

Committee on Resources

Witness Testimony

Testimony on HR 1739 and HR 2149
U.S. REPRESENTATIVE JAMES L. OBERSTAR (D-MN)
Before the
House of Representatives
Subcommittee on Forests and Forest Health
September 9, 1997

"TheBWCAWAccessibility and Fairness Act of1997"

Madam Chairwomen and members of the Subcommittee, I appreciate this opportunity to testify, and I want to thank Senator Rod Grams for his bipartisan support in drafting the Senate version of "The BWCAW Accessibility and Faimess Act of 1997". I am pleased to have introduced this fair and balanced proposal.

The BWCAW Accessibility and Faimess Act of 1997 does two things: first, it clarifies the intent of the 1978 legislation regarding motorized use of three portages and secondly, this legislation will rectify one of the many anomalies to the boundary of Seagull lake, a peripheral lake of the BWCAW.

I am very familiar with the management of the BWCAW through my 34 years of service to the Eighth District of Minnesota; first, as Administrative Assistant to my predecessor John Blatnik, and today as the Congressional Representative serving Northeastern Minnesota. No other issue in my years of service has been so controversial and divided as the management of the BWCAW. What has remained a constant in this debate is the passion and pride those who live in Northeastern Minnesota feel for this land and its future existence for their children.

It is time to dispense with rhetoric and scare tactics by public relations firms and lobbying groups. What we are talking about today is fairness and commitments. In 1964, Senator Hubert Humphrey included the BWCAW in the Wilderness Act with a specific provision stating that "without unnecessary restrictions on other uses, including that of timber, the primitive character of the area, particularly in the vicinity of lakes, streams, and portages; provided that nothing in this Act shall preclude the continence within the area of any already established use of motor boats." This section, affirmed by the 1978 legislation (P.L. 95-495), made it clear that well-established uses would continue.

This debate is not about increasing use; it is about who should be able to access the BWCAW and how it is accessed. The reasonable answer to this question is that everyone should be able to access the splendor of the Boundary Waters region.

The BWCAW Accessibility and Fairness Act of 1997 strikes a compromise of uses while safeguarding the unique multiple-use wilderness nature of this over one-million acre treasure. In the final discussion on the BWCAW management in 1978, the question of motorized-use on three portages was debated. The final agreement was to allow motorized transport to continue unless the Secretary of Agriculture determined there to be no feasible non-motorized alternative of transporting boats and gear across the portages.

After exhaustive study by the University of Minnesota researchers and the United States Forest Service, it was determined that no feasible alternative existed. This fulfilled the mandate of section 4(G) of P.L 95-495 and the portages were to remain open. However, that was not the end of the portage question. The very groups involved in writing the 1978 agreement challenged the Secretary's determination through the courts and were successful in drawing an unusual and extraordinarily narrow definition of the term *feasible*. The portages were subsequently closed in 1992.

I believe, this judicial interpretation of the term feasible was wrong; the BWCAW Accessibility and Fairness Act will restore common sense to the management for the areas in question and will reestablish a fundamental principle of the 1978 agreement.

Our legislation would also correct the boundary adjustment to Seagull Lake on the periphery of the eastern section of the BWCAW. Seagull Lake lies half in and half out of the BWCAW. The lake presently has two sets of regulations: inside the BWCAW, motor-use is limited to 10 horse-power motors and the portion outside of the BWCAW is unregulated. In 1999, a three-tier set of regulations will be implemented. Motorboats will continue to be unregulated outside the BWCAW and will be limited to 10 horsepower motors inside the BWCAW east of Three Mile Island, while being eliminated on the western portion of the lake. This situation will create confusion for both recreational boaters, including the numerous homeowners and users, and for the Forest Service, which must enforce the boundaries.

Madam Chairwomen, the BWCAW Accessibility and Fairness Act of 1997 provides minor adjustments that will address some of the many controversies and inconsistencies surrounding the BWCAW management. Everyone agrees that this area should be preserved and protected. Our legislation will restore some common-sense and fairness.

Thank you for your consideration of my bill here today.

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