

AUTHORIZING THE SECRETARY OF THE INTERIOR TO ADJUST THE BOUNDARY OF THE STEPHEN MATHER WILDERNESS AND THE NORTH CASCADES NATIONAL PARK IN ORDER TO ALLOW THE REBUILDING OF A ROAD OUTSIDE OF THE FLOODPLAIN WHILE ENSURING THAT THERE IS NO NET LOSS OF ACREAGE TO THE PARK OR THE WILDERNESS, AND FOR OTHER PURPOSES

OCTOBER 8, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 2806]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2806) to authorize the Secretary of the Interior to adjust the boundary of the Stephen Mather Wilderness and the North Cascades National Park in order to allow the rebuilding of a road outside of the floodplain while ensuring that there is no net loss of acreage to the Park or the Wilderness, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2806 is to authorize the Secretary of the Interior to adjust the boundary of the Stephen Mather Wilderness and the North Cascades National Park in order to allow the rebuilding of a road outside the flood plain while ensuring that there is no net loss of acreage to the Park or the Wilderness.

BACKGROUND AND NEED FOR LEGISLATION

The Stephen Mather Wilderness was designated in 1988 as part of the Washington Park Wilderness Act (Public Law 100-668). Excluded from the wilderness area was a 100-foot corridor for an ex-

isting dirt road that followed the Stehekin River for 23 miles from Lake Chelan into the wilderness, providing limited vehicle access to trails and campgrounds in that portion of the wilderness. The road dead-ended at a campground and trailhead to a scenic basin and pass.

Until 2003, the park provided shuttle bus service along the road for hikers and campers, who could only reach the road by passenger ferry or floatplane. Local residents, who retained property and small businesses inside the park and the adjoining Lake Chelan National Recreation Area, also used the road for recreation.

Damage to the road from a 1995 flood was repaired, except for a 2.5 mile section at the very end of the road, but in 2003 and again in 2006 major flooding along the river washed out significant portions of the road in the upper valley. Today, the road is impassible for vehicles above what used to be the halfway point.

A 2004 Federal Highway Administration survey estimated that moving the most threatened three miles of the route out of the flood plain would cost \$1.6 million; that estimate does not include the cost of the necessary environmental studies, repairing the remainder of the upper road for vehicle traffic, or maintenance and future repairs from flooding.

In 2006, the park conducted an environmental assessment to determine whether to rebuild the upper half of the road; the assessment concluded that the road would be too difficult and costly to construct and maintain, and too environmentally damaging.

That upper portion of the road has been maintained as a trail since 2004 and remains open to foot and horse traffic. The upper valley continues to be very popular with hikers and campers; the park estimates that some 1,300 people use the campgrounds each summer, reaching their campsites on foot.

COMMITTEE ACTION

H.R. 2806 was introduced June 10, 2009, by Natural Resources Committee Ranking Member Hastings (R-WA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. The Subcommittee held a hearing on the bill on July 30, 2009. A representative of the Department of the Interior testified in opposition to the legislation.

On September 10, 2009, the Subcommittee on National Parks, Forests and Public Lands was discharged from further consideration of H.R. 2806 and the full Natural Resources Committee met to consider the bill. The bill was ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Findings

Section 1 provides the history of the upper Stehekin Valley Road.

Section 2. Authorization for boundary adjustments

Section 2(a) authorizes, but does not require, the Secretary of the Interior to change the boundaries of the Stephen Mather Wilderness to create a new 100-foot road corridor outside the wilderness so that the upper portion of the Stehekin Valley Road may be re-

built above the flood plain. In their testimony the National Park Service (NPS) noted that if such authority were to be used, the NPS would be required to complete an environmental impact statement for the wilderness boundary change and the road reconstruction.

Section 2(b) directs that any boundary adjustments made pursuant to this legislation must ensure that the wilderness acreage deleted by creating the new road corridor will be equal to the acreage added to the Stephen Mather Wilderness by the Secretary, so that there is no net loss of acreage to the wilderness area.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3, of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Secretary of the Interior to adjust the boundary of the Stephen Mather Wilderness and the North Cascades National Park in order to allow the rebuilding of a road outside of the flood plain while ensuring that there is no net loss of acreage to the Park or the Wilderness.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 2806—A bill to authorize the Secretary of the Interior to adjust the boundary of the Stephen Mather Wilderness and the North Cascades National Park in order to allow the rebuilding of a road outside of the floodplain while ensuring that there is no net loss of acreage to the Park or the Wilderness, and for other purposes

H.R. 2806 would allow the Secretary of the Interior to redraw the boundary of the Stephen Mather Wilderness (which makes up more than 90 percent of the North Cascades National Park in Washington) to exclude a 100-foot wide corridor. The National Park Service (NPS) would use the corridor (which would remain in the park) to reroute a flood-damaged portion of the Stehekin Valley Road.

Based on information provided by the NPS and assuming appropriation of the necessary amounts, CBO estimates that completing the rerouting project would cost \$2.5 million over the next five years. Of this amount, about \$500,000 would be spent to conduct an environmental impact study of the boundary change and the construction project. About \$2 million would be spent to build the new road segment and restore the remaining portion of the existing road.

Enacting the bill would have no effect on revenues or direct spending.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 2806 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

WASHINGTON PARK WILDERNESS ACT OF 1988

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**TITLE II—NORTH CASCADES NATIONAL PARK SERVICE
COMPLEX WILDERNESS**

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SEC. 207. BOUNDARY ADJUSTMENTS FOR ROAD.

(a) *IN GENERAL.*—*The Secretary may adjust the boundaries of the North Cascades National Park and the Stephen Mather Wilderness in order to provide a 100-foot wide corridor along which the Stehekin Valley Road may be rebuilt—*

(1) outside of the floodplain between milepost 12.9 and milepost 22.8;

(2) within the boundaries of the North Cascades National Park; and

(3) outside of the boundaries of the Stephen Mather Wilderness.

(b) *NO NET LOSS OF LANDS.*—*The boundary adjustments made under this section shall be such that equal acreage amounts are exchanged between the Stephen Mather Wilderness and the North Cascades National Park, resulting in no net loss of acreage to either the Stephen Mather Wilderness or the North Cascades National Park.*

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DISSENTING VIEWS

H.R. 2806 authorizes the Secretary of the Interior to change the boundary of the Stephen Mather Wilderness and the North Cascades National Park in order to rebuild the upper Stehekin Road in a new location, presumably within the Wilderness boundary, after several floods have damaged the current road. This legislation raises a number of serious concerns regarding the use of limited National Park Service (NPS) dollars and the process of designating wilderness.

In 2006, the NPS completed an environmental assessment of the upper Stehekin road and after analyzing potential options, decided to retire the upper section of the road. The decision was based on topography of the area, access, expected floods, and cost.

We strongly support protecting and maximizing access of national parks and publicly protected land. When access points are damaged, NPS uses criteria based on usage, topography, and cost to decide how to proceed with maintenance needs. While we wholeheartedly believe we should try and preserve past points of access, we must also recognize changes to the terrain and look at the use of a park system as a whole when determining how to spend limited NPS funds.

The passage of H.R. 2806 should not change the priority list for the National Park Service, putting a road used by less than 3,000 visitors annually above other projects in the North Cascades National Park and neighboring parks that may have maintenance needs for roads used by more than 150,000 visitors each year. NPS has a limited budget and must prioritize projects based on a variety of factors. At an estimated cost of \$1.5 million, rebuilding the upper Stehekin could pull funds away from projects that provide access points for tens of thousands. Public access to our wild lands is a cornerstone of conservation efforts so it is vitally important that available NPS dollars go towards high priority projects, including those that provide access to the highest number of people. We strongly believe that NPS should not adjust their priority list of the road maintenance as a result of the passage of this legislation.

Since the Wilderness Act was passed in 1964, Congress has had the sole authority to designate wilderness. H.R. 2806 departs from that historic, democratic process, by handing *unprecedented* authority to the Secretary of the Interior. Giving authority to the Secretary is major change from over 45 years of wilderness policy. It is a precedent that we believe requires much more input and discussion.

H.R. 2806 gives the Secretary authority to relocate the road between milepost 12.9 and milepost 22.8, as far up the Stehekin road as Cottonwood Camp. The last 2.5 miles are rough terrain, difficult to access and maintain, where the road has not been in place as

far back as 1995. If we end up building a road, it should not go as far as Cottonwood Camp, but instead should stop 2.5 miles earlier at Glory Mountain. This decision would save important NPS dollars and still allow day hikers access to Cottonwood Camp.

As we are already beginning to see, climate change is increasing the frequency and impact of floods in Washington State and throughout the country. Upper Stehekin is the first of a forthcoming issue on how to manage damaged cherry-stemmed roads throughout our National Park system and Wilderness areas. Washington State and the rest of the nation will face more decisions like this and we need to make sure our process for fixing roads is sound.

The Wilderness Act defines wilderness as “land retaining its primeval character and influence, without permanent improvements or human habitation, . . . which generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable. . . .” Clearly, changing wilderness area boundaries should not be taken lightly.

Giving authority to the Secretary seemingly streamlines the process for one community but H.R. 2806 has serious implications that will influence park policy for years to come. Congress should revise the approach to ensure that in future instances a thoughtful process is in place that might protect wilderness and maximize access.

Sincerely,

JAY INSLEE.
MARTIN HEINRICH.

ADDITIONAL VIEWS

H.R. 2806 is a limited bill that allows for continued public access to the North Cascades National Park from the community of Stehekin, Washington.

Stehekin, located at the western end of Lake Chelan, is the gateway to the North Cascades National Park and is accessible only by boat, floatplane, or a multi-day hike. From the town of Stehekin, the Stehekin Valley Road has long allowed residents and visitors to access some of the most beautiful scenery in the North Cascades in what is now the Park's Stephen Mather Wilderness.

At the July 30, 2009 hearing before the Subcommittee on National Parks, Forests and Public Lands, the Subcommittee heard testimony from local officials on how flood damage to the upper Stehekin Road has limited public recreational access to the North Cascades National Park Complex. This reduced access has been particularly painful for the small, tourist-dependent community of Stehekin which serves as the gateway to the Park.

Recognizing its value to local residents and tourists, the Road was specifically protected when the Park and Wilderness areas were created. Stehekin Road has for many years been maintained and run by Park officials, but following extreme flooding and subsequent changes in the course of the river, much of the Road bed is now under water. Because the Road occupies a narrow corridor within the borders of the Wilderness Area, congressional approval is required to modify the corridor prior to the Park Service rebuilding the road.

During legislative consideration of the Park's creation in 1988, Congress determined that Stehekin Road would remain exempt from the restrictions of other wilderness areas. Otherwise, no cars, mountain bikes or other mechanized vehicles would have been allowed to transport area residents or Park visitors to the wilderness areas north of the Stehekin community. Former U.S. Senator and Washington Governor Dan Evans, the author of the 1988 Act creating the Park, submitted written testimony that it was Congress' intent to allow for continued road access into the Park.

As the Stehekin River has shifted and damaged the road, the Park Service has been unable to rebuild the road out of the path of the river because of the narrow road corridor in the original Park designation. H.R. 2806 would simply allow the Secretary limited authority to adjust the road corridor out of the path of the Stehekin River, with no net loss of land to either the Park or the Stephen Mather Wilderness. These changes and road rebuilding would still be subject to review and comment under the National Environmental Policy Act.

In addition to the merits of adjusting the road corridor boundary to enable maintenance of this grandfathered access road, the Subcommittee hearing also revealed troubling inconsistencies in the

Park Service's position on road maintenance. This Committee recently approved a bill, H.R. 1061 authored by Mr. Dicks of Washington, which gives away 36 acres of the Olympic National Park without compensation and for the purpose of ensuring road access. In a July 9, 2009 letter to Mr. Bishop, Acting Director Wenk of the Park Service endorsed the road and land giveaway in H.R. 1061. However, Mr. Wenk testified against H.R. 2806, which will result in no net loss of park or wilderness area, citing "higher priorities."

Approval of H.R. 2806 will serve as a reminder to the Park Service that ensuring public access to the National Park System remains a high priority and it will ensure that we keep our nation's commitment to the residents of Stehekin. Moreover, H.R. 2806 accomplishes these goals without any net loss to the Park or the Wilderness, and ensures adequate public and environmental review before any changes take place.

DOC HASTINGS.

DANIEL J. EVANS,
5215 NORTH EAST 45TH,
Seattle, WA, July 7, 2009.

Hon. RAUL M. GRIJALVA,
Chairman, Subcommittee on National Parks, Forests and Public Land, Committee on Natural Resources, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to write in favor of H.R. 2806 sponsored by Representative Doc Hastings of the state of Washington. I believe his proposal for reconstruction of the Upper Stehekin road is both desirable and vital for appropriate access to portions of the North Cascade National Park.

Before speaking on the particulars of the road reconstruction let me establish my credentials for testifying on this measure. I served as United States Senator for the state of Washington from 1983 to 1989. During that time I served as a member of the Energy and Natural Resources Committee of the Senate, which has jurisdiction over our National Park system. While on the committee I initiated and became prime sponsor of a bill to create wilderness areas within the three national parks of Washington state, Olympic, Rainier, and North Cascades. It was my intent to ensure that undue development would not occur within those national parks. I also recognized that access to trails and vistas within those parks was vital and carefully excluded those road rights-of-way from wilderness boundaries. Normally, road reconstruction and minor relocation would be accommodated within these 100 foot right of ways but on rare occasions natural catastrophes could require modification of wilderness boundaries to allow road relocations.

For almost 70 years I have hiked and climbed in the National Parks of Washington state and have a strong and continuing desire to maintain their integrity. I am very familiar with the area in question and have ridden the road from Stehekin to trailheads where I have embarked on extensive hiking and climbing trips. If this road is not rebuilt, access to extraordinary wilderness experiences will be substantially more difficult. Almost a full days' hike will be necessary to reach what once were trailheads giving mountain access.

I believe very strongly that continued protection of our wilderness National Parks depends on the active support of visitors, hikers, and climbers who act as champions for our National Parks. If we make access substantially more difficult we reduce the number of visitors and ultimately the numbers of citizens and taxpayers who know enough about these parks to want to protect them.

It was my intent when I sponsored the Park Wilderness Bill of 1988 to protect the unique features of these splendid Parks but not to make access more difficult for those seeking the unusual experience of a wilderness Park. I believe that in this instance an alternative route along the Old Wagon Road would maintain the appropriate access and that portions of the current road could revert to wilderness category with no net loss of wilderness area. I strongly urge the passage of HR 2806 and believe it is compatible with the original bill I sponsored in 1988.

I thank you for your attention to this matter and hope that it can be resolved promptly and successfully.

Sincerely

DANIEL J. EVANS,
U.S. Senator 1983–1989.

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