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ARAPAHO NATIONAL FOREST BOUNDARY ADJUSTMENT ACT OF 2017

MAY 9, 2017.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 289]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 289) to adjust the boundary of the Arapaho National Forest, Colorado, 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. 289 is to adjust the boundary of the Arapaho National Forest in Colorado.

BACKGROUND AND NEED

Between Rocky Mountain National Park and the Bowen Gulch Protection Area on the Arapaho National Forest in the State of Colorado is a 10-lot subdivision known as the “Wedge.” The Rocky Mountain Nature Association and the Trust for Public Land, in partnership with the U.S. Forest Service and the National Park Service, have worked for 20 years to acquire these Wedge lots, which are part of the Colorado River headwaters and are highly visible from Trail Ridge Road, the main road that traverses Rocky Mountain National Park. Currently, the Forest Service owns seven of the Wedge lots but these parcels do not have national forest status as the boundary of Arapaho National Forest has never been adjusted to include the lots.

S. 289 would adjust the boundary of the Arapaho National Forest to incorporate 92.95 additional acres. Federal land to be included in the new boundary will become part of the Bowen Gulch Protection Area established under section 6 of the Colorado Wilderness Act of 1993 (Public Law 103–77). Owners of non-Federal lands within the new boundary who historically have accessed their lands through lands included in the Arapaho expansion would have continued right of motorized access to their lands across an existing roadway.

S. 289 requires the Secretary of Agriculture to obtain written permission from the private land owners of the lots to include the lots within the new boundary. The bill also authorizes the Secretary of Agriculture to acquire non-Federal lands from willing sellers within the new boundary.

Completion of these acquisitions would ensure the protection of the view shed of Rocky Mountain National Park and the resource values of the Bowen Gulch Protection Area within the Arapaho National Forest. Without financial support from the Land and Water Conservation Fund, the only options available to the Federal government to acquire the remaining parcels are through existing administrative authorities, such as donation or exchange. These administrative authorities, however, are only available if Congress modifies the boundary of the Arapaho National Forest to include the Wedge within the national forest. S. 289 accomplishes this boundary adjustment.

LEGISLATIVE HISTORY

S. 289 was introduced by Senators Bennet and Gardner on February 2, 2017.

H.R. 688, an identical measure to S. 289, was introduced in the House of Representatives by Representatives Polis, Tipton, and Lamborn on January 24, 2017 and passed the House of Representatives by a voice vote on February 6, 2017.

In the 114th Congress, H.R. 1324 was introduced by Representative Polis on March 4, 2015. On March 25, 2015, the House Natural Resources Committee ordered H.R. 1324 reported. The House of Representatives passed H.R. 1324 under suspension of the rules by a vote of 381–30 on April 28, 2015. The bill was received by the Senate and referred to the Committee on Energy and Natural Resources.

On May 12, 2015, Senators Bennet and Gardner introduced a similar bill, S. 1295. The Subcommittee on Public Lands, Forest, and Mining held a hearing on both H.R. 1324 and S. 1295 on October 8, 2015. On November 19, 2015, the Committee on Energy and Natural Resources met in open business session and on a voice vote ordered H.R. 1324 favorably reported without amendment.

The measure was included in Amendment No. 3234, which the Senate agreed to on April 19, 2016, as an amendment to S. 2012, the Energy Policy and Modernization Act of 2016, which the Senate passed, as amended, on April 20, 2016.

In the 113th Congress, a similar bill, H.R. 4846, was introduced in the House of Representatives by Representative Polis on June 11, 2014. The House Natural Resources Committee's Subcommittee on Public Lands and Environmental Regulation held a hearing on the bill on September 9, 2014, and the Natural Resources Com-

mittee ordered the bill reported as amended on September 18, 2014. The House of Representatives passed H.R. 4846 as amended under suspension of the rules on November 13, 2014.

The Committee on Energy and Natural Resources met in open business session on March 30, 2017, and ordered S. 289 and H.R. 688 favorably reported.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 30, 2017, by a majority voice vote of a quorum present, recommends that the Senate pass S. 289.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title, the “Arapaho National Forest Boundary Adjustment Act of 2017.”

Section 2(a) adjusts the boundary of the Arapaho National Forest to include approximately 92.95 additional acres. Privately owned lots may only be included within the boundary adjustment area if the Secretary obtains written permission for inclusion from the lot owners.

Subsection (b) designates all Federal land within the boundary adjustment area as part of the Bowen Gulch Protection Area.

Subsection (c) makes the boundary effective as of January 1, 1965, for purposes of the Land and Water Conservation Fund Act (authorizing acquisition of lands within the boundaries of the national forest).

Subsection (d) clarifies that nothing in the Act opens privately owned land within the boundary adjustment area to public motorized use.

Subsection (e) allows for continued motorized access for the owners of non-Federal land within the boundary adjustment area to their private land across certain access points historically used by the owners.

COST AND BUDGETARY CONSIDERATIONS

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

S. 289—Arapaho National Forest Boundary Adjustment Act of 2017

S. 289 would modify the boundary of the Arapaho National Forest in Colorado to include an additional 93 acres of land. Based on information provided by the Forest Service, CBO estimates that implementing the legislation would have no significant effect on the federal budget. We expect that any additional costs to revise brochures, maps, and signs to reflect the new boundary would not be significant because such revisions would take place in conjunction with scheduled reprinting and routine maintenance.

Enacting S. 289 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 289 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On April 7, 2017, CBO transmitted a cost estimate for H.R. 688, the Arapaho National Forest Boundary Adjustment Act of 2017, as ordered reported by the Senate Committee on Energy and Natural Resources on March 30, 2017. S. 289 and H.R. 688 are similar and CBO's cost estimate for each piece of legislation is the same.

The CBO staff contact for this estimate is Jeff LaFave. This estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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. 289. 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. 289, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 289, 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

Because S. 289 is similar to legislation considered by the Committee in the 114th Congress, the Committee did not request Executive Agency views. The testimony provided by the U.S. Forest Service at the hearing before the Subcommittee on Public Lands, Forests, and Mining hearing on October 8, 2015, follows:

STATEMENT OF GLENN CASAMASSA, ASSOCIATE DEPUTY
CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE,
U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 1295, S. 1448, S. 1941, and S. 1942.

S. 1295, THE "ARAPAHO NATIONAL FOREST BOUNDARY ADJUSTMENT ACT"

S. 1295 would modify the boundary of the Arapaho National Forest in the State of Colorado to incorporate approximately 92.95 acres of land currently outside the proclaimed National Forest boundary. All Federal land within the new boundary would be included in the Bowen Gulch Protection Area established under section 6 of the Colorado Wilderness Act of 1993. S. 1295 requires the Secretary to obtain written permission from the owners of lots

to include the lots in the boundary adjustment. Private land owners have provided letters of support.

The Federal lands within the new boundary would be closed to motorized use by the public. S. 1295 allows for continued motorized access over historical routes by owners of non-Federal land within the new boundary.

The Department supports S. 1295. It would provide National Forest status for parcels previously purchased. It would also allow the Forest Service to use its existing land exchange authorities to acquire additional parcels from willing landowners within the new boundary. Completion of these acquisitions would ensure protection of the Rocky Mountain National Park view-shed and the resource values of the Bowen Gulch Protection Area. We would also like to work with the Committee to clarify that motorized use for administrative purposes within the new boundary area is allowed.

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 the bill as ordered reported.

