

Committee on Natural Resources

Rob Bishop Chairman
Markup Memorandum

September 24, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff – Rebecca Konolige (x59297)
Subcommittee on Energy and Mineral Resources

Markup: **H.R. 4644 (Rep. Gianforte)**, to withdraw certain National Forest System land in the Emigrant Crevice area located in the Custer Gallatin National Forest, Park County, Montana, from the mining and mineral leasing laws of the United States, and for other purposes.
September 26, 2018, at 10:15 AM; 1324 Longworth House Office Building

H.R. 4644, “Yellowstone Gateway Protection Act”

Summary of the Bill

On December 14, 2017, Representative Greg Gianforte (R-MT) introduced H.R. 4644. This bill withdraws select National Forest System land in the Custer Gallatin National Forest in Park County, Montana, from: (1) location, entry, and patent under mining laws; and (2) disposition under all laws pertaining to mineral and geothermal leasing.

The Subcommittee on Energy and Mineral Resources held a hearing on this legislation on June 21, 2018. An identical bill, S. 941, was introduced by Senator Jon Tester (R-MT) on April 25, 2017, with a hearing held on July 26, 2017.

Background

The National Park System contains 417 areas covering nearly 84 million acres in every State, the territories, and the District of Columbia.¹ These federal lands serve as recreational destinations for individuals around the U.S. and the world. National park visitors generate and support significant economic activity within park gateway economies. As the Department of the Interior’s Fiscal year 2019 Budget Request notes, visitors to our national parks spend more than \$18.4 billion in local communities, supporting nearly 318,000 jobs and contributing \$34.9 billion into the national economy.²

According to the National Park Service, federal lands received 330,882,751 recreational visits in 2017, which mirrored record-setting numbers seen in 2016.³ More specifically, an estimated 4.1 million people visited Yellowstone National Park and its surrounding areas,

¹ National Park Service. Main Site, <https://www.nps.gov/aboutus/national-park-system.htm>.

² Department of the Interior. Interior Budget Request 2018, <https://www.doi.gov/oc/interior-budget-request>.

³ National Park Service. Office of Communications 2018, <https://www.nps.gov/orgs/1207/02-28-2018-visitation-certified.htm>.

spending a total of \$498.8 million in its neighboring communities.⁴ That spending contributed to the support of 7,354 jobs with a cumulative benefit to the local economy of \$629.6 million.⁵

Emigrant Crevice Withdrawal

On November 22, 2016, the Bureau of Land Management published a Federal Register notice, detailing an application had been filed to formally withdraw nearly 30,370 acres of National Forest System (NFS) lands from location, entry, and patent under mining laws and disposition under all laws pertaining to mineral and geothermal leasing.⁶ The proposed withdrawal is within the Custer Gallatin National Forest, Park County, Montana. Managed by the Yellowstone and Gardiner Ranger Districts, these federal lands consist of two plots: Emigrant (15,795 acres) and Crevice (14,575 acres).

Located 26 miles south of Livingston, Montana, the Emigrant plot area encircles the Emigrant Creek, Mill Creek, Arrastra Creek, and Sixmile Creek drainages. However, the parcel also contains 316 acres of non-federal lands that would otherwise not be subject to the withdrawal, unless the land was obtained by the United States.⁷

Adjacent to the northern boundary of Yellowstone National Park and to the northeast of Gardiner, Montana, lies the Crevice withdrawal area, comprising 14,575 acres, of which 1,352 acres are non-federal lands that would not be subject to the withdrawal.⁸

This particular area also includes three existing mineral withdrawals, totaling over 4,300 acres, that date back to the early 1900s. The first, Executive Order 3053, signed February 28, 1919, serves as a game preserve.⁹ The second is Power Site Reserve 527, which was withdrawn for water power sites. The final existing site is identified as Power Site Classification 94, dated May 2, 1925. Since none of the existing withdrawals close the land to entry under the mining laws, the proposed withdrawal area would overlap these existing withdrawals if enacted.¹⁰

The purpose of the withdrawal in H.R. 4644 is to permanently preserve the scenic integrity, wildlife corridors, and recreation values and opportunities in the historic Emigrant Mining District and the Jardine/Crevice Mining District.¹¹

H.R. 4644 has broad local support, including from the Yellowstone Gateway Business Coalition, which represents over 400 businesses and thousands of men and women employed

⁴ National Park Service. Yellowstone Data 2018, <https://www.nps.gov/yell/learn/news/18019.htm>.

⁵ National Park Service. Yellowstone Data 2018, <https://www.nps.gov/yell/learn/news/18019.htm>.

⁶ USDA Forest Service. Emigrant Crevice Withdrawal: Economics 2018, https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT3_4278865.pdf.

⁷ USDA Forest Service. Emigrant Crevice Withdrawal: Economics https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT3_4278865.pdf

⁸ USDA Forest Service. Emigrant Crevice Withdrawal: Economics https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT3_4278865.pdf.

⁹ *Id.* at 2.

¹⁰ *Id.*

¹¹ USDA Emigrant Crevice Mineral Withdrawal Environmental Assessment https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT3_4278748.pdf.

near Yellowstone National Park.¹² That being said, no recent economic analysis has been conducted to determine the potential value of critical minerals or other materials which may be available in the proposed withdrawal areas.

Major Provisions of H.R. 4644

- Subject to valid existing rights in existence on the date of enactment of this Act, the National Forest System land and interests in the National Forest System land, as depicted on the map entitled “Emigrant Crevice Proposed Withdrawal Area” and dated November 10, 2016, is withdrawn from:
 - (1) location, entry, and patent under the mining laws; and
 - (2) disposition under all laws pertaining to mineral and geothermal leasing.
- Nothing in this Act affects any recreational use, including hunting or fishing, that is authorized on land within the area depicted on the map under applicable law as of the date of enactment of the Act.
- Any land or interest in land within the area depicted on the map that is acquired by the United States after the date of enactment of this Act shall, on acquisition, be immediately withdrawn in accordance with this section.

Cost

CBO has not scored the legislation.

Administration Position

On September 21, 2018, the U.S. Forest Service completed an environmental assessment of the proposed withdrawal and recommended, through the Bureau of Land Management, that the Secretary of the Interior withdraw the area in question from mineral entry for 20 years, subject to valid existing rights.¹³

Anticipated Amendments

None at this time.

Effect on Current Law (Ramseyer)

None.

¹² Letter to Rep. Gianforte (R-MT) from Yellowstone Gateway Business Coalition.

¹³ USFS, Emigrant Crevice Locatable Mineral Withdrawal, Project Documents, Recommendation Letter 2018, https://www.fs.usda.gov/nfs/11558/www/nepa/106272_FSPLT3_4428944.pdf