

REMARKS ON STEVENS' AMENDMENTS

Stevens' amendment

Remarks

- 1.) To make congressional finding regarding the comprehensive nature of the conservation system units created by the bill (p. 6, line 25).
- In effect, the language would have the 96th Congress say "no more." The language would be acceptable if applied to H.R. 39 as passed by the House or S. 222, but not as applied to S. 9. The language adds nothing of substance and is inconsistent with other provisions of the bill, i.e., Sec. 701(b) directing wilderness study of Charley River; Sec. 704, directing wilderness study of national forest lands; Sec. 1004, directing wilderness study of North Slope; Sec. 1204, directing development of a plan (including identification of new conservation system units) for Bristol Bay; Sec. 1314, directing wilderness review of parks, monuments, and refuges; and Sec. 1317, authorizing recommendations for wilderness on BLM lands.

Stevens' amendment

Remarks

2.) Lake Clark deletion: would delete 234,000 acres from the preserve to be given to the State of Alaska.

Includes the Tazimina Lakes which are highly productive salmon spawning system and has great potential for recreation. Also includes the lower end of Lake Clark which has great potential for recreation and provides for a natural boundary for the preserve. The Stevens' amendment would cut the ownership of the lake in half.

In support of his amendment Senator Stevens' asserts that these lands were not part of the Cook Inlet agreement and therefore it was intended that the State own these lands. The fact is that these lands were not included in the agreement with the Cook Inlet Region because they are within the Bristol Bay region not within Cook Inlets. The boundary of the agreement here corresponds with the boundary of the region and it was not implied that the State receive the lands.

*Jack: Title 9 of  
S. 9 immed. conveys state  
wish list lands outside of  
E. federal lands in  
the "Coop. Region  
are not withdrawn  
from state selection.*

3.) Steven's amendment

Remarks

Yukon-Charley deletion: would delete from the preserve 187,000 acres to be given to the state for selection.

This would delete approximately 1/3 of the State interest lands from the boundary. These lands are critical habitat for the Peregrine falcon, as this is one of the three most important breeding areas for this species in North America. As part of the Doyon land exchange over 60,000 acres of lowlands were deleted for the state, leaving the falcon nesting bluffs in the preserve.

These lands also include numerous archeological and paleontological sites which are of national significance. Also this area has high public recreation value which would be made available within the preserve.

4.) Stevens' amendment

Remarks

Wrangell-St. Elias deletion:  
would delete 155,000 acres  
from the preserve to be  
given to the State of Alaska.

This would delete one of the State interest areas within the preserve. This is the scenic foreground to Mt. Wrangell and Mt. Drum which are visible from the highway. Being close to the highway, they have great recreation potential. Putting these lands in State or private ownership would open to development a narrow strip between the Copper River a great recreation and wild river candidate, and the park. The change would result in adopting an artificial township boundary across the flanks of the mountain rather than a natural boundary along the river.

*Jack: under H.R. 39 E  
S. 9 Native "fallout" lands  
inside cons. system units  
automatically become part  
of unit. This smdt. would  
make an exception.  
This would complicate  
the most "important"  
entrance to the  
present monument.*

8.)

Steven's amendment

Remarks

To include among the purposes of wildlife refuges the opportunity for continued fishing, sport hunting, and trapping (p. 41, line 13).

Since all activities permitted in refuges are subject to the test that they must be compatible with the purposes of the refuge, this amendment has the effect of requiring all activities in the refuges to be compatible with fishing, hunting, and trapping. Accordingly, the refuge manager could not limit hunting, fishing and trapping if it became necessary for fish and wildlife protection.

*Jack: this is a radical departure from existing law & refuge policy --- in that refuges would be managed for the "major purpose" of hunting & trapping! Such uses are permitted in refuges, but the refuges should be managed for the protection of wildlife populations & habitats, not as hunting & trapping preserves.*

11.) Stevens' amendment

Remarks

To specifically allow existing scientific research to continue in Izenbek Refuge wilderness area (p. 64, line 3).

Mandatory requirement here is inconsistent with discretionary authority to permit aquaculture research in Sec. 1313. The amendment permits the refuge manager no control whatsoever over state activities on refuge lands.

*Harry: isn't this research stuff outside of wilderness?  
Steve Cowper's wife is one of researchers*

*existing Research*

*old quonset hut in Izenbek (staff. said it was ~~waste~~ F&W has built a new facility neither are in the wilderness!*

320,000 refuge

300 wilderness

12.)

Stevens' amendment

Remarks

To include wind-thrown timber among None.  
the natural factors for which the  
Secretary may take control measures  
in special management areas (p. 74,  
line 5).

Jack: We need to avoid  
salvage timber sales in SMA's  
(H.R. 39 wilderness areas) that  
involve standing timber as well.  
Clarify that such sales of  
windfalls will involve only  
downtimber & no roadbuilding.  
Use of helicopters or other  
non-road methods only.

14.) Delete Parks & Monument  
Subsistence Resource Commissions

p. 92, line 5 thru page 94, line 6  
strike entire Sec. 808.

Jack: these commissions are  
not in H.R. 39 of 1979.  
Support smdt.



21.) Stevens' amendment

Remarks

To perfect special access and inholder access provisions which insure that traditional and feasible access is maintained (p. 187, line 1).

Subsection (a) of the amendment is virtually identical to Sec. 802(a) of H.R. 39. No objection. Subsection (b) of the amendment is identical to sec. 1108 of S. 9, which the amendment would replace, except --

OPPOSE  
NO!

Jack says: Support and:  
Slightly different than H.R. 39, but substantively the same.

(a) the amendment mandates access rights to lands within or "effectively surrounded by" conservation system units, whereas the printed bill only mandates such access to lands "within" the units. This broadens the mandate unnecessarily and presents a vague factual test which will lead to litigation.

(b) S. 9, currently mandates access to lands within NPR-A, whereas the amendment does not.

(c) The amendment mandates that access must be "economically feasible," whereas S. 9 does not. This means that economic feasibility is the only criterion for choosing an access route and mode.

23.) Stevens' amendment

To ensure the participation of the cooperative council established in sec. 1201 in the preparation of the plan (for Bristol Bay) and the interim management of the study area. (p. 207, line 16).

Remarks

Section references in amendment text are in error. The amendment places the Land Use Council in an ongoing management consultation position, which is an exercise of more authority than giving advice or making recommendations on the plan.

26)

Stevens' amendment

To protect State, Native, and private landowners from condemnation subject to use of the land which would be detrimental to the unit.

(p. 209, lines 19-21).

Remarks

Prohibits condemnation of any land whatsoever so long as the land is not used in a manner detrimental to the values of the unit. Requires notice and hearing before Secretary can find a detrimental use. Unless the land is dedicated to a public purpose, such as park or wildlife preserve, continued private ownership is not consistent with purposes of the units, in that the public is excluded. In addition, condemnation after the land becomes a detrimental use means the Government must pay more for land that is developed.

*Jack's wrong  
on this one!*

27.) Stevens' amendment

Remarks

To clarify the relationship between boundary descriptions of conservation system units and lands owned by other public or private owners. (p. 213, line 11).

Restates effect of existing law, and is unnecessary.

29.)

Stevens' amendment

To encourage tourism between Mt. McKinley and Wrangell-St. Elias National Parks on the basis of completed route and visitor studies. (p. 220, line 20 through p. 223, line 14).

Remarks

S. 9 as printed withdraws public lands along existing roads and directs the Secretary to study and recommend in 3 years as to the establishment of a scenic highway. The amendment substitutes a provision which neither withdraws public lands nor provides for a study of the proposed highway. Instead it merely directs the Secretary to "take measures to encourage tourism." The amendment is so vague as to be meaningless, and raises questions as to the actual authorities it confers.

32.)

Stevens' amendment

To conform the intention of the Act to allow commercial fishing, guiding, and trapping to continue in certain wilderness designated areas.

(p. 227, following line 14).

Remarks

Wilderness Act prohibits commercial enterprises, except it authorizes commercial services "to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes" of the wilderness. The amendment not only permits commercial fishing, guiding, and trapping in wilderness, but it requires that such activities be permitted. Commercial fishing is not proper for realizing the purpose of wilderness, nor is commercial guiding, nor is commercial trapping. All such uses are for private economic gain, not public enjoyment of the wilderness. The amendment is unacceptable.

34.)

Stevens' amendment

To authorize scientific research to be conducted; and necessary equipment and facilities to be constructed, within wilderness areas designated by the Act.

(p. 228, following line 13).

Remarks

Mandates scientific research, including removal of plants and animals, in wilderness. The amendment would require the Secretary to permit anyone to cut trees and take fish and wildlife anywhere and at anytime for scientific research, subject only to "substantial interference" test. The research need not even be related to the wilderness.

35.)

Stevens' amendment

To require Congressional approval  
for future major executive withdrawals  
under certain public land laws.  
(p. 232, following line 10).

Remarks

The amendment prohibits  
withdrawals for conservation  
purposes in Alaska over  
5,000 acres.



36)

Stevens' amendment

To afford interim protection for unpatented mining claims within units established by the Act, while requiring claimants to seek patent within seven years.

(p. 232, following line 10).

JACK:  
Reject!

Remarks

The amendment departs from the generally accepted definition of an unpatented claim ("legally located and maintained"), and would have the effect of recognizing any claim, whether valid or invalid. Section 22(c) of ANCSA refers to "valid" claims, whereas this amendment does not. The amendments requirement that a claimant seek patent in 7 years is laudable, but it should be followed with provision that the claim is presumed abandoned if patent is not sought. The explanation accompanying the amendment erroneously infers that the amendment will preclude the Secretary from challenging the validity of an unpatented claim. If that is the intent, the amendment should be rejected.

37.)

Stevens' amendment

To revoke certain prior proclamations and land orders to the extent they are not embodied in new conservation system units (p. 232, following line 10).

Remarks

Amendment is poorly drafted (this Act does not exclude lands from conservation system units; it may superimpose another or similar designation on existing monuments and withdrawals). Should be rejected and the language developed by the Department (attached) used instead. Paragraph (2) of the amendment is unnecessary.

38.

Stevens' amendment

To clarify the authority of the Secretaries of Agriculture and the Interior to manage public domain and national forest lands upon compliance with the subsistence use planning process required by section 810 of the Act.  
(p. 232, following line 10).

Remarks

Section 810 prohibits withdrawal, reservation, lease, permit, or other use, occupancy, or disposition of lands which would significantly restrict subsistence uses until the agency head determines to do so is necessary and that adequate steps will be taken to minimize adverse effects on subsistence. The amendment would characterize the requirements of section 810 as "planning processes" and further authorize management or disposal of public lands in accordance with law. It is not clear whether under this amendment the prohibition in section 810 would have any effect.