

103^D CONGRESS
1ST SESSION

H. R. 236

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. LARocco introduced the following bill; which was referred jointly to the
Committees on Natural Resources, and Merchant Marine and Fisheries

A BILL

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 use 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) To the extent compatible with the purposes speci-
4 fied in paragraph (2), 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, subject to the provisions
7 of this Act.

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

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

1 rector of the Bureau of Land Management of the Depart-
2 ment of the 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.

1 **SEC. 4. MANAGEMENT AND USE.**

2 (a) IN GENERAL.—(1)(A) Within 1 year after the
3 date of enactment of this Act, the Secretary shall finalize
4 a management plan that is in conformance with the re-
5 quirements of this Act.

6 (B) Thereafter, the Secretary shall review the plan
7 at least once every 4 years and shall make such revisions
8 as may be necessary or appropriate.

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

11 (2) Except as otherwise specifically provided in sub-
12 sections (d), (e), and (f) of this section, the Secretary shall
13 allow only such uses of lands in the conservation area as
14 the Secretary determines will further the purposes for
15 which the Conservation Area is established.

16 (b) MANAGEMENT GUIDANCE.—After each review
17 pursuant to subsection (a), the Secretary shall make such
18 revisions as may be needed so that the plan and manage-
19 ment program to implement the plan include, in addition
20 to any other necessary or appropriate provisions, provi-
21 sions for—

22 (1) protection for the raptor populations and
23 habitats and the scientific, cultural, and educational
24 resources and values of the public lands in the con-
25 servation area;

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

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

6 (4) interpretive and educational opportunities
7 for the public;

8 (5) a program for continued scientific investiga-
9 tion and study to provide information to support
10 sound management in accordance with this Act, to
11 advance knowledge of raptor species and the re-
12 sources and values of the conservation area, and to
13 provide a process for transferring to other areas of
14 the public lands and elsewhere this knowledge and
15 management experience;

16 (6) such vegetative enhancement and other
17 measures as may be necessary to restore or enhance
18 prey habitat;

19 (7) the identification of levels, types, timing,
20 and terms and conditions for the allowable non-
21 military uses of lands within the conservation area
22 that will be compatible with the protection, mainte-
23 nance, and enhancement of raptor populations and
24 habitats and the other purposes for which the con-
25 servation area is established; and

1 (8) assessing the desirability of imposing appro-
2 priates fees for public uses (including, but not lim-
3 ited to, recreational use) of lands in the conservation
4 area, which are not now subject to fees, to be used
5 to further the purposes for which the conservation
6 area is established.

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

15 (d) VISITORS USE OF AREA.—In addition to the Visi-
16 tors Center, the Secretary may provide for visitor use of
17 the public lands in the conservation area to such extent
18 and in such manner as the Secretary considers consistent
19 with the protection of raptors and raptor habitat, public
20 safety, and the purposes for which the conservation area
21 is established. To the extent practicable, the Secretary
22 shall make available to visitors and other members of the
23 public a map of the conservation area and such other edu-
24 cational and interpretive materials as may be appropriate.

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

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

16 (3) Upon completion of the ongoing research concern-
17 ing military use of lands in the conservation area, the Sec-
18 retary shall submit to the Committees on Interior and In-
19 sular Affairs and Merchant Marine and Fisheries of the
20 House of Representatives and the Committee on Energy
21 and Natural Resources of the Senate a report of the re-
22 sults of such research.

23 (4) Nothing in this Act shall preclude minor adjust-
24 ment of the boundaries of the Orchard Training Area in

1 accordance with provisions of the Memorandum of Under-
2 standing.

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

15 (6) In accordance with the Memorandum of Under-
16 standing, the Secretary shall require the State of Idaho
17 Military Division to insure that military units involved
18 maintain a program of decontamination.

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

24 (f) LIVESTOCK GRAZING.—(1) If the Secretary deter-
25 mines that domestic livestock grazing is compatible with

1 the purposes for which the conservation area is estab-
2 lished, the Secretary shall permit such use of public lands
3 within the conservation area, to the extent such use of
4 such lands is compatible with such purposes.

5 (2) Any livestock grazing on public lands within the
6 conservation area, and activities the Secretary determines
7 necessary to carry out proper and practical grazing man-
8 agement programs on such lands (such as animal damage
9 control activities) shall be managed in accordance with the
10 Act of June 28, 1934 (43 U.S.C. 315 et seq.; commonly
11 referred to as the “Taylor Grazing Act”), section 402 of
12 the Federal Land Policy and Management Act of 1976
13 (43 U.S.C. 1752), other laws applicable to such use and
14 programs on the public lands, and the management plan
15 for the conservation area.

16 (g) COOPERATIVE AGREEMENTS.—The Secretary is
17 authorized to provide technical assistance to, and to enter
18 into such cooperative agreements and contracts with, the
19 State of Idaho and with local governments and private en-
20 tities as the Secretary deems necessary or desirable to
21 carry out the purposes and policies of this Act.

22 (h) AGRICULTURAL PRACTICES.—Nothing in this Act
23 shall be construed as constituting a grant of authority to
24 the Secretary to restrict recognized agricultural practices

1 or other activities on private land adjacent to or within
2 the conservation area boundary.

3 (i) HYDROELECTRIC FACILITIES.—Notwithstanding
4 any provision of this Act, or regulations and management
5 plans undertaken pursuant to its provisions, the Federal
6 Energy Regulatory Commission shall retain its current ju-
7 risdiction concerning all aspects of the continued and fu-
8 ture operation of hydroelectric facilities, licensed or reli-
9 censed under the Federal Power Act (16 U.S.C. 791a et
10 seq.), located within the boundaries of the conservation
11 area.

12 **SEC. 5. ADDITIONS.**

13 (a) ACQUISITIONS.—(1) The Secretary is authorized
14 to acquire lands and interests therein within the bound-
15 aries of the conservation area by donation, purchase with
16 donated or appropriated funds, exchange, or transfer from
17 another Federal agency, except that such lands or inter-
18 ests owned by the State of Idaho or a political subdivision
19 thereof may be acquired only by donation or exchange.

20 (2) Any lands located within the boundaries of the
21 conservation area that are acquired by the United States
22 on or after the date of enactment of this Act shall become
23 a part of the conservation area and shall be subject to
24 this Act.

1 (b) PURCHASE OF LANDS.—In addition to the au-
2 thority in section 318(d) of the Federal Land Policy Man-
3 agement Act of 1976 (43 U.S.C. 1748) and notwithstand-
4 ing section 7(a) of the Land and Water Conservation
5 Fund Act of 1964 (16 U.S.C. 4601–9(a)), monies appro-
6 priated from the Land and Water Conservation Fund may
7 be used as authorized in section 5(b) of the Endangered
8 Species Act of 1973 (16 U.S.C. 1534(b)), for the purposes
9 of acquiring lands or interests therein within the conserva-
10 tion area for administration as public lands as a part of
11 the conservation area.

12 (c) LAND EXCHANGES.—The Secretary shall, within
13 4 years after the date of enactment of this Act, study,
14 identify, and initiate voluntary land exchanges which
15 would resolve ownership related land use conflicts within
16 the conservation area.

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

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

24 (2) Except as otherwise specifically provided in this
25 Act, nothing in this Act shall be construed as limiting the

1 applicability to lands in the conservation area of laws ap-
2 plicable to public lands generally, including but not limited
3 to the National Historic Preservation Act, the Archae-
4 ological Resources Protection Act of 1979, or the Native
5 American Graves Protection and Repatriation Act.

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

10 (4) Nothing in this Act shall be construed as prohibit-
11 ing the Secretary from engaging qualified persons to use
12 public lands within the conservation area for the propaga-
13 tion of plants (including seeds) to be used for vegetative
14 enhancement of the conservation area in accordance with
15 the plan and in furtherance of the purposes for which the
16 conservation area is established.

17 (b) RELEASE.—The Congress finds and directs that
18 the public lands within the Snake River Birds of Prey Nat-
19 ural Area established as a natural area in October 1971
20 by Public Land Order 5133 have been adequately studied
21 and found unsuitable for wilderness designation pursuant
22 to section 603 of the Federal Land Policy and Manage-
23 ment Act of 1976. Such lands are hereby released from
24 further management pursuant to section 603(c) of such

1 an Act and shall be managed in accordance with other
2 applicable provisions of law, including this Act.

3 (c) EXISTING ADMINISTRATIVE WITHDRAWAL TER-
4 MINATED.—Public Land Orders 5133 dated October 12,
5 1971, and 5777 dated November 21, 1980, issued by the
6 Secretary are hereby terminated subject to subsections
7 (d)(3) and (d)(4).

8 (d) WATER.—(1) The Congress finds that the United
9 States is currently a party in an adjudication of rights
10 to waters of the Snake River, including water rights
11 claimed by the United States on the basis of the reserva-
12 tion of lands for purposes of conservation of fish and wild-
13 life and that consequently there is no need for this Act
14 to effect a reservation by the United States of rights with
15 respect to such waters in order to fulfill the purposes for
16 which the conservation area is established.

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

20 (3) Nothing in this Act shall be construed as effecting
21 a relinquishment or reduction of any of the water rights
22 held or claimed by the United States within the State of
23 Idaho or elsewhere on or before the date of enactment of
24 this Act.

1 (4) The Secretary and all other officers of the United
2 States shall take all steps necessary to protect all water
3 rights claimed by the United States in the Snake River
4 adjudication now pending in the district court of the State
5 of Idaho in which the United States is joined under section
6 208 of the Act of July 10, 1952 (66 Stat. 560; 43 U.S.C.
7 666; commonly referred to as the “McCarran Amend-
8 ment”).

9 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

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

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