness. The LRMP also recommended the Bald Mountain and Chittenden Mountain roadless areas, located on the southeast boundary of the Indian Peaks Wilderness, for wilderness designation, but these are not included in H.R. 1576. The proposed James Peak Wilderness was not recommended for wilderness designation in the LRMP. We would like to determine the level of local support for this proposed designation.

We would like to work with the Chairman and Mr. Udall to determine whether legislation is necessary to achieve all of the objectives outlined in H.R. 1576. While wilderness designations require legislation, we believe the protections outlined in the LRMP are sufficient to protect the resource values in the proposed James Peak Protection Area and James Peak Wilderness Study Area. In addition, the LRMP provides direction under which concerns regarding travel management and dispersed recreation use can be addressed in the Rollins Pass, Rogers Pass, and Fall Creek basin areas.

We look forward to working with the Chairman, Representative Udall, and other delegation members on the proposals raised in this bill.

This concludes my testimony. I would be happy to address any questions that you may have.

Mr. MCINNIS. Mr. Cannon, do you wish to proceed?

Mr. CANNON. Thank you very much, Mr. Chairman.

We have a reporter in Utah who keeps a scorecard on the delegation, and the number of bills that are introduced and passed is significant in that scorecard. We have a lot of laughs about that in my office, because it is notoriously inaccurate. You cannot track activity.

From my perspective, we only introduced legislation on this issue because a lot of people, including people at the Forest Service, felt that it could not be accomplished in a reasonable time without legislation. So the real concern whether we do this administratively or legislatively is going to come down to that issue. It is not a very complex issue. I mean, we are not dealing with massive environmental possibilities here. You are trading seven-tenths of an acre that is going to be a parking lot next to an area that is a building lot now or a lot that is inhabited for a much higher value piece of property.

The reason the city is willing to make that trade is because that 3.2 acres is going to result in some significant new jobs for the area, so the city is willing to give up the value of the property in the exchange not because they are concerned about equal value but because they have other economic concerns with jobs that will come into town.

So for the Forest Service, this seems to me to be a pretty simple—it will not take a lot of work to establish that the 3.2 acres is worth more than the seven-tenths of an acre on the one hand, and on the other hand, it is an area that is already sort of citified and so not subject to some major concerns on environmental grounds. What will it take to make this transaction happen expeditiously so we do not have a building falling in on the employees?

Mr. BSCHOR. Administratively, what we would look at is the significance of any issues that are on either one of those parcels. If there are no significant issues, theoretically, the aspects of the NEPA compliance could be very simple. The other concern is the historic significance of the U.S. parcel that has been nominated for the Historical Register, and we have to work with the SHPO to make sure we have proper clearance on that before we can dispose of it.

The estimates as far as how long that would take would depend upon the significance of any issues on either of the parcels.

Mr. CANNON. Let me just ask: are you saying that the exchange itself could be held up by the historic nature of the building?

Mr. BSCHOR. I am not saying it is going to be held up. I am saying that we have to go through a clearance process with the Utah State SHPO, and I do not know how long that could take. I cannot estimate that.

Mr. CANNON. But is that not a problem that the city should have as opposed to the Forest Service? In other words, could you not do that exchange without solving the SHPO problem and leave that to the city to resolve?

Mr. BSCHOR. I do not believe that we can, but I would have to check on that to be sure.

Mr. CANNON. You believe that you cannot do it, because you believe that under NEPA, you have a responsibility to work with the SHPO?

Mr. BSCHOR. We have a responsibility to work with the SHPO under NEPA and under the Historic Preservation Act also.

Mr. CANNON. You know, given the simplicity of this transaction and the knowledgeable nature of your local guy on the ground, do you have any sense of the time frame that we need in Washington to oversee the decision that your local guy would be making?

Mr. BSCHOR. Once again, I do not know relative to the significance of the issues and/or of that SHPO review, and I am not familiar enough with the specifics to be able to answer that.

Mr. CANNON. Do you have—I hate to put you on the spot, but I have got my city councilman and mayor who are very uptight about this. Do you have a sense of how long these things normally take in your review process, and is there a way to speed it up?

Mr. BSCHOR. It could take anywhere from a few months to a couple of years would be the range.

Mr. CANNON. Okay; would you mind taking a look at this and helping us understand if it is going to be along the order of a few months? Because otherwise, we will have to push the legislation.

Mr. BSCHOR. We will do what we can to expedite it.

Mr. CANNON. Thank you; so, you will do a couple of things for me: one is give me an estimate in writing of how long it would take and, secondly, take a look at your obligations to work with the SHPO on the historic building?

Mr. BSCHOR. I certainly will.

Mr. CANNON. Thank you, Mr. Bschor. I appreciate your time and patience here and yield back, Mr. Chairman.

Mr. BSCHOR. You are welcome.

Mr. MCINNIS. Denny, I was a little surprised by the comment that the minimum time would be a few months. I do not understand the problem. Could you not just correspond with whatever those initials were?

Mr. BSCHOR. There may not be a problem. It depends on, once again, what the issues are.

Mr. MCINNIS. Assuming there is no problem, you can get this done rather rapidly, can you not?

Mr. BSCHOR. I think so, yes.

Mr. MCINNIS. Okay; well, I would appreciate that courtesy, and I know Mr. Cannon has worked on this. You know, when it really gets frustrating is when we have something that appears on its face to be pretty simple; we look into it, it is pretty simple; and we still have to go through a bureaucratic logjam. If you can help us guide around that and help Mr. Cannon around that, that would be appreciated by the Committee.

I think unless there are further questions for the witness, Denny, what I will do is, if you do not mind, I am going to go ahead and let you leave the table, and I will call you back in a few minutes on the James Peak. But I do appreciate your coming up for this and appreciate you also staying around.

Mr. BSCHOR. Thank you, Mr. Chairman.

Mr. MCINNIS. Mr. Cannon, I appreciate your appearance here today, and we are going to move on to the next one.H.R. 1576

Mr. MCINNIS. Mr. Udall, why do you not go ahead and get us started? This is your bill. Again, I want to make some remarks for the record. Mr. Udall, you have put a lot of energy into this, and I appreciate the communication and the working relationship that we have on this and a number of different subjects. But you have really been dedicated to this cause. I just want the record to note this. And I think we can make it work. So, thanks for coming today. I appreciate it, and I will go ahead and let you describe your bill and what we are hoping to do.

STATEMENT OF HON. MARK UDALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. UDALL OF COLORADO. Thank you, Mr. Chairman, and thank you for scheduling this hearing on my bill, H.R. 1576. The bill deals with a key part of the high alpine environment along Colorado's continental divide. To expedite matters, I would ask unanimous consent that my full statement be included in the hearing record.

Mr. MCINNIS. With no objection, so ordered.

Mr. UDALL OF COLORADO. And I will make a few introductory remarks using particularly this display of the map here.

As you know, Mr. Chairman, this bill deals with a 26,000-acre roadless area within the Arapaho-Roosevelt National Forest just north and east of Berthed Pass. The roadless area takes its name from the 13,294-foot James Peak, which is its predominant feature. The roadless area of James Peak straddles the continental divide and includes lands within Gilpin, Clear Creek and Boulder Counties within the district that I represent as well as lands in Grand County in your district. It is the largest unprotected roadless area on the northern Front Range and has important wildlife values as well as outstanding recreational opportunities.

To help the Subcommittee have a better understanding of the way the bill would affect this area, I have brought a map with overlays which you can see over here on the easel near the witness table. The base map is a topographical map showing this part of the state. And then, we will go to the first overlay, which shows the lands that would be designated as wilderness by the bill, the area of about 14,000 acres on the east side of the continental divide that would be designated as the James Peak Wilderness and the approximately 2,000 acres on the west side that would be added to the existing Indian Peaks Wilderness.

Doug, if you would point out that 2,000 acres to the north, which is on the west side of the divide.

The next overlay shows the lands that the bill would designate as the James Peak Protection Area, and this amounts to about 18,000 acres, mostly south of the Indian Peaks addition but with a smaller part further north. Doug, if you would show the Chairman; yes, that is the further north portion and then the southern protection area there.

The final overlay shows the part of the protection area, about 8,000 acres, that the bill would designate as a wilderness study area.

Of course, as you know, Mr. Chairman, no map can really substitute for an actual look at this or any other part of Colorado, and that is why I have invited you and other members of the delegation to join me in visiting the area and hiking to the summit of James Peak itself. We are planning to do that on August 22, and I certainly hope that you will be able to join us then, just as I am looking forward to joining you for at least part of the Subcommittee's visit to some of the other parts of Colorado's National Forest lands during the break in August.

As you know, Mr. Chairman, the idea of wilderness designation for these lands is not a new one. Commissioner Sill will testify about his efforts toward that goal, and my predecessor, David

Skaggs, sought wilderness designation for lands in this area as well, and I have also been interested in wilderness protection for the James Peak area since my election to Congress. In 1999, I introduced a bill that would have designated about 22,000 acres of the James Peak roadless area as wilderness, including about 8,000 acres in Grand County.

The proposal was designed to renew discussions for the appropriate management of the lands that qualify for wilderness consideration, and in fact, the bill today is the product of nearly 2 years of subsequent discussions with county officials, interested groups and the general public. In particular, I have sought to work with my friends in the Grand County Commission who have not been enthusiastic about the idea of wilderness designation for lands in that county and have also had a number of concerns.

Last year, the commissioners in Grand County indicated that they could not support the previous bill and outlined the James Peak Protection Area alternative. Their proposal covered both the lands in Grand County proposed for wilderness in my previous bill and also an additional 10,000 acres of National Forest land. I gave serious attention to this alternative and also carefully considered the views of a variety of interested individuals and groups who had concerns about it. Based on that, in February of this year, I released a more detailed legislative proposal based on the protection area concept for public review and comment. Following the release of this proposal, I met with the Grand County Commissioners to discuss the new proposal and for the option of wilderness for some of the lands in the Grand County part of the James Peak area.

I thought my meetings with the commissioners were productive. We discussed a number of issues, most of which have been addressed in the bill before us today. It was my hope that because their concerns had been accommodated that the commissioners would reconsider some wilderness protection for the lands in the James Peak roadless area south of Rollins Pass. The commissioners were not ready to endorse this proposal, but they did express support for other parts of my proposal, including an addition to the existing Indian Peaks Wilderness Area.

They also indicated that they understood and found acceptable the Forest Service process for periodic review of the way it manages National Forest lands in Grand County and indicated they would not oppose having the Forest Service again review the land south of Rollins Pass for possible wilderness designation. Accordingly, the bill now before us includes a statutory requirement for a renewed wilderness study of the part of the protection area south of Rollins Pass, the approximately 8,000 acres that composes that area.

The bill would require the Forest Service to report its recommendations for these 8,000 acres within 3 years. It would then be up to the Congress to then decide regarding the future management of these lands. As you know, Mr. Chairman, it is standard procedure under current law for the Forest Service to reconsider possible wilderness recommendations when it considers a new forest plan. The current plan was completed in 1997, so the next plan is due to be prepared in the next 6 to 7 years.

So, in other words, the main effect of the wilderness study provision of the bill will be to speed up the Forest Service reconsideration of this area while maintaining the status quo on the ground until Congress can consider whatever recommendation the Forest Service produces.

The bill also addresses the question of the future use of the Rogers Pass Trail by directing the Forest Service to evaluate whether and to what extent it should be managed for mechanized recreational use.

I am aware that the commissioners of Grand County and other interested parties have concerns about both aspects of this bill, and I am sure we will hear testimony about both at today's hearing.

In conclusion, Mr. Chairman, as you know, this area is indeed very special. It is one of the last remaining unprotected stretches along the continental divide in this part of our state and includes a number of high alpine lakes and tundra ecosystems and many other resources as well.

With the continuing pressure of population growth along the Front Range, I am concerned that if we do not protect these lands now, we could lose a critical resource for future generations. So I again really appreciate your scheduling this hearing and look forward to working with you and other members of the Subcommittee on this legislation.

[The prepared statement of Mr. Udall of Colorado follows:]

Statement of Honorable Mark Udall, a Representative in Congress from the State of Colorado

Thank you, Mr. Chairman, and thank you for scheduling this hearing on H.R. 1576, my bill dealing with a key part of the high alpine environment along Colorado's Continental Divide.

As you know, Mr. Chairman, the 13,294-foot James Peak is the predominant feature in a 26,000-acre roadless area within the Arapaho–Roosevelt National Forest just north and east of Berthoud Pass. The James Peak roadless area straddles the Continental Divide and includes lands within Gilpin, Clear Creek, Grand, and Boulder counties.

This is the largest unprotected roadless area on the Northern Front Range. The area offers outstanding recreational opportunities for hiking, skiing, fishing, and backpacking.

My predecessor, Representative David Skaggs, sought wilderness designation for lands in this area, and I have been interested in wilderness protection for the James Peak area since my election to Congress in 1998.

In 1999, I introduced a bill that would have designated about 22,000 of the James Peak roadless area as wilderness, including about 8,000 acres in Grand County. This proposal was designed to renew discussions for the appropriate management of these lands that qualify for wilderness consideration.

And in fact, the bill before us today is the product of nearly two years of subsequent discussions with county officials, interested groups, and the general public.

My previous bill did receive many expressions of support. However, after its introduction, the County Commissioners of Grand County—which includes the western side of the James Peak area—expressed some concerns with the proposed wilderness designation for the lands in that county. They indicated that in their view any such legislation needed to make accommodation for any "dispersed recreation" opportunities in the area and needed to address private inholdings. The Commissioners also indicated that the Rollins Pass road should be excluded from wilderness.

I agreed to work with Grand County on these and a number of other issues. We held several discussions, including a public meeting in Grand County. After that, the Grand County Commissioners indicated that they could not entirely support the previous bill, and outlined a "James Peak Protection Area" alternative.

The Commissioners' "protection area" alternative did not spell out all details, but its essence was that instead of designation of wilderness there should be designation of a "protection area" that would include the lands in Grand County proposed for

wilderness in my previous bill and also an additional 10,000 acres of national forest land.

The Commissioners' proposals also would have allowed for a section of high tundra above Rollins Pass along the divide to be open to motorized and mechanized recreation (snowmobiles and mountain bikes).

I gave serious attention to this alternative and also carefully considered the views of a variety of interested individuals and groups who had concerns about it. Based on that, on February 12, 2001, I released a more detailed legislative proposal for public review and comment.

This proposal was based on the Commissioners' "protection area" alternative. It would have designated as wilderness 14,000 acres of the James Peak roadless area in Boulder, Clear Creek and Gilpin Counties. It also would have designated 18,000 acres in Grand County as a "James Peak Protection Area," and would have added 2,000 acres (that were encompassed by the Commissioners' "protection area" alternative) to the Indian Peaks Wilderness Area (these acres were recommended for wilderness by the Forest Service).

The proposal included language to spell out in more detail the management regime of the "protection area." These provisions were largely based the management rules for the Bowen Gulch "backcountry recreation" area and the existing "special interest area" Forest Service management under the 1997 Forest Plan. Inclusion of the latter provision was at the request of the Grand County Commissioners.

Following the release of this proposal, I met twice with the Grand County Commissioners to discuss this proposal and for the option of wilderness for some lands in the Grand County part of the James Peak roadless area.

I thought these were productive meetings. We discussed a number of issues, most of which have been addressed in the bill before us today.

It was my hope that because their concerns had been accommodated, the Grand County Commissioners would reconsider some wilderness protection for the lands in the James Peak roadless area south of Rollins Pass.

However, it was my impression that at that time the three Grand County Commissioners were divided on this question (one Commissioner did suggest extending the wilderness boundary westwards over the Divide and down to timberline in Grand County).

Nevertheless, the Grand County Commissioners did express support for the wilderness addition to the Indian Peaks Wilderness Area, support for the "protection area" to be managed according to the 1997 Forest Plan and for the adjustments that I had made based on their input.

Regrettably, however, they expressed opposition to any wilderness designation now for lands south of Rollins Pass or Rogers Pass.

The Commissioners also indicated a concern that such a designation might have some effect on water rights. I think it is clear that there are no grounds for such concerns.

Careful review has convinced me that there are no water rights except those for national forest purposes and no diversion facilities in the portion of the James Peak roadless area south of Rollins Pass. In addition, if any such rights do exist, they would not be extinguished by wilderness designation. Furthermore, as any wilderness designation for this area would be governed by the 1993 Colorado Wilderness Act, the courts would be barred from considering any assertion that the designation involved a federal reserved water right. Further, this area is essentially a headwaters area. Wilderness protection would thus ensure that water would continue to flow out of this area—unimpeded—for downstream users and benefits.

The Grand County Commissioners did indicate that they understood and found acceptable the Forest Service's process for periodic review of the way it manages national forest lands in Grand County. Further, the Commissioners indicated they would not oppose having the Forest Service again review the lands south of Rollins Pass for possible wilderness designation. They indicated that they were aware that the Forest Service had reviewed this area in the past and could have recommended it for wilderness, but did not do so. The Commissioners also indicated that if the Forest Service were to review the area again, they would respect that process.

Accordingly, the bill now before us provides for such a renewed study of these lands. It designates the James Peak roadless lands in Grand County south of Rollins Pass as a "wilderness study area" and directs the Forest Service to re-look at this area for suitability as wilderness.

This provision will preserve the status quo on approximately 8,000 acres south of Rollins Pass by keeping this area in its current roadless and pristine state. The bill would require the Forest Service to report its recommendations for these 8,000 acres within three years. It will then be up to Congress to decide regarding the future management of these lands.

This part of the bill also addresses the Roger Pass trail issue—an issue of importance to the Grand County Commissioners and users of this trail. While I believe that this trail should be included in wilderness (it is within the proposed wilderness study area), the bill directs that the Forest Service evaluate whether and to what extent this trail should be managed for mechanized recreational use.

I believe that the bill now before us keeps faith with my commitment to work with local County Commissioners and others. It addresses a majority of the issues that were raised.

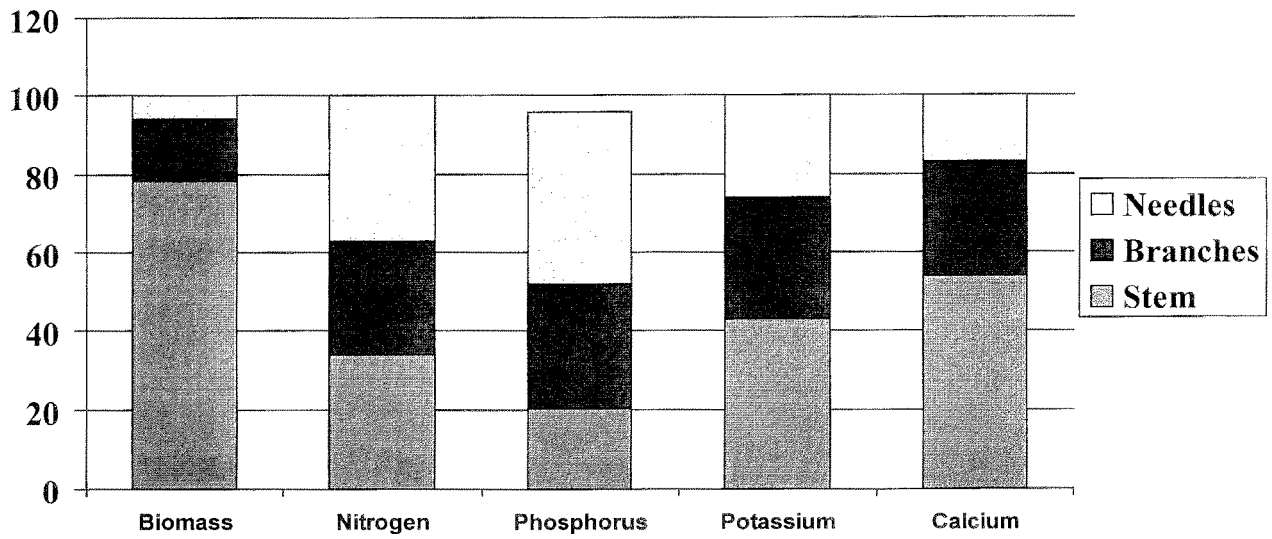
These lands are indeed special. They contain a number of high alpine lakes and tundra ecosystems. This area also represents one of the last remaining unprotected stretches of the Continental Divide that comprises the Northern Front Range Mountain Backdrop.

With the population growth occurring along the Front Range of Colorado, I am concerned that if we do not protect these special lands for future generations, we could lose a critical resource for future generations. That is why I introduced this bill and why I urge its approval by the Subcommittee.

[An attachment to Mr. Udall's statement follows:]

The division of Biomass and the location of the Main Nutrients from the different parts of a Tree Stem.

Norway Spruce and Scots Pine



Mr. MCINNIS. Thank you, Mr. Udall.

Mr. Udall, a couple of points I would make. First of all, you utilized the word unprotected. I want our guests here at the Committee today to understand that the land is protected as it exists today. It may not have wilderness designation, but I want to make sure when we say unprotected that you just cannot go up there and build a shopping mall or run an Interstate or a highway through there or a road through there. I mean, that is protected through different management plans. It is not protected by wilderness designation.

The second thing that I would point out is you said that the main effect of the wilderness study today, and you went on to say something. I want to make it very clear: the main effect of the wilderness study area is whether or not this bill goes forward. Now, your position in February, and I know that you have taken some heat from some environmental organizations; I think the position that you took in February was the common sense approach. It is the approach that is going to make this bill feasible, and that was that it is going into a protection area and not a wilderness study area.

So I think that if you go back to the position that you held in February, this is where this compromise is going to come together. If we cannot come to that position, we then run counter to the recommendations of the county commissioners, who are the people who live on the ground; know the ground and study the ground. And as I have said previously, this bill is not going to move without the consent of those commissioners, and those commissioners are not going to consent to this bill if it is wilderness study area versus protection area.

Now, the public should know that the differences between the two are very minute, frankly, and that the protection of the area is going to be as strong under my compromise language as it is under wilderness study. So I appreciate your opening remarks. I just want to make sure that you and I have a clear understanding on the record, because I did not quite get that out of your remarks, that we need to move toward this compromise which should, in my opinion, not be difficult for you, because it simply reiterates the position you took in February.

Go ahead.

Mr. UDALL OF COLORADO. Would the gentleman yield? I thank the Chairman for yielding, and I take your remarks very seriously, and my remarks were intended to outline the historical progression, if you will, of the negotiations and the discussions and to give the witnesses today and yourself and other members of the Committee an understanding of how we have arrived at the point at which we have arrived today. And I do look forward to these further discussions and seeing if we can work our way to where we can agree on a common effort. So I thank you for your comments.

Mr. MCINNIS. Well, Mr. Udall, I want to make it clear that I am not sure how many further discussions—I think we are at a point where the compromise language is how it is going to work for your bill, and I want to say this to you, because I do not want our guests today to leave the room thinking that there is not something out there that is going to make it work. And if anybody deserves to make it work, you do because of the dedication and the commit-

ment you have put into this and the endless hours you have spent on that.

Mr. UDALL OF COLORADO. Would the gentleman yield once more?

Mr. MCINNIS. Sure, of course.

Mr. UDALL OF COLORADO. One of the aspects of the discussions we had on an ongoing basis not only with the Grand County Commissioners but with Commissioners Sill and Gilpin was wilderness—and I know this is the sticking point for all of us—was continually on the table, and I know Mr. Newberry will, I think, talk briefly about some of the discussions we had about whether wilderness would work or not in this 8,000 acre parcel, and I would suggest that the discussions were open-ended; they were iterative, to use a word. We did not know quite where we were going to arrive, but we continued those discussions.

And so, that is just a further comment to discuss this. As you know, the wilderness with a big W can be a very charged topic, and you have strong emotions on both sides of that issue, and that was the intent of my remarks was to—

Mr. MCINNIS. And I understand that, but we can bring this to closure, Mr. Udall. I mean, this is at the point of closure. The Forest Service wants it brought to the point of closure; we are at the point of closure by simply bringing the parties to the compromise language. And as I said, in my opinion, it should not be—it certainly is not counter to anything that you believe in, because it is a position which you had in February which I think was a very reasonable position and which is supported by our local county commissioners in the county that is directly impacted by this.

But anyway, your energy is obviously reflected, and I will yield.

Mr. UDALL OF COLORADO. I look forward to hearing from the witnesses and hearing what they have to say today as well.

Mr. MCINNIS. Sure; we will proceed.

As a courtesy, Mr. Inslee has just come in. Mr. Inslee, we went ahead and passed without any kind of controversy or discussion really Mr. Cannon's—we did not pass it; we had the testimony on Mr. Cannon's legislation. We are about to go into our panel 4. If you wish to make some introductory remarks, you may proceed.

Mr. INSLEE. My introductory remarks are to apologize to the panel for being late and thank you for your courtesy.

Mr. MCINNIS. Denny, if you do not mind, why do we not just bring you back up? And then, I can kind of cut you loose. I would remind all of the witnesses: we do have a number of witnesses who would like to discuss this bill today. We do have a time limit on the Committee this morning due to other commitments, so we will have to strictly adhere to the 5-minute rule.

Denny, again, thank you for coming. You may proceed, sir.

Mr. BSCHOR. Thank you very much, Mr. Chairman, and my 5 minutes should be—this should be very short.

I am here to testify on the James Peak Wilderness, Wilderness Study Area and Protection Area Act, and before I start, I want to once again emphasize that we have full appreciation and understanding of the Congress' authority and responsibility to create wilderness, and with that in mind, I wish to bring your attention to the following points from the Forest Service perspective: number one, the 1997 revised land resource management plan for the Arap-

aho-Roosevelt National Forest did not recommend the proposed 14,000-acre James Peak area as wilderness. That also includes the 8,000-acre area of the James Peak Wilderness Study Area.

Number two, the Land and Resource Management Plan did recommend the proposed 2,232 acres of the Ranch Creek area as an addition to wilderness along with two other areas, Bald Mountain and Chittenden Mountain, that H.R. 1576 does not address. And number three, the land and resource management plan designated as backcountry and special interest area with similar protections as proposed in the H.R. 1576 as basically a protected area under those designations.

While wilderness designations require legislation, we believe that the protections as outlined in the land and resource management plan are sufficient to protect the resource values in the proposed James Peak Protection Area and the James Peak Wilderness Study Area. The land and resource management plan also provides direction under which concerns regarding travel management and dispersed recreation use can be addressed in the Rollins Peak, the Rogers Pass and the Fall Creek Basin areas.

That concludes my testimony. We look forward to working with you, Mr. Chairman and Representative Udall and other members of the Subcommittee on the proposals raised in these bills, and I would be happy to address any questions at this point.

Mr. MCINNIS. Excuse me; Denny, let me start out. The Forest Service, your local district ranger, has said previously he is opposed to the wilderness study area that is proposed in the legislation as introduced. Is that still the position of the Forest Service?

Mr. BSCHOR. The position of the Forest Service is reflected in the land and resource management plan.

Mr. MCINNIS. Is what?

Mr. BSCHOR. Is reflected in the land and resource management plan for the Arapaho-Roosevelt National Forest.

Mr. MCINNIS. Which is that there was not a wilderness at all designated.

Mr. BSCHOR. Right.

Mr. MCINNIS. Or a wilderness study area.

Mr. BSCHOR. Right.

Mr. MCINNIS. So that if this bill actually comes out with a protection area and a wilderness, it still greatly exceeds anything that the Forest Service has recommended.

Mr. BSCHOR. Yes; but we only recommend. Congress designates these types of protections and wilderness. You have the only authority to establish wilderness.

Mr. MCINNIS. That is correct.

Panel, we will go ahead and start with questions. Mr. Udall—Mr. Inslee yields to Mr. Udall.

Go ahead, Mr. Udall.

Mr. UDALL OF COLORADO. Thank you, Mr. Chairman.

Denny, thanks for taking time to come today and be a part of the panel.

From your testimony, and this may build on what Congressman McInnis just asked you, I cannot tell if you are supporting the bill, opposing the bill or saying that you do not care what happens. Could you make your position a little clearer?

Mr. BSCHOR. I think what we will—what I have tried to say is that you have the ultimate authority to make these sorts of designations, and whatever you decide, we will comply with and that until something is decided by Congress, we will manage under the current land and resource management plan.

Mr. UDALL OF COLORADO. If I could move to the forest plan that you just referenced, it appears that the Forest Service agrees that there are no major conflicts that would preclude wilderness designation, things like timber sales, mining claims, roads, trails and so on. Is that right?

Mr. BSCHOR. I believe in the deliberations of the forest plan, there was concern about several factors: number one, the juxtaposition of these proposed areas near the evidence of sight and sound of human activity, because that is one of the things we try and stay away from, and also, I think we recognized that this particular issue is highly volatile as far as there is a lot of emotion involved in this, as we have seen this morning, and that we really need to be in a position where there is agreement with not only the local individuals but also local government entities as to what should happen. So we have considered all of that.

Mr. UDALL OF COLORADO. If I could build on those comments, when I look at the documents in the 1997 plan, it appears that it was a really close call for you all, and if I could quote on page 23 of appendix C, under the section titled Recommendation for Capability for Wilderness, it says: "While these human activities outside the roadless area greatly affect the quality of the experience available" within the roadless area, "they are not significant enough to state that James Peak is not capable of wilderness designation when looking at the area as a whole. The area is therefore marginally capable of meeting the criteria for wilderness designation."

And then, in addition, there is this on the same page under the heading of Wilderness Availability: "James Peak is available for wilderness as it does not fall within any of the categories that would make it incompatible with wilderness designation." In view of this language, would you agree that these lands are at least worth serious consideration for wilderness?

Mr. BSCHOR. They obviously have wilderness characteristics.

Mr. UDALL OF COLORADO. As I understand it, under current law and regulations, the Forest Service would take another look at the wilderness potential of these lands again the next time you prepare a forest plan for the A-R.

Mr. BSCHOR. That is correct.

Mr. UDALL OF COLORADO. Is that right? So you would not have a problem with allowing that process to go forward again when the time comes for a new forest plan.

Mr. BSCHOR. Once again, we do not have a position on that. It depends on what Congress decides to do there.

Mr. UDALL OF COLORADO. The bill—and again, Congressman McInnis and I have at least a difference in approach at this time, and we are going to continue to discuss this. But my bill, as I introduced it, called for a wilderness study sooner than that. But what other difference, in your opinion, would it make to include the wilderness study designation in the legislation? Would it make a prac-

tical difference in the way you manage the lands between now and the next revision of the forest plan?

Mr. BSCHOR. I do not believe so to any great extent, although I am not familiar enough with the specifics of that country to say for sure.

Mr. UDALL OF COLORADO. Let me turn to Rogers Pass, which is the area on the northern edge of the proposed area. There is a trail that runs to that pass; it is a spur trail off of the Rollins Pass road. Can you tell me what the status of the trail is, and what are the authorized uses for it? Is it open, in particular, to mountain bike use?

Mr. BSCHOR. It is open, but mountain bike use is discouraged because of terrain and that sort of thing, safety issues and that sort of concern. But if a person can ride it, they can go up there.

Mr. UDALL OF COLORADO. The trail leads to the continental divide. Is bicycle use permitted on the eastern side?

Mr. BSCHOR. As far as I know—

Mr. UDALL OF COLORADO. On the other side of Rogers pass?

Mr. BSCHOR. As far as I know, it is, but once again, it is not encouraged.

Mr. UDALL OF COLORADO. I actually would ask for the record that we check whether it is allowed or not. I think it is not allowed on the other side of the divide; in effect, it is one-way route.

Mr. BSCHOR. Okay.

Mr. UDALL OF COLORADO. What about on the continental divide itself? Is bicycle use permitted north to south or south to north on the divide?

Mr. BSCHOR. As far as I know, outside of wilderness, it is permitted.

Mr. UDALL OF COLORADO. Mr. Chairman, I see my time has expired, and I appreciate the opportunity to ask these questions.

Mr. MCINNIS. Mr. Udall, if you have another couple burning questions, you can go ahead and proceed with the witness. I mean, this is your bill.

Mr. UDALL OF COLORADO. Thank you, Mr. Chairman.

Could you give us a better sense of the existing special interest area designation for the James Peak roadless area in the 1997 forest plan?

Mr. BSCHOR. Yes, I can. I had that page just a second ago, and I closed the book. Just one moment, please.

Okay; special interest involves our management for public education, interpretation, recreation or development while protecting and enhancing the areas with unusual characteristics, and things that can occur in there typically, they have been designated as botanical, geological, historical, paleontological, scenic and zoological areas. They are designated to protect and manage threatened, endangered and sensitive species and other elements of biological diversity for their scenic values and for public popularity.

They are small to fairly large areas; all these sorts of things. Now, this is a general description of the vegetation and terrestrial and aquatic habitat, soil productivity and water quality usually but not always are pure and near natural; relatively pristine or presettlement; maintain or restore natural or near-natural conditions in protected, threatened, endangered or sensitive species.

Mr. UDALL OF COLORADO. Denny, could you sum up—and again, I appreciate the detail that you are providing us with—by answering this question which is related to that first one I asked you, which is how does the current management of this area differ from the way it would be managed under my bill?

Mr. BSCHOR. Not significantly at all.

Mr. UDALL OF COLORADO. Mr. Chairman, I just have one other set of questions, and I appreciate the additional time.

On the last page of your testimony, you say you would like to determine the level of local support for this proposed designation. Which designation are you talking about? The wilderness, the protection area or the wilderness study area? And would you agree that carrying out a wilderness study inventory, as provided for in the bill, would be a good way to determine the level of local support for wilderness designation in the study area?

Mr. BSCHOR. That statement is relative to the wilderness designation.

Mr. UDALL OF COLORADO. As to wilderness.

When you carry out wilderness studies as provided for in the bill, would you agree that they are a good way to determine the level of local support for wilderness designation?

Mr. BSCHOR. We usually hear a lot about what that support is or is not.

Mr. UDALL OF COLORADO. Yes, is or is not.

Mr. BSCHOR. It is not always definitive, though, which way to go, if that is your question.

Mr. UDALL OF COLORADO. Thank you for your time, Mr. Chairman, thank you for the additional time, and I have had my questions answered, and I really appreciate it. Thank you.

Mr. BSCHOR. Thank you.

Mr. MCINNIS. Mr. Souder?

Mr. SOUDER. Thank you, and please pardon some of the ignorance in my questions. I have not dealt with forests as much, and I am in a learning curve. I have dealt a little bit more with the parks.

But one thing that has struck me both inside our national parks and the wilderness areas, and this is my question: a wilderness study area is basically treated as wilderness as long as the study is going on. Is there a time limit on the study?

Mr. BSCHOR. I do not believe so.

Mr. SOUDER. It looks to me like most of the wilderness study areas in the United States, what percentage actually become wilderness as opposed to remain wilderness study areas?

Mr. BSCHOR. That would be very difficult for me to even estimate at this point, because you are talking about all wildernesses in all four agencies or just the Forest Service?

Mr. SOUDER. Forest Service.

Mr. BSCHOR. Okay; I still would have to research that question for you.

Mr. SOUDER. I would appreciate getting a general ball park.

Mr. BSCHOR. Sure.

Mr. SOUDER. And have there ever been proposals that put a time limit? In other words, a wilderness study is done in 12 to 24 months, and if Congress does not act, it reverts back?

Mr. BSCHOR. If Congress puts a time limit on it, we would follow it.

Mr. SOUDER. Do you know of any case like that?

Mr. BSCHOR. I am not aware of any specifically, but I cannot say there have not been any.

Mr. SOUDER. Do you know what the longest time where something was designated a wilderness study area and never—and has just been in that kind of limbo state is in the Forest Service?

Mr. BSCHOR. Once again, I would have to research that, but the time frame would be very long.

Mr. UDALL OF COLORADO. Would the gentleman yield?

Mr. SOUDER. I will yield.

Mr. UDALL OF COLORADO. I believe, and my colleague, Mr. McInnis might be able to confirm this, that in Colorado, the Spanish Peaks Wilderness process we went through that there was a 3-year time limit based upon the 1993 legislation that passed. The Forest Service was given 3 years to study and recommend on that particular—

Mr. SOUDER. And then, if there is no action, what happens?

Mr. UDALL OF COLORADO. I think the interim protection ended if there was no action in that 3-year period.

Mr. SOUDER. Is that in this bill?

Mr. UDALL OF COLORADO. That is not the case in this bill, no.

Mr. SOUDER. Thank you.

A second question I have is if it is a wilderness study area as opposed to a wilderness designation, does the Forest Service treat it differently if there is a fire?

Mr. BSCHOR. What we try to do with our fire management in all backcountry areas is to have a fire management plan established before a fire starts. Now, that does not always occur, but that is what our goal is. And that fire management plan would be treated fairly similarly to wilderness except in a study area, it would be very similar, yes. It would be the same thing.

Mr. SOUDER. So if there is a fire in a wilderness study area, you are saying it would be treated the same as in a regular forest?

Mr. BSCHOR. In a regular wilderness.

Mr. SOUDER. In a regular wilderness? What is the difference, then, in a wilderness and a nonwilderness in how you would fight a fire?

Mr. BSCHOR. In a nonwilderness, you would have the ability to use motorized equipment and be able to use, in a lot of cases, existing access and roads that might be there to get to the fire.

Mr. SOUDER. If a fire is spreading, are you limited as to what you can do to anticipate where it is spreading to in a wilderness?

Mr. BSCHOR. Once again, it depends on whether you have a fire management plan for that wilderness in place, and wilderness is also managed to let the natural conditions occur over time, and fire is part of the ecosystem. So the theory is to let some of those fires burn and actually return the wilderness to a condition that had fire in it when that is the situation in the history of that particular piece of country.

Mr. UDALL OF COLORADO. Would the gentleman yield?

Mr. SOUDER. Yes.

Mr. UDALL OF COLORADO. I would like to clarify that everything that Denny says is proper, but the law from the Wilderness Act itself gives quite a great deal of latitude to the Secretary. And if I could read the particular sentence, it says: "In addition"—these are in the special provisions part of the law—"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."

So I think Denny is sharing that policy of the Forest Service, but certainly, the law provides a great deal of latitude to deal with disease, insects and fire.

Mr. SOUDER. Thank you.

I would like to make a general statement as my time goes: as somebody with no dog in this hunt—we do not have anything in my district that relates to this; I got on this Committee because I am deeply interested in how to achieve the balance that was put there from the very beginning both in the Park Service and the Forest Service and how you have recreational; how you have resource usage and protect wilderness at the same time. And what I have seen in general, trying to learn a subject from the outside, not living in it from a district standpoint, is an incredible amount of chaos between the Park Service, the BLM, the Forest Service; who has wilderness; who has recreation.

But what is clear is that in the Park Service, we are moving more toward less intense usage, which is going to put more pressures on the Forest Service in kind of where camping is going to occur; where hotels are going to occur; where certain recreational opportunities are going to occur. And almost every park I have visited is surrounded by forest and then by BLM land, and trying to figure out a unified way of where people are going to have camping, biking, boating opportunities at the same time as we move the wilderness designations, I hope we can see more coordination and a regional plan approach in these things, which I know is the goal of most of the agencies, and that is one of my goals in this Committee is to try to address it so that we do not see opportunities shut down and, at the same time, we are trying to preserve more wilderness.

I yield back the balance of my time.

Mr. MCINNIS. Mr. Souder, I thought those questions were excellent, and I appreciate the input.

Denny, based on my previous news story that I read, I hope that you contact—or go up the line of your supervision and remind them that they better make sure they are taking careful risks on that fire in Steamboat and that I would encourage—and I appreciate your taking the message; I am also taking the message—that they have standby slurry bombers if those firefighters get in a problem, because to me, it is a high risk statement, if in fact it is accurate, for the Forest Service to say they are not going to allow slurry bombers on what they admit could very easily become a blowup, which cost us those four firefighters a week and a half ago.

Mr. Inslee?

Mr. INSLEE. I have no questions.

Mr. MCINNIS. Mr. Kildee?

Mr. KILDEE. Thank you, Mr. Chairman. Just briefly, as one who sponsored the Michigan Wilderness Act, which set aside about 100,000 acres of wilderness in Michigan, I have always been very interested in this. We discovered that not only do you retain the recreational value and the beauty of the area, but also, we are discovering in that 100,000 acres of Michigan that there are microorganisms deep in the soil that are unique to that particular area. We find microorganisms with genetic code that exists only there and can be found nowhere else. And I think that is one of the reasons to preserve certain areas just as they came from the hand of God.

There are certain organisms with a unique genetic arrangement just in certain areas and nowhere else in the world. Higher than that, I have got a special designation for wilderness in one of the National Forests in perpetuity, although it is not under the Organic Wilderness Act, where there is a fern that grows in about a 14-acre spot, and that fern is unique in the whole world. So there is some unique genetic code among microorganisms, some unique flora and fauna, particularly the flora, that I think we do protect, even though we might be focusing more upon the beauty, the recreational value, so that people can enjoy that. There are other things we are preserving also in wilderness areas.

Thank you, Mr. Chairman.

Mr. MCINNIS. Mr. Kildee, your statement is well-taken. I would point out for our guests that the geographical outline up there—this is very remote country. By its remoteness alone, that serves as a protection. And currently, the area is under protective management. It just does not have, quote, "wilderness protection." But that is very, very remote up there, but your points are well-taken. There are a lot of things that are worthy of that.

If there are no further questions for the gentleman, I will go ahead and excuse you. Denny, thanks for coming up twice. We appreciate it. And please, as soon as you can, call your line of supervisors and tell them to keep an eye on that Steamboat situation, and I would hope that you would use whatever tools are available; available meaning accessible, not available pursuant to some restrictive interpretation of wilderness firefighting. Use whatever tools are available to make sure that that fire up in Steamboat, which is currently out of control, is contained with reasonable means.

Thank you very much. I appreciate the courtesy.

Mr. BSCHOR. Mr. Chairman, rest assured I will carry that message forward, and I want to thank the Committee for the opportunity today and remind the Committee also: we have over 35 million acres of wilderness in the Wilderness Preservation System that the U.S. Forest Service has managed, and we intend to manage that to the best of our abilities.

Thank you very much.

Mr. MCINNIS. Thank you, Denny, we appreciate it.

Mr. MCINNIS. Now, I think we will move on to our last panel. As I said, we have got to limit the time of the Committee today, so we do need to move rather rapidly.

On panel four, we have a number of witnesses. Several of these witnesses have traveled a long distance, and I appreciate very

much the effort and resources that you have put into coming here in front of us today. On panel four, we have Commissioner Mr. Newberry. James, thank you for coming. You may go ahead and come up to the table; Mr. Sill, Gilpin County Commissioner; Commissioner, thank you for attending. Is the Commissioner here? There we are. Go ahead and approach the table. I barely shook your hand on the way down. I was running the other direction. Mr. Smith; you are with the Sierra Club; and Sara Duncan. I have got to tell you: Sara Duncan was my professor in college. Mr. Smith is married to Heather McGregor, who was a wonderful reporter on the Western Slope, and if you ever want to have a fascinating speaker, have his wife come and talk about recycling. He and his wife fill one 55-gallon trash can a year. That is it. That is how much they recycle. Last year, his wife told me—Heather told me a couple weeks ago you guys had to clean the basement, so you may have to use two this year, and she felt terribly guilty about it. I regret to say I fill one a week. But at any rate, it is a fascinating discussion. So welcome, Steve.

Mr. SMITH. Thank you, sir.

Mr. MCINNIS. It is good to see you.

Why do we not start, Mr. Newberry, and let me just start out by preceding these comments: I have stressed—I think it is obvious from the previous discussion—the concerns that your county has and the fact that without meeting, and I commend you as strongly as I commend Mr. Udall; both of the parties involved here have spent a lot of time and energy trying to come to some compromise. I think that compromise is in the language that I have out there, of which we intend, Ms. Duncan, to modify to cover the Denver Water Board concern. But outside of that modification, I think we have got in place the language that will satisfy your board and the people that you represent as well as Mr. Udall.

So with that in mind, why do you not go ahead? I would remind our witnesses, let us try and keep it in the 5-minute time limit if we can.

Go ahead. Commissioner, thank you for coming.

STATEMENT OF JAMES L. NEWBERRY, COUNTY COMMISSIONER, GRAND COUNTY COLORADO

Mr. NEWBERRY. Thank you, Chairman McInnis. And I am new to this process, so I came here prepared to read my testimony, and I particularly appreciate the conversation that you had earlier, and it seemed that we were getting straight to the point, and I love that. I hate for someone to sit in front of me and read to me. Do I have to do that, or do you want me to paraphrase my testimony or just get straight to the issue, which is Area 3.1?

Mr. MCINNIS. Mr. Newberry, what I would suggest you to do is, submit your statement for the record, which means you do not have to read it, and go to your very specific points that you think are the most important and just have a discussion with us.

Mr. NEWBERRY. Thank you, sir.

Mr. MCINNIS. If you feel comfortable doing that.

Mr. NEWBERRY. Thank you, sir.

What I would do then is would ask that you—if you have the map that was attached to my testimony, this is the Forest Service

Management Plan of the area in Grand County, and I also have a larger map that is on the easel here. If the public would like to see that, but I can work of this map if that is fine.

Mr. MCINNIS. All right; and just refer to your numbers up there on this map. And if members of the audience want to or the reporters, you can come over to the side to take a look at that if you would like.

Go ahead and proceed.

Mr. NEWBERRY. Okay; first, I will do just a brief history, and it came to Grand County's attention that wilderness was being proposed in Grand County. At that time, we got in touch with Congressman Udall, and he did come up and have public meetings with us. We debated the issue several times. We had public meetings. We actually started a process that now CCI is using, Colorado Counties, Incorporated. They are now using it as part of the process that you go through to submit wilderness through BLM land. So it is something that was kind of a groundbreaking effort, and we greatly appreciate Congressman Udall's participation with us in these public meetings and then the followup meetings thereafter.

We believed we had come up with a solution, a process, and through the process, a compromise that would work for not only Grand County but the surrounding counties, our sister counties who were interested in going with the wilderness proposal.

Basically, what we did was we looked at the Forest Service Management Plan, and if you look down at Area 4.3, I would like to address that area first, because that is the main concern of the people of Grand County. There has been a tremendous amount of historic use in that area: the Rogers Pass Trail was one of the historic trails coming into the county, used 11,000 to 12,000 years ago; they were using this trail to come into the county. So it is not just a mountain bike trail. It seems to have gotten classified as this is an issue, because it is a mountain bike trail. No, it is a historical trail that comes into the county.

And then, also, the Rollins Pass or the Corona Road; it has two different names, depending on which old-timers you talk to, but that has everything from the entryway where the first trains came through; that is where the first settlers came into not only Grand County but moving west. There has been timber harvests. There have been timber harvests in the area. There were towns up in this area that have now disappeared, but a tremendous historic value to Grand County.

Now, there is more recreation in the area through mountain bike trails, cross-country ski trails. There is snowmobiling in that area. So when we talk about Grand County's lands that would be introduced into this, and we talk about the wilderness study area and those concerns that people have around that, I believe, and correct me if I am wrong, Congressman Udall, that we are basically talking about the area designated as 3.1. Is that a fair statement? Because even up in—through the Forest Service Management Plan and their recommendations, 1.2, for example, was—it was felt that that met the criteria for wilderness, so, as part of this bill, which we stand behind, is to add 1.2 into the Indian Peaks Wilderness. If you notice just above the Rollins Pass sign, that is designated as wilderness in that area, so we are hoping to combine that.

Our fundamental belief is we went through this process with the Forest Service. It took us 5 years to come up with this plan. There was public input at that time, and this is what was recommended by the people who are the so-called experts in the field of managing our forests. These people came up with the plan. We want to put it into a protection area. Therefore, there could be no land swaps. There is no further development of the area. It is protected in that area, and in a protection area, we have some experience with that because of Boland Gulch, and that is in my testimony also. You have to come up with a way to manage a protection area.

We thought this was a pretty slick alternative. We have come up with a protection area. We have saved the amount of acreage, and we already have a management plan right in hand, so we just put the two together, and it works well.

Back to 3.1, and I will conclude: we did not want it to go into a wilderness study area basically because that is not what was in the management plan, and that is not what we had talked about, or we had not really addressed that issue when we had our public meetings. And Congressman Udall, in fact, we may have even missed—in some of our meetings, what we said was we do not object to going back and studying this area for wilderness as long as that goes through the Forest Service, and they bring up the process, and they go through that process, and we would be happy to assist in that process in the public hearings and those type things.

But at the same time, we do not want it to go into a wilderness study area which, in fact, puts it into the management as wilderness without going through that process. So that is fundamentally where the difference is. We would also say that we would not want any restrictions that would not allow people to allow the Forest Service to go back and study that for a wilderness designation. So that is kind of where we are with the 3.1 area. I think the rest of it has worked out real well, and we are comfortable with the bill as amended, because I think it takes in all the considerations that we have asked for.

Thank you.

[The prepared statement of Mr. Newberry follows:]

Statement of James L. Newberry, County Commissioner, Grand County, Colorado

Before I begin my testimony, please refer to the map included in your packet. If you would please follow this map as I speak, I think I will be able to provide you with not only the flavor of this special area, but a small glimpse of its history as well.

Some 11,000 to 12,000 years ago, it is probable that humans entered the area during periods of glacial retreat, and again approximately 8,000 years ago. During warmer periods, Native Americans spent winters in the warmer foothills of the eastern slope, and sheltered valleys on Colorado's western slopes. Studies have shown that there were four different cultural complexes known to be present above timberline in the Indian Peaks area during these years.[1]

Native Americans, and later settlers, entered a majestic valley, now known as Grand County, via a pass which today is Rogers Pass (see section 3.1 on the map). This pass was used to transport goods into the settlers of the valley, as well as wild game to the mining towns of Black Hawk, Central City, and the growing metropolis of Denver. Early settlers found this route difficult at best, but it was the main ar-

[1] Benedict, James B. The Fourth of July Valley, Research Report, No. 2., Center for Mountain Archeology, Ward, Colorado, 1981, p. 8.

tery of commerce. Ranchers in the area trailed domesticated cattle over this pass to the railhead in Black Hawk and Denver as late as 1923. [2]

With the expansion of rail across the nation, this area was the first entry point of the railroad into Grand County and points west. The Rollins Pass rail line a.k.a Corona Pass, and later the Moffat Tunnel provided many a visitor a spectacular introduction to the majestic Rocky Mountains.

Front range water providers rely on the pristine waters of the western slope, and use this area as a diversion point to transport western slope waters to the thriving communities on the front range.

As you can see, the area that we are discussing today has been a critical transportation link to not only Grand County, but to destinations west. Today, U.S. Highway 40 over Berthoud Pass skirts this area and serves as a view point for James Peak itself. The Moffat Tunnel passes close by, running under the Continental Divide, and has replaced the historic Rollins Pass railway. Because of the diverse history of the area, it is important to place a designation on the area that not only protects its aesthetic and environmental contributions, but also recognizes the historical as well as present day uses.

An additional benefit of the James Peak Wilderness process has been to open an avenue of mutual interest between Grand County and her sister county, Gilpin. The historic Rollins Pass a.k.a Corona Pass railway has fallen into disrepair. The Needles Eye Tunnel, through which the railway crossed the Continental Divide, is no longer passable. Both Grand County and Gilpin County have entered into conversation on how to re-open this historic route. This negotiation can be supported by the designations proposed by Grand County for the James Peak Wilderness and Protection Area.

When Congressman Mark Udall first proposed wilderness designation for the James Peak Area, I and my fellow county commissioners, Bob Anderson and Duane Dailey, entered into a public information gathering process with no preconceived opinions. We were made aware of the Forest Service Management Plan that applied to this area, and began our education by familiarizing ourselves with the plan, how it originated, and what the designations within the plan meant. This plan had recently been completed and adopted by the Forest Service, and had years of study applied to its determinations.

Our second step was to hold meetings to gather public input on the proposal. The first public meeting was held in the lodge atop Winter Park Ski Area, overlooking the proposed area. Congressman Udall attended and spoke to the gathering. Many people attended the meeting, and gave testimony. This meeting ended with a request for written comments and concerns to be forwarded to the Board of County Commissioners. Based on the comments, it was apparent that a majority of the public who were involved did not favor a wilderness designation for the entire area proposed.

Grand County is the location of the first Protection Area Designation, known as the Bowen Gulch Protection Area. A Protection Area, like wilderness designation, must be approved by Congress. Unlike wilderness designation, a Protection Area has its own unique set of rules and regulations, designed to protect the area, while acknowledging historic uses. The Board of County Commissioners felt that a portion of the proposed James Peak Wilderness Area did not fit wilderness designation, but could be preserved with a Protection Area Designation. The Forest Service Management Plan supported this thought, as it designated this area as a Special Interest area (see area 3.1 on the map).

Following the initial public meeting, Grand County held three additional public meetings, as well as five public negotiation sessions with Congressman Udall and/or his staff. The main issue of these negotiations was Congressman Udall's designation of area 3.1 as wilderness study area, and Grand County's opinion that area 3.1 should be designated as a Protection Area.

However, area 3.1 had gone through wilderness study during the Forest Service Management Plan update, and was found not to carry the attributes necessary for wilderness designation. Grand County felt that the professionals employed by the United States Forest Service to make these determinations based on exact, approved criteria, were those whose input should be recognized in this matter. The public agreed with the determinations of the Forest Service during the public scoping process associated with the adoption of the Forest Service Management Plan. Grand County cannot agree with area 3.1 being designated as a wilderness study area. While Grand County would not oppose this area again being studied for wilderness designation if proposed during the next Forest Management Plan update, to so des-

[2] Black, Robert C. III. Island in the Rockies - The History of Grand County Colorado, to 1930, Pruett Publishing Company, Boulder, Colorado. 1969.

ignate it now does not seem appropriate in view of the recent wilderness study determination.

It should be noted that Grand County, while objecting to the wilderness designation for area 3.1, did propose wilderness designation for area 1.2. Area 1.2 was not proposed for wilderness designation by Congressman Udall, but had met the criteria for wilderness designation in the Forest Management Plan, and was recommended for that designation. Grand County proposed to add area 1.2 to wilderness designation, and this was done by Congressman Udall.

Grand County feels strongly that any wilderness proposal should begin at the local level, gathering the comments from those who are most familiar with the area, and then proceeding up the ladder to those who ultimately make the determination. This method could shorten the time involved in a wilderness designation approval by highlighting concerns early on. Colorado Counties, Inc. has monitored Grand County's process, and has proposed the process be used in the proposed wilderness designation for B.L.M. lands in the west.

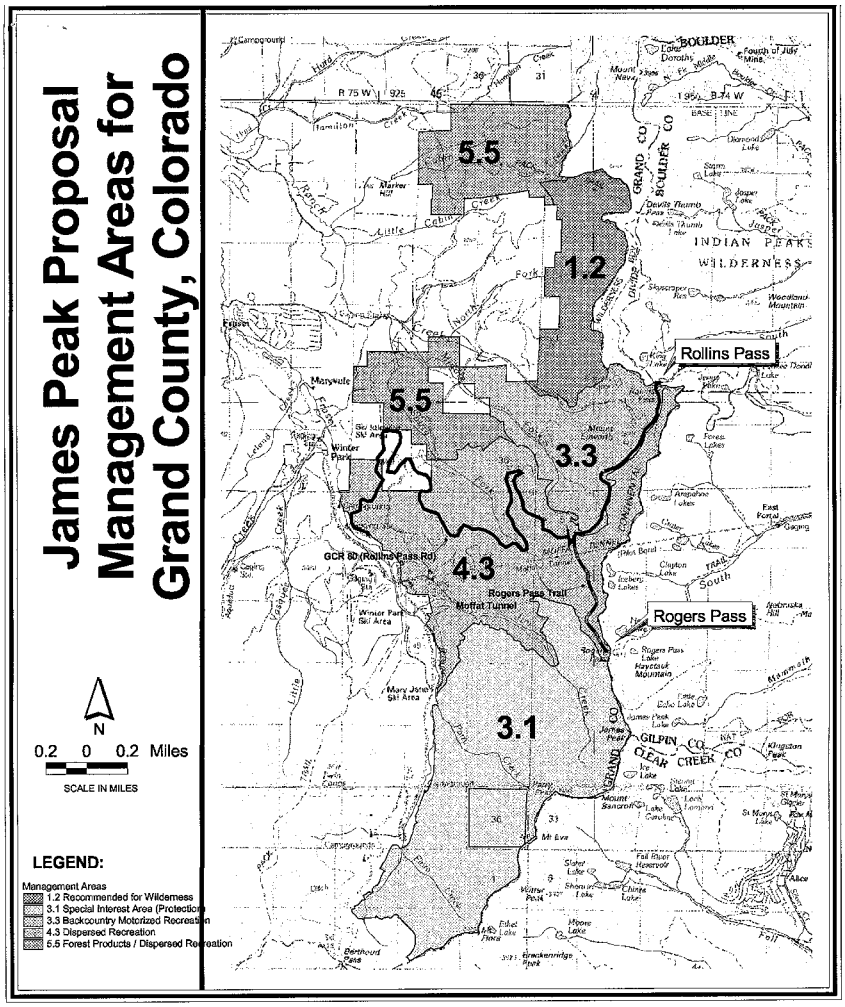
Grand County wants to thank Congressman Mark Udall and his staff for the hours of work that accompanies his proposal. Congressman Udall was most gracious in listening to the issues of the County and its citizens, and trying to formulate a compromise that could meet the concerns of all involved.

Senator Wayne Allard is to be praised for his participation in, and support of the process. His dedication to local input has allowed Grand County the ability to assist in the crafting of this important proposal.

Congressman Scott McIinnis, whose western slope Colorado ties, have enabled him to grasp the big picture, and assist in moving this proposal to committee review has made an invaluable contribution to the process. His efforts are greatly appreciated.

In conclusion, Grand County feels that Congressman Udall's proposal with the amendment proposed by Congressman McInnis provides protection to the entire James Peak Area. Area 3.1 can experience an equally high level of protection by designation of "Special Interest" (Protection Area) vs. Wilderness Study Area. The original proposal, with the amendment, incorporates the historic attributes of mining, logging, railroading, and travel, and recognizes the current uses of mountain biking, snow mobile access, and hiking. It stops land exchanges, and provides for professional management by the United States Forest Service. The James Peak Wilderness and Protection Area has the potential of setting aside a spectacular piece of Americana for protection in perpetuity. The citizens of Grand County support the passage of the James Peak Wilderness and Protection Area Act as set forth in the Amendment in the Nature of a Substitute to H.R. 1576 offered by Congressman Scott McInnis.

Thank you for you time this morning. Please accept a personal invitation from Grand County and its citizens to visit our beautiful county, and view that area you have the power to protect for all times, with the designation of The James Peak Wilderness and Protection Area Act as set forth in the Amendment in the Nature of a Substitute to H.R. 1576.


James Peak Proposal
Management Areas for
Grand County, Colorado
N
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SCALE IN MILES
LEGEND:
Management Areas
1.2 Recommended for Wilderness
3.1 Special Interest Area (Protection)
3.3 Backcountry Motorized Recreation
4.3 Dispersed Recreation
5.5 Forest Products / Dispersed Recreation
5.5
1.2
5.5
3.3
4.3
3.1
Rollins Pass
Rogers Pass
BOULDER
GRAND CO
BOULDER CO
INDIAN PEAKS
WILDERNESS
GILPIN CO
CLEAR CREEK CO
Marysville
Winter Park
GCR 80 (Rollins Pass Rd)
Rogers Pass Trail
Moffat Tunnel
Winter Park Ski Area
Mary Jane Ski Area
Mount Sanford
Mt Eva
Bethoud Pass
Berthoud Falls
Fall River Reservoir
Chinese Lake
Moore Lake
Alice
Forest Lakes
Clayton Lake
Rogers Pass Lake
Haystack Mountain
Lake Eldora
Mount Lincoln
Mount Neva
Devils Thumb Park
Devils Thumb Lake
Jasper Lake
Diamond Lake
Storm Lake
Woodland Mountain
Sky Ranch Ski Area
Ambrose Lakes
East Portal
Gaging
Hideout Lake
Lake Dorothy
Fourth of July Mine
Hamilton
Marmot Hill
Little Cabin Creek
Fraser
Tabernash
Kinnikinnick Peak
Klingman Peak
Ice Lake
Lake Lambert
St Mary Lake
Slater Lake
Shoshoni Lake
Water Park
Ethel Lake
Ethel Park
Grizzly Peak
Grizzly Lake
Lake Cowdrey
Lake Ceraline
Ice Lake
Jasper Lake
Nebraska Hill
Mammoth
Fall
R 75 W
R 74 W
BASE LINE
Campground
Hard
Ute
Little
Fork
South
TRAIL
Aquatic
Creek
Lake
Lake
Lake

Mr. MCINNIS. Thank you, Commissioner. Now, just one clarification: you said you are comfortable with the bill as amended. You are comfortable with the compromise language that we have discussed with you and have offered to Mr. Udall. It has not yet been amended technically, so I think that is what you are referring to; is that correct?

Mr. NEWBERRY. Yes, sir.

Mr. MCINNIS. Thank you.

Mr. NEWBERRY. My inexperience comes through.

Mr. MCINNIS. No, no, that is fine. I just wanted to, because we are on the record, clarify that. Thank you, Commissioner.

Mr. Sill?

STATEMENT OF WEB SILL, COUNTY COMMISSIONER, GILPIN COUNTY, COLORADO

Mr. SILL. Good morning, Chairman McInnis.

The first thing I have to do—well, good morning, Representatives. The first thing I have to do, sir, is ask you if I could have even two more minutes of time. I have two things to address for Clear Creek County and also—

Mr. MCINNIS. Mr. Sill, I hate to interrupt you, but you are going to have to speak a little closer to that mike. Thank you.

Mr. SILL. Yes, sir. What I was asking for, as I said, I am going to need just a touch more time, but I will do it just as fast as I can. I was asked by Clear Creek County to speak to an issue for them and then one by James also, so I am going to go just as quickly as I can on this. I did enjoy your speech last night on missile defense, incidentally.

I need to touch a couple of bases. Before we ever did anything with this, and I go back a long ways on this. One of the very first conversations I ever had on this area was with Senator Allard. He said you get a consensus, he would work with me. So this goes back a long ways. I need to talk very quickly about what Clear Creek County and Gilpin County and, to a lesser extent, Boulder County—Boulder County has three Democratic county commissioners that were on board ever since David Skaggs originally introduced it, and to bring them back on board was very, very easy.

Gilpin County and Clear Creek County are made up of one independent, one Republican—I happen to be the Republican in Gilpin County—and one Democratic county commissioner. We represent a spectrum of the voters of the State of Colorado, and our voters are split almost identical to that in those two counties. All six commissioners who have signed resolutions for wilderness have survived reelection, and I have been the one who was the most vehement and the most vocal about doing James Peak Wilderness, and my election results last time around were 70 percent vote against opposition of several people.

So this is an issue that my constituents care about a great deal. That being said, it does not mean that Clear Creek County came easy to this particular process. We discussed it for a long period of time, and it took a good deal of discussion to bring them on board. I need to talk to you just very quickly about what Gilpin County, what our commission in general looks like. We have the lowest combined tax rate in the State of Colorado. We paid off our justice

center 10 and a half years early. We rebuilt 30 percent of our roads in the last 4 years; we are building a fairgrounds and recreational center, which we paid for in cash.

The object is to give you an idea of the sense of the commissioners that are bringing forward their request for wilderness. Do we endorse every wilderness project that is out there? No, we opposed the BLM wilderness project last year. Do we endorse certain ones? Yes, we do. We endorsed James Peak. We are also opposed to the Forest Service selling off a bunch of wild land down along 285 in Park County. Is it in our county? No; we just thought it was in the general interest of the State of Colorado not to sell that off to population growth.

With that, I need to very quickly move on to a couple of the things. What I wanted to do today was obviously to gain your support for the James Peak Wilderness proposal. And the James Peak Wilderness country has been talked about; it is a very wild and scenic and beautiful area that is located south of the Indian Peaks and south of Rocky Mountain National Park, two areas that Congress has already previously said deserve special protection.

Gilpin County is a small Colorado county; actually, for the moment, we are the smallest county in the State of Colorado until Broomfield comes on board. We have 150 square miles, 96,000 acres. We are saying that we want to give up 8,000 acres that is currently roadless along our western boundary, which is the continental divide, and turn those into the James Peak Wilderness area. The people of Gilpin County have enjoyed a rural lifestyle, and we wish to kind of keep that into the future. However, the demographers tell us that there are going to be 2 million more people come to the State of Colorado over the next 20 years. They say a million and a half of them are going to come in along the Front Range; half a million of them are going to go into the West Slope. So for every constituent you have right now, Mr. McInnis, you are going to have two in 20 years.

That population pressure greatly concerns the people of my county, who have seen the Pike's National Forest go Denver playground, and we do not want the James Peak country to become a multiuse playground of the Denver area. We believe, in fact, that is what will happen. Without wilderness designation, you guys can do one thing that the Forest Service cannot do, and you were talking about protection earlier. You guys can do one thing the Forest Service cannot do. You guys can make sure that that land cannot change without your authorization. It cannot go multiuse unless it comes back through you, and you take it out of the wilderness designation. My people want that kind of protection.

Four years ago, I restarted the dormant James Peak wilderness process by creating a resolution of support for the James Peak wilderness area, and during the following years, not only have the Gilpin County Commissioners but a wide variety of people have spent a great deal of time working on this: the gentleman to my right; the gentleman to my left are two of the people who have spent a great deal of time working on this. A consensus for the protection of these lands has been achieved among the four affected counties, and that agreement should be respected.

Several elements of this agreement require special consideration. There is going to be increased visitation on this site. Everybody with a pair of tan shorts in the United States is going to probably want to come out and hike it for awhile. And we realize that there is going to be a bubble here. We believe that Clear Creek County's request for service facilities in the Alice and St. Mary's Glacier need to be honored. Grand County's conclusion on the protection area is different than the other three counties, but their good faith difference and ideas should be respected in this legislation.

Finally, the Needles' Eye Tunnel between Gilpin and Grand Counties should be reopened. Currently, the counties and the Forest Service maintain this road—really, the counties maintain this road for the Forest Service. Grand County maintains it to one side of the tunnel; we maintain it to the other side of the tunnel, but you cannot go through the Needles' Eye Tunnel at the current time. We would ask that you reopen this. Reopening it would have a slight economic advantage for Gilpin County and a major economic advantage for Grand County. Reopening the tunnel would allow motorized recreationalists additional opportunities to reduce some of their objections to the wilderness. But most importantly, what the tunnel would do, and this gets to the heart of what kind of wilderness this is; what the tunnel would do is it would allow people to move between the James Peak and the Indian Peaks country; people that are otherwise unable to make that trip, people who are from the flatlands who cannot walk up in that area; people who are old; people who are infirm; people who are too young to do it.

We think that is a very, very important point, because approval of the James Peak Wilderness would create an unbroken chain of wilderness from the Snowy Range in Wyoming down to the Mount Evans Wilderness country.

Mr. McINNIS. Mr. Sill, let me interrupt you just for a moment. I have allowed you almost twice the amount of time that we are allowed, and I understand we are trying to get as much as we can, but in order for the other witnesses to be able to do it and we meet the time commitment of the Committee, I am going to have to have you summarize in about 10 seconds.

Mr. SILL. You have got it, sir.

Mr. McINNIS. Thank you.

Mr. SILL. The West is as much about mind and spirit as it is about geography. Large, wide open spaces create the Western spirit. The high lonesome; the wide open spaces develop a passion for independence, freedom and a self-reliant character; a love of land and country that create a special spirit in the Westerner. This spirit is essential to Colorado; essential to the West; and a necessary part of the American character. Today, I ask for your support for the James Peak Wilderness.

Thank you.

[The prepared statement of Mr. Sill follows:]

BOARD OF COUNTY COMMISSIONERS
GILPIN COUNTY

Commissioners

Web Sill, 1st District
Craig Nicholson, 2nd District
Ken Eye, 3rd District

P.O. Box 366
Central City, Colorado 80427

County Attorney
James Petrock

County Manager
Donna C. Martin

July 26, 2001

The Honorable Scott McInnis, Chairman
Subcommittee on Forests and Forest Health
1337 Longworth House Office Building
Washington DC, 20515

Testimony by Web Sill, Gilpin County Commissioner on H.R. 1576

Today I hope to gain your support for the James Peak Wilderness proposal. The James Peak country is an area of wild and scenic high mountain beauty. North of James Peak lies the Indian Peaks Wilderness and Rocky Mountain National Park. Previously, Congress has decided these areas merit protection.

Gilpin County is a small Colorado mountain county of 150 square miles or 96,000 acres on the East slope of the Rocky Mountains forty miles West of Denver. Half of Gilpin County is State Park and National Forest. The Continental Divide is the Gilpin County western boundary. Along the western boundary is 8000 road less acres, Gilpin County's portion of the proposed James Peak Wilderness. The people of Gilpin County enjoy a "rural like" lifestyle and wish to maintain it into the future. However, demographers tell us that 2 million additional people will move to Colorado in the next 20 years, 1 million settling in the Denver Metro Area. The citizens of Gilpin County are convinced that without wilderness status, the James Peak country will become a multi use Denver playground over the next 2 decades. Gilpin County supports wilderness for the James Peak Roadless Area in an effort to maintain the rural and wild nature of western Gilpin County.

Four years ago I restarted the dormant James Peak Wilderness process, by creating a Gilpin County resolution in support of the James Peak Wilderness. During the following years the

Gilpin County Commissioners and many others have worked to promote this idea. A consensus for protection of these lands has been achieved among the four effected Counties and this agreement should be respected. Several elements of this agreement require your consideration. The James Peak Wilderness will be heavily visited. It is important that Clear Creek County's request for service facilities in the Alice / Saint Mary's Glacier area be honored. Grand County's conclusion on protection for the area is different than the other the Counties, but their good faith difference and ideas should be respected in the legislation. Finally, the Needles Eye Tunnel between Gilpin and Grand Counties should be reopened. Currently the Counties and the Forest Service maintain the road to both sides of the tunnel. This reopening would be of economic benefit to Gilpin and Grand County. A reopened tunnel would allow motorized recreationists additional opportunities and reduce some of their objections to wilderness. Most important, through this tunnel and by this road, citizens could cross between the James Peak and Indian Peaks Wilderness. This continuous road would allow many people, who for various reasons are unable to take advantage of wilderness, the chance to visit these wilderness areas.

Approval of the James Peak Wilderness would create an unbroken chain of wild country from the Snowy Range of Wyoming to the Mount Evans Wilderness in Colorado. James Peak's proximity to the growing Denver Metro Area will allow many new Coloradans the experience of wilderness. The Denver Metro Area and James Peak Wilderness may seem an odd combination, but this union has significant advantages. The West is as much mind and spirit as it is geography. Large wild spaces create the western spirit. The high-lonesome and the wide open spaces develop a passion for independence and freedom, a self reliant character and a love of land and county in the Westerner. This spirit is essential to Colorado, the West and a necessary part of the American character.

Overwhelming local consensus to protect the James Peak country exists. Seldom are good decisions this easy. James Peak is currently wild, roadless and a natural extension of existing protected areas. Protection of this area is in the best interest of adjoining counties, Colorado, the West and the United States of America. Today I ask your support for the James Peak Wilderness.

Mr. MCINNIS. Thank you, Commissioner. I appreciate the fact—now, we are going to have a vote, so we are really going to have to expedite. I would caution the Committee, however, that if you go out to see the commissioner, do not wear tan shorts when you—

[Laughter.]

Mr. MCINNIS. Or you will be significantly discounted.

Mr. Smith, you may proceed.

Mr. INSLEE. Mr. Chairman, can I—

Mr. MCINNIS. Mr. Inslee?

Mr. INSLEE. I need to excuse myself, Mr. Smith, Ms. Duncan. I will read your testimony and hope that I can play a productive role here. Thank you very much.

Mr. SMITH. Thank you, sir.

Ms. DUNCAN. Thank you.

Mr. MCINNIS. Mr. Inslee, thank you. We appreciate it. Okay; Mr. Smith, and in order for us to get, Sara, both you and Steve in, we are going to go right to the 5 and then jump to the 5, and then, we are going to have to leave immediately for votes. Unfortunately, we will not be able to ask questions, because my guess would be we are going to have votes probably up until noon.

So, Mr. Smith, you may proceed. Thank you for coming today.

STATEMENT OF STEVEN W. SMITH, ASSOCIATE SOUTHWEST REGIONAL REGIONAL REPRESENTATIVE, SIERRA CLUB, ON BEHALF OF COLORADO WILDERNESS NETWORK

Mr. SMITH. Thank you, Mr. Chairman and members of the Subcommittee for this opportunity to discuss and frankly to sing the praises of one of Colorado's spectacular expenses of wild lands, and thank you, Mr. Chairman, for your kind remarks of welcome.

My name is Steve Smith from Glenwood Springs, Colorado. I am associate regional representative for Sierra Club and speaking on behalf of my organization and the other 200 organizations that make up the Colorado Wilderness Network. We would like to strongly express our support for Mr. Udall's H.R. 1576, the proposed James Peak area bill with one qualification that I will discuss in just a moment.

We believe that this area has all the characteristics and more that reach the threshold of qualifying as an additional to the National Wilderness Preservation System. I have enjoyed over the last several years in a couple of different capacities working on this project and working on other projects where we extensively talked with local officials and local residents to try to find consensus on various public land matters. One example, when I worked for Congressman Skaggs for 12 years, was some very enjoyable work with county commissioners and local residents on the Spanish Peaks Area, and I think we came close to a conclusion on that, and then, in the following Congress, with your able leadership, Mr. Chairman, that became a designated wilderness, and we appreciate that followthrough.

Similarly, during those years and the years since, I was able to work with the county commissioners from the four counties that have interests here and a wide range of interest groups to find variations on our different positions that could ultimately combine into a proposal that is best-suited to the area.

I mentioned exception to Mr. Udall's bill, and that is the wilderness study area. We believe very strongly that the portion in his bill proposed for wilderness study area should be designated at this time as wilderness, as an addition to the Wilderness Preservation System. One of the concerns that the Grand County Commissioners have expressed to us, for example, is this has been studied extensively; it has been discussed extensively. To continue the study process is perhaps tiresome but certainly is longwinded, and in that sense, we would concur with these folks with whom I have enjoyed very much working and say that yes, we know what we need to know about this area. We know that it has wilderness characteristics. The Forest Service a few minutes ago confirmed that it has wilderness characteristics. So we believe the time is now to just go ahead and get that settled; designate that area in the southern portion of the Grand County lands as wilderness, and then, everybody knows where it is.

We also appreciate the commissioners' recommendation for some additional lands both within and without of the old roadless area that might be better suited to a different designation. This special protection area designation is suitable for lands where there are roads or other activities that are incompatible with wilderness, but we think it is inadequate for those lands that fully have the characteristics for wilderness.

We have worked with another variety of other groups in great variety to come up with boundary adjustments and language adjustments to make this the best package possible. We have worked with Grand County and trails associations there on the 7-mile trail. We have worked on adjustments to the boundary to accommodate the Old Boulder Wagon Road; the proposals for trailhead facilities at the town of Alice; the activity needs for the Colorado Mountain Club along St. Mary's Glacier; the Bertha Pass Ski Area and two different accommodations for snowmobile use in this general area.

We feel that the package, as put together, really takes care of a lot of people's needs. One additional example has been the Rogers Pass route, and while, indeed, as Commissioner Newberry mentions, it has a very extensive history of a variety of uses, the current discussion focuses on mountain bike use along that route. I mentioned to you one of the experiences from our conversations with these interest groups in a citation from a letter that the International Mountain Bicycling Association sent to you, Congressman, in which they note that we could endorse full wilderness instead of wilderness study area for the area at the southern part of the Grand County portion of this area if the boundary were changed to a point south of Rogers Pass.

So again, here in this very example, we find opportunities where we can talk about some more adjustments and find additional support for wilderness from some of the people that have had concerns. This is a remarkable area. Whatever you are able to see from it or hear from it, those things do not qualify the lands themselves as wilderness. They are a remarkable place of glacial circs, of cascading streams, of high, high sweeping tundra, of deep, dark, ancient and old-growth forests on both sides of the divide. The two sides really complement each other in composing what really should be a composite wilderness area, and we certainly appreciate

your interest in this and encourage you to adjust the Congressman's bill to make the portion of Grand County also wilderness and then encourage Congress to pass this full measure.

Thank you very much for your time.

[The prepared statement of Mr. Smith follows:]

Statement of Steven W. Smith, Associate Southwest Regional Representative, Sierra Club on behalf of Colorado Wilderness Network

Thank you, Mr. Chairman, and members of the Subcommittee, for this opportunity to discuss and, frankly, to sing the praises of one of Colorado's spectacular expanses of wild lands.

My name is Steve Smith, and I am Associate Southwest Regional Representative for the Sierra Club, based in Colorado. I am speaking today in behalf of the Colorado Wilderness Network, a coalition of some 200 environmental organizations, trade associations, chambers of commerce, and local governments who support additional wilderness designations in our fine state.

The steering committee for the Colorado Wilderness Network is composed of delegates from Colorado Environmental Coalition, Colorado Mountain Club, Sierra Club, The Wilderness Network, and Western Colorado Congress.

My own background includes a stretch of just over thirty years of environmental advocacy in Colorado. Since completing my undergraduate degree at Colorado State University, with a concentration in environmental policy studies, I have helped founded or worked for organizations dedicated to wilderness advocacy, recycling services, open space protection, and transportation.

For twelve years concluding in 1999, I was employed as Senior Congressional Assistant to Congressman David Skaggs. During that time, I provided field research, helped draft legislation, and facilitated negotiations among local interest groups that resulted in permanent protection for North St. Vrain Creek and for new wilderness areas designated in the Colorado Wilderness Act of 1993. I provided similar assistance and work in preparing legislative proposals that later led, with the Chairman's able leadership, to wilderness designation for the Spanish Peaks Wilderness. Finally, I convened local negotiations and provided legislative recommendations for the first James Peak wilderness act, introduced by Mr. Skaggs in 1998.

As a result of that latter experience, I learned much about the physical features of the James Peak area and, pleasantly, much about the people who live near and those who enjoy visiting it.

The sweeping alpine tundra, clear pure streams that build from tiny snowmelt trickles to cascading streams, deep old growth forests, and prominent mountain peaks found in the James Peak area compose a quintessential example of America's wilderness. It is a place that readily deserves inclusion in the National Wilderness Preservation System.

Readily viewed from several highways and back roads, accessible through several convenient trailheads, and yet almost completely untouched—and certainly undamaged—by human effects, this is a place that symbolizes Colorado's wealth in beauty while providing a refreshing respite from the pace, noise, and pressures of urban life.

As a legislative means of protecting the rare and remarkable values of the James Peak area, we support support Congressman Udall's H.R. 1576, the proposed James Peak Wilderness, Wilderness Study, and Protection Area Act. Our support for that act is subject to one qualifier, which I will discuss in a moment.

Although the United States Forest Service, in its 1997 Revision of the Land and Resource Management Plan for the Arapaho and Roosevelt National Forests did not recommend the James Peak area for wilderness designation, it did acknowledge the many features of the area that are well suited to wilderness protection. The agency's basis for not recommending the area for wilderness designation comprised entirely a list of human activities and structures that may be seen or heard from selected parts of the area, but no real conflicts within the area.

We assert that sights and sounds from outside an otherwise qualifying area should not be, and historically has not been, used by federal land managers as reason for disqualifying areas for wilderness. The sheer magnitude of the James Peak area—perhaps Colorado's largest remaining roadless expanse outside designated wilderness—along with its high elevation, inevitably means that one can see and hear faraway things from inside the area.

These sights and sounds do not, however, alter the fact that the area is without roads, possesses unique geographic features, harbors high quality water sources, provides unique opportunities for solitude and exploration, and—perhaps most im-

portant—includes no potential for mining, timber harvest, road building, or other developments contrary to wilderness designation.

Whatever one can see or hear from the James Peak area, it remains a wilderness, and it should be recognized as such by Congress.

I mentioned that our support for Congressman Udall's legislation is qualified on one point. That point is the area proposed in the bill as a Wilderness Study Area.

That Grand County portion of the roadless area is no less qualified to be wilderness than are those portions on the east side of the Continental Divide in Boulder, Clear Creek, Gilpin counties. The west side's more sweeping tundra, long valleys, and dark timber provide a perfect counterpoint to the rugged walls, glacial cirques, and high mountain meadows found to the east. Combined, the two sides make up what will be, and should be, a remarkable American wilderness.

We support changes in Congressman Udall's legislation that would designate all of the James Peak roadless area, including that portion in Grand County, as wilderness.

We understand that wilderness for the Grand County portion does not yet enjoy the level of support from local elected officials as is afforded the portions in the other counties, and we have spent many enjoyable hours and many thought conversations trying to better understand the concerns and preferences of those Grand County officials.

Through all those discussions, however, I respectfully assert that we were never presented with any specific instance in which for which the area is not qualified to be wilderness. Rather, local officials have consistently stated their philosophical opposition to the concept of wilderness designations.

If there are specific, physical, on-the-ground conflicts that would disqualify any portion of the James Peak roadless area from being protected as wilderness, we would be the first to propose boundary changes or other adjustments that recognize and accommodate those conflicts. In the absence of such specific problems, however, we find no justification for leaving the west side portion out of wilderness.

Our members have walked and studied the James Peak roadless area extensively. For nearly seven years, we have actively discussed its features, its values, and its potential with all officials and citizens interested in it. We have sought compromise and other approaches to agreement on protecting the largest possible expanse of wilderness there.

To that end, we have helped work out boundary changes and other mapping details, helped forge agreements and language that will accommodate a variety of uses and needs in and near the area, and been consistently available and open to more discussions of the same.

After that effort and those experiences, we are more confident than ever that all of the James Peak area should be proudly designated as an outstanding, glorious addition to the National Wilderness Preservation System.

We urge the Subcommittee to amend this H.R. 1576 to include the roadless lands in Grand County as wilderness, and then to recommend prompt passage of that improved legislation by the Congress.

Thank you again, Mr. Chairman, for this opportunity to present our views on this remarkable place. I would be pleased to respond to any questions you may have.

Mr. MCINNIS. Thank you, Steve, and I appreciate your coming. I will point out two things: one, the letter that we got from the mountain bike group seemed to point out to me that they would support it as long as their mountain bike trail was in there and did not look much beyond that. The other thing I would point out is that I want to make it very clear: this bill will not come up for markup in this Committee putting that into wilderness or into the study area. It goes into a protection area. I mean, that kind of compromise—and I mentioned that Jeff Berman with Colorado Wild, which is a pretty active organization, at least as quoted by the Denver Post, said he was prepared to support the establishment of a protection area versus a wilderness study or a wilderness area, even though that was not his preference.

So, you know, this is the point we are at. We can really accomplish putting into wilderness what we really need to put into wilderness, but we have got to have that compromise language, recog-

nizing the needs of Grand County. So I hope that your group would reconsider their position that it has. I mean, you have now taken it a step further. Now, you want wilderness. That seems to be going the wrong direction of actually realizing Mr. Udall's dream and the dream of your predecessor, et cetera, of getting it into wilderness.

Sara, welcome, thank you.

STATEMENT OF SARA DUNCAN, COORDINATOR OF INTERGOVERNMENTAL AFFARIS, DENVER WATER BOARD

Ms. DUNCAN. Thank you; good morning. I am Sara Duncan; I am here today on behalf of the City and County of Denver Board of Water Commissioners. I would ask that my statement be read into the hearing record also, including the attachments.

I want to thank particularly the staff of Congressman McInnis and Congressman Udall for working with us on our issues. They have been very helpful, and we appreciate it. We are not here to oppose the bill, but we are concerned both with the original bill and with the proposed amendment. So I guess you could say we do not like either of them, and I am sorry that we have to take that position. But one in four citizens in Colorado rely on their water supply from Denver Water. For that reason, as a large public water supply system, we need to have certainty in how we address what goes on where we have our delivery infrastructure.

A large part of our delivery infrastructure is in the Ranch Creek area, which is in the protection area. We have two specific problems with the protection area: first, in both bills, off-road mechanized access is discouraged. In order to access, maintain and improve our system, we need to have large pieces of equipment to assist. Secondly, we do not have any idea of what a protection area means. This is a new designation, and it creates great uncertainty. We need to know what the scope and impact is.

Therefore, we would ask that between 9,400 and 9,600 feet in elevation—

Mr. MCINNIS. Sara, I hate to do this, and I apologize.

Ms. DUNCAN. That is okay. I was just going to ask we would like to be excluded.

[The prepared statement of Ms. Duncan follows:]

Statement of Sara Duncan, Coordinator of Intergovernmental Affairs, Denver Water Board, Denver, Colorado

Mr. Chairman McInnis and Members of the Committee:

I thank Chairman McInnis for the opportunity to testify today. The Denver Water Board is a municipal corporation that supplies water to over one million people: that is one in four people who live in Colorado. Denver Water has important water collection infrastructure located in the James Peak Protection Area proposed in H.R. 1576 under discussion today. This testimony will describe these facilities, discuss their importance to the Denver Water system, and recommend treatment of these facilities in H.R. 1576. Denver Water does not object to the creation of a Protection Area, but needs assurance that its water infrastructure can continue to be accessed, maintained and improved.

A road built by Denver Water in 1936 and known as the "Water Board Road" transverses the Protection Area on both Forest Service and private lands on a north/south axis. [See map attached hereto as Exhibit "A".] Adjacent to and under the road are Denver Water pipes, siphons, canals and diversion structures that comprise a part of the "Ranch Creek" collection system that feeds into the west portal of the Moffat Tunnel. The Ranch Creek facilities are located 9400 to 9600 feet in elevation and collect water that is delivered to the north part of the Denver metropolitan area

via the Moffat Tunnel that runs under the Continental Divide. There are 2.4 miles of canal and pipes in the proposed Protection Area.

There is another water system in the James Peak area. Denver operates Englewood's system that continues to the north of the Ranch Creek collection system. It appears some of Englewood's system and the Cabin Creek Reservoir site are included in the proposed James Peak Protection Area. Denver Water has not had sufficient time to ascertain Englewood's position on H.R. 1576, but there is understandable concern that the Protection Area designation not interfere with operation of Englewood's water system.

The Ranch Creek collection system is a critical component of Denver Water's base water supply for several reasons. First, it has a 1921 priority date. Second, the Ranch Creek dry year yield, that is the water supply during a drought, represents approximately 20% of the water deliverable through the Moffat Tunnel. Third, Ranch Creek provides water to the northern metro Denver contract water users of Westminster, Consolidated Mutual Water Company, North Table Mountain, Arvada, and others. Without the Ranch Creek water, supplies to the northern metropolitan Denver area would be significantly reduced. This is particularly true in dry years. Therefore, the significance of the Ranch Creek collection system cannot be diminished.

Denver Water's ability to improve and maintain the Ranch Creek collection system is a high priority. Beginning in 1993, Denver Water has replaced about 7% of the Ranch Creek open canals with 84" pipe to carry water. This activity is ongoing and requires mechanized access off road to remove existing concrete structures and replace them with pipe, to cover and revegetate the ground surface above the pipe, and to maintain existing siphons and diversion structures. Maintenance, upgrades and water collection efficiency in the future will continue to require off road mechanical maintenance, including the use of bulldozers, loaders, cranes, dump trucks and numerous other pieces of equipment. Denver Water has worked well with the Arapaho–Roosevelt National Forest Service under the 1997 Forest Management Plan to maintain and improve the Ranch Creek Collection system. Denver water must be assured of continued flexibility in meeting current and future needs in order to access, construct, operate and maintain water infrastructure for uninterrupted beneficial water use.

Both Congressmen McInnis' and Udall's staff have been helpful in discussing the James Peak Protection Area giving assurance that Denver's concerns will be addressed. For this I thank them. There are two problems that need to be specifically resolved. First, the Protection Area limits mechanized access to designated roads and trails. Denver Water has a longstanding practice of using machinery in a reasonable manner off road to keep its system working. In fact, that is occurring even this summer. The second problem is no one is quite certain of the scope and impact of the "protection area" concept. As a water supplier, Denver Water requires certainty and flexibility that its critical water supply and supporting infrastructure can operate without interruption in a protection area. Rep. McInnis's excellent water right language in H.R. 1576 will protect Denver Water's 1921 rights and restrict the imposition of by-pass flows. There is, however, no corresponding protection of existing water infrastructure, its access, improvement, replacement and maintenance.

This goal can be easily accomplished by delineating the James Peak Protection Area so as to exclude Denver Water's roads and pipes. Denver Water would continue to operate with Forest Service supervision. As noted earlier, Denver Water and the Forest Service have worked well together to achieve Denver's goals at the same time being respectful of Forest Service needs and uses. Therefore, Denver Water's first request is that the sponsor consider excluding Denver Water' s Ranch Creek collection system, including all access roads, from the Protection Area. Exhibit "A" shows those areas between 9,400 feet and 9,600 feet on Forest Service property that could be excluded from the Protection Area. The total acreage so excluded from the 14,000-acre James Peak Protection Area is only 280 acres.

Removal of Denver Water's property from this bill will maintain the status quo. Denver Water will operate under the Arapaho–Roosevelt Forest Management Plan. Water Board access will continue and the procedures for off-road access will remain in place. The certainty necessary to run a public water supply system will not be undercut by the uncertainty of an additional, untried land use designation. The Denver Water Ranch Creek collection exclusion does not create additional management or environmental problems for the Forest Service as it continues existing Forest Service oversight procedures. Further, the amount of acreage excluded is miniscule in comparison to the entire James Peak Protection Area. It should be noted that the justification for a protection area as stated by the Grand County Commissioners is to avoid further land exchanges in this area. This reason has no application to the Denver Water collection system or Water Board Road as these uses are

firmly and historically settled. Finally, an exclusion based on elevation can be easily ascertained from topographical maps readily available to government officials and the public.

If exclusion from the James Peak Protection Area is not acceptable, then language must be crafted to address the issues of water infrastructure protection, maintenance, improvement, access and procedural safeguards to assure continuous operation. It has been informally indicated by staff that this type of language could be drafted, but this has not been done. Due to the imprecision of language and incertitude of regulatory and judicial construction, I urge you to consider exclusion of Denver Water's considerable assets from the James Peak Protection Area. I look forward to working with you for quick resolution of these issues.

EXHIBIT A

SHEET 1 OF 2

PROPOSED
JAMES PEAK
WILDERNESS/PROTECTION AREA

LEGEND

Denver Water collection system

Contour Elevation

Proposed protection area

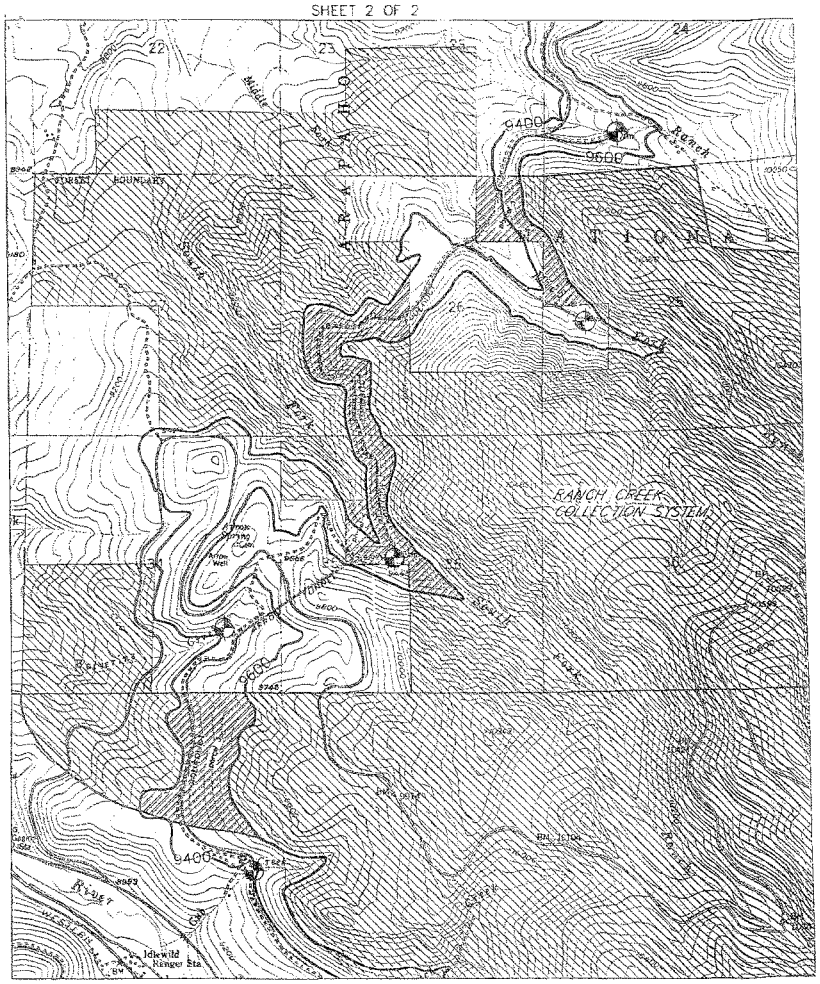
Exclusion from protection area

Points of Diversion

ACREAGES:	Parcel 1 = ≈ 50 acres
	Parcel 2 = ≈ 140 acres
	Parcel 3 = ≈ 90 acres
	Total = ≈ 280 acres

EXHIBIT A

SHEET 2 OF 2


22
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36
6400
9600
9600
5400
Middle Fork
Ranch
Ranch
Fork
Fork
Ranch
Fork
Ranch
Fork
Ranch

Mr. MCINNIS. We have been advised we have 5 minutes, which is about the exact amount of time it takes us to get over there. I do want you to know this, that we were not aware of your concern at the time this was drafted.

Ms. DUNCAN. Right.

Mr. MCINNIS. So there was no intent to exclude the concerns of the Water Board. We certainly understand those needs, and we will work extensively with you to incorporate what is necessary.

I want to thank all of you for coming today. Unfortunately, we have two votes in a row, which will exclude us from coming back and reconvening the Committee. I do know that Mr. Udall has some questions that he wishes to submit. What I would request is your participation and cooperation in responding to those in writing so that we can share it with the Committee.

I thank the witnesses. This is the technical stuff: we will hold the record open for 10 days if there are any further responses. Having no further business, the Committee now stands in adjournment.

[Whereupon, at 11:30 a.m., the Subcommittee was adjourned.]

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