

**The original documents are located in Box 49, folder “7/12/76 S268 Eagles West Wilderness Colorado” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.**

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7/12/76

**APPROVED**  
**JUL 12 1976**

**ACTION**

**THE WHITE HOUSE**

**WASHINGTON**

**Last Day: July 12**

**July 10, 1976**

**MEMORANDUM FOR THE PRESIDENT**  
**FROM: JIM CANNON**  
**SUBJECT: S. 268 - Eagles Nest Wilderness, Colorado**

Attached for your consideration is S. 268, which would establish the Eagles Nest Wilderness comprising 133,910 acres in Colorado.

BACKGROUND

Under the previous Administration, an Eagles Nest Wilderness was proposed for an 87,775 acre area. The current bill increases that area by 46,000.

A detailed analysis of the provisions of the bill is provided in OMB's enrolled bill report at Tab A.

The Department of Agriculture opposes the bill because the additional acreage does not conform to Wilderness characteristics. OMB concurs with Agriculture, and feels that a veto of S. 268, along with H.R. 7992 - is called for on the merits as well as on the grounds that the Administration must take a stand for its own proposals.

The Congress approved this bill overwhelmingly (388-13 in the House and unanimous voice vote in the Senate). Governor Lamm supports the bill, as did his predecessors John Love and John Vanderhoff. The bill was sponsored by Representative Jim Johnson and Senator Haskell and is considered to be a popular bill in Colorado. Some opposition to the bill centers around concern for taking over a planned reservoir site for the Denver water supply (see Jack Marsh's memorandum to you at Tab B)

RECOMMENDATIONS

Agriculture, OMB, and Max Friedersdorf recommend disapproval of S. 268. Max feels, however, that a veto is unsustainable.

Jack Marsh, Counsel's Office (Lazarus) and I recommend approval of S. 268. As you are considering major initiatives

Posted  
7/12/76

Archives  
7/13/76



in the parks and open space areas, it would appear inconsistent to announce an unprecedented veto on a wilderness bill.

DECISION

Sign S. 268 at Tab C.  
(Marsh, Counsel's Office, Cannon)

Approve 9/27 Disapprove \_\_\_\_\_

Disapprove S. 268.  
(Agriculture, OMB, Max Friedersdorf)

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

OMB has prepared a combined veto message in the event that you veto both S. 268 and H.R. 7992, the Alpine Lakes Management Act of 1976. (Tab D). The message has been approved by Doug Smith.

OMB is presently preparing separate veto messages should you decide to veto only one of these two bills. These messages will be submitted for your consideration Monday.



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

JUL 9 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 268 - Eagles Nest Wilderness,  
Colorado  
Sponsor - Sen. Haskell (D) Colorado

Last Day for Action

July 12, 1976 - Monday

Purpose

Establishes the Eagles Nest Wilderness in Colorado comprising an area of some 133,910 acres.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto Message attached)
Department of Agriculture	Disapproval (Veto Message attached)
Department of the Interior	Defers to Agriculture
Department of Defense	Defers to Agriculture (Informally)
Federal Energy Administration	No objection (Informally)
Department of Transportation	No objection
Department of Commerce	No objection
Council on Environmental Quality	No position
Federal Power Commission	No position (Informally)

Discussion

Under the Wilderness Act, Agriculture and Interior are required to make recommendations to the President for additions to the National Wilderness Preservation System, and the President is required to submit these, along with his own recommendations, to the Congress. To qualify for wilderness designation, an area must generally be undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions.



S. 268 would establish the Eagles Nest Wilderness comprising an area of about 133,910 acres within the Arapaho and White River National Forests, Colorado. The enrolled bill would require that the Eagles Nest Wilderness be administered under the provisions of the Wilderness Act which means its primitive, natural state would be retained.

This wilderness proposal was originally recommended and transmitted to Congress under the previous Administration as an area of about 87,775 acres. Notwithstanding continued and strong Executive Branch objections to Congress, the enrolled bill would designate an area more than 46,000 acres larger than that recommended by the President -- an increase of 53 percent.

In reporting to House and Senate Interior Committees, Agriculture advised that enactment of this legislation would not be consistent with the Administration's objectives. However, the Committees gave only superficial attention to the Administration's concerns in providing for a much larger wilderness.

S. 268 passed in both the House and the Senate on voice votes.

It is worthwhile noting that in approving the Flat Tops Wilderness bill on December 13, 1975, you issued a signing statement urging Congress to give more careful consideration to future National Forest wilderness proposals. Specifically, you urged the Congress in considering future wilderness legislation to:

- o ensure that only areas of true wilderness are designated by excluding areas where evidence of man's activity is clearly apparent;
- o facilitate efficient administration of wilderness areas and to protect such areas by enhancing public understanding of their boundaries by employing recognizable natural features so far as feasible; and,
- o evaluate more carefully the trade-off between wilderness values and other resource value uses such as recreation, timber, wildlife, minerals, grazing and watershed protection and development.

In its enrolled bill letter, Agriculture expresses serious concern over the Congressional approach taken for this wilderness area:

" ... The additional areas were not included in our proposal, because they were judged not suitable for wilderness designation, because management for other resource values was judged to be of greater importance, or because a well-defined boundary could not be established.

"The additional areas that would be designated as wilderness by S. 268 contain significant evidence of man's activity, including primitive and constructed roads, constructed water impoundments and irrigation ditches, and areas where timber has been harvested. Inclusion of these nonconforming features would significantly lower the quality of the Eagles Nest Wilderness and create serious administrative problems in managing the wilderness resource. The additional areas also contain major forest, water, recreation, wildlife, and forage resource values which would be partially or completely foregone if the additional areas were designated as wilderness.

"We have strongly and consistently urged the Congress not to designate areas as wilderness where the evidence of man's activity is clearly apparent. We have also urged the Congress to more carefully consider resource trade-offs between wilderness values and other resource values and uses. Despite our efforts, the Administration proposals for the Flat Tops Wilderness and the Eagles Nest Wilderness were seldom, if ever, considered by the Congress during the 94th Congress. Both the House and Senate focused on much larger proposals from the beginning."

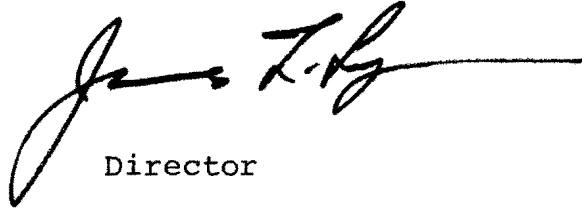
Finally, in making its veto recommendation, the Department concludes that:

"We believe the time has come to forcefully insist that Administration wilderness proposals be given more serious consideration. The quality of the National Wilderness Preservation System and the wilderness concepts embodied in the Wilderness Act are increasingly jeopardized as the Congress continues to enact wilderness bills such as S. 267 and S. 268."

We very much share the above-noted concerns as expressed by Agriculture, and we strongly concur in a veto recommendation. We feel a veto is appropriate for several reasons. First, the groundwork was well laid through your wilderness signing statement and Agriculture's strong opposition to the bill before Congress. Second, on the merits, the enrolled bill is very objectionable, including precisely the type of substantive problems which you urged the Congress to eliminate in future wilderness legislation. Finally, we believe this is an opportune time to take a stand against Congressional disregard of Administration

wilderness proposals. Both this bill and the other wilderness bill that is now before you for action, H.R. 7792 -- Alpine Lakes Area, clearly fail to meet the criteria set forth in your signing statement. If these bills are not disapproved, it will be difficult if not impossible to maintain the Administration position on future Forest Service proposals.

We have prepared, for your consideration, a joint veto message that covers both the Eagles Nest and Alpine Lakes bills. It represents a revision of the draft messages submitted by Agriculture.

A handwritten signature in black ink, appearing to read "James L. Byrd". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Director

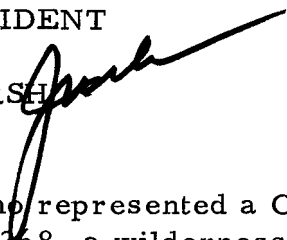
Enclosures

THE WHITE HOUSE

WASHINGTON

July 9, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: JACK MARSH 

Former Congressman Byron Rogers, who represented a Colorado District, called to urge that you veto S. 268, a wilderness bill in Colorado.

He states that the Department of Agriculture had approved a 87,000 acre wilderness proposal, but the bill before you contains in excess of 130,000 acres.

Rogers says this causes a problem because it interferes with certain State and county water rights. He further advises there is substantial county leadership against this enlarged bill and that communications from local government officials have either been received by the White House or will be received shortly.

From the way Rogers talked, apparently the opposition centers on the substantial increase of the wilderness area.

cc: Dick Cheney  
Max Friedersdorf  
Jim Lynn  
Jim Connor

THE WHITE HOUSE

WASHINGTON

July 7, 1976

MEMORANDUM FOR: JIM CANNON

THRU: MAX FRIEDERSDORF *mf*

FROM: CHARLES LEPPERT, JR. *CLJ*

SUBJECT: S. 268 (H. R. 3863), Eagles Nest  
Wilderness, Colorado

Former Rep. Mike McKeivitt, representing the Denver, Colorado, Water Board, called to urge a veto of the Eagles Nest wilderness bill.

Cliff Atkinson of the American Water Works Association called to urge that the Administration "take a long hard look at the Eagles Nest wilderness bill before taking action on the bill." The bill, he says, has an adverse effect on the Denver water supply.

The last day for action is July 12. The bill, H. R. 3863, passed the House on April 6, 1976, by a voice vote. The conference report, S. 268, passed the House on June 29, 1976, by a recorded vote of 388 - 13.

TO THE SENATE OF THE UNITED STATES:

I am returning today without my approval S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado."

I am also returning to the House of Representatives H.R. 7792, a bill entitled the "Alpine Lakes Area Management Act of 1976".

I take this action very reluctantly as I believe that the National Wilderness Preservation System is an extremely valuable national resource, preserving, as it does, an important part of the Nation's heritage. Indeed, my Administration proposed enactment of legislation to designate an Alpine Lakes Wilderness area and supported legislation for an Eagles Nest Wilderness area. In December 1974 I proposed that more than 9 million acres be designated as wilderness which, when added to the previous Executive Branch wilderness recommendations, would encompass a National Wilderness Preservation System in all sections of the country of approximately 35 million acres -- an area larger than the entire State of Pennsylvania. Since taking office, I have approved bills that have designated over 1,600,000 acres of wilderness in 37 areas.

Last December I approved designation of the 235,230-acre Flat Tops Wilderness in Colorado. At that time, I urged the Congress in considering future wilderness legislation to:

- ensure that only areas of true wilderness are designated by excluding areas where evidence of man's activity is clearly apparent;
- facilitate efficient administration of wilderness areas and to protect such areas by enhancing public understanding of their boundaries by employing recognizable natural features so far as feasible;
- evaluate more carefully the trade-off between wilderness values and other resource value uses such as recreation, timber, wildlife, minerals, grazing and watershed protection and development.

Had H.R. 7792, establishing the Alpine Lakes area, been limited to the 292,000 acre wilderness area proposed by the Administration, I would sign the bill. Instead, the Congress has added:

- 11,000 acres of wilderness;
- 88,000 acres of intended wilderness;
- 43,000 acres of private land to be purchased.

In certain of these additional areas, evidence of man's presence is apparent. In some, boundaries fail to follow easily recognizable natural features. However, most disturbing is the way in which the Congress has dealt with the need to trade-off wilderness values against other resource values.

Recognizing timber values in the area, the Congress has sought to address this question by requiring the purchase of these private lands from three large timber companies, providing for unprecedented company-initiated condemnation lawsuits and prescribing a unique formula which would insure that these companies receive the highest possible prices for their timber and land. This could cost in excess of \$100 million.

I cannot condone the use of public funds in this manner. The objective of the National Wilderness Preservation System is to preserve selected public land areas in their natural state and not to acquire large tracts of privately held land.

Had S. 268 establishing Eagles Nest Wilderness been limited to the Executive Branch 87,775 acre proposal, I would sign it.

But again, the Congress has extended this proposal by more than 46,000 acres -- a 53% increase -- and has included areas that bear evidence of man's presence, are not bounded by easily recognizable natural features, and have greater values in a broader multiple use classification. In particular, the bill would serve to make more difficult potential development of the area water resources.

The National Wilderness Preservation System can provide this Nation with the means of preserving in perpetuity a key part of our most valuable heritage -- our undisturbed wildland. I will not, however, condone decisions which accommodate local and private interests when such actions differ from the broad national interests.

THE WHITE HOUSE,



TO THE SENATE *of the United States*;

I am returning today without my approval S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests in the State of Colorado."

I had hoped that the Congress would enact an Eagles Nest Wilderness bill which I could support, as I believe that the National Wilderness Preservation System is an extremely valuable national resource, preserving, as it does, an important part of the Nation's heritage.

In December 1974, I proposed that more than 9 million acres be designated as wilderness which when added to the previous Executive Branch wilderness recommendations would encompass a National Wilderness Preservation System of approximately 35 million acres -- larger than the entire State of Pennsylvania -- in all sections of our country. Since taking Office, I have approved bills that have designated over 1,600,000 acres of wilderness in 37 areas.

Last December, I approved designation of the 235,230-acre Flat Tops Wilderness in Colorado. At that time, I urged the Congress in considering future National Forest wilderness legislation to:

- ° insure that only areas of true wilderness are designated by excluding areas where evidence are of man's activity is clearly apparent;

- facilitate efficient administration of wilderness areas and to protect such areas by enhancing public understanding of their boundaries by using recognizable natural features so far as feasible; and
- evaluate more carefully the trade-off between wilderness values and other resource uses such as recreation, timber, wildlife, minerals, grazing, and watershed protection and development.

Had S. 268, establishing Eagles Nest Wilderness, been reasonably consistent with the 87,775-acre area that the Administration proposed, I would have signed it. The Congress, however, has enlarged this proposal by more than 46,000 acres -- a 53% increase -- including areas that bear evidence of man's presence, <sup>are not</sup> ~~that fail to be~~ bounded by easily recognizable natural features, and ~~that would~~ have greater values in a broader multiple use classification. This enlargement would also make more difficult potential development of the area's water resources.

THE WHITE HOUSE

July 12, 1976

TO THE SENATE OF THE UNITED STATES:

I am returning today without my approval S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests in the State of Colorado."

I had hoped that the Congress would enact an Eagles Nest Wilderness bill which I could support, as I believe that the National Wilderness Preservation System is an extremely valuable national resource, preserving, as it does, an important part of the Nation's heritage.

In December 1974, I proposed that more than 9 million acres be designated as wilderness which when added to the previous Executive Branch wilderness recommendations would encompass a National Wilderness Preservation System of approximately 35 million acres -- larger than the entire State of Pennsylvania -- in all sections of our country. Since taking office, I have approved bills that have designated over 1,600,000 acres of wilderness in 37 areas.

Last December, I approved designation of the 235,230-acre Flat Tops Wilderness in Colorado. At that time, I urged the Congress in considering future National Forest wilderness legislation to:

- insure that only areas of true wilderness are designated by excluding areas where evidence of man's activity is clearly apparent;
- facilitate efficient administration of wilderness areas and to protect such areas by enhancing public understanding of their boundaries by using recognizable natural features so far as feasible; and



- evaluate more carefully the trade-off between wilderness values and other resource uses such as recreation, timber, wildlife, minerals, grazing, and watershed protection and development.

Had S. 268, establishing Eagles Nest Wilderness, been reasonably consistent with the 87,775-acre area that the Administration proposed, I would have signed it. The Congress, however, has enlarged this proposal by more than 46,000 acres -- a 53% increase -- including areas that bear evidence of man's presence, are not bounded by easily recognizable natural features, and have greater values in a broader multiple use classification. This enlargement would also make more difficult potential development of the area's water resources.

THE WHITE HOUSE,

July 12, 1976.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 9

Time: 1215pm

FOR ACTION: Jack Marsh  
George Humphreys  
Max Friedersdorf  
Paul Leach  
Ken Lazarus  
Robert Hartmann (veto message attached)

JankCMvannaugh  
Ed Schmults  
cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: July 9

Time: as soon as possible today

SUBJECT:

S. 268-Eagles Nest Wilderness

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

LAST DAY FOR ACTION ON BILL IS MONDAY, JULY 12 so the package needs to be completed as soon as possible

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President

TO THE HOUSE OF REPRESENTATIVES AND THE SENATE

I am returning today without my approval two bills: H.R. 7792, a bill entitled the "Alpine Lakes Area Management Act of 1972", and S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests in the State of Colorado."

I take this action very reluctantly as I believe that the National Wilderness Preservation System is an extremely valuable national resource, preserving, as it does, an important part of the Nation's heritage. Indeed my Administration proposed enactment of legislation to designate an Alpine Lakes Wilderness area and supported legislation for an Eagles Nest Wilderness area. In December 1974 I proposed that more than 9 million acres be designated as wilderness which when added to the previous Executive Branch wilderness recommendations would encompass a National Wilderness Preservation System of approximately 35 million acres -- larger than the entire State of Pennsylvania -- in all sections of our country. Since taking office, I have approved bills that have designated over 1,600,000 acres of wilderness in 37 areas.

Last December I approved designation of the 235,230-acre Flat Tops Wilderness in Colorado. At that time, I urged the Congress in considering future wilderness legislation to:

- o ensure that only areas of true wilderness are designated by excluding areas where evidence of man's activity is clearly apparent;
- o facilitate efficient Administration of wilderness areas and to protect such areas by enhancing public understanding of their boundaries by employing recognizable natural features so far as feasible;

- o evaluate more carefully the trade-off between wilderness values and other resource value uses such as recreation, timber, wildlife, minerals, grazing and watershed protection and development.

Had H.R. 7792, establishing the Alpine Lakes area, been limited to the 292,000 acre wilderness area that the Administration proposed, I would sign the bill. Instead, the Congress has added:

- o 11,000 acres of wilderness;
- o 88,000 acres of intended wilderness;
- o 43,000 acres of private land to be purchased.

In certain of these additional areas, evidence of man's presence is apparent. In some, boundaries fail to follow easily recognizable natural features. However, most disturbing is the way in which the Congress dealt with the need to trade-off wilderness values against other resource values.

Recognizing timber values in the area, the Congress has sought to address this question by requiring the purchase of these private lands from three large timber companies providing for unprecedented company-initiated condemnation lawsuits and prescribing an unprecedented formula ensuring that these companies receive the highest possible prices for their timber and land. This could cost in excess of \$100 million.

I cannot condone the use of public funds in this manner. The objective of the National Wilderness Preservation System is to preserve selected public land areas in their pristine natural state and not to acquire large tracts of privately held land -- especially at unconscionable prices.

Had S. 268 establishing Eagles Nest wilderness been limited to the Executive Branch 87,775 acre proposal, I would sign it.

But again, the Congress has extended this proposal by more than 46,000 acres -- a 53% increase -- and included areas that bear evidence of man's presence, that fail to be bounded by easily recognizable natural features, and that have greater values in a broader multiple use classification. In particular, the bill would serve to make more difficult potential development of the area water resources.

The National Wilderness Preservation System can provide this Nation with the means of preserving in perpetuity a key part of our most valuable heritage -- our undisturbed wildland. I will not, however, condone decisions which accommodate local and private interests when such actions differ from the broad national interests.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 9

Time: 1215pm

FOR ACTION: Jack Marsh  
George Humphreys  
Max Friedersdorf  
Paul Leach  
Ken Lazarus  
Robert Hartmann (veto message attached)

cc (for information): Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 9

Time: as soon as possible today

SUBJECT:

S. 268-Eagles Nest Wilderness

ACTION REQUESTED:

\_\_\_ For Necessary Action

\_\_\_ For Your Recommendations

\_\_\_ Prepare Agenda and Brief

\_\_\_ Draft Reply

X For Your Comments

\_\_\_ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

LAST DAY FOR ACTION ON BILL IS MONDAY, JULY 12 so the package needs to be completed as soon as possible

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

**EXECUTIVE OFFICE OF THE PRESIDENT**  
**COUNCIL ON ENVIRONMENTAL QUALITY**  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

July 2, 1976

MEMORANDUM FOR JAMES M. FREY  
OFFICE OF MANAGEMENT AND BUDGET


ATT: Ms. Ramsey -- Rm. 7201 NEOF

SUBJECT: Enrolled Bill S. 286, "To designate the Eagles Nest  
Wilderness, Arapaho and White River National Forests,  
in the State of Colorado"

This is in response to your July 1, 1976 request for our views  
on the subject enrolled bill.

After careful study the Administration proposed to the Congress  
that an area of 87,000 acres be designated as the Eagles Nest  
Wilderness. S. 286 expands the area to 133,000 acres. We under-  
stand that the additional 46,000 acres contain many nonconforming  
uses (extensive timber cutting, roads and irrigation ditches)  
which would violate the standards as established in the Wilderness  
Act. We believe in the principle that it is in the long term  
interest of the wilderness system to maintain a high standard  
of quality.

However, because of lack of time to carefully study all the  
pros and cons of the expanded area, the Council does not take  
a position on whether the President should sign this bill.

  
Gary Widman  
General Counsel



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

July 2, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget

Dear Mr. Lynn:

In response to the request of your office, the following report is submitted on the enrolled enactment S. 268, "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests in the State of Colorado."

The Department of Agriculture recommends that the President not approve the enactment.

S. 268 would designate about 133,910 acres within the Arapaho and White River National Forests, Colorado, as the Eagles Nest Wilderness. The designated area would be administered by the Secretary of Agriculture under the provisions of the Wilderness Act. The previous classification of the Gore Range-Eagles Nest Primitive Area would be abolished.

S. 268, as passed by the Senate, contained the following management provision:

"SEC. 4. Nothing in this Act or the Wilderness Act shall be construed as impairing the authority of the appropriate Secretary to permit, subject to such regulations as he deems necessary to protect wilderness values, the construction, operation, and maintenance of a subsurface water tunnel in Federal land under the Eagles Nest Wilderness."

The House act did not contain the above provision, and the conferees agreed to delete it. According to the conference report (H. Rept. No. 94-1308), "The Senate conferees agreed not to include the provision in the conference committee amendments with the understanding that . . . it is not the intent of the conferees . . . to either enlarge or diminish the authority of the Secretary to permit the construction and operation of the tunnel." Although this matter does not relate directly to the language of the enactment, we wish to point out that, in our judgment, the conference report could lead one to erroneously conclude that the Secretary has authority under the Wilderness Act to permit the construction and operation of a tunnel within a wilderness. If the President does not accept our recommendation and approves S. 268, it is our opinion that any application for a permit to construct and operate a tunnel within

the Eagles Nest Wilderness could be approved only by the President in accordance with section (4)(d)(4)(1) of the Wilderness Act (16 U.S.C. 1133 (d)(4)(1)).

The President transmitted his recommendation for an 87,755-acre Eagles Nest Wilderness to the Congress on February 8, 1972. That recommendation resulted from our study of the Gore Range-Eagles Nest Primitive Area and adjacent areas pursuant to the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131-1136). In 1973 and 1974, the Senate passed bills that would have designated an Eagles Nest Wilderness of 128,374 acres.

S. 268 would designate an area more than 46,000 acres (53 percent) larger than that recommended by the President. The additional areas were not included in our proposal, because they were judged not suitable for wilderness designation, because management for other resource values was judged to be of greater importance, or because a well-defined boundary could not be established.

The additional areas that would be designated as wilderness by S. 268 contain significant evidence of man's activity, including primitive and constructed roads, constructed water impoundments and irrigation ditches, and areas where timber has been harvested. Inclusion of these non-conforming features would significantly lower the quality of the Eagles Nest Wilderness and create serious administrative problems in managing the wilderness resource. The additional areas also contain major forest, water, recreation, wildlife, and forage resource values which would be partially or completely foregone if the additional areas were designated as wilderness.

We have strongly and consistently urged the Congress not to designate areas as wilderness where the evidence of man's activity is clearly apparent. We have also urged the Congress to more carefully consider resource trade-offs between wilderness values and other resource values and uses. Despite our efforts, the Administration proposals for the Flat Tops Wilderness and the Eagles Nest Wilderness were seldom, if ever, considered by the Congress during the 94th Congress. Both the House and Senate focused on much larger proposals from the beginning.

Following enactment of the Flat Tops Wilderness (S. 267) in December 1975, we reluctantly recommended that the President approve the enactment. We recognized that a veto rationale would have been very difficult to sustain, because the 94th Congress has frequently viewed our concerns about nonconforming features and ill-defined boundaries as bureaucratic and judgmental. Furthermore, it is difficult to make a case against resource trade-offs affecting dispersed recreation and wildlife habitat that are not easily quantified. The President ultimately approved the Flat Tops Wilderness (S. 267) on December 13, 1975, but he did so with strong reservations which he expressed in a signing statement.

Honorable James T. Lynn

3.

Unfortunately, the President's stated concerns about nonconforming features, poor boundary definition, and resource trade-offs in regard to Flat Tops appeared to have little, if any, effect during congressional consideration of the Eagles Nest Wilderness (S.268). We believe the time has come to forcefully insist that Administration wilderness proposals be given more serious consideration. The quality of the National Wilderness Preservation System and the wilderness concepts embodied in the Wilderness Act are increasingly jeopardized as the Congress continues to enact wilderness bills such as S. 267 and S. 268.

Our rationale for the President's veto of S. 268 is developed in the enclosed draft veto message.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard L. Feltner".

RICHARD L. FELTNER  
Assistant Secretary

Enclosure



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

July 2, 1976

Mr. James T. Lynn, Director  
Office of Management and Budget  
Executive Office Building  
Washington, D.C. 20503

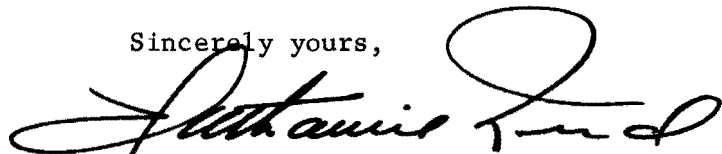
Dear Mr. Lynn:

This responds to your request for our views on the enrolled bill S. 268, "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado."

We defer to the views of the Department of Agriculture as to the advisability of the President approving the enrolled bill.

S. 268 would designate approximately 128,084 acres of the Arapaho and White River National Forests in north central Colorado as the Eagles Nest Wilderness. Since this Department has not previously been requested by the Congress to report on S. 268 and since the designated wilderness area is located entirely on Forest Service land and will be managed by the Forest Service, we defer to the views of the Department of Agriculture on the question of whether the President should approve the enrolled bill.

Sincerely yours,

  
Assistant Secretary of the Interior





GENERAL COUNSEL

OFFICE OF THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

JUL 2 1976

Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C. 20503

This is in reply to your request for the views of the Department of Transportation on an enrolled bill, S. 268,

"To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado."

The proposed legislation would establish the Eagles Nest Wilderness Area to be administered by the Department of Agriculture pursuant to the provisions of the Wilderness Act.

The Department of Transportation has no objection to the President's signing this enrolled bill.

Sincerely,

A handwritten signature in black ink, which appears to read "John Hart Ely". The signature is stylized and cursive, with a large loop at the end.

John Hart Ely



**GENERAL COUNSEL OF THE  
UNITED STATES DEPARTMENT OF COMMERCE**  
Washington, D.C. 20230

**JUL 2 1976**

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in response to your request for the views of this Department on S. 268, an enrolled enactment

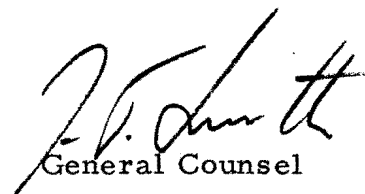
"To designate the Eagles Nest Wilderness,  
Arapaho and White River National Forests,  
in the State of Colorado."

This bill would, in accordance with subsection 3(b) of the Wilderness Act (16 U.S.C. 1132(b)), designate the Gore Range-Eagles Nest Primitive Area as the "Eagles Nest Wilderness" within and as part of the Arapaho and White River National Forests, to be administered by the Secretary of Agriculture.

The Department of Commerce would have no objection to approval by the President of S. 268.

Enactment of this legislation is not expected to involve any increase in the budgetary requirements of this Department.

Sincerely,

  
General Counsel





TO THE SENATE:

I return herewith, without my approval, S. 268 entitled, "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests in the State of Colorado."

As you will recall, I approved, on December 13, 1975, designation of the 235,230-acre Flat Tops Wilderness in Colorado. I approved it even though I had serious concerns about designating the very large area the Congress added to the 142,000-acre wilderness proposed by the Administration. I expressed my concerns in a statement issued December 13, 1975. S. 268, to designate the Eagles Nest Wilderness, illustrates those concerns to an even greater degree.

S. 268 would designate an area more than 46,000 acres (53 percent) larger than the Administration proposal for an Eagles Nest Wilderness of 87,755 acres. Unfortunately, the hearing records, committee reports, and debate transcripts indicate that neither the House nor the Senate gave serious consideration to the Administration proposal in the 94th Congress. To the contrary, both legislative bodies focused, from the outset, on proposals to designate much larger areas. This occurred even though the Administration's views were clearly and repeatedly expressed to both the House and Senate by officials of the Department of Agriculture and others within the Executive Branch. The Administration proposal has been before Congress since early 1972, and I regret that I am unable to approve S. 268.

In my judgment, S. 268 is unacceptable for three major reasons.

First, many areas that would be designated as wilderness by S. 268 clearly do not meet the wilderness criteria set forth in the Wilderness Act. The Eagles Nest Wilderness enacted by the Congress would include primitive and constructed roads, constructed water impoundments and irrigation ditches, and other significant evidence of man's activity. S. 268 would also designate areas as wilderness where extensive timber harvesting has occurred. I do not believe timber harvest areas qualify for designation as wilderness, even if the harvests occurred several years ago.

Second, the Eagles Nest Wilderness that the Congress has enacted contains important forest, water, recreation, wildlife, and forage resource values that would be partially or completely foregone if I approved S. 268. I do not believe that enough consideration has been given to trade-offs between wilderness values and other resource values and uses. As I pointed out in my statement of December 13, 1975, regarding the Flat Tops Wilderness, resource trade-offs are particularly important within the National Forest System where wilderness is but one of several very important resources that must be managed for the benefit of all Americans. I believe the Administration proposal would designate the most suitable and available wilderness while maintaining other important land management options nearby.

I am aware that congressional discussions of S. 268 frequently dealt with the desirability or undesirability of additional transmountain water diversions in Colorado. I recognize the need to resolve this

issue within Colorado, but I am concerned about portions of the legislative history of S. 268 that indicate the Congress is attempting to use the Wilderness Act to preempt or modify certain State and local water allocations. The quality of the National Wilderness Preservation System is jeopardized whenever the Wilderness Act is used for purposes other than the preservation and protection of an enduring wilderness resource.

Third, much of the wilderness boundary that would be designated by S. 268 would be difficult to define and manage, because portions of it follow legal subdivision lines or lines drawn generally on a map. In contrast, the boundaries proposed by the Administration for the Eagles Nest Wilderness were identified after careful on-the-ground studies, and they follow, to the maximum extent possible, easily recognizable ridges and other natural topographic features.

I strongly believe the Administration proposal for the Eagles Nest Wilderness includes those lands most suitable for wilderness designation within a manageable boundary and with appropriate recognition of other resource values and opportunities. I urge the Congress to reconsider the merits of the Administration proposal.

THE WHITE HOUSE  
WASHINGTON

July 9, 1976

MEMORANDUM FOR: JIM CANNON  
FROM: MAX FRIEDERSDORF *M. F.*  
SUBJECT: S. 268 - Eagles Nest Wilderness

Although this bill passed the House by a vote of 388 - 13 on the Conference Report and is unsustainable in that body, and passed the Senate by voice vote on both final passage and Conference Report, the Office of Legislative Affairs recommends the bill be vetoed on the basis that it is time to get reasonable about environmental values and costs.

From a political viewpoint, the attached copy of a memo to the President from Jack Marsh must be considered.

THE WHITE HOUSE

WASHINGTON

July 9, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: JACK MARSH 

Former Congressman Byron Rogers, who represented a Colorado District, called to urge that you veto S. 268, a wilderness bill in Colorado.

He states that the Department of Agriculture had approved a 87,000 acre wilderness proposal, but the bill before you contains in excess of 130,000 acres.

Rogers says this causes a problem because it interferes with certain State and county water rights. He further advises there is substantial county leadership against this enlarged bill and that communications from local government officials have either been received by the White House or will be received shortly.

From the way Rogers talked, apparently the opposition centers on the substantial increase of the wilderness area.

cc: Dick Cheney  
✓ Max Friedersdorf  
Jim Lynn  
Jim Connor

THE WHITE HOUSE

WASHINGTON

July 9, 1976

MEMORANDUM FOR: JIM CONNOR

FROM: JACK MARSH 

Would you please make sure the attached memo is part of the veto package that the President considers.

Date: July 9

Time: 1215pm

FOR ACTION: Jack Marsh  
George Humphreys  
Max Friedersdorf  
Paul Leach  
Ken Lazarus  
Robert Hartmann (veto message attached)

cc (for information): Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 9

Time: as soon as possible today

SUBJECT:

S. 268-Eagles Nest Wilderness

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

please return to judy johnston, ground floor west wing

LAST DAY FOR ACTION ON BILL IS MONDAY, JULY 12 so the package needs to be completed as soon as possible

*Sign bill!*  
*[Signature]*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

TO THE SENATE OF THE UNITED STATES:

I am returning today without my approval S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado." I am also returning to the House of Representatives H. R. 7792, a bill entitled the "Alpine Lakes Area Management Act of 1976".

I take this action very reluctantly as I believe that the National Wilderness Preservation System is an extremely valuable national resource, preserving, as it does, an important part of the Nation's heritage. Indeed, my Administration proposed enactment of legislation to designate an Alpine Lakes Wilderness area and supported legislation for an Eagles Nest Wilderness area. In December 1974 I proposed that more than 9 million acres be designated as wilderness which, when added to the previous Executive Branch wilderness recommendations, would encompass a National Wilderness Preservation System in all sections of the country of approximately 35 million acres -- an area larger than the entire State of Pennsylvania. Since taking office, I have approved bills that have designated over 1,600,000 acres of wilderness in 37 areas.

Last December I approved designation of the 235,230-acre Flat Tops Wilderness in Colorado. At that time, I urged the Congress in considering future wilderness legislation to:



- ensure that only areas of true wilderness are designated by excluding areas where evidence of man's activity is clearly apparent;
- facilitate efficient Administration of wilderness areas and to protect such areas by enhancing public understanding of their boundaries by employing recognizable natural features so far as feasible.

evaluate more carefully the trade-off between wilderness values and other resource value uses such as recreation, timber, wildlife, minerals, grazing and watershed protection and development.

Had H.R. 7792, establishing the Alpine Lakes area, been limited to the 292,000 acre wilderness area ~~that the~~ *proposed by the* Administration, ~~proposed~~, I would sign the bill. Instead, the Congress has added:

- o 11,000 acres of wilderness;
- o 88,000 acres of intended wilderness;
- o 43,000 acres of private land to be purchased.

In certain of these additional areas, evidence of man's presence is apparent. In some, boundaries fail to follow easily recognizable natural features. However, most disturbing is the way in which the Congress <sup>has</sup> dealt with the need to trade-off wilderness values against other resource values.

Recognizing timber values in the area, the Congress has sought to address this question by requiring the purchase of these private lands from three large timber companies, providing for unprecedented company-initiated condemnation lawsuits and prescribing ~~an unprecedented~~ <sup>a unique</sup> formula <sup>which would ensure</sup> ~~ensuring~~ that these companies receive the highest possible prices for their timber and land. This could cost in excess of \$100 million.

I cannot condone the use of public funds in this manner. The objective of the National Wilderness Preservation System is to preserve selected public land areas in their ~~pristine~~ natural state and not to acquire large tracts of privately held land -- ~~especially at unconscionable prices.~~

Had S: 268 establishing Eagles Nest <sup>W</sup> Wilderness been limited to the Executive Branch 87,775 acre proposal, I would sign it.

But again, the Congress has extended this proposal by more than 46,000 acres -- a 53% increase -- and <sup>has</sup> included areas that bear evidence of man's presence, ~~that fail to be~~ <sup>are not</sup> bounded by easily recognizable natural features, and ~~that~~ have greater values in a broader multiple use classification. In particular, the bill would serve to make more difficult potential development of the area water resources.

The National Wilderness Preservation System can provide this Nation with the means of preserving in perpetuity a key part of our most valuable heritage -- our undisturbed wildland. I will not, however, condone decisions which accommodate local and private interests when such actions differ from the broad national interests.

TO THE SENATE OF THE UNITED STATES:

I am returning today without my approval S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado." I am also returning to the House of Representatives H. R. 7792, a bill entitled the "Alpine Lakes Area Management Act of 1976".

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- ensure that only areas of true wilderness are designated by excluding areas where evidence of man's activity is clearly apparent;
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TO THE HOUSE OF REPRESENTATIVES:

I am returning today without my approval H. R. 7792, a bill entitled the "Alpine Lakes Area Management Act of 1976". I am also returning to the Senate, S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado."

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I am returning today without my approval two bills:

H.R. 7792, a bill entitled the "Alpine Lakes Area Management Act of 1972", and S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado."

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- o facilitate efficient Administration of wilderness areas and to protect such areas by enhancing public understanding of their boundaries by employing recognizable *natural features so far as feasible.*

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- o 11,000 acres of wilderness;
- o 88,000 acres of intended wilderness;
- o 43,000 acres of private land to be purchased.

In certain of these additional areas, evidence of man's presence is apparent. In some, boundaries fail to follow easily recognizable natural features. However, most disturbing is the way in which the Congress <sup>has</sup> dealt with the need to trade-off wilderness values against other resource values.

Recognizing timber values in the area, the Congress has sought to address this question by requiring the purchase of these private lands from three large timber companies, providing for unprecedented company-initiated condemnation lawsuits and prescribing ~~an unprecedented~~ <sup>a unique</sup> formula <sup>which would ensure</sup> ~~ensuring~~ that these companies receive the highest possible prices for their timber and land. This could cost in excess of \$100 million.

I cannot condone the use of public funds in this manner. The objective of the National Wilderness Preservation System is to preserve selected public land areas in their ~~pristine~~ natural state and not to acquire large tracts of privately held land -- ~~especially at unconscionable prices.~~

Had S. 268 establishing Eagles Nest <sup>W</sup>ilderness been limited to the Executive Branch 87,775 acre proposal, I would sign it.

But again, the Congress has extended this proposal by more than 46,000 acres -- a 53% increase -- and <sup>has</sup> included areas that bear evidence of man's presence, ~~that fail to be~~ <sup>are not</sup> bounded by easily recognizable natural features, and ~~that~~ have greater values in a broader multiple use classification. In particular, the bill would serve to make more difficult potential development of the area water resources.

The National Wilderness Preservation System can provide this Nation with the means of preserving in perpetuity a key part of our most valuable heritage -- our undisturbed wildland. I will not, however, condone decisions which accommodate local and private interests when such actions differ from the broad national interests.



# To The House of Representatives:

I am returning today without my approval ~~two bills~~  
H.R. 7792, a bill entitled the "Alpine Lakes Area Management  
Act of 1974" <sup>I am also returning to the Senate,</sup> and S. 268, a bill "To designate the Eagles  
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in the State of Colorado."

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the National Wilderness Preservation System is an extremely  
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larger than the entire State of Pennsylvania. ~~in all~~  
~~sections of our country~~ Since taking office, I have approved  
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activity is clearly apparent;
- o facilitate efficient Administration of wilderness  
areas and to protect such areas by enhancing public  
understanding of their boundaries by employing recognizable  
*natural features so far as feasible.*

To The Senate of the United States:

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*I am also returning to the House of Representatives*

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Date: July 9

Time: 1215pm

FOR ACTION: Jack Marsh  
George Humphreys  
Max Friedersdorf  
Paul Leach  
Ken Lazarus  
Robert Hartmann (veto message attached)

cc (for information): Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 9

Time: as soon as possible today

SUBJECT:

S. 268-Eagles Nest Wilderness

ACTION REQUESTED:

\_\_\_ For Necessary Action

\_\_\_ For Your Recommendations

\_\_\_ Prepare Agenda and Brief

\_\_\_ Draft Reply

For Your Comments

\_\_\_ Draft Remarks

REMARKS:

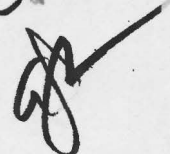
please return to judy johnston, ground floor west wing

LAST DAY FOR ACTION ON BILL IS MONDAY, JULY 12 so the package needs to be completed as soon as possible

*7/9- copy sent for researching. nm*

*7/9- Researched copy returned. nm*

*RTW Editorial comments, a veto message attached.*



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President



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*Natural features so far as possible*

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Had S: 268 establishing Eagles Nest Wilderness been limited to the Executive Branch 87,775 acre proposal, I would sign it.

But again, the Congress has extended this proposal by more than 46,000 acres -- a 53% increase -- and <sup>has</sup> included areas that bear evidence of man's presence, ~~that fail to be~~ <sup>are not</sup> bounded by easily recognizable natural features, and ~~that~~ have greater values in a broader multiple use classification. In particular, the bill would serve to make more difficult potential development of the area water resources.

The National Wilderness Preservation System can provide this Nation with the means of preserving in perpetuity a key part of our most valuable heritage -- our undisturbed wildland. I will not, however, condone decisions which accommodate local and private interests when such actions differ from the broad national interests.



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

DATE: 7-12-76

TO: Bob Linder

FROM: Jim Frey

Attached are agency views letters as follow: Defense and FPC on S. 268. Please have included in the appropriate enrolled bill file. Thanks.



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

8 July 1976

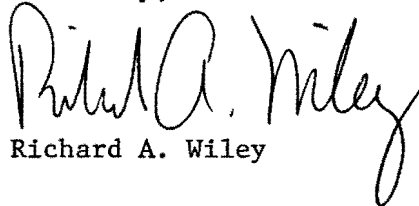
Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D.C. 20503

Dear Mr. Lynn:

Reference is made to the request of your office for the views of the Department of Defense on the enrolled enactment of S. 268, an Act "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado".

The Department of Defense defers to the views of more interested departments and agencies on this enrolled enactment.

Sincerely,

A handwritten signature in cursive script, reading "Richard A. Wiley".

Richard A. Wiley



FEDERAL POWER COMMISSION  
WASHINGTON, D.C. 20426

ENROLLED BILL, S. 268 - 94th Congress  
To designate Eagles Nest Wilderness

JUL 8 1976

Honorable James T. Lynn  
Director, Office of Management and Budget  
Executive Office of the President  
Washington, D. C. 20503

Attention: Miss Martha Ramsey  
Legislative Reference Division  
Room 7201, New Executive Office Building

Dear Mr. Lynn:

This is in response to Mr. Frey's request of July 1, 1976, for the Commission's views and recommendations on S. 268, an Enrolled Bill, "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado".

The Commission has previously examined a proposed 71,785 acre Eagles Nest Wilderness area, and in a letter to the Secretary of Agriculture dated November 2, 1970, offered no objection to the designation of a wilderness of that size. Although the wilderness that would be designated by S. 268 would amount to 133,910 acres, there are no apparent circumstances requiring the Commission to change its views.

There are no natural gas pipelines crossing the proposed wilderness, nor has there been any exploratory or development drilling for natural gas within the area. There are no natural gas fields or known reserves within the proposed wilderness, and the area does not lie within a structural basin.



Honorable James T. Lynn

-2-

There are no existing hydroelectric projects and no known sites for potential conventional hydroelectric power development in the proposed wilderness, and there are no applications pending before the Commission for preliminary permits or licenses for hydroelectric projects in the area.

Staff studies of the topographic maps of the proposed wilderness area show that there are differences in water surface elevations between several of the natural lakes and nearby watercourses which may be suitable for pumped storage developments. It appears, however, that there are equally favorable sites for this purpose in the surrounding region, closer to the major load center of metropolitan Denver.

There are no existing thermal-electric plants in the proposed wilderness area and no known plans to construct any such plants.

The Commission accordingly offers no objection to approval of the Enrolled Bill, S. 268.

Sincerely yours,

A handwritten signature in cursive script, reading "Richard L. Dunham". The signature is written in dark ink and is positioned above the typed name and title.

Richard L. Dunham  
Chairman

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 9

Time: 1215pm

FOR ACTION: Jack Marsh  
George Humphreys  
Max Friedersdorf  
Paul Leach  
Ken Lazarus  
Robert Hartmann (veto message attached)

cc (for information): Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 9

Time: as soon as possible today

SUBJECT:

S. 268-Eagles Nest Wilderness

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

LAST DAY FOR ACTION ON BILL IS MONDAY, JULY 12 so the package needs to be completed as soon as possible

No objection -- Ken Lazarus 7/9/76

*segu ji*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 9

Time: 1215pm

FOR ACTION: Jack Marsh  
George Humphreys  
Paul Leach  
Max Friedersdorf  
Ken Lazarus

cc (for information): Jim Cavanaugh  
Ed Schmults

Robert Hartmann (veto message attached)

FROM THE STAFF SECRETARY

DUE: Date: July 9

Time: as soon as possible today

SUBJECT:

H.R. 7992-Alpine Lakes Wilderness

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

LAST DAY FOR ACTION ON BILL IS MONDAY, JULY 12 so the package needs to be completed as soon as possible

No objection -- Ken Lazarus 7/9/76

*sign ji*

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James M. Cannon  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 9

Time: 1215pm

FOR ACTION: Jack Marsh  
Bill Seidman  
Alan Greenspan  
Max Friedersdorf  
Ken Lazarus  
Glenn Schleede  
George Humphreys

cc (for information): Jim Cavanaugh  
Lynn May Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 9 n

Time: as soon as possible

SUBJECT:

H.R. 14236-Public Works for Water and Power Development  
and Energy Research Appropriation Act, 1977

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend approval. Ken Lazarus 7/9/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

Date: July 8

Time: 430pm

FOR ACTION: Paul Leach  
 Max Friedersdorf  
 Ken Lazarus  
 Robert Hartmann (veto message attached)  
 Bill Seidman  
 Sarah Massengale

cc (for information): Jack Marsh  
 Jim Cavanaugh  
 Ed Schmults

FROM THE STAFF SECRETARY: Steve McConahey

DUE: Date: July 9

Time: 100pm

## SUBJECT:

H.R. 14237 - Agriculture and related agencies  
 appropriation act, 1977

## ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

## REMARKS:

please return to Judy Johnston, Ground Floor West Wing

No objection -- Ken Lazarus 7/9/76

*Sign it*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cannon  
 For the President



TO THE SENATE OF THE UNITED STATES:

I am returning today without my approval S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado."

I am also returning to the House of Representatives H.R. 7792, a bill entitled the "Alpine Lakes Area Management Act of 1976".

I take this action very reluctantly as I believe that the National Wilderness Preservation System is an extremely valuable national resource, preserving, as it does, an important part of the Nation's heritage. Indeed, my Administration proposed enactment of legislation to designate an Alpine Lakes Wilderness area and supported legislation for an Eagles Nest Wilderness area. In December 1974 I proposed that more than 9 million acres be designated as wilderness which, when added to the previous Executive Branch wilderness recommendations, would encompass a National Wilderness Preservation System in all sections of the country of approximately 35 million acres -- an area larger than the entire State of Pennsylvania. Since taking office, I have approved bills that have designated over 1,600,000 acres of wilderness in 37 areas.

Last December I approved designation of the 235,230-acre Flat Tops Wilderness in Colorado. At that time, I urged the Congress in considering future wilderness legislation to:

- ensure that only areas of true wilderness are designated by excluding areas where evidence of man's activity is clearly apparent;
- facilitate efficient administration of wilderness areas and to protect such areas by enhancing public understanding of their boundaries by employing recognizable natural features so far as feasible;
- evaluate more carefully the trade-off between wilderness values and other resource value uses such as recreation, timber, wildlife, minerals, grazing and watershed protection and development.

Had H.R. 7792, establishing the Alpine Lakes area, been limited to the 292,000 acre wilderness area proposed by the Administration, I would sign the bill. Instead, the Congress has added:

- 11,000 acres of wilderness;
- 88,000 acres of intended wilderness;
- 43,000 acres of private land to be purchased.

In certain of these additional areas, evidence of man's presence is apparent. In some, boundaries fail to follow easily recognizable natural features. However, most disturbing is the way in which the Congress has dealt with the need to trade-off wilderness values against other resource values.

Recognizing timber values in the area, the Congress has sought to address this question by requiring the purchase of these private lands from three large timber companies, providing for unprecedented company-initiated condemnation lawsuits and prescribing a unique formula which would insure that these companies receive the highest possible prices for their timber and land. This could cost in excess of \$100 million.

I cannot condone the use of public funds in this manner. The objective of the National Wilderness Preservation System is to preserve selected public land areas in their natural state and not to acquire large tracts of privately held land.

Had S. 268 establishing Eagles Nest Wilderness been limited to the Executive Branch 87,775 acre proposal, I would sign it.

But again, the Congress has extended this proposal by more than 46,000 acres -- a 53% increase -- and has included areas that bear evidence of man's presence, are not bounded by easily recognizable natural features, and have greater values in a broader multiple use classification. In particular, the bill would serve to make more difficult potential development of the area water resources.



The National Wilderness Preservation System can provide this Nation with the means of preserving in perpetuity a key part of our most valuable heritage -- our undisturbed wildland. I will not, however, condone decisions which accommodate local and private interests when such actions differ from the broad national interests.

THE WHITE HOUSE,

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

JUL 9 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 268 - Eagles Nest Wilderness,  
Colorado  
Sponsor - Sen. Haskell (D) Colorado

Last Day for Action

July 12, 1976 - Monday

Purpose

Establishes the Eagles Nest Wilderness in Colorado comprising an area of some 133,910 acres.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto Message attached)
Department of Agriculture	Disapproval (Veto Message attached)
Department of the Interior	Defers to Agriculture
Department of Defense	Defers to Agriculture (Informally)
Federal Energy Administration	No objection (Informally)
Department of Transportation	No objection
Department of Commerce	No objection
Council on Environmental Quality	No position
Federal Power Commission	No position (Informally)

Discussion

Under the Wilderness Act, Agriculture and Interior are required to make recommendations to the President for additions to the National Wilderness Preservation System, and the President is required to submit these, along with his own recommendations, to the Congress. To qualify for wilderness designation, an area must generally be undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions.

DESIGNATING THE EAGLES NEST WILDERNESS, ARAP-  
AHO AND WHITE RIVER NATIONAL FORESTS, STATE  
OF COLORADO

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JUNE 28, 1976.—Ordered to be printed

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Mr. MELCHER, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany S. 268]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 268) to designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with amendments as follows:

(1) On page 1, line 6, strike out "May 1973" and insert in lieu thereof "June 1976".

(2) On page 1, lines 11 and 12, strike out "one hundred and thirty six thousand seven hundred and fifty" and insert in lieu thereof "one hundred thirty-three thousand nine hundred ten".

(3) On page 2, lines 2 and 3, strike out "Interior and Insular Affairs Committees" and insert in lieu thereof "Committees on Interior and Insular Affairs".

(4) On page 2, line 4, between "such" and "description" insert "map and".

(5) On page 2, line 7, strike out "legal description and map" and insert in lieu thereof "map and description".

And the House agree to the same.

JOHN MELCHER,  
PHILLIP BURTON,  
LLOYD MEEDS,  
GOODLOE E. BYRON,  
JIM SANTINI,  
PAUL E. TSONGAS,  
JAMES WEAVER,  
SAM STEIGER,  
DON H. CLAUSEN,  
JAMES P. JOHNSON,

*Managers on the Part of the House.*

HENRY M. JACKSON,  
LEE METCALF,  
FLOYD HASKELL,  
JAMES ABOUREZK,  
MARK O. HATFIELD,  
JAMES A. McCLURE,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE CONFERENCE COMMITTEE

The managers on the part of the Senate and the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 268) to designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado, submit the following joint statement to the Senate and to the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with amendments thereto.

The differences between the Senate bill, the House amendment, and the amendments to the House amendment agreed to by the conference committee, are discussed below.

### THE WILDERNESS

All three proposals—the Senate bill, the House amendment, and the amendments to the House amendment agreed to by the conferees (the "conference committees amendments")—would designate as a component of the National Wilderness Preservation System the Eagles Nest Wilderness in the Arapaho and White River National Forests in the State of Colorado.

This area was first set aside as the Gore Range-Eagles Nest Primitive Area by administrative action on June 19, 1932. Subsection 3(b) of the Wilderness Act of 1964 (78 Stat. 890, 891) directed the Secretary of Agriculture to study all primitive areas to determine their suitability to be components of the National Wilderness Preservation System established by that Act. The study of the Gore Range-Eagles Nest Primitive Area was completed in 1971 and, on February 8, 1972, the President submitted to the Congress an 87,755 acre Eagles Nest Wilderness proposal.

Both the Senate bill and the House amendment would abolish the classification of the Gore River-Eagles Nest Primitive Area and establish a wilderness larger than that proposed to the Congress in 1972: the Senate bill's proposed wilderness contains 130,080 acres;<sup>1</sup> whereas the House amendment would designate a 136,750 acre wilderness. The 6,670 acre difference between the Senate bill and House amendment results from boundary differences in eleven areas.

<sup>1</sup>This and all other figures concerning the Senate bill and House amendment are updated figures which were supplied to the conference committee by the Forest Service. The figures contained in Senate report (94-172) will differ from these corrected figures. Any acreage figures, however, are only estimated. Therefore in the conference committee amendments, as in all wilderness legislation, legal force is given only to the map and the legal description of the wilderness area prepared by the Forest Service after enactment.

The conference committee amendments provide for the designation of a 133,910 acre wilderness. Of the eleven areas in which the boundaries of the wildernesses to be designated by the Senate bill and the House amendment differ, the conference committee chose to adopt the boundary proposed by the Senate bill in nine areas and the boundary proposed by the House amendment in two areas. The conferees also agreed not to insert in the conference amendments a management provision included in the Senate bill but absent from the House amendment. The conferees' actions are discussed below.

#### RESOLUTION OF BOUNDARY DIFFERENCES

The eleven areas in which the Senate bill and the House amendment propose differing wilderness boundaries are set out below, together with a description of the action taken in each case by the conferees and the reason therefor.

##### 1. *Cataract Lake*

The House amendment to the Senate bill would add 160 acres on the northeastern shore of Cataract Lake on the northern boundary of the proposed wilderness. The conferees agreed to maintain the Senate bill's boundary. This boundary would exclude from the wilderness the following non-conforming uses associated with a Forest Service campground: two cabins valued at \$60,000, a single lane dirt road with drainage structures, an 18 car parking lot, two residences, a primitive toilet, a horse unloading ramp, a boat ramp, and 6 unit campground which includes a water system constructed at a cost of \$135,000. The lake would remain in the wilderness so as to exclude motor boat use and limit access to most of the shoreline to non-motorized means.

##### 2. *Black Lake*

The House amendment to the Senate bill added 570 acres around Black Lake on the northeastern boundary of the proposed wilderness. The conferees agreed to maintain the Senate bill's boundary. This boundary would exclude from the wilderness approximately 520 acres of private land involving significant developments, including a resort, outbuildings and cabins, a boat dock, and a road of sedan standard.

##### 3. *Slate Creek*

The House amendment to the Senate bill would add 170 acres along Slate Creek on the eastern boundary of the proposed wilderness. The conferees agreed to maintain the Senate bill's boundary. This boundary would exclude from the wilderness approximately 162 acres of private land and a road.

##### 4. *Harrigan and Boulder Creeks*

The House amendment to the Senate bill would delete 450 acres in the area of Harrigan and Boulder Creeks along the eastern boundary of the proposed wilderness. The conferees accepted the House amendment's boundary which is drawn on topographical features and not section lines and, therefor, would be more manageable.

##### 5. *South Rock Creek*

The House amendment to the Senate bill would add 85 acres in the area of South Rock Creek on the edge of the eastern boundary of the proposed wilderness. The conferees agreed to maintain the Senate bill's boundary. This boundary would exclude from the wilderness a collection ditch for irrigation purposes. According to the Forest Service, this ditch is under permit to the Maryland Creek Ranch, has been reconstructed within the last seven years, and requires periodic maintenance with a bulldozer and backhoe.

##### 6. *Maryland Creek*

The House amendment to the Senate bill would add 640 acres in the area of Maryland Creek on the eastern boundary of the proposed wilderness. The conferees agreed to maintain the Senate bill's boundary. This boundary would exclude from the wilderness land at an elevation which would permit the Board of Water Commissioners of the City and County of Denver (the "Denver Water Board") to construct approximately half of the 40 mile gravity flow conduit it had originally proposed for its East Gore Collection System. This System would, if constructed, divert 70,000 acre feet of water produced in the wilderness into Dillon Reservoir. From the Reservoir the water would be transported under the Continental Divide through the Roberts Tunnel for municipal use by Denver and other front range municipalities. The gravity flow conduit is the facility through which the water would flow from the diversion points to Dillon. Under the House amendment, the Water Board would have to interrupt the gravity flow system and construct pumping facilities to transport the East Gore Collection System water from the northern boundary to the southern boundary of the Maryland Creek area. The conference committee amendments would permit the construction and operation of an uninterrupted conduit in this area.

##### 7. *Ryan Gulch*

The House amendment to the Senate bill would add 470 acres in the Ryan Gulch area on the eastern boundary of the proposed wilderness. The conferees agreed to maintain the Senate bill's boundary. The reason is set forth in 8. below.

##### 8. *Lilly Pad Lake*

The House amendment to the Senate bill would add 175 acres in the area around Lilly Pad Lake on the eastern boundary of the proposed wilderness. The conferees agreed to maintain the Senate bill's boundary. This boundary and the Senate bill's boundary in the Ryan Gulch area were originally requested by officials of Summit County. These boundaries would draw the wilderness back from populated areas of private land. They would permit the establishment of a more manageable boundary from the standpoints of both protecting the wilderness and providing proper public services (e.g. police and fire protection) to the residential property.

### 9. Frisco area

The House amendment to the Senate bill would add 30 acres to the proposed wilderness on the eastern boundary thereof near the town of Frisco. The conferees agreed to maintain the Senate bill's boundary. This boundary would exclude from the wilderness the site of the eastern portal of the eight mile Vail tunnel which the Denver Water Board proposes to construct under the wilderness as part of the Eagle-Piney Collection System. This System, if constructed, would collect 100,000 acre feet of water from the Eagle River and Piney River drainages (70,000 acre feet of which is produced in the wilderness) to the west and south of the wilderness and transport the water through the Vail tunnel under the wilderness to the Dillon Reservoir on the eastern side of the wilderness. The Denver Water Board has also designed a second 100,000 acre foot collection system—the Eagle-Colorado—which would also use the Vail tunnel. The total of 200,000 acre feet would then be transported in the same manner and for the same purpose as contemplated for the water of the East Gore Collection System as described in 6. above.

### 10. Corral Creek

The House amendment to the Senate bill would add 510 acres in the Corral Creek area on the southwestern boundary of the proposed wilderness. The conferees agreed to maintain the Senate boundary. This boundary would exclude from the wilderness an area which was timbered in the late 1940's and early 1950's. Several other areas in the southern portion of the proposed wilderness also were timbered; however, most of the cuts were made in the 1920's and early 1930's using horsepower which minimized the impact on the areas. These areas are reverting to their natural state and already do possess the requisite wilderness characteristics. The conferees agreed that the wilderness values of the Corral Creek area were diminished not only by the more recent timber cutting but also by the area's proximity to, and potential sight and sound intrusion of, Inter-state 70 which runs parallel to, and less than a mile west of, the House amendment's boundary.

### 11. Booth, Pitkin, Bighorn, and Main Gore Creeks

The House amendment to the Senate bill would add 3590 acres in the drainages of Booth, Pitkin, Bighorn, and Main Gore Creeks on the western boundary of the proposed wilderness. The conferees chose the House amendment's boundary with one small change. This change would exclude from the wilderness approximately 30 acres along Booth Creek. On this site, the Vail Water and Sanitation District owns and operates, under Forest Service permit, a 2.5 million gallon per day raw water treatment plant and a 1.5 million gallon treated water reservoir.

The remaining 3560 acres which would be made part of the wilderness by the conference committee amendments contain the diversion points for an annual volume of 28,000 acre feet, or 28%, of the water to be collected by the Eagle-Piney Collection System and the site of the western portal to the Vail tunnel. The conferees recognized that

inclusion of this area would require the re-establishment of proposed diversion points downstream from their existing sites, a redesigning of the Eagle-Piney Collection System, and a potential increase in construction and operating costs due to, among other things, the necessity of substituting higher cost pumping facilities for the planned gravity-flow facilities. The conferees were mindful, however, of the truly significant wilderness values of this area. In particular, the Colorado Division of Wildlife has testified that the area provides critical wildlife habitat; most importantly, it serves as a winter range and lambing area for the Gore Range bighorn sheep herd.

#### THE MANAGEMENT PROVISION

The Senate bill contains a management provision (section 4) which is absent from the House amendment. This provision addresses the issue of the authority of the Secretary of Agriculture to authorize, subject to whatever regulations he believes to be necessary, the construction and operation of the Vail tunnel under the wilderness. The purpose of the provision is to insure that the Senate bill could not be construed as altering the Secretary's authority under the Wilderness Act; in short, it was to maintain neutrality as to the scope of that authority. The history of this issue is discussed in the Senate report (report No. 94-172). The Senate conferees agreed not to include the provision in the conference committee amendments with the understanding that the joint explanatory statement make it clear it is not the intent of the conferees in omitting this provision to either enlarge or diminish the authority of the Secretary to permit the construction and operation of the tunnel.

#### CONFERENCE COMMITTEE AMENDMENTS

The specific conference committee amendments to the House amendment to the Senate bill are as follows:

1. The map reference in the House amendment is changed so as to reflect the conferees' decision to follow the Senate bill's boundary in nine areas, and the House amendments' boundary in two areas, where the boundaries of the Senate bill and the House amendment differ. The map reference change is made by altering the date of the map from May 1973 to June 1976.

2. As a result of the decisions on boundaries, the conference committee amendments would establish a wilderness the area of which would be 2,840 acres less than the 136,750-acre wilderness to be designated by the House amendment and 3,110 acres more than the 130,800-acre wilderness to be designated by the Senate bill. Accordingly, the acreage given in the House amendment must be altered by deleting the figure of 136,750 and inserting the figure of 133,910.

3. The conference committee amendments include a technical change to provide the proper title of the committees of Congress with which the wilderness map and legal description are to be filed by the Secretary of Agriculture after enactment of the legislation.

4. and 5. Two other technical changes agreed to by the conferees and included in the conference committee amendment would make the references to the wilderness map and legal description identical to those in the Senate bill. The House amendment has an inadvertent omission of one such reference.

JOHN MELCHER,  
 PHILLIP BURTON,  
 LLOYD MEEDS,  
 GOODLOE E. BYRON,  
 JIM SANTINI,  
 PAUL E. TSONGAS,  
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 JAMES P. JOHNSON,

*Managers on the Part of the House.*

HENRY M. JACKSON,  
 LEE METCALF,  
 FLOYD HASKELL,  
 JAMES ABOUREZK,  
 MARK O. HATFIELD,  
 JAMES A. McCLURE,

*Managers on the Part of the Senate.*

○

## DESIGNATING THE EAGLES NEST WILDERNESS, ARAPAHO AND WHITE RIVER NATIONAL FORESTS, IN THE STATE OF COLORADO

JUNE 3, 1975.—Ordered to be printed

Mr. HASKELL, from the Committee on Interior and Insular Affairs,  
submitted the following

### REPORT

[To accompany S. 268]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 268) to designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado, having considered the same, reports favorably thereon, with amendments, and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Page 1, line 8, strike "October 1973" and insert in lieu thereof "May 1975".
2. Page 2, line 1, strike "Forest" and insert in lieu thereof "Forests".
3. Page 2, line 3, strike "three hundred and seventy-four" and insert in lieu thereof "eighty-four".
4. Page 2, between lines 19 and 20, insert the following new section:

SEC. 4. Nothing in this Act or the Wilderness Act shall be construed as impairing the authority of the appropriate Secretary to permit, subject to such regulations as he deems necessary to protect wilderness values, the construction, operation, and maintenance of a subsurface water tunnel in Federal land under the Eagles Nest Wilderness.

5. Page 2, line 20, strike "4." and insert in lieu thereof "5."
6. Amend the title so as to read: To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado".



## I. PURPOSE

S. 268, as amended, would designate a 128,084-acre Eagles Nest Wilderness in the Arapaho and White River National Forests, State of Colorado.

## II. DESCRIPTION OF THE WILDERNESS AREA

### 1. General

The proposed 128,084-acre Eagles Nest Wilderness is situated within the boundaries of the Arapaho and White River National Forests in Eagle and Summit Counties in north central Colorado. It lies astride the Gore range approximately 60 miles west of Denver, 50 miles east of Glenwood Springs, and directly north and east of Vail.

Embodied in the proposed Eagles Nest Wilderness are wilderness characteristics and values of great significance. Evidence of man's intrusion into the area are few. Within the boundaries of the proposed wilderness are areas of virgin forest, cascading streams, deep clear lakes, and abundant wildlife. Dominating the wilderness is the Gore Range, one of the more rugged mountain ranges of Colorado. There are seventeen peaks over 13,000 feet—the highest being Mount Powell at 13,354 feet—and more than thirty over 12,000 feet. Numerous knife-edge ridges from 12,000 to 13,000 feet in elevation break up the proposed wilderness into deep, narrow valleys. Gentler topographies of meadows, river valleys, timber stands, and rocky slopes are included in the proposed wilderness area to the West, East, and South of the main range. Headwaters of the Piney River and many tributaries of the Eagle River and Blue River—all tributaries of the Colorado River—are included within the area's boundaries. Numerous named and unnamed lakes are dispersed throughout the proposed wilderness. Montane, Subalpine and Alpine vegetative life zones are contained within the area. Descriptions of the climate and soils may be found on page 5 of the Forest Service's Eagle Nest Wilderness Proposal, reprinted in House Document No. 92-248, Part 17.

### 2. Acreage and Inholdings

The Eagles Nest Wilderness to be designated in S. 268, as amended, contains approximately 128,084 acres. This is approximately 40,329 acres more than the wilderness area proposed by the President and the Forest Service; 4,600 acres less than the area which comprised the wilderness as proposed in S. 1864, as introduced by Senator Haskell last Congress; and 290 acres less than the area proposed in S. 1864 and H.R. 12884, as passed the Senate last Congress, and S. 268, as introduced by Senator Haskell this Congress.

There are approximately 690 acre of inholdings within the proposed wilderness. (Despite the Committee's decision to include the 29½ acres of the Boss Mine patent within the wilderness boundaries proposed in S. 268, as amended, the above figure for total acreage of inholdings has been corrected downward by the Forest Service from its 1973 estimate of 792 acres.) These inholdings are largely vacant land with either no vehicular access or vehicular access across other private land outside the wilderness (thus precluding public access). The Forest Service estimates the total value of these inholdings to be \$628,000.

(This estimate includes the value of the land associated with the Boss Mine patent; no effort is made to determine the value of the Mine itself (see below "ii. Minerals").)

Section 5(c) of the Wilderness Act of 1964 prohibits use of the Forest Service's condemnation authority in wilderness areas. Thus, if S. 268, as amended, is enacted, inholdings would remain private property unless purchase by the Forest Service were to be successfully negotiated. Clauses 5 (a) and (b) of the Wilderness Act guarantee access to inholdings for the owners thereof.

### 3. Recreation and Wildlife Values

The proposed Eagles Nest Wilderness contains some of the most inaccessible country in Colorado for a primitive and unconfined type of recreation. It can be crossed by trail only at its northern and southern ends. Along the eastern side is the Gore range trail which is the only route by which access can be gained to almost 75% of the eastern portion of the wilderness. In between these trails lie thousands of acres of spectacular mountain country available to the experienced wilderness traveler. The lower reaches of the proposed wilderness on the east, west, and south are accessible to the less hardy by forest trail. Opportunities for primitive recreation, scientific study, and informal outdoor education—including camping, hiking, mountain climbing, riding, back-packing, nature study, and enjoyment of the natural environment—are present throughout the area.

Elk, deer, Rocky Mountain goat, bighorn sheep, black bear, mountain lion, bobcat, and coyote inhabit the area. The population of each of these species is low to moderate. In particular, elk and deer numbers are controlled by the limited availability of the critical winter range which is largely outside of the proposed area and includes a significant amount of private land subject to development.

The smaller mammals include snowshoe hare, pine squirrel, beaver, badger, marten, weasel, mink, fox, skunk, porcupine, chipmunk, pika, marmot, and field mice. Ptarmigan, blue grouse, golden eagle, and many species of songbird are present. Lastly, the many lakes and streams provide brook, native, and rainbow trout.

Clause 4(d) (8) of the Wilderness Act of 1964 provides assurance that designation of any national forest area as wilderness will not affect state jurisdiction over wildlife and fish in that area.

### 4. Other Natural Resources

Below is a discussion of the renewable and nonrenewable natural resources of economic value within the proposed wilderness:

#### i. Timber

The timber types within the proposed wilderness are aspen, lodgepole pine, Englemann spruce, and subalpine fir. Sites vary from poor on the steep rocky hillsides and glacial moraines, to good in the narrow, moist valleys.

The proposed wilderness area contains a total of approximately 374,671 thousand board feet of timber. S. 268, as amended, adds about 172,938 thousand board feet to the 201,733 thousand board feet contained in the core area which the Forest Service proposed for wilder-

ness designation. Of the 13,500 acres of the Forest Service proposal covered with mature timber, a little less than 5,000 acres are operable under present logging methods. This means that approximately 56,000 thousand of the total of 201,733 thousand board feet are capable of being harvested. Thus, under allowable cut procedures, a maximum of 560 thousand board feet annual production would be deleted by the Forest Service proposal. Much of the remaining timber cannot be harvested now or in the foreseeable future because of dispersion in small, isolated patches or on steep, rocky terrain. A significant portion of the 172,938 thousand board feet added by S. 268, as amended, comes from the Meadow Creek area where a Federal court injunction stopped a timber sale. Therefore, presumably a larger percentage of timber added by S. 268, as amended, could be harvested. (If all of the added timber were harvestable, under allowable cut procedures, an additional 173 thousand board feet annual production could be obtained from the area were it not designated as wilderness.)

#### ii. Minerals

No mineral production is known from the 360 acres of patented land contained in the proposed wilderness. Also, no current mining claim location activity is known inside the proposed wilderness area. There are no oil and gas leases within or adjacent to the proposed wilderness area.

The mineral potential evaluation (based on a field investigation of the area from 1967 to 1969) of the United States Geological Survey and the Bureau of Mines found no known ore deposits, and no geologic evidence to indicate a likelihood of hidden deposits, within the primitive area. The same was true of the adjacent areas now within the wilderness area designated by S. 268, as amended. Furthermore, the evaluation found no potential for coal, oil, or gas and no—or very little—potential for nonmetallic minerals. The evaluation is published as Geological Survey Bulletin 1319-C, "Mineral Resources of the Gore Range-Eagles Nest Primitive Area and Vicinity, Summit and Eagle Counties, Colorado."

Boss Mine, included in the proposed wilderness area by Committee amendment during markup of S. 268, has produced about \$238,000 worth of silver-lead ore, most of which was extracted prior to 1900.

Under section 4(d) (2) and (3) of the Wilderness Act of 1964, patented land within the proposed Eagles Nest Wilderness would continue to be subject to mining. Prospecting and the operation of unpatented mining claims would be allowed under regulations of the Secretary of Agriculture until December 31, 1983. Subject to valid rights then existing, effective January 1, 1984, the minerals would be withdrawn from all forms of appropriation.

#### iii. Forage

Portions of the proposed wilderness have been grazed during the summer season by domestic livestock since prior to 1900. Several cattle, horse, and sheep range allotments lie wholly or partially within the proposed area. As continued grazing is allowed by section 4(d)(4)(2) of the Wilderness Act of 1964, the use of forage will be largely unaffected by enactment of S. 268, as amended.

#### iv. Water

The Forest Service Proposal (reprinted in House Document No. 92-248, Part 17) contained the following statement:

The greatest public value of any of the resources, other than wilderness resources, within the proposed wilderness is the water yield from the drainage under consideration. The quantity and quality of the water from this area has an effect on the economic well-being of individuals for many miles downstream. The area has long been under consideration as a domestic water source for the metropolitan Denver area.

Specifically, the Board of Water Commissioners of the City and County of Denver (hereinafter referred to as the "Water Board") plans to divert much of the water flow in the proposed wilderness across the continental divide to Denver and other municipalities on the Front Range through the two collection systems discussed below.

The Eagle-Piney Collection System would be situated to the west and south of the proposed Eagles Nest Wilderness. The total water obtainable through this system annually would be 100,000 acre feet.\* A quantity of 30,000 acre feet annually would come from diversion points entirely outside, and some distance to the south, of the proposed wilderness through the Eagle system. Another 70,000 acre feet annually would come from the entire Piney (including Gore Creek) system, which, as originally planned, would have used the gravity-flow method to collect approximately 21,000 acre feet from Piney Lake and diversion points to the west, store it in a reservoir constructed at Piney Lake, pipe it south and pick up an additional 17,000 acre feet before turning east and collecting approximately 28,000 acre feet from Booth, Pitkin, Bighorn, and Main Gore Creeks directly above Vail. Near Main Gore Creek, the 70,000 acre feet from the Piney system would join the 30,000 acre feet from the Eagle system and be piped through a an 8-mile tunnel to the Dillon Reservoir.

The second system—the East Gore Collection System—would be situated on the east side of the proposed wilderness. As originally planned, it would be comprised of a 40 mile gravity flow buried conduit set along the eastern slope of the Gore range. It would collect approximately 70,000 acre feet annually and deposit it in the Dillon Reservoir.

S. 1864, as introduced by Senators Haskell and Dominick last Congress would have placed within the wilderness most of the diversion points for these two collection systems and much of the area at altitudes which would permit use of the gravity system. Over the last three years, as the Committee reported first S. 1864 and now S. 268, the Chairman of the Subcommittee on the Environmental and Land Resources, Senator Haskell, and his Subcommittee staff have consulted frequently with the Water Board for the purpose of exploring means of mitigating potential adverse impacts which wilderness designation might have on the Board's two proposed collection systems while, at the same time, preserving the integrity of the proposed wilderness.

\*This figure and other figures concerning the water projected for the two systems are the most recent information (expressed in round numbers) conveyed to subcommittee staff by the Water Board in telephone conversations on May 30, 1975.

This balancing process has resulted in a series of amendments to S. 1864 and S. 268, proposed by Senator Haskell and adopted by the Committee, to accommodate the concerns of the Water Board. These amendments have made all or virtually all of the 170,000 acre feet proposed to be collected annually in the two systems accessible to those systems should they be constructed. *The Committee wishes to emphasize that wilderness designation by enactment of S. 268, as amended, would not necessarily deprive the Water Board of any significant portion of the water projected for the Eagle-Piney and East Gore Collection Systems.* As will be discussed below, the costs relating to the water resource which would be incurred upon the designation of wilderness under S. 268, as amended, would be limited principally to pumping costs where use of the gravity system for collection and transportation of the water would be precluded.

The first of these amendments was made in the markup of S. 1864 by the Public Lands Subcommittee on July 30, 1973. The amendment removed from the proposed wilderness the diversion points for an annual volume of 28,000 acre feet of water in the Eagle-Piney System and the area surrounding the western portal of the Vail tunnel to Dillon Reservoir. This amendment, which deleted approximately 3,280 acres in the vicinity of Booth, Pitkin, Bighorn, and Main Gore Creeks on the west side of the proposed wilderness directly above Vail, has been particularly controversial. In the April 3, 1975 field hearing in Glenwood Springs, three Colorado Division of Wildlife and virtually every witness for environmental organizations urged that this area be reincorporated in the wilderness because of its significant wildlife habitat values.

In response to further expressions of concern from representatives of the Water Board, two additional amendments to S. 1864 were offered by Senator Haskell and adopted by the Committee during Committee markup of the legislation on October 2, 1973. These amendments deleted two smaller areas on the eastern side of the proposed wilderness. The express purpose of the deletion near Frisco was to exclude from the wilderness the area for the eastern portal to the proposed Vail tunnel. The second deletion, an area near Maryland Creek, would exclude land of a sufficient altitude to permit the Water Board to more than double the length of the East Gore System's gravity flow conduit originally permitted by the wilderness boundaries proposed by S. 1864, as introduced, and thus substantially reduce the ultimate pumping costs associated with that system.

Again this Congress, efforts were made to further accommodate the Water Board's concerns. Despite the amendments last year to remove the portals to the Vail tunnel from the wilderness, late last year Mr. John McGuire, Chief Forester, the Forest Service, sent to Representative John Melcher, Chairman of the Public Lands Subcommittee in the House of Representatives, a letter which raised the possibility that the Water Board might be denied a permit for the tunnel on the basis that the provisions of the Wilderness Act prohibit pipelines in wilderness. This Committee, which enjoys jurisdiction over the Wilderness Act, believes the Chief's interpretation of the Act to be erroneous. In fact, there are buried pipelines or transmission lines within the boundaries of several components of the National Wilderness Preservation System, including Salt Creek, Blackbeard Island,

Breton, and Bosque del Apache. However, to give the Water Board the assurance it sought, Senator Haskell proposed and the committee adopted a fourth amendment to the Eagles Nest Wilderness legislation on behalf of the Board. The amendment is as follows:

SEC. 4. Nothing in this Act or the Wilderness Act shall be construed as impairing the authority of the appropriate Secretary to permit, subject to such regulations as he deems necessary to protect wilderness values, the construction, operation, and maintenance of a subsurface water tunnel in Federal land under the Eagles Nest Wilderness.

The Water Board requested several further amendments to the legislation which would delete from the wilderness an additional 9,220 acres. These amendments were not incorporated in S. 268, as amended, because they would have significantly diminished the value or variety of wilderness experiences which the proposed wilderness would provide without resulting in benefits of corresponding value.

The first of these amendments would have deleted most of the land below timber line along the northeastern boundary of the proposed wilderness. This 4,500 acre deletion would have eliminated long stretches of the Gore Range trail and some of the best camping and hiking areas (see "2. Acreage and Inholdings"). A second amendment would have deleted land in the East Meadow Creek and Meadow Creek areas. This area has been maintained in the proposed wilderness in the face of efforts to log it only due to the diligent efforts of environmentalists, culminating in the well-known decision in *Parker v U.S.* (309 F. Supp. 593 (D. Colo. 1970), *aff'd*, 448 F. 2d 793 (10th Cir 1971), *cert. denied*, 405 U.S. 989 (1972)). This land also possesses the gentler topography which provides rich wilderness experience to less hardy recreationists. A final Water Board-requested change was the deletion of 300 acres above Piney Lake. The purpose of this change would have been to allow construction and operation of the Piney Lake reservoir originally planned as part of the Eagle portion of the Eagle-Piney Collection System. As noted in the Committee Report on S. 1864 (Report No. 93-459, page 6):

Discussions among representatives of the Water Board, Senator Haskell, and Committee staff revealed that Piney Lake is not necessary to obtain the 16,000-20,000 acre feet of water from the area. To not construct and use the reservoir could result in a net additional cost to the system of approximately \$10 million (plus \$18 million for larger pipe along the system, minus \$8 million saved by not constructing the dam).

As noted above, the four amendments concerning the Water Board's proposed Eagle-Piney and East Gore Collection Systems have insured that, should the Board choose to construct the two systems and financing is available to do so, all or virtually all of the 170,000 acre-feet projected annually for those systems would remain available to them. The amendments have placed diversion points for 72 percent of that water outside of the wilderness. The remaining diversion points can be re-established downstream from their existing sites. Under Colorado law, the original priorities associated with the existing di-

version points are transferrable to the new diversion points provided that the Water Board does not file for more water than its entitlement at the existing points.

S. 1864, as amended, including the changes made on behalf of the Water Board, does, however, increase the cost of obtaining the water. The energy costs for pumping made necessary by the inclusion of areas on the western and northeastern side of the wilderness which are suitable for gravity-flow canals or pipelines are estimated at \$1,010,000 annually. The Committee recognizes that this cost is not inconsiderable, but believes it should be viewed in perspective.

Making some reasonable assumptions about financing costs (25-year bonds at 7 percent interest and service charges) and accepting the estimated cost of the Eagle-Piney and East Gore Collection Systems (\$222 million and annual operation costs—without pumping—of \$240,000) the annual amortized cost of the original projects would be nearly \$20 million. Thus, the incremental cost of 1 million is a small percentage—around 5 percent of the cost of the systems. Furthermore, this cost would apply to only about 18 percent of the Denver water supply by the year 2010 and would be averaged with lower-cost water supplies. These costs would also be computed together with the massive \$2.7 billion in estimated costs of constructing (but not operating) all proposed projects necessary to meet Denver's water needs in the year 2010. These factors mitigate against any appreciable economic effect upon water consumers by the enactment of S. 268, as amended.

In considering this incremental cost, the Committee recognized that preservation of wilderness is reversible, destruction of wilderness is not. Wilderness values are irrevocably destroyed by the construction and operation of water projects. To permit such projects on de facto wilderness is to permanently foreclose the option to designate wilderness and to undertake a new balancing process should society's values change. On the other hand, should the Congress choose now to protect the wilderness the water projects can still be permitted, at a later time, by subsequent legislation to remove the land from the wilderness or by Presidential action to allow their construction in the wilderness under section 4(d) (4) (1) of the Wilderness Act.

With these considerations, the Committee chose not to amend further S. 268 on behalf of the Water Board.

### III. ADMINISTRATIVE AND LEGISLATIVE HISTORY

*Administrative history.*—The Gore Range-Eagles Nest Primitive Area was established on June 19, 1932. The size of the area was more than doubled in 1933 to include approximately 79,700 acres. On December 3, 1941, more than 18,000 acres were deleted from the primitive area to accommodate the construction of the U.S. Highway 6 over Vail Pass.

Subsection 3(b) of the Wilderness Act of 1964 (78 Stat. 890) directed the Secretary of Agriculture to study all primitive areas to determine whether they should be included in the National Wilderness Preservation System established by that Act. In addition, it specifically directed the Secretary to review the possibility of constructing Interstate 70

through the South Willow and Main Gore Creek drainages. On May 17, 1968, Secretary of Agriculture Orville L. Freeman made the decision that the route for Interstate Highway 70 via Red Buffalo Pass through the southern tip of the primitive area would not be in the public interest since there was no showing that there were no other reasonable alternatives.

The study of the primitive area was completed in 1971 and the report supporting the designation of an 87,755 acre wilderness area was transmitted to the President on January 18, 1972. On February 8, 1972, the Eagles Nest Wilderness proposal and proposals for 17 other additions to the National Wilderness Preservation System were transmitted to the Congress by the President. (The relevant documents are printed in House Document No. 92-248. Part 17 contains the documents relating to the proposed Eagles Nest Wilderness.)

*93d Congress.*—On May 22, 1973, Senator Haskell, on behalf of himself and Senator Dominick, introduced S. 1864 which proposed the creation of a 132,684-acre Eagles Nest Wilderness. (The bill contained an erroneous acreage figure of 125,000 acres.) The measure was referred to the Committee on Interior and Insular Affairs. A field hearing was held by the Subcommittee on Public Lands on June 11, 1973, in Denver. On July 30, 1973, S. 1864 was reported by the Subcommittee to the full Committee. The full Committee ordered the measure, as amended, reported on October 2, 1973. The amendment written partially in Subcommittee and partially in full Committee resulted in a reduction in size of the proposed wilderness to 128,374 acres (see "iv. Water" for a discussion of the Committee amendments).

On October 11, 1973, the Senate unanimously passed S. 1864, as reported on October 10, 1973.

In open mark-up session on July 15, 1974, the Committee agreed to a motion by Senator Floyd K. Haskell, Chairman of the Subcommittee on Public Lands, to add S. 1864, as passed the Senate, to H.R. 12884. During the same session, the Committee, by unanimous voice vote, ordered reported H.R. 12884 as amended. H.R. 12884, as amended, passed the Senate on August 1, 1974.

The House of Representatives failed to Act on either S. 1864 or the Eagles Nest Wilderness provisions of H.R. 12884 during the 93d Congress.

*94th Congress.*—S. 268, identical to S. 1864, as passed the Senate last Congress, was introduced by Senator Haskell on January 21, 1975. The Subcommittee on the Environment and Land Resources held two hearings on S. 268 and S. 267 (the Flat Tops Wilderness bill): February 26, 1975, in Washington, D.C. and April 3, 1975, in Glenwood Springs, Colorado. The Committee in open mark-up on May 14, 1975, amended S. 268 and ordered it reported favorably to the Senate.

The amendments added 980 acres and deleted 1,180 acres from the 128,084 acre wilderness proposed in S. 268, as introduced. The net reduction was 290 acres and the new acreage total for the wilderness is 128,084 acres. The amendments had three purposes: (1) to clarify the meaning of the Wilderness Act as it relates to a proposed pipeline under the Eagles Nest Wilderness; (2) to exclude nonconforming uses; and (3) to provide for more manageable boundaries. The

amendment concerning the pipeline is discussed above in "iv. Water". The other amendments are as follows:

1. Cataract Lake, 150 acre exclusion. This change is to exclude the following non-conforming uses associated with a Forest Service campground: two cabins valued at \$60,000, a single lane dirt road with drainage structures, an 18 car parking lot, a two-hole toilet, a horse unloading ramp, and a 6 unit campground which includes a water system constructed at a cost of \$135,000.

2. Harrigan Creek-Boulder Creek, 500 acre addition. This change provides a more manageable boundary.

3. North Rock Creek, 390 acre addition. This change places the Boss Mine in the wilderness. Even though the mine is not active, section 4(d)(3) of the Wilderness Act applies the mining and mineral leasing laws in wilderness areas until midnight December 31, 1983. Therefore, a mine is not a non-conforming use. By incorporating in the wilderness this thumb-like exclusion made in S. 1864 last Congress a more manageable boundary is established.

4. South Rock Creek, 50 acre exclusion. This change would delete from the wilderness a collection ditch for irrigation purposes. According to the Forest Service, this ditch is under permit to the Maryland Creek Ranch, has been reconstructed within the last six years, and requires periodic maintenance with a bulldozer and backhoe.

5. Ryan Gulch, 300 acre exclusion. See discussion under paragraph 6 below.

6. Lilly Pad Lake, 160 acre exclusion. Changes 5 and 6, requested by officials of Summit County, would draw the wilderness boundary back from populated areas of private land. This would permit the establishment of a more manageable boundary from the standpoints of both protecting the environment and providing proper public services (police and fire protection, etc.) to the private land.

7. Corral Creek, 520 acres. This change eliminates a nonconforming use. The area was timbered in the late 1940's and early 1950's. Several other areas in the southern portion of the proposed wilderness also were timbered. However, most of the cuts were made in the 1920's and early 1930's using horsepower which minimized the impact on the areas. These areas are reverting to their natural state.

#### IV. COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, in open markup on July 15, 1974, by voice vote with a quorum present, unanimously recommended the enactment of S. 268, as amended.

#### V. TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to subsection (b) of section 133 of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes of the Committee on Interior and Insular Affairs during consideration of S. 268:

During the Committee's consideration of S. 268, the Committee, a quorum being present, cast unanimous voice votes to adopt amendments to the bill and to order the bill, as amended, be reported favor-

ably. The votes were cast in open mark-up session and, because the votes were previously announced by the Committee in accord with the provisions of section 133(b), it is not necessary that they be tabulated in the Committee report.

#### VI. Cost

In accordance with subsection (a) of section 252 of the Legislative Reorganization Act of 1970, the Committee notes that no additional budgetary expenditures would be involved should S. 268, as amended, be enacted.

#### VII. EXECUTIVE COMMUNICATIONS

The reports of Federal agencies relevant to S. 268, as amended, are set forth below:

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., February 25, 1975.

HON. HENRY M. JACKSON,  
Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 268, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado."

The Department of Agriculture recommends that S. 268 be enacted if amended to designate an 87,755-acre Eagle Nest Wilderness as generally depicted on a map entitled "Proposed Eagles Nest Wilderness," dated July 21, 1971. This recommendation results from a study of the Gore Range-Eagles Nest Primitive Area in accordance with the provisions of the Wilderness Act. The President transmitted his recommendation for an 87,755-acre Eagles Nest Wilderness to the Congress on February 8, 1972.

S. 268 would designate a 128,374-acre Eagles Nest Wilderness within portions of the Arapaho and White River National Forests in the State of Colorado. It would abolish the previous classification of the Gore Range-Eagles Nest Primitive Area.

The area that would be designated as wilderness by S. 268 contains major additions to the areas recommended by the President. The study report which accompanied the President's recommendation describes and evaluates those areas not recommended for inclusion in the proposed wilderness. This evaluation included consideration of the areas which would be designated as wilderness by S. 268. These additional areas, included in S. 268 but not included in our proposals, were not included because they were judged not suitable for wilderness designation, because management for other resource values was judged to be of greater importance, or because a well-defined natural boundary could not be established.

The additional areas included in S. 268 contain significant evidence of man's activity including private lands with some improvements, primitive and constructed roads, constructed water impoundments and irrigation ditches, and areas of timber harvest activity. Inclusion of these nonconforming features would significantly lower the quality



of the proposed wilderness and create major administrative problems in managing the wilderness resource.

These additional areas also contain major forest, water, recreation, wildlife, and forage resource values which would be partially or completely foregone if the additional areas were designated as wilderness.

We strongly urge the Congress not to designate as wilderness areas where the evidence of man's activity is clearly apparent. We also urge the Congress to carefully consider the resource trade-offs between wilderness values and other resource values and uses within the additional areas which would be designated as wilderness by S. 268. We believe public needs can be better met through the planned development and wider use of these additional areas than through management as wilderness.

Additional details of our concerns and recommendations are contained in the attached supplemental statement.

The Office of Management and Budget advises that there is no objection to the presentation of this report and that enactment of S. 268, if amendment as suggested herein, would be consistent with the Administration's objectives.

Sincerely,

J. PHIL CAMPBELL, *Under Secretary.*

Enclosure.

USDA SUPPLEMENTAL STATEMENT, EAGLES NEST WILDERNESS PROPOSAL,  
S. 268

The areas contained in S. 268 for designation as the Eagles Nest Wilderness includes approximately 128,375 acres. The Administration's proposal includes approximately 87,755 acres.

The areas added by S. 268 include private lands, developed roads, and evidences of the past harvest of forest products. We do not recommend that any of the additional areas be designated as wilderness, and we are particularly concerned about two major areas contained in S. 268.

First, the proposed additions along the east side of the Administration's proposal (Areas 1, 2, 3, 13, B-1, B-2, C-1, D-1, and D-2), including approximately 28,000 acres, contain major man-made features. These include approximately 800 acres of private land with improvements, improved road access, water developments, and areas where forest products have been harvested. We consider these lands not suitable for wilderness designation and already in use for other resource values. We urge the Congress not to designate these lands as wilderness.

Second, the proposed addition in the Meadow Creek area (Area L-1), including approximately 8,100 acres, contains primitive roads, timber harvest areas, and 320 acres of private land. This area is valuable for its forest resource, broad range of recreational activities, and opportunities for major water developments. Use and development of these resources would require continued evidence of man's activity.

We are also concerned about other proposed additions. These concerns and our recommendations are discussed on pages 33 to 46 of our

report, "A Proposal—Eagles Nest Wilderness, Arapaho and White River National Forests, Colorado," which the President transmitted to the Congress on February 8, 1972.

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., February 25, 1975.

HON. HENRY M. JACKSON,  
*Chairman, Committee on Interior and Insular Affairs, U.S. Senate,  
New Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your requests of February 14, 1975, for the views of the Office of Management and Budget on:

1. S. 267, a bill to designate the Flat Tops Wilderness, Routt and White River National Forests, in the State of Colorado; and,
2. S. 268, a bill to designate the Eagles Nest Wilderness, Arapaho, and White River National Forests, in the State of Colorado.

The Office of Management and Budget concurs in the views of the Department of Agriculture in its reports on S. 267 and S. 268, in which the Department strongly recommends that the bills be amended to conform with Wilderness recommendations made concerning these two areas by Presidents Johnson and Nixon, respectively. If amended as suggested by Agriculture, enactment of these bills would be consistent with the Administration's objectives.

Sincerely,

JAMES F. C. HYDE, Jr.,  
*Acting Assistant Director for Legislative Reference.*

#### VIII. CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 268, as amended.

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DESIGNATING THE EAGLES NEST WILDERNESS, ARAP-  
AHO AND WHITE RIVER NATIONAL FORESTS. IN THE  
STATE OF COLORADO

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MARCH 22, 1976.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. HALÉY, from the Committee on Interior and Insular Affairs,  
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 3863]

The Committee on Interior and Insular Affairs, to whom was re-  
ferred the bill (H.R. 3863) To designate the Eagles Nest Wilderness,  
Arapaho and White River National Forests, in the State of Colorado,  
having considered the same, report favorably thereon with amend-  
ments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 8, strike out "May 1973," and insert "December 1975,".

Page 2, lines 2 and 3, strike out "one hundred and twenty-five  
thousand acres." and insert in lieu thereof "one hundred and thirty  
thousand four hundred and eighty acres."

H.R. 3863,<sup>1</sup> as amended, would designate the Eagles Nest Wilderness  
Arapaho and White River National Forests, State of Colorado, as a  
unit of the National Wilderness Preservation System. The Forest  
Service would continue to administer the area as an integral part of its  
overall multiple-use management program of Arapaho and White  
River National Forests, with the Wilderness area also being adminis-  
tered pursuant to the management provisions (Sec. 4) of the Wilder-  
ness Act of 1964 (P.L. 88-577). The Eagles Nest Wilderness desig-  
nated by H.R. 3863, as amended, contains approximately 130,480 acres.

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<sup>1</sup> H.R. 3863 was introduced by Representative Jim Johnson of Colorado. A similar bill,  
S. 263, has been approved by the Senate.

## HISTORY

The Gore Range-Eagles Nest Primitive Area was established administratively by the Chief, U.S. Forest Service, in 1932. The Wilderness Act (78 Stat. 890) directed the Secretary of Agriculture to study all primitive areas in the National Forests to determine suitability or nonsuitability as wilderness. These studies were completed in 1971 and on February 8, 1972, the President submitted his recommendations to the Congress to designate 87,750 acres as the Eagles Nest Wilderness.

During the 93rd Congress, the Subcommittee on Public Lands held public hearings on November 8 and 9, 1973, and September 19, 1974, on the Eagles Nest proposal in conjunction with Weminuche and Flat Tops Wilderness proposals, also in the State of Colorado.

In this Congress, a field hearing was held in Glenwood Springs, Colorado, on April 3, 1975, on various proposals to classify both Flat Tops and Eagles Nest Primitive Areas as units of the National Wilderness Preservation System.

## NATURAL RESOURCES

The following is a brief description of the principal natural resources within the proposed wilderness.

1. *Grazing*

Portions of the primitive area and adjacent lands have been grazed by domestic livestock since prior to the turn of the century. Several range allotments lie wholly or partially within the proposed wilderness. Previously existing livestock grazing is allowed to continue by Sec. 4(d) (4) (2) of the Wilderness Act of 1964.

2. *Timber*

The timber types in the proposed wilderness are aspen, lodgepole pine, subalpine fir and Englemann spruce. Sites vary from poor on the steep, rocky hillsides and glacier moraines, to good in the narrow valleys.

H.R. 3863, as amended, contains slightly in excess of 200 million board feet of timber, or about 173 million board feet less than as introduced. The proposed wilderness contains essentially the same volume of timber included in the core area as recommended by the Forest Service. Of the 13,500 acres of the Forest Service proposal containing mature timber stands, slightly less than 5,000 acres are operable under present logging methods. Thus, approximately 56 million of the total estimated 201,733,000 board feet of timber are capable of being harvested. Much of the remaining timber cannot be harvested now or in the foreseeable future because of dispersion in small, isolated patches or steep, rocky terrain.

3. *Minerals*

The U.S. Geological Survey and the Bureau of Mines, Department of the Interior, conducted field investigations of the area and issued a report on the mineral potential of the area. These field investigations found no known ore deposits and no geologic evidence to indicate a likelihood of hidden deposits within the primitive area or adjacent lands. The evaluation found no potential for coal, oil or gas production

and no (or very low) potential for non-metallic minerals. No current mining claim activity is known inside the proposed wilderness.

4. *Water*

According to the Forest Service, the greatest public value of any of the resources within the Eagles Nest Wilderness area is water yield from drainages within the area. The quantity and quality of the water from this area has an effect on the economic well-being of individuals for many miles downstream. The proposed wilderness produces about 1.7 acre-feet of water per acre per year.

Parts of the wilderness area have been under consideration as a domestic water source for the metropolitan Denver area. The Board of Water Commissioners of the City and County of Denver (the "Denver Water Board") has developed plans to divert water produced in the wilderness across the Continental Divide to Denver and other municipalities. Two water collection systems are involved:

(a) *The Eagle-Piney Collection System* would be located to the west and south of the proposed Eagles Nest Wilderness. The total water obtainable through this system, as originally planned, would be about 100,000 acre feet with about 30,000 acre feet of the total being collected some distance south of the wilderness.

(b) *The East Gore Collection System* would be situated on the east side of the proposed wilderness. As originally planned, it would collect about 70,000 acre feet of water annually.

The wilderness proposal would not preclude development of water resources; however, water collection methods, locations of water delivery systems, and costs would be modified by wilderness classification.

## PUBLIC PARTICIPATION IN FORMULATION OF WILDERNESS PROPOSAL

Public hearings produced overwhelming sentiment for classifying the Gore Range-Eagles Nest Primitive Area as the Eagles Nest unit of the National Wilderness Preservation System with a majority of the testimony favoring a wilderness area larger than the existing Primitive Area.

While there was almost universal agreement among witnesses testifying at public hearings that a wilderness area should be established, there was substantial disagreement over locations of boundaries. The principal cause of contention was the difference in position between representatives and supporters of Western Slope of Colorado water user organizations and representatives and supporters of the Denver Water Board's planned diversion and utilization (on the Eastern Slope) of water originating in the Primitive Area and its environs.

While wilderness classification, in and by itself, would not deprive the Denver Water Board of a potential source of water, wilderness designation, as proposed by H.R. 3863, could require changes in location of water delivery systems and increase estimated costs of the current planned project, primarily due to increased pumping costs.

## COST AND BUDGET COMPLIANCE

Since the lands involved are already Federally owned and managed, enactment of this legislation will have no significant Federal budget impact and administrative costs will continue to be minimal.



## INFLATIONARY IMPACT

No new expenditures will be involved if H.R. 3863 is enacted with the result that there will be no direct impact on inflation.

## OVERSIGHT STATEMENT

The Committee on Interior and Insular Affairs continues to exercise oversight responsibilities in connection with National Forest wilderness. No recommendations were submitted to the Committee from the Committee on Government Operations which would be required to be included in this report under Rule XI, Clause 2(1)(3)(D).

## COMMITTEE AMENDMENTS

H.R. 3863, as introduced, proposed to designate approximately 125,000 acres as wilderness. This initial calculation of the acreage, however, proved erroneous. Subsequently, the Committee recalculated the acreage contained within the boundaries of the proposal and adjusted the acreage to more accurately reflect the true size of the proposed area—i.e., about 136,750 acres. The Committee then adopted an amendment which reduced this revised area by about 6,270 acres; thus leaving an Eagles Nest Wilderness in H.R. 3863, as reported, totaling approximately 130,480 acres. A change in the map designation was required to reflect the reduction resulting from the Committee amendment.

## COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommended, by a voice vote, that the bill, H.R. 3863, as amended, be enacted.

## DEPARTMENTAL COMMUNICATION

A communication from the Department of Agriculture, dated December 11, 1975, relevant to H.R. 3863 follows:

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., December 11, 1975.

HON. JAMES A. HALEY,  
Chairman, Committee on Interior and Insular Affairs, House of Representatives.

DEAR MR. CHAIRMAN: As you requested, here is our report on H.R. 3863, a bill "To designate the Eagles Nest Wilderness, Arapaho and White River National Forests in the State of Colorado." We also wish to offer our views on S. 268, an Act with the same title.

The Department of Agriculture strongly recommends that neither H.R. 3863 nor S. 268 be enacted.

Both H.R. 3863 and S. 268 would designate an Eagles Nest Wilderness and abolish the previous classification of the Gore Range-Eagles Nest Primitive Area within the Arapaho and White River National Forests, Colorado. The Eagles Nest Wilderness proposed by H.R. 3863 and S. 268 would contain, according to the legislation, about 125,000

and 128,084 acres, respectively. S. 268 would direct that nothing in that Act or in the Wilderness Act could be construed as impairing the authority of the appropriate Secretary to permit, subject to such regulations as he deems necessary to protect wilderness values, the construction, operation, and maintenance of a subsurface water tunnel in Federal land under the Eagles Nest Wilderness. H.R. 3863 does not contain such a provision.

The President transmitted his recommendation for an 87,755-acre Eagles Nest Wilderness to the Congress on February 8, 1972. That recommendation resulted from a study of the Gore Range-Eagles Nest Primitive Area in accordance with the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131-1136). The Eagles Nest Wilderness that would be designated by H.R. 3863 or S. 268 contains major additions to the wilderness recommended by the President. The study report which accompanied the President's recommendation describes and evaluates the additional areas which would be designated as wilderness by H.R. 3863 or S. 268. The additional areas were not included in our proposal, because they were judged not suitable for wilderness designation, because management for other resource values was judged to be of greater importance, or because a well-defined natural boundary could not be established.

The additional areas that would be designated as wilderness by H.R. 3863 or S. 268 contain significant evidence of man's activity, including private lands with improvements, primitive and constructed roads, constructed water impoundments and irrigation ditches, and areas of timber harvest activity. Inclusion of these nonconforming features would significantly lower the quality of the proposed wilderness and create serious administrative problems in managing the wilderness resource. The additional areas also contain major forest, water, recreation, wildlife, and forage resource values which would be partially or completely foregone if the additional areas were designated as wilderness.

We strongly urge the Congress not to designate as wilderness areas where the evidence of man's activity is clearly apparent. We also urge that careful consideration be given to the resource trade-offs between wilderness values and other resource values and uses within the additional areas which would be designated as wilderness by H.R. 3863 or S. 268. In our judgment, the Administration's proposal for an 87,555-acre Eagles Nest Wilderness includes those lands most suitable for wilderness designation within a manageable boundary and with appropriate recognition of other resource values and opportunities. The enclosed supplemental statement contains additional details about our boundary concerns and recommendations.

We also wish to comment on section 4 of S. 268, relating to a possible subsurface water tunnel in Federal land under the proposed Eagles Nest Wilderness. It is our understanding that the Eagle-Piney water collection system, as now envisioned, would require a tunnel beneath the area being considered for designation as the Eagles Nest Wilderness. Since section 4(d)(4) of the Wilderness Act (78 Stat. 893; 16 U.S.C. 1133) does not specifically mention subsurface water tunnels, we generally agree that a provision such as section 4 in S. 268 is needed, if the Congress decides to specifically allow a subsurface water tunnel

under the Eagles Nest Wilderness. However, we believe it is important that the construction, operation, and maintenance of a tunnel beneath the Eagles Nest Wilderness be subject to such conditions as the Secretary of Agriculture deems necessary to protect wilderness values. We also believe it should be made clear that the portals of the tunnel would be outside the Eagles Nest Wilderness. The enclosed supplemental statement contains suggested language which we believe is clearer and preferable to that in S. 268.

The Office of Management and Budget advises that there is no objection to the presentation of this report and that enactment of H.R. 3863 or S. 268 would not be consistent with the Administration's objectives.

Sincerely,

ROBERT W. LONG,  
*Assistant Secretary.*

Enclosure.

USDA SUPPLEMENTAL STATEMENT EAGLES NEST WILDERNESS PROPOSAL  
H.R. 3863 AND S. 268

*Wilderness boundary*

The Eagles Nest Wilderness proposed by H.R. 3863 and S. 268 would contain, according to the legislation, about 125,000 and 128,084 acres, respectively. The Administration's proposal contains about 87,755 acres. Detailed information regarding our recommendations is presented on pages 33 to 46 of our report, "A Proposal—Eagles Nest Wilderness, Arapaho and White River National Forests, Colorado," which the President transmitted to the Congress on February 8, 1972. The areas referenced by letter and number in this supplemental statement are identified on map B of our proposal report.

The Department of Agriculture strongly recommends that none of the areas outside the Administration's proposal be designated as wilderness. We are particularly concerned about four major areas.

First, the proposed additions along the east side of the Administration's proposal (Areas 1, 2, 3, 13, B-1, B-2, C-1, D-1, and D-2), totaling about 28,000 acres, contain major man-made features. These include improvements on private lands, primitive roads, and water developments, as well as a constructed road to the patented Boss Mine in North Rock Creek. While we oppose both the H.R. 3863 and S. 268 boundaries, the S. 268 boundary would exclude about 700 acres of private land and several nonconforming features, and thus be more acceptable than the H.R. 3863 boundary, in the following areas: Lower Cataract Lake, Black Creek, Slate Creek, and South Rock Creek.

Second, the proposed additions also include areas where extensive timber harvesting has occurred, particularly in the southern portion. S. 268 would exclude the timber harvest area in the Corral Creek watershed, and we agree that area should be excluded. However, there are several other major timber harvest areas in the watersheds of Officers Gulch, North Tenmile Creek, and Meadow Creek that would be included within the wilderness by both H.R. 3863 and S. 268. The Corral Creek harvests occurred in the late 1940's and early 1950's, while the other harvests occurred in the late 1920's and early 1930's. However, significant evidence of man's activity exists in the earlier as well as

the more recent harvest areas, and we recommend that all timber harvest areas be excluded from the Eagles Nest Wilderness.

Third, H.R. 3863 would designate as wilderness about 3,300 acres north of Vail in the watersheds of Booth Creek, Pitkin Creek, Big-horn Creek, and Main Gore Creek that would not be designated by S. 268 or the Administration's proposal. We strongly recommend that the Administration boundary be adopted to exclude the entire G-1 area, totaling about 4,040 acres. This exclusion would place the boundary on identifiable topographic features, remove nonconformities, and retain future options for potential water resource developments.

Fourth, both H.R. 3863 and S. 268 would designate as wilderness about 8,100 acres in the Meadow Creek area (Area L-1) that contains primitive roads, timber harvest areas, and 320 acres of private land. The area is valuable for its forest resource, broad range of recreational activities, and opportunities for major water developments. In 1969, the Forest Service executed a contract for the sale of about 4.3 million board feet of timber, then valued at \$144,000, to be harvested within the East Meadow Creek portion of Area L-1. Pursuant to a court injunction, that timber has not been harvested, pending a decision by the President and the Congress as to whether the area is to be designated as wilderness. We strongly recommend that Area L-1 not be designated as wilderness.

*Subsurface water tunnel*

If the Congress decides to specifically allow a subsurface water tunnel under the Eagles Nest Wilderness, the Department of Agriculture recommends that the following language be included in the Act designating that wilderness:

Nothing in this Act or the Wilderness Act shall be construed as impairing the authority of the appropriate Secretary to permit, subject to such conditions as the Secretary of Agriculture deems necessary to protect wilderness values, the construction, operation, and maintenance of a subsurface water tunnel in Federal land under the Eagles Nest Wilderness, if the portals of the tunnel are located outside the Eagles Nest Wilderness.

## DISSENTING VIEWS H.R. 3863

In 1964, Congress enacted the landmark legislation known as the Wilderness Act. The Act defined wilderness as "... an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, ...". The key concept here was to set aside those particularly identified areas of our public lands which would qualify for the Wilderness Preservation System by virtue of their undisturbed character and suitability for continued protection.

Without question, parts of the Eagles Nest area of Colorado meet the test for suitability as wilderness. Portions of the National Forest Lands here were classified as a primitive area over 40 years ago. After a careful study of the area, the United States Forest Service recommended wilderness designation for over 87,000 acres as the Eagles Nest Wilderness. There is general agreement that a wilderness classification here is desirable and proper. But H.R. 3863, as reported by the Committee, includes some 130,000 acres, and unfortunately extends the proposed wilderness boundary far beyond those lands "untrammelled by man" to include areas which have undergone various developments and alterations right up to the present time.

The single purpose of including a portion of the additional lands is to block the development of water collection facilities by the City of Denver. There is no disputing this motive; the proponents of this measure have stated this to be the case. Much of the explanation given of the bill in the Committee centered not on the wilderness values of these lands, but rather on the need to ensure adequate Colorado River water flows and minimize salinity levels. The vehicle of wilderness legislation is used to settle a water rights controversy that, whatever its merits, should be settled in some other manner than by a misuse of an otherwise laudable legislative initiative.

These discussions over water rights may be entirely appropriate, but a proposal for wilderness is not the proper forum. Denver has a right to take water from the river based on the Colorado Compact of 1922 and the Upper Colorado River Compact of 1948, both of which were approved by Congress. The water claims in dispute on this particular property were initiated in 1956, and are now in litigation.

But the issue raised by H.R. 3863 is: shall this wilderness legislation be misused as a means of resolving water rights disputed between various sections of the State of Colorado? Shall this vehicle be used for preempting a matter which is even now under judicial review?

The purpose of the Wilderness Act was to preserve, through legislation, certain qualifying natural areas. There is obviously such a suitable area in the Eagles Nest proposal. But to extend the proposed wilderness for the express purpose of solving a local water dispute is in-supportable, particularly since disputes over water rights are to be settled under the provisions of appropriate State water laws.

We suggest that House action on H.R. 3863 be either deferred until proper adjudication of the water rights have been made by the State, or that the bill be amended to include only those areas whose resources will stand the test of eligibility under the Wilderness Act. To do otherwise is to sacrifice the standards of a desirable system to the expediency of resolving a local issue.

ROY A. TAYLOR.  
THEODORE M. RISENHOOVER.  
JOSEPH P. VIGORITO.  
HAROLD T. JOHNSON.  
HAROLD RUNNELS

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# Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

## An Act

To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132(b)), the area classified as the Gore Range-Eagles Nest Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Eagles Nest Wilderness—Proposed", dated June 1976, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the "Eagles Nest Wilderness" within and as part of the Arapaho and White River National Forests comprising an area of approximately one hundred thirty-three thousand nine hundred ten acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Eagles Nest Wilderness with the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and description may be made.

SEC. 3. The Eagles Nest Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Gore Range-Eagles Nest Primitive Area is hereby abolished.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*