

AMENDMENT NO. 1780**Calendar No. 442**

Purpose: To designate components of the Wild and Scenic Rivers System and to confirm certain management provisions applicable to conservation system units more closely to existing policy.

IN THE SENATE OF THE UNITED STATES—96th Cong., 2d Sess.

H.R. 39

To provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

May 22 (legislative day, January 3), 1980

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. TSONGAS (for himself, Mr. PROXMIRE, and Mr. EAGLETON)

Viz:

- 1 On page 448, insert the following after line 9, and re-
- 2 number the subsequent paragraphs accordingly:
- 3 “(45) COPPER, ALASKA.—The segment from the
- 4 northern entrance to Wood Canyon to the confluence with
- 5 the Tasnuna River, the segment not including lands within
- 6 the Wrangell-Saint Elias National Park; to be administered
- 7 by the Secretary of the Interior.”.

1 On page 449, insert the following after line 16, and re-
2 number the subsequent paragraphs accordingly:

3 “(49) SQUIRREL, ALASKA.—That portion from its
4 source to its confluence with the Kobuk River; to be adminis-
5 tered by the Secretary of the Interior.”.

6 On page 449, insert the following after line 22:

7 “(51) YUKON (Ramparts section), ALASKA.—The seg-
8 ment from the east boundary of township 12 north, range 11
9 west, to the west boundary of township 4 north, range 19
10 west, Fairbanks meridian; to be administered by the Secre-
11 tary of the Interior.”.

12 On page 450, insert the following after line 11, and re-
13 number the subsequent lines accordingly:

14 “(81) Koyuk, Alaska.

15 “(82) Kuskokwin (middle segment), Alaska: The seg-
16 ment between McGrath and Stony River.”.

17 On page 450, strike line 16.

18 On page 451, strike lines 15 and 16 and insert in lieu
19 thereof the following:

20 “(b) The Alagnak, Beaver Creek, Birch Creek, Gul-
21 kana, Squirrel, and Unalakleet components as well as the
22 segment of the Copper component from the northern en-
23 trance to Wood Canyon to the confluence with the Tasnuna
24 River and the segment of”.

1 On page 452, strike line 6, and insert in lieu thereof the
2 following:

3 “(c) The Yukon (Ramparts section) and the following
4 segments of the Fortymile River com-”.

5 On page 452, strike line 25 through line 1 on page 453,
6 and insert in lieu thereof the following: “Alagnak, Beaver
7 Creek, Birch Creek, Copper, the Delta, Fortymile, Gulkana,
8 Squirrel, Unalakleet, and Yukon (Ramparts section) compo-
9 nents. With respect to the”.

10 On page 453, strike line 14 through 25 on page 454,
11 and insert in lieu thereof the following:

12 “SEC. 606. The Wild and Scenic Rivers Act as amend-
13 ed, is further amended as follows:

14 ““(a) Insert the following after section 14 and re-
15 designate sections 15 and 16 as sections 16 and 17,
16 respectively:

17 “““SEC. 15. Notwithstanding any other provision to the
18 contrary in sections 3 and 9 of this Act, with respect to com-
19 ponents of the National Wild and Scenic Rivers System in
20 Alaska designated by paragraphs (24) through (49) of section
21 3(a) of this Act, in lieu of the acreage limitation specified in
22 paragraph (1) of this subsection such boundaries may include
23 an area extending up to two miles from the ordinary high
24 water mark on both sides of each such river.””

1 “(b) Add the following at the end of section 9(a):

2 “Notwithstanding the foregoing provisions of this sub-
3 section or any other provision of this Act, all public
4 lands which constitute the bed or bank or are situated
5 within an area extending two miles from the bank of
6 the river channel on both sides of the river segments
7 referred to in paragraphs (24) through (49) of section
8 3(a) are hereby withdrawn, subject to valid existing
9 rights, during the period before establishment of the
10 boundaries of such river from all forms of appropriation
11 under the mining laws and from operation of the min-
12 eral law, including in both cases amendments thereto.
13 Upon establishment of the boundaries of a river, such
14 withdrawal under this section shall apply only to areas
15 which are within the boundaries of the river, as estab-
16 lished under section 3(b).”

17 “(c) Add the following at the end of section 9(b):

18 “Notwithstanding the foregoing provisions of this sub-
19 section or any other provision of this Act, all public
20 lands which constitute the bed or bank, or are within
21 an area extending two miles from the bank of the river
22 channel on both sides of the river segments referred to
23 in paragraphs (76) through (87) of section 5(a), are
24 hereby withdrawn, subject to valid existing rights, from
25 all forms of appropriation under the mining laws and

1 from operation of the mineral leasing laws including, in
 2 both cases, amendments thereto, during the periods
 3 specified in section 7(b) of this Act.”

4 ““(d) Add the following at the end of section 8(b):

5 “Notwithstanding the foregoing provisions of this sub-
 6 section or any other provision of this Act, subject only
 7 to valid existing rights, including valid Native selection
 8 rights under the Alaska Native Claims Settlements
 9 Act, all public lands which constitute the bed or bank,
 10 or are within an area extending two miles from the
 11 bank of the river channel on both sides of the river
 12 segments referred to in paragraphs (76) through (87) of
 13 section 5(a), are hereby withdrawn from entry, sale,
 14 State selection or other disposition under the public
 15 land laws of the United States for the period specified
 16 in section 7(b) of this Act.”””.

17 On page 570, lines 7 and 8, delete “, national recreation
 18 area, or national conservation area.”

19 On page 572, revise lines 6 and 7 to read as follows:
 20 “Act, the Secretary and the Secretary of Agriculture, in con-
 21 sultation with the heads of”.

22 On page 572, line 4, change “(b)(1)” to “(b)” and delete
 23 lines 15 through 23.

24 On page 572, line 14, insert the following after the
 25 period: “Each such application form shall also indicate the

1 Federal agency or agencies, with which such form must be
2 filed under applicable law.”.

3 On page 576, line 5, delete “economically”.

4 On page 576, lines 7 and 8, delete “, national recreation
5 area, or national conservation area”.

6 On page 577, line 10, delete “head of the Federal
7 agency concerned” and substitute “Secretary or the Secre-
8 tary of Agriculture”.

9 On page 577, line 19, delete “economically”.

10 On page 578, delete lines 12 through 25, and on page
11 579, delete lines 1 through 16, and substitute the following:

12 “(B) the Secretary or the Secretary of Agriculture
13 decides to disapprove the application with respect to
14 lands under their jurisdiction, then as to those lands
15 the application shall be deemed to be disapproved. It
16 either Secretary denies an application under this sub-
17 paragraph, the applicant shall be deemed to have ex-
18 hausted his administrative remedies.”;

19 On page 577, line 22, change “(a)(1)” and “(a)”.

20 On page 579, beginning with line 17, strike out all
21 through line 3 on page 581, and substitute the following:

22 “(b) AGENCY ACTION IN CASES INVOLVING SECTION
23 1105 OR WILDERNESS AREAS.—In the case of any applica-
24 tion for the approval of a transportation or utility system to
25 which section 1105 applies or that proposes to occupy, use,

1 or traverse any area within the National Wilderness Preser-
 2 vation System, the Secretary or Secretary of Agriculture
 3 shall, if he determines in accordance with section 1105 that
 4 such approval should be granted, submit to the Congress his
 5 recommendation for such approval. The appropriate Secre-
 6 tary shall include with his recommendation—

7 “(1) the application which is the subject of his
 8 recommendation;

9 “(2) a report setting forth in detail the relevant
 10 factual background and the reasons for his determina-
 11 tion and recommendation;

12 “(3) any appropriate environmental documenta-
 13 tion; and

14 “(4) a statement of the conditions and stipulations
 15 which would govern the use of the System if approved
 16 by the Congress.”.

17 On page 581, line 6, delete “President” and substitute
 18 “Secretary or the Secretary of Agriculture”; on page 582,
 19 line 13, delete “by the President”; on page 582, line 16,
 20 delete “President” and substitute “Secretary of the Interior
 21 or the Secretary of Agriculture”.

22 On page 583, lines 19 and 20 delete “, national recrea-
 23 tion area, or national conservation area”.

24 On page 585, lines 9 through 22, strike section 1108
 25 and renumber the succeeding subsections accordingly.

1 Beginning on page 614, line 7, through page 620, line
2 21 delete section 1303 and insert in lieu thereof the follow-
3 ing:

4 “SEC. 1303. (a) TRESPASS CABINS OR OTHER STRUC-
5 TURES ON CONSERVATION SYSTEM UNITS.—

6 “(1) Those persons occupying cabins or other
7 structures prior to December 18, 1973, on Federal
8 land not owned by the occupant and within the bound-
9 aries of any conservation system unit established or en-
10 larged by this Act may be allowed to continue such oc-
11 cupancy pursuant to a renewable nontransferable
12 permit. Such use and occupancy shall be for terms of
13 five years each: *Provided*, That the claimant of the
14 structure by application—

15 “(A) reasonably demonstrates by affidavit,
16 bill of sale or other documentation, proof of
17 possessory interest or right of occupancy in the
18 cabin or structure;

19 “(B) submits a sketch or photograph of the
20 cabin or structure and a map showing its geo-
21 graphic location;

22 “(C) agrees to vacate the cabin and to
23 remove all personal property from the cabin or
24 structure upon expiration of the permit; and

1 “(D) acknowledges in the permit that the ap-
2 plicant has no interest in the real property on
3 which the cabin or structure is located.

4 “(2) Those persons occupying cabins or other
5 structures between December 18, 1973 and December
6 1, 1978 on Federal land not owned by the occupant
7 and within the boundaries of any conservation system
8 unit established or enlarged by this Act may be al-
9 lowed to continue such occupancy pursuant to a re-
10 newable nontransferable permit. Such use and occu-
11 pancy shall be for a maximum term of one year: *Pro-*
12 *vided, however,* That the claimant, by application—

13 “(A) reasonably demonstrates by affidavit,
14 bill of sale or other documentation proof of
15 possessory interest or right of occupancy in the
16 cabin or structure;

17 “(B) submits a sketch or photograph of the
18 cabin or structure and a map showing its geo-
19 graphic location;

20 “(C) agrees to vacate the cabin or structure
21 and to remove all personal property from it upon
22 expiration of the permit; and

23 “(D) acknowledges in the permit that the ap-
24 plicant has no legal interest in the real property
25 on which the cabin or structure is located.

1 The Secretary may, on a case-by-case basis, subject to
2 reasonable regulation, extend such permit term beyond
3 one year for such reasons as the Secretary deems equi-
4 table and just.

5 “(3) Cabins or other structures not under permit
6 as specified herein or not removed shall be used only
7 for official Government business: *Provided, however,*
8 That during emergencies involving the safety of human
9 life or where designated for public use by the Secre-
10 tary, these cabins may be used by the general public.

11 “(b) PERMITS TO BE RENEWED FOR LIFE OF CLAIM-
12 ANT OR CLAIMANT’S SPOUSE.—

13 “(1) Whenever issuance of a nontransferable re-
14 newable five-year special use permit is authorized by
15 section 822(a)(1), said permit shall be renewed every
16 five years until the death of the claimant or claimant’s
17 spouse residing in the cabin or structure, or unless the
18 Secretary has revoked the special use permit in accord-
19 ance with the criteria established in this section.

20 “(2) Notwithstanding any other provision of this
21 section, the Secretary, after notice and hearing may
22 revoke a permit provided for in this section if he deter-
23 mines, on the basis of substantial evidence in the ad-
24 ministrative record as a whole, that the use under the
25 permit is causing or may cause significant detriment to

1 the purposes and values for which the unit was
2 established.

3 “(c) EXISTING CABIN LEASES OR PERMITS.—Nothing
4 in this Act shall preclude the renewal or continuation of valid
5 leases or permits in effect at the time of passage of this Act
6 for cabins, homesites, or similar structures on Federal lands.
7 Unless the Secretary, or in the case of national forest lands,
8 the Secretary of Agriculture, issues specific findings, follow-
9 ing notice and an opportunity for the leaseholder or permittee
10 to respond, that renewal or continuation of such valid permit
11 or lease constitutes a direct threat to or a significant impair-
12 ment to the values for which the unit was established, he
13 shall renew such valid leases or permits upon their expiration
14 in accordance with the provisions of the original lease or
15 permit subject to such reasonable regulations as he may pre-
16 scribe in keeping with the management objectives of the unit.
17 Subject to the provisions of the original lease or permit, noth-
18 ing in this Act or subsection shall necessarily preclude the
19 Secretary, or the Secretary of Agriculture from transferring
20 such a lease or permit to another person at the election or
21 death of the original permittee or leasee.”.

22 On page 643, beginning with line 14, strike out all
23 through line 25 and insert in lieu thereof the following:

24 “(a) Nothing in this Act shall be construed as necessar-
25 ily prohibiting or mandating the location or construction of a

1 small hydroelectric facility within a conservation unit pursu-
2 ant to other applicable law.

3 “(b) If any small hydroelectric facility is authorized to
4 be constructed within a conservation unit, it shall be designed
5 and constructed in such a manner as to minimize to the maxi-
6 mum extent possible any adverse effects on the natural
7 values of the unit.”.

8 On page 402, strike lines 1 through 16, and insert in
9 lieu thereof the following:

10 “(C) Within one year after the date of the enact-
11 ment of this Act, the Secretary and the State shall
12 effect an exchange of lands within the Tetlin National
13 Wildlife Refuge. In this exchange, the State shall re-
14 linquish all claims (including land selections filed under
15 section 6(b) of the Alaska Statehood Act) for up to five
16 thousand acres of land selected by the State prior to
17 November 14, 1978, within the refuge for an equiva-
18 lent acreage of Federal lands selected by the Secretary
19 in consultation with the State north of the Alcan High-
20 way within the Tetlin National Wildlife Refuge, which
21 shall be conveyed to the State for the purpose of a
22 State visitor center and recreation area. Such lands re-
23 linquished by the State shall become part of the Tetlin
24 National Wildlife Refuge. This exchange shall become

1 effective upon the execution of all documents necessary
2 to accomplish the exchange.”.

3 On page 400, strike lines 1 through 6.

4 On page 404, strike lines 3 through 11, and insert in
5 lieu thereof the following:

6 “(D) Nothing in this Act shall be construed as
7 prohibiting or mandating the agricultural use of public
8 lands within the Yukon Flats National Wildlife Refuge
9 pursuant to other applicable law, including the Na-
10 tional Wildlife Refuge System Administration Act. If
11 any such use is permitted on such lands within the
12 Yukon Flats National Wildlife Refuge, it shall be con-
13 ducted so as to minimize to the maximum extent possi-
14 ble any adverse effects on the natural values of the
15 Refuge.”.