



MEMORANDUM

April 16, 2009

To: Hon. Carolyn B. Maloney

From: Ross W. Gorte, Specialist in Natural Resources Policy
Kristina Alexander, Legislative Attorney

Subject: **The Northern Rockies Ecosystem Protection Act**

This memorandum responds to your request for a summary of the Northern Rockies Ecosystem Protection Act, H.R. 980.

The Northern Rockies Ecosystem Protection Act: A Summary

The Northern Rockies Ecosystem Protection Act has been proposed in many past Congresses. It was first introduced in the 102nd Congress, in 1992. It was reintroduced in succeeding Congresses, the 103rd through the 110th. In the 103rd Congress, two hearings were held on the bill. One was on April 12, 1994, by the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands. The second was on May 5, 1994, a joint hearing by the House Agriculture Subcommittee on Specialty Crops and Natural Resources and the House Merchant Marine and Fisheries Subcommittee on Environment and Natural Resources. A hearing was also held in the 110th Congress, on October 18, 2007, by the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands. No other action has occurred on these bills.

The Northern Rockies Ecosystem Protection Act has been reintroduced in the 111th Congress. H.R. 980 contains congressional findings, the purposes of the bill, and definitions for several terms. These sections are followed by six titles. The first designates certain federal lands as wilderness areas in the National Wilderness Preservation System. The second establishes a new system of federal lands—*biological connecting corridors*—with about two-thirds of the lands in the new system also being added to the Wilderness System. The third title designates numerous river segments as wild, scenic, or recreational rivers within the National Wild and Scenic Rivers System. Title IV would create a new *National Wildland Restoration and Recovery System*, with designated federal lands, a corps to work on the lands, and plans for restoration and recovery. The fifth title addresses implementation and monitoring, while Title VI pertains to water rights and Native American treaties and other rights.

Findings, Purposes, and Definitions

The bill contains 15 findings about the federal lands, resources, and management of the northern Rocky Mountains, an area identified as Wyoming, Montana, Idaho, eastern Washington, and eastern Oregon. The final finding is that the Act “does not affect private existing rights”; this finding will be examined later in this memorandum. The general purposes of the Act are to designate wilderness and wild and scenic rivers and to create the National Wildland Restoration and Recovery System and a system of biological connecting corridors. The Act also identifies the purposes of the designations. This portion of the bill defines *development*, *greater ecosystem*, and the *Northern Rockies Bioregion*.

Wilderness

Title I of the bill designates 317 new wilderness areas and adds acreage to 78 existing areas, with a total acreage of 19,224,038 acres.¹ These areas of federal land are added to the National Wilderness Preservation System, created in the 1964 Wilderness Act.² Under existing law, wilderness areas are to be managed to preserve their natural characteristics, with limits on permitted commercial uses and access by mechanical means. (Background information on wilderness is presented below.) Title II of the bill designates an additional 126 new wilderness areas and one area addition, totaling 4,810,537 acres, as parts of the biological connecting corridors. The total—443 new wilderness areas and 79 additions to existing areas, totaling 24,034,575 acres—would make the Northern Rockies Ecosystem Protection Act the second largest wilderness bill ever, surpassed only by the 1980 Alaska National Interest Lands Conservation Act (ANILCA).³

Biological Connecting Corridors

Title II of the bill creates a federal land system of 19 *biological connecting corridors*. The total area of the biological connecting corridors is 7,703,537 acres.⁴ As noted above, the corridors include 126 new wilderness areas and one addition to an existing wilderness area, totaling 4,810,537 acres. The title also designates five non-wilderness corridors totaling 163,000 acres and an unspecified number of other non-wilderness corridors with 2,730,000 acres⁵—a total of 2,893,000 acres of non-wilderness lands. These non-wilderness lands are to be administered in accordance with the provisions of the title prohibiting *even-aged* timber management and harvesting,⁶ mineral exploration and development, and road construction, and also limiting road densities in the areas. This title authorizes the acquisition of additional lands (§205(b)), albeit limited to willing sellers and donors.

¹ The sum of the totals identified in the seven sections of Title I is 19,101,000 acres, but the total of the 395 designations in Title I is 19,224,038 acres.

² P.L. 88-577; 16 U.S.C. §§1131-1136.

³ P.L. 96-487. ANILCA designated 35 wilderness areas totaling 56,276,899 acres.

⁴ Section 202 identifies a total of 7,791,000 acres, but the total of wilderness and non-wilderness in the 18 corridors listed in the bill is only 7,703,537 acres.

⁵ Five of the 18 subsections only designate non-wilderness areas. In 13 of the other 14 subsections, the bill only identifies the wilderness areas individually, while providing a total acreage for the non-wilderness corridor areas; the last subsection identifies the acreage of the one wilderness area and the acreage of the one non-wilderness corridor area.

⁶ This is a common silvicultural (timber management) practice; it contrasts with another principal silvicultural practice, all-aged or uneven-aged timber management. See David M. Smith, Bruce C. Larson, and Matthew J. Kelty, et al., *The Practice of Silviculture: Applied Forest Ecology*, 9th ed. (New York: John Wiley & Sons, 1997).

Wild and Scenic Rivers

Title III of the bill amends the 1968 Wild and Scenic Rivers Act⁷ by adding numerous river segments to the National Wild and Scenic Rivers System. The System includes wild, scenic, and recreational rivers (depending on accessibility and shoreline development). The Northern Rockies Ecosystem Protection Act designates 62 wild river segments of at least 1,168 miles (with four rivers of unspecified mileage), 22 scenic river segments of at least 148 miles (with one river of unspecified mileage), and 22 recreational river segments of at least 570 miles (with one river of unspecified mileage). The total of 106 river segments with at least 1,886 miles would make the Northern Rockies Ecosystem Protection Act the second largest statute adding to the National Wild and Scenic Rivers System, following only ANILCA.⁸

National Wildland Restoration and Recovery System

Title IV of the bill creates a new National Wildland Restoration and Recovery System. It designates nine wildland restoration and recovery areas totaling 1,023,000 acres of federal land. The bill includes guidelines for restoring and managing areas during recovery and for managing areas after restoration is complete. It requires recovery plans for the areas, with measurable criteria to assess the recovery efforts. It also creates a special staff unit—the National Wildland Restoration and Recovery Corps—to carry out the restoration efforts.

Implementation and Monitoring

Title V of the bill addresses implementation and monitoring. It requires a joint private-public interagency team to monitor and assess the implementation of the bill's provisions and a geographic information system for the region with information on vegetation, air and water quality, human impacts, and activities that affect forest management and restoration. It also requires a panel of independent scientists, appointed by the National Academy of Sciences, to report on implementation of the bill and to make recommendations on managing the region's roadless areas of 1,000 acres or more. The bill prohibits timber harvesting, mineral activities, road construction, and all other development of those roadless areas until Congress decides otherwise. Finally, the bill allows non-exclusive access in all protected areas to Native Americans for traditional cultural and religious purposes.

Rules of Construction

Title VI of the bill includes two rules of construction. First, it specifies that the Act would not relinquish or reduce any federal water rights in the region. Second, it specifies that the Act would not affect or modify any Indian treaty or other rights. Also, the bill states that each designation is made subject to "valid existing rights" (§109, §203(b), and §503), meaning that authorized uses may continue, even if inconsistent with the changed designation of the surrounding lands.

⁷ P.L. 90-542; 16 U.S.C. §§1271-1287.

⁸ ANILCA designated 25 rivers with 3,210 miles, including 2,955 miles of wild rivers.