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U.S. House of Representatives
Committee on Resources
Washington, DC 20515

May 13, 2004

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The Honorable Rick Larsen
1529 Longworth House Office Building
Washington, DC 20515

Dear Representative Larsen,

As Chairman of the House Committee on Resources, I am pleased to have been referred your wilderness legislation for consideration. The committee members and I are eager to win Congressional approval for all sound and responsible environmental stewardship measures. As such, and because wilderness designations are very complex matters that often stretch across an array of Federal agencies, I believe it is critical that we establish a process, outline important criteria, and work together to ensure that sound policies are embraced with the utmost public input. I believe this is the most efficient way to proceed in our efforts to garner swift, bipartisan approval for your bill.

As you know, the National Wilderness Preservation System (NWPS) was created through passage of the Wilderness Act of 1964, an Act which provides Congress with the authority to designate wilderness. The law directs the Secretaries of Agriculture and the Interior to review the wilderness potential of National Forest, National Park, and National Fish and Wildlife Refuge lands under their jurisdiction. Upon completion of such a review, recommendations regarding suitability are forwarded to Congress for action; be it for a codification of suitable wilderness or the release of land deemed unsuitable for wilderness designation.

Since 1968, Congress has expanded the NWPS nearly every year, with the largest designation occurring in 1980 as part of the Alaska National Interest Lands Conservation Act, during which 56 million acres were added to the wilderness inventory.

To date, Congress has passed over 100 laws designating new wilderness areas or additions to existing areas of the National Wilderness Preservation System. The system now contains over 600 wilderness areas - covering more than 105 million acres in 44 States - that are maintained by four Federal land management agencies. As a result, wilderness areas in the United States currently represent nearly one-seventh of all lands managed by the Federal government, and nearly half of the lands contained in our National Parks System.

It is critical when discussing wilderness designations that we understand this history, the law, and all agency management practices, especially regarding land managed by the Bureau of Land Management (BLM) and the U.S. Forest Service. (National Park Service and National Wildlife Refuge System lands are generally not managed for multiple uses.)

To begin, a wilderness designation is perceived to be permanent and carry with it the heaviest restrictions in terms of access and use. Commercial activities, structures, roads, and motorized access are generally prohibited in these areas, warranting careful consideration to prevent unintended economic, social, and safety impacts on local communities.

As for process, the National Forest Management Act requires the Forest Service to draft and implement forest plans for each National Forest and directs the agency to revise these plans every 15 years. During this process, the Forest Service is required to analyze and identify potential wilderness, transmit their recommendations to Congress, and then manage these areas pursuant to the finalized management plan for the Forest, absent Congressional action.

In contrast, BLM, under the Federal Land Policy and Management Act, analyzes and identifies potential wilderness, transmits its recommendations to Congress, and then manages the land, known as Wilderness Study Areas (WSA), as if it were Congressionally designated wilderness, irrespective of their recommendation as suitable or otherwise, until Congress takes action. For this reason, the case can be made that it is far more critical that outstanding BLM WSA recommendations, most especially those deemed by the agency as non-suitable, receive priority attention. It is inappropriate to have unelected government employees perform a proper Congressional function, and it is a dereliction of our constitutional authority to allow them to do so.

For example, nearly 8 million of the 15.5 million acres BLM considers to be WSA have already been deemed unsuitable for official wilderness designations, but are currently being managed as wilderness anyway. In fact, your State of Washington contains 5,518 acres of BLM WSA that have been deemed unsuitable, but are currently being managed as wilderness nonetheless. Nationwide, only 6 million acres of the total 15.5 million acres of BLM WSA have actually been deemed suitable for a wilderness designation, yet all 15.5 million acres are currently managed as wilderness until Congress takes action on the recommendation to release the land from WSA status and makes them eligible for multiple uses.

Generally, I can support responsible wilderness designations where the test of suitability has been met and there exists demonstrated local support for such a designation. Absent these two fundamental criteria, wilderness designations often result in lasting controversy and a sense of resentment in local affected communities. Furthermore, designations made without first embracing these considerations do not embody the spirit of the Wilderness Act, nor do they serve well the interests of the constituents we were elected to the People's House to represent. This is precisely why we must be deliberative, exhaustive, and comprehensive in shaping proposed designations.

Specifically, local communities must be made aware of the impacts associated with this type of designation, and evaluations must consider both environmental and economic assessments. The Wilderness Act of 1964 includes a provision for adequate notice and local public hearing for any proposed wilderness. However, in some cases, this provision has been ignored. Good-faith

consultation must be proven to ensure all key individuals and groups have either participated in the development of legislation or have been fully informed of its proposed content and impact.

As such, I offer the following thoughts and recommendations regarding legislation calling for a wilderness designation during my tenure as Chairman. The following should not serve as a checklist, but rather a set of criteria that will be employed to prioritize all wilderness legislation coming before the Committee. Specifically, wilderness legislation should embrace the following principles:

I. Wilderness Study Area Release for the Bureau of Land Management

- Wilderness legislation should resolve outstanding Wilderness Study Area recommendations, including those areas deemed non-suitable.

II. Risk Assessment

- In developing any proposed wilderness area, appropriate analysis must be conducted to examine the potential and current uses of the area under different management scenarios, and what values would be maintained and forgone if they were designated.
- Communities need to understand risks associated with the designation before making decisions of support and the evaluation must consider both environmental and economic risks.
- Proposed wilderness areas must be consistent with fire management plans and allow appropriate mechanized access for wildfire mitigation. This includes specific language protecting the health of the land, allowing for appropriate treatments, such as hazardous fuels reduction projects, if neighboring state, county or private lands are at risk from deteriorated conditions on wilderness lands.

III. Community Involvement

- The Wilderness Act includes a provision for adequate notice and local public hearing for any proposed wilderness; however, in some cases, this provision has been ignored. Proof of good-faith consultation must be produced to ensure all key individuals and groups have either participated in the development of legislation or have been fully informed of its contents and impacts.
- Wilderness legislation must have broad community support, specifically in writing, from local government and state officials, as well as key community groups. This should include, first and foremost, the wishes of the Member of Congress in whose District the wilderness is proposed. The days of designating wilderness in a Member's District against his or her wishes are a black mark on the record of this Committee, and on my watch, they are over.
- The legislation should have support from the governor, and all members of Congress whose districts or states are directly impacted.

IV. Property Protections

- Wilderness legislation must include adequate protections for private, state, or locally owned property if they exist within or adjacent to a potential wilderness area. This includes, as stated above, landowners ability to reasonably mitigate for wildfire, insects and disease on bordering wilderness area.
- Wilderness should not preclude activities or uses up to the boundary of the actual area.

V. General Considerations

- The 1964 Wilderness Act provides exemptions to many of its restrictions which include: possible continued use of motorboats and aircraft; fire, insect, and disease control measures; mineral prospecting conducted “in a manner compatible with the preservation of the wilderness environment”; water project developments; continued livestock grazing; and commercial recreation activities. Though these exemptions are listed in the Act, they are rarely utilized.
- Wilderness designations should conform to forest management plans and include standard release language when appropriate.
- Where needed, potential wilderness areas should allow for traditional Native American cultural and religious uses, low level military flights, and the installment and maintenance of hydrologic, meteorological, or climatologic devices.
- All exemptions should be specifically referred to in the legislation.

VI. Forest Service

- The National Forest Management Act required the Forest Service to draft and implement forest plans for each national forest and also requires the agency to revise these plans every 15 years. During this process, the Forest Service is required to analyze and identify potential wilderness. This generally includes significant public input and involvement and is therefore more likely to produce wilderness recommendations that comply with the criteria set forth in this letter.

I hope this information is helpful to you. Again, rest assured that I can be supportive of responsible wilderness designations, and I remain eager to work with you to advance your legislation through the legislative process.

Sincerely,



RICHARD W. POMBO
Member of Congress

cc: The Honorable Nick J. Rahall, II