

103^D CONGRESS
1ST SESSION

H. R. 236

IN THE SENATE OF THE UNITED STATES

MAY 13 (legislative day, APRIL 19), 1993

Received

MAY 18 (legislative day, APRIL 19), 1993

Read twice and referred to the Committee on Energy and Natural Resources

AN ACT

To establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 The Congress finds the following:

5 (1) The public lands managed by the Bureau of
6 Land Management in the State of Idaho within the
7 Snake River Birds of Prey Area contain one of the
8 densest known nesting populations of eagles, falcons,
9 owls, hawks, and other birds of prey (raptors) in
10 North America.

1 (2) These public lands constitute a valuable na-
2 tional biological and educational resource since birds
3 of prey are important components of the ecosystem
4 and indicators of environmental quality, and contrib-
5 ute significantly to the quality of wildlife and human
6 communities.

7 (3) These public lands also contain important
8 historic and cultural resources (including significant
9 archaeological resources) as well as other resources
10 and values, all of which should be protected and ap-
11 propriately managed.

12 (4) A military training area within the Snake
13 River Birds of Prey Area, known as the Orchard
14 Training Area, has been used since 1953 by reserve
15 components of the Armed Forces. Military use of
16 this area is currently governed by a Memorandum of
17 Understanding between the Bureau of Land Man-
18 agement and the State of Idaho Military Division,
19 dated May 1985. Operating under this Memoran-
20 dum of Understanding, the Idaho National Guard
21 has provided valuable assistance to the Bureau of
22 Land Management with respect to fire control and
23 other aspects of management of the Orchard Train-
24 ing Area and the other lands in the Snake River
25 Birds of Prey Area. Military use of the lands within

1 the Orchard Training Area should continue in ac-
2 cordance with such Memorandum of Understanding
3 (or extension or renewal thereof), to the extent con-
4 sistent with section 4(e) of this Act, because this
5 would be in the best interest of training of the re-
6 serve components (an important aspect of national
7 security) and of the local economy.

8 (5) Protection of the conservation area as a
9 home for raptors can best and should be accom-
10 plished by the Secretary of the Interior, acting
11 through the Bureau of Land Management, under a
12 management plan that—

13 (A) emphasizes management, protection,
14 and rehabilitation of habitat for these raptors
15 and of other resources and values of the area;

16 (B) provides for continued military use,
17 consistent with the requirements of section 4(e)
18 of this Act, of the Orchard Training Area by re-
19 serve components of the Armed Forces;

20 (C) addresses the need for public edu-
21 cational and interpretive opportunities;

22 (D) allows for diverse appropriate uses of
23 lands in the area to the extent consistent with
24 the maintenance and enhancement of raptor
25 populations and habitats and protection and

1 sound management of other resources and val-
2 ues of the area; and

3 (E) demonstrates management practices
4 and techniques that may be useful to other
5 areas of the public lands and elsewhere.

6 (6) There exists near the conservation area a
7 facility, the World Center for Birds of Prey operated
8 by The Peregrine Fund, Inc., where research, public
9 education, recovery, and reestablishment operations
10 exist for endangered raptor species. There also exists
11 at Boise State University a raptor study program
12 which attracts national and international graduate
13 and undergraduate students.

14 (7) The Bureau of Land Management and
15 Boise State University, together with other State,
16 Federal, and private entities, have formed the
17 Raptor Research and Technical Assistance Center to
18 be housed at Boise State University, which provides
19 a unique adjunct to the conservation area for raptor
20 management, recovery, research, and public visita-
21 tion, interpretation, and education.

22 (8) Consistent with requirements of sections
23 202 and 302 of the Federal Land Policy and Man-
24 agement Act of 1976 (43 U.S.C. 1712 and 1732),
25 the Secretary has developed a comprehensive man-

1 agement plan and, based on such plan, has imple-
2 mented a management program for the public lands
3 included in the conservation area established by this
4 Act.

5 (9) Additional authority and guidance must be
6 provided to assure that essential raptor habitat re-
7 mains in public ownership, to facilitate sound and
8 effective planning and management, to provide for
9 effective public interpretation and education, to en-
10 sure continued study of the relationship of humans
11 and these raptors, to preserve the unique and irre-
12 placeable habitat of the conservation area, and to
13 conserve and properly manage the other natural re-
14 sources of the area in concert with maintenance of
15 this habitat.

16 (10) An ongoing research program funded by
17 the Bureau of Land Management and the National
18 Guard is intended to provide information to be used
19 in connection with future decisionmaking concerning
20 management of all uses, including continued military
21 use, of public lands within the Snake River Birds of
22 Prey Area.

23 (11) Public lands in the Snake River Birds of
24 Prey Area have been used for domestic livestock
25 grazing for more than a century, with resultant ben-

1 efits to community stability and contributions to the
2 local and State economies. It has not been dem-
3 onstrated that continuation of this use would be in-
4 compatible with appropriate protection and sound
5 management of raptor habitat and the other re-
6 source values of these lands; therefore, subject to the
7 determination provided for in section 4(f), it is ex-
8 pected that such grazing will continue in accordance
9 with applicable regulations of the Secretary and the
10 management plan for the conservation area.

11 (12) Hydroelectric facilities for the generation
12 and transmission of electricity exist within the
13 Snake River Birds of Prey Area pursuant to a
14 license(s) issued by the Federal Energy Regulatory
15 Commission, or its predecessor, the Federal Power
16 Commission.

17 **SEC. 2. DEFINITIONS.**

18 As used in this Act:

19 (1) The term “Secretary” means the Secretary
20 of the Interior.

21 (2) The term “conservation area” means the
22 Snake River Birds of Prey National Conservation
23 Area established by section 3.

1 (3) The term “raptor” or “raptors” means indi-
2 viduals or populations of eagles, falcons, owls,
3 hawks, and other birds of prey.

4 (4) The term “raptor habitat” includes the
5 habitat of the raptor prey base as well as the nesting
6 and hunting habitat of raptors within the conserva-
7 tion area.

8 (5) The term “Memorandum of Understand-
9 ing” means the Memorandum of Understanding
10 #ID-237, dated May 1985, between the State of
11 Idaho Military Division and the Bureau of Land
12 Management.

13 (6) The term “Orchard Training Area” means
14 that area generally so depicted on the map referred
15 to in section 3(b), and as described in the Memoran-
16 dum of Understanding as well as the air space over
17 the same.

18 (7) The term “Impact Area” means that area
19 which was used for the firing of live artillery projec-
20 tiles and is used for live fire ranges of all types and,
21 therefore, poses a danger to public safety and which
22 is generally so depicted on the map referred to in
23 section 3(b).

24 (8) The term “Artillery Impact Area” means
25 that area within the Impact Area into which live

1 projectiles are fired, which is generally described as
2 that area labeled as such on the map referred to in
3 section 3(b).

4 (9) The term “the plan” means the comprehen-
5 sive management plan developed for the conservation
6 area, dated August 30, 1985, together with such re-
7 visions thereto as may be required in order to imple-
8 ment this Act.

9 (10) The term “hydroelectric facilities” means
10 all facilities related to the generation, transmission,
11 and distribution of hydroelectric power and which
12 are subject to, and authorized by, a license(s), and
13 any and all amendments thereto, issued by the Fed-
14 eral Energy Regulatory Commission.

15 **SEC. 3. ESTABLISHMENT OF NATIONAL CONSERVATION**
16 **AREA.**

17 (a) ESTABLISHMENT AND PURPOSES.—(1) There is
18 hereby established the Snake River Birds of Prey National
19 Conservation Area (hereafter referred to as the “conserva-
20 tion area”).

21 (2) The purposes for which the conservation area is
22 established, and shall be managed, are to provide for the
23 conservation, protection, and enhancement of raptor popu-
24 lations and habitats and the natural and environmental
25 resources and values associated therewith, and of the sci-

1 entific, cultural, and educational resources and values of
2 the public lands in the conservation area.

3 (3) Subject to the provisions of subsection (d) of this
4 section and section 4, uses of the public lands in the con-
5 servation area existing on the date of enactment of this
6 Act shall be allowed to continue.

7 (b) AREA INCLUDED.—The conservation area shall
8 consist of approximately 482,457 acres of Federally owned
9 lands and interests therein managed by the Bureau of
10 Land Management as generally depicted on the map enti-
11 tled “Snake River Birds of Prey National Conservation
12 Area”, dated November 1991.

13 (c) MAP AND LEGAL DESCRIPTION.—As soon as is
14 practicable after enactment of this Act, the map referred
15 to in subsection (b) and a legal description of the con-
16 servation area shall be filed by the Secretary with the
17 Committee on Natural Resources of the House of Rep-
18 resentatives and the Committee on Energy and Natural
19 Resources of the Senate. Each such map shall have the
20 same force and effect as if included in this Act; except
21 that the Secretary may correct clerical and typographical
22 errors in such map and legal description. Each such map
23 shall be on file and available for public inspection in the
24 office of the Director and the Idaho State Director of the

1 Bureau of Land Management of the Department of the
2 Interior.

3 (d) WITHDRAWALS.—Subject to valid existing rights,
4 the Federal lands within the conservation area are hereby
5 withdrawn from all forms of entry, appropriation, or dis-
6 posal under the public land laws; and from entry, applica-
7 tion, and selection under the Act of March 3, 1877 (Ch.
8 107, 19 Stat. 377, 43 U.S.C. 321 et seq.; commonly re-
9 ferred to as the “Desert Lands Act”), section 4 of the
10 Act of August 18, 1894 (Ch. 301, 28 Stat. 422; 43 U.S.C.
11 641; commonly referred to as the “Carey Act”), the Act
12 of July 3, 1890 (Ch. 656, 26 Stat. 215; commonly referred
13 to as the “State of Idaho Admissions Act”), section 2275
14 of the Revised Statutes, as amended (43 U.S.C. 851), and
15 section 2276 of the Revised Statutes, as amended (43
16 U.S.C. 852). The Secretary shall return to the applicants
17 any such applications pending on the date of enactment
18 of this Act, without further action. Subject to valid exist-
19 ing rights, as of the date of enactment of this Act, lands
20 within the Birds of Prey Conservation Area are withdrawn
21 from location under the general mining laws, the operation
22 of the mineral and geothermal leasing laws, and the min-
23 eral material disposal laws, except that mineral materials
24 subject to disposal may be made available from existing

1 sites to the extent compatible with the purposes for which
2 the conservation area is established.

3 **SEC. 4. MANAGEMENT AND USE.**

4 (a) IN GENERAL.—(1)(A) Within 1 year after the
5 date of enactment of this Act, the Secretary shall make
6 any revisions in the existing management plan for the con-
7 servation area as necessary to assure its conformance with
8 this Act, and no later than January 1, 1996, shall finalize
9 a new management plan for the conservation area.

10 (B) Thereafter, the Secretary shall review the plan
11 at least once every 5 years and shall make such revisions
12 as may be necessary or appropriate.

13 (C) In reviewing and revising the plan, the Secretary
14 shall provide for appropriate public participation.

15 (2) Except as otherwise specifically provided in sec-
16 tion 3(d) and subsections (d), (e), and (f) of this section,
17 the Secretary shall allow only such uses of lands in the
18 conservation area as the Secretary determines will further
19 the purposes for which the Conservation Area is estab-
20 lished.

21 (b) MANAGEMENT GUIDANCE.—After each review
22 pursuant to subsection (a), the Secretary shall make such
23 revisions as may be needed so that the plan and manage-
24 ment program to implement the plan include, in addition

1 to any other necessary or appropriate provisions, provi-
2 sions for—

3 (1) protection for the raptor populations and
4 habitats and the scientific, cultural, and educational
5 resources and values of the public lands in the con-
6 servation area;

7 (2) identifying levels of continued military use
8 of the Orchard Training Area compatible with para-
9 graph (1) of this subsection;

10 (3) public use of the conservation area consist-
11 ent with the purposes of this Act;

12 (4) interpretive and educational opportunities
13 for the public;

14 (5) a program for continued scientific investiga-
15 tion and study to provide information to support
16 sound management in accordance with this Act, to
17 advance knowledge of raptor species and the re-
18 sources and values of the conservation area, and to
19 provide a process for transferring to other areas of
20 the public lands and elsewhere this knowledge and
21 management experience;

22 (6) such vegetative enhancement and other
23 measures as may be necessary to restore or enhance
24 prey habitat;

1 (7) the identification of levels, types, timing,
2 and terms and conditions for the allowable non-
3 military uses of lands within the conservation area
4 that will be compatible with the protection, mainte-
5 nance, and enhancement of raptor populations and
6 habitats and the other purposes for which the con-
7 servation area is established; and

8 (8) assessing the desirability of imposing appro-
9 priate fees for public uses (including, but not limited
10 to, recreational use) of lands in the conservation
11 area, which are not now subject to fees, to be used
12 to further the purposes for which the conservation
13 area is established.

14 (c) VISITORS CENTER.—The Secretary, acting
15 through the Director of the Bureau of Land Management,
16 is authorized to establish, in cooperation with other public
17 or private entities as the Secretary may deem appropriate,
18 a visitors center designed to interpret the history and the
19 geological, ecological, natural, cultural, and other re-
20 sources of the conservation area and the biology of the
21 raptors and their relationships to man.

22 (d) VISITORS USE OF AREA.—In addition to the Visi-
23 tors Center, the Secretary may provide for visitor use of
24 the public lands in the conservation area to such extent
25 and in such manner as the Secretary considers consistent

1 with the protection of raptors and raptor habitat, public
2 safety, and the purposes for which the conservation area
3 is established. To the extent practicable, the Secretary
4 shall make available to visitors and other members of the
5 public a map of the conservation area and such other edu-
6 cational and interpretive materials as may be appropriate.

7 (e) NATIONAL GUARD USE OF THE AREA.—(1)
8 Pending completion of the ongoing research concerning
9 military use of lands in the conservation area, or until the
10 date 5 years after the date of enactment of this Act,
11 whichever is the shorter period, the Secretary shall permit
12 continued military use of those portions of the conserva-
13 tion area known as the Orchard Training Area in accord-
14 ance with the Memorandum of Understanding, to the ex-
15 tent consistent with the use levels identified pursuant to
16 subsection (b)(2) of this section.

17 (2) Upon completion of the ongoing research concern-
18 ing military use of lands in the conservation area, the Sec-
19 retary shall review the management plan and make such
20 additional revisions therein as may be required to assure
21 that it meets the requirements of this Act.

22 (3) Upon completion of the ongoing research concern-
23 ing military use of lands in the conservation area, the Sec-
24 retary shall submit to the Committees on Natural Re-
25 sources and Merchant Marine and Fisheries of the House

1 of Representatives and the Committee on Energy and
2 Natural Resources of the Senate a report of the results
3 of such research.

4 (4) Nothing in this Act shall preclude minor adjust-
5 ment of the boundaries of the Orchard Training Area in
6 accordance with provisions of the Memorandum of Under-
7 standing.

8 (5) After completion of the ongoing research concern-
9 ing military use of lands in the Orchard Training Area
10 or after the date 5 years after the date of enactment of
11 this Act, whichever first occurs, the Secretary shall con-
12 tinue to permit military use of such lands, unless the Sec-
13 retary, on the basis of such research, determines such use
14 is not compatible with the purposes set forth in section
15 3(a)(2). Any such use thereafter shall be permitted in ac-
16 cordance with the Memorandum of Understanding, which
17 may be extended or renewed by the Secretary so long as
18 such use continues to meet the requirements of subsection
19 (b)(2) of this section.

20 (6) In accordance with the Memorandum of Under-
21 standing, the Secretary shall require the State of Idaho
22 Military Division to insure that military units involved
23 maintain a program of decontamination.

24 (7) Nothing in this Act shall be construed as by itself
25 precluding the extension or renewal of the Memorandum

1 of Understanding, or the construction of any improve-
2 ments or buildings in the Orchard Training Area so long
3 as the requirements of this subsection are met.

4 (f) LIVESTOCK GRAZING.—(1) So long as the Sec-
5 retary determines that domestic livestock grazing is com-
6 patible with the purposes for which the conservation area
7 is established, the Secretary shall permit such use of pub-
8 lic lands within the conservation area, to the extent such
9 use of such lands is compatible with such purposes. Deter-
10 minations as to compatibility shall be made in connection
11 with the initial revision of management plans for the con-
12 servation area and in connection with each plan review re-
13 quired by section 4(a)(1)(B).

14 (2) Any livestock grazing on public lands within the
15 conservation area, and activities the Secretary determines
16 necessary to carry out proper and practical grazing man-
17 agement programs on such lands (such as animal damage
18 control activities) shall be managed in accordance with the
19 Act of June 28, 1934 (43 U.S.C. 315 et seq.; commonly
20 referred to as the “Taylor Grazing Act”), section 402 of
21 the Federal Land Policy and Management Act of 1976
22 (43 U.S.C. 1752), other laws applicable to such use and
23 programs on the public lands, and the management plan
24 for the conservation area.

1 (g) COOPERATIVE AGREEMENTS.—The Secretary is
2 authorized to provide technical assistance to, and to enter
3 into such cooperative agreements and contracts with, the
4 State of Idaho and with local governments and private en-
5 tities as the Secretary deems necessary or desirable to
6 carry out the purposes and policies of this Act.

7 (h) AGRICULTURAL PRACTICES.—Nothing in this Act
8 shall be construed as constituting a grant of authority to
9 the Secretary to restrict recognized agricultural practices
10 or other activities on private land adjacent to or within
11 the conservation area boundary.

12 (i) HYDROELECTRIC FACILITIES.—Notwithstanding
13 any provision of this Act, or regulations and management
14 plans undertaken pursuant to its provisions, the Federal
15 Energy Regulatory Commission shall retain its current ju-
16 risdiction concerning all aspects of the continued and fu-
17 ture operation of hydroelectric facilities, licensed or reli-
18 censed under the Federal Power Act (16 U.S.C. 791a et
19 seq.), located within the boundaries of the conservation
20 area.

21 **SEC. 5. ADDITIONS.**

22 (a) ACQUISITIONS.—(1) The Secretary is authorized
23 to acquire lands and interests therein within the bound-
24 aries of the conservation area by donation, purchase with
25 donated or appropriated funds, exchange, or transfer from

1 another Federal agency, except that such lands or inter-
2 ests owned by the State of Idaho or a political subdivision
3 thereof may be acquired only by donation or exchange.

4 (2) Any lands located within the boundaries of the
5 conservation area that are acquired by the United States
6 on or after the date of enactment of this Act shall become
7 a part of the conservation area and shall be subject to
8 this Act.

9 (b) PURCHASE OF LANDS.—In addition to the au-
10 thority in section 318(d) of the Federal Land Policy and
11 Management Act of 1976 (43 U.S.C. 1748) and notwith-
12 standing section 7(a) of the Land and Water Conservation
13 Fund Act of 1964 (16 U.S.C. 4601–9(a)), monies appro-
14 priated from the Land and Water Conservation Fund may
15 be used as authorized in section 5(b) of the Endangered
16 Species Act of 1973 (16 U.S.C. 1534(b)), for the purposes
17 of acquiring lands or interests therein within the conserva-
18 tion area for administration as public lands as a part of
19 the conservation area.

20 (c) LAND EXCHANGES.—The Secretary shall, within
21 4 years after the date of enactment of this Act, study,
22 identify, and initiate voluntary land exchanges which
23 would resolve ownership related land use conflicts within
24 the conservation area.

1 **SEC. 6. OTHER LAWS AND ADMINISTRATIVE PROVISIONS.**

2 (a) OTHER LAWS.—(1) Nothing in this Act shall be
3 construed to supersede, limit, or otherwise affect adminis-
4 tration and enforcement of the Endangered Species Act
5 of 1973 (16 U.S.C. 1531 et seq.) or to limit the applicabil-
6 ity of the National Trails System Act to any lands within
7 the conservation area.

8 (2) Except as otherwise specifically provided in this
9 Act, nothing in this Act shall be construed as limiting the
10 applicability to lands in the conservation area of laws ap-
11 plicable to public lands generally, including but not limited
12 to the National Historic Preservation Act, the Archae-
13 ological Resources Protection Act of 1979, or the Native
14 American Graves Protection and Repatriation Act.

15 (3) Nothing in this Act shall be construed as by itself
16 altering the status of any lands that on the date of enact-
17 ment of this Act were not managed by the Bureau of Land
18 Management.

19 (4) Nothing in this Act shall be construed as prohibit-
20 ing the Secretary from engaging qualified persons to use
21 public lands within the conservation area for the propaga-
22 tion of plants (including seeds) to be used for vegetative
23 enhancement of the conservation area in accordance with
24 the plan and in furtherance of the purposes for which the
25 conservation area is established.

1 (b) RELEASE.—The Congress finds and directs that
2 the public lands within the Snake River Birds of Prey Nat-
3 ural Area established as a natural area in October 1971
4 by Public Land Order 5133 have been adequately studied
5 and found unsuitable for wilderness designation pursuant
6 to section 603 of the Federal Land Policy and Manage-
7 ment Act of 1976. Such lands are hereby released from
8 further management pursuant to section 603(c) of such
9 an Act and shall be managed in accordance with other
10 applicable provisions of law, including this Act.

11 (c) EXISTING ADMINISTRATIVE WITHDRAWAL TER-
12 MINATED.—Public Land Orders 5133 dated October 12,
13 1971, and 5777 dated November 21, 1980, issued by the
14 Secretary are hereby revoked subject to subsections (d)(3)
15 and (d)(4).

16 (d) WATER.—(1) The Congress finds that the United
17 States is currently a party in an adjudication of rights
18 to waters of the Snake River, including water rights
19 claimed by the United States on the basis of the reserva-
20 tion of lands for purposes of conservation of fish and wild-
21 life and that consequently there is no need for this Act
22 to effect a reservation by the United States of rights with
23 respect to such waters in order to fulfill the purposes for
24 which the conservation area is established.

