

Public Law 101-195
101st Congress

An Act

Dec. 5, 1989

[S. 974]

To designate certain lands in the State of Nevada as wilderness, and for other purposes.

Nevada
Wilderness
Protection Act of
1989.
Conservation.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nevada Wilderness Protection Act of 1989".

National
Wilderness
Preservation
System.
16 USC 1132
note.

SEC. 2. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Nevada are designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Toiyabe National Forest, which comprise approximately 38,000 acres, as generally depicted on a map entitled "Alta Toquima Wilderness—Proposed", dated May, 1989, and which shall be known as the "Alta Toquima Wilderness";

(2) certain lands in the Toiyabe National Forest, which comprise approximately 115,000 acres, as generally depicted on a map entitled "Arc Dome Wilderness—Proposed", dated May, 1989, and which shall be known as the "Arc Dome Wilderness";

(3) certain lands in the Inyo National Forest, which comprise approximately 10,000 acres, as generally depicted on a map entitled "Boundary Peak Wilderness—Proposed", dated May, 1989, and which shall be known as the "Boundary Peak Wilderness";

(4) certain lands in the Humboldt National Forest, which comprise approximately 36,000 acres, as generally depicted on a map entitled "Currant Mountain Wilderness—Proposed", dated May, 1989, and which shall be known as the "Currant Mountain Wilderness";

(5) certain lands in the Humboldt National Forest, which comprise approximately 36,900 acres, as generally depicted on a map entitled "East Humboldts Wilderness—Proposed", dated May, 1989, and which shall be known as the "East Humboldts Wilderness";

(6) certain lands in the Humboldt National Forest, which comprise approximately 48,500 acres, as generally depicted on a map entitled "Jarbidge Wilderness Addition—Proposed", dated May, 1989, and which are hereby incorporated in, and shall be deemed to be a part of, the Jarbidge Wilderness as designated by section 3(a) of the Wilderness Act (16 U.S.C. 1132(a));

(7) certain lands in the Toiyabe National Forest, which comprise approximately 28,000 acres, as generally depicted on a map entitled "Mt. Rose Wilderness—Proposed", dated October, 1989, and which shall be known as the "Mt. Rose Wilderness";

(8) certain lands in the Humboldt National Forest, which comprise approximately 27,000 acres, as generally depicted on a map entitled "Quinn Canyon Wilderness—Proposed", dated May, 1989, and which shall be known as the "Quinn Canyon Wilderness";

(9) certain lands in the Humboldt National Forest, which comprise approximately 90,000 acres, as generally depicted on a map entitled "Ruby Mountains Wilderness—Proposed", dated September, 1989, and which shall be known as the "Ruby Mountains Wilderness";

(10) certain lands in the Toiyabe National Forest, which comprise approximately 43,000 acres, as generally depicted on a map entitled "Mt. Charleston Wilderness—Proposed", dated May, 1989, and which shall be known as the "Mt. Charleston Wilderness";

(11) certain lands in the Toiyabe National Forest, which comprise approximately 98,000 acres, as generally depicted on a map entitled "Table Mountain Wilderness—Proposed", dated May, 1989, and which shall be known as the "Table Mountain Wilderness";

(12) certain lands in the Humboldt National Forest, which comprise approximately 50,000 acres, as generally depicted on a map entitled "Grant Range Wilderness—Proposed", dated May, 1989, and which shall be known as the "Grant Range Wilderness";

(13) certain lands in the Humboldt National Forest, which comprise approximately 82,000 acres, as generally depicted on a map entitled "Mt. Moriah Wilderness—Proposed", dated May, 1989, and which shall be known as the "Mt. Moriah Wilderness"; and

(14) certain lands in the Humboldt National Forest, which comprise approximately 31,000 acres, as generally depicted on a map entitled "Santa Rosa Wilderness—Proposed", dated May, 1989, and which shall be known as the "Santa Rosa-Paradise Peak Wilderness".

SEC. 3. MAPS AND DESCRIPTIONS.

As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
information.

SEC. 4. ADMINISTRATION OF WILDERNESS.

Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by the Wilderness Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

Highways.

SEC. 5. WILDERNESS REVIEW CONCERNS.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Nevada and of the environmental impacts associated with alternative allocations of such areas.

(b) DETERMINATION.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in the State of Nevada, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Nevada;

(2) with respect to—

(A) the National Forest System lands in the State of Nevada that were reviewed by the Department of Agriculture in the second roadless area review and evaluations (RARE II); and

(B) the lands described in subsection (d),

that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a 10-year cycle, or at least every 15 years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Nevada reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness in section 2 shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604): *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Nevada are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purposes of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600-1614) and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Nevada for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) REVISIONS.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), the term “revision” shall not include an “amendment” to a plan.

(d) APPLICATION OF SECTION.—Lands identified by reference to this subsection are—

(1) National Forest System roadless lands in the State of Nevada of less than 5,000 acres; and

(2) Those National Forest System roadless areas, or portions thereof in the State of Nevada, identified in the unit plans listed below, which are not designated as wilderness in section 2:

| National Forest | Unit plan |
|-----------------|----------------------|
| Humboldt | Santa Rosa |
| Humboldt | Ruby Mt./E. Humboldt |
| Toiyabe | Mt. Charleston |
| Toiyabe | Central Nevada |

SEC. 6. GRAZING IN WILDERNESS AREAS.

(a) LIVESTOCK GRAZING.—Grazing of livestock in wilderness areas designated in section 2 that was established prior to the date of enactment of this Act shall be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and section 108 of the Act entitled “An Act to designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes (16 U.S.C. 1133 note).

(b) REVIEW.—The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in National Forest Wilderness areas in Nevada in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this Act.

(c) REPORTS.—Not later than 1 year after the enactment of this Act, and at least every 5 years thereafter, the Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report detailing the progress made by the Forest Service in carrying out the provisions of subsections (a) and (b).

SEC. 7. PROHIBITION OF BUFFER ZONES.

Congress does not intend that the designation of wilderness areas in the State of Nevada implies the creation of protective perimeters

or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 8. WATER ALLOCATION AUTHORITY.

(a) Within the wilderness areas designated by this Act, there is hereby reserved a quantity of water sufficient to fulfill the purposes of the wilderness areas created by this Act.

(b) The priority date of the water rights reserved in paragraph (a) shall be the date of enactment of this Act.

Claims.

(c) The Secretary shall file a claim for the quantification of the water rights reserved in paragraph (a) in an appropriate stream adjudication and shall take all steps necessary to protect such rights in such an adjudication.

(d) The Federal water rights reserved by this Act shall be in addition to any water rights which may have been previously reserved or obtained by the United States for other than wilderness purposes.

(e) The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of Nevada designated by this Act. Nothing in this Act, nor in any legislative history accompanying this Act related to reserved Federal water rights, shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

SEC. 9. STATE FISH AND WILDLIFE AUTHORITY.

As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Nevada with respect to wildlife and fish in the national forests in Nevada.

SEC. 10. CLIMATOLOGICAL DATA COLLECTION.

Flood control.
Water.

Subject to such reasonable terms and conditions as the Secretary may prescribe, nothing in this Act or the Wilderness Act shall be construed to prevent, where appropriate, the installation and maintenance of hydrologic, meteorologic, or climatological collection devices within the wilderness areas or additions thereto designated by this Act, where such facilities and access thereto are essential to flood warning, flood control and water reservoir operation purposes.

SEC. 11. LOW ALTITUDE FLIGHT ACTIVITIES.

Nothing in this Act shall preclude low level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over the Alta Toquima, Arc Dome, Currant Mountain or Table Mountain Wilderness areas.

Approved December 5, 1989.

LEGISLATIVE HISTORY—S. 974:

HOUSE REPORTS: No. 101-339, Pt. 1 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 101-113 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 135 (1989):

Sept. 20, considered and passed Senate.

Nov. 16, 17, considered and passed House, amended.

Nov. 20, Senate concurred in House amendments with an amendment.

Nov. 21, House concurred in Senate amendment.