

110TH CONGRESS
1ST SESSION

S. 444

To establish the South Park National Heritage Area in the State of Colorado,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2007

Mr. SALAZAR introduced the following bill; which was read twice and referred
to the Committee on Energy and Natural Resources

A BILL

To establish the South Park National Heritage Area in the
State of Colorado, 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. SHORT TITLE.**

4 This Act may be cited as the “South Park National
5 Heritage Area Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the rich natural resources, the variety of
9 recreational opportunities, the cultural legacy, and
10 the unparalleled history of South Park, Colorado,

1 are of national importance and are deserving of recognition,
2 recognition, conservation, interpretation, and continuing use;
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4 (2) the people of South Park respect, protect and defend the rights and desires of private property
5 owners, and support the power and right of individuals to shape their own destiny;
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7

8 (3) the South Park National Heritage Area
9 builds upon existing local initiatives to spur economic development while conserving, preserving and
10 interpreting the resources on which the local economy depends;
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13 (4) in 1997 the Governor of Colorado designated South Park as Colorado's second State Heritage Area;
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16 (5) in 2006 the President of the United States recognized and designated South Park as a Preserve
17 America Community that protects and celebrates its heritage, uses its historic assets for economic development and community revitalization, and encourages people to experience and appreciate local historic resources through education and heritage tourism programs;
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24 (6) the Federal, State, and local governments, organizations, and residents of South Park broadly
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1 support the establishment of a national heritage
2 area to coordinate and assist in the conservation, in-
3 terpretation, and continuing use of the heritage re-
4 sources of South Park;

5 (7) the agrarian landscape, culture, and histor-
6 ical resources of South Park assist citizens in experi-
7 encing how native peoples, early explorers, trappers,
8 miners, ranchers, and settlers lived on the frontier
9 of the United States;

10 (8) the ideals of self governance and individ-
11 ualism of the United States gave rise to laws that—

12 (A) were developed within the remote land-
13 scape of South Park;

14 (B) were among the first legislative initia-
15 tives of the western settlers; and

16 (C) reinforced the democratic traditions of
17 the United States;

18 (9) the average elevation of South Park exceeds
19 9,000 feet and ranks among the highest basins in
20 North America;

21 (10) native peoples have inhabited the land-
22 scape of South Park for over 10,000 years;

23 (11) Porcupine Cave and its wealth of animal
24 fossils, including a now-extinct North American
25 cheetah, is one of the most important paleontological

1 sites for the study of Ice Age vertebrates in the
2 world, and contains the richest and most diverse
3 vertebrate fauna known from the middle Pleistocene
4 on the North American continent;

5 (12) in addition to high summits, pristine
6 streams, and open prairies, the unmatched landscape
7 of the Heritage Area also contains—

8 (A) portions of the Lost Creek Wilderness
9 and Buffalo Peaks Wilderness Areas, featuring
10 disappearing streams, ancient pine trees, glob-
11 ally rare plants, and State-endangered boreal
12 toads;

13 (B) the Lost Creek National Natural
14 Landmark, characterized by stunning rock
15 spires and pinnacles, narrow ridges, steep nar-
16 row gorges, and a stream that disappears and
17 reappears at the surface at least nine times;

18 (C) National Forest System lands that are
19 home to the federally-threatened Penland alpine
20 fen mustard, Canada lynx and greenback cut-
21 throat trout;

22 (D) 12 State wildlife areas that protect
23 large herds of elk, deer, pronghorn antelope;
24 and many other species;

1 (E) 45 miles of “Gold Medal” trout water
2 that provide world-class trout fishing opportuni-
3 ties;

4 (F) nationally rare and unusual high-alti-
5 tude wetlands known as extreme rich fens; and

6 (G) 4 majestic mountain peaks that stand
7 higher than 14,000 feet above sea level;

8 (13) the South Park National Heritage Area of-
9 fers outstanding recreational opportunities for hik-
10 ing, fishing, camping, climbing, sightseeing, hunting,
11 wildlife viewing, and off-highway vehicle use;

12 (14) the South Park National Heritage Area
13 contains buildings, structures, sites, and stories that
14 preserve and interpret the frontier heritage of the
15 United States, including—

16 (A) the Salt Works Ranch, Colorado Salt
17 Works, EM Ranch, Buckley Ranch, Wahl
18 Ranch, Jefferson Depot, Como Depot, Como
19 Roundhouse, Como Hotel, Como School, Boreas
20 Pass Railroad Station, Summer Saloon, South
21 Park Brewery, Park County Courthouse, South
22 Park Community Church, and Tarryall School,
23 each of which is listed in the National Register
24 of Historic Places;

1 (B) the Colorado Midland Railroad, the
2 Denver, South Park & Pacific Railroad, and
3 their associated stations, depots, and passes;

4 (C) the Paris Mill and Snowstorm Dredge,
5 which are among the last intact structures of
6 their type in the United States, and are in-
7 cluded on Colorado’s “most endangered places”
8 list;

9 (D) the Present Help Mine which, being
10 located at an elevation of 14,157 feet, qualifies
11 as the highest gold mine ever to operate in the
12 United States; and

13 (E) the highest incorporated town (Alma),
14 vehicular mountain pass (Mosquito), and cattle
15 ranches in the United States; and

16 (15) the globally-rare grassland of the valley
17 floor of South Park, composed primarily of Arizona
18 fescue and slimstem muhly, is the largest docu-
19 mented natural montane grassland community of
20 that type.

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

22 (1) establish the Heritage Area in the State of
23 Colorado;

24 (2) carry out the national heritage area alter-
25 native as described in the document entitled “South

1 Park National Heritage Area Feasibility Study,
2 2006”;

3 (3) provide a management framework to foster
4 an effective working relationship with all levels of
5 government, not for profit organizations, the private
6 sector, and the local communities in South Park
7 to—

8 (A) preserve the outstanding heritage of
9 the region;

10 (B) develop new heritage tourism pro-
11 grams, attractions and opportunities; and

12 (C) continue to pursue the development of
13 compatible economic opportunities and heritage
14 products; and

15 (4) assist communities, organizations, and citi-
16 zens in the State of Colorado in identifying, pre-
17 serving, interpreting, developing, and promoting the
18 historical, cultural, scenic, recreational, agricultural,
19 and natural resources of the region for the edu-
20 cational, inspirational, and economic benefit of cur-
21 rent and future generations.

22 **SEC. 3. PRIVATE PROPERTY RIGHTS PROTECTION.**

23 (a) ACCESS TO PRIVATE PROPERTY.—Nothing in
24 this Act—

1 (1) requires any private property owner to allow
2 public access (including Federal, State, or local gov-
3 ernment access) to private property; or

4 (2) modifies any provision of Federal, State, or
5 local law with regard to public access to or use of
6 private property.

7 (b) LIABILITY.—Designation of the Heritage Area
8 shall not impose any liability on, or have any effect on
9 any liability under any other law on, any private property
10 owner with respect to any person injured on the private
11 property.

12 (c) RECOGNITION OF AUTHORITY TO CONTROL LAND
13 USE.—Nothing in this Act modifies, enlarges, or dimin-
14 ishes the authority of the Federal Government or State
15 or local governments to regulate land use.

16 (d) VOLUNTARY PARTICIPATION OF PRIVATE PROP-
17 ERTY OWNERS IN HERITAGE AREA.—Nothing in this Act
18 requires the owner of any private property located within
19 the boundaries of the Heritage Area to participate in or
20 be associated with the Heritage Area; participation by in-
21 dividual landowners is strictly on a voluntary basis only.

22 (e) EFFECT OF ESTABLISHMENT.—

23 (1) IN GENERAL.—The boundaries designated
24 for the Heritage Area shall constitute the area with-

1 in which Federal funds made available to carry out
2 this Act may be expended.

3 (2) REGULATORY AUTHORITY.—The establish-
4 ment of the Heritage Area and the boundaries of the
5 Heritage Area shall not provide any regulatory au-
6 thority that would not otherwise apply to govern
7 land use within the Heritage Area or the viewshed
8 of the Heritage Area by the Secretary, the National
9 Park Service, the management entity, or any other
10 governmental entity.

11 **SEC. 4. DEFINITIONS.**

12 In this Act:

13 (1) BOARD.—The term “Board” means the
14 Board of Directors of the South Park National Her-
15 itage Area, comprised initially of the individuals,
16 agencies, organizations, and governments that were
17 involved in the planning and development of the
18 Heritage Area before the date of enactment of this
19 Act.

20 (2) HERITAGE AREA.—The term “Heritage
21 Area” means the South Park National Heritage
22 Area established by section 5(a).

23 (3) MANAGEMENT ENTITY.—The term “man-
24 agement entity” means the management entity for
25 the Heritage Area designated by section 5(d)(1).

1 (4) MANAGEMENT PLAN.—The term “manage-
2 ment plan” means the management plan for the
3 Heritage Area required by section 7.

4 (5) MAP.—The term “map” means the map en-
5 titled “South Park National Heritage Area Map
6 (Proposed)”, dated January 30, 2006.

7 (6) PARTNER.—The term “partner” means a
8 Federal, State, or local governmental entity, organi-
9 zation, private industry, educational institution, or
10 individual involved in the conservation, preservation,
11 interpretation, development or promotion of heritage
12 sites or resources of the Heritage Area.

13 (7) SECRETARY.—The term “Secretary” means
14 the Secretary of the Interior.

15 (8) STATE.—The term “State” means the State
16 of Colorado.

17 (9) TECHNICAL ASSISTANCE.—The term “tech-
18 nical assistance” means any guidance, advice, help,
19 or aid, other than financial assistance, provided by
20 the Secretary.

21 **SEC. 5. SOUTH PARK NATIONAL HERITAGE AREA.**

22 (a) ESTABLISHMENT.—There is established in the
23 State the South Park National Heritage Area.

24 (b) BOUNDARIES.—The Heritage Area shall consist
25 of the areas included in the map.

1 (c) MAP.—A map of the Heritage Area shall be—

2 (1) included in the management plan; and

3 (2) on file and available for public inspection in
4 the appropriate offices of the National Park Service.

5 (d) MANAGEMENT ENTITY.—

6 (1) IN GENERAL.—The management entity for
7 the Heritage Area shall be the Park County Tourism
8 & Community Development Office, in conjunction
9 with the South Park National Heritage Area Board
10 of Directors.

11 (2) MEMBERSHIP REQUIREMENTS.—Members
12 of the Board shall include representatives from a
13 broad cross-section of individuals, agencies, organi-
14 zations, and governments that were involved in the
15 planning and development of the Heritage Area be-
16 fore the date of enactment of this Act.

17 **SEC. 6. ADMINISTRATION.**

18 (a) PROHIBITION ON THE ACQUISITION OF REAL
19 PROPERTY.—

20 (1) IN GENERAL.—Subject to paragraph (2),
21 the management entity shall not use Federal funds
22 made available under this Act to acquire real prop-
23 erty or any interest in real property.

24 (2) ACQUISITION OF CONSERVATION EASE-
25 MENTS.—The management entity may use Federal

1 funds made available under this Act to acquire con-
2 servation easements from willing sellers.

3 (b) AUTHORITIES.—For purposes of carrying out the
4 management plan, the Secretary, acting through the man-
5 agement entity, may use amounts made available under
6 this Act to—

7 (1) make grants to the State or a political sub-
8 division of the State, nonprofit organizations, and
9 other persons;

10 (2) enter into cooperative agreements with, or
11 provide technical assistance to, the State or a polit-
12 ical subdivision of the State, nonprofit organizations,
13 and other interested parties;

14 (3) hire and compensate staff, which shall in-
15 clude individuals with expertise in natural, cultural,
16 and historical resources protection, fundraising, her-
17 itage facility planning and development, and heritage
18 tourism programming;

19 (4) obtain funds or services from any source,
20 including funds or services that are provided under
21 any other Federal law or program;

22 (5) enter into contracts for goods or services;
23 and

1 (6) to facilitate the conduct of other projects
2 and activities that further the Heritage Area and are
3 consistent with the approved management plan.

4 (c) DUTIES.—The management entity shall—

5 (1) in accordance with section 6, prepare and
6 submit a management plan for the Heritage Area to
7 the Secretary;

8 (2) assist units of local government, local prop-
9 erty owners and businesses, and nonprofit organiza-
10 tions in carrying out the approved management plan
11 by—

12 (A) carrying out programs and projects
13 that recognize, protect, enhance, and promote
14 important resource values in the Heritage Area;

15 (B) establishing and maintaining interpre-
16 tive exhibits and programs in the Heritage
17 Area;

18 (C) developing economic, recreational and
19 educational opportunities in the Heritage Area;

20 (D) increasing public awareness of, and
21 appreciation for, historical, cultural, scenic, rec-
22 reational, agricultural, and natural resources of
23 the Heritage Area;

1 (E) protecting and restoring historic sites
2 and buildings in the Heritage Area that are
3 consistent with Heritage Area themes;

4 (F) ensuring that clear, consistent, and ap-
5 propriate signs identifying points of public ac-
6 cess, and sites of interest are posted throughout
7 the Heritage Area;

8 (G) promoting a wide range of partner-
9 ships among governments, organizations, and
10 individuals to further the Heritage Area; and

11 (H) planning and developing new heritage
12 attractions, products and services.

13 (3) consider the interests of diverse units of
14 government, businesses, organizations, and individ-
15 uals in the Heritage Area in the preparation and im-
16 plementation of the management plan;

17 (4) conduct meetings open to the public at least
18 semiannually regarding the development and imple-
19 mentation of the management plan;

20 (5) for any year for which Federal funds have
21 been received under this Act—

22 (A) submit to the Secretary an annual re-
23 port that describes the activities, expenses, and
24 income of the management entity (including

1 grants to any other entities during the year
2 that the report is made);

3 (B) make available to the Secretary for
4 audit all records relating to the expenditure of
5 the Federal funds and any matching funds; and

6 (C) require, with respect to all agreements
7 authorizing expenditure of Federal funds by
8 other organizations, that the organizations re-
9 ceiving the funds make available to the Sec-
10 retary for audit all records concerning the ex-
11 penditure of the funds; and

12 (6) encourage by appropriate means economic
13 viability that is consistent with the Heritage Area.

14 (d) COST-SHARING REQUIREMENT.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the Federal share of the cost of any activ-
17 ity carried out using any assistance made available
18 under this Act shall be 50 percent.

19 (2) EXCEPTION.—Before the date on which the
20 management entity completes the management plan,
21 the Federal share of the cost of any activity de-
22 scribed in paragraph (1) may be 100 percent.

23 **SEC. 7. MANAGEMENT PLAN.**

24 (a) IN GENERAL.—Not later than 3 years after the
25 date of enactment of this Act, the management entity,

1 with public participation, shall submit to the Secretary for
2 approval a proposed management plan for the Heritage
3 Area.

4 (b) REQUIREMENTS.—The management plan shall—

5 (1) incorporate an integrated and cooperative
6 approach for the protection, enhancement, interpre-
7 tation, development, and promotion of the historical,
8 cultural, scenic, recreational, agricultural, and nat-
9 ural resources of the Heritage Area;

10 (2) take into consideration State and local
11 plans;

12 (3) include—

13 (A) an inventory of—

14 (i) the resources located in the core
15 area described in section 5(b); and

16 (ii) any other eligible and partici-
17 pating property in the core area that—

18 (I) is related to the themes of the
19 Heritage Area; and

20 (II) should be preserved, re-
21 stored, managed, maintained, devel-
22 oped, or promoted because of the sig-
23 nificance of the property;

24 (B) comprehensive policies, strategies, and
25 recommendations for conservation, funding,

1 management, development, and promotion of
2 the Heritage Area;

3 (C) a description of actions that govern-
4 ments, private organizations, and individuals
5 have agreed to take to manage protect the his-
6 torical, cultural, scenic, recreational, agricul-
7 tural, and natural resources of the Heritage
8 Area;

9 (D) a program of implementation for the
10 management plan by the management entity
11 that includes a description of—

12 (i) actions to facilitate ongoing and ef-
13 fective collaboration among partners to
14 promote plans for resource protection, en-
15 hancement, interpretation, restoration, and
16 construction; and

17 (ii) specific commitments for imple-
18 mentation that have been made by the
19 management entity or any government, or-
20 ganization, or individual for the first 5
21 years of operation;

22 (E) the identification of sources of funding
23 for carrying out the management plan;

24 (F) an analysis of and recommendations
25 for means by which Federal, State, and local

1 programs, including the role of the National
2 Park Service in the Heritage Area, may best be
3 coordinated to carry out this Act; and

4 (G) an interpretive plan for the Heritage
5 Area; and

6 (4) recommend policies and strategies for re-
7 source management that consider and detail the ap-
8 plication of appropriate land and water management
9 techniques, including the development of intergov-
10 ernmental and interagency cooperative agreements
11 to protect the historical, cultural, scenic, rec-
12 reational, agricultural, and natural resources of the
13 Heritage Area.

14 (c) DEADLINE.—If a proposed management plan is
15 not submitted to the Secretary by the date that is 3 years
16 after the date of enactment of this Act, the management
17 entity shall be ineligible to receive additional funding
18 under this Act until the date on which the Secretary re-
19 ceives and approves the management plan.

20 (d) APPROVAL OR DISAPPROVAL OF MANAGEMENT
21 PLAN.—

22 (1) IN GENERAL.—Not later than 90 days after
23 the date of receipt of the management plan under
24 subsection (a), the Secretary, in consultation with

1 the State, shall approve or disapprove the manage-
2 ment plan.

3 (2) CRITERIA FOR APPROVAL.—In determining
4 whether to approve the management plan, the Sec-
5 retary shall consider whether—

6 (A) the management entity is representa-
7 tive of the diverse interests of the Heritage
8 Area, including governments, natural and his-
9 torical resource protection organizations, edu-
10 cational institutions, local businesses and indus-
11 tries, community organizations, recreational or-
12 ganizations, and tourism organizations;

13 (B) the management entity has afforded
14 adequate opportunity, including public hearings,
15 for public and governmental involvement in the
16 preparation of the management plan; and

17 (C) strategies contained in the manage-
18 ment plan, if implemented, would adequately
19 balance the voluntary protection, development,
20 and interpretation of the natural, historical,
21 cultural, scenic, recreational, and agricultural
22 resources of the Heritage Area.

23 (3) ACTION FOLLOWING DISAPPROVAL.—If the
24 Secretary disapproves the management plan under
25 paragraph (1), the Secretary shall—

1 (A) advise the management entity in writ-
2 ing of the reasons for the disapproval;

3 (B) make recommendations for revisions to
4 the management plan; and

5 (C) not later than 60 days after the receipt
6 of any proposed revision of the management
7 plan from the management entity, approve or
8 disapprove the proposed revision.

9 (4) AMENDMENTS.—

10 (A) IN GENERAL.—The Secretary shall ap-
11 prove or disapprove each amendment to the
12 management plan that the Secretary determines
13 makes a substantial change to the management
14 plan.

15 (B) USE OF FUNDS.—The management
16 entity shall not use Federal funds authorized by
17 this Act to carry out any amendments to the
18 management plan until the Secretary has ap-
19 proved the amendments.

20 **SEC. 8. DUTIES OF OTHER FEDERAL AGENCIES.**

21 Any Federal agency conducting or supporting an ac-
22 tivity that directly affects the Heritage Area as designated
23 by the Secretary shall—

24 (1) consult with the Secretary and the manage-
25 ment entity regarding the activity;

1 (2) cooperate with the Secretary and the man-
2 agement entity in carrying out the duties of the
3 Federal agency under this Act;

4 (3) to the maximum extent practicable, coordi-
5 nate the activity with carrying out those duties; and

6 (4) to the maximum extent practicable, conduct
7 the activity in a manner that the management entity
8 determines will not have an adverse effect on the
9 Heritage Area.

10 **SEC. 9. WATER RIGHTS.**

11 Nothing in this Act—

12 (1) authorizes the regulation of private land in
13 the Heritage Area;

14 (2) authorizes the imposition of any mandatory
15 streamflow requirements;

16 (3) creates an express or implied Federal re-
17 served water right;

18 (4) imposes any Federal water quality standard
19 within or upstream of the Heritage Area that is
20 more restrictive than would be applicable had the
21 Heritage Area not been established; or

22 (5) prevents the State of Colorado from acquir-
23 ing an instream flow through the Heritage Area
24 under the terms, conditions, and limitations of State
25 law to assist in protecting the natural environment

1 to the extent and for the purposes authorized by
2 State law.

3 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated to carry out
5 this Act \$6,110,000, of which not more than \$1,000,000
6 may be made available for any fiscal year.

7 **SEC. 11. TERMINATION OF AUTHORITY.**

8 The authority of the Secretary to provide assistance
9 under this Act terminates on the date that is 15 years
10 after the date on which funds are first made available to
11 carry out this Act.

○