

# **Committee on Resources,**

## **Subcommittee on Forests & Forest Health**

[forests](#) - - Rep. Scott McInnis, Chairman

U.S. House of Representatives, Washington, D.C. 20515-6205 - - (202) 225-0691

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### **Witness Statement**

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#### **COMMITTEE ON RESOURCES SUBCOMMITTEE ON FORESTS AND FOREST HEALTH Statement of REPRESENTATIVE MARK UDALL**

**on**

#### **H.R. 1576, James Peak Wilderness, Protection Area, and Wilderness Study Area Act July 26, 2001**

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.

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