

**Calendar No. 160**

103D CONGRESS  
1ST SESSION

**H. R. 236**

**[Report No. 103-108]**

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**AN ACT**

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

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JULY 23 (legislative day, JUNE 30), 1993

Reported without amendment

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103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R. 236****[Report No. 103-108]**

## 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

JULY 23 (legislative day, JUNE 30), 1993

Reported by Mr. JOHNSTON, without amendment

**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

1        densest known nesting populations of eagles, falcons,  
2        owls, hawks, and other birds of prey (raptors) in  
3        North America.

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

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

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

1 other aspects of management of the Orchard Train-  
2 ing Area and the other lands in the Snake River  
3 Birds of Prey Area. Military use of the lands within  
4 the Orchard Training Area should continue in ac-  
5 cordance with such Memorandum of Understanding  
6 (or extension or renewal thereof), to the extent con-  
7 sistent with section 4(e) of this Act, because this  
8 would be in the best interest of training of the re-  
9 serve components (an important aspect of national  
10 security) and of the local economy.

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

16 (A) emphasizes management, protection,  
17 and rehabilitation of habitat for these raptors  
18 and of other resources and values of the area;

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

23 (C) addresses the need for public edu-  
24 cational and interpretive opportunities;

1 (D) allows for diverse appropriate uses of  
2 lands in the area to the extent consistent with  
3 the maintenance and enhancement of raptor  
4 populations and habitats and protection and  
5 sound management of other resources and val-  
6 ues of the area; and

7 (E) demonstrates management practices  
8 and techniques that may be useful to other  
9 areas of the public lands and elsewhere.

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

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

1           (8) Consistent with requirements of sections  
2           202 and 302 of the Federal Land Policy and Man-  
3           agement Act of 1976 (43 U.S.C. 1712 and 1732),  
4           the Secretary has developed a comprehensive man-  
5           agement plan and, based on such plan, has imple-  
6           mented a management program for the public lands  
7           included in the conservation area established by this  
8           Act.

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

20          (10) An ongoing research program funded by  
21          the Bureau of Land Management and the National  
22          Guard is intended to provide information to be used  
23          in connection with future decisionmaking concerning  
24          management of all uses, including continued military

1 use, of public lands within the Snake River Birds of  
2 Prey Area.

3 (11) Public lands in the Snake River Birds of  
4 Prey Area have been used for domestic livestock  
5 grazing for more than a century, with resultant ben-  
6 efits to community stability and contributions to the  
7 local and State economies. It has not been dem-  
8 onstrated that continuation of this use would be in-  
9 compatible with appropriate protection and sound  
10 management of raptor habitat and the other re-  
11 source values of these lands; therefore, subject to the  
12 determination provided for in section 4(f), it is ex-  
13 pected that such grazing will continue in accordance  
14 with applicable regulations of the Secretary and the  
15 management plan for the conservation area.

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

22 **SEC. 2. DEFINITIONS.**

23 As used in this Act:

24 (1) The term “Secretary” means the Secretary  
25 of the Interior.

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

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

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

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

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

21           (7) The term “Impact Area” means that area  
22 which was used for the firing of live artillery projec-  
23 tiles and is used for live fire ranges of all types and,  
24 therefore, poses a danger to public safety and which

1 is generally so depicted on the map referred to in  
2 section 3(b).

3 (8) The term “Artillery Impact Area” means  
4 that area within the Impact Area into which live  
5 projectiles are fired, which is generally described as  
6 that area labeled as such on the map referred to in  
7 section 3(b).

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

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

19 **SEC. 3. ESTABLISHMENT OF NATIONAL CONSERVATION**  
20 **AREA.**

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

1           (2) The purposes for which the conservation area is  
2 established, and shall be managed, are to provide for the  
3 conservation, protection, and enhancement of raptor popu-  
4 lations and habitats and the natural and environmental  
5 resources and values associated therewith, and of the sci-  
6 entific, cultural, and educational resources and values of  
7 the public lands in the conservation area.

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

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

18           (c) MAP AND LEGAL DESCRIPTION.—As soon as is  
19 practicable after enactment of this Act, the map referred  
20 to in subsection (b) and a legal description of the con-  
21 servation area shall be filed by the Secretary with the  
22 Committee on Natural Resources of the House of Rep-  
23 resentatives and the Committee on Energy and Natural  
24 Resources of the Senate. Each such map shall have the  
25 same force and effect as if included in this Act; except

1 that the Secretary may correct clerical and typographical  
2 errors in such map and legal description. Each such map  
3 shall be on file and available for public inspection in the  
4 office of the Director and the Idaho State Director of the  
5 Bureau of Land Management of the Department of the  
6 Interior.

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

1 of the mineral and geothermal leasing laws, and the min-  
2 eral material disposal laws, except that mineral materials  
3 subject to disposal may be made available from existing  
4 sites to the extent compatible with the purposes for which  
5 the conservation area is established.

6 **SEC. 4. MANAGEMENT AND USE.**

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

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

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

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

24 (b) MANAGEMENT GUIDANCE.—After each review  
25 pursuant to subsection (a), the Secretary shall make such

1 revisions as may be needed so that the plan and manage-  
2 ment program to implement the plan include, in addition  
3 to any other necessary or appropriate provisions, provi-  
4 sions for—

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

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

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

14          (4) interpretive and educational opportunities  
15          for the public;

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

1           (6) such vegetative enhancement and other  
2           measures as may be necessary to restore or enhance  
3           prey habitat;

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

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

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

1 (d) VISITORS USE OF AREA.—In addition to the Visi-  
2 tors Center, the Secretary may provide for visitor use of  
3 the public lands in the conservation area to such extent  
4 and in such manner as the Secretary considers consistent  
5 with the protection of raptors and raptor habitat, public  
6 safety, and the purposes for which the conservation area  
7 is established. To the extent practicable, the Secretary  
8 shall make available to visitors and other members of the  
9 public a map of the conservation area and such other edu-  
10 cational and interpretive materials as may be appropriate.

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

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

1           (3) Upon completion of the ongoing research concern-  
2 ing military use of lands in the conservation area, the Sec-  
3 retary shall submit to the Committees on Natural Re-  
4 sources and Merchant Marine and Fisheries of the House  
5 of Representatives and the Committee on Energy and  
6 Natural Resources of the Senate a report of the results  
7 of such research.

8           (4) Nothing in this Act shall preclude minor adjust-  
9 ment of the boundaries of the Orchard Training Area in  
10 accordance with provisions of the Memorandum of Under-  
11 standing.

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

24           (6) In accordance with the Memorandum of Under-  
25 standing, the Secretary shall require the State of Idaho

1 Military Division to insure that military units involved  
2 maintain a program of decontamination.

3 (7) Nothing in this Act shall be construed as by itself  
4 precluding the extension or renewal of the Memorandum  
5 of Understanding, or the construction of any improve-  
6 ments or buildings in the Orchard Training Area so long  
7 as the requirements of this subsection are met.

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

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

1 (43 U.S.C. 1752), other laws applicable to such use and  
2 programs on the public lands, and the management plan  
3 for the conservation area.

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

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

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

1 **SEC. 5. ADDITIONS.**

2 (a) ACQUISITIONS.—(1) The Secretary is authorized  
3 to acquire lands and interests therein within the bound-  
4 aries of the conservation area by donation, purchase with  
5 donated or appropriated funds, exchange, or transfer from  
6 another Federal agency, except that such lands or inter-  
7 ests owned by the State of Idaho or a political subdivision  
8 thereof may be acquired only by donation or exchange.

9 (2) Any lands located within the boundaries of the  
10 conservation area that are acquired by the United States  
11 on or after the date of enactment of this Act shall become  
12 a part of the conservation area and shall be subject to  
13 this Act.

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

25 (c) LAND EXCHANGES.—The Secretary shall, within  
26 4 years after the date of enactment of this Act, study,

1 identify, and initiate voluntary land exchanges which  
2 would resolve ownership related land use conflicts within  
3 the conservation area.

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

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

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

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

22 (4) Nothing in this Act shall be construed as prohibit-  
23 ing the Secretary from engaging qualified persons to use  
24 public lands within the conservation area for the propaga-  
25 tion of plants (including seeds) to be used for vegetative

1 enhancement of the conservation area in accordance with  
2 the plan and in furtherance of the purposes for which the  
3 conservation area is established.

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

14 (c) EXISTING ADMINISTRATIVE WITHDRAWAL TER-  
15 MINATED.—Public Land Orders 5133 dated October 12,  
16 1971, and 5777 dated November 21, 1980, issued by the  
17 Secretary are hereby revoked subject to subsections (d)(3)  
18 and (d)(4).

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

1 respect to such waters in order to fulfill the purposes for  
2 which the conservation area is established.

3 (2) Nothing in this Act or any action taken pursuant  
4 thereto shall constitute either an expressed or implied res-  
5 ervation of water or water rights for any purpose.

6 (3) Nothing in this Act shall be construed as effecting  
7 a relinquishment or reduction of any of the water rights  
8 held or claimed by the United States within the State of  
9 Idaho or elsewhere on or before the date of enactment of  
10 this Act.

11 (4) The Secretary and all other officers of the United  
12 States shall take all steps necessary to protect all water  
13 rights claimed by the United States in the Snake River  
14 adjudication now pending in the district court of the State  
15 of Idaho in which the United States is joined under section  
16 208 of the Act of July 10, 1952 (66 Stat. 560; 43 U.S.C.  
17 666; commonly referred to as the “McCarran Amend-  
18 ment”).

19 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated such sums  
21 as may be necessary to carry out this Act.

Passed the House of Representatives May 11, 1993.

Attest: DONNALD K. ANDERSON,  
*Clerk.*

HR 236 RS—2