

Subcommittee on Federal Lands

Tom McClintock, Chairman
Hearing Memorandum

June 18, 2018

To: All Subcommittee on Federal Lands Members

From: Majority Committee Staff—Leah Baker
Subcommittee on Federal Lands (x66849)

Hearing: Legislative hearing on **H.R. 5149 (Rep. Greg Gianforte)**, To provide that certain wilderness study areas in Montana have been adequately studied for wilderness designation.
June 21, 2018, 10:00 AM; 1324 Longworth House Office Building

H.R. 5149, *Unlocking Public Lands Act*

Summary of the Bill

H.R. 5149, introduced by Representative Greg Gianforte (R-MT-At Large), provides that certain wilderness study areas managed by the Bureau of Land Management (BLM) in Montana have been adequately studied for wilderness designation and releases those lands that the BLM determined to be unsuitable for inclusion in the National Wilderness Preservation System back into multiple use.

Cosponsors

None.

Witnesses

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

The Honorable Greg Chilcott
County Commissioner
Ravalli County, Montana
Hamilton, Montana

Mr. Brian Steed
Deputy Director
Policy and Programs
Bureau of Land Management
U.S. Department of the Interior
Washington, DC

Ms. Tracy Stone-Manning
Associate Vice President for Public Lands
National Wildlife Federation
Missoula, Montana

Background

Montana has 42 wilderness study areas (WSA), 35 of which are managed by BLM,¹ with the remaining seven managed by the Forest Service.² H.R. 5149 releases nearly 360,000 acres of BLM-managed WSAs divided among 23 WSAs.

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

Generally, the Wilderness Act prohibits commercial activities, motorized uses, and the building of roads, structures and facilities within wilderness areas. Wilderness designations have been criticized for being overly restrictive, limiting public access, hindering some recreation opportunities and preventing adequate vegetation management, particularly to control noxious weeds and for making landscapes more fire resilient. In general, even though they have not been designated by Congress as part of the National Wilderness Preservation System, lands identified as WSAs are managed as if they were wilderness (sometimes referred to as "de facto wilderness").

The inventory and suitability recommendation required by the Wilderness Act was extended to public lands managed by the BLM in 1976 by the Federal Land Policy and Management Act (FLPMA, 43 U.S.C. 1701 et seq.). Specifically, FLPMA required that BLM review within 15 years all roadless tracts of public lands greater than 5,000 acres and make wilderness suitability recommendations to the President. FLPMA further required that any lands included in the wilderness study also receive a survey of the lands' mineral values. Finally,

¹Bureau of Land Management, https://www.blm.gov/sites/blm.gov/files/uploads/WSAs_Q4_2016.pdf, last visited on June 15, 2018.

²Forest Service, https://data.fs.usda.gov/geodata/other_fs/wilderness/stateMap.php?stateID=MT, last visited on June 15, 2018.

³16 U.S.C. 1131.

⁴Ibid.

FLPMA required that until Congress acts and subject to valid existing rights, BLM must manage these areas of wilderness study “in a manner so as to not impair the suitability of such areas for preservation as wilderness.”⁵ This has led to a regime of de facto wilderness management in these areas that Congress has not designated and for which removal requires Congressional action.

In the late 1970s and early 1980s, BLM conducted wilderness inventories in Montana and identified 36 wilderness study areas (WSA). In 1991, it issued a wilderness suitability recommendation report, which was subsequently approved by the Secretary of the Interior. As part of its suitability recommendations, BLM prepared Environmental Impact Statements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and solicited public comment on the WSAs. In its report, BLM recommended approximately 170,000 acres within 15 of the WSAs be designated as part of the National Wilderness Preservation System and approximately 270,000 acres within 30 WSAs be released for uses other than wilderness.⁶ Though the National Defense Authorization Act of 2015 released two of the BLM-managed WSAs (the 8,300-acre Zook Creek and 5,600-acre Buffalo Creek WSAs)⁷, no additional Congressional action has been taken to permanently resolve the WSA status.

H.R. 5149 would release those acres determined to be unsuitable for designation as wilderness by BLM within 24 WSAs. If enacted, this bill would free up nearly 360,000 acres for broader multiple use, potentially ensuring a better diversity of access to public lands with important recreational values. Removing these lands from wilderness study use restrictions would also make them easier to manage for fire preparedness as a larger suite of fuel load management tools could be available.

Congressman Gianforte has also introduced a similar bill, H.R. 5148, that would release almost 500,000 acres within five WSAs on lands managed by the Forest Service.⁸

Cost

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

Administration Position

Unknown.

Major Provisions/Section-by-Section Analysis of H.R. 5149

Section 2. Release of Certain Wilderness Study Areas. Releases the following areas from

⁵ 43 U.S.C 1782.

⁶ Bureau of Land Management, BLM-MT-PT-91-003-4332, Montana Statewide Wilderness Study Report, Volume I Statewide Overview (1991).

⁷ Public Law 113-291, Section 3065(i).

⁸ This bill has a Senate counterpart, S. 2206.

WSA status, including the requirement that they be managed as “in a manner so as to not impair the suitability of such areas for preservation as wilderness:”⁹

WSA Unit Name	Unit Size (acres)	WSA Unit Name	Unit Size (acres)
Axolotl Lakes	7,804	Ervin Ridge	10,200
Antelope Creek	12,350	Henneberry Ridge	9,806
Bell/Limekiln	9,650	Hidden Pasture	15,509
Billy Creek	3,450	Hoodoo Mountain	11,380
Bitter Creek	59,660	Ruby Mountains	26,611
Black Sage	5,296	Seven Blackfoot	20,330
Blacktail Mountains	17,479	Stafford	4,800
Bridge Coulee	5,900	Terry Badlands	44,910
Centennial Mountains	27,691	Twin Coulee	6,870
Cow Creek	34,050	Wales Creek	11,580
Dog Creek South	5,150	Woodhawk	8,100
East Fork Blacktail Deer Creek	6,230	Farlin Creek	529

Effect on Current Law (Ramseyer)

None.

⁹43 U.S.C 1782.