

**H.R. 2963, TO ESTABLISH THE  
DEEP CREEK WILDERNESS  
AREA**

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**LEGISLATIVE HEARING**

BEFORE THE

SUBCOMMITTEE ON FORESTS AND  
FOREST HEALTH

OF THE

COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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**LEGISLATIVE HEARING ON H.R. 2963, TO  
ESTABLISH THE DEEP CREEK WILDERNESS  
AREA, AND FOR OTHER PURPOSES**

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**Tuesday, October 16, 2001  
U.S. House of Representatives  
Subcommittee on Forests and Forest Health  
Committee on Resources  
Washington, DC**

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The Subcommittee met, pursuant to call, at 5:05 p.m., in Room 1334, Longworth House Office Building, Hon. Scott McInnis [Chairman of the Subcommittee] presiding.

**STATEMENT OF HON. SCOTT McINNIS, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF COLORADO**

Mr. McINNIS. The Subcommittee on Forests and Forest Health will come to order. We are meeting today obviously to hear testimony on the Deep Creek Wilderness bill.

I appreciate the understanding of the witnesses who have traveled so far. I see several of them there, Chris, Steve, a number of others, commissioners that have come down, John, Tom, et cetera. You can have a complete understanding, and I am sure that you will probably experience it on your way home, in regards to the airplanes.

By the way, my rate to Denver, my flight costs to Denver was \$165, and Denver to Grand Junction was \$365. So we out in there, the rural areas, really do get it stuffed to us.

But we will get back to the bill and off the airlines. Anyway, I do appreciate everybody making the effort to come out here. I am delighted that we are able to finally bring this today for a hearing. This is the first step in what I hope will be a quick journey of H.R. 2963 through the House of Representatives en route to the Senate and eventually to the President's desk.

I introduced this legislation late last month and called this hearing today in hopes of seeing it signed into law before the end of the 107th Congress next year. Prior to September 11th, actually I was in hopes that we could get it done before December of this year, but that does not appear to be likely.

I look forward to working with my colleagues on the Subcommittee on Forest Health, the BLM, my friends and constituents in western Colorado, including many of whom are here today.

As our witnesses are no doubt aware, Deep Creek has a very special place in my heart, as I know it does in those of you that have come today and the people that you represent. I grew up literally a matter of minutes away from the area and spent a great deal of time hiking there as a boy. In fact, most of my observations of the canyon were from the top looking down. They were not from the ability to go into the canyon, although I have been up into the canyon and climbing up.

So I think it is a very critical point in this bill that we allow other people the same privilege that I had, and that was that I had motorized access, and I was able to go to the rim of the canyon and look down into that canyon and see what it was. If I would have been restricted as a small boy to take horseback up in there, I probably wouldn't have been—I probably would have been 14 or 15 before I would have had the capability to ride a horse up into that country and certainly to hike up into that country. To see what I saw as a very young man would not be possible without the access that I intend to protect with this bill, which is the result of the compromise that we have put together for this bill.

In fact, when my scheduled allows, I like to head back up there and enjoy the majestic views of Deep Creek's wild and pristine forest. I want to add one other sentence here; that is, that most people that are going to get to see Deep Creek are not going to be the hearty young people. Most of the people that get to see Deep Creek are the ones that are going to be able to have motorized access to get up to the edge and look down into this beautiful area, or those who can afford to charter an airplane and circle Deep Creek, which I have done on several occasions. I think it is very important because of the beauty, the intense beauty of this land, that as many people as possible be allowed to have the privilege that all of us have had, and that is that kind of observation.

These lands are special for reasons that are far more important than the relative proximity to my hometown. Deep Creek is truly one of Colorado's wildland wonders. It is a natural treasure that deserves special congressional protection. When our predecessors on this Committee first drafted the Wilderness Act over three decades ago, there is no question it had places like Deep Creek in mind.

Together we begin the process of considering wilderness designation for this special place. Like any proposed wilderness designation, this is not without some complications. There are some who would like to continue to expand the boundary substantially beyond the upper rim of the Deep Creek Canyon as called for in H.R. 2963, this in spite of the fact that in 1998 some of Colorado's most respected conservationists outlined a wilderness plan for Deep Creek with boundaries nearly identical to those proposed in my legislation.

I should add that this piece of legislation is the result of lots of compromise on behalf of lots of people, and I realize that on one side or the other there will be people who want to continue to move the goal line. But it is my intent to stay with the compromise that this bill reflects, and, again, to be repetitive, but nonetheless important, that these comply with the boundaries that are almost identical to those of the 1998 so-called wilderness plan.

In addition, there are some who are less than pleased with the tough language in the bill protecting Colorado water rights. Clearly my precedent has been in the past, and let me make it clear, I am willing to listen to substantial suggestions on this point, but I am not going to throw the door wide open. In fact, I will even go further than that. When it comes to water rights, that door will remain tightly closed. The water rights of Colorado are the primary issue that I am concerned about on any wilderness designation. And, as many people know, water in Colorado is equivalent to blood, and once we give those water rights or endanger those water rights in any manner whatsoever in the future, it will be next to impossible to reclaim them.

That said, I look forward to working with those who have an interest in the water rights issue, including the State of Colorado, the Forest Service and our witnesses here today.

Finally, there are some who have raised concerns about the Colorado Army National Guard continuing its years-long practice of conducting aerial training exercises on Deep Creek under wilderness designation. It is my understanding from all sides that the Colorado National Guard has been both an able and conscientious steward of this resource during its time training there, and has conducted its exercise in a manner that has no appreciable impact on the landscape. This training is absolutely critical and as should clearly be demonstrated by the sacrifice that people are making today in mountainous terrain in Afghanistan. Who knows, some of those people may have got their training in our Colorado mountains.

I can tell you that during my tenure in Congress, I have never had one complaint, never a letter, never a phone call, never a conversation complaining against the Colorado Air National Guard in regards to their flight service in Eagle. In fact, every time we have a plane missing up there, we need a rescue, they are the first people we call to go in and do rescue and assist us with the helicopters, and fortunately they have been very good about doing that.

While disagreement over these issues is real, although I think really the disagreement that we have here is pretty minimal, I nevertheless am confident that the good faith negotiations that we have put forth so far have yielded a consensus-oriented agreement in a bill, just as we did last year with our Colorado Canyons Wilderness bill and just as we did most recently with Mr. Udall's James Peak legislation.

I believe our sheer desire to see this natural jewel preserved and protected will ultimately prevail.

I thank our witnesses for coming today and I look forward to their comments.

[The prepared statement of Mr. McInnis follows:]

**Statement of Honorable Scott McInnis, Chairman, Subcommittee on Forests and Forest Health**

I'm delighted to convene this legislative hearing on HR 2963, the Deep Creek Wilderness Act. Today's hearing is the first step in what I hope will be a quick journey for HR 2963 through the House of Representatives en route to the Senate and eventually to the President's desk. I introduced the legislation late last month, and called this hearing today, in hopes of seeing it signed into law before the end of the 107th Congress next year. I look forward to working with my Colleagues on the Subcommittee, the Forest Service, the BLM and my friends and constituents in

western Colorado — including John, Tom, Chris and Steve who are here to testify today in pursuit of that objective.

As our witnesses are no doubt aware, Deep Creek has a special place in my heart, as I know it does in their's. I grew-up literally a matter of minutes away from the area, and spent a great deal of time there hiking as a boy. In fact, when my schedule allows, I still like to head-up there and enjoy the majestic view of Deep Creek's wild and pristine forests.

But these lands are special for reasons far more important than their relative proximity to my hometown. Deep Creek is truly one of Colorado's wildland wonders; it's a natural treasure that deserves special Congressional protection. When our predecessors on this Committee first drafted the Wilderness Act over three decades ago, there's no question that it had places like Deep Creek in mind.

Today, we begin the process of considering Wilderness designation for this special place. Like any proposed Wilderness designation, this one is not without some complications. There are some who would like to expand the boundaries substantially beyond the upper rim of Deep Creek canyon, as called for in HR 2963. This, in spite of the fact that in 1998 some of Colorado's most respected conservationists outlined a Wilderness plan for Deep Creek with boundaries nearly identical to those proposed in my legislation. I would submit that if it was good enough in 1998, it's good enough today. In addition, there are some who are less than pleased with the tough language in my bill protecting Colorado water rights. Let me be clear: I am willing to listen to substantive suggestions on this point, but I'm not going to throw the door wide-open to a host of new federal reserved water rights in conjunction with this designation. That said, I look forward to working with those who have an interest in this water rights issue including the State of Colorado, the Forest Service and our witnesses here today in working out a solution that hopefully I say hopefully is agreeable to all sides. Finally, there are some who have raised concerns about the Colorado Army National Guard continuing its years-long practice of conducting aerial training exercises in Deep Creek under a Wilderness designation. It's my understanding from all sides that the Colorado National Guard has been both an able and conscientious steward of this resource during its time training there, and has conducted its exercises in a manner that has had no appreciable impact on the landscape. During this hour of international conflict, I think the last thing any of us want is to undermine the training operations of our military, particularly training exercises like those in question here that closely replicate the rugged and harsh conditions now confronting our military in its conflict abroad.

While disagreement over these issues is real, I'm nonetheless confident that good-faith negotiations will yield a consensus-oriented agreement, just as it did last year with our Colorado Canyons Wilderness bill and just as it did most recently with Mr Udall's James Peak legislation. I believe our shared desire to see this natural jewel preserved and protected will ultimately overcome any and all disagreements we encounter along the way.

I thank our witnesses for making the trip to Washington for this hearing and I look forward to hearing their comments today.

Mr. McINNIS. Mr. Udall, would you like to make an opening statement for the Minority?

**STATEMENT OF HON. MARK UDALL, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF COLORADO**

Mr. UDALL OF COLORADO. Thank you, Mr. Chairman.

First I would ask unanimous consent that the statement of the Ranking Member Mr. Rahall be included in the record.

Mr. McINNIS. Certainly.

[The prepared statement of Mr. Rahall follows:]

**Statement of the Hon. Nick J. Rahall, a Representative in Congress from  
the State of West Virginia**

H.R. 2963, the Deep Creek Wilderness Act, introduced by Subcommittee Chairman Scott McInnis, would provide protection to a beautiful, spectacularly deep canyon. Yet, protection for the 8,000-acre narrow gorge will not be permanent if nothing is done to protect the uplands and watershed.

Another bill, H.R. 944, introduced by Representative Diane DeGette, would designate 22,170 acres in Deep Creek as wilderness, almost three times the acreage in



H.R. 2963. Unfortunately, H.R. 944 is not the subject of this hearing, even though it was introduced in March, six months before the Chairman's bill was introduced.

The Colorado Wilderness Network, comprised of environmental organizations, businesses, and local governments, supports the acreage designation for Deep Creek in Representative DeGette's bill. I am advised that snowmobiling in some areas is the only existing use that would be prohibited if 22,170 acres were designated as wilderness. I also understand that discussions are underway between the Colorado Wilderness Network and snowmobiling interests to craft a compromise. I encourage these discussions to continue so that we can enact a bill that enjoys widespread support.

I also would like to highlight three additional concerns with the bill:

The first has to do with overflights and landings in the proposed wilderness area. Section 5 would codify a memorandum of understanding between the Forest Service, Bureau of Land Management and Colorado Army National allowing for overflights in proposed wilderness. As the Forest Service points out in its testimony, the Colorado Army National Guard conducts training exercises in the Deep Creek area between Thanksgiving and Memorial Day. Not only does the Colorado Army National Guard fly over the proposed wilderness area, but it also lands in Deep Creek as many as four times a week. Routine helicopter landings are inappropriate in a wilderness area. I look forward to working with the Forest Service, BLM and Colorado Army National Guard to more fully understand the use of the area. We need to find out if there are other appropriate areas for such exercises to occur.

H.R. 2963 also expressly denies the Forest Service and BLM any reserved water right for the wilderness area. While there are no water rights in the proposed wilderness, there are perfected and conditional water rights upstream and on streams tributary to Deep Creek that have the potential to affect the proposed wilderness. Future water uses upstream have the potential to dewater the proposed wilderness. In its testimony, the Forest Service recommends that we work with the Colorado Water Conservation Board to develop language to protect the water resource values of the proposed Deep Creek wilderness. I think this is a good suggestion and look forward to working on this.

Finally, several provisions of the bill are confusing and contradictory to the establishment of the area as wilderness. The bill appears to be a cut and paste of wilderness legislation and national conservation area legislation. Standard language ensuring that the wilderness lands designated are managed consistent with the Wilderness Act of 1964 is not used in Section 5. We need to ensure that the bill is properly drafted before we move forward.

We need to enact legislation that provides meaningful protection to this spectacular area; this bill as introduced does not. I look forward to working with the sponsors and others to craft legislation that we can all support.

Mr. UDALL OF COLORADO. I just want to be very brief, because I want to hear the testimony of the witnesses. I wanted to welcome my fellow Coloradans who are here. Your understanding and expertise in dealing with this beautiful area is going to be very helpful as we move ahead.

I do want to educate myself further about some of the details of the legislation and look forward to asking some questions so that I can understand it better, and I want to work with everybody involved to resolve any problems and see if we can find a way to give appropriate additional protection to these lands.

With that, Mr. Chairman, I would yield back.

Mr. MCINNIS. Thank you. We will go to our witnesses. We have two panels today, and, first of all, Abigail Kimbell, our Acting Associate Deputy Chief. She came from Colorado.

Thank you very much. I should have noticed you. I appreciate your service, by the way. Thank you for your efforts, and you may proceed.

As you know, on this Committee we have a 5-minute rule, and in light of the fact that we are going to have votes here pretty soon, I would ask that people respect that rule, and that would also allow some questioning by the panel.

Thank you again. You may proceed.

**STATEMENT OF ABIGAIL KIMBELL, ACTING ASSOCIATE  
DEPUTY CHIEF, USDA, FOREST SERVICE**

Ms. KIMBELL. Thank you, Congressman.

Mr. Chairman, members of the Committee, thank you for the opportunity to discuss H.R. 2962, the Deep Creek Wilderness Act. We appreciate the Committee's interest in protecting the unique resources in Deep Creek.

Deep Creek is located on lands managed by the United States Forest Service and 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.

We acknowledge wilderness designation for Deep Creek as being consistent with those recommendations that Deep Creek be managed as a wild river. Deep Creek has long been recognized for outstanding features such as the ones you mentioned, and these features were created or exist because of riparian and water-related values. These include high-quality, scenic, natural and pristine canyon landscape and recreation and geologic values associated with cave formation in the canyon.

Deep Creek is a perennial stream with flows that originate mainly from snow in upper elevations of its watershed. 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. 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 are aware of existing perfected water rights and conditional water rights. These rights upstream from the proposed wilderness exceed the estimated average annual flow and even the observed peak flow on this stream. We recommend that H.R. 2963 be amended to require monitoring of Deep Creek flows, and to work with the Colorado Water Conservation Board to protect the water and flow-dependent values of the proposed Deep Creek Wilderness.

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 occur primarily between Thanksgiving and Memorial Day and often include landing helicopters within the proposed Deep Creek Wilderness up to four times a week. We are always concerned with non-conforming uses. We really appreciated that section 5(d)(2)(B) specifically recognizes that the MOU could be modified, and we are anxious to work closely with the Colorado delegation and the Colorado Army National Guard to identify needed changes.

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 H.R. 2963. We would like to work with the Committee and staff on other suggested edits.

And I want to thank the Congressman for his participation in the dedication of the Spanish Peaks Wilderness. You were involved from the very start.

[The prepared statement of Ms. Kimbell follows:]

**Statement of Abigail Kimbell, Acting Associate Deputy Chief, National Forest System, Forest Service, United States Department of Agriculture**

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.

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[An attachment to Ms. Kimbell's statement follows:]

*Deep Ck Water rights 10/16/01*

Structure	Owner	FS/BLM	Decreed Amt.	Adjudication/ Appropriation Yr.
Heart Lake Reservoir	CDOW	FS	8255.33 af*	1956/1952
Deep Lake Collection System**	CDOW	FS	200 cfs	1957/1954
Heart Lake Outlet Ditch**	CRWCD	FS	50 cfs	1962/1960
Cabin Spring No. 1	Scarrow	FS	0.1 cfs	1977/1947
Deep Ck. Tunnel**	Rocky Mtn. Power	FS	80 cfs	1962/1957
Heart Lake Diversion Spillway**	Rocky Mtn. Power	FS	50 cfs	1962/1960
DD Ditch	Anderson	FS	82 cfs	1915/1916
Hazard Spring Ditch	Mosher Ranches	BLM	0.01 cfs	1967/1917
Bill Lee Spring/Tank	Scarrow	BLM	0.4 cfs	1974/1945
J.L. Well	Scarrow	BLM	0.11 cfs	1974/1943
Deep Creek Ditch	Jacobson	BLM	1.6 cfs 2.0 cfs 1.2 cfs 5.0 cfs	1890/1887 1890/1889 1956/1906 1962/1967
Yost Ditch	Day	BLM	2.282 cfs 0.86 cfs 2.00 cfs 2.02 cfs 0.80 cfs 0.80 cfs	1907/1900 1907/1900 1907/1900 1907/1900 1907/1900 1907/1906
Minimum Flow Deep Creek	CWCB	-----	8.0 cfs (Winter) 14.0 cfs(Summer)	1950/1960 1980/1980
Herres Pond	Herres	BLM	0.164 af	1978/1956
Deep Creek Well	Two Rivers Inv.	BLM	0.11 cfs	1972/1952

NOTES: CRWCD - Colorado River Water Conservation District  
 CWCB - Colorado Water Conservation Board  
 \* - Acre feet  
 \*\* - Undeveloped Conditional Water Rights

Mr. MCINNIS. I am going to go ahead and begin with a couple of questions and a couple of points I want to make.

As you know from the language that with the Army Air National Guard, that it requires agreement by both sides for modification of the agreement. It is my intent to preserve their right to utilize that, but balance it out with the modification—the MOU so either side has to get an approval of the other.

The other—and I am not aware of any damage or any kind of negative impact on Deep Creek's areas as a result of these helicopter training exercises. Are you, other than the fact that you may not—other than the fact that the Forest Service doesn't like that, that they are a noncompliant use?

Ms. KIMBELL. The Wilderness Act generally precludes the landing of aircraft within wilderness areas.

Mr. MCINNIS. You have not had any indication of any damage as a result of those helicopters?

Ms. KIMBELL. No, I have not.

Mr. MCINNIS. The other thing, then, I will move on to my colleagues up here. We are talking about these water rights. Are you aware—I mean, are the water rights of the Colorado Water Conservation Board—do they have water rights up there? Have you looked at that?

Ms. KIMBELL. Yes, I have.

Mr. MCINNIS. I believe that they have some in-stream water rights in there as well.

Ms. KIMBELL. Yes, sir.

Mr. MCINNIS. That currently exist.

Ms. KIMBELL. The CWBC has existing flows designated.

Mr. MCINNIS. My point is, I just want to make sure that other people that read this testimony are aware that we have taken conscientious efforts in the past toward the preservation of that area in regards to the water, but we have just got to be very careful as to not endanger any water rights for the people of Colorado.

With that I will go ahead and yield to Mr. Udall if he has any questions.

Mr. UDALL OF COLORADO. Thank you, Mr. Chairman. I do have a couple of questions here.

I think the Chairman discussed aircraft use in the wilderness area. Some of the lands covered by the bill are on forestlands, of course, managed by the Department of Agriculture, and part of the lands, as I understand it, are managed by the Bureau of Land Management in the Secretary of Interior's portfolio. Is that the case as you understand it?

Ms. KIMBELL. That is correct.

Mr. UDALL OF COLORADO. Would each agency continue to manage their portion after the enactment of the bill?

Ms. KIMBELL. As there is nothing in the bill to preclude that, yes.

Mr. UDALL OF COLORADO. That is the starting point if the bill were to become law in regards to the management regime?

Ms. KIMBELL. Yes.

Mr. UDALL OF COLORADO. Do you see any problem with that from your perspective? Do we have examples of where that has worked effectively?

Ms. KIMBELL. Actually we do have examples where that works very effectively. And, in fact, two agencies conducted a wild and scenic river study on Deep Creek several years ago and came up with a joint management plan for Deep Creek with the joint recommendation.

Mr. UDALL OF COLORADO. My colleague—and I don't want to steal her thunder, but she was asking me a question about nonconforming uses in wilderness areas, and if we were in this situation to allow a so-called nonconforming use, we may want to characterize it in other terms. Does that, in your opinion, then open the door for those kinds of uses to be opened and extended to other existing wilderness areas?

Ms. KIMBELL. That is at Congress' discretion. And the bill as it is written right now addresses specifically the Colorado Army National Guard, and it doesn't address any other nonconforming uses as we read the bill.

Mr. MCINNIS. Mr. Udall, I may add that what it does is just the opposite, in my opinion, and, in fact, allows areas that come into wilderness, if you think that community up there would be supportive of this as a wilderness area if they found out that we were going to shut out these helicopters under current circumstances—it is the same thing with the Colorado Canyons last year. We had several different uses. We had mountain bikes. We had horseback. We had river rafters. And under the perfect theory, these are all nonconforming uses for the natural state of that, but because as we were able to bring those in as managed uses, we were able to put it into the conservation area. So I think, in fact, allowing this to happen is what allows us to get this.

I can tell you this. If we—at least as long as I am Chairman, if we tell these helicopters to get out of there today, Deep Creek would not become a wilderness area.

Mr. UDALL OF COLORADO. Section 5 of the bill says that the only uses to be permitted in the wilderness area will be ones that the relevant agency, either the Forest Service, or the BLM as we discussed earlier, determines will further the purposes for which the Wilderness Act is established.

Doesn't that Act already specify which uses are permitted in wilderness areas? And would this part of the bill allow either agency to allow some uses that otherwise would be prohibited under the Wilderness Act?

If not, what would be the effect of this provision? I apologize for asking you three questions that quickly.

Ms. KIMBELL. The bill references the Wilderness Act specifically, and the Wilderness Act allows for some uses and doesn't allow for other uses, and unless specifically specified in the bill, the Wilderness Act would prevail. Those uses that are permitted under the Wilderness Act would be uses that would be considered by the managing agencies.

Mr. UDALL OF COLORADO. So unless the bill specifically says so, the Wilderness Act would then determine the activities in these areas?

Ms. KIMBELL. Yes. The Wilderness Act would help guide the agency in developing the management plans.

Mr. UDALL OF COLORADO. Section 5(h) deals with non-Federal land holdings. Are there any non-Federal land holdings within the boundaries of the proposed wilderness area?

Ms. KIMBELL. Not within National Forest lands, no.

Mr. UDALL OF COLORADO. Do you know by chance about the BLM lands, if there—

Ms. KIMBELL. I don't know. That the—the maps that were provided didn't permit us to ascertain that.

Mr. UDALL OF COLORADO. Okay. Thank you for your testimony. Mr. Chairman, I yield back my remaining time.

Mr. MCINNIS. Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair. My question wasn't—to Mr. Udall was to understand a little better the history of the definition of the word "wilderness" here, because definitions truly have a lot of power. And so my concern is not that we continue to allow the Guard possibly to use this as training exercises, Mr. Chair. That is not the dispute that I have. The dispute is using the term "wilderness," calling this a Wilderness Act and including that in, and what does that do 5 or 6 years from now as there is more pressure on some of our more traditional use of the term "wilderness" as we use it in Minnesota to say, you know, the Wilderness Act allows this to happen in this State and this to happen in that State. And so there is no reason why we shouldn't be opening up with the pressures for the wilderness to be inclusive in Minnesota to allow these activities.

So that is where my question comes, Mr. Chair. So I am just kind of wondering if there isn't maybe a more appropriate title for the use of land. I was trying to kind of figure that out off the record, but I will do it on the record. If you can be help me with that, I would appreciate it.

Ms. KIMBELL. Each wilderness area is designated only with congressional action, and there is specific enabling legislation. It is—even the Boundary Waters Canoe Area in Northern Minnesota allows motorized uses. Some do; some do not. But it has to be specified in the language in the legislation.

Ms. MCCOLLUM. And, Mr. Chair, maybe I could ask you—Mr. Udall or Ms. Kimbell or someone from staff can help me out later. I would—I am kind of curious then to how many wilderness areas have helicopters in them, or, you know, we have two portages up north, and they aren't working, so nobody is really using the motors in them anyway.

Because I think I want to understand the consequences of enabling language in certain statutes and the potential for that language to be referenced in lands. I will use the Boundary Waters just for an example. People would really like to helicopter in or something like that 20 or 30 years from now and say, well, Congress approves.

Mr. Chair, maybe you can help me. I am not opposed to the helicopters being there. I just want to make sure that we don't set a precedent that you and I didn't intend.

Mr. MCINNIS. Well, the precedent that has been set, Ms. McCollum, is that when Congress originally put together, from a historical basis, the opportunity to put wilderness areas, they allowed



that flexibility built within the statute for people to customize these areas.

For example, in Alaska, you can't move in Alaska without an aircraft. So you will find out in their national parks and things like that, they have exemptions for aircraft to land in places that we would never think of allowing in your parks, because you can access your parks. In Alaska you can't do it, there aren't roads up there, et cetera, et cetera.

It is the same thing here. Wilderness, we actually have much more areas—if you are interested in wilderness accumulation, you are actually having much more accumulation of wilderness because there is some flexibility to put in these different uses when it is originally drafted by Congress. Once this is locked into Congress, then it is almost impossible to change in the future. So that flexibility was intentionally put in by Congress, and the only precedent it sets is, hey, when you put together wilderness, you better realize that it is a permanent lock, albeit Congress could overturn it, but in reality they won't.

So you better get everything right when you first put it together and take into consideration everybody's needs up there, which is exactly what we have done and come up with this compromise bill on Deep Creek.

We better move on. We are going to get hit with votes before we have our other witnesses.

Mr. UDALL OF COLORADO. Would the gentlelady yield?

Just for the record, Mr. Chairman, in the special provisions section of the Wilderness Act it says that, section D, the following special provisions are hereby made. 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.

That is an important part of the Wilderness Act, and I think we need to continue our discussion as to what that really means not only when it comes to this legislation, but other wilderness legislation pending.

Mr. MCINNIS. Mr. Udall, what that applies to is if you have a wilderness area currently in existence right now that does haven't an exemption, for example firefighting, then that is what that applies to.

All we need here are 218 votes to customize a wilderness bill. That is exactly what we are doing with Deep Creek, for example. That is exactly what we did with the Colorado Conservation Area. There is no prohibition in statute that says, hey, as a Congress you can't create a wilderness area, that says you allow portage or whatever you call it up in Minnesota, or you allow planes to land in Alaska or whatever, et cetera.

Mr. UDALL OF COLORADO. I think the point I am trying to make is there is some consistency between what you are proposing and at least what the initial clauses and conditions in the Wilderness Act stipulated.

Mr. MCINNIS. Thank you, Abigail. We appreciate it very much. We need to move on so we can get our second panel.

Welcome, Mr. Inslee, the Ranking Member. We are going to move on. Your remarks were introduced, put into the record.

Mr. MCINNIS. Our second panel, Mr. John Martin. John, thank you very much. I know that you have put a lot of time and effort into this, lots of effort. I appreciate that.

Chris Treese. I don't know anybody in Colorado that is relied more upon, at least in western Colorado, for water expertise than your organization and you, frankly.

Steve, I wish you would have been at the Spanish Peaks dedication. Your name was used in very complimentary fashion.

And, Abigail, I want you to note that your compliments on the Spanish Peaks, that gentleman right there, Steve Smith, had a lot to do with it over time. And I want to just publicly commend you as you were recognized appropriately at the Spanish Peaks dedication.

And Tom, I continually am appreciative of the efforts you make to make this work. I know that the Army National Guard, the helicopter landings, the water issues all of that. So all four of you have been involved in a very intricate fashion in putting this bill together, and I appreciate that courtesy.

So why don't we go ahead, Commissioner Martin. Why don't you begin, and you may proceed.

**STATEMENT OF JOHN MARTIN, GARFIELD COUNTY  
COMMISSIONER, STATE OF COLORADO**

Mr. MARTIN. Thank you, Mr. Chairman. I appreciate it. I also am humbled by the opportunity to participate in today's hearing, especially in light of current events facing our world.

My subject of discussion is an area in Garfield and Eagle Counties of Colorado. Deep Creek Canyon is truly a wilderness in its purest form spanning over 8,000 acres. For Garfield County with a population of 43,000, a land border of 2,957 square miles, or approximately 1,892,000 plus acres, which, I might add, 1,134,000 acres are federally controlled land, and also with the history of peoples' conservative approach to land use, the consideration of another 8,000 acres of federally controlled wilderness may sound almost unbelievable, but as Chair of the Board of County Commissioners of Garfield County and the spokesperson for the towns and cities of Garfield County, I ask you, hear our unified voice. Deep Creek is a canyon unmarred by man or machine.

Deep Creek is just that, a nearly inaccessible canyon of unbelievable beauty, and a canyon, when viewed from its rims, which rings true as wilderness. The few roads on the fringe allow access by cavers, four-wheel-drive vehicles, hikers, horse riders, photographers, naturalists and snowmobile riders. The canyon is heavily wooded with very rugged carved limestone walls, and only the bravest hikers find themselves in the lower trail.

Garfield and Eagle County citizens are not the only people aware of Deep Creek Canyon's wilderness qualities. The public lands Committee for the Colorado Counties, Inc., a nonprofit statewide organization of Colorado county commissioners with membership in 61 of the statewide 64 counties of Colorado support the Deep Creek

Wilderness, as does the Colorado River Conservation Commission, the local offices of BLM, the U.S. Forest Service, Division of Wildlife, our State representatives, and our State senator.

Also, I might add that a large landowner adjoining Deep Creek also supports the wilderness designation.

The approach that Garfield and Eagle County took to present this request for its proper title for Deep Creek was to take a single area, review the qualities and the size, seek the input of our citizens to see if there was public interest, to allow each local government to ask questions and supply the needed support before moving forward. The next step was to involve the users and the landowners, gaining their input and support. Finally, we consulted with the resource managers, the protectors, the users, and gathered their support to present to our local Representative, Congressman Scott McInnis, to allow him and his staff to review the findings and have him help us seek the proper title for Deep Creek Canyon.

Now we ask you to support this proper title and proclaim Deep Creek Canyon as a wilderness. Thank you.

Mr. McINNIS. Thank you, Commissioner.

[The prepared statement of Mr. Martin follows:]

**Statement of John Martin, Commissioner, Garfield County Board of County Commissioners, Glenwood Springs, Colorado**

I appreciate the opportunity to participate in this hearing today, especially in light of the current events facing our world.

My subject of discussion is an area in Garfield and Eagle Counties, of Colorado. The area, Deep Creek Canyon, is a true wilderness in the purest form, spanning over 8000 acres.

For Garfield County, with a population of 43,000, a land border of 2,957 square miles or approximately 1,892,209 acres, of which 1,134,373 acres are Federally controlled lands, as well as our people's conservative approach to land use, the consideration of another 8000 acres of Federally controlled Wilderness may sound unbelievable. But, as chair for the Board of the County Commissioners and the spokesperson for the towns and cities of Garfield County, I ask that you hear our unified voice. Deep Creek is a canyon unmarred by man or machine. Deep Creek is just that, a nearly inaccessible canyon of unbelievable beauty, and a canyon, when viewed from its rims, which rings true as Wilderness. The few roads on the fringes allow access by cavers, four-wheel drive vehicles, hikers, horse riders, photographers, naturalists, and snowmobile riders. The canyon is heavily wooded with very rugged carved limestone walls. Only the bravest of hikers try to follow the canyons lower trail.

Garfield and Eagle County citizens are not the only people aware of Deep Creek Canyon wilderness qualities. The Public Lands committee for Colorado Counties inc., a nonprofit statewide organization of Colorado's county commissioners, with membership in 61 of the 64 counties of Colorado, supports Deep Creek Wilderness, as does the Colorado River Commission, local offices for the Bureau of Land Management, Forest Service, and Division of Wildlife, our local State Representatives and State Senator. The large landowner adjoining Deep Creek also supports the Wilderness designation.

The approach Garfield and Eagle Counties took to present this request for its proper title for Deep Creek, was to take a single area, review the qualities and size, seek input from our citizens to see if there was public interest, allow each local government to ask questions, and supply the needed support before moving forward. The next step was to involve users and landowners, gaining their input and support. Finally, we consulted the resource managers, protectors, and users, gathering their support to present to our local representative, Congressman Scott McInnis, allowing him and his staff, to review the findings and have him help us seek the proper title for Deep Creek Canyon. Now, we ask you to support this proper title and proclaim Deep Creek Canyon as a Wilderness.

Thank you.

Mr. MCINNIS. We are going to go ahead and go through the whole panel, then open it up to the Committee for questions.

Mr. Treese, again, thank you for coming. You may proceed.

**STATEMENT OF CHRISTOPHER J. TREESE, EXTERNAL AFFAIRS, COLORADO RIVER WATER CONSERVATION DISTRICT**

Mr. TREESE. Thank you, Mr. Chairman. I am here today to express support for H.R. 2963 on behalf of the Colorado River Water Conservation District as a water policy body. I am here principally to speak to the water-related aspects of the bill.

However, I want to begin by expressing the board's appreciation for your approach to a single area wilderness legislation that allows each of the particular values and concerns associated with the wilderness area to be addressed within the legislation.

We also appreciate, and the board wanted me explicitly to recognize, your prerequisite for local support before considering designation legislation for new wilderness areas. Deep Creek Wilderness proposed is not a headwaters wilderness area, as has been the typical practice of wilderness areas within Colorado. There are, as has been mentioned, both conditional and perfected, that is, both existing and planned, water development facilities upstream from the proposed wilderness area. As such, careful and explicit language in this bill is necessary to protect the property values associated with those historical water rights.

H.R. 2963 has that language. We are very pleased with the approach that you have taken, Mr. Chairman, in that language. However, we also recognize that the legislative process is a dynamic process, and there have, in fact, historically been several approaches to resolving water-related issues. And we pledge our continued support to you as well as the rest of the delegation and the Congress to continue to work on the water-related legislative language so that both water users, present and future, and the wilderness values can be protected.

Mr. MCINNIS. Thank you, Mr. Treese. I appreciate it.

[The prepared statement of Mr. Treese follows:]

**Statement of Christopher J. Treese, External Affairs, Colorado River Water Conservation District, Glenwood Springs, Colorado**

I want to thank Chairman McInnis for this opportunity to share the Colorado River Water Conservation District's views regarding H.R. 2963, the Deep Creek Wilderness Act.

The Colorado River Water Conservation District ("River District") is the principal policy body for the Colorado River within Colorado. We are a political subdivision of the State of Colorado responsible for the protection and development of the Colorado River basin's water resources to which the State of Colorado is entitled under the 1922 and 1948 Colorado River compacts. The River District includes all or part of 15 counties in west-central and northwest Colorado, including the entirety of both Garfield and Eagle Counties in which the proposed Deep Creek wilderness area resides.

Colorado River water is a scarce natural resource subject to greater demands than supplies. As such, western water concerns have been a major stumbling block for past wilderness legislation. Historically, the protection of water resources in wilderness legislation has taken a variety of forms, but water concerns have consistently, and often significantly, delayed or completely thwarted passage of previous wilderness legislation. This has been the history of Colorado wilderness legislation despite the fact that the vast majority of Colorado's wilderness areas, to date, have been headwater areas and therefore not subject to the range of water-related concerns that are associated with downstream wilderness areas.

Simply put, downstream wilderness designations not only preclude water development within the designated area, but conspicuously threaten all upstream water development potential unless precise water language is included in the enacting legislation.

The River District commends Chairman McInnis for his approach to address potential wilderness areas individually. The fact is that each prospective wilderness area has unique qualities which may qualify it for wilderness designation; concurrently, each area also has unique concerns associated with wilderness designation. We concur with the chairman that these area-specific concerns are best resolved through discrete area wilderness legislation. We note the relatively swift passage of the chairman's Spanish Peaks, Colorado Canyons and Gunnison Gorge wilderness bills as evidence of the success of this legislative formula. We also commend Congressman Udall's employment of this approach to protect the James Peak wilderness area. Further, the River District expresses its appreciation to the chairman for his steadfast prerequisite that any proposed wilderness area have demonstrated local support prior to wilderness legislation. While we recognize that federal wilderness areas are a national treasure, the fact is that wilderness areas have disproportionate impacts, both beneficial and adverse, to the local economy and to those neighboring the proposed areas.

Our specific concerns with the proposed Deep Creek wilderness include protection of water resources and water rights. In the Deep Creek area, there are both perfected and conditional water rights upstream of the proposed wilderness area. That means that both existing water uses and planned future uses that are not yet developed lie upstream of the proposed wilderness boundaries. In fact, the River District is the owner of a couple of those conditional rights, which we hold in trust for present and future water users in Western Colorado. Wilderness designation immediately downstream of these existing property rights, without carefully crafted language to protect them, would have a chilling effect on their development potential and economic value. This is especially true of a proposed area such as Deep Creek whose wilderness values are predominantly defined by the water resource itself.

H.R. 2963, as introduced, includes wilderness boundaries that have been carefully crafted to exclude current water development features such as existing dams, diversions, and canals. Nevertheless, a wilderness area immediately downstream of existing or planned water developments presents clear operational and political challenges unless those rights are specifically recognized in the enabling legislation. The current language of H.R. 2963 does this.

The River District has been working with the chairman's office on water-related solutions for a proposed Deep Creek wilderness designation for some time. We strongly support the water language of H.R. 2963 as introduced. However, we also understand the dynamic nature of the legislative process and pledge to continue our efforts to resolve water resource and water rights concerns to the mutual satisfaction of both Western Colorado water users and the proposed Deep Creek wilderness area.

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Mr. MCINNIS. Mr. Smith, you may proceed.

**STATEMENT OF STEVEN W. SMITH, ASSOCIATE SOUTHWEST REPRESENTATIVE, SIERRA CLUB, REPRESENTING THE COLORADO WILDERNESS NETWORK**

Mr. SMITH. Thank you, Mr. Chairman and members of the Subcommittee, for this opportunity to discuss a well-deserved wilderness protection for the Deep Creek area near my home in Glenwood Springs, Colorado. My name is Steve Smith. I am associate Southwest regional representative for the Sierra Club, speaking today on behalf of the entire organization and the other members of the Colorado Wilderness Network, a coalition of 300 environmental groups, businesses and local governments who support the statewide citizens wilderness proposal, which includes Deep Creek. A list of those supporters is included in the Committee members' materials. I have also provided letters from an adjacent landowner, two professional Deep Creek outfitters, and three local governments expressing their support for a larger Deep Creek Wilderness.

We appreciate your introduction of this legislation, Mr. Chairman, that will protect the remarkable beauty, the distinctive geography and the remote ruggedness of this true wilderness. Your personal familiarity with the area and your appreciation of that beauty are key to helping Congress understand the significance of the place and how overwhelmingly suitable it is for addition to the National Wilderness Preservation System. Meanwhile your ability and willingness to consider diverse points of view and then help bring them together into mutually agreeable legislation has helped secure wilderness designations at Blackridge Canyon, Spanish Peaks, and soon, we hope, at James Peak, all in Colorado.

We need your assistance again, Mr. Chairman, to rework H.R. 2963 into legislation that will preserve the striking beauty of the Deep Creek area while protecting the interests of those who live and work nearby, and without diminishing the foundation protections provided by the Wilderness Act itself.

I respectfully submit that this bill in its current form does not quite accomplish all three of those things. Several portions of H.R. 2963 seem to restate existing law or to confirm existing administrative documents. Some of the bill's provisions on wilderness management, rights of way, motor vehicle use, grazing, and water and other topics are in some cases a little confusing, at least to my limited understanding, and in others may actually conflict with the specifics of existing law or contracts. These portions should either use more precise references to that existing documentation or be removed from the bill in favor of relying on those sources directly.

Today I would like to highlight three specific concerns about the bill's provisions: wilderness size, water, and aircraft overflights. Deep Creek's gorge and cascading streams are the most immediately apparent highlights and attractions of the proposed wilderness, and preservation of that gorge is certainly paramount. There are other lands, however, and streams that cross them that both help protect these salient features and complete a true composite of wild landscape around them. The uplands north and south of the central canyon rim as well as the rolling meadows and ledges farther upstream to the west where there is no obvious rim also need to be included in this wilderness and can be without compromising nearby nonwilderness uses.

In any case, we believe that the size of Deep Creek Wilderness described in the bill is inadequate to properly protect the area, or, in the upper regions, to provide a clear and manageable boundary. We have several suggestions for obviously expanding and, we think, improving that detail.

Water and water rights are also sensitive topics in Colorado, no more so than in the context of wilderness designation. In Deep Creek we believe there is a version of water rights language that can be negotiated in order to assure reliable protection for the lifeblood of this new wilderness, while assuring continued beneficial use of water. We believe specifically that the express denial of water rights protection for the wilderness as included in the current version of H.R. 2963 does not accomplish that dual goal, and we will oppose such a denial.

Other details of the bill's water rights provisions also need refinement. We would be very pleased to work with you, with the

river district and with others to reach agreement on changes to those.

Our coalition understands the need to maintain a well-equipped and well-trained citizen military, and we support reasonable use of public lands for military exercises. At the same time, a wilderness designation must recognize and preserve this area as a place without the structures or motorized activities of any human endeavor, except in the case of utmost and short-term emergency, as provided in the Wilderness Act, in agency regulations on wilderness management, and in the National Guard memorandum itself.

Specifically, military and other airborne activities over Deep Creek should indeed stay over Deep Creek and must not include landings inside the designated wilderness or motorized travel across the land inside the wilderness. We believe that other narrow steep canyons nearby, areas also included in the memorandum of understanding, can provide similarly challenging training opportunities.

Again, it is a pleasure to be engaged in this effort to secure the recognition and protection of the outstanding natural wonder that is Deep Creek. My enthusiasm for this effort is enhanced by the fact that our own Congressman and Chairman of this key Subcommittee has decided to help with this effort. In these days of fear and necessary courage in the face of some abominable human behavior, the solace of wilderness, even the knowledge that it is out there preserved, is a key part of our personal and national well-being.

Places like Deep Creek are the essentials of America the Beautiful, a land that justifiably increases our pride and our collective will to make the world a better, safer place.

Thank you again, Mr. Chairman and members of the Subcommittee, for joining in this good work in behalf of American wilderness.

Mr. MCINNIS. Thank you, Mr. Smith.

[The prepared statement of Mr. Smith follows:]

**Statement of Steven W. Smith, Associate Regional Representative for the Sierra Club, on behalf of the Colorado Wilderness Network**

Thank you, Mr. Chairman and members of the Subcommittee, for this opportunity to discuss well-deserved wilderness protection for the Deep Creek area near my home in Glenwood Springs, Colorado.

My name is Steve Smith, and I am Associate Southwest Regional Representative for the Sierra Club in Colorado. I am speaking today on behalf of my organization and the other members of the Colorado Wilderness Network, a coalition of 300 environmental groups, businesses, and local governments who support additional wilderness designations, including Deep Creek, in our state.

The Steering Committee for the Colorado Wilderness Network is composed of representatives from Colorado Environmental Coalition, Colorado Mountain Club, Sierra Club, The Wilderness Society, and Western Colorado Congress.

We appreciate the Chairman's introduction of legislation that would protect the remarkable beauty, distinctive geography, and remote ruggedness of this true wilderness. His personal familiarity with the area and his appreciation for its beauty are key to helping other Members of Congress understand the significance of the place and how overwhelmingly suitable it is for addition to the National Wilderness Preservation System.

I have enjoyed a career of twenty-six years in environmental policy and advocacy, including twelve years of service as Senior Congressional Assistant to Congressman David Skaggs of Colorado. During that time, I enjoyed working with Congressman McInnis and his staff on field research, citizen negotiations, and legislative drafting that resulted in wilderness designations for many spectacular parts of Colorado. The

most recent success that came from that time was celebrated just over two weeks ago when the Chairman dedicated the new Spanish Peaks Wilderness in southern Colorado.

We are now anticipating House action on another measure that will protect much of the James Peak roadless area, along the Continental Divide, as wilderness, another measure that the Chairman helped make possible.

I mention these efforts and these particular areas because they represent many months of discussions, negotiations, and compromise, facilitated by Congressman McInnis, in efforts to provide the best possible protection for important wildlands while attending to legitimate interests of nearby citizens and users of public lands.

I believe that this same spirit of negotiation and patient legislative creativity can produce good wilderness legislation for Deep Creek. I offer for the subcommittee's consideration several points that need particular attention in such negotiations. They include wilderness area size and boundaries, protection for natural water flows in wilderness, clarification of motorized use near the area, and a collection of technical clarifications.

The first question of concern to us is the size and scope of a wilderness designation for Deep Creek. Over the past nearly three decades of citizen research and recommendations, our organizations have found that including the largest expanse and variety of landscape possible in a wilderness area is important to preserving the more obvious natural features of the area.

In the case of Deep Creek, the deep gorge and cascading stream are the most immediately apparent highlights and attractions of the proposed wilderness, and preservation of that gorge certainly is paramount, as the Chairman has often pointed out. There are other lands, and streams that cross them, that both help protect those salient features and complete a truly comprehensive example of wild lands protection.

The uplands north and south of the canyon rim through the area's midsection, as well as rolling meadows and ledges farther upstream to the west also need to be included in this wilderness because they are integral to its ecological health and, in the case of the portions upstream of the gorge, do not include an obvious canyon rim to serve as their boundaries.

The Colorado Wilderness Network has proposed a wilderness designation for Deep Creek comprising 22,000 acres. This proposal includes the variety of landscape I have mentioned, and it is bounded by easy to locate natural and human-built features. By bounding the area by Coffee Pot Road to the south and a national forest access road to the north, the wilderness is readily defined on the ground.

Our proposal specifically leaves out of wilderness roads that are actively used for motorized travel, including the boundary roads and several spur routes that lead to canyon overlooks and camping sites. It also leaves out of wilderness, and so open to ready access, existing water diversion structures and routes that lead to them.

In recent weeks, our staff and volunteers have met with owners of private property adjoining the Deep Creek area, with motorized recreationalists, and with backcountry outfitters permitted to work in and near the area, as well as biologists who understand the dynamics of the greater Deep Creek ecosystem. As a result, we have learned of several opportunities to modify our proposed boundaries in order to accommodate uses incompatible with wilderness while still designating key parts of the uplands and upstream meadows. We have, in turn, secured support from these owners and users for our modified proposal.

In any case, we believe that the size of a Deep Creek wilderness described in H.R. 2963 is inadequate to properly protect the area, even for a so-called rim-to-rim designation. The area needs to be larger to properly protect the wilderness resource and to afford functional boundaries.

We will be very pleased to work with the Chairman and other members of the subcommittee, and their staffs, to review the details of these field investigations and conversations in order to craft a wilderness boundary mutually acceptable to all involved.

Water and water rights are always sensitive topics in Colorado, no more so than in the context of wilderness designations. In Deep Creek, we again encounter the sensitive and contentious discussion of water. As in the instance of boundaries, we believe that there is a version of water rights language that can be negotiated for this legislation in order to assure reliable protection for the lifeblood of this new wilderness while assuring continued beneficial use of water.

We believe, specifically, that the express denial of water rights protection for the wilderness, as included in Section 5(j)(3)(A) of H.R. 2963 as introduced, does not accomplish that dual goal, and we will oppose such a denial.

Some other particulars of the water language included in the bill warrant discussion. In two locations, the "Findings" section of the bill refers to water rights or fa-



cilities that are “adjacent” to the proposed wilderness. That is not a term familiar to us, as we tend to look at points of diversion and their attendant facilities as either within, upstream of, or downstream of an area. Language protecting continued exercise of legitimate water rights on Deep Creek or its tributaries is certainly appropriate in wilderness legislation. References to water rights or facilities that are in separate watersheds are not appropriate or are, at best, confusing.

As another portion of the bill’s “Findings” notes, it is possible to provide for reasonable development of existing conditional water rights outside the wilderness while protecting the wilderness. That view should be more specifically represented in the implementation sections of the legislation.

In Section 5(j)(4)(B), although essentially a restatement of provisions already included in the Wilderness Act, is, in our view, a helpful assurance that new structures will not be built in the wilderness.

We appreciate the Chairman’s decision to consider this area individually for wilderness designation, thus allowing legislation to be crafted in response to the physical and human use characteristics unique to the area. This custom crafting is particularly important on the question of water in proposed mid-stream wilderness areas.

However, the use in any one bill of inadequate or arbitrary water language, such as the express denial of wilderness water protection, makes more difficult negotiation of good water provisions in other bills.

Colorado is blessed with a remarkable brain trust of water experts, legal, hydrological, and environmental. Engaging the skills and wisdom available in discussion of Deep Creek can provide a creative, and more effective, approach to water protection and management there. We enjoy, for example, a good working relationship with the staff and board members of the Colorado River Water Conservation District. We will be very pleased, with your permission and encouragement, to engage in further discussions with them in pursuit of comprehensive and protective water language that we might jointly present to you and the subcommittee.

The bill includes in Section 5(c)(2) reference to training exercises by the Colorado Army (Air) National Guard, a contingent of which is based at the Eagle County Airport, near Deep Creek, and to a memorandum of understanding between the National Guard and the U.S. Forest Service for activities over and near Deep Creek.

Our coalition understands the need to maintain a well-equipped and well-trained citizen military, and we support reasonable use of public lands for military exercises. Since a wilderness designation, in itself, does not restrict overflights of any type, including military flights, this provision appears to be unnecessary and could be left out of the legislation.

At the same time, a wilderness designation must recognize, and preserve, this area as a place without the structures or the motorized activities of any human endeavor, except in the case of utmost and short term emergency, as already provided in the Wilderness Act and in agency regulations on wilderness management.

Specifically, military or other airborne activities over the Deep Creek area must include no landings inside the designated wilderness or other motorized travel across the land itself. We believe that other narrow, steep canyons nearby, areas also included in the memorandum of understanding, can provide similarly challenging training opportunities.

Several other points, each essentially a question of legislative drafting or clarification include the bill’s references to management under the Federal Land Planning and Management Act, reference to ability to “enhance” wilderness values, and reference to provision of new rights-of-way across wilderness. In general, we will seek clarification that none of these provisions diminishes the basic protections found in the Wilderness Act.

Again, it a pleasure to be engaged in this effort to secure the recognition and protection of the outstanding natural wonder that is Deep Creek. Our enthusiasm for this effort is enhanced by the fact that our own Congressman, Chairman of this key subcommittee, has decided to lead this effort.

In these days of fear and necessary courage in the face of some abominable human behavior, the solace of wilderness, even the knowledge that it is out there, preserved, is a key part of our personal and national well being. Places like Deep Creek are the essentials of America the Beautiful, a land that justifiably increases our pride and our collective will to make the world a better, safer place.

As naturalist and guide Sigurd Olsen said some fifty years ago, “Wilderness to the people of America is a spiritual necessity, an antidote to the high pressure of modern life, a means of regaining serenity an equilibrium.”

Perhaps more than at any other time, that observation is relevant and true.

Thank you again, Mr. Chairman and members of the subcommittee, for joining in this good work on behalf of American wilderness.

[Attachments to Mr. Smith's statement follow:]

Dick Piffer  
Dick Piffer Outfitters  
3447 Co. Rd. 103  
Carbondale, CO 81623

Dear Representative McInnis,

I am writing this letter to vocalize my support of the Deep Creek Proposed Wilderness Area boundaries that have been defined by the Citizens' Wilderness Proposal. I am a hunting and fishing outfitter in the Roaring Fork Valley, and I run my hunting trips in General Management Unit #25, which is part of the area being proposed for wilderness. I have been running trips in the Deep Creek area for many years, and know the land very well. I am supportive of your decision to promote Deep Creek for wilderness designation, but want to encourage you to include a larger acreage in your proposal.

During the past few weeks, I have been contacted by representatives from the Citizens' Wilderness Network to discuss the boundaries in the Citizens' Wilderness Proposal. With their boundary along route 618, there are no conflicts between their proposed area and the functioning of my business. I support the boundaries proposed by the Network, although I would propose extending the northern boundary all the way to sweetwater to best protect the resource.

There are several reasons why I feel that the area above the Deep Creek canyon rim deserves wilderness designation, including wildlife habitat values and watershed protection. Essentially, the canyon itself is well protected because of the difficulty of gaining access to this area. However, the land located above the canyon rim risks future degradation due to the ease of access from roads and user-created routes. This is one important reason that protection should extend beyond the canyon rim. Also, the land adjacent to the rim provides an important wildlife corridor for big game herds, which wilderness designation would protect.

If you are looking to provide protection for Deep Creek, you need to protect the entire watershed. I feel that designating the canyon itself as wilderness is not enough, and I encourage you to consider the boundaries that are being presented by the Citizens' Wilderness Network.

Sincerely,  
  
Dick Piffer

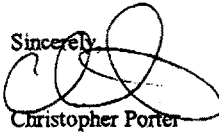
Christopher Porter  
Andersen Camps  
7177 Colorado River Road  
Gypsum, CO 81937

Dear Representative McInnis -

I am writing this letter in support of the boundaries for the Deep Creek Proposed Wilderness Area as outlined in the Citizens' Wilderness Proposal (CWP). I am permitted to run my outfitting business, Andersen Camps, in the Deep Creek Management Area that is being proposed for Wilderness designation. After discussing the boundaries with a representative from the Citizens' Wilderness Network, I have determined that there are no conflicts with the operation of my business and the Citizens' Wilderness Proposal. I run a backpacking and camping program, and take students into the Deep Creek Proposed Wilderness Area on a daily basis. Knowing this area extremely well, I believe that the area above the rim has wilderness qualities, and should qualify for wilderness protection.

There are several reasons why the CWN boundaries are more logical, including resource protection and access to the canyon. I believe that the best way to protect the pristine Deep Creek system is to provide protection for a greater portion of the watershed, which is what the Citizens' Wilderness Proposal aims to do. In addition, because of the fact that I run hiking trips into this area, I am very familiar with the difficulty of foot access to the canyon itself. In order to maintain human access to wilderness areas, which has been claimed as a high priority of local and national officials, it is essential to provide protection to the area above the rim so that more people can gain access to the wilderness area.

For these reasons, among others, I support the boundaries as defined by the Citizen's Wilderness Proposal. Because I maintain my business in the Deep Creek area, I believe that my input should be seriously considered by the local and national officials who are making the Deep Creek boundary decisions. Thank you for your attention to this matter.

Sincerely,  
  
Christopher Porter

October 1, 2001

To the Eagle County Commissioners;

I am in favor of the proposed wilderness area on Deep Creek and expanding the acreage beyond Representative McInnis' proposal to be more in accordance with what is being proposed in the *Citizen's Wilderness Proposal*, providing that nothing in this legislation alters my grazing, outfitting business and water rights from the present status.

Sincerely,

A handwritten signature in cursive script that reads "Warren Jacobson". The signature is written in black ink and is positioned above the typed name and address.

Dr. Warren Jacobson  
1721 Colorado River Road  
Gypsum, CO 81637

CC: Garfield County Commissioners  
Representative Scott McInnis

RESOLUTION NO. 2001-14

Series of 2001

**A RESOLUTION OF THE CITY OF GLENWOOD SPRINGS,  
COLORADO, IN SUPPORT OF THE ESTABLISHMENT OF  
THE DEEP CREEK WILDERNESS AREA.**

WHEREAS, the United States Congress is considering the Deep Creek drainage located in Garfield and Eagle County, Colorado for designation as a Wilderness Area to be known as the Deep Creek Wilderness Area; and

WHEREAS, the Deep Creek drainage is a unique and pristine area that provides the citizens of Glenwood Springs with valuable scenic, geological, paleontological, scientific, and recreational opportunities; and

WHEREAS, the creation of the Deep Creek Wilderness Area will serve to protect and preserve those unique and valuable qualities for both current and future generations; and

WHEREAS, City Council has determined to lend its support to the effort to designate the Deep Creek drainage as a Wilderness Area by adoption of this resolution.

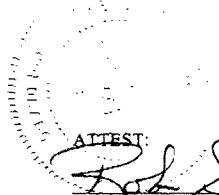
NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, THAT:

The City Council of the City of Glenwood Springs hereby supports the designation of the Deep Creek drainage located in Garfield County and Eagle County, Colorado as a Wilderness area and urges the United States Congress to consider and approve such designation. The City Council also encourages Congress to consider any appropriate area adjacent to the legislatively specified Deep Creek drainage for wilderness designation as well.

INTRODUCED, READ AND PASSED THIS 20<sup>th</sup> DAY OF SEPTEMBER, 2001.

CITY OF GLENWOOD SPRINGS, COLORADO

  
Sam Skramstad, Mayor



ATTEST:  
  
Robin S. Clemons, City Clerk

**TOWN OF SILT  
RESOLUTION NO. 27  
SERIES OF 2001**

**A RESOLUTION SUPPORTING THE DESIGNATION OF CERTAIN LANDS IN  
GARFIELD AND EAGLE COUNTIES AS WILDERNESS AREAS**

**WHEREAS**, the Board of Trustees of the Town of Silt ("Board") support developing land use decisions at the local level; and

**WHEREAS**, the Board supports multiple use of federal lands; and

**WHEREAS**, decisions made concerning federal land management impact local communities the greatest, and any decisions made by Congress must be based on input from these local communities; and

**WHEREAS**, proposed wilderness designations by federal agencies in the Deep Creek area in Garfield and Eagle Counties will have a dramatic impact on local citizens; and


**WHEREAS**, Deep Creek has, therefore, met the definition of wilderness by its scenic and ruggedly remote limestone canyon, which is up to 3,000 feet deep. It contains more than 40 caves, including Colorado's longest known cave. Deep Creek provides a pristine stream, lined with high-quality blue spruce, Douglas fir, and Red-Osier dogwood habitat, and is home for deer, elk, bear, mountain lion, bald eagle, peregrine falcon, northern goshawk, Townsend's big-eared bat, round-tail chub, numerous songbirds and raptors.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Trustees of the Town of Silt supports the designation of the Deep Creek area of Garfield and Eagle Counties as a wilderness area.

**APPROVED AND ADOPTED** this 24<sup>th</sup> day of September 2001.



ATTEST:

  
\_\_\_\_\_  
Town Clerk Patty Lambert, CMC

TOWN OF SILT

  
\_\_\_\_\_  
Mayor John Evans

101 MIDLAND AVENUE • BASALT, CO 81621  
(970) 927-4701 • FAX (970) 927-4703



**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF BASALT,  
COLORADO, SUPPORTING WILDERNESS DESIGNATION FOR DEEP CREEK**

**TOWN OF BASALT, COLORADO  
RESOLUTION NO. 13  
SERIES OF 2001**

WHEREAS: Congressional Wilderness designation gives permanent protection to the natural, scenic, recreational, and biological values of federal lands; and certain lands administered by the Bureau of Land Management (BLM) and National Forest Service (NFS) in Colorado possess such natural, scenic, and biological values of an outstanding nature;

WHEREAS: the canyon and surrounding upland forests and meadows of Deep Creek, in Garfield and Eagle Counties, Colorado, possess such outstanding wilderness values and the Town of Basalt also lies in Eagle County;

WHEREAS: the lands surrounding Deep Creek are highly valued by local residents for activities such as hunting, hiking, horseback riding, camping, and grazing;

WHEREAS: the upland forests and meadows are an integral part of the landscape and ecosystem of Deep Creek;

WHEREAS: Colorado residents, including many in the Town of Basalt, place a high value on natural and scenic landscapes as an important aspect of quality of life, and protection of land in its natural state helps to preserve this quality of life;

NOW THEREFORE BE IT RESOLVED: that the Board of Trustees of the Town of Basalt, Colorado supports Wilderness designation for the Deep Creek area as described in the "Citizens Wilderness Proposal," totaling approximately 22,000 acres.

Read and approved this 9<sup>th</sup> day of October, 2001.

Town of Basalt  
Board of Trustees

ATTEST:

by:   
Richard P. Stevens, Mayor

  
Pamela K. Schilling, Town Clerk

Established in 1901

## *Colorado Wilderness Network*

### WILDERNESS SUPPORTERS

*Of the Citizens' Wilderness Proposal for Colorado BLM Lands*

As of September 17, 2001

#### LOCAL GOVERNMENTS

Basalt Town Council  
Boulder County Commission  
Denver City Council  
Eagle Town Council  
Gunnison County Commission  
Lake City Town Council  
Marble Town Council  
Park County Commission  
Pitkin County Commission  
Ridgway Town Council  
San Miguel County Commission

#### BUSINESSES

A Haggie of Vendors Emporium - Grand Junction  
Active Endeavors - Boulder  
Adobe Creek Animal Clinic - Fruita  
Adobe Inn - Ouray  
The Adventure Company - Breckenridge  
All Sports Replay - Gunnison  
Alpine Art & Glasswork - Steamboat Springs  
Alpineer - Crested Butte  
Arapahoe Café and Pub - Dillon  
Architecture Works - Golden  
Arkansas Valley Adventures - Granite  
Art of the Rockies Gallery - Loveland  
Aspen Skiing Company - Aspen  
Backcountry Escape, LLC - Longmont  
Backcountry Experience - Durango  
Backdoor Sports - Steamboat Springs  
Backstreet Bagel & Deli - Montrose  
Barnhart Woodworks - Montrose  
Beaver Lake Retreat Center - Marble  
The Bent Gate Inc. - Golden  
Big City Blues - Breckenridge

Bill Myers, P.C. - Denver  
Black Canyon Appraisal - Montrose  
Black Diamond Equipment Ltd.  
Black Diamond Expeditions - Gunnison  
Blue Planet Earthscapes - Manitou Springs  
Blue River Anglers - Breckenridge  
The Bookworm - Gunnison  
Boulder Mountain Repair - Boulder  
Branson Reynolds Photography - Durango  
Butte Bagels - Crested Butte  
Cannibal Outdoors - Lake City  
Canyon Sports, LLC - Cortez  
Caravanserai - Breckenridge  
Carver's Brewing Co. - Durango  
Carol Fowler, M.D. - Grand Junction  
Casa Adobe Art Glass - Grand Junction  
Chamberlin Architects - Grand Junction  
Cimarron Books - Ridgway  
Cimarron Creek - Montrose  
Civilized Designs from the Wild West - Ridgway  
The Cliff House at Pikes Peak - Manitou Springs  
Colorado Java House - Grand Junction



*Colorado Wilderness  
Network*  
**WILDERNESS SUPPORTERS**  
*Of the Citizens' Wilderness Proposal for  
Colorado BLM Lands*  
As of September 17, 2001

**BUSINESSES CONTINUED**

Colorado Outdoor Recreational Adventures  
Comstock Mercantile Co. - Durango  
Confluence Kayaks - Denver  
Copy Copy - Frisco  
Crystal Books and Gifts - Grand Junction  
Dale E Jones, D.D.S. - Grand Junction  
Dancing Willow Herbs - Durango  
Deer Hill Expeditions - Mancos  
Desert Wind Equine Massage - Grand Junction  
Design Specialists - Grand Junction  
DeVinny Jewelers - Montrose  
Dickens House Bed and Breakfast - Longmont  
Duranglers Inc. - Durango  
Durango Shirt Company - Durango  
Echo Canyon River Expeditions - Canon City  
Ecos Consulting - Durango  
Eastern Mountain Sports - Boulder  
Elite Expressions - Grand Junction  
The E-Quest Corporation - Colorado Springs  
Firehouse Sculpture and Gallery - Ridgway  
Forte Farms - Palisade  
Gardenswartz Sporting Goods - Durango  
Golden West Company, LLC - Denver  
Gordon Anderson Photography - CO. Springs  
Grand Mesa Music Publishers - Grand Junction  
Grand Valley Muscular Therapy - Grand Junction  
Granpa's Pawn and Gun - Longmont  
Great Big Color Inc. - Broomfield  
Gunnar Conrad Photography - Durango  
Hall Realty, Inc. - Lake City  
Hearth 'n Home Products, Ltd - Grand Junction  
Hill's Aspen Gallery Photography - Aspen  
Holiday Inn - Grand Junction  
Horse Thief Canyon Tack - Fruita  
Hotel Lenado - Aspen  
Ivar Eidsmo Builder Inc. - Telluride  
Joe Croke Construction - Rico  
John Deaux Art Gallery - Pueblo  
Juice N' Counters - Grand Junction  
Lake City Properties - Lake City  
Lifestream Water Systems - Salida  
Litigation Support and Consulting, LLC - Grand  
L.J. Lindauer, Inc. - Grand Junction  
Little Mountain - Boulder  
The Loom and Weave Inc. - Breckenridge  
Lupita's Bizarre Bazaar - Ridgway  
Mad Dog Sports - Steamboat Springs  
Main Avenue Marketplace  
Main Street Bagels - Grand Junction  
Malinda Leigh Rogers - Montrose  
Marilyn's Music and Language Studio - Grand Junction  
Masterprint - Broomfield  
Mesa Theater and Club - Grand Junction  
Mild to Wild Rafting - Durango  
Montgomery Partnership Architecture - Boulder  
Montrose Chiropractic - Montrose  
Moonrise Bakery - Paonia  
Mosaic Planet - Grand Junction  
Mother Nature's Health Food Store - Canon City  
Mountain Angler - Breckenridge  
Mountain Chalet - Colorado Springs  
Mountain High Technology - Steamboat Springs  
Mountain Miser LTD - Englewood  
Mountain Sports - Boulder  
Mountaineer Theatre, Inc. - Lake City  
Mountain Valley Fish & Oyster, Inc. - Montrose  
Mountainsmith Outdoor Equipment - Golden  
Natural Progression Rock Guides - Grand Junction  
Neptune Mountaineering - Boulder  
New Belgium Brewing Company - Fort Collins  
Nicholoff Summit Construction - Hotchkiss  
North Face - Boulder  
One Stop Ski Shop Ltd. - Steamboat Springs

**Colorado Wilderness  
Network  
WILDERNESS SUPPORTERS**  
*Of the Citizens' Wilderness Proposal for  
Colorado BLM Lands*  
As of September 17, 2001

**BUSINESSES CONTINUED**

Orchard Mesa Veterinary Hospital - Grand Junction  
Osprey Packs, Inc. - Dolores  
Outdoor Research  
Over the Edge Sports - Fruita  
PA/DS Design Partnership -- Grand Junction Palisade  
Veterinary Clinic - Palisade  
Patagonia -- Denver  
Peregrine River Outfitters - Durango  
Pine Needle Mountaineering - Durango  
Planet Earth 4 Directions Art Gallery - Grand Junction  
Poudre River Kayaks - Fort Collins  
Precision Visual Communication - Grand Junction  
Pub Ryan's - Dillon  
The Pueblo House -- Lake City  
Rasta Pasta - Breckenridge  
Rechel's Environmental Consulting - Grand Junction  
Redstone Inn -- Redstone  
Renegade, LLC -- Silverton  
Rhea Environmental Consulting - Durango  
Ridgway Outdoor Experience - Ridgway  
Ridgway Office Supply - Ridgway  
Ridgway Rentals -- Ridgway  
Rim Rock Adventures - Fruita  
Rock Creek Studios -- Carbondale  
Rock Solid Adventures - Florissant  
Rocky Mountain Environmental Strategies, Inc.  
Rosemary Knight, C.P.A. -- Lake City  
Ross Reels - Montrose  
San Juan Stone Co. - Ridgway  
Scott Fly Rods - Montrose  
Sierra West Surveying -- Hotchkiss  
Silver Mountain Harvest, Ltd. -- Silverton

Simpler Way Book Company -- Silverton  
Sisters' Espresso - Littleton  
Slice O' Life Bakery - Palisade  
The Snow Leopard - Evergreen  
Sports Replay - Grand Junction  
Southwest Adventures -- Durango  
Streamside Bed and Breakfast - Nathrop  
Summit Canyon Mountaineering - Grand Junction  
Sundancer Gift Shop -- Carbondale  
Sundrop Grocery - Grand Junction  
Talbot Farms - Palisade  
Tenderfoot Rafting - Gunnison  
Tikvih Gift Shop -- Carbondale  
Timberline Llamas, Inc. - Golden  
The Trailhead Outdoor Gear & Gifts - Buena Vista  
Triple Play Records - Grand Junction  
Unicas Southwest - Ridgway  
Urban Homestead -- Durango  
Ute Mountaineer - Aspen  
Valerie's Fashions - Durango  
Valley Books & Coffee - Montrose  
Vectra Bank of Colorado -- Telluride  
Way of the Mountain Center - Silverton  
Whistle Stop School of Horsemanship, LTD - Fruita  
White Hart Gallery - Steamboat Springs  
White Horse Saloon - Ridgway  
Whitewater West - Grand Junction  
Willow Creek Floral -- Ridgway  
Yoga West -- Grand Junction  
The Yule Tree - Grand Junction  
Zen Home Construction -- Lake City

**CONSERVATION, RECREATION AND OTHER  
ORGANIZATIONS**

The Access Fund  
Aiken Audubon Society - Colorado Springs  
The American Hiking Society  
Aspen Wilderness Workshop  
Audubon Society of Greater Denver  
Backcountry Skiers Alliance -- Eldorado Springs  
Biodiversity Legal Foundation  
Black Canyon Audubon Society - Montrose  
Blue River Group, Sierra Club - Frisco  
Boulder County Audubon Society

**Colorado Wilderness  
Network  
WILDERNESS SUPPORTERS  
Of the Citizens' Wilderness Proposal for  
Colorado BLM Lands  
As of September 17, 2001**

**CONSERVATION, RECREATION AND OTHER  
ORGANIZATIONS CONTINUED**

Catholic Diocese of Pueblo- Human Development Commission  
Center for Environmental Citizenship  
Center for Native Ecosystems  
Clean Water Action  
Clifton Tuesdays Senior Citizens Group  
Colorado Audubon Council  
Colorado Environmental Coalition  
Colorado Mountain Club - State Chapter  
Aspen Group  
Boulder Group  
Denver Group  
Denver Juniors Group  
Denver Wilderness Kids Group  
El Pueblo Group  
Fort Collins Group  
Gore Range Group  
Longs Peak Group  
Pikes Peak Group  
San Juan Group  
Shining Mountain Group  
Weld County Group  
Western Slope Group  
Colorado Native Plant Society  
Colorado River Outfitters Association  
Colorado White Water Association  
Colorado Wild  
The Colorado Wildlife Alliance  
Colorado Wildlife Federation  
Colorado Public Interest Research Group - Denver  
Concerned Citizens' Resource Assoc. - Mesa County  
Earthjustice Legal Defense Fund  
Earthlaw  
Earthwrite - Parachute  
Enos Mills Group, Sierra Club - Denver  
Environmental Center, University of Colorado  
Environmental Studies Club, University of Colorado  
The Evergreen Naturalists Audubon Society  
First Congregational Church, Mission & Outreach Board - Grand Junction  
Fort Collins Audubon Society  
Fort Lewis Environmental Center - Durango  
Friends of the Animas  
Friends of Westwater Inc. - Grand Junction  
Fughawee Senior Hikers - Carbondale  
Grand Valley Audubon Society - Grand Junction  
Grand Valley Citizens' Alliance - Rifle  
Great Old Broads for Wilderness  
High Country Citizens' Alliance - Crested Butte  
High Plains Group, Sierra Club - Aurora  
Indian Peaks Group, Sierra Club - Boulder  
Land and Water Fund of the Rockies  
League of Conservation Voters Education Fund  
LightHawk  
Mesa County Green Party  
Mesa County Wilderness Coalition  
Mesa State College Environmental Club  
Mount Evans Group, Sierra Club - Evergreen  
National Parks and Conservation Association  
National Wildlife Federation - Boulder  
Nordic Council - Delta  
Pikes Peak Group, Sierra Club - Colorado Springs  
Poudre Canyon Group, Sierra Club - Fort Collins  
Quiet Use Coalition - Buena Vista  
Rachel Carson Group, Sierra Club - Arvada  
Redlands Women's Club - Grand Junction  
Ridgway-Ouray Community Council  
Roaring Fork Audubon Society  
Rocky Mountain Peace & Justice Center - Boulder  
San Juan Audubon Society  
San Juan Citizens Alliance - Durango  
Sangre De Cristo Group, Sierra Club - Pueblo  
Sheep Mountain Alliance - San Miguel County  
Sierra Club, Rocky Mountain Chapter  
Sierra Club Student Alliance, CSU - Ft. Collins  
Sinapu  
Sopris Greens - Carbondale  
South Platte Group, Sierra Club - Littleton  
Southern Rockies Ecosystem Project  
Student Environmental Action Coalition, Univ. of Co.  
Target Earth International -  
Christian Environmental Association  
Thorne Ecological Institute  
Trappers Lake Group, Sierra Club - Steamboat Springs  
Uncompahgre Group, Sierra Club - Grand Junction  
Uncompahgre Valley Association - Montrose  
Unitarian Church - Grand Junction  
Upper Arkansas & South Platte Project  
Washington Park United Church of Christ - Denver  
Weminuche Group, Sierra Club - Durango  
Western Colorado Congress  
Wilderness Land Trust  
Western Slope Environmental Resource Council  
The Wilderness Society  
Wilderness Study Group, University of Colorado  
Wildlands CPR  
Young Greens of Mesa State College - Grand Junction

Mr. MCINNIS. Commissioner, I want you to know that 10 years ago or so, at the urging of some of the county commissioners then, I took my first overflight to talk about wilderness on Deep Creek and so on. So the commissioners of Eagle County have been very consistent in their attention to this in now well over a decade for attention on that, and you have certainly carried it forward. I appreciate it.

You may proceed.

**STATEMENT OF TOM C. STONE, EAGLE COUNTY  
COMMISSIONER, STATE OF COLORADO**

Mr. STONE. Thank you, Mr. Chairman. And thank you, members of the Committee. In the interests of time, and recognizing that brevity is appreciated, I am not going to share with you my—or speak my written testimony. I have submitted it. I would like to sum it up, though, and I really would like to focus on one very, very, very key issue, and that is the Army National Guard.

I spoke with the professional, Colonel Joel Best, right before I came out here and asking Colonel Best what his concerns were. And he reiterated to me, as I am sure that he has shared with you, Mr. Chairman, the necessity of having—to be able to continue operations as they have operated in the past in Deep Creek Canyon.

The high-altitude training site is a world-renowned site. I have seen pilots in there from Norway, Sweden, from all sorts of countries throughout the world, plus, of course, the United States, coming there for high-altitude training that they do not get anywhere else in the world. This is a truly unique facility.

In recognition of that, within the last 6 months, Eagle County just signed an 80-year lease for a dollar a year for a substantial portion of the Eagle County Regional Airport with the Army National Guard. That should give you an indication of our commitment. Not only do they provide training, but they provide search and rescue efforts for the entire western slope of Colorado. And Colonel Best said to me very simply, Commissioner Stone, if we don't have those training opportunities that the canyon provides for us, we are just not going to be able to provide the service that we have provided in the past. There are other areas that they do use, but other areas do not provide them with the training opportunities that they have there. And Colonel Best did go on to tell me that he was sure that some of the pilots that he has trained personally will be in operations over in Afghanistan.

So I will end my testimony to give you some time to ask some questions. Thank you.

Mr. MCINNIS. Thank you, Mr. Commissioner.

[The prepared statement of Mr. Stone follows:]

**Statement of Tom C. Stone, Eagle County Commissioner, Eagle, Colorado**

Thank you Mr. Chairman and members of this Committee for the opportunity to speak in support of designation of certain lands as the Deep Creek Wilderness Area. Almost 86% of my County is publicly owned lands. As a Commissioner in Eagle County, I take my job as a responsible steward of these lands very seriously. Our County is home to world famous Vail ski area. As a result of our many recreational opportunities and incredible mountain vistas, we are also one of the fastest growing counties in the nation. As a board of County Commissioners, we constantly strive to strike a balance between responsible use of our lands and protection where warranted. Following the concept of multiple use of the Federal lands in Eagle County,

we believe that the wise use of some property should be geared more towards active recreation. Other lands warrant a more passive use and the ultimate designation of Wilderness. Properly defined and regulated, Deep Creek affords a unique opportunity for almost all stakeholders to agree on this most protective establishment of Wilderness.

The Eagle County Board of Commissioners and the Garfield County Board of Commissioners both passed a resolutions unanimously that read in part, "Deep Creek has met the definition of wilderness by its scenic and ruggedly remote limestone canyon, which is up to 3,000 feet deep. It contains more than 40 caves, including Colorado's largest known cave. Deep Creek provides a pristine stream, lined with high-quality blue spruce, Douglas fir, and Red-Osier dogwood habitat, and is home for deer, elk, mountain lion, bald eagle, peregrine falcon, northern goshawk, Townsend's big-eared bat, round-tail chub, numerous songbirds and raptors". The Resolution goes on to say, "the proposed wilderness designation which is being supported herein includes the area contained rim to rim of Deep Creek totaling approximately 8,450 acres of which 2000 acres are in Eagle County and 6,450 acres are in Garfield County". The area that my board supports is one that is truly rugged and has very limited signs of the influence of man.

One of the most notable features of this proposed designation is something other than the property itself. The feature that I refer to is the process that Congressman McNinnis used to craft this Bill. Congressman McNinnis solicited a broad range of local input from County commissioners, private property owners, the Colorado River Water Conservation District, environmental groups and other stakeholders before submitting this Bill. Too many times we have seen just the opposite where someone will offer a Bill first and ask questions later. Congressman McNinnis should be commended on his commitment to local input, which has resulted in a thoughtful bill that combines the goals of local officials with environmental initiatives. This truly collaborative process has resulted in a bill that is ready for speedy passage with little or no change necessary. Trusting in the Forest Service's RARE II survey, which indicates a Roadless Area of 11,060 acres, and adjusting to protect private property and water rights, the boundaries that Congressman McNinnis has proposed are appropriate. Permitted use by the Colorado Army National Guard, adherence to Colorado Water Law and the requirement of no Buffer Zones are all essential features of this Bill. Without these requirements our board could not support this legislation. Congressman McNinnis has met the needs and all requirements necessary to satisfy us that all proper safeguards have been met.

I urge this Committee to pass this legislation as presented. Overly extended discussion will only serve to endanger these lands from ever gaining the designation that they deserve. Thank you for your time and public service to the great needs of this great nation.

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[An attachment to Mr. Stone's statement follows:]

Commissioner Ballagher moved adoption  
of the following Resolution:

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EAGLE, STATE OF COLORADO**

**RESOLUTION NO. 2001 - 126**

**RESOLUTION CONCERNING SUPPORT OF THE DESIGNATION OF CERTAIN  
LANDS IN EAGLE AND GARFIELD COUNTIES AS WILDERNESS AREAS**

**WHEREAS**, Eagle County through its Board of County Commissioners supports developing land use decisions at the local level; and

**WHEREAS**, the Board of County Commissioners supports multiple use of federal lands; and

**WHEREAS**, decisions made concerning federal land management impact local communities the greatest, and any decisions made by Congress must be based on input from these local communities, as well as the USFS/BLM; and

**WHEREAS**, proposed wilderness designations by federal agencies in the Deep Creek are in Garfield and Eagle Counties;

**WHEREAS**, Garfield County through its Board of County Commissioners is also in full support of the proposed wilderness designation; and

**WHEREAS**, such designation will have a dramatic impact on local citizens; and

**WHEREAS**, Deep Creek has, therefore, met the definition of wilderness by its scenic and ruggedly remote limestone canyon, which is up to 3,000 feet deep. It contains more than 40 caves, including Colorado's largest known cave. Deep Creek provides a pristine stream, lined with high-quality blue spruce, Douglas fir, and Red-Osier dogwood habitat, and is home for deer, elk, bear, mountain lion, bald eagle, peregrine falcon, northern goshawk, Townsend's big-eared bat, round-tail chub, numerous songbirds and raptors, and

**WHEREAS**, critical water and water rights can be adequately addressed legislatively to protect both private property interests and water-related natural resources in the Deep Creek area; and

**WHEREAS**, the proposed wilderness designation which is being supported herein includes the area contained within rim to rim of Deep Creek totaling approximately 8,450 acres

of which 2000 acres are in Eagle County and 6,450 acres are in Garfield County.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF EAGLE, STATE OF COLORADO:**

**THAT**, consistent with the Board of County Commissioners' of Eagle County, Colorado, philosophy of supporting local government review, along with USFS/BLM, Eagle County supports the designation of rim to rim of the Deep Creek area of Garfield and Eagle Counties as a wilderness area.

**THAT**, this Resolution is necessary for the public health, safety and welfare of the citizens of the County of Eagle, State of Colorado.

**MOVED, READ AND ADOPTED** by the Board of County Commissioners of the County of Eagle, State of Colorado, at its regular meeting held the 9th day of October, 2001.

COUNTY OF EAGLE, STATE OF COLORADO, By and Through Its BOARD OF COUNTY COMMISSIONERS

ATTEST:

Sara J. Foster  
Clerk to the Board of  
County Commissioner



By Tom C. Stone  
Tom C. Stone  
Commissioner

Michael L. Gallagher  
Michael L. Gallagher  
Commissioner

Arn M. Menconi  
Arn M. Menconi  
Commissioner

Commissioner Menconi seconded adoption of the foregoing resolution. The roll having been called, the vote was as follows:

Commissioner Stone ay  
Commissioner Gallagher ay  
Commissioner Menconi ay  
This Resolution passed by 3-0 vote of the Board of County Commissioners of the County of Eagle, State of Colorado.

Mr. MCINNIS. In light of that, we will go ahead and go straight to questions from the panel.

Mr. Inslee.

Mr. INSLEE. Thank you. I just want to open a question to anyone who can answer it. As far as water rights, could you all give us some description of what you perceive to be the existing right to use water and how that would be affected by this bill, and in real terms. In other words, is there an acrefeet that could be used for irrigation now, but would not under this bill? Is there a flow regimen required by some, you know, legal challenge or otherwise? Just give us a real-world feeling of what would change under this bill and what we should be thinking about.

Mr. TREESE. Thank you, Mr. Inslee. Chris Treese.

There are both existing water rights upstream and adjacent to this wilderness area that rely on Deep Creek for their water supply. There are also planned water facilities that have what is called in Colorado a conditional water right, which essentially serves as a placeholder in our priority system.

There is also a third element of water rights to understand as a baseline in answer to your question; that is, an in-stream flow right held by the State, held by the Water Conservation Board, as mentioned by Ms. Kimbell, that protects the in-stream or free-flowing values of Deep Creek.

The concern, to answer your question, about wilderness designation if it were not to have explicit recognition of the existing water rights, both perfected and conditional, is that you end up with a—at least, at the very least, a very difficult political situation to try and permit those future water facilities upstream of a wilderness area. By their nature they have some depletive effect upon the stream itself, and some will argue that any depletive impact will irreparably harm the wilderness values for which the wilderness was recognized, again, unless the wilderness language, the enabling legislation, does not explicitly recognize that, and the Congress basically have said these can be accommodated and still have those wilderness values.

Mr. INSLEE. Does some entity today have an in-stream flow water right? If so, who is that?

Mr. TREESE. Yes, sir. It is the State of Colorado. The State of Colorado within the State is the only entity that is legally allowed to hold a water right for free-flowing water purposes. They do have a water right. It is, I believe, for 14 cubic feet per second in the summertime and 8 cubic feet per second in the wintertime.

I would add that I have not heard anybody suggest in any of the discussions that I have had that that is not adequate for the wilderness or—for the Deep Creek stream system, the environmental system.

Mr. INSLEE. Well, even without a designation in the bill, those water rights would be protected, would they not, even without a specific statement that those water rights are not abrogated or expanded or contracted?

I am trying to figure out, why do we have to address that issue? Aren't those water rights, to extent they exist, vested, legally recognized?



Mr. TREESE. I think if you are only referring to the existing water rights that are—that have already been developed, both the in-stream flow right and the existing water rights for which facilities are already developed, you are probably correct. However, the need to change the operation of the facility forever into the future cannot be determined at a given point in time. The principal concern is for the conditional water rights, that is, for the water rights for facilities that are planned to be developed, but not yet developed, and a protection for those water rights and a recognition that these water rights, once developed, will have a depletive impact on Deep Creek.

Mr. UDALL OF COLORADO. Will the gentleman yield?

Mr. INSLEE. Sure.

Mr. UDALL OF COLORADO. In Ms. Kimbell's testimony, Mr. Treese, she said that the conditional water rights upstream from the proposed wilderness far exceed the estimated average flow, the estimated high flows, and even the observed peak flow on this stream. Do you agree with her estimates?

Mr. TREESE. I am adding up quickly in my head. I am not sure that I do. I believe that they may—the Forest Service testimony and statement may include conditional water rights by a company called Rocky Mountain Power that were only relatively recently abandoned and are no longer on the table so—the State table of water rights. That removed between 110 and 190 cubic feet per second from that cumulative total.

Mr. UDALL OF COLORADO. So is it or isn't it accurate to say that development of these conditional water rights would mean or could mean that part of Deep Creek in the wilderness area could be completely dewatered, at least part of the time?

Mr. TREESE. I don't know that to be true or false. I am sorry. I would be happy to follow up with you and look at both the stream data. There is not a gauging station, to my knowledge, on Deep Creek. So we would have to do some synthetic data trying to figure out exactly what the—using the existing stream gauges where they exist to come up with a reasonable estimate of how much water Deep Creek contributes to the Colorado River System, and then looking at these conditional water rights.

Mr. UDALL OF COLORADO. I would appreciate if you could provide that. I am not looking for an outcome that is predetermined. I think it would be very good data. I thank the gentleman for yielding, and I used all of his time.

Mr. INSLEE. Can I make just one comment, and go over my red light, if I could? It strikes me, and I can be educated on this, but it strikes me that we shouldn't and will not abrogate existing water rights by passage of wilderness designations. On the other hand, I don't think we want to get into situations that would tie future public decisionmaking of upstream flows to the extent that they can be considered by whatever public entities have to make it.

For instance, let's assume there is 10,000 acrefeet of water rights that are not owned by anyone in upstream flows, they are open for future development, open for future consideration. And some public entity, and I don't know Colorado water law a lot, but could be involved in the decisionmaking of whether development takes place upstream or not.

I guess I don't want to tie the hands of public officials to say you can't consider it, that there is a wilderness area downstream, in a decision of whether or not to grant rights that may or may not exist. And I just think that is something we should think about in how we structure this language.

Thank you, Mr. Chair.

Mr. SMITH. Mr. Chairman, may I offer a couple of remarks being that Congressman Inslee offered it as a general question? Just two quick supplements to what Chris ably outlined on the condition of water up there.

On the existing water rights, both conditional and perfected, is that those are of senior nature and ought to be maintained. And our boundaries and our proposal leave those out and available for continued operation. We just want to be sure that the Federal managers of the new wilderness also have a water right at the table in Colorado water rights negotiations to compare and negotiate with the other folks who hold the water rights.

The second quick point I would make is that the Colorado Water Conservation Board, the designated holder typically of in-stream flow rights in Colorado, has as a definition for its in-stream flow rights one that is completely different than the purposes of wilderness. It is a different set of principles that basically provide sufficient flow for fish life, fish to live. It is more complicated than that, obviously, but it does not take in the complex range of water purposes and water benefits in a wilderness area. And so we believe that water protection for the wilderness needs to go well beyond what the State already has in place. Thanks very much.

Mr. MCINNIS. Let me point out a couple of things. First of all, remember that this legislation is unique.

Let me step back. The Colorado water law is unique and very complicated. This is unique, this particular bill, in that we are talking downstream and not headwaters; and of course, the fear is, any time you put a wilderness downstream, the Federal Government, which they did through—Judge Kane, in about 1986, I think it was about 1986, said that the Government, even though it was never mentioned, had water rights which impacted everybody that was utilizing water, especially anybody that was junior, or in a case like this, anybody that was upstream.

You could very well into the future have a Federal judge just like Judge Kane say, Hey, the Federal Government has water rights that are downstream; and therefore not just the quantity but the quality of the water, the temperature, et cetera, et cetera, and they could have a huge impact on every water right above it.

That is the big fear in Colorado, and I have made it very clear as a condition of any type of wilderness, at least that I have any leverage over, has to meet two elements. One, it has got to have local support. I think that is reflected here; and two, it has got to have a water right sign-off, because when you are dealing with the wilderness areas that are not the headwaters, you are dealing with a very complicated subject and that is why the river district—and the river districts have had a number of meetings on this, lots of debate on this, and their sign-off was absolutely critical.

So if we proceed to try and negotiate something further and we lose the sign-off of the Colorado River district, we lose the bill. It is that simple, and that is how critical the water issue is.

Mr. SMITH. Mr. Chairman, I would be pleased to note that we have been visiting with members of the river district board and with their staff in an attempt to come up with a composite of wilderness water rights provisions that will be acceptable to them and still protect the characteristics of wilderness for which this designation is intended; and we are very pleased to continue working with the district in those kinds of negotiations so, as you say, they sign off on something that works for both purposes.

Mr. MCINNIS. That is right, Mr. Smith. That sign-off is critical for the life of this legislation, so to speak.

Do we have any further questions by any members of the panel?

Mr. UDALL OF COLORADO. Mr. Chairman, thank you, and I would add my support to the remarks you made about the challenge we face when we have downstream wilderness areas. And there is a whole series of court cases that have tried to deal with this in a way that treats everybody fairly, and we continue to have to respond to the new situations that arise.

Chris, just to pursue this a little further, I think it is important to have all of this on the record. Isn't it accurate that the United States already has a water right for national forest purposes, so what we are talking about is whether there should be some new right in Deep Creek?

Mr. TREESE. I am not aware of a Forest Service water right in Deep Creek.

Mr. UDALL OF COLORADO. I think there are for the national forests in general. Is that your understanding?

Mr. TREESE. That has been litigated on a forest-by-forest basis is my understanding, and there have—they have found a limited appropriative reserve right for the forest, not a reserve right for an in-stream flow or a free flowing flow of the river, a water right.

Mr. UDALL OF COLORADO. So, in effect, we are still discussing here today whether there ought to be a new right although there is already this existing position that the Forest Service holds?

Mr. TREESE. I believe that is what we are discussing.

Mr. UDALL OF COLORADO. What is the old saying? Whiskey is for drinking and water is for fighting over.

I think in the great State of Washington they don't have that problem. So we should invite my colleague, Mr. Inslee, to Colorado and have him spend some additional time. Although he did have a great backpacking trip in Congressman McInnis's district last summer up in the Maroon Bells Wilderness, so he has firsthand experience.

I am looking at my list of questions here. Back to Ms. Kimbell, she suggested the bill should be amended so the Forest Service, working with the Water Conservation Board, has the opportunity to protect the critically important water and flow-dependent resource values of the proposed Deep Creek Wilderness. What would be your reaction to that suggestion, Mr. Treese?

Mr. TREESE. Thank you. I was pleased to hear the Forest Service make that comment. I think that it is critical that whatever solution is crafted recognizes State water law and the ability of the

State to administer whatever water solution is crafted. It is the State that is responsible for the administration of water, and if it is not a water right and recognized by the State, it is not an administratable water right.

Mr. UDALL OF COLORADO. Mr. Smith, I take it you might have a suggestion of another approach.

Mr. SMITH. We would be—we have several other approaches, I think, that would work in the context of this one suggestion that the Forest Service has made.

We remain concerned that the Water Conservation Board has in place procedures and definitions and standards for the amount of an in-stream flow right that are based on purposes different from the purposes of the Wilderness Act. The Board is not currently capable, under its own guidelines, to hold a wilderness in-stream flow right. If that board were to develop such standards that would protect the wider range of aquatic and riparian needs of such an in-stream flow right, that might be a possibility, but there is work to be done in order to make the approach work.

Mr. UDALL OF COLORADO. I hope I didn't wade into that subject so far I got over my head.

But Commissioner Martin, I want to welcome you and Commissioner Stone. Congressman McInnis and I have had some success in the James Creek area, and we worked over a number of months—and in my case, years—trying to reach consensus. I know in Garfield County you had initially opposed any new wilderness, and I note now, at least in this case, you have changed your minds or have seen an opportunity.

Would you just talk briefly about what changed your views on this and whether that might hold—my goal is some understanding as we look at all of the proposed wilderness in the State of Colorado, because we have some outstanding issues we have got to resolve in that regard.

Mr. MARTIN. All right. I think you are going on the assumption that was put out by the press, saying that we were opposed, et cetera. In fact, the press failed to report the other half of the story, and that was that we opposed grouping all wilderness together in one bill, and we said we would not support that type of a bill.

We did say we would support each individual area to be considered and to do that, we have done, taking it through the public process, through our own public hearings, each community being involved, asking for support, and then the users as well as the managers. That is the approach we took.

We do not oppose wilderness. In fact, we are very strong. I think Garfield County has just about the most wilderness in the area.

Mr. UDALL OF COLORADO. When you say "most wilderness," potential wilderness? You already have designated wilderness?

Mr. MARTIN. Flat Tops Wilderness Area. We are also looking at an expansion of the Flat Tops Area, as well as Hack Lake and several other areas, the large BLM Demaree Canyon, 64,000 acres, which is on the west end of Garfield County.

Mr. UDALL OF COLORADO. I know my time has expired, but so the press, you believe, misreported your position—and that has never happened to Congressman McInnis or myself—so at times it is difficult to make sure that the story is complete. So if that is the

case, I look forward to working with you in this Committee and with your able Representative, Mr. McInnis, in the future.

Thank you for taking the time to come to Washington.

Mr. MARTIN. Thank you. Also thank you for putting me in the same group of being represented in the newspaper.

Mr. MCINNIS. Congressman Udall, I point out that both Commissioner Stone and Commissioner Martin have been very frank about the fact that this has got to go through a local vetting process and that they do oppose, as I think most of us in these types of positions on the West Slope do oppose, a package that you can't customize, just throwing it all into one bill; and that is where this opposition was reported by the media. In fact, both of these individuals have been commendable in the process that they have vetted it through.

In fact, the way they have taken it through their constituent process is one that I think should be used as an example in other counties throughout the State, and I just want to point that out to reemphasize their dedication to the public lands, because both of them represent counties that have a tremendous amount of public lands, and every community in both of their districts is completely surrounded by public lands.

So whether it is payment in—PILT funds, or public access or multiple use, these two are really very approachable, number one, and very educated on the issue.

Mr. UDALL OF COLORADO. Will the gentleman yield?

Mr. MCINNIS. Sure.

Mr. UDALL OF COLORADO. I appreciate those sentiments and I know we have debate before us about which lands deserve wilderness protection and which lands ought to revert to uses of the past; and I hope we can continue to work together, because we have those other challenges.

You mentioned PILT and timber receipts in some of the counties in Colorado. We have health care issues that face your district that we would like to spend time addressing, as well as getting after the, I think, opportunity, but the danger that faces us with the condition of our forests and forest health challenge we face. We want to try to reduce the potential for these hazardous wildfires that have become more prevalent in the West.

So I look forward to working with you and Chairman McInnis on all of these issues.

Mr. MCINNIS. I think it is important to keep in mind that legislation, for example, as Deep Creek, this does not come about as a result of the 1988 proposal. I flew over 10 years ago when they were trying to get me interested in putting the wilderness—the Eagle County commissioners and Garfield have had discussions on this for many years. So a lot of these pieces of property, it is going to take that type of vetting process; and if they try and shortcut that vetting process, I think it is incumbent upon the commissioners to say, no, not until our constituents have had an opportunity to really vet it out, as I said earlier.

So no further questions. I want to thank the panel. Everyone on the panel came a long distance, and especially in these circumstances, where travel is pretty taxing. I appreciate the jobs you are doing back there. Thank you for coming.

Does the panel have any further business? Seeing no further business, the Committee is adjourned.

[Whereupon, at 6:11 p.m., the Subcommittee was adjourned.]  
[A letter submitted for the record by Mr. McInnis follows:]

High-altitude ARNG Aviation Training Site  
0517 Eagle County Airport North Ramp  
P.O. Box 0453 Gypsum, CO 81637-0453  
DSN 877-8180 / C.DMM 970-524-7702

AVN-HAATS-CDR

15 OCT 01

MEMORANDUM FOR Melissa Simpson 320 Cannon Building Washington, DC 20515-0603

SUBJECT: Proposed Deep Creek Wilderness Act and its impact on HAATS

1. I've spoken with the Forest Service on these issues as well. They have been provided with photos and video of our operation in the Deep Creek area. It is my belief that HAATS will be the critical lynch pin to the successful passage of this bill. Do not threaten passage of this bill to accommodate HAATS. Our support to this nation is our only objective, we will adapt and overcome.
2. Several hallmark-landing areas that are frequently used in Deep Creek include the "Chimney" the "Ragged Edge" and "SAR Hole". These landing areas (LZ's) are used from 15 November through 15 May and are then off limits as per our MOU with the Forest Service. These landing areas aren't replicated anywhere else in our training area. The unique challenges these LZ's present produce outstanding results in a critical area known as the aviator judgement process.
3. HAATS maintains a fly neighborly policy and attempts to minimize the impact on Deep Creek. We currently use the area during the aforementioned period approximately 2 days per week. If we observe anyone in the vicinity we depart the area to ensure they have a quality wilderness experience. We continually balance the noise impact our operations produce. Similar terrain features located within the existing training area don't replicate those found in Deep Creek. The unique orographic flow of prevailing and convective winds produce turbulence and complex patterns that aren't found outside Deep Creek. Similar terrain features can be found within the existing training area; however, they don't produce the same effect and are much closer to built up areas, with resulting noise complaint issues.
4. HAATS conducts extensive Search and Rescue (SAR) operations in the Deep Creek area. The canyon rim and bottoms are in our opinion very infrequently used aside from the eastern most 2 miles. Because the area is so inhospitable we use the "SAR Hole" (LZ) to practice emergency extractions of injured hunters, snow machinists et al, that end up lost or injured in the Deep Creek bottoms.
5. We greatly appreciate your efforts to protect our amazing forests and fully accept any decision you reach. If you can accommodate our request for special use it would appear we have a win, win situation. If not, our training will be diminished, but we will look for other alternatives to continue training to "America's Highest Level of Training" (HAATS)

  
JOEL E. BEST  
I/TC, AV  
Commander