

Statement of
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Before the
Subcommittee on Forests and Forest Health
Committee on Resources
United States House of Representatives

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Concerning
H.R. 2963 Deep Creek Wilderness Act

Mr. Chairman and members of the Committee, thank you for the opportunity to discuss the views of the department on H.R. 2963, the Deep Creek Wilderness Act. I am Abigail Kimbell, Acting Associate Deputy Chief for the National Forest System, USDA-Forest Service. We appreciate the Committee's interest in protecting the unique resources in Deep Creek.

Deep Creek is located in the State of Colorado largely within the White River National Forest and on lands managed by the Bureau of Land Management. In 1995, the Forest Service and the Bureau of Land Management issued a joint determination that Deep Creek was eligible for designation under the Wild and Scenic Rivers Act. All the alternatives considered in the draft White River National Forest Plan Revision recommend that this area be managed as a Wild River eligible for Wild and Scenic River designation. These recommendations were developed after thorough public involvement and with widespread public support.

We acknowledge wilderness designation for Deep Creek as being consistent with these recommendations that Deep Creek be managed as a Wild River eligible for inclusion in the Wild and Scenic River System. Wilderness designation is also consistent with the current Deep Creek inventoried roadless area wilderness evaluation that rated the area high in its opportunities for solitude, naturalness, and manageability as wilderness. We have some concerns, however, with specific provisions of H.R. 2963 as it is presently drafted.

Deep Creek has long been recognized for outstanding features and special qualities that were created or exist because of riparian and water-related values. These include high quality natural communities; scenic, natural, and pristine canyon landscapes; and recreational and geologic values associated with cave formations in the canyon. Deep Creek is a perennial stream with flows that originate mainly from snow in the upper elevations of its watershed. Its clear water, relatively high but stable flows, and diverse channel morphology provide good to excellent aquatic habitat and riparian values. A statewide survey conducted in 1993 by the Colorado Natural Heritage Program identified Deep Creek as containing one of the State's most pristine, high quality occurrences of significant riparian communities, including many rare plant species. Deep Creek provides excellent habitat for re-establishing a population of native Colorado River cutthroat trout.

Clearly, the water that flows in Deep Creek is a key element in the integrity of the ecological system and a key feature of the area's scenic qualities and recreation opportunities. We recommend that Section 2(b), Purpose, recognize water and flow dependent resources as important resources to "conserve, protect, and enhance."

A brief analysis of the current water rights in the Deep Creek drainage shows that none of these existing rights appear to be located in the proposed wilderness, although there are water rights upstream and on streams tributary to Deep Creek that affect or have the potential to affect flows in the proposed wilderness. Deep Creek's waterway is largely unmodified.

We are aware of existing perfected water rights and understand the status quo of how water is withdrawn from this system. We are also aware of conditional water rights. These rights, upstream from the proposed wilderness, total 390 cfs, and far exceed the estimated average annual flow (50 – 85 cfs), the estimated high flows (100-200 cfs), and even the observed peak flow (250 cfs) on this stream. Developing these conditional rights would impact streamflow and the flow dependent resources that contribute to the uniqueness and the value of Deep Creek. We recommend that HR 2963 be amended to require monitoring of Deep Creek flows and, where necessary, to work with the Colorado Water Conservation Board to protect the water and flow dependent values of the Deep Creek Wilderness.

In addition, we recommend that HR 2963 be amended so the Forest Service, working with the Colorado Water Conservation Board, has the opportunity to protect the critically important water and flow dependent resource values of the proposed Deep Creek Wilderness. We would be pleased to work with the Committee in revising the section of HR 2963 concerning water.

As you are aware, The Colorado Army National Guard is authorized under a 1987 Memorandum of Understanding to conduct aerial navigational training maneuvers over Deep Creek. These training exercises occur primarily between Thanksgiving and Memorial Day and often include landing helicopters within the proposed Deep Creek Wilderness up to four times a week. It is unclear whether Section 5(d)(2) of H.R. 2963

allows these exercises to continue. We are concerned about allowing such a non-conforming use to continue within a designated wilderness. In this regard, we appreciate that Section 5(d)(2)(B) specifically recognizes that the MOU may be modified. If HR 2963 is enacted, we would work closely with the Colorado delegation and the Colorado Army National Guard to identify needed changes.

The Wilderness Act of 1964 defines wilderness to be a place without permanent improvements or human habitation. Forest Service policy is to provide facilities and improvements only for the protection of the wilderness resource. In order to protect the wilderness characteristics of Deep Creek, the department suggests that Section 5(i) be clarified to provide minimal interpretive facilities, such as information kiosks or trailhead signs outside the wilderness boundary.

We look forward to working with the Committee and the Bureau of Land Management to develop a map with manageable boundaries for the Deep Creek Wilderness prior to markup of HR 2963.

We would like to work with the Committee and staff on other suggested edits including recommendations that certain sections be modified or deleted to avoid redundancy or possible confusion resulting from multiple laws addressing the same issue.

Summary

In closing, we appreciate the Committee's interest in providing present and future generations with the benefits of an enduring resource of wilderness. We look forward to working with the Committee and the Bureau of Land Management to address our concerns. Deep Creek is truly a unique and special place that meets the criteria for wilderness and wild and scenic river preservation, and is deserving of protection for all Americans.

This concludes my prepared statement. I would be happy to answer any questions you or other members of the Committee may have.