Public Law 100-499
100th Congress

An Act

To designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes.

Oct. 18, 1988
[H.R. 4354]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Winding Stair Mountain National Recreation and Wilderness Area Act.
Conservation.
Environmental protection.
Historic preservation.
16 USC 460vv note.
16 USC 460vv.

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) select areas of undeveloped National Forest System lands in the State of Oklahoma possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) and other studies of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's second roadless area review and evaluation, of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values, and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws;

(4) many areas of the Ouachita National Forest possess qualities that can only be expressed and utilized in such a manner that designation of such areas as a national recreation area is appropriate for the maximum potential and enjoyment of the area by the American people;

(5) select areas possess unique plant and tree species and plant communities that are significant in their occurrence, variety and location and warrant designation as botanical areas; and

(6) select areas possess unique scenic and wildlife qualities that designation of such areas as a national scenic area and a national scenic and wildlife area is appropriate for the preservation of the natural beauty and wildlife habitat for the enjoyment of the American people.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Oklahoma as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and to ensure that certain other National Forest System lands in the State of Oklahoma be available for nonwilderness multiple uses; and

(2) designate certain National Forest System lands in the State of Oklahoma as a national recreation area, 2 botanical areas, a national scenic area, and a national scenic and wildlife area in order to enhance and further certain natural resources characteristics.

16 USC 460vv-1.

SEC. 3. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Oklahoma are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

16 USC 1132 note.

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 4,583 acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness—Proposed", dated March 1988, and which shall be known as the Black Fork Mountain Wilderness.

16 USC 1132 note.

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 9,371 acres, as generally depicted on a map entitled "Upper Kiamichi River Wilderness—Proposed", dated March 1988, and which shall be known as the Upper Kiamichi River Wilderness.

16 USC 460vv-2.

SEC. 4. MAPS AND DESCRIPTIONS.

As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

16 USC 460vv-3.

SEC. 5. ADMINISTRATION.

Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the

Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 6. WILDERNESS REVIEW. 16 USC 460vv-4.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Oklahoma and of the environmental impacts associated with alternative allocations of such areas.

(b) CONGRESSIONAL DETERMINATION AND DIRECTION.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to National Forest System lands in States other than Oklahoma, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Oklahoma;

(2) with respect to the National Forest System lands in the State of Oklahoma which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oklahoma reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, except that such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Oklahoma are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources

Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of the National Forest System lands in the State of Oklahoma for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) USE OF TERM.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) APPLICATION OF PROVISIONS.—The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Oklahoma in the Ouachita National Forest which were evaluated in the Rich Mountain and Beech Creek unit plans; and

(2) National Forest System roadless lands in the State of Oklahoma which are less than five thousand acres in size.

16 USC 460vv-5.

SEC. 7. ADJACENT MANAGEMENT.

Congress does not intend that designation of wilderness areas in the State of Oklahoma lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

16 USC 460vv-6.

SEC. 8. WINDING STAIR MOUNTAIN NATIONAL RECREATION AREA.

Fish and fishing.

(a) ESTABLISHMENT.—In order to ensure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, there is hereby established the Winding Stair Mountain National Recreation Area located in the Ouachita National Forest, Oklahoma.

Public information.

(b) AREA INCLUDED.—The Winding Stair Mountain National Recreation Area (hereafter in this Act referred to as the "recreation area") shall comprise approximately 26,445 acres as generally depicted on the map entitled "Winding Stair Mountain National Recreation Area—Proposed", dated March 1988, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

(c) MAPS AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

(d) ADMINISTRATION.—The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management and utilization of natural resources within the recreation area shall be permitted to the extent such management and utilization is compatible with and does not impair the purposes for which the recreation area is established.

(e) TIMBER MANAGEMENT.—Any sales of timber from within the recreation area shall be designed so as to not detract from the scenic values of the recreation area. Management practices that would detract from the scenic quality and natural beauty within view from the Talimena Drive or the Holson Valley Road shall not be conducted in the recreation area. Unevenaged timber management shall be the timber management practice in the recreation area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or allow scenic vistas and recreational development or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

Safety.
Pests and pesticides.

SEC. 9. BOTANICAL AREAS.

16 USC 460vv-7.

(a) DESIGNATION.—In order to protect and interpret to the public area within the Ouachita National Forest which contain unique plant species and unique plant communities that are significant in their occurrence, variety and location, the following lands are hereby designated as botanical areas:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately eight thousand and twenty-six acres as generally depicted on a map entitled "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area—Proposed", dated March 1988, which shall be known as the "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area".

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately four hundred acres as generally depicted on a map entitled "Beech Creek Botanical Area—Proposed", dated March 1988, which shall be known as the "Beech Creek Botanical Area".

(b) MAP AND DESCRIPTION.—The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the botanical areas with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

(c) ADMINISTRATION.—The Secretary shall administer the botanical areas in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Except as provided in section 16 of this Act, vegetative manipulation, includ-

ing the cutting of trees, shall be permitted in such areas only when necessary for the protection and interpretation of the unique plant species and unique plant communities within the area. The Secretary may permit expansion of roads, improvements, and other facilities in the vicinity of the Robert S. Kerr Nature Center.

16 USC 460vv-8.

SEC. 10. INDIAN NATIONS NATIONAL SCENIC AND WILDLIFE AREA.

(a) DESIGNATION.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Indian Nations National Scenic and Wildlife Area-Proposed", dated March 1988, are hereby designated as the "Indian Nations National Scenic and Wildlife Area" (hereinafter in this Act referred to as the "national scenic and wildlife area").

(b) MAP AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the enactment of this Act, file a map and a legal description of the national scenic and wildlife area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

(c) ADMINISTRATION.—The Secretary shall administer the national scenic and wildlife area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management practices within the national scenic and wildlife area that would detract from the scenic quality and natural beauty of the Talimena Drive and Holson Valley Road viewsheds shall be prohibited. Timber management practices within the national scenic and wildlife area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged timber management shall be the timber management practice in the national scenic and wildlife area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

Safety. Pests and pesticides.

16 USC 460vv-9.

SEC. 11. BEECH CREEK NATIONAL SCENIC AREA.

(a) DESIGNATION.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Beech Creek National Scenic Area—Proposed", dated March 1988, are hereby designated as the "Beech Creek National Scenic Area" (hereinafter in this Act referred to as the "national scenic area").

(b) MAP AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the enactment of this Act, file a map and a legal

description of the national scenic area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

(c) ADMINISTRATION.—The Secretary shall administer the national scenic area in accordance with the laws, rules, and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Timber management practices within the area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged management shall be the timber management practice in the area, except that the Secretary is authorized to use evenaged management practices in order to promote public safety or to mitigate the effects of fire, insects, and disease.

Safety. Pests and pesticides.

SEC. 12. NOMENCLATURE.

16 USC 460vv-10.

The wilderness areas, the national recreation area, the national scenic and wildlife area, the national scenic area, and the botanical areas designated in this Act shall be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area".

SEC. 13. TIMBER MANAGEMENT REPORT.

16 USC 460vv-11.

The Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a report on the timber management program on those lands of the Ouachita National Forest located in Le Flore County, Oklahoma, each year after the enactment of this Act for a period of 20 years. Each such report shall include information on timber management practices, sale preparation, harvest levels, reforestation, forest pest and damage problems, multiple use mitigation practices, including wildlife enhancement, recreation, protection of scenery, vegetation conversion, roads, and vegetative cover along streams, roads and trails. The report shall also include an economic impact statement of the Ouachita National Forest in Le Flore County, Oklahoma, on the timber industry and the tourism and recreation industry.

SEC. 14. ADVISORY COMMITTEE.

16 USC 460vv-12.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), no later than 90 days after the date of enactment of this Act, the Secretary is directed to establish an advisory committee for Ouachita National Forest lands in Le Flore County, Oklahoma. The Committee's purpose shall be advisory in nature and the Committee shall provide information and recommendations to the Secretary regarding the operation of the Ouachita National Forest in Le Flore County. The Committee shall be composed of representatives from the local area in which the Ouachita National Forest is located

equally divided among conservation, timber, fish and wildlife, tourism and recreation, and economic development interests.

16 USC 460vv-13.

SEC. 15. PLANNING.

(a) FOREST MANAGEMENT PLAN.—The Secretary shall amend the Ouachita National Forest land and resource management plan to include provisions regarding the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area, and the national scenic area designated by this Act. The amendment shall further the purposes for these areas as specified in this Act and shall be developed in accordance with the provisions of the National Forest Management Act, including provisions for public involvement. The Secretary shall consult with the local advisory committee established under section 14 of this Act regard-ing the development and implementation of the amendment required under this subsection.

(b) TOURISM AND RECREATION.—The plan shall include a section with provisions to promote tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area and the national scenic area are designated.

(c) LOCAL ADVISORY GROUP.—No later than 90 days after the date of enactment of this Act the Secretary shall designate a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the amendment as required under subsection (b). The Secretary shall request the group to submit to the Secretary, within 12 months after its designation as an advisory group, a draft for such section. No later than 90 days after receiving such draft, the Secretary shall make any revisions and provide them to the group for review. The Secretary shall allow at least 60 days for the group to submit to the Secretary its comments on the revisions. The Secretary shall attempt to resolve any differences prior to his approval or disapproval of the amendment to the forest plan.

(d) AUTHORIZATION.—There are hereby authorized to be appropriated not to exceed $15,000,000 for tourism and recreation improvements related to the Winding Stair Mountain National Recreation and Wilderness Area in Ouachita National Forest in Le Flore County, Oklahoma.

Corporations.

(e) IMPLEMENTATION.—The Secretary is authorized and encouraged to seek local nonprofit entities and the private sector for development of tourism and recreation initiatives in implementing the tourism and recreation section of the plan.

16 USC 460vv-14.

SEC. 16. FIRE, INSECT, AND DISEASE.

Nothing in this Act shall preclude the Secretary of Agriculture from carrying out such measures in the recreation area, the national scenic and wildlife area, the national scenic area, or in the botanical areas established by this Act as the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease or for public health and safety. As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within the wilderness areas designated by this Act.

SEC. 17. GRAZING.

16 USC 460vv-15.

Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary of Agriculture shall permit grazing on lands within the Ouachita National Forest, Le Flore County, Oklahoma.

SEC. 18. FISHING AND WILDLIFE.

16 USC 460vv-16.

Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to wildlife and fish in the areas designated by this Act.

SEC. 19. PERMITS.

State and local governments. Corporations. 16 USC 460vv-17.

The Secretary shall cooperate with other Federal agencies, with State and local public agencies and bodies, and with private individuals and organizations in the issuance of permits for facilities, services, and recreational facilities in the Winding Stair Mountain National Recreation and Wilderness Area. In issuing such permits, the Secretary is authorized and encouraged to consider local nonprofit entities and the private sector.

SEC. 20. LAND ACQUISITION.

16 USC 460vv-18. Gifts and property.

(a) AUTHORITY.—The Secretary of Agriculture is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, any lands or interests therein, which the Secretary determines are needed to establish and manage the Winding Stair Mountain National Recreation and Wilderness Area.

(b) OFFERS.—In exercising the authority conferred by this section to acquire lands, the Secretary of Agriculture shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Winding Stair Mountain National Recreation and Wilderness Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(c) ADDITIONAL FACILITIES.—The Secretary of Agriculture may acquire sites at locations outside such boundaries of the Winding Stair Mountain National Recreation and Wilderness Area, as he determines necessary, for visitor orientation and the establishment of a lodge and additional facilities to enhance the quality of the area.

Gifts and property.

(d) ADDITIONAL LANDS.—Notwithstanding the limitations contained in section 7(a)(1) of the Land and Water Conservation Fund Act of 1965, the Secretary of Agriculture may acquire by purchase, exchange, donation or otherwise any right, title, and interest in lands in Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. No such right, title or interest may be acquired without the consent of the owner thereof. All lands and interests therein acquired under this subsection shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911, commonly referred to as the Weeks Act (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the national forest system. The Secretary of Agriculture shall extend the boundaries of the Ouachita National Forest to include such lands.

16 USC 460vv-19.

SEC. 21. ACREAGES.

The acreage specified in this Act is approximate and in the event of discrepancies between cited acreage and the lands depicted on reference maps, the maps shall control.

Approved October 18, 1988.

LEGISLATIVE HISTORY—H.R. 4354 (S. 2571):

HOUSE REPORTS: No. 100-792, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).

SENATE REPORTS: No. 100-576 accompanying S. 2571 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 8, considered and passed House.

Sept. 30, considered and passed Senate, amended, in lieu of S. 2571.

Oct. 3, 4, House concurred in Senate amendment.

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