

## Testimony Presented to the Forests and Forest Health Subcommittee

## Committee on Resources

## On H.R. 2963

## Proposed Deep Creek Wilderness Act

## Presented by

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On behalf of the Colorado Wilderness Network

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Thank you, Mr. Chairman and members of the Subcommittee, for this opportunity to discuss well-deserved wilderness protection for the Deep Creek area near my home in Glenwood Springs, Colorado.

My name is Steve Smith, and I am Associate Southwest Regional Representative for the Sierra Club in Colorado. I am speaking today on behalf of my organization and the other members of the Colorado Wilderness Network, a coalition of 300 environmental groups, businesses, and local governments who support additional wilderness designations, including Deep Creek, in our state.

The Steering Committee for the Colorado Wilderness Network is composed of representatives from Colorado Environmental Coalition, Colorado Mountain Club, Sierra Club, The Wilderness Society, and Western Colorado Congress.

We appreciate the Chairman's introduction of legislation that would protect the remarkable beauty, distinctive geography, and remote ruggedness of this true wilderness. His personal familiarity with the area and his appreciation for its beauty are key to helping other Members of Congress understand the significance of the place and how overwhelmingly suitable it is for addition to the National Wilderness Preservation System.

I have enjoyed a career of twenty-six years in environmental policy and advocacy, including twelve years of service as Senior Congressional Assistant to Congressman David Skaggs of Colorado. During that time, I enjoyed working with Congressman McInnis and his staff on field research, citizen negotiations, and legislative drafting that resulted in wilderness designations for many spectacular parts of Colorado. The most recent success that came from that time was celebrated just over two weeks ago when the Chairman dedicated the new Spanish Peaks Wilderness in southern Colorado.

We are now anticipating House action on another measure that will protect much of the James Peak roadless area, along the Continental Divide, as wilderness, another measure that the Chairman helped make possible.

I mention these efforts and these particular areas because they represent many months of discussions, negotiations, and compromise, facilitated by Congressman McInnis, in efforts to provide the best possible

protection for important wildlands while attending to legitimate interests of nearby citizens and users of public lands.

I believe that this same spirit of negotiation and patient legislative creativity can produce good wilderness legislation for Deep Creek. I offer for the subcommittee's consideration several points that need particular attention in such negotiations. They include wilderness area size and boundaries, protection for natural water flows in wilderness, clarification of motorized use near the area, and a collection of technical clarifications.

The first question of concern to us is the size and scope of a wilderness designation for Deep Creek. Over the past nearly three decades of citizen research and recommendations, our organizations have found that including the largest expanse and variety of landscape possible in a wilderness area is important to preserving the more obvious natural features of the area.

In the case of Deep Creek, the deep gorge and cascading stream are the most immediately apparent highlights and attractions of the proposed wilderness, and preservation of that gorge certainly is paramount, as the Chairman has often pointed out. There are other lands, and streams that cross them, that both help protect those salient features and complete a truly comprehensive example of wild lands protection.

The uplands north and south of the canyon rim through the area's midsection, as well as rolling meadows and ledges farther upstream to the west also need to be included in this wilderness because they are integral to its ecological health and, in the case of the portions upstream of the gorge, do not include an obvious canyon rim to serve as their boundaries.

The Colorado Wilderness Network has proposed a wilderness designation for Deep Creek comprising 22,000 acres. This proposal includes the variety of landscape I have mentioned, and it is bounded by easy to locate natural and human-built features. By bounding the area by Coffee Pot Road to the south and a national forest access road to the north, the wilderness is readily defined on the ground.

Our proposal specifically leaves out of wilderness roads that are actively used for motorized travel, including the boundary roads and several spur routes that lead to canyon overlooks and camping sites. It also leaves out of wilderness, and so open to ready access, existing water diversion structures and routes that lead to them.

In recent weeks, our staff and volunteers have met with owners of private property adjoining the Deep Creek area, with motorized recreationalists, and with backcountry outfitters permitted to work in and near the area, as well as biologists who understand the dynamics of the greater Deep Creek ecosystem. As a result, we have learned of several opportunities to modify our proposed boundaries in order to accommodate uses incompatible with wilderness while still designating key parts of the uplands and upstream meadows. We have, in turn, secured support from these owners and users for our modified proposal.

In any case, we believe that the size of a Deep Creek wilderness described in H.R. 2963 is inadequate to properly protect the area, even for a so-called rim-to-rim designation. The area needs to be larger to properly protect the wilderness resource and to afford functional boundaries.

We will be very pleased to work with the Chairman and other members of the subcommittee, and their staffs, to review the details of these field investigations and conversations in order to craft a wilderness boundary mutually acceptable to all involved.

Water and water rights are always sensitive topics in Colorado, no more so than in the context of wilderness designations. In Deep Creek, we again encounter the sensitive and contentious discussion of water. As in the instance of boundaries, we believe that there is a version of water rights language that can be negotiated for this legislation in order to assure reliable protection for the lifeblood of this new wilderness while assuring continued beneficial use of water.

We believe, specifically, that the express denial of water rights protection for the wilderness, as included in Section 5(j)(3)(A) of H.R. 2963 as introduced, does not accomplish that dual goal, and we will oppose such a denial.

Some other particulars of the water language included in the bill warrant discussion. In two locations, the "Findings" section of the bill refers to water rights or facilities that are "adjacent" to the proposed wilderness. That is not a term familiar to us, as we tend to look at points of diversion and their attendant facilities as either within, upstream of, or downstream of an area. Language protecting continued exercise of legitimate water rights on Deep Creek or its tributaries is certainly appropriate in wilderness legislation. References to water rights or facilities that are in separate watersheds are not appropriate or are, at best, confusing.

As another portion of the bill's "Findings" notes, it is possible to provide for reasonable development of existing conditional water rights outside the wilderness while protecting the wilderness. That view should be more specifically represented in the implementation sections of the legislation.

In Section 5(j)(4)(B), although essentially a restatement of provisions already included in the Wilderness Act, is, in our view, a helpful assurance that new structures will not be built in the wilderness.

We appreciate the Chairman's decision to consider this area individually for wilderness designation, thus allowing legislation to be crafted in response to the physical and human use characteristics unique to the area. This custom crafting is particularly important on the question of water in proposed mid-stream wilderness areas.

However, the use in any one bill of inadequate or arbitrary water language, such as the express denial of wilderness water protection, makes more difficult negotiation of good water provisions in other bills.

Colorado is blessed with a remarkable brain trust of water experts, legal, hydrological, and environmental. Engaging the skills and wisdom available in discussion of Deep Creek can provide a creative, and more effective, approach to water protection and management there. We enjoy, for example, a good working relationship with the staff and board members of the Colorado River Water Conservation District. We will be very pleased, with your permission and encouragement, to engage in further discussions with them in pursuit of comprehensive and protective water language that we might jointly present to you and the subcommittee.

The bill includes in Section 5(c)(2) reference to training exercises by the Colorado Army (Air) National Guard, a contingent of which is based at the Eagle County Airport, near Deep Creek, and to a memorandum of understanding between the National Guard and the U.S. Forest Service for activities over and near Deep Creek.

Our coalition understands the need to maintain a well-equipped and well-trained citizen military, and we support reasonable use of public lands for military exercises. Since a wilderness designation, in itself, does

not restrict overflights of any type, including military flights, this provision appears to be unnecessary and could be left out of the legislation.

At the same time, a wilderness designation must recognize, and preserve, this area as a place without the structures or the motorized activities of any human endeavor, except in the case of utmost and short term emergency, as already provided in the Wilderness Act and in agency regulations on wilderness management

Specifically, military or other airborne activities over the Deep Creek area must include no landings inside the designated wilderness or other motorized travel across the land itself. We believe that other narrow, steep canyons nearby, areas also included in the memorandum of understanding, can provide similarly challenging training opportunities.

Several other points, each essentially a question of legislative drafting or clarification include the bill's references to management under the Federal Land Planning and Management Act, reference to ability to "enhance" wilderness values, and reference to provision of new rights-of-way across wilderness. In general, we will seek clarification that none of these provisions diminishes the basic protections found in the Wilderness Act.

Again, it a pleasure to be engaged in this effort to secure the recognition and protection of the outstanding natural wonder that is Deep Creek. Our enthusiasm for this effort is enhanced by the fact that our own Congressman, Chairman of this key subcommittee, has decided to lead this effort.

In these days of fear and necessary courage in the face of some abominable human behavior, the solace of wilderness, even the knowledge that it is out there, preserved, is a key part of our personal and national well being. Places like Deep Creek are the essentials of America the Beautiful, a land that justifiably increases our pride and our collective will to make the world a better, safer place.

As naturalist and guide Sigurd Olsen said some fifty years ago, "Wilderness to the people of America is a spiritual necessity, an antidote to the high pressure of modern life, a means of regaining serenity an equilibrium."

Perhaps more than at any other time, that observation is relevant and true.

Thank you again, Mr. Chairman and members of the subcommittee, for joining in this good work on behalf of American wilderness.

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