

108TH CONGRESS
2D SESSION

H. R. 4593

IN THE SENATE OF THE UNITED STATES

OCTOBER 5, 2004

Received

AN ACT

To establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, 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,*

1 **SECTION 1. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as are necessary to carry out this Act.

4 **TITLE I—LINCOLN COUNTY CON-**
5 **SERVATION, RECREATION,**
6 **AND DEVELOPMENT**

7 **SEC. 101. SHORT TITLE.**

8 This title may be cited as the “Lincoln County Con-
9 servation, Recreation, and Development Act of 2004”.

10 **Subtitle A—Land Disposal**

11 **SEC. 111. DEFINITIONS.**

12 In this subtitle:

13 (1) COUNTY.—The term “County” means Lin-
14 coln County, Nevada.

15 (2) MAP.—The term “map” means the map en-
16 titled “Lincoln County Conservation, Recreation,
17 and Development Act Map” and dated October 1,
18 2004.

19 (3) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 (4) SPECIAL ACCOUNT.—The term “special ac-
22 count” means the special account established under
23 section 113(b)(3).

24 **SEC. 112. CONVEYANCE OF LINCOLN COUNTY LAND.**

25 (a) IN GENERAL.—Notwithstanding sections 202 and
26 203 of the Federal Land Policy and Management Act of

1 1976 (43 U.S.C. 1711, 1712), the Secretary, in coopera-
2 tion with the County, in accordance with that Act, this
3 subtitle, and other applicable law and subject to valid ex-
4 isting rights, shall conduct sales of—

5 (1) the land described in subsection (b)(1) to
6 qualified bidders not later than 75 days after the
7 date of the enactment of this Act; and

8 (2) the land described in subsection (b)(2) to
9 qualified bidders as such land becomes available for
10 disposal.

11 (b) DESCRIPTION OF LAND.—The land referred to in
12 subsection (a) consists of—

13 (1) the land identified on the map as Tract A
14 and Tract B totaling approximately 13,328 acres;
15 and

16 (2) between 87,000–90,000 acres of Bureau of
17 Land Management managed public land in Lincoln
18 County identified for disposal by the BLM either
19 through—

20 (A) the Ely Resource Management Plan
21 (intended to be finalized in 2005); or

22 (B) a subsequent amendment to that land
23 use plan undertaken with full public involve-
24 ment.

1 (c) AVAILABILITY.—Each map and legal description
2 shall be on file and available for public inspection in (as
3 appropriate)—

4 (1) the Office of the Director of the Bureau of
5 Land Management;

6 (2) the Office of the Nevada State Director of
7 the Bureau of Land Management;

8 (3) the Ely Field Office of the Bureau of Land
9 Management; and

10 (4) the Caliente Field Station of the Bureau of
11 Land Management.

12 (d) JOINT SELECTION REQUIRED.—The Secretary
13 and the County shall jointly select which parcels of land
14 described in subsection (b)(2) to offer for sale under sub-
15 section (a).

16 (e) COMPLIANCE WITH LOCAL PLANNING AND ZON-
17 ING LAWS.—Before a sale of land under subsection (a),
18 the County shall submit to the Secretary a certification
19 that qualified bidders have agreed to comply with—

20 (1) County and city zoning ordinances; and

21 (2) any master plan for the area approved by
22 the County.

23 (f) METHOD OF SALE; CONSIDERATION.—The sale of
24 land under subsection (a) shall be—

1 (1) consistent with section 203(d) and 203(f) of
2 the Federal Land Management Policy Act of 1976
3 (43 U.S.C. 1713(d) and (f));

4 (2) through a competitive bidding process un-
5 less otherwise determined by the Secretary; and

6 (3) for not less than fair market value.

7 (g) WITHDRAWAL.—

8 (1) IN GENERAL.—Subject to valid existing
9 rights and except as provided in paragraph (2), the
10 land described in subsection (b) is withdrawn
11 from—

12 (A) all forms of entry and appropriation
13 under the public land laws, including the min-
14 ing laws;

15 (B) location, entry, and patent under the
16 mining laws; and

17 (C) operation of the mineral leasing and
18 geothermal leasing laws.

19 (2) EXCEPTION.—Paragraph (1)(A) shall not
20 apply to a competitive sale or an election by the
21 County to obtain the land described in subsection
22 (b) for public purposes under the Act of June 14,
23 1926 (43 U.S.C. 869 et seq; commonly known as the
24 “Recreation and Public Purposes Act”).

25 (h) DEADLINE FOR SALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall—

(A) notwithstanding the Lincoln County Land Act of 2000 (114 Stat. 1046), not later than 75 days after the date of the enactment of this title, offer by sale the land described in subsection (b)(1) if there is a qualified bidder for such land; and

(B) offer for sale annually lands identified for sale in subsection (b)(2) until such lands are disposed of or unless the county requests a postponement under paragraph (2).

(2) POSTPONEMENT; EXCLUSION FROM SALE.—

(A) REQUEST BY COUNTY FOR POSTPONEMENT OR EXCLUSION.—At the request of the County, the Secretary shall postpone or exclude from the sale all or a portion of the land described in subsection (b)(2).

(B) INDEFINITE POSTPONEMENT.—

Unless specifically requested by the County, a postponement under subparagraph

(A) shall not be indefinite.

SEC. 113. DISPOSITION OF PROCEEDS.

(a) INITIAL LAND SALE.—Section 5 of the Lincoln County Land Act of 2000 (114 Stat. 1047) shall apply

1 to the disposition of the gross proceeds from the sale of
2 land described in section 112(b)(1).

3 (b) REIMBURSEMENT OF COSTS.—Proceeds from the
4 sale of lands described in section 112(b)(2) shall be used
5 to reimburse costs incurred by the Nevada State office and
6 the Ely Field Office of the Bureau of Land Management
7 for preparing for the sale of land described in section
8 102(b) including surveys appraisals, compliance with the
9 National Environmental Policy Act of 1969 (42 U.S.C.
10 4321) and compliance with the Federal Land Policy and
11 Management Act of 1976 (43 U.S.C. 1711, 1712).

12 (c) DISPOSITION OF PROCEEDS.—Following compli-
13 ance with section 113(b) proceeds from sales of lands de-
14 scribed in section 112(b)(2) shall be disbursed as fol-
15 lows—

16 (1) 5 percent shall be paid directly to the state
17 for use in the general education program of the
18 State;

19 (2) 45 percent shall be paid to the County for
20 use for economic development in the County, includ-
21 ing County parks, trails, and natural areas; and

22 (3) the remainder shall be deposited in a special
23 account in the Treasury of the United States and
24 shall be available without further appropriation to
25 the Secretary until expended for—

1 (A) the inventory, evaluation,
2 protectionand management of unique archae-
3 ological resources (as defined in section 3 of the
4 Archaeological Resources Protection Act of
5 19792 (16 U.S.C. 470bb)) of the County;

6 (B) the development and implementation
7 of a multispecies habitat conservation plan for
8 the County;

9 (C) processing of public land use author-
10 izations and rights-of-way relating to the devel-
11 opment of land conveyed under section 112(b)
12 of this Act;

13 (D) processing the Silver State OHV trail
14 and implementing the management plan re-
15 quired by section 151(c)(2) of this Act; and

16 (E) processing wilderness designation, in-
17 cluding but not limited to, the costs of appro-
18 priate fencing, signage, public education, and
19 enforcement for the wilderness areas des-
20 ignated.

21 (d) INVESTMENT OF SPECIAL ACCOUNT.—Any
22 amounts deposited in the special account shall earn inter-
23 est in an amount determined by the Secretary of the
24 Treasury on the basis of the current average market yield
25 on outstanding marketable obligations of the United

1 States of comparable maturities, and may be expended ac-
2 cording to the provisions of this section.

3 **Subtitle B—Wilderness Areas**

4 **SEC. 121. FINDINGS.**

5 Congress finds that—

6 (1) public land in the County contains unique
7 and spectacular natural resources, including—

8 (A) priceless habitat for numerous species
9 of plants and wildlife; and

10 (B) thousands of acres of land that remain
11 in a natural state; and

12 (2) continued preservation of those areas would
13 benefit the County and all of the United States by—

14 (A) ensuring the conservation of eco-
15 logically diverse habitat;

16 (B) protecting prehistoric cultural re-
17 sources;

18 (C) conserving primitive recreational re-
19 sources; and

20 (D) protecting air and water quality.

21 **SEC. 122. DEFINITIONS.**

22 In this subtitle:

23 (1) COUNTY.—The term “County” means Lin-
24 coln County, Nevada.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 (3) STATE.—The term “State” means the State
4 of Nevada.

5 **SEC. 123. ADDITIONS TO NATIONAL WILDERNESS PRESER-**
6 **VATION SYSTEM.**

7 (a) ADDITIONS.—The following land in the State is
8 designated as wilderness and as components of the Na-
9 tional Wilderness Preservation System:

10 (1) MORMON MOUNTAINS WILDERNESS.—Cer-
11 tain Federal land managed by the Bureau of Land
12 Management, comprising approximately 157,938
13 acres, as generally depicted on the map entitled
14 “Southern Lincoln County Wilderness Map”, dated
15 October 1, 2004, which shall be known as the “Mor-
16 mon Mountains Wilderness”.

17 (2) MEADOW VALLEY RANGE WILDERNESS.—
18 Certain Federal land managed by the Bureau of
19 Land Management, comprising approximately
20 123,488 acres, as generally depicted on the map en-
21 titled “Southern Lincoln County Wilderness Map”,
22 dated October 1, 2004, which shall be known as the
23 “Meadow Valley Range Wilderness”.

24 (3) DELAMAR MOUNTAINS WILDERNESS.—Cer-
25 tain Federal land managed by the Bureau of Land

1 Management, comprising approximately 111,328
2 acres, as generally depicted on the map entitled
3 “Southern Lincoln County Wilderness Map”, dated
4 October 1, 2004, which shall be known as the
5 “Delamar Mountains Wilderness”.

6 (4) CLOVER MOUNTAINS WILDERNESS.—Cer-
7 tain Federal land managed by the Bureau of Land
8 Management, comprising approximately 85,748
9 acres, as generally depicted on the map entitled
10 “Southern Lincoln County Wilderness Map”, dated
11 October 1, 2004, which shall be known as the “Clo-
12 ver Mountains Wilderness”.

13 (5) SOUTH PAHROC RANGE WILDERNESS.—Cer-
14 tain Federal land managed by the Bureau of Land
15 Management, comprising approximately 25,800
16 acres, as generally depicted on the map entitled
17 “Western Lincoln County Wilderness Map”, dated
18 October 1, 2004, which shall be known as the
19 “South Pahroc Range Wilderness”.

20 (6) WORTHINGTON MOUNTAINS WILDERNESS.—
21 Certain Federal land managed by the Bureau of
22 Land Management, comprising approximately
23 30,664 acres, as generally depicted on the map enti-
24 tled “Western Lincoln County Wilderness Map”,

1 dated October 1, 2004, which shall be known as the
2 “Worthington Mountains Wilderness”.

3 (7) WEEPAH SPRING WILDERNESS.—Certain
4 Federal land managed by the Bureau of Land Man-
5 agement, comprising approximately 51,480 acres, as
6 generally depicted on the map entitled “Western
7 Lincoln County Wilderness Map”, dated October 1,
8 2004, which shall be known as the “Weepah Spring
9 Wilderness”.

10 (8) PARSNIP PEAK WILDERNESS.—Certain Fed-
11 eral land managed by the Bureau of Land Manage-
12 ment, comprising approximately 43,693 acres, as
13 generally depicted on the map entitled “Northern
14 Lincoln County Wilderness Map”, dated October 1,
15 2004, which shall be known as the “Parsnip Peak
16 Wilderness”.

17 (9) WHITE ROCK RANGE WILDERNESS.—Cer-
18 tain Federal land managed by the Bureau of Land
19 Management, comprising approximately 24,413
20 acres, as generally depicted on the map entitled
21 “Northern Lincoln County Wilderness Map”, dated
22 October 1, 2004, which shall be known as the
23 “White Rock Range Wilderness”.

24 (10) FORTIFICATION RANGE WILDERNESS.—
25 Certain Federal land managed by the Bureau of

1 Land Management, comprising approximately
2 30,656 acres, as generally depicted on the map enti-
3 tled “Northern Lincoln County Wilderness Map”,
4 dated October 1, 2004, which shall be known as the
5 “Fortification Range Wilderness”.

6 (11) FAR SOUTH EGANS WILDERNESS.—Certain
7 Federal land managed by the Bureau of Land Man-
8 agement, comprising approximately 36,384 acres, as
9 generally depicted on the map entitled “Northern
10 Lincoln County Wilderness Map”, dated October 1,
11 2004, which shall be known as the “Far South
12 Egans Wilderness”.

13 (12) TUNNEL SPRING WILDERNESS.—Certain
14 Federal land managed by the Bureau of Land Man-
15 agement, comprising approximately 5,371 acres, as
16 generally depicted on the map entitled “Southern
17 Lincoln County Wilderness Map”, dated October 1,
18 2004, which shall be known as the “Tunnel Spring
19 Wilderness”.

20 (13) BIG ROCKS WILDERNESS.—Certain Fed-
21 eral land managed by the Bureau of Land Manage-
22 ment, comprising approximately 12,997 acres, as
23 generally depicted on the map entitled “Western
24 Lincoln County Wilderness Map”, dated October 1,

1 2004, which shall be known as the “Big Rocks Wil-
2 derness”.

3 (14) MT. IRISH WILDERNESS.—Certain Fed-
4 eral land managed by the Bureau of Land Manage-
5 ment, comprising approximately 28,334 acres, as
6 generally depicted on the map entitled “Western
7 Lincoln County Wilderness Map”, dated October 1,
8 2004, which shall be known as the “Mt. Irish Wil-
9 derness”.

10 (b) BOUNDARY.—The boundary of any portion of a
11 wilderness area designated by subsection (a) that is bor-
12 dered by a road shall be at least 100 feet from the edge
13 of the road to allow public access.

14 (c) MAP AND LEGAL DESCRIPTION.—

15 (1) IN GENERAL.—As soon as practicable after
16 the date of enactment of this title, the Secretary
17 shall file a map and legal description of each wilder-
18 ness area designated by subsection (a) with the
19 Committee on Resources of the House of Represent-
20 atives and the Committee on Energy and Natural
21 Resources of the Senate.

22 (2) EFFECT.—Each map and legal description
23 shall have the same force and effect as if included
24 in this section, except that the Secretary may correct

1 clerical and typographical errors in the map or legal
2 description.

3 (3) AVAILABILITY.—Each map and legal de-
4 scription shall be on file and available for public in-
5 spection in (as appropriate)—

6 (A) the Office of the Director of the Bu-
7 reau of Land Management;

8 (B) the Office of the Nevada State Direc-
9 tor of the Bureau of Land Management;

10 (C) the Ely Field Office of the Bureau of
11 Land Management; and

12 (D) the Caliente Field Station of the Bu-
13 reau of Land Management.

14 (d) WITHDRAWAL.—Subject to valid existing rights,
15 the wilderness areas designated by subsection (a) are with-
16 drawn from—

17 (1) all forms of entry, appropriation, and dis-
18 posal under the public land laws;

19 (2) location, entry, and patent under the mining
20 laws; and

21 (3) operation of the mineral leasing and geo-
22 thermal leasing laws.

23 **SEC. 124. ADMINISTRATION.**

24 (a) MANAGEMENT.—Subject to valid existing rights,
25 each area designated as wilderness by this subtitle shall

1 be administered by the Secretary in accordance with the
2 Wilderness Act (16 U.S.C. 1131 et seq.), except that—

3 (1) any reference in that Act to the effective
4 date shall be considered to be a reference to the date
5 of the enactment of this title; and

6 (2) any reference in that Act to the Secretary
7 of Agriculture shall be considered to be a reference
8 to the Secretary of the Interior.

9 (b) LIVESTOCK.—Within the wilderness areas des-
10 ignated under this subtitle that are administered by the
11 Bureau of Land Management, the grazing of livestock in
12 areas in which grazing is established as of the date of en-
13 actment of this title shall be allowed to continue, subject
14 to such reasonable regulations, policies, and practices that
15 the Secretary considers necessary, consistent with section
16 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), in-
17 cluding the guidelines set forth in Appendix A of House
18 Report 101–405.

19 (c) INCORPORATION OF ACQUIRED LAND AND INTER-
20 ESTS.—Any land or interest in land within the boundaries
21 of an area designated as wilderness by this subtitle that
22 is acquired by the United States after the date of the en-
23 actment of this title shall be added to and administered
24 as part of the wilderness area within which the acquired
25 land or interest is located.

1 (d) WATER RIGHTS.—

2 (1) FINDINGS.—Congress finds that—

3 (A) the land designated as Wilderness by
4 this subtitle is within the Northern Mojave and
5 Great Basin Deserts, is arid in nature, and in-
6 cludes ephemeral streams;

7 (B) the hydrology of the land designated
8 as wilderness by this subtitle is predominantly
9 characterized by complex flow patterns and al-
10 luvial fans with impermanent channels;

11 (C) the subsurface hydrogeology of the re-
12 gion is characterized by ground water subject to
13 local and regional flow gradients and
14 unconfined and artesian conditions;

15 (D) the land designated as wilderness by
16 this subtitle is generally not suitable for use or
17 development of new water resource facilities;
18 and

19 (E) because of the unique nature and hy-
20 drology of the desert land designated as wilder-
21 ness by this subtitle, it is possible to provide for
22 proper management and protection of the wil-
23 derness and other values of lands in ways dif-
24 ferent from those used in other legislation.

1 (2) STATUTORY CONSTRUCTION.—Nothing in
2 this subtitle—

3 (A) shall constitute or be construed to con-
4 stitute either an express or implied reservation
5 by the United States of any water or water
6 rights with respect to the land designated as
7 wilderness by this subtitle;

8 (B) shall affect any water rights in the
9 State existing on the date of the enactment of
10 this title, including any water rights held by the
11 United States;

12 (C) shall be construed as establishing a
13 precedent with regard to any future wilderness
14 designations;

15 (D) shall affect the interpretation of, or
16 any designation made pursuant to, any other
17 Act; or

18 (E) shall be construed as limiting, altering,
19 modifying, or amending any of the interstate
20 compacts or equitable apportionment decrees
21 that apportion water among and between the
22 State and other States.

23 (3) NEVADA WATER LAW.—The Secretary shall
24 follow the procedural and substantive requirements
25 of the law of the State in order to obtain and hold

1 any water rights not in existence on the date of en-
2 actment of this title with respect to the wilderness
3 areas designated by this subtitle.

4 (4) NEW PROJECTS.—

5 (A) WATER RESOURCE FACILITY.—As
6 used in this paragraph, the term “water re-
7 source facility”—

8 (i) means irrigation and pumping fa-
9 cilities, reservoirs, water conservation
10 works, aqueducts, canals, ditches, pipe-
11 lines, wells, hydropower projects, and
12 transmission and other ancillary facilities,
13 and other water diversion, storage, and
14 carriage structures; and

15 (ii) does not include wildlife guzzlers.

16 (B) RESTRICTION ON NEW WATER RE-
17 SOURCE FACILITIES.—Except as otherwise pro-
18 vided in this title, on and after the date of the
19 enactment of this Act, neither the President nor
20 any other officer, employee, or agent of the
21 United States shall fund, assist, authorize, or
22 issue a license or permit for the development of
23 any new water resource facility within the wil-
24 derness areas designated by this title.

1 **SEC. 125. ADJACENT MANAGEMENT.**

2 (a) IN GENERAL.—Congress does not intend for the
3 designation of wilderness in the State pursuant to this
4 subtitle to lead to the creation of protective perimeters or
5 buffer zones around any such wilderness area.

6 (b) NONWILDERNESS ACTIVITIES.—The fact that
7 nonwilderness activities or uses can be seen or heard from
8 areas within a wilderness designated under this subtitle
9 shall not preclude the conduct of those activities or uses
10 outside the boundary of the wilderness area.

11 **SEC. 126. MILITARY OVERFLIGHTS.**

12 Nothing in this subtitle restricts or precludes—

13 (1) low-level overflights of military aircraft over
14 the areas designated as wilderness by this subtitle,
15 including military overflights that can be seen or
16 heard within the wilderness areas;

17 (2) flight testing and evaluation; or

18 (3) the designation or creation of new units of
19 special use airspace, or the establishment of military
20 flight training routes, over the wilderness areas.

21 **SEC. 127. NATIVE AMERICAN CULTURAL AND RELIGIOUS**
22 **USES.**

23 Nothing in this subtitle shall be construed to diminish
24 the rights of any Indian tribe. Nothing in this subtitle
25 shall be construed to diminish tribal rights regarding ac-

1 cess to Federal land for tribal activities, including spir-
2 itual, cultural, and traditional food-gathering activities.

3 **SEC. 128. RELEASE OF WILDERNESS STUDY AREAS.**

4 (a) FINDING.—Congress finds that, for the purposes
5 of section 603 of the Federal Land Policy and Manage-
6 ment Act of 1976 (43 U.S.C. 1782), the public land in
7 the County administered by the Bureau of Land Manage-
8 ment in the following areas has been adequately studied
9 for wilderness designation:

10 (1) The Table Mountain Wilderness Study
11 Area.

12 (2) Evergreen A, B, and C Wilderness Study
13 Areas.

14 (3) Any portion of the wilderness study areas—

15 (A) not designated as wilderness by section
16 124(a); and

17 (B) depicted as released on—

18 (i) the map entitled “Northern Lin-
19 coln County Wilderness Map” and dated
20 October 1, 2004;

21 (ii) the map entitled “Southern Lin-
22 coln County Wilderness Map” and dated
23 October 1, 2004; or

1 (iii) the map entitled “Western Lin-
2 coln County Wilderness Map” and dated
3 October 1, 2004.

4 (b) RELEASE.—Any public land described in sub-
5 section (a) that is not designated as wilderness by this
6 subtitle—

7 (1) is no longer subject to section 603(c) of the
8 Federal Land Policy and Management Act of 1976
9 (43 U.S.C. 1782(c));

10 (2) shall be managed in accordance with—

11 (A) land management plans adopted under
12 section 202 of that Act (43 U.S.C. 1712); and

13 (B) existing cooperative conservation
14 agreements; and

15 (3) shall be subject to the Endangered Species
16 Act of 1973 (16 U.S.C. 1531 et seq.).

17 **SEC. 129. WILDLIFE MANAGEMENT.**

18 (a) IN GENERAL.—In accordance with section
19 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)),
20 nothing in this subtitle affects or diminishes the jurisdic-
21 tion of the State with respect to fish and wildlife manage-
22 ment, including the regulation of hunting, fishing, and
23 trapping, in the wilderness areas designated by this sub-
24 title.

1 (b) MANAGEMENT ACTIVITIES.—In furtherance of
2 the purposes and principles of the Wilderness Act, man-
3 agement activities to maintain or restore fish and wildlife
4 populations and the habitats to support such populations
5 may be carried out within wilderness areas designated by
6 this subtitle where consistent with relevant wilderness
7 management plans, in accordance with appropriate poli-
8 cies such as those set forth in Appendix B of House Re-
9 port 101–405, including the occasional and temporary use
10 of motorized vehicles, if such use, as determined by the
11 Secretary, would promote healthy, viable, and more natu-
12 rally distributed wildlife populations that would enhance
13 wilderness values and accomplish those purposes with the
14 minimum impact necessary to reasonably accomplish the
15 task.

16 (c) EXISTING ACTIVITIES.—Consistent with section
17 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)) and
18 in accordance with appropriate policies such as those set
19 forth in Appendix B of House Report 101–405, the State
20 may continue to use aircraft, including helicopters, to sur-
21 vey, capture, transplant, monitor, and provide water for
22 wildlife populations, including bighorn sheep, and feral
23 stock, horses, and burros.

24 (d) WILDLIFE WATER DEVELOPMENT PROJECTS.—
25 Subject to subsection (f), the Secretary shall authorize

1 structures and facilities, including existing structures and
2 facilities, for wildlife water development projects, including
3 guzzlers, in the wilderness areas designated by this title
4 if—

5 (1) the structures and facilities will, as deter-
6 mined by the Secretary, enhance wilderness values
7 by promoting healthy, viable, and more naturally
8 distributed wildlife populations; and

9 (2) the visual impacts of the structures and fa-
10 cilities on the wilderness areas can reasonably be
11 minimized.

12 (e) HUNTING, FISHING, AND TRAPPING.—In con-
13 sultation with the appropriate State agency (except in
14 emergencies), the Secretary may designate by regulation
15 areas in which, and establish periods during which, for
16 reasons of public safety, administration, or compliance
17 with applicable laws, no hunting, fishing, or trapping will
18 be permitted in the wilderness areas designated by this
19 title.

20 (f) COOPERATIVE AGREEMENT.—The terms and con-
21 ditions under which the State, including a designee of the
22 State, may conduct wildlife management activities in the
23 wilderness areas designated by this subtitle are specified
24 in the cooperative agreement between the Secretary and
25 the State, entitled “Memorandum of Understanding be-

1 tween the Bureau of Land Management and the Nevada
2 Department of Wildlife Supplement No. 9,” and signed
3 November and December 2003, including any amend-
4 ments to that document agreed upon by the Secretary and
5 the State and subject to all applicable laws and regula-
6 tions. Any references to Clark County in that document
7 shall also be deemed to be referred to and shall apply to
8 Lincoln County, Nevada.

9 **SEC. 130. WILDFIRE MANAGEMENT.**

10 Consistent with section 4 of the Wilderness Act (16
11 U.S.C. 1133), nothing in this subtitle precludes a Federal,
12 State, or local agency from conducting wildfire manage-
13 ment operations (including operations using aircraft or
14 mechanized equipment) to manage wildfires in the wilder-
15 ness areas designated by this subtitle.

16 **SEC. 131. CLIMATOLOGICAL DATA COLLECTION.**

17 Subject to such terms and conditions as the Secretary
18 may prescribe, nothing in this subtitle precludes the instal-
19 lation and maintenance of hydrologic, meteorologic, or cli-
20 matological collection devices in the wilderness areas des-
21 ignated by this subtitle if the facilities and access to the
22 facilities are essential to flood warning, flood control, and
23 water reservoir operation activities.

1 **Subtitle C—Utility Corridors**

2 **SEC. 141. UTILITY CORRIDOR AND RIGHTS-OF-WAY.**

3 (a) UTILITY CORRIDOR.—

4 (1) IN GENERAL.—Consistent with subtitle B
5 and notwithstanding sections 202 and 503 of the
6 Federal Land Policy and Management Act of 1976
7 (43 U.S.C. 1711, 1763), the Secretary of the Inte-
8 rior (referred to in this section as the “Secretary”)
9 shall establish on public land a 2,640-foot wide cor-
10 ridor for utilities in Lincoln County and Clark Coun-
11 ty, Nevada, as generally depicted on the map enti-
12 tled “Lincoln County Conservation, Recreation, and
13 Development Act”, and dated October 1, 2004.

14 (2) AVAILABILITY.—Each map and legal de-
15 scription shall be on file and available for public in-
16 spection in (as appropriate)—

17 (A) the Office of the Director of the Bu-
18 reau of Land Management;

19 (B) the Office of the Nevada State Direc-
20 tor of the Bureau of Land Management;

21 (C) the Ely Field Office of the Bureau of
22 Land Management; and

23 (D) the Caliente Field Station of the Bu-
24 reau of Land Management.

25 (b) RIGHTS-OF-WAY.—

1 (1) IN GENERAL.—Notwithstanding sections
2 202 and 503 of the Federal Land Policy and Man-
3 agement Act of 1976 (43 U.S.C. 1711, 1763), and
4 subject to valid and existing rights, the Secretary
5 shall grant to the Southern Nevada Water Authority
6 and the Lincoln County Water District nonexclusive
7 rights-of-way to Federal land in Lincoln County and
8 Clark County, Nevada, for any roads, wells, well
9 fields, pipes, pipelines, pump stations, storage facili-
10 ties, or other facilities and systems that are nec-
11 essary for the construction and operation of a water
12 conveyance system, as depicted on the map.

13 (2) APPLICABLE LAW.—A right-of-way granted
14 under paragraph (1) shall be granted in perpetuity
15 and shall not require the payment of rental.

16 (3) COMPLIANCE WITH NEPA.—Before granting
17 a right-of-way under paragraph (1), the Secretary
18 shall comply with the National Environmental Policy
19 Act of 1969 (42 U.S.C. 4321 et seq.), including the
20 identification and consideration of potential impacts
21 to fish and wildlife resources and habitat.

22 (c) WITHDRAWAL.—Subject to valid existing rights,
23 the utility corridors designated by subsection (a) are with-
24 drawn from—

1 (1) all forms of entry, appropriation, and dis-
2 posal under the public land laws;

3 (2) location, entry, and patent under the mining
4 laws; and

5 (3) operation of the mineral leasing and geo-
6 thermal leasing laws.

7 (d) STATE WATER LAW.—Nothing in this subtitle
8 shall—

9 (1) prejudice the decisions or abrogate the ju-
10 risdiction of the Nevada or Utah State Engineers
11 with respect to the appropriation, permitting, certifi-
12 cation, or adjudication of water rights;

13 (2) preempt Nevada or Utah State water law;
14 or

15 (3) limit or supersede existing water rights or
16 interest in water rights under Nevada or Utah State
17 law.

18 (e) WATER RESOURCES STUDY.—

19 (1) IN GENERAL.—The Secretary, acting
20 through the United States Geological Survey and the
21 Desert Research Institute, and a designee from the
22 State of Utah shall conduct a study to investigate
23 ground water quantity, quality, and flow characteris-
24 tics in the deep carbonate and alluvial aquifers of

1 Lincoln and White Pine Counties, Nevada and adja-
2 cent areas in Utah. The study shall—

3 (A) include new and review of existing
4 data;

5 (B) determine the volume of water stored
6 in aquifers in those areas;

7 (C) determine the discharge and recharge
8 characteristics of each aquifer system;

9 (D) determine the hydrogeologic and other
10 controls that govern the discharge and recharge
11 of each aquifer system; and

12 (E) develop maps at a consistent scale de-
13 picting aquifer systems and the recharge and
14 discharge areas of such systems.

15 (2) TIMING; AVAILABILITY.—The Secretary
16 shall complete a draft of the water resources report
17 required under paragraph (1) not later than 30
18 months after the date of the enactment of this Act.
19 The Secretary shall then make the draft report
20 available for public comment for a period of not less
21 than 60 days. The final report shall be submitted to
22 the Committee on Resources in the House of Rep-
23 resentatives and the Committee on Energy and Nat-
24 ural Resources in the Senate and made available to

the public not later than 36 months after the date of the enactment of this Act.

(3) AGREEMENT.—Prior to any transbasin diversion from ground-water basins located within both the State of Nevada and the State of Utah, the State of Nevada and the State of Utah shall reach an agreement regarding the division of water resources of those interstate ground-water flow system(s) from which water will be diverted and used by the project. The agreement shall allow for the maximum sustainable beneficial use of the water resources and protect existing water rights.

**SEC. 142. RELOCATION OF RIGHT-OF-WAY AND UTILITY
CORRIDORS LOCATED IN CLARK AND LINCOLN COUNTIES IN THE STATE OF NEVADA.**

(a) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term “Agreement” means the land exchange agreement between Aerojet-General Corporation and the United States, dated July 14, 1988.

(2) CORRIDOR.—The term “corridor” means—

(A) the right-of-way corridor that is—

(i) identified in section 5(b)(1) of the Nevada-Florida Land Exchange Authorization Act of 1988 (102 Stat. 55); and

1 (ii) described in section 14(a) of the
2 Agreement;

3 (B) such portion of the utility corridor
4 identified in the 1988 Las Vegas Resource
5 Management Plan located south of the bound-
6 ary of the corridor described in subparagraph
7 (A) as is necessary to relocate the right-of-way
8 corridor to the area described in subsection
9 (c)(2); and

10 (C) such portion of the utility corridor
11 identified in the 2000 Caliente Management
12 Framework Plan Amendment located north of
13 the boundary of the corridor described in sub-
14 paragraph (A) as is necessary to relocate the
15 right-of-way corridor to the area described in
16 subsection (c)(2).

17 (3) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 (b) RELINQUISHMENT AND FAIR MARKET VALUE.—

20 (1) IN GENERAL.—The Secretary shall, in ac-
21 cordance with this section, relinquish all right, title,
22 and interest of the United States in and to the cor-
23 ridor on receipt of a payment in an amount equal
24 to the fair market value of the corridor (plus any

1 costs relating to the right-of-way relocation de-
2 scribed in this subtitle).

3 (2) FAIR MARKET VALUE.—

4 (A) The fair market value of the corridor
5 shall be equal to the amount by which the value
6 of the discount described in the 1988 appraisal
7 of the corridor that was applied to the land un-
8 derlying the corridor has increased, as deter-
9 mined by the Secretary using the multiplier de-
10 termined under subparagraph (B).

11 (B) Not later than 60 days after the date
12 of the enactment of this Act, the Appraisal
13 Services Directorate of the Department of the
14 Interior shall determine an appropriate multi-
15 plier to reflect the change in the value of the
16 land underlying the corridor between—

17 (i) the date of which the corridor was
18 transferred in accordance with the Agree-
19 ment; and

20 (ii) the date of enactment of this Act.

21 (3) PROCEEDS.—Proceeds under this sub-
22 section shall be deposited in the account established
23 under section 113(c)

24 (c) RELOCATION.—

1 (1) IN GENERAL.—The Secretary shall relocate
2 to the area described in paragraph (2), the portion
3 of IDI–26446 and UTU–73363 identified as NVN–
4 49781 that is located in the corridor relinquished
5 under subsection (b)(1).

6 (2) DESCRIPTION OF AREA.—The area referred
7 to in paragraph (1) is the area located on public
8 land west of United States Route 93.

9 (3) REQUIREMENTS.—The relocation under
10 paragraph (1) shall be conducted in a manner
11 that—

12 (A) minimizes engineering design changes;

13 and

14 (B) maintains a gradual and smooth inter-
15 connection of the corridor with the area de-
16 scribed in paragraph (2).

17 (4) AUTHORIZED USES.—The Secretary may
18 authorize the location of any above ground or under-
19 ground utility facility, transmission lines, gas pipe-
20 lines, natural gas pipelines, fiber optics, tele-
21 communications, water lines, wells (including moni-
22 toring wells), cable television, and any related appur-
23 tenances in the area described in paragraph (1).

24 (d) EFFECT.—The relocation of the corridor under
25 this section shall not require the Secretary to update the

1 1998 Las Vegas Valley Resource Management Plan or the
 2 2000 Caliente Management Framework Plan Amendment.

3 (e) WAIVER OF CERTAIN REQUIREMENTS.—The Sec-
 4 retary shall waive the requirements of the Federal Land
 5 Policy and Management Act of 1976 (43 U.S.C. 1701 et
 6 seq.) that would otherwise be applicable to the holders of
 7 the right-of-way corridor described in subsection (a)(2)(A)
 8 with respect to an amendment to the legal description of
 9 the right-of-way corridor.

10 **Subtitle D—Silver State Off-** 11 **Highway Vehicle Trail**

12 **SEC. 151. SILVER STATE OFF-HIGHWAY VEHICLE TRAIL.**

13 (a) DEFINITIONS.—In this section:

14 (1) SECRETARY.—The term “Secretary” means
 15 the Secretary of the Interior.

16 (2) MAP.—The term “Map” means the map en-
 17 titled “Lincoln County Conservation, Recreation and
 18 Development Act Map” and dated October 1, 2004.

19 (3) TRAIL.—The term “Trail” means the sys-
 20 tem of trails designated in subsection (b) as the Sil-
 21 ver State Off-Highway Vehicle Trail.

22 (b) DESIGNATION.—The trails that are generally de-
 23 picted on the Map are hereby designated as the “Silver
 24 State Off-Highway Vehicle Trail”.

25 (c) MANAGEMENT.—

1 (1) IN GENERAL.—The Secretary shall manage
2 the Trail in a manner that—

3 (A) is consistent with motorized and
4 mechanized use of the Trail that is authorized
5 on the date of the enactment of this title pursu-
6 ant to applicable Federal and State laws and
7 regulations;

8 (B) ensures the safety of the people who
9 use the Trail; and

10 (C) does not damage sensitive habitat or
11 cultural resources.

12 (2) MANAGEMENT PLAN.—

13 (A) IN GENERAL.—Not later than 3 years
14 after the date of the enactment of this title, the
15 Secretary, in consultation with the State, the
16 County, and any other interested persons, shall
17 complete a management plan for the Trail.

18 (B) COMPONENTS.—The management plan
19 shall—

20 (i) describe the appropriate uses and
21 management of the Trail;

22 (ii) authorize the use of motorized and
23 mechanized vehicles on the Trail; and

24 (iii) describe actions carried out to pe-
25 riodically evaluate and manage the appro-

1 prate levels of use and location of the
2 Trail to minimize environmental impacts
3 and prevent damage to cultural resources
4 from the use of the Trail.

5 (3) MONITORING AND EVALUATION.—

6 (A) ANNUAL ASSESSMENT.—The Secretary
7 shall annually assess the effects of the use of
8 off-highway vehicles on the Trail and, in con-
9 sultation with the Nevada Division of Wildlife,
10 assess the effects of the Trail on wildlife and
11 wildlife habitat to minimize environmental im-
12 pacts and prevent damage to cultural resources
13 from the use of the Trail.

14 (B) CLOSURE.—The Secretary, in con-
15 sultation with the State and the County, may
16 temporarily close or permanently reroute, sub-
17 ject to subparagraph (C), a portion of the Trail
18 if the Secretary determines that—

19 (i) the Trail is having an adverse im-
20 pact on—

21 (I) natural resources; or

22 (II) cultural resources;

23 (ii) the Trail threatens public safety;

24 (iii) closure of the Trail is necessary
25 to repair damage to the Trail; or

1 (iv) closure of the Trail is necessary
2 to repair resource damage.

3 (C) REROUTING.—Portions of the Trail
4 that are temporarily closed may be permanently
5 rerouted along existing roads and trails on pub-
6 lic lands currently open to motorized use if the
7 Secretary determines that such rerouting will
8 not significantly increase or decrease the length
9 of the Trail.

10 (D) NOTICE.—The Secretary shall provide
11 information to the public regarding any routes
12 on the Trail that are closed under subpara-
13 graph (B), including by providing appropriate
14 signage along the Trail.

15 (4) NOTICE OF OPEN ROUTES.—The Secretary
16 shall ensure that visitors to the Trail have access to
17 adequate notice regarding the routes on the Trail
18 that are open through use of appropriate signage
19 along the Trail and through the distribution of
20 maps, safety education materials, and other informa-
21 tion considered appropriate by the Secretary.

22 (d) NO EFFECT ON NON-FEDERAL LAND AND IN-
23 TERESTS IN LAND.—Nothing in this section shall be con-
24 strued to affect ownership, management, or other rights
25 related to non-Federal land or interests in land.

1 (e) MAP ON FILE.—The Map shall be kept on file
2 at the appropriate offices of the Secretary.

3 **Subtitle E—Open Space Parks**

4 **SEC. 161. OPEN SPACE PARK CONVEYANCE TO LINCOLN**
5 **COUNTY, NEVADA.**

6 (a) CONVEYANCE.—Notwithstanding sections 202
7 and 203 of the Federal Land Policy and Management Act
8 of 1976 (43 U.S.C. 1171, 1712), not later than 1 year
9 after lands are identified by the County, the Secretary
10 shall convey to the County, subject to valid existing rights,
11 for no consideration, all right title, and interest of the
12 United States in and to the parcels of land described in
13 subsection (b).

14 (b) DESCRIPTION OF LAND.—Up to 15,000 acres of
15 Bureau of Land Management-managed public land in Lin-
16 coln County identified by the county in consultation with
17 the Bureau of Land Management.

18 (c) COSTS.—Any costs relating to any conveyance
19 under subsection (a), including costs for surveys and other
20 administrative costs, shall be paid by the County, or in
21 accordance with section 113(c)(2) of this title.

22 (d) USE OF LAND.—

23 (1) IN GENERAL.—Any parcel of land conveyed
24 to the County under subsection (a) shall be used
25 only for—

1 (A) the conservation of natural resources;
2 or
3 (B) public parks.

4 (2) FACILITIES.—Any facility on a parcel of
5 land conveyed under subsection (a) shall be con-
6 structed and managed in a manner consistent with
7 the uses described in paragraph (1).

8 (e) REVERSION.—If a parcel of land conveyed under
9 subsection (a) is used in a manner that is inconsistent
10 with the uses specified in subsection (d), the parcel of land
11 shall, at the discretion of the Secretary, revert to the
12 United States.

13 **SEC. 162. OPEN SPACE PARK CONVEYANCE TO THE STATE**
14 **OF NEVADA.**

15 (a) CONVEYANCE.—Notwithstanding section 202 of
16 the Federal Land Policy and Management Act of 1976
17 (43 U.S.C. 1712), the Secretary shall convey to the State
18 of Nevada, subject to valid existing rights, for no consider-
19 ation, all right, title, and interest of the United States in
20 and to the parcels of land described in subsection (b), if
21 there is a written agreement between the State and Lin-
22 coln County, Nevada, supporting such a conveyance.

23 (b) DESCRIPTION OF LAND.—The parcels of land re-
24 ferred to in subsection (a) are the parcels of land depicted
25 as “NV St. Park Expansion Proposal” on the map entitled

1 “Lincoln County Conservation, Recreation, and Develop-
2 ment Act Map” and dated October 1, 2004.

3 (c) COSTS.—Any costs relating to any conveyance
4 under subsection (a), including costs for surveys and other
5 administrative costs, shall be paid by the State.

6 (d) USE OF LAND.—

7 (1) IN GENERAL.—Any parcel of land conveyed
8 to the State under subsection (a) shall be used only
9 for—

10 (A) the conservation of natural resources;

11 or

12 (B) public parks.

13 (2) FACILITIES.—Any facility on a parcel of
14 land conveyed under subsection (a) shall be con-
15 structed and managed in a manner consistent with
16 the uses described in paragraph (1).

17 (e) REVERSION.—If a parcel of land conveyed under
18 subsection (a) is used in a manner that is inconsistent
19 with the uses specified in subsection (d), the parcel of land
20 shall, at the discretion of the Secretary, revert to the
21 United States.

1 **Subtitle F—Jurisdiction Transfer**

2 **SEC. 171. TRANSFER OF ADMINISTRATIVE JURISDICTION**
3 **BETWEEN THE FISH AND WILDLIFE SERVICE**
4 **AND THE BUREAU OF LAND MANAGEMENT.**

5 (a) IN GENERAL.—Administrative jurisdiction over
6 the land described in subsection (b) is transferred from
7 the United States Bureau of Land Management to the
8 United States Fish and Wildlife Service for inclusion in
9 the Desert National Wildlife Range and the administrative
10 jurisdiction over the land described in subsection (c) is
11 transferred from the United States Fish and Wildlife
12 Service to the United States Bureau of Land Manage-
13 ment.

14 (b) DESCRIPTION OF LAND.—The parcel of land re-
15 ferred to in subsection (a) is the approximately 8,503
16 acres of land administered by the United States Bureau
17 of Land Management as generally depicted on the map
18 entitled “Lincoln County Conservation, Recreation, and
19 Development Act Map” and identified as “Lands to be
20 transferred to the Fish and Wildlife Service” and dated
21 October 1, 2004.

22 (c) DESCRIPTION OF LAND.—The parcel of land re-
23 ferred to in subsection (a) is the approximately 8,382
24 acres of land administered by the United States Fish and
25 Wildlife Service as generally depicted on the map entitled

1 “Lincoln County Conservation, Recreation, and Develop-
 2 ment Act Map” and identified as “Lands to be transferred
 3 to the Bureau of Land Management” and dated October
 4 1, 2004.

5 (d) AVAILABILITY.—Each map and legal description
 6 shall be on file and available for public inspection in (as
 7 appropriate)—

8 (1) the Office of the Director of the Bureau of
 9 Land Management;

10 (2) the Office of the Nevada State Director of
 11 the Bureau of Land Management;

12 (3) the Ely Field Station of the Bureau of
 13 Land Management;

14 (4) the Caliente Field Office of the Bureau of
 15 Land Management;

16 (5) the Office of the Director of the United
 17 States Fish and Wildlife Service; and

18 (6) the Office of the Desert National Wildlife
 19 Complex.

20 **TITLE II—OJITO WILDERNESS**

21 **SEC. 201. SHORT TITLE.**

22 This title may be cited as the “Ojito Wilderness Act”.

23 **SEC. 202. DEFINITIONS.**

24 In this title:

1 (1) PUEBLO.—The term “Pueblo” means the
2 Pueblo of Zia.

3 (2) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (3) STATE.—The term “State” means the State
6 of New Mexico.

7 (4) MAP.—The term “map” means the map en-
8 titled “Ojito Wilderness Act” and dated October 1,
9 2004.

10 (5) WILDERNESS.—The term “Wilderness”
11 means the Ojito Wilderness designated under section
12 3(a).

13 **SEC. 203. DESIGNATION OF THE OJITO WILDERNESS.**

14 (a) IN GENERAL.—In furtherance of the purposes of
15 the Wilderness Act (16 U.S.C. 1131 et seq.), there is here-
16 by designated as wilderness, and, therefore, as a compo-
17 nent of the National Wilderness Preservation System, cer-
18 tain land in the Albuquerque District-Bureau of Land
19 Management, New Mexico, which comprise approximately
20 11,183 acres, as generally depicted on the map, and which
21 shall be known as the “Ojito Wilderness”.

22 (b) MAP AND LEGAL DESCRIPTION.—The map and
23 a legal description of the Wilderness shall—

24 (1) be filed by the Secretary with the Com-
25 mittee on Energy and Natural Resources of the Sen-

1 ate and the Committee on Resources of the House
2 of Representatives as soon as practicable after the
3 date of the enactment of this Act;

4 (2) have the same force and effect as if in-
5 cluded in this title, except that the Secretary may
6 correct clerical and typographical errors in the legal
7 description and map; and

8 (3) be on file and available for public inspection
9 in the appropriate offices of the Bureau of Land
10 Management.

11 (c) MANAGEMENT OF WILDERNESS.—Subject to
12 valid existing rights, the Wilderness shall be managed by
13 the Secretary in accordance with the Wilderness Act (16
14 U.S.C. 1131 et seq.) and this title, except that, with re-
15 spect to the Wilderness, any reference in the Wilderness
16 Act to the effective date of the Wilderness Act shall be
17 deemed to be a reference to the date of the enactment
18 of this Act.

19 (d) MANAGEMENT OF NEWLY ACQUIRED LAND.—If
20 acquired by the United States, the following land shall be-
21 come part of the Wilderness and shall be managed in ac-
22 cordance with this title and other laws applicable to the
23 Wilderness:

24 (1) Section 12 of township 15 north, range 01
25 west, New Mexico Principal Meridian.

1 (2) Any land within the boundaries of the Wil-
2 derness.

3 (e) MANAGEMENT OF LANDS TO BE ADDED.—The
4 lands generally depicted on the map as “Lands to be
5 Added” shall become part of the Wilderness if the United
6 States acquires, or alternative adequate access is available
7 to section 12 of township 15 north, range 01 west.

8 (f) RELEASE.—The Congress hereby finds and di-
9 rects that the lands generally depicted on the map as
10 “Lands to be Released” have been adequately studied for
11 wilderness designation pursuant to section 603 of the Fed-
12 eral Land Policy and Management Act of 1976 (43 U.S.C.
13 1782) and no longer are subject to the requirement of sec-
14 tion 603(c) of such Act (16 U.S.C. 1782(c)) pertaining
15 to the management of wilderness study areas in a manner
16 that does not impair the suitability of such areas for pres-
17 ervation as wilderness.

18 (g) GRAZING.—Grazing of livestock in the Wilder-
19 ness, where established before the date of the enactment
20 of this Act, shall be administered in accordance with the
21 provisions of section 4(d)(4) of the Wilderness Act (16
22 U.S.C. 1133(d)(4)) and the guidelines set forth in Appen-
23 dix A of the Report of the Committee on Interior and In-
24 sular Affairs to accompany H.R. 2570 of the One Hun-
25 dred First Congress (H. Rept. 101–405).

1 (h) FISH AND WILDLIFE.—As provided in section
2 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)),
3 nothing in this section shall be construed as affecting the
4 jurisdiction or responsibilities of the State with respect to
5 fish and wildlife in the State.

6 (i) WATER.—Nothing in this section shall affect any
7 existing valid water right.

8 (j) WITHDRAWAL.—Subject to valid existing rights,
9 the Wilderness, the lands to be added under subsection
10 (e), and lands authorized to be acquired by the Pueblo
11 as generally depicted on the map are withdrawn from—

12 (1) all forms of entry, appropriation, and dis-
13 posal under the public land laws;

14 (2) location, entry, and patent under the mining
15 laws; and

16 (3) operation of the mineral leasing, mineral
17 materials, and geothermal leasing laws.

18 (k) EXCHANGE.—Not later than 3 years after the
19 date of the enactment of this Act, the Secretary shall seek
20 to complete an exchange for State land within the bound-
21 aries of the Wilderness.

22 **SEC. 204. LAND HELD IN TRUST.**

23 (a) IN GENERAL.—Subject to valid existing rights
24 and the conditions under subsection (d), all right, title,
25 and interest of the United States in and to the lands (in-

1 cluding improvements, appurtenances, and mineral rights
2 to the lands) generally depicted on the map as “BLM
3 Lands Authorized to be Acquired by the Pueblo of Zia”
4 shall, on receipt of consideration under subsection (c) and
5 adoption and approval of regulations under subsection (d),
6 be declared by the Secretary to be held in trust by the
7 United States for the Pueblo and shall be part of the
8 Pueblo’s Reservation.

9 (b) DESCRIPTION OF LANDS.—The boundary of the
10 lands authorized by this section for acquisition by the
11 Pueblo where generally depicted on the map as imme-
12 diately adjacent to CR906, CR923, and Cucho Arroyo
13 Road shall be 100 feet from the center line of the road.

14 (c) CONSIDERATION.—

15 (1) IN GENERAL.—In consideration for the con-
16 veyance authorized under subsection (a), the Pueblo
17 shall pay to the Secretary the amount that is equal
18 to the fair market value of the land conveyed, as
19 subject to the terms and conditions in subsection
20 (d), as determined by an independent appraisal.

21 (2) APPRAISAL.—To determine the fair market
22 value, the Secretary shall conduct an appraisal paid
23 for by the Pueblo that is performed in accordance
24 with the Uniform Appraisal Standards for Federal

1 Land Acquisitions and the Uniform Standards of
2 Professional Appraisal Practice.

3 (3) AVAILABILITY.—Any amounts paid under
4 paragraph (1) shall be available to the Secretary,
5 without further appropriation and until expended,
6 for the acquisition from willing sellers of land or in-
7 terests in land in the State.

8 (d) PUBLIC ACCESS.—

9 (1) IN GENERAL.—Subject to paragraph (2),
10 the declaration of trust and conveyance under sub-
11 section (a) shall be subject to the continuing right
12 of the public to access the land for recreational, sce-
13 nic, scientific, educational, paleontological, and con-
14 servation uses, subject to any regulations for land
15 management and the preservation, protection, and
16 enjoyment of the natural characteristics of the land
17 that are adopted by the Pueblo and approved by the
18 Secretary; Provided that the Secretary shall ensure
19 that the rights provided for in this paragraph are
20 protected and that a process for resolving any com-
21 plaints by an aggrieved party is established.

22 (2) CONDITIONS.—Except as provided in sub-
23 section (f)—

24 (A) IN GENERAL.—The land conveyed
25 under subsection (a) shall be maintained as

1 open space, and the natural characteristics of
2 the land shall be preserved in perpetuity.

3 (B) PROHIBITED USES.—The use of mo-
4 torized vehicles (except on existing roads or as
5 is necessary for the maintenance and repair of
6 facilities used in connection with grazing oper-
7 ations), mineral extraction, housing, gaming,
8 and other commercial enterprises shall be pro-
9 hibited within the boundaries of the land con-
10 veyed under subsection (a).

11 (e) RIGHTS OF WAY.—

12 (1) EXISTING RIGHTS OF WAY.—Nothing in
13 this section shall affect—

14 (A) any validly issued right-of-way, or the
15 renewal thereof; or

16 (B) the access for customary construction,
17 operation, maintenance, repair, and replace-
18 ment activities in any right-of-way issued,
19 granted, or permitted by the Secretary.

20 (2) NEW RIGHTS OF WAY AND RENEWALS.—

21 (A) IN GENERAL.—The Pueblo shall grant
22 any reasonable requests for rights-of-way for
23 utilities and pipelines over land acquired under
24 subsection (a) that is designated as the Rights-
25 of-Way corridor #1 as established in the Rio

1 Puerco Resource Management Plan in effect on
2 the date of the grant.

3 (B) ADMINISTRATION.—Any right-of-way
4 issued or renewed after the date of the enact-
5 ment of this Act over land authorized to be con-
6 veyed by this section shall be administered in
7 accordance with the rules, regulations, and fee
8 payment schedules of the Department of the In-
9 terior, including the Rio Puerco Resources
10 Management Plan in effect on the date of
11 issuance or renewal of the right-of-way.

12 (f) JUDICIAL RELIEF.—

13 (1) IN GENERAL.—To enforce subsection (d),
14 any person may bring a civil action in the United
15 States District Court for the District of New Mexico
16 seeking declaratory or injunctive relief.

17 (2) SOVEREIGN IMMUNITY.—The Pueblo shall
18 not assert sovereign immunity as a defense or bar
19 to a civil action brought under paragraph (1).

20 (3) EFFECT.—Nothing in this section—

21 (A) authorizes a civil action against the
22 Pueblo for money damages, costs, or attorneys
23 fees; or

1 (B) except as provided in paragraph (2),
2 abrogates the sovereign immunity of the Pueb-
3 lo.

Passed the House of Representatives October 4,
2004.

Attest:

JEFF TRANDAHL,
Clerk.