

H.R.146

***One Hundred Eleventh Congress  
of the  
United States of America  
AT THE FIRST SESSION***

Begun and held at the City of Washington on Tuesday,

the sixth day of January, two thousand and nine

An Act

To designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

.....  
**TITLE II--BUREAU OF LAND MANAGEMENT AUTHORIZATIONS**

.....

**Subtitle E--Dominguez-Escalante National Conservation Area**

SEC. 2401. DEFINITIONS.

In this subtitle:

- (1) CONSERVATION AREA- The term 'Conservation Area' means the Dominguez-Escalante National Conservation Area established by section 2402(a)(1).
- (2) COUNCIL- The term 'Council' means the Dominguez-Escalante National Conservation Area Advisory Council established under section 2407.
- (3) MANAGEMENT PLAN- The term 'management plan' means the management plan developed under section 2406.
- (4) MAP- The term 'Map' means the map entitled 'Dominguez-Escalante National Conservation Area' and dated September 15, 2008.
- (5) SECRETARY- The term 'Secretary' means the Secretary of the Interior.

(6) STATE- The term `State' means the State of Colorado.

(7) WILDERNESS- The term `Wilderness' means the Dominguez Canyon Wilderness Area designated by section 2403(a).

## SEC. 2402. DOMINGUEZ-ESCALANTE NATIONAL CONSERVATION AREA.

### (a) Establishment-

(1) IN GENERAL- There is established the Dominguez-Escalante National Conservation Area in the State.

(2) AREA INCLUDED- The Conservation Area shall consist of approximately 209,610 acres of public land, as generally depicted on the Map.

(b) **Purposes- The purposes of the Conservation Area are to conserve and protect for the benefit and enjoyment of present and future generations--**

**(1) the unique and important resources and values of the land, including the geological, cultural, archaeological, paleontological, natural, scientific, recreational, wilderness, wildlife, riparian, historical, educational, and scenic resources of the public land; and**

**(2) the water resources of area streams, based on seasonally available flows, that are necessary to support aquatic, riparian, and terrestrial species and communities.**

### (c) Management-

(1) IN GENERAL- The Secretary shall manage the Conservation Area--

(A) as a component of the National Landscape Conservation System;

(B) in a manner that conserves, protects, and enhances the resources and values of the Conservation Area described in subsection (b); and

(C) in accordance with--

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this subtitle; and

(iii) any other applicable laws.

(2) USES-

(A) IN GENERAL- The Secretary shall allow only such uses of the Conservation Area as the Secretary determines would further the purposes for which the Conservation Area is established.

(B) USE OF MOTORIZED VEHICLES-

(i) IN GENERAL- Except as provided in clauses (ii) and (iii), use of motorized vehicles in the Conservation Area shall be allowed--

(I) before the effective date of the management plan, only on roads and trails designated for use of motor vehicles in the management plan that applies on the date of the enactment of this Act to the public land in the Conservation Area; and

(II) after the effective date of the management plan, only on roads and trails designated in the management plan for the use of motor vehicles.

(ii) ADMINISTRATIVE AND EMERGENCY RESPONSE USE- Clause (i) shall not limit the use of motor vehicles in the Conservation Area for administrative purposes or to respond to an emergency.

(iii) LIMITATION- This subparagraph shall not apply to the Wilderness.

SEC. 2403. DOMINGUEZ CANYON WILDERNESS AREA.

(a) In General- In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 66,280 acres of public land in Mesa, Montrose, and Delta Counties, Colorado, as generally depicted on the Map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the 'Dominguez Canyon Wilderness Area'.

(b) Administration of Wilderness- The Wilderness shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this subtitle, except that--

(1) any reference in the Wilderness Act to the effective date of that Act

shall be considered to be a reference to the date of enactment of this Act; and

- (2) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

#### SEC. 2404. MAPS AND LEGAL DESCRIPTIONS.

- (a) In General- As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the Conservation Area and the Wilderness with--
  - (1) the Committee on Energy and Natural Resources of the Senate; and
  - (2) the Committee on Natural Resources of the House of Representatives.
- (b) Force and Effect- The Map and legal descriptions filed under subsection (a) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct clerical and typographical errors in the Map and legal descriptions.
- (c) Public Availability- The Map and legal descriptions filed under subsection (a) shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

#### SEC. 2405. MANAGEMENT OF CONSERVATION AREA AND WILDERNESS.

- (a) Withdrawal- Subject to valid existing rights, all Federal land within the Conservation Area and the Wilderness and all land and interests in land acquired by the United States within the Conservation Area or the Wilderness is withdrawn from--
  - (1) all forms of entry, appropriation, or disposal under the public land laws;
  - (2) location, entry, and patent under the mining laws; and
  - (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.
- (b) Grazing-
  - (1) GRAZING IN CONSERVATION AREA- Except as provided in paragraph (2), the Secretary shall issue and administer any grazing leases or permits in the Conservation Area in accordance with the laws (including regulations) applicable to the issuance and administration of such leases and permits on other land under the jurisdiction of the

Bureau of Land Management.

(2) **GRAZING IN WILDERNESS-** The grazing of livestock in the Wilderness, if established as of the date of enactment of this Act, shall be permitted to continue--

(A) subject to any reasonable regulations, policies, and practices that the Secretary determines to be necessary; and

(B) in accordance with--

(i) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(ii) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(c) **No Buffer Zones-**

(1) **IN GENERAL-** Nothing in this subtitle creates a protective perimeter or buffer zone around the Conservation Area.

(2) **ACTIVITIES OUTSIDE CONSERVATION AREA-** The fact that an activity or use on land outside the Conservation Area can be seen or heard within the Conservation Area shall not preclude the activity or use outside the boundary of the Conservation Area.

(d) **Acquisition of Land-**

(1) **IN GENERAL-** The Secretary may acquire non-Federal land within the boundaries of the Conservation Area or the Wilderness only through exchange, donation, or purchase from a willing seller.

(2) **MANAGEMENT-** Land acquired under paragraph (1) shall--

(A) become part of the Conservation Area and, if applicable, the Wilderness; and

(B) be managed in accordance with this subtitle and any other applicable laws.

(e) **Fire, Insects, and Diseases-** Subject to such terms and conditions as the Secretary determines to be desirable and appropriate, the Secretary may undertake such measures as are necessary to control fire, insects, and diseases--

- (1) in the Wilderness, in accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)); and
- (2) except as provided in paragraph (1), in the Conservation Area in accordance with this subtitle and any other applicable laws.
- (f) Access- The Secretary shall continue to provide private landowners adequate access to inholdings in the Conservation Area.
- (g) Invasive Species and Noxious Weeds- In accordance with any applicable laws and subject to such terms and conditions as the Secretary determines to be desirable and appropriate, the Secretary may prescribe measures to control nonnative invasive plants and noxious weeds within the Conservation Area.

**(h) Water Rights-**

**(1) EFFECT- Nothing in this subtitle--**

- (A) affects the use or allocation, in existence on the date of enactment of this Act, of any water, water right, or interest in water;**
- (B) affects any vested absolute or decreed conditional water right in existence on the date of enactment of this Act, including any water right held by the United States;**
- (C) affects any interstate water compact in existence on the date of enactment of this Act;**
- (D) authorizes or imposes any new reserved Federal water rights; or**
- (E) shall be considered to be a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State on or before the date of enactment of this Act.**

**(2) WILDERNESS WATER RIGHTS-**

- (A) IN GENERAL- The Secretary shall ensure that any water rights within the Wilderness required to fulfill the purposes of the Wilderness are secured in accordance with subparagraphs (B) through (G).**

**(B) STATE LAW-**

**(i) PROCEDURAL REQUIREMENTS-** Any water rights within the Wilderness for which the Secretary pursues adjudication shall be adjudicated, changed, and administered in accordance with the procedural requirements and priority system of State law.

**(ii) ESTABLISHMENT OF WATER RIGHTS-**

**(I) IN GENERAL-** Except as provided in subclause (II), the purposes and other substantive characteristics of the water rights pursued under this paragraph shall be established in accordance with State law.

**(II) EXCEPTION-** Notwithstanding subclause (I) and in accordance with this subtitle, the Secretary may appropriate and seek adjudication of water rights to maintain surface water levels and stream flows on and across the Wilderness to fulfill the purposes of the Wilderness.

**(C) DEADLINE-** The Secretary shall promptly, but not earlier than January 2009, appropriate the water rights required to fulfill the purposes of the Wilderness.

**(D) REQUIRED DETERMINATION-** The Secretary shall not pursue adjudication for any instream flow water rights unless the Secretary makes a determination pursuant to subparagraph (E)(ii) or (F).

**(E) COOPERATIVE ENFORCEMENT-**

**(i) IN GENERAL-** The Secretary shall not pursue adjudication of any Federal instream flow water rights established under this paragraph if--

**(I)** the Secretary determines, upon adjudication of the water rights by the Colorado Water Conservation Board, that the Board holds water rights sufficient in priority, amount, and timing

to fulfill the purposes of the Wilderness;  
and

**(II) the Secretary has entered into a perpetual agreement with the Colorado Water Conservation Board to ensure the full exercise, protection, and enforcement of the State water rights within the Wilderness to reliably fulfill the purposes of the Wilderness.**

**(ii) ADJUDICATION-** If the Secretary determines that the provisions of clause (i) have not been met, the Secretary shall adjudicate and exercise any Federal water rights required to fulfill the purposes of the Wilderness in accordance with this paragraph.

**(F) INSUFFICIENT WATER RIGHTS-** If the Colorado Water Conservation Board modifies the instream flow water rights obtained under subparagraph (E) to such a degree that the Secretary determines that water rights held by the State are insufficient to fulfill the purposes of the Wilderness, the Secretary shall adjudicate and exercise Federal water rights required to fulfill the purposes of the Wilderness in accordance with subparagraph (B).

**(G) FAILURE TO COMPLY-** The Secretary shall promptly act to exercise and enforce the water rights described in subparagraph (E) if the Secretary determines that--

**(i) the State is not exercising its water rights consistent with subparagraph (E)(i)(I); or**

**(ii) the agreement described in subparagraph (E)(i)(II) is not fulfilled or complied with sufficiently to fulfill the purposes of the Wilderness.**

**(3) WATER RESOURCE FACILITY-**

**(A) IN GENERAL-** Notwithstanding any other provision of law and subject to subparagraph (B), beginning on the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit



for the development of any new irrigation and pumping facility, reservoir, water conservation work, aqueduct, canal, ditch, pipeline, well, hydropower project, transmission, other ancillary facility, or other water, diversion, storage, or carriage structure in the Wilderness.

(B) EXCEPTION- Notwithstanding subparagraph (A), the Secretary may allow construction of new livestock watering facilities within the Wilderness in accordance with--

(i) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(ii) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(4) CONSERVATION AREA WATER RIGHTS- With respect to water within the Conservation Area, nothing in this subtitle--

(A) authorizes any Federal agency to appropriate or otherwise acquire any water right on the mainstem of the Gunnison River; or

(B) prevents the State from appropriating or acquiring, or requires the State to appropriate or acquire, an instream flow water right on the mainstem of the Gunnison River.

(5) WILDERNESS BOUNDARIES ALONG GUNNISON RIVER-

(A) IN GENERAL- In areas in which the Gunnison River is used as a reference for defining the boundary of the Wilderness, the boundary shall--

(i) be located at the edge of the river; and

(ii) change according to the river level.

(B) EXCLUSION FROM WILDERNESS- Regardless of the level of the Gunnison River, no portion of the Gunnison River is included in the Wilderness.

(i) Effect- Nothing in this subtitle--

(1) diminishes the jurisdiction of the State with respect to fish and wildlife

in the State; or

- (2) imposes any Federal water quality standard upstream of the Conservation Area or within the mainstem of the Gunnison River that is more restrictive than would be applicable had the Conservation Area not been established.
- (j) Valid Existing Rights- The designation of the Conservation Area and Wilderness is subject to valid rights in existence on the date of enactment of this Act.

#### SEC. 2406. MANAGEMENT PLAN.

- (a) In General- Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a comprehensive management plan for the long-term protection and management of the Conservation Area.
- (b) Purposes- The management plan shall--
  - (1) describe the appropriate uses and management of the Conservation Area;
  - (2) be developed with extensive public input;
  - (3) take into consideration any information developed in studies of the land within the Conservation Area; and
  - (4) include a comprehensive travel management plan.

#### SEC. 2407. ADVISORY COUNCIL.

- (a) Establishment- Not later than 180 days after the date of enactment of this Act, the Secretary shall establish an advisory council, to be known as the 'Dominguez-Escalante National Conservation Area Advisory Council'.
- (b) Duties- The Council shall advise the Secretary with respect to the preparation and implementation of the management plan.
- (c) Applicable Law- The Council shall be subject to--
  - (1) the Federal Advisory Committee Act (5 U.S.C. App.); and
  - (2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
- (d) Members- The Council shall include 10 members to be appointed by the

Secretary, of whom, to the extent practicable--

- (1) 1 member shall be appointed after considering the recommendations of the Mesa County Commission;
  - (2) 1 member shall be appointed after considering the recommendations of the Montrose County Commission;
  - (3) 1 member shall be appointed after considering the recommendations of the Delta County Commission;
  - (4) 1 member shall be appointed after considering the recommendations of the permittees holding grazing allotments within the Conservation Area or the Wilderness; and
  - (5) 5 members shall reside in, or within reasonable proximity to, Mesa County, Delta County, or Montrose County, Colorado, with backgrounds that reflect--
    - (A) the purposes for which the Conservation Area or Wilderness was established; and
    - (B) the interests of the stakeholders that are affected by the planning and management of the Conservation Area and Wilderness.
- (e) Representation- The Secretary shall ensure that the membership of the Council is fairly balanced in terms of the points of view represented and the functions to be performed by the Council.
- (f) Duration- The Council shall terminate on the date that is 1 year from the date on which the management plan is adopted by the Secretary.

#### SEC. 2408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.



## **WILDERNESS ACT**

**Public Law 88-577 (16 U.S. C. 1131-1136)  
88<sup>th</sup> Congress, Second Session  
September 3, 1964**

### **AN ACT**

**To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

### **Short Title**

**Section 1.** This Act may be cited as the "Wilderness Act."

### **WILDERNESS SYSTEM ESTABLISHED STATEMENT OF POLICY**

**Section 2. (a)** In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as "wilderness areas", and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no Federal lands shall be designated as "wilderness areas" except as provided for in this Act or by a subsequent Act.

**(b)** The inclusion of an area in the National Wilderness Preservation System notwithstanding, the area shall continue to be managed by the Department and agency having jurisdiction thereover immediately before its inclusion in the National Wilderness Preservation System unless otherwise provided by Act of Congress. No appropriation shall be available for the payment of expenses or salaries for the administration of the National Wilderness Preservation System as a separate unit nor shall any appropriations be available for additional personnel stated as being required solely for the purpose of managing or administering areas solely because they are included within the National Wilderness Preservation System.

### **DEFINITION OF WILDERNESS**

**(c)** A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

### **NATIONAL WILDERNESS PRESERVATION SYSTEM - EXTENT OF SYSTEM**

**Section 3. (a)** All areas within the national forests classified at least 30 days before September 3, 1964 by the Secretary of Agriculture or the Chief of the Forest Service as "wilderness", "wild", or "canoe" are hereby designated as wilderness areas. The Secretary of Agriculture shall -

(1) Within one year after September 3, 1964, file a map and legal description of each wilderness area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such descriptions shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in such legal descriptions and maps may be made.

(2) Maintain, available to the public, records pertaining to said wilderness areas, including maps and legal descriptions, copies of regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications. Maps, legal descriptions, and regulations pertaining to wilderness areas within their respective jurisdictions also shall be available to the public in the offices of regional foresters, national forest supervisors, and forest rangers.

**Classification. (b)** The Secretary of Agriculture shall, within ten years after September 3, 1964, review, as to its suitability or unsuitability for preservation as wilderness, each area in the national forests classified on September 3, 1964 by the Secretary of Agriculture or the Chief of the Forest Service as "primitive" and report his findings to the President.

**Presidential recommendation to Congress.** The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation as "wilderness" or other reclassification of each area on which review has been completed, together with maps and a definition of boundaries. Such advice shall be given with respect to not less than one-third of all the areas now classified as "primitive" within three years after September 3, 1964, not less than two-thirds within seven years after September 3, 1964, and the remaining areas within ten years after September 3, 1964.

**Congressional approval.** Each recommendation of the President for designation as "wilderness" shall become effective only if so provided by an Act of Congress. Areas classified as "primitive" on September 3, 1964 shall continue to be administered under the rules and regulations affecting such areas on September 3, 1964 until Congress has determined otherwise. Any such area may be increased in size by the President at the time he submits his recommendations to the Congress by not more than five thousand acres with no more than one thousand two hundred and eighty acres of such increase in any one compact unit; if it is proposed to increase the size of any such area by more than five thousand acres or by more than one thousand two hundred and eighty acres in any one compact unit the increase in size shall not become effective until acted upon by Congress. Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of primitive areas or recommending the addition of any contiguous area of national forest lands predominantly of wilderness value. Notwithstanding any other provisions of this Act, the Secretary of Agriculture may complete his review and delete such area as may be necessary, but not to exceed seven thousand acres, from the southern tip of the Gore Range-Eagles Nest Primitive Area, Colorado, if the Secretary determines that such action is in the public interest.

**Report to President. (c)** Within ten years after September 3, 1964 the Secretary of the Interior shall review every roadless area of five thousand contiguous acres or more in the national parks, monuments and other units of the national park system and every such area of, and every roadless island within the national wildlife refuges and game ranges, under his jurisdiction on September 3, 1964 and shall report to the President his recommendation as to the suitability or unsuitability of each such area or island for preservation as wilderness.

**Presidential recommendation to Congress.** The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendation with respect to the designation as wilderness of each such area or island on which review has been completed, together with a map thereof and a definition of its boundaries. Such advice shall be given with respect to not less than one-third of the areas and islands to be reviewed under this subsection within three years after September 3, 1964, not less than two-thirds within seven years of September 3, 1964 and the remainder within ten years of September 3, 1964.

**Congressional approval.** A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress. Nothing contained herein shall, by implication or otherwise, be construed to lessen the present statutory authority of the

Secretary of the Interior with respect to the maintenance of roadless areas within units of the national park system.

**Suitability. (d)(1)** The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommendations to the President with respect to the suitability of any area for preservation as wilderness –

**Publication in Federal Register. (A)** give such public notice of the proposed action as they deem appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

**Hearings. (B)** hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the respective Secretaries involved deem appropriate, including notices in the Federal Register and in newspapers of general circulation in the area: Provided, That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;

**(C)** at least thirty days before the date of a hearing advise the Governor of each State and the governing board of each county, or in Alaska the borough, in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing.

Any views submitted to the appropriate Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

**Proposed modification. (e)** Any modification or adjustment of boundaries of any wilderness area shall be recommended by the appropriate Secretary after public notice of such proposal and public hearing or hearings as provided in subsection (d) of this section. The proposed modification or adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only in the same manner as provided for in subsections (b) and (c) of this section.

#### **USE OF WILDERNESS AREAS**

**Section 4. (a)** The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and national wildlife refuge systems are established and administered and -

**(1)** Nothing in this Act shall be deemed to be in interference with the purpose for which national forests are established as set forth in the Act of June 4, 1897 (30 Stat. 11), and the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215) (16 U.S.C. 528-531).

**(2)** Nothing in this Act shall modify the restrictions and provisions of the Shipstead-Nolan Act (Public Law 539, Seventy-first Congress, July 10, 1930; 46 Stat. 1020), the Thye-Blatnik Act (Public Law 733, Eightieth Congress, June 22, 1948; 62 Stat. 568), and the Humphrey-Thye-Blatnik-Andresen Act (Public Law 607, Eighty-Fourth Congress, June 22, 1956; 70 Stat. 326), as applying to the Superior National Forest or the regulations of the Secretary of Agriculture.

**(3)** Nothing in this Act shall modify the statutory authority under which units of the national park system are created. Further, the designation of any area of any park, monument, or other unit of the national park system as a wilderness area pursuant to this Act shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system in accordance with sections 1, 2, 3, and 4 of this title, the statutory authority under which the area was created, or any other Act of Congress which might pertain to or affect such area, including, but not limited to, the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 432 et seq.); section 3(2) of the Federal Power Act (16 U.S.C. 796(2)); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

**(b)** Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this

Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

#### **PROHIBITION OF CERTAIN USES**

(c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

#### **SPECIAL PROVISIONS**

(d) The following special provisions are hereby made:

(1) Within wilderness areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(2) Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the United States Geological Survey and the United States Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

**Mineral leases, claims, etc. (3)** Notwithstanding any other provisions of this Act, until midnight December 31, 1983, the United States mining laws and all laws pertaining to mineral leasing shall, to the extent as applicable prior to September 3, 1964, extend to those national forest lands designated by this Act as "wilderness areas"; subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral location and development and exploration, drilling, and production, and use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including where essential the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing prospecting, location, and , in oil and gas leasing, discovery work, exploration, drilling, and production, as soon as they have served their purpose. Mining locations lying within the boundaries of said wilderness areas shall be held and used solely for mining or processing operations and uses reasonably incident thereto; and hereafter, subject to valid existing rights, all patents issued under the mining laws of the United States affecting national forest lands designated by this Act as wilderness areas shall convey title to the mineral deposits within the claim, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available, and if the timber is cut under sound principles of forest management as defined by the national forest rules and regulations, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as otherwise expressly provided in this Act: Provided, That, unless hereafter specifically authorized, no patent within wilderness areas designated by this Act shall issue after December 31, 1983, except for the valid claims existing on or before December 31, 1983. Mining claims located after September 3, 1964, within the boundaries of wilderness areas designated by this Act shall create no rights in excess of those rights which may be patented under the provisions of this subsection. Mineral leases, permits, and licenses covering lands within national forest wilderness areas designated by this Act shall contain such reasonable stipulations as may



be prescribed by the Secretary of Agriculture for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased, permitted, or licensed. Subject to valid rights then existing, effective January 1, 1984, the minerals in lands designated by this Act as wilderness areas are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

**Water resources and grazing. (4)** Within wilderness areas in the national forests designated by this Act, **(1)** the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial; and **(2)** the grazing of livestock, where established prior to September 3, 1964, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

**(5)** Other provisions of this Act to the contrary notwithstanding, the management of the Boundary Waters Canoe Area, formerly designated as the Superior, Little Indian Sioux, and Caribou Roadless Areas, in the Superior National Forest, Minnesota, shall be in accordance with regulations established by the Secretary of Agriculture in accordance with the general purpose of maintaining, 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 continuance within the area of any already established use of motorboats.

**(6)** Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.

**(7)** Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

**(8)** Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

#### **STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS**

**Section 5. (a)** In any case where State -owned or privately owned land is completely surrounded by national forest lands within areas designated by this Act as wilderness, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State -owned or privately owned land by such State or private owner and their successors in interest, or the State -owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture:

**Transfers, restriction.** Provided, however, That the United States shall not transfer to a State or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

**(b)** In any case where valid mining claims or other valid occupancies are wholly within a designated national forest wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.

**Acquisition. (c)** Subject to the appropriation of funds by Congress, the Secretary of Agriculture is authorized to acquire privately owned land within the perimeter of any area designated by this Act as wilderness if **(1)** the owner concurs in such acquisition or **(2)** the acquisition is specifically authorized by Congress.

#### **GIFTS, BEQUESTS, AND CONTRIBUTIONS**

**Section 6. (a)** The Secretary of Agriculture may accept gifts or bequests of land within wilderness areas designated by this Act for preservation as wilderness. The Secretary of Agriculture may also accept gifts or bequests of land adjacent to wilderness areas designated by this Act for preservation as wilderness if he has given sixty days advance notice thereof to the President of the Senate and the Speaker of the House of Representatives. Land

accepted by the Secretary of Agriculture under this section shall be come part of the wilderness area involved. Regulations with regard to any such land may be in accordance with such agreements, consistent with the policy of this Act, as are made at the time of such gift, or such conditions, consistent with such policy, as may be included in, and accepted with, such bequest.

**(b)** Authorization to accept private contributions and gifts The Secretary of Agriculture or the Secretary of the Interior is authorized to accept private contributions and gifts to be used to further the purposes of this Act.

#### **ANNUAL REPORTS**

**Section 7.** At the opening of each session of Congress, the Secretaries of Agriculture and Interior shall jointly report to the President for transmission to Congress on the status of the wilderness system, including a list and descriptions of the areas in the system, regulations in effect, and other pertinent information, together with any recommendations they may care to make.

**APPROVED SEPTEMBER 3, 1964.**

#### **Legislative History:**

**House Reports:** No 1538 accompanying H.R. 9070 (Committee on Interior & Insular Affairs) and No. 1829 (Committee of Conference).

**Senate report:** No. 109 (Committee on Interior & Insular Affairs). Congressional Record: Vol. 109 (1963):

- April 4, 8, considered in Senate.
- April 9, considered and passed Senate.
- Vol. 110 (1964): July 28, considered in House.
- July 30, considered and passed House, amended, in lieu of H.R. 9070
  - August 20, House and Senate agreed to conference report.