

107TH CONGRESS
1ST SESSION

H. R. 2963

To establish the Deep Creek Wilderness Area, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2001

Mr. McINNIS introduced the following bill; which was referred to the
Committee on Resources

A BILL

To establish the Deep Creek Wilderness Area, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deep Creek Wilderness
5 Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Certain areas located in the White River
9 National Forest in Colorado along the Deep Creek
10 area should be protected and enhanced for the ben-
11 efit and enjoyment of present and future genera-

1 tions, including the areas making up the rugged and
2 remote limestone gorge formed by the Deep Creek
3 on the White River Plateau of the White River Na-
4 tional Forest in Garfield and Eagle Counties, Colo-
5 rado which has wilderness value and offers unique
6 and valuable scenic, geological, paleontological, sci-
7 entific, and recreational opportunities.

8 (2) The unique high elevation riparian areas,
9 paleontological, natural, and wildlife components en-
10 hanced by the rural western setting of the area, pro-
11 vide extensive opportunities for primitive rec-
12 reational activities, and are publicly used for hiking,
13 cave exploration, and solitude and are worthy of ad-
14 ditional protection as a wilderness area.

15 (3) The Deep Creek area has wilderness value
16 and offers unique geological, scenic, and species di-
17 versity.

18 (4) Deep Creek carves a rugged and remote
19 limestone gorge, forming a dramatic pristine canyon
20 over 2,500 feet deep and 13 miles long.

21 (5) The limestone strata have created ideal con-
22 ditions for the formation of caves, many of which
23 are the State of Colorado's most outstanding caves.

24 (6) There are unique circumstances with re-
25 spect to the Deep Creek Wilderness Area. There are

1 valid, absolute, and decreed conditional water rights
2 upstream, adjacent, and downstream of the Wilder-
3 ness boundaries. These rights are private property
4 rights under State and Federal law. Nothing in the
5 Act is intended to eliminate or diminish the exercise
6 of these rights.

7 (7) It is possible to provide for proper manage-
8 ment and protection of the wilderness and other val-
9 ues of such lands in ways that provide for the rea-
10 sonable development of the upstream and adjacent
11 water rights adjudicated prior to the date of enact-
12 ment of this Act.

13 (b) PURPOSE.—The purpose of this Act is to con-
14 serve, protect, and enhance for the benefit and enjoyment
15 of present and future generations the unique and nation-
16 ally important values of the public lands depicted on the
17 Map, including geological, cultural, paleontological, nat-
18 ural, scientific, recreational, environmental, biological, wil-
19 derness, wildlife education, and scenic resources of such
20 public lands, by establishing the Deep Creek Wilderness
21 in the State of Colorado.

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

1 (1) WILDERNESS AREA.—The term “Wilderness
2 Area” means the Deep Creek Wilderness Area estab-
3 lished by section 4.

4 (2) MAP.—The term “Map” means the map en-
5 titled “Proposed Deep Creek Wilderness Area” and
6 dated September 5, 2001.

7 (3) SECRETARY.—The term “Secretary”
8 means—

9 (A) the Secretary of Agriculture, acting
10 through the Chief of the Forest Service with re-
11 gard to lands over which that Secretary has ju-
12 risdiction; and

13 (B) the Secretary of the Interior, acting
14 through the Bureau of Land Management with
15 regard to lands over which that Secretary has
16 jurisdiction.

17 **SEC. 4. DEEP CREEK WILDERNESS DESIGNATION.**

18 (a) IN GENERAL.—There is established the Deep
19 Creek Wilderness Area in the State of Colorado.

20 (b) AREAS INCLUDED.—The Wilderness Area shall
21 consist of approximately 8,000 acres of public land as gen-
22 erally depicted on the Map.

23 **SEC. 5. MANAGEMENT.**

24 (a) WILDERNESS AREA.—The Secretary shall man-
25 age the Wilderness Area in a manner that—

1 (1) conserves, protects, and enhances the re-
2 sources of the Wilderness Area specified in section
3 2(b); and

4 (2) is in accordance with—

5 (A) the Wilderness Act (16 U.S.C. 1131 et
6 seq.), except that, with respect to any wilder-
7 ness areas designated by this Act, any reference
8 in the Wilderness Act to the effective date of
9 the Wilderness Act shall be deemed to be a ref-
10 erence to the date of the enactment of this Act;

11 (B) the Federal Land Policy and Manage-
12 ment Act of 1976 (43 U.S.C. 1701 et seq.); and

13 (C) other applicable law, including this
14 Act.

15 (b) USES.—The Secretary shall allow only such uses
16 of the Wilderness Area as the Secretary determines will
17 further the purposes for which the Wilderness Area is es-
18 tablished. Nothing in subsection (c) shall be construed to
19 affect discretionary authority of the Secretary under other
20 Federal laws to grant, issue, or renew rights-of-way or
21 other land use authorizations consistent with the other
22 provisions of this Act.

23 (c) WITHDRAWALS.—Subject to valid existing rights,
24 all Federal lands within the Wilderness Area are with-
25 drawn from—

1 (1) all forms of entry, appropriation, or disposal
2 under the public land laws;

3 (2) location, entry, and patent under the mining
4 laws; and

5 (3) the operation of the mineral leasing, min-
6 eral materials, and geothermal leasing laws, and all
7 amendments thereto.

8 (d) **MOTORIZED VEHICLE USE.**—

9 (1) **IN GENERAL.**—Except as needed for admin-
10 istrative and emergency response purposes, use of
11 motorized vehicles in the Wilderness Area shall not
12 be allowed.

13 (2) **COLORADO ARMY NATIONAL GUARD.**—

14 (A) **IN GENERAL.**—Pursuant to the Memo-
15 randum of Understanding, dated August 4,
16 1987, between the Colorado Army National
17 Guard, the Bureau of Land Management, and
18 the United States Forest Service, the Colorado
19 Army National Guard shall continue to be per-
20 mitted to conduct aerial navigation training ma-
21 neuver exercises over certain lands within the
22 Deep Creek area.

23 (B) **MODIFICATION OF MEMORANDUM OF**
24 **UNDERSTANDING.**—Conditions and require-
25 ments in the memorandum of understanding re-

1 ferred to in subparagraph (A) may be modified
2 subject to the agreement of all parties thereto.

3 (e) HUNTING AND FISHING.—

4 (1) IN GENERAL.—Hunting and fishing shall be
5 allowed within the Wilderness Area in accordance
6 with applicable laws and regulations of the United
7 States and the State of Colorado.

8 (2) AREA AND TIME CLOSURES.—The head of
9 the Colorado Division of Wildlife, or the Secretary,
10 after consultation with the Colorado Division of
11 Wildlife, may issue regulations designating zones
12 where, and establishing limited periods when, hunt-
13 ing or fishing shall be prohibited in the Wilderness
14 Area for reasons of public safety, administration, or
15 public use and enjoyment.

16 (f) GRAZING.—

17 (1) IN GENERAL.—Except as provided by para-
18 graph (2), the Secretary shall issue and administer
19 any grazing leases or permits in the Wilderness Area
20 in accordance with the same laws (including regula-
21 tions) and Executive orders followed by the Sec-
22 retary in issuing and administering grazing leases
23 and permits on other land under the jurisdiction of
24 the Forest Service and Bureau of Land Manage-
25 ment, respectively.

1 (2) GRAZING IN WILDERNESS.—

2 (A) FOREST SERVICE LANDS.—Grazing of
3 livestock in the Wilderness on lands that are
4 under the jurisdiction of the Forest Service
5 shall be administered in accordance with the
6 provisions of section 4(d)(4) of the Wilderness
7 Act (16 U.S.C. 1133(d)(4)), in accordance with
8 the guidelines set forth under the heading
9 “Grazing in National Forest Wilderness” in
10 House Report 96–617 of the 96th Congress.

11 (B) BLM LANDS.—Grazing of livestock in
12 the Wilderness on lands that are under the ju-
13 risdiction of the Bureau of Land Management
14 shall be administered in accordance with the
15 provisions of section 4(d)(4) of the Wilderness
16 Act (16 U.S.C. 1133(d)(4)), in accordance with
17 the guidelines set forth in Appendix A of House
18 Report 101–405 of the 101st Congress.

19 (g) NO BUFFER ZONES.—The Congress does not in-
20 tend for the establishment of the Wilderness Area to lead
21 to the creation of protective perimeters or buffer zones
22 around the Wilderness. The fact that there may be activi-
23 ties or uses on lands outside the Wilderness that would
24 not be allowed in the Wilderness Area shall not preclude
25 such activities or uses on such lands up to the boundary

1 of the Wilderness Area consistent with other applicable
2 laws.

3 (h) ACQUISITION OF LAND.—

4 (1) IN GENERAL.—The Secretary may acquire
5 nonfederally owned land within the exterior bound-
6 aries of the Wilderness Area only through purchase
7 from a willing seller, exchange, or donation.

8 (2) MANAGEMENT.—Land acquired under para-
9 graph (1) shall be managed as part of the Wilder-
10 ness Area in accordance with this Act.

11 (i) INTERPRETIVE FACILITIES OR SITES.—The Sec-
12 retary may establish minimal interpretive facilities or sites
13 in cooperation with other public or private entities as the
14 Secretary considers appropriate. Any facilities or sites
15 shall be designed to protect the resources referred to in
16 section 2(b).

17 (j) WATER RIGHTS.—

18 (1) EFFECT ON WATER RIGHTS.—Nothing in
19 this Act shall affect any absolute or conditional
20 water rights or their diversions and conveyance fa-
21 cilities or the maintenance thereof decreed prior to
22 the date of the enactment of this Act.

23 (2) COLORADO WATER LAW.—The Secretary
24 shall follow the procedural and substantive require-
25 ments of the law of the State of Colorado in order

1 to obtain and hold any new water rights with respect
2 to the Wilderness Area.

3 (3) STATUTORY CONSTRUCTION.—Nothing in
4 this Act shall—

5 (A) constitute or be construed to constitute
6 either an express or implied reservation of any
7 water or water rights with respect to the lands
8 designated as wilderness by this Act;

9 (B) affect any conditional or absolute
10 water rights in the State of Colorado existing
11 on the date of the enactment of this Act; or

12 (C) be construed as limiting, altering,
13 modifying, or amending any of the interstate
14 compacts or equitable apportionment decrees
15 that apportion water among and between the
16 State of Colorado and other States.

17 (4) NEW PROJECTS.—

18 (A) As used in this paragraph, the term
19 “water resource facility” means irrigation and
20 pumping facilities, reservoirs, water conserva-
21 tion works, aqueducts, canals, ditches, pipelines,
22 wells, hydropower projects, and transmission
23 and other ancillary facilities, and other water
24 diversion, storage, and carriage structures.
25 Such term does not include any such facilities

1 related to or used for the purpose of raising
2 crops or livestock grazing.

3 (B) Except as otherwise provided in this
4 Act, on and after the date of the enactment of
5 this Act, neither the President nor any other of-
6 ficer, employee, or agent of the United States
7 shall fund, assist, authorize, or issue a license
8 or permit for the development of any new water
9 resource facility within the wilderness area des-
10 ignated by this Act.

11 (C) Except as provided in this paragraph,
12 nothing in this Act shall be construed to affect
13 or limit the use, operation, maintenance, repair,
14 modification, or replacement of or access to
15 water resource facilities in existence on the date
16 of the enactment of this Act within the bound-
17 aries of the Wilderness.

18 **SEC. 6. MAPS AND LEGAL DESCRIPTIONS.**

19 (a) **IN GENERAL.**—As soon as practicable after the
20 date of the enactment of this Act, the Secretary shall sub-
21 mit to Congress a copy of the Map and a legal description
22 of the Wilderness Area.

23 (b) **FORCE AND EFFECT.**—The Map and legal de-
24 scriptions shall have the same force and effect as if in-
25 cluded in this Act, except that the Secretary may correct

1 clerical and typographical errors in the Map and the legal
2 descriptions.

3 (c) PUBLIC AVAILABILITY.—Copies of the Map and
4 the legal descriptions shall be on file and available for pub-
5 lic inspection in—

6 (1) the Office of the Director of the Bureau of
7 Land Management;

8 (2) the Office of the Chief of the Forest Serv-
9 ice;

10 (3) the District Office of the Bureau of Land
11 Management in Colorado; and

12 (4) the Office of the Regional Forester of the
13 Forest Service in Colorado, and of the White River
14 National Forest, Forest Ranger Office in Glenwood
15 Springs, Colorado.

16 (d) MAP CONTROLLING.—In the case of a discrep-
17 ancy between the Map and the descriptions, the Map shall
18 control.

19 **SEC. 7. PUBLIC ACCESS.**

20 The Secretary shall continue to allow private land-
21 owners reasonable access to inholdings in the Wilderness
22 Area.

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