

DEVIL'S STAIRCASE WILDERNESS ACT OF 2009

NOVEMBER 16, 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

DISSENTING VIEWS

[To accompany H.R. 2888]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2888) to provide for the designation of the Devil's Staircase Wilderness Area in the State of Oregon, to designate segments of Wasson and Franklin Creeks in the State of Oregon as wild or recreation rivers, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Devil's Staircase Wilderness Act of 2009".

SEC. 2. DESIGNATION OF WILDERNESS AREA, DEVIL'S STAIRCASE WILDERNESS, OREGON.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the Federal land in the State of Oregon administered by the Forest Service and the Bureau of Land Management, comprising approximately 30,520 acres, as generally depicted on the map titled "Devil's Staircase Wilderness Proposal", dated October 26, 2009, are designated as a wilderness area for inclusion in the National Wilderness Preservation System and to be known as the "Devil's Staircase Wilderness".

(b) MAP AND LEGAL DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and legal description of wilderness area designated

by subsection (a). The map and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and description. In the case of any discrepancy between the acreage specified in subsection (a) and the map, the map shall control. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service.

SEC. 3. ADMINISTRATION.

(a) **IN GENERAL.**—Subject to valid existing rights, the Devil’s Staircase Wilderness Area shall be administered by the Secretaries of Agriculture and the Interior, in accordance with the Wilderness Act and the Oregon Wilderness Act of 1984, except that, with respect to the wilderness area, any reference in the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(b) **FOREST SERVICE ROADS.**—As provided in section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the Secretary of Agriculture shall—

- (1) decommission any National Forest System road within the wilderness boundaries; and
- (2) convert Forest Service Road 4100 within the wilderness boundary to a trail for primitive recreational use.

SEC. 4. INCORPORATION OF ACQUIRED LAND AND INTERESTS.

Any land within the boundary of the wilderness area designated by this Act that is acquired by the United States shall—

- (1) become part of the Devil’s Staircase Wilderness Area; and
- (2) be managed in accordance with this Act and any other applicable law.

SEC. 5. FISH AND WILDLIFE.

Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Oregon with respect to wildlife and fish in the national forests.

SEC. 6. BUFFER ZONES.

(a) **IN GENERAL.**—As provided in the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–328), Congress does not intend for designation of the wilderness area under this Act to lead to the creation of protective perimeters or buffer zones around the wilderness area.

(b) **ACTIVITIES OR USES UP TO BOUNDARIES.**—The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area shall not, of itself, preclude the activities or uses up to the boundary of the wilderness area.

SEC. 7. WITHDRAWAL.

Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as wilderness area by this Act is withdrawn from all forms of—

- (1) entry, appropriation, or disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

SEC. 8. PROTECTION OF TRIBAL RIGHTS.

Nothing in this Act shall be construed to diminish—

- (1) the existing rights of any Indian tribe; or
- (2) tribal rights regarding access to Federal lands for tribal activities, including spiritual, cultural, and traditional food gathering activities.

SEC. 9. WILD AND SCENIC RIVER DESIGNATIONS, WASSON CREEK AND FRANKLIN CREEK, OREGON.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by inserting the following paragraphs:

“() FRANKLIN CREEK, OREGON.—The 4.5-mile segment from the headwaters to the private land boundary in section 8 to be administered by the Secretary of Agriculture as a wild river.

“() WASSON CREEK, OREGON.—

“(A) The 4.2-mile segment from the eastern edge of section 17 downstream to the boundary of sections 11 and 12 to be administered by the Secretary of Interior as a wild river.

“(B) The 5.9-mile segment downstream from the boundary of sections 11 and 12 to the private land boundary in section 22 to be administered by the Secretary of Agriculture as a wild river.”.

PURPOSE OF THE BILL

The purpose of H.R. 2888 is to provide for the designation of the Devil's Staircase Wilderness Area in the State of Oregon and to designate segments of Wasson and Franklin Creeks in the State of Oregon as components of the National Wild and Scenic Rivers System.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2888 would designate 30,520 acres of land administered by the U.S. Forest Service and Bureau of Land Management as wilderness, and would designate more than 14 miles of the Wasson and Franklin Creeks under the Wild and Scenic Rivers Act. Often considered one of the most remote locations in Oregon, the proposed wilderness area lies deep in the heart of the state's coastal rainforest. It is named after a waterfall known as "The Devil's Staircase." Wasson Creek flows over multiple steps of sandstone, creating the appearance of a 50-foot staircase.

People often hike to catch a glimpse of the waterfall, only to be thrown off course by the rugged terrain. Since the adoption of the Northwest Forest Plan in 1994, the area has been closed to logging and road building. Wasson and Franklin Creeks are lined by stands of ancient old growth woods, some of the last remaining old growth in the region. The creeks support trout, native Coho, and Chinook salmon. A 4.5-mile portion of Franklin Creek and a 10.1-mile segment of Wasson Creek would be designated as wild rivers.

COMMITTEE ACTION

H.R. 2888 was introduced on June 16, 2009, by Representative Peter DeFazio (D-OR). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On October 1, 2009, the Subcommittee held a hearing on the bill at which representatives of the Department of the Interior and the Department of Agriculture testified that the Administration supports the bill.

On October 28, 2009, the Subcommittee was discharged from further consideration of H.R. 2888 and the full Natural Resources Committee met to consider the bill. Representative DeFazio offered an amendment in the nature of a substitute to provide that a road within the proposed wilderness area be turned into a hiking path, and make other technical corrections.

Representative Rob Bishop (R-UT) offered an amendment to the amendment in the nature of a substitute that would require the Secretary of the Interior to identify public domain lands available for timber harvesting that contain timber with a value equal to the timber value of the land designated as wilderness. The amendment was ruled not germane.

The amendment in the nature of a substitute was agreed to by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by a roll call vote of 25 yeas to 17 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
 U.S. House of Representatives
 111th Congress

Date: 10/28/2009

Convened: 10:06

Adjourned: 11:55

Meeting on: **HR 2838 - Favorably reported to the House of Representatives, as amended, by a roll call vote of 25 yeas and 17 nays.**

Recorded Vote # 3

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV	✓			Mr. Wittman, VA		✓	
Mr. Hastings, WA		✓		Mr. Boren, OK	✓		
Mr. Miller, CA	✓			Mr. Broun, GA		✓	
Mr. Young, AK				Mr. Sablan, MP	✓		
Mr. Markey, MA				Mr. Fleming, LA		✓	
Mr. Gallegly, CA		✓		Mr. Heinrich, NM	✓		
Mr. Kildee, MI	✓			Mr. Coffman, CO		✓	
Mr. Duncan, TN		✓		Mr. Hinchey, NY	✓		
Mr. DeFazio, OR	✓			Mr. Chaffetz, UT		✓	
Mr. Flake, AZ				Mrs. Christensen, VI			
Mr. Faleomavaega, AS				Mrs. Lummis, WY		✓	
Mr. Brown, SC		✓		Ms. DeGette, CO	✓		
Mr. Abercrombie, HI				Mr. McClintock, CA		✓	
Mrs. McMorris Rodgers, WA		✓		Mr. Kind, WI	✓		
Mr. Pallone, NJ	✓			Mr. Cassidy, LA	✓		
Mr. Gohmert, TX		✓		Mrs. Capps, CA	✓		
Mrs. Napolitano, CA	✓			Mr. Inslee, WA	✓		
Mr. Bishop, UT		✓		Mr. Baca, CA	✓		
Mr. Holt, NJ	✓			Ms. Herseth Sandlin, SD	✓		
Mr. Shuster, PA		✓		Mr. Sarbanes, MD	✓		
Mr. Grijalva, AZ	✓			Ms. Shea-Porter, NH	✓		
Mr. Lamborn, CO		✓		Ms. Tsongas, MA			
Mrs. Bordallo, GU	✓			Mr. Kratovil, Jr., MD	✓		
Mr. Smith, NE		✓		Mr. Pierluisi, PR	✓		
Mr. Costa, CA	✓						
				Total	25	17	

Markups - 1/3 to meet (16), 25 to report
 November 12, 2009 (12:37pm)

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 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 provide for the designation of the Devil's Staircase Wilderness Area in the State of Oregon and to designate segments of Wasson and Franklin Creeks in the State of Oregon as wild or recreation rivers.

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. 2888—Devil's Staircase Wilderness Act of 2009

H.R. 2888 would designate about 29,650 acres of federal land in Oregon as the Devil's Staircase Wilderness. The bill also would designate about 15 miles of creeks in the area as wild rivers under the Wild and Scenic Rivers Act. Based on information provided by the affected federal agencies, CBO estimates that implementing H.R. 2888 would have no significant effect on the federal budget. Enacting the legislation would not affect revenues or direct spending.

The acreage and waterways to be added to the National Wilderness Preservation System and the Wild and Scenic Rivers System are currently administered by the Forest Service or Bureau of Land Management (BLM). CBO estimates that no additional resources would be required to manage the affected areas as a result of the new designations. Assuming availability of appropriated funds, we estimate that the Forest Service would incur some small costs to decommission roads within the wilderness and convert one road to a recreational trail. We expect that any costs to revise brochures, maps, and signs would be minimal because most such revisions

would take place in conjunction with scheduled reprinting and routine maintenance.

Finally, we estimate that enacting the legislation would have no effect on Forest Service or BLM offsetting receipts because the affected lands, which are already managed for conservation purposes, currently produce no income and are not expected to in the future.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on 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. 2888 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):

WILD AND SCENIC RIVERS ACT

* * * * *

SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) * * *

* * * * *

() FRANKLIN CREEK, OREGON.—*The 4.5-mile segment from the headwaters to the private land boundary in section 8 to be administered by the Secretary of Agriculture as a wild river.*

() WASSON CREEK, OREGON.—

(A) *The 4.2-mile segment from the eastern edge of section 17 downstream to the boundary of sections 11 and 12 to be administered by the Secretary of Interior as a wild river.*

(B) *The 5.9-mile segment downstream from the boundary of sections 11 and 12 to the private land boundary in section 22 to be administered by the Secretary of Agriculture as a wild river.*

* * * * *

DISSENTING VIEWS ON H.R. 2888

I oppose H.R. 2888 because it needlessly designates approximately 30,000 acres of federal land as wilderness and removes economic opportunities from the devastated Oregon economy. From testimony we learned that much of this land is currently managed in a restrictive manner due to past administrative decisions, not Congressional action, during the Clinton years. Much of this land was previously harvested and there are miles of roads, hardly what could be described as “untrammled by man.” However, proponents would like to designate this as wilderness, taking even more land out of timber production. We have heard substantial testimony about the closing of timber mills in the Northwest due to a lack of land available for production. I am perplexed as to how permanently restricting even more land alleviates the catastrophic unemployment being realized there.

I am primarily concerned with the 6,000 acres of Oregon & California (O&C) lands that were set aside some 70 years ago specifically for the economic benefit of the local communities through timber harvesting. Each acre that is whittled away is an acre that could have been used to pay for another teacher, needed public infrastructure, or even fire fighting equipment.

I offered an amendment to bring some balance to this short-sighted bill that purports to protect land no one claims is facing any risk. The amendment would have required the Federal Government to identify suitable acreage outside of the designation to replace the value of acreage lost with this passage of this legislation. Supporters of the bill argue these O&C lands are too difficult to harvest, that no value will be lost. However, they also acknowledge the fact that the land has been cut in the past, and adjacent lands are still harvested. Additionally, the specific need for the amendment was highlighted in a letter to Members of Congress from the Association of O&C Counties.

Unfortunately for the people in the area who need jobs so they can provide for their families, and for local governments trying to keep the school house open, the Democrat Majority refused to allow a vote on this commonsense amendment as they rushed the bill towards passage.

It remains my hope that the Majority will see past ideological divides and allow a free and open debate on the Floor of the House of Representatives, where I will welcome their support in our effort to provide critically needed opportunities to neglected timber communities.

ROB BISHOP.