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SENATE

{ REPORT
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OREGON RECREATION ENHANCEMENT ACT

JULY 11, 2023.—Ordered to be printed

Mr. MANCHIN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 440]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 440), to designate certain land administered by the Bureau of Land Management and the Forest Service in the State of Oregon as wilderness and national recreation areas, to withdraw certain land located in Curry County and Josephine County, Oregon, from all forms of entry, appropriation, or disposal under the public land laws, location, entry, and patent under the mining laws, and operation under the mineral leasing and geothermal leasing laws, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 440 is to designate certain land administered by the Bureau of Land Management and the Forest Service in the State of Oregon as wilderness and recreation areas, and to withdraw certain land located in Curry County and Josephine County, Oregon, from mineral leasing or development and from disposal under the public land laws.

BACKGROUND AND NEED

The Wild Rogue Wilderness Area was designated by Congress in 1978 (Public Law 95-237) and includes approximately 28,100 acres of Forest Service land and approximately 8,600 acres of lands administered by the Bureau of Land Management (BLM). S. 440

would expand the existing Wild Rogue Wilderness Area by 59,512 acres of BLM and Forest Service land, most of which is revested Oregon and California Railroad Land.

In addition, S. 440 designates two new BLM recreation areas. The first, the Molalla Recreation Area, would consist of 29,884 acres of BLM land located on the banks of the Molalla River in rural Clackamas County, Oregon, adjacent to the existing Table Rock Wilderness Area. The second, the Rogue Canyon Recreation Area, would consist of 98,150 acres of BLM land on the banks of the Rogue River in southwestern Oregon.

Lastly, S. 440 would permanently withdraw from mineral development more than 100,000 acres of National Forest System lands on the Rogue River-Siskiyou National Forest and BLM public lands in the Medford and Coos Bay Districts of the BLM. The lands are in Curry and Josephine Counties in southwestern Oregon. This area covered by the withdrawal includes the headwaters of several designated wild and scenic rivers near the Kalmiopsis Wilderness Area. In 2017, the BLM issued a 20-year mineral withdrawal for this area.

LEGISLATIVE HISTORY

S. 440 was introduced by Senators Wyden and Merkley on February 15, 2023. Similar legislation, S. 1589, was introduced in the 117th Congress by Senators Wyden and Merkley on May 12, 2021. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 1589 on October 19, 2021. The Committee ordered S. 1589 reported favorably without amendment on November 18, 2021 (S. Rept. 117–90).

Senators Wyden and Merkley also introduced similar legislation in the 116th Congress, S. 1262. The Subcommittee on Public Lands, Forests, and Mining held a hearing on the bill on May 14, 2019, and the Committee ordered S. 1262 reported favorably with an amendment, on December 12, 2021. S. 1262 was reported with amendments and without a written report on December 18, 2019.

Senators Wyden and Merkley introduced similar legislation in the 115th Congress, S. 1548, the Oregon Wildland Act. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 1548 on July 26, 2017. The Committee ordered S. 1548 reported favorably with an amendment in the nature of a substitute on October 2, 2018. The Committee reported the bill with an amendment in the nature of a substitute on December 6, 2018, and filed a written report, S. Rept. 115–439, on December 19, 2018.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on May 17, 2023, by a majority vote of a quorum present, recommends that the Senate pass S. 440.

The roll call vote on reporting the measure was 12 yeas, 7 nays as follows:

YEAS	NAYS
Mr. Manchin	Mr. Barrasso
Mr. Wyden	Mr. Risch *
Ms. Cantwell	Mr. Lee *
Mr. Sanders *	Mr. Hoeven *

Mr. Heinrich
 Ms. Hirono
 Mr. King
 Ms. Cortez Masto
 Mr. Kelly
 Mr. Hickenlooper
 Mr. Daines
 Ms. Murkowski *

Mr. Cassidy*
 Mrs. Hyde-Smith
 Mr. Hawley *

* Indicates vote by proxy

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides the short title, the “Oregon Recreation Enhancement Act.”

Section 2. Definitions

Section 2 defines key terms in the bill.

Section 3. Rogue Canyon and Molalla Recreation Areas, Oregon

Subsection (a) designates 98,150 acres of Bureau of Land Management (BLM) land as the Rogue Canyon Recreation Area and 29,884 acres of BLM land as the Molalla Recreation Area.

Subsection (b) requires the Secretary to prepare a map and legal description of each recreation area designated by subsection (a), and to make the maps and legal descriptions publicly available in appropriate office of the BLM.

Subsection (c) sets forth the administration requirements for the recreation areas. The Secretary of the Interior shall manage the recreation areas in a manner that conserves, protects, and enhances the purposes for which they were established, allowing only those uses that are consistent with the purposes for which they were established.

The subsection requires the Secretary, in consultation with the Oregon Governor’s Council on Wildfire Response, to conduct a wildfire risk assessment of the recreation areas and wilderness areas designated by this Act, including adjacent Federal lands. Following completion of the wildfire risk assessment, the Secretary is required to develop a wildfire mitigation plan.

The subsection prohibits the construction of new or temporary roads, except as needed for public safety. Savings provisions makes clear that nothing in this section impacts the management of the Molalla Forest Road by the Secretary, or prohibits the Secretary from conducting vegetation and wildfire management projects within the designated recreation areas.

The subsection withdraws the recreation areas from entry, appropriation, and disposal under public land laws; location, entry, and patent under mining laws; and mineral and geothermal leasing laws, and includes language clarifying that nothing in this section creates a protective perimeter or buffer zone around the recreation areas.

Section 4. Expansion of Wild Rogue Wilderness Area

Section 4 expands the Wild Rogue Wilderness Area by adding 59,512 acres of National Forest and BLM lands, and requires the new

wilderness to be managed in accordance with the Endangered American Wilderness Act (16 U.S.C. 1132 note).

The section authorizes the Secretaries to take measures within the wilderness additions to control fire, insects, and disease in accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1131(d)(1)), and withdraws the wilderness additions from entry appropriation and disposal under public land laws; location, entry, and patent under mining laws; and disposition under mineral and geothermal leasing laws.

Finally the section includes a savings clause clarifying that nothing in this section modifies or alters treaty rights of Indian tribes.

Section 5. Withdrawal of Federal land, Curry County and Josephine County, Oregon

Section 5 withdraws approximately 100,000 acres of Federal land in Josephine County, Oregon, from entry, appropriation, and disposal under public land laws; location, entry, and patent under mining laws; and mineral and geothermal leasing laws.

The section makes clear that except for the withdrawal provision, recreational uses, hunting, fishing, forest management activities or other authorized uses allowed on the eligible land on the date of enactment of the Act are not restricted by this section.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

At a Glance				
[Abstract], Oregon Recreation Enhancement Act				
As [Manager] Resources on May 17, 2023				
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033	
Direct Spending (Outlays)	0	1	3	
Revenues	0	0	0	
Increase or Decrease (-) in the Deficit	0	1	3	
Spending Subject to Appropriation (Outlays)	0	1	not estimated	
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$2.5 billion	Statutory pay-as-you-go procedures apply?		Yes
		Mandate Effects		
		Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$5 billion	Contains intergovernmental mandate?
		Contains private-sector mandate?	No	

The bill would:

- Designate 188,000 acres of federal land in Oregon for recreational use or as wilderness and withdraw some of that land from the commercial timber base
- Withdraw approximately 100,000 acres of federal land in Oregon from mineral and geothermal leasing

Estimated budgetary effects would mainly stem from:

- Forgone income from federal timber sales

Areas of significant uncertainty include:

- Estimating the amount of income forgone

Bill summary: S. 440 would designate roughly 98,000 acres of federal land in Oregon as the Rogue Canyon Recreation Area and roughly 30,000 acres as the Molalla Recreation Area. The bill also would add about 60,000 acres of federal land in Oregon to the Wild Rogue Wilderness and permanently withdraw it from commercial timber sales. Finally, the bill would permanently withdraw about 100,000 acres of federal land in Curry County and Josephine County, Oregon, from mineral and geothermal leasing. All withdrawals would be subject to valid existing rights.

Estimated Federal cost: CBO estimates that enacting the bill would increase direct spending by less than \$500,000 each year, totaling \$3 million over the 2023–2033 period. Increases in spending subject to appropriation also would be below \$500,000 annually and would total \$1 million over the 2023–2028 period. The costs of the legislation fall within budget functions 300 (natural resources and environment) and 800 (general government).

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted late in fiscal year 2023.

Background: Under current law, the Bureau of Land Management (BLM) oversees the federal land covered by the bill that is slated for timber production. Income from timber sales is classified in the budget as offsetting receipts (or reductions in direct spending), and counties in which the timber is harvested generally receive 50 percent of the sales' proceeds.

Direct spending: CBO estimates that enacting S. 440 would decrease receipts, and thus increase direct spending, by about \$3 million over the 2023–2033 period.

Timber Sales: Using information from BLM and accounting for typical timeframes for timber sales, CBO expects that under current law, sales from the parcels named in the bill are likely to commence over the 2024–2027 period.

CBO expects that BLM will offer 1.7 million board feet of timber annually from the area the bill proposes to include in the Molalla Recreation Area. Using data from BLM, CBO expects that nearly all of the timber will be sold for 35 cents to 47 cents per board foot, totaling about \$6 million in gross receipts over the 2023–2033 period.

CBO anticipates that BLM will offer 2.6 million board feet annually from the proposed Rogue Canyon Recreation Area and 900,000 board feet annually from the proposed addition to the Wild Rogue Wilderness. Using data from BLM, CBO expects that 80 percent of the timber will be sold for 15 cents to 25 cents per board foot. Over the 2023–2033 period, CBO estimates that gross receipts from the proposed Rogue Canyon Recreation Area would total \$3 million and that receipts from the proposed Wild Rogue Wilderness addition would total \$1 million.

After accounting for the 50 percent of the proceeds to be paid to county governments, CBO projects that net federal receipts from the sales in the three areas will total \$5 million over the 2023–2033 period.

According to BLM, designating land for recreational use could reduce its potential for timber production; however, CBO has no basis on which to estimate that effect. In the absence of specific information, CBO used a 50 percent probability that timber sales

would occur in the areas proposed for recreational use under the bill. On that basis, CBO estimates that the federal government would forgo more than \$2 million in net receipts over the next 10 years from timber production in Molalla and Rogue Canyon.

The land designated as wilderness under S. 440 would be permanently withdrawn from the commercial timber base. CBO thus estimates that the federal government would forgo net receipts of about \$1 million over the 2023–2033 period from the addition to the Wild Rogue Wilderness.

Mineral Development and Geothermal Leasing: S. 440 also would permanently withdraw, subject to valid existing rights, roughly 100,000 acres of Forest Service and BLM land in Curry County and Josephine County, Oregon, from mineral development under hardrock mining laws and from mineral and geothermal leasing. BLM temporarily withdrew that land in December 2016 as a result of Public Land Order 7859, “Withdrawal of National Forest System and Bureau of Land Management Public Lands in Southwestern Oregon; Oregon.” That order is effective for 20 years while the Congress considers legislation for a permanent withdrawal. As a result, CBO estimates that implementing that provision of the bill would have no budgetary effect over the 2023–2033 period, because the bill would codify the temporary order, subject to valid existing rights.

Spending Subject to Appropriation: The bill would direct BLM to prepare a wildfire mitigation plan for the proposed recreation areas. Using information about the cost of similar activities, CBO estimates that meeting that requirement would cost \$1 million over the 2024–2028 period; that spending would be subject to the availability of appropriated funds.

Uncertainty: The amount that the government will collect from timber sales on the affected land is uncertain; thus, the amount of income forgone under S. 440 could be more or less than CBO estimates. Specifically, CBO cannot predict the volume or the value of timber production, when BLM will hold sales, or how the recreation designations under the bill would affect BLM’s management of those areas for timber production.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that under S.440, the net changes in outlays that are subject to those pay-as-you-go procedures would be less than \$500,000 in every year and would total \$3 million over the 2023–2033 period.

Increase in long-term net direct spending and deficits: CBO estimates that enacting S. 440 would not increase net direct spending by more than \$2.5 billion in any of the four consecutive 10-year periods beginning in 2034.

CBO estimates that enacting S. 440 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2034.

Mandates: None.

Estimate prepared by: Federal Costs: Lilia Ledezma; Mandates: Brandon Lever.

Estimate reviewed by: Ann E. Futrell Senior Adviser for Budget Analysis; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 440. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 440, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 440, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the October 19, 2021, hearing on S. 1589 in the 117th Congress follows:

STATEMENT OF STEVE FELDGUS, PH.D., DEPUTY ASSISTANT SECRETARY, LANDS AND MINERALS MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on S. 1589, the Oregon Recreation Enhancement Act. S. 1589 would establish two new recreation areas encompassing nearly 130,000 acres of public lands managed by the Bureau of Land Management (BLM) and expand the Wild Rogue Wilderness by adding approximately 60,000 acres of BLM-managed lands in western Oregon. The bill would also withdraw approximately 101,000 acres of Federal lands managed by the U.S. Forest Service (USFS) and the BLM in southwestern Oregon from the operation of the public land, mining, and mineral and geothermal leasing laws.

President Biden's Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, recognizes the opportunities offered by America's public lands and outlines a historic and ambitious challenge to conserve at least 30 percent of our lands and waters by 2030. Conservation can and should improve access for outdoor recreation, help protect the quality of our air and drinking water, increase resilience to the impacts of climate change, protect wildlife habitat, and support our economy, among other benefits. Our nation's awe-inspiring landscapes are an economic engine, attracting visitors from around the globe to America's public lands. According to the Bureau of Economic Analysis, outdoor recreation contributes an estimated \$460 billion to the nation's economy, with mayors and local leaders recognizing parks and open spaces as indispensable infrastructure for livable and prosperous communities. The De-

partment welcomes the sponsor's efforts to support outdoor recreation and wilderness designations to improve conservation and appreciation of our nation's public lands, and we support S. 1589.

MANAGEMENT OF BLM LANDS IN WESTERN OREGON

More than 75 percent of Oregon's population resides in its western region, which also boasts some of the most productive forest lands in the world. The forests of western Oregon are critical to sustainable fish and wildlife habitat, recreation, timber, clean water, and many other values that Americans hold dear.

The Oregon and California Revested Lands Sustained Yield Management Act of 1937 (O&C Lands Act) placed 2.4 million checkerboard acres of Oregon and California Railroad and Coos Bay Wagon Road grant lands (the O&C lands) under the jurisdiction of the Department. Under the O&C Lands Act, the Department manages the O&C lands for "the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities." The Act also provides that the 18 O&C counties receive yearly payments equal to 50 or 75 percent of receipts from timber harvests on O&C lands in these counties. In addition to the O&C lands, the BLM manages approximately 212,000 acres of public domain forests and other acquired lands in western Oregon. These and other BLM-managed lands also provide outstanding recreational opportunities, with over 5 million people visiting each year to enjoy hiking, camping, hunting, and fishing.

The Department manages these O&C lands, public domain forests, and other acquired lands under the 2016 Western Oregon Resource Management Plans (RMPs) and other applicable RMPs (such as the Cascade-Siskiyou National Monument RMP). The 2016 RMPs provide direction for the management of approximately 2.5 million acres of BLM-administered lands and offer opportunities for tourism, recreation, and timber harvest, while maintaining protections for the northern spotted owl, listed fish species, and water resources.

S. 1589, OREGON RECREATION ENHANCEMENT ACT

Rogue Canyon & Molalla Recreation Areas

Section 3 of S. 1589 establishes the Rogue Canyon Recreation Area on 98,000 acres of BLM-administered lands surrounding the banks of the Rogue River and overlapping Wild Rogue Wilderness. The Rogue River is well known for its challenging whitewater, steelhead and salmon fishery, rock-lined banks, and extraordinary wildlife viewing opportunities. The Department supports the establishment of the Rogue Canyon Recreation Area to improve conservation and appreciation of our public lands and waters.

The Molalla Recreation Area, also proposed for designation in Section 3, encompasses 30,000 acres of BLM-managed lands on the banks of the Molalla River, including over 5,700 acres of the Table Rock Wilderness. A remnant of a lava flow that once covered this region along the western foothills of the Cascades, the “fortress” of Table Rock stands at 4,881 feet. This rugged terrain provides habitat for the northern spotted owl, deer, elk, and endangered plants such as Oregon sullivania and Gorman’s aster. The Department supports designation of the Molalla Recreation Area. Section 3 also withdraws Federal surface and subsurface lands within the recreation areas, subject to valid existing rights, from entry, appropriation, or disposal under the public land laws; location, entry, and patent under the mining laws; and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

The BLM recognizes the importance of locally crafted recreation and conservation areas on public lands and waters and believes they can yield immense economic benefits. The BLM believes the most effective and enduring conservation strategies are those reflecting the priorities, needs, and perspectives of the families and communities that know, live, work, and care for the lands and waters. While we support the value of safeguarding these treasured lands for present and future generations, the BLM notes the recreation designations involve O&C lands within the harvest land base established under the 2016 RMPs. If S. 1589 is enacted, BLM would likely amend its RMPs to account for the recreation orientation of the affected lands.

Wild Rogue Wilderness Area Expansion

Section 4 of S. 1589 would add approximately 60,000 acres of BLM-managed public lands to the existing 8,000-plus acres of BLM’s Wild Rogue Wilderness in southwestern Oregon. These lands serve as habitat for a diversity of plant and animal life for forest-dependent species, including the northern spotted owl, Pacific salmon, steelhead trout, and green sturgeon, and provide important opportunities for fishing, rafting, boat tours, hiking and backpacking, and other forms of outdoor recreation in the forested mountains of southwestern Oregon. The Department supports the proposed expansion of the Wild Rogue Wilderness as it aligns with the Administration’s conservation goals.

Wildfire Risk Assessment & Mitigation Plan

S. 1589 also directs the Secretary to complete a wildfire assessment of the recreation areas, Wild Rogue Wilderness, and adjacent Federal land in consultation with the Oregon Governor’s Council on Wildfire Response. One year after completion of the wildfire assessment, the Department is directed to complete a wildfire mitigation plan addressing vegetation management, public evacuation routes,

and outreach. The BLM notes wildfire risk assessment and fire and fuels management are currently addressed in the BLM's land use planning process. Additionally, the BLM works in close collaboration with the Pacific Northwest Wildfire Coordinating Group, an interagency assembly of five wildland fire agencies, two state forestry agencies, and two state fire marshal associations.

By working cooperatively, all partners can administer fire, fuels, and aviation programs in a manner that eliminates duplication, increases program efficiency, and capitalizes on the expertise of each organization's personnel. The BLM supports the sponsor's direction to pursue interagency networks to provide fire prevention services and fire safety information to the community.

Withdrawal of Federal Lands in Curry & Josephine Counties

S. 1589 would permanently withdraw 5,215 acres of BLM-managed public lands in the Coos Bay and Medford Districts and 95,806 acres of USFS-managed lands. The proposed withdrawal area includes the Klamath Mountains and the North Fork of the Smith River, which originates in the Kalmiopsis Wilderness and drains most of the area under consideration for withdrawal. Creeks feeding the North Fork and other rivers that flow to the Oregon Coast offer unique ecological features stemming from the confluence of the Coast Range, Cascades, and Siskiyou Mountains. A high concentration of rare plants, forested trails, and scenic views are all emblematic of these drainages. Rough and Ready Creek and Baldface Creek are listed as eligible for National Wild and Scenic River designation by the USFS.

These lands were administratively withdrawn for 20 years by Public Land Order 7859 on December 30, 2016, for the purpose of protecting the lands while Congress considered a permanent legislative withdrawal. The Department supports permanent protection of these lands.

Conclusion

Thank you for the opportunity to testify in support of S. 1589, which would serve to provide opportunities for recreation while conserving pristine and unique natural areas in western Oregon.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 440 as ordered reported.

