

105TH CONGRESS
2D SESSION

S. 2385

To establish the San Rafael Swell National Heritage Area and the San Rafael Swell National Conservation Area in the State of Utah, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 1998

Mr. BENNETT (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish the San Rafael Swell National Heritage Area and the San Rafael Swell National Conservation Area in the State of Utah, 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 “San Rafael Swell Na-
5 tional Heritage and Conservation Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

TITLE I—SAN RAFAEL SWELL NATIONAL HERITAGE AREA

- Sec. 101. Short title; findings; purposes.
- Sec. 102. Definitions.
- Sec. 103. Establishment.
- Sec. 104. Grants, technical assistance, and other duties and authorities of Federal agencies.
- Sec. 105. Compact and heritage plan.
- Sec. 106. Heritage Council.
- Sec. 107. Land use regulation.
- Sec. 108. Authorization of appropriations.

TITLE II—SAN RAFAEL SWELL NATIONAL CONSERVATION AREA

Subtitle A—Establishment of Conservation Area

- Sec. 201. Definition of management plan.
- Sec. 202. Establishment of Conservation Area.
- Sec. 203. Management.
- Sec. 204. Additions.
- Sec. 205. Advisory Council.
- Sec. 206. Relationship to other laws and administrative provisions.
- Sec. 207. Communications equipment.

Subtitle B—Wilderness Areas Within Conservation Area

- Sec. 221. Designation of wilderness.
- Sec. 222. Administration of wilderness areas.
- Sec. 223. Livestock.
- Sec. 224. Wilderness release.

Subtitle C—Other Special Management Areas

- Sec. 231. San Rafael Swell Desert Bighorn Sheep Management Area.
- Sec. 232. Semi-primitive nonmotorized use areas.
- Sec. 233. Scenic visual area of critical environmental concern.

TITLE III—GENERAL MANAGEMENT PROVISIONS

- Sec. 301. Livestock grazing.
- Sec. 302. Cultural and paleontological resources.
- Sec. 303. Land exchanges relating to school and institutional trust lands.
- Sec. 304. Water rights.
- Sec. 305. Miscellaneous.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

- 3 (1) **ADVISORY COUNCIL.**—The term “Advisory
- 4 Council” means the San Rafael Swell National Con-
- 5 servation Area Advisory Council established by sec-
- 6 tion 205.

1 (2) CONSERVATION AREA.—The term “Con-
 2 servation Area” means the San Rafael Swell Na-
 3 tional Conservation Area established by section 202.

4 (3) DIRECTOR.—The term “Director” means
 5 the Director of the Bureau of Land Management.

6 (4) NATIONAL HERITAGE AREA.—The term
 7 “National Heritage Area” means the San Rafael
 8 Swell National Heritage Area established by section
 9 103.

10 (5) SECRETARY.—The term “Secretary” means
 11 the Secretary of the Interior, acting through the Di-
 12 rector of the Bureau of Land Management.

13 (6) SEMI-PRIMITIVE AREA.—The term “semi-
 14 primitive area” means an area designated as a semi-
 15 primitive nonmotorized use area under section 232.

16 **TITLE I—SAN RAFAEL SWELL**
 17 **NATIONAL HERITAGE AREA**

18 **SEC. 101. SHORT TITLE; FINDINGS; PURPOSES.**

19 (a) SHORT TITLE.—This title may be cited as the
 20 “San Rafael Swell National Heritage Area Act”.

21 (b) FINDINGS.—Congress finds that—

22 (1)(A) the history of the American West is one
 23 of the most significant chapters of United States
 24 history; and

1 (B) the major themes and images of the history
 2 of the American West provide a legacy that has done
 3 much to shape the contemporary culture, attitudes,
 4 and values of the American West and the United
 5 States;

6 (2) the San Rafael Swell region of the State of
 7 Utah was one of the country's last frontiers and pos-
 8 sesses important historical, cultural, and natural re-
 9 sources that are representative of the central themes
 10 associated with the history of the American West,
 11 including themes of pre-Columbian and Native
 12 American culture, exploration, pioneering, settle-
 13 ment, ranching, outlaws, prospecting and mining,
 14 water development and irrigation, railroad building,
 15 industrial development, and the use and conservation
 16 of natural resources;

17 (3) the San Rafael Swell region contains impor-
 18 tant historical sites, including—

19 (A) sections of the Old Spanish Trail, the
 20 Outlaw Trail, and the Green River Crossing;
 21 and

22 (B) many sites associated with cowboy,
 23 pioneer, and mining history;

24 (4) the heritage of the San Rafael Swell region
 25 includes the activities of many prominent historical

1 figures of the old American West, such as Chief
2 Walker, John Wesley Powell, Kit Carson, John C.
3 Fremont, John W. Gunnison, Butch Cassidy, John
4 W. Taylor, and the Swasey brothers;

5 (5) the San Rafael Swell region has a notable
6 history of coal and uranium mining and a rich cul-
7 tural heritage of activities associated with mining,
8 such as prospecting, railroad building, immigrant
9 workers, coal camps, labor union movements, and
10 mining disasters;

11 (6) the San Rafael Swell region is widely recog-
12 nized for its significant paleontological resources and
13 dinosaur bone quarries, including the Cleveland
14 Lloyd Dinosaur Quarry, which was designated as a
15 national natural landmark in 1966;

16 (7) the beautiful rural landscapes, historical
17 and cultural landscapes, and spectacular scenic vis-
18 tas of the San Rafael Swell region contain signifi-
19 cant undeveloped recreational opportunities for peo-
20 ple throughout the United States;

21 (8)(A) museums and visitors' centers have al-
22 ready been constructed in the San Rafael Swell re-
23 gion, including the John Wesley Powell River His-
24 tory Museum, the College of Eastern Utah Pre-
25 historic Museum, the Museum of the San Rafael, the

1 Western Mining and Railroad Museum, the Emery
2 County Pioneer Museum, and the Cleveland Lloyd
3 Dinosaur Quarry; and

4 (B) those museums are available to interpret
5 the themes of the National Heritage Area and to co-
6 ordinate the interpretive and preservation activities
7 of the National Heritage Area;

8 (9) despite the efforts of the State of Utah, po-
9 litical subdivisions of the State, volunteer organiza-
10 tions, and private businesses, the historical, cultural,
11 natural, and recreational resources of the San
12 Rafael Swell region have not realized their full po-
13 tential and may be lost without assistance from the
14 Federal Government;

15 (10) many of the historical, cultural, and sci-
16 entific sites of the San Rafael Swell region are lo-
17 cated on land owned by the Federal Government and
18 are managed by the Bureau of Land Management or
19 the Forest Service;

20 (11) the preservation of the historical, cultural,
21 natural, and recreational resources of the San
22 Rafael Swell region within a regional framework re-
23 quires cooperation among local property owners and
24 Federal, State, and local government entities; and

1 (12) partnerships between Federal, State, and
2 local governments, local and regional entities of
3 those governments, and the private sector offer the
4 most effective opportunities for the enhancement
5 and management of the historical, cultural, natural,
6 and recreational resources of the San Rafael Swell
7 region.

8 (c) PURPOSES.—The purposes of this title are—

9 (1) to establish the San Rafael Swell National
10 Heritage Area to promote the preservation, con-
11 servation, interpretation, and development of the his-
12 torical, cultural, natural, and recreational resources
13 related to the historical, cultural, and industrial her-
14 itage of the San Rafael Swell region of the State of
15 Utah, which includes the counties of Carbon and
16 Emery and portions of the county of Sanpete;

17 (2) to encourage within the National Heritage
18 Area a broad range of economic and recreational op-
19 portunities to enhance the quality of life for present
20 and future generations;

21 (3) to assist the State of Utah, political subdivi-
22 sions of the State and their local and regional enti-
23 ties, and nonprofit organizations, or combinations
24 thereof, in preparing and implementing a heritage
25 plan for the National Heritage Area and in develop-

1 ing policies and programs that will preserve, en-
2 hance, and interpret the historical, cultural, natural,
3 recreational, and scenic resources of the National
4 Heritage Area; and

5 (4) to authorize the Secretary of the Interior to
6 provide financial assistance and technical assistance
7 to support the preparation and implementation of
8 the heritage plan for the National Heritage Area.

9 **SEC. 102. DEFINITIONS.**

10 In this title:

11 (1) COMPACT.—The term “compact” means an
12 agreement described in section 105(a).

13 (2) FINANCIAL ASSISTANCE.—The term “finan-
14 cial assistance” means funds appropriated by Con-
15 gress and made available to the Heritage Council for
16 the purposes of preparing and implementing a herit-
17 age plan.

18 (3) HERITAGE COUNCIL.—The term “Heritage
19 Council” means the entity designated in the compact
20 and described in section 106(a).

21 (4) HERITAGE PLAN.—The term “heritage
22 plan” means a plan described in section 105(b).

23 (5) SECRETARY.—The term “Secretary” means
24 the Secretary of the Interior.

1 (6) TECHNICAL ASSISTANCE.—The term “tech-
2 nical assistance” includes—

3 (A) assistance by the Secretary in the
4 preparation of a heritage plan, compact, or re-
5 source inventory under this Act; and

6 (B) professional guidance provided by the
7 Secretary to carry out this Act.

8 (7) UNIT OF GOVERNMENT.—The term “unit of
9 government” means the government of a State, a
10 political subdivision of a State, or an Indian tribe.

11 **SEC. 103. ESTABLISHMENT.**

12 There is established a heritage area to be known as
13 the “San Rafael Swell National Heritage Area”.

14 **SEC. 104. GRANTS, TECHNICAL ASSISTANCE, AND OTHER**
15 **DUTIES AND AUTHORITIES OF FEDERAL**
16 **AGENCIES.**

17 (a) GRANTS.—

18 (1) IN GENERAL.—The Secretary may make
19 grants for the purposes of this title to any unit of
20 government or to the Heritage Council.

21 (2) PERMITTED AND PROHIBITED USES OF
22 GRANTS.—

23 (A) PERMITTED USES.—Grants made
24 under this section may be used for reports,
25 studies, interpretive exhibits, historic preserva-

tion projects, construction of cultural, recreational, and interpretive facilities that are open to the public, and such other expenditures as are consistent with this title.

(B) PROHIBITED USES.—Grants made under this section shall not be used for acquisition of real property or any interest in real property.

(3) APPLICABILITY OF RESTRICTIONS TO SUBGRANTS.—For the purposes of paragraph (2), any subgrant made from funds received as a grant (or subgrant) made under this section shall be treated as a grant made under this section.

(4) PROTECTION OF FEDERAL INVESTMENT.—Any grant made under this section shall be subject to an agreement that conversion, use, or disposal of the project assisted with the grant for purposes contrary to the purposes of this title, as determined by the Secretary, shall result in a right of the United States to compensation in an amount equal to the greater of—

(A) all Federal funds made available to the project under this title; or

(B) the proportion of the increased value of the project attributable to the funds, as de-

1 terminated at the time of the conversion, use, or
2 disposal.

3 (b) TECHNICAL ASSISTANCE.—The Secretary may
4 provide technical assistance to carry out this title.

5 (c) DURATION OF ELIGIBILITY FOR GRANTS AND
6 TECHNICAL ASSISTANCE.—The Secretary shall not pro-
7 vide any grant, and may provide only limited technical as-
8 sistance, under this title after the expiration of the 10-
9 year period beginning on the date of establishment of the
10 National Heritage Area.

11 (d) DISQUALIFICATION FOR FEDERAL FUNDING.—If
12 a heritage plan meeting the requirements of section 105(b)
13 is not submitted to the Secretary as required under section
14 106(b)(1), within the time period described in section
15 106(b)(1), the Secretary shall not, after the end of that
16 time period, provide technical assistance or grants under
17 this title until such a heritage plan is developed and sub-
18 mitted to the Secretary.

19 (e) OTHER DUTIES AND AUTHORITIES OF SEC-
20 RETARY.—

21 (1) SIGNING OF COMPACT.—

22 (A) DEADLINE FOR SECRETARY.—Not
23 later than 90 days after receiving a proposed
24 compact submitted under this title, the Sec-

1 retary shall sign or withhold signing of the pro-
2 posed compact.

3 (B) WITHHOLDING OF SIGNATURE.—If the
4 Secretary withholds signing of the proposed
5 compact, the Secretary shall advise the submit-
6 ter, in writing, of the reasons for the withhold-
7 ing.

8 (C) SIGNING OF PROPOSED REVISIONS.—
9 The Secretary shall sign or withhold signing of
10 each proposed revision to the proposed compact
11 not later than 90 days after receiving the pro-
12 posed revision.

13 (D) PUBLIC MEETINGS BY SUBMITTER.—
14 The submitter of a proposed compact shall hold
15 a public meeting in the immediate vicinity of
16 the proposed National Heritage Area before
17 making any major revisions to the proposed
18 compact.

19 (2) MONITORING OF NATIONAL HERITAGE
20 AREA.—The Secretary shall monitor the National
21 Heritage Area. Monitoring of the National Heritage
22 Area shall include monitoring to ensure compliance
23 with the terms of the compact for the Area.

24 (f) DUTIES OF FEDERAL ENTITIES.—Any Federal
25 entity that conducts or supports activities within the Na-

1 tional Heritage Area, and any unit of government that
 2 acts in accordance with the terms of a grant of Federal
 3 funds or a Federal permit or agreement and that conducts
 4 or supports the activities, shall, to the maximum extent
 5 practicable—

6 (1) consult with the Secretary and the Heritage
 7 Council with respect to the activities;

8 (2) cooperate with the Secretary and the Herit-
 9 age Council in the carrying out of the duties of the
 10 Secretary and the Heritage Council under this title;
 11 and

12 (3) coordinate the activities to minimize any
 13 real or potential adverse impact on the National
 14 Heritage Area.

15 (g) PROHIBITION ON CERTAIN REQUIREMENTS.—
 16 The Secretary shall not, as a condition of the award of
 17 technical assistance or financial assistance under this sec-
 18 tion, require any recipient of the assistance to enact or
 19 modify land use restrictions.

20 **SEC. 105. COMPACT AND HERITAGE PLAN.**

21 (a) COMPACT.—

22 (1) IN GENERAL.—The compact with respect to
 23 the National Heritage Area shall consist of an agree-
 24 ment entered into by the Secretary, the Secretary of

1 Agriculture, and the Governor of Utah (or their des-
2 ignees), in coordination with the Heritage Council.

3 (2) REQUIRED ELEMENTS.—The agreement
4 shall describe anticipated programs for the National
5 Heritage Area and include the following information:

6 (A) BOUNDARIES.—A delineation of the
7 boundaries of the National Heritage Area,
8 which shall include the land generally depicted
9 on the map entitled “San Rafael Swell National
10 Heritage/Conservation Area Proposed”, dated
11 June 12, 1998, which shall be on file and avail-
12 able for public inspection in the office of the Di-
13 rector of the Bureau of Land Management.

14 (B) MANAGEMENT ENTITY.—An identifica-
15 tion and description of the Heritage Council.

16 (C) NON-FEDERAL PARTICIPANTS.—A list
17 of the initial participants to be involved in de-
18 veloping and implementing the heritage plan
19 and a statement of the financial commitment of
20 the participants.

21 (D) GOALS, OBJECTIVES, AND COSTS.—A
22 description of the goals, objectives, and costs of
23 the National Heritage Area, including an de-
24 scription of—

- 1 (i) the conceptual framework, pro-
 2 posed by the participants referred to in
 3 subparagraph (C), for development and im-
 4 plementation of the heritage plan; and
 5 (ii) the costs associated with the con-
 6 ceptual framework.

7 (E) ROLE OF STATE.—A description of the
 8 role of the State of Utah.

9 (3) CONSISTENCY WITH ECONOMIC VIABIL-
 10 ITY.—The compact shall be consistent with contin-
 11 ued economic viability in the communities within the
 12 National Heritage Area.

13 (4) ACTIONS IN COMPACT.—Actions provided
 14 for in the compact shall be initiated within a reason-
 15 able time after the date of establishment of the Na-
 16 tional Heritage Area and shall ensure effective im-
 17 plementation of the State and local aspects of the
 18 compact.

19 (b) HERITAGE PLAN.—

20 (1) IN GENERAL.—The heritage plan shall be a
 21 plan that sets forth the strategy to implement the
 22 goals and objectives of the National Heritage Area.
 23 The heritage plan shall—

1 (A) present comprehensive recommenda-
2 tions for the conservation, funding, manage-
3 ment, and development of the Area;

4 (B) be prepared with public participation;

5 (C) take into consideration Federal, State,
6 county, and local plans and involve residents,
7 private property owners, public agencies, and
8 private organizations in the Area;

9 (D) include a description of actions that
10 units of government and private organizations
11 could take to protect the resources of the Area;
12 and

13 (E) specify existing and potential sources
14 of funding for the conservation, management,
15 and development of the Area.

16 (2) ADDITIONAL INFORMATION.—The heritage
17 plan shall include the following, as appropriate:

18 (A) INVENTORY OF RESOURCES.—An in-
19 ventory of important historical, cultural, or nat-
20 ural resources that illustrate the themes of the
21 National Heritage Area.

22 (B) RECOMMENDATIONS FOR MANAGE-
23 MENT.—A recommendation of policies for man-
24 agement of the historical, cultural, and natural
25 resources and the recreational and educational

opportunities of the Area in a manner that is consistent with the support of appropriate and compatible economic viability.

(C) PROGRAM AND COMMITMENTS.—A program for implementation of the heritage plan by the Heritage Council and specific commitments, for the first 5 years of operation of the heritage plan, by the participants identified in the compact.

(D) ANALYSIS OF COORDINATION.—An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this title.

(E) INTERPRETIVE PLAN.—An interpretive plan for the National Heritage Area.

(3) RELATIONSHIP TO CONSERVATION AREA MANAGEMENT PLAN.—

(A) CONSISTENCY.—The heritage plan and the Conservation Area management plan shall be consistent with each other.

(B) APPLICATION OF MANAGEMENT PLAN TO CONSERVATION AREA.—Nothing in the heritage plan may supersede the management plan for the Conservation Area under section 203(c),

1 with respect to the application of the manage-
2 ment plan to the Conservation Area.

3 **SEC. 106. HERITAGE COUNCIL.**

4 (a) IN GENERAL.—The management entity for the
5 National Heritage Area shall be known as the “Heritage
6 Council”. The Heritage Council shall be an entity that re-
7 flects a broad cross-section of interests within the National
8 Heritage Area and shall include—

9 (1) at least 1 representative of 1 or more units
10 of government in the State of Utah;

11 (2) representatives of interested or affected
12 groups; and

13 (3) private property owners that reside within
14 the National Heritage Area.

15 (b) DUTIES.—

16 (1) HERITAGE PLAN.—Not later than 3 years
17 after the date of establishment of the National Her-
18 itage Area, the Heritage Council shall develop and
19 submit to the Secretary and to the Governor of Utah
20 a heritage plan in accordance with the compact.

21 (2) PRIORITIES.—The Heritage Council shall
22 give priority to the implementation of actions, goals,
23 and policies set forth in the compact and heritage
24 plan, including assisting units of government and
25 others in—

1 (A) carrying out programs that recognize
2 important resources within the National Herit-
3 age Area;

4 (B) encouraging economic viability in the
5 affected communities;

6 (C) establishing and maintaining interpre-
7 tive exhibits in the Area;

8 (D) developing recreational and edu-
9 cational opportunities in the Area;

10 (E) increasing public awareness of, and ap-
11 preciation for, the historical, cultural, and natu-
12 ral resources of the Area;

13 (F) restoring historic buildings that are lo-
14 cated within the boundaries of the Area and re-
15 late to the theme of the Area; and

16 (G) ensuring that clear, consistent, and ap-
17 propriate signs identifying public access points
18 and sites of interest are installed throughout
19 the Area.

20 (3) CONSIDERATION OF INTERESTS OF LOCAL
21 GROUPS.—In developing and implementing the herit-
22 age plan, the Heritage Council shall consider the in-
23 terests of diverse units of government, businesses,
24 private property owners, and nonprofit groups within
25 the geographic area.

1 (4) PUBLIC MEETINGS.—

2 (A) IN GENERAL.—The Heritage Council
3 shall conduct public meetings at least annually
4 regarding the implementation of the heritage
5 plan.

6 (B) NOTICE OF MEETING; MINUTES.—The
7 Heritage Council shall—

8 (i) place a notice of each such meeting
9 in a newspaper of general circulation in the
10 National Heritage Area; and

11 (ii) make the minutes of the meeting
12 available to the public.

13 **SEC. 107. LAND USE REGULATION.**

14 (a) LACK OF EFFECT ON AUTHORITY OF GOVERN-
15 MENTS.—Nothing in this title modifies, enlarges, or di-
16 minishes any authority of the Federal, State, or local gov-
17 ernment to regulate any use of land in accordance with
18 law (including regulation).

19 (b) LACK OF ZONING OR LAND USE POWERS OF EN-
20 TITY.—Nothing in this title grants any power of zoning
21 or land use to the management entity for the National
22 Heritage Area.

23 (c) BLM AUTHORITY.—

24 (1) IN GENERAL.—Nothing in this title modi-
25 fies, enlarges, or diminishes the authority of the Sec-

1 retary or the Bureau of Land Management with re-
2 spect to land under the administrative jurisdiction of
3 the Bureau.

4 (2) COOPERATION.—In carrying out this title,
5 the Secretary shall work cooperatively in accordance
6 with the Federal Land Policy and Management Act
7 of 1976 (43 U.S.C. 1701 et seq.) with the Forest
8 Service, the Heritage Council, State and local gov-
9 ernments, and private entities.

10 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) IN GENERAL.—There is authorized to be appro-
12 priated to make grants and provide technical assistance
13 under subsections (a) and (b), respectively, of section 104,
14 and to administer the grants and assistance, \$1,000,000
15 for each fiscal year, to remain available until expended.

16 (b) ANNUAL ALLOCATION FOR GRANTS.—For any
17 fiscal year, not less than 70 percent of the funds obligated
18 under this title shall be used to make grants under section
19 104(a).

20 (c) COST SHARING.—

21 (1) IN GENERAL.—

22 (A) AFTER ESTABLISHMENT OF NATIONAL
23 HERITAGE AREA.—Federal funding provided
24 under this title, after the date of establishment
25 of the National Heritage Area, for any technical

1 assistance or grant with respect to the Area
2 shall not exceed 50 percent of the total cost of
3 the assistance or grant.

4 (B) BEFORE ESTABLISHMENT OF NA-
5 TIONAL HERITAGE AREA.—Federal funding pro-
6 vided under this title with respect to an area
7 before the establishment of the area as the Na-
8 tional Heritage Area shall not exceed an
9 amount proportionate to the level of local sup-
10 port of, and commitment to, the designation of
11 the area.

12 (2) TREATMENT OF DONATIONS.—The value of
13 property or services donated by non-Federal sources
14 and used for management of the National Heritage
15 Area shall be considered to be non-Federal funding
16 for the purposes of paragraph (1).

17 (d) LIMITATION ON TOTAL FUNDING.—Not more
18 than a total of \$10,000,000 may be made available under
19 this section with respect to the National Heritage Area.

20 (e) ALLOCATION OF APPROPRIATIONS.—Notwith-
21 standing any other provision of law, funds appropriated
22 or otherwise made available to the Secretary to carry out
23 this title—

24 (1) shall not be obligated or expended by any
25 person unless the appropriation of the funds has

1 been allocated in the manner required by this title;
2 and

3 (2) shall not be obligated or expended by any
4 person in excess of the amount required by this title.

5 **TITLE II—SAN RAFAEL SWELL**
6 **NATIONAL CONSERVATION**
7 **AREA**

8 **Subtitle A—Establishment of**
9 **Conservation Area**

10 **SEC. 201. DEFINITION OF MANAGEMENT PLAN.**

11 In this subtitle, the term “management plan” means
12 the management plan developed for the Conservation Area
13 under section 203(c), including such revisions to the man-
14 agement plan as are required to carry out this title.

15 **SEC. 202. ESTABLISHMENT OF CONSERVATION AREA.**

16 (a) IN GENERAL.—In order to preserve and maintain
17 heritage, tourism, recreational, historical, scenic, archae-
18 ological, paleontological, biological, cultural, scientific,
19 educational, and economic resources, there is established
20 a conservation area to be known as the “San Rafael Swell
21 National Conservation Area”.

22 (b) INCLUDED AREA.—The Conservation Area shall
23 consist of all public land within the exterior boundaries
24 of the Conservation Area, comprised of approximately
25 630,000 acres, as generally depicted on the map entitled

1 “San Rafael Swell National Heritage/Conservation Area
 2 Proposed”, dated June 12, 1998, including areas depicted
 3 within those boundaries on the map as “Proposed Wilder-
 4 ness”, “Proposed Bighorn Sheep Management Area”,
 5 “Scenic Visual Area of Critical Environmental Concern”,
 6 and “Semi-Primitive Non-Motorized Use Areas”.

7 (c) MAP AND LEGAL DESCRIPTION.—

8 (1) SUBMISSION TO CONGRESS.—As soon as
 9 practicable after the date of enactment of this Act,
 10 the Secretary shall submit the map referred to in
 11 subsection (b) and a legal description of the Con-
 12 servation Area to the Committee on Resources of the
 13 House of Representatives and the Committee on En-
 14 ergy and Natural Resources of the Senate.

15 (2) FORCE AND EFFECT.—The map and legal
 16 description shall have the same force and effect as
 17 if included in this Act, except that the Secretary
 18 may correct clerical and typographical errors in the
 19 map and legal description.

20 (3) PUBLIC AVAILABILITY.—The map and legal
 21 description shall be on file and available for public
 22 inspection in the office of the Director and the office
 23 of the State Director of the Bureau of Land Man-
 24 agement in the State of Utah.

25 (d) WITHDRAWALS.—

1 (1) FEDERAL LAND WITHIN CONSERVATION
2 AREA.—

3 (A) IN GENERAL.—Subject to valid exist-
4 ing rights, the Federal land within the Con-
5 servation Area is withdrawn from—

6 (i) all forms of entry, appropriation,
7 or disposal under the public land laws; and

8 (ii) entry, application, and selection
9 under—

10 (I) the Act of March 3, 1877
11 (commonly known as the “Desert
12 Lands Act”) (43 U.S.C. 321 et seq.);

13 (II) section 4 of the Act of Au-
14 gust 18, 1894 (commonly known as
15 the “Carey Act”) (43 U.S.C. 641);

16 (III) section 2275 of the Revised
17 Statutes (43 U.S.C. 851); and

18 (IV) section 2276 of the Revised
19 Statutes (43 U.S.C. 852).

20 (B) RETURN OF APPLICATIONS.—The Sec-
21 retary shall return to the applicants any appli-
22 cations described in subparagraph (A) that are
23 pending on the date of enactment of this Act,
24 without further action.

1 (2) LAND WITHIN CONSERVATION AREA.—Sub-
2 ject to valid existing rights, land within the Con-
3 servation Area is withdrawn from location under the
4 general mining laws, the operation of the mineral
5 and geothermal leasing laws, and the operation of
6 the mineral material disposal laws, except that min-
7 eral materials subject to disposal may be made avail-
8 able from sites in existence on the date of enactment
9 of this Act to the extent compatible with the pur-
10 poses for which the Conservation Area is established.

11 (e) CLOSURE TO FORESTRY.—Commercial sale of
12 trees, portions of trees, and forest products located within
13 the Conservation Area is prohibited.

14 **SEC. 203. MANAGEMENT.**

15 (a) IN GENERAL.—In consultation with the Advisory
16 Council and subject to valid existing rights, the Secretary
17 shall manage the Conservation Area to conserve, protect,
18 and enhance the resources of the Conservation Area re-
19 ferred to in section 202(a) in accordance with the Federal
20 Land Policy and Management Act of 1976 (43 U.S.C.
21 1701 et seq.) and other applicable laws.

22 (b) USES.—

23 (1) IN GENERAL.—The Secretary shall allow
24 such uses of the Conservation Area as are specified
25 in the management plan developed under subsection

(c) and that the Secretary finds will further the conservation, protection, enhancement, public use, and enjoyment of the resources referred to in section 202(a).

(2) USE OF MOTORIZED VEHICLES.—Except to the extent necessary for administrative and emergency purposes, the use of motorized vehicles within the Conservation Area shall be permitted only on roads and trails specifically designated for such use as part of the management plan developed under subsection (c).

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in cooperation with the Advisory Council, shall develop a comprehensive plan for the long-range management and protection of the Conservation Area.

(2) PUBLIC PARTICIPATION; RESOURCES.—The management plan—

(A) shall be developed with full opportunity for public participation and comment; and

(B) shall contain provisions designed to ensure access to, and protection of, the heritage, tourism, recreational, historical, scenic, archaeological, paleontological, biological, cultural, sci-

entific, educational, and economic resources of
the Conservation Area.

(d) VISITORS.—

(1) VISITORS' CENTER.—In cooperation with
the Advisory Council and such other public or private
entities as the Secretary considers appropriate,
the Secretary may establish a visitors' center designed
to interpret the history and the geological, ecological,
natural, cultural, and other resources of the
Conservation Area.

(2) VISITORS' USE OF CONSERVATION AREA.—

(A) IN GENERAL.—In addition to the visitors'
center, the Secretary may provide for visitor use of
the public land within the Conservation Area to such
extent and in such manner as the Secretary determines
to be consistent with the purposes for which the
Conservation Area is established.

(B) MAPS AND MATERIALS.—To the maximum
extent practicable, the Secretary shall make available
to visitors and other members of the public a map of
the Conservation Area and such other educational and
interpretive materials as are appropriate.

1 (e) COOPERATIVE AGREEMENTS.—The Secretary
 2 may provide such technical assistance to, and enter into
 3 such cooperative agreements and contracts with, the State
 4 of Utah and local governments and private entities as the
 5 Secretary considers appropriate to carry out this title.

6 **SEC. 204. ADDITIONS.**

7 (a) ADDITION TO CONSERVATION AREA.—Any land
 8 located within the boundaries of the Conservation Area
 9 that is acquired by the United States on or after the date
 10 of enactment of this Act shall become a part of the Con-
 11 servation Area and shall be subject to this title.

12 (b) LAND EXCHANGES TO RESOLVE CONFLICTS.—

13 (1) IN GENERAL.—Not later than 4 years after
 14 the date of enactment of this Act, the Secretary
 15 shall study, identify, and initiate voluntary land ex-
 16 changes to resolve ownership-related land use con-
 17 flicts within the Conservation Area.

18 (2) METHOD OF ACQUISITION.—Land may be
 19 acquired under this subsection only from willing sell-
 20 ers.

21 **SEC. 205. ADVISORY COUNCIL.**

22 (a) ESTABLISHMENT.—There is established an advi-
 23 sory council, to be known as the “San Rafael Swell Na-
 24 tional Conservation Area Advisory Council”, to advise the

1 Secretary concerning management of the Conservation
2 Area.

3 (b) MEMBERSHIP.—

4 (1) IN GENERAL.—The Advisory Council shall
5 consist of 11 members appointed by the Secretary
6 from among persons who are representative of the
7 various major citizen's interests concerned with the
8 management of the public land within the Conserva-
9 tion Area. Of the members—

10 (A) 2 members shall be appointed from
11 among individuals recommended by the Gov-
12 ernor of the State of Utah;

13 (B) 4 members shall be appointed from
14 among individuals recommended by the Board
15 of Commissioners of Emery County, Utah, and
16 shall include a representative of each of the
17 Emery County Public Lands Council and the
18 Heritage Council designated under section
19 106(a);

20 (C) 1 member shall be the Director of the
21 Bureau of Land Management in the State of
22 Utah, or a designee; and

23 (D) 4 members shall be selected by the
24 Secretary.

1 (2) APPOINTMENT PROCESS.—The Secretary
2 shall appoint the members of the Advisory Council
3 in accordance with regulations promulgated by the
4 Secretary.

5 (3) TERMS.—

6 (A) IN GENERAL.—The term of members
7 of the Advisory Council shall be a period estab-
8 lished by the Secretary that—

9 (i) shall not exceed 4 years; and

10 (ii) except as provided in subpara-
11 graph (B), shall be the same for all mem-
12 bers.

13 (B) INITIAL MEMBERS.—In appointing the
14 initial members of the Advisory Council, the
15 Secretary shall, for a portion of the members,
16 specify terms that are shorter than the period
17 established under subparagraph (A), as nec-
18 essary to achieve staggering of terms.

19 (c) CHAIRPERSON.—The Advisory Council shall se-
20 lect a Chairperson from among its members.

21 (d) MEETINGS.—The Advisory Council shall meet at
22 least twice each year, at the call of the Secretary or the
23 Chairperson.

24 (e) PAY AND EXPENSES.—A member of the Advisory
25 Council shall serve without pay, except that a member

1 shall be allowed travel expenses, including per diem in lieu
 2 of subsistence, at rates authorized for employees of agen-
 3 cies under subchapter I of chapter 57 of title 5, United
 4 States Code, while away from the member's home or regu-
 5 lar place of business in order to attend any meeting of
 6 the Advisory Council called by the Secretary or the Chair-
 7 person.

8 (f) PROVISION OF ADVICE.—The Advisory Council
 9 may provide advice to the Secretary with respect to the
 10 planning and management of the public land within the
 11 Conservation Area and such other matters as are referred
 12 to the Advisory Council by the Secretary.

13 (g) TERMINATION.—The Advisory Council shall ter-
 14minate 10 years after the date of enactment of this Act.

15 **SEC. 206. RELATIONSHIP TO OTHER LAWS AND ADMINIS-**
 16 **TRATIVE PROVISIONS.**

17 (a) PUBLIC LAND LAWS.—Except as otherwise spe-
 18 cifically provided in this Act, nothing in this title limits
 19 the applicability to land within the Conservation Area of
 20 laws applicable to public land generally, including the Na-
 21 tional Historic Preservation Act (16 U.S.C. 470 et seq.),
 22 the Archaeological Resources Protection Act of 1979 (16
 23 U.S.C. 470aa et seq.), and the Native American Graves
 24 Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

1 (b) NON-BLM LAND.—Nothing in this title alters
 2 the status of any land that on the date of enactment of
 3 this Act was not managed by the Bureau of Land Manage-
 4 ment.

5 **SEC. 207. COMMUNICATIONS EQUIPMENT.**

6 Nothing in this Act prohibits the Secretary from au-
 7 thorizing the installation of communications equipment
 8 within the Conservation Area for public safety purposes,
 9 other than within areas designated as wilderness, to the
 10 highest practicable degree consistent with requirements
 11 and restrictions otherwise applicable to the Conservation
 12 Area.

13 **Subtitle B—Wilderness Areas**
 14 **Within Conservation Area**

15 **SEC. 221. DESIGNATION OF WILDERNESS.**

16 (a) DESIGNATION.—In furtherance of the purposes of
 17 the Wilderness Act (16 U.S.C. 1131 et seq.), the following
 18 lands within the Conservation Area, as generally depicted
 19 on the map entitled “San Rafael Swell National Heritage/
 20 Conservation Area Proposed”, dated June 12, 1998, are
 21 designated as wilderness and as components of the Na-
 22 tional Wilderness Preservation System:

23 (1) Crack Canyon Wilderness Area, consisting
 24 of approximately 25,624 acres.

1 (2) Mexican Mountain Wilderness Area, consist-
2 ing of approximately 27,257 acres.

3 (3) Muddy Creek Wilderness Area, consisting of
4 approximately 39,348 acres.

5 (4) San Rafael Reef Wilderness Area, consist-
6 ing of approximately 48,227 acres.

7 (b) MAP AND LEGAL DESCRIPTION.—

8 (1) SUBMISSION TO CONGRESS.—As soon as
9 practicable after the date of enactment of this Act,
10 the Secretary shall submit a map and a legal de-
11 scription of each area designated as wilderness by
12 subsection (a) to the Committee on Resources of the
13 House of Representatives and the Committee on En-
14 ergy and Natural Resources of the Senate.

15 (2) FORCE AND EFFECT.—Each map and legal
16 description shall have the same force and effect as
17 if included in this Act, except that the Secretary
18 may correct clerical and typographical errors in the
19 maps and legal descriptions.

20 (3) PUBLIC AVAILABILITY.—Each map and
21 legal description shall be on file and available for
22 public inspection in the office of the Director and
23 the office of the State Director of the Bureau of
24 Land Management in the State of Utah.

1 **SEC. 222. ADMINISTRATION OF WILDERNESS AREAS.**

2 (a) IN GENERAL.—Subject to valid existing rights,
3 each area designated as wilderness by this subtitle shall
4 be administered by the Secretary in accordance with this
5 title, title III, and the Wilderness Act (16 U.S.C. 1131
6 et seq.).

7 (b) INCORPORATION OF ACQUIRED LAND AND IN-
8 TERESTS.—Any land or interest in land within the bound-
9 aries of an area designated as wilderness by this subtitle
10 that is acquired by the United States after the date of
11 enactment of this Act shall be added to and administered
12 as part of the wilderness area within which the acquired
13 land or interest in land is located.

14 (c) MANAGEMENT PLANS.—As soon as practicable
15 after the date of enactment of this Act, the Secretary, in
16 cooperation with the Advisory Council, shall develop plans
17 in accordance with section 202 of the Federal Land Policy
18 and Management Act of 1976 (43 U.S.C. 1712) to man-
19 age the areas designated as wilderness by this subtitle.

20 **SEC. 223. LIVESTOCK.**

21 Grazing of livestock within areas designated as wil-
22 derness by this subtitle, where such grazing is established
23 before the date of enactment of this Act—

24 (1) shall not be reduced, increased, or with-
25 drawn, except based solely on scientific analyses of
26 range conditions; and

1 (2) shall be administered in accordance with
2 section 4(d)(4) of the Wilderness Act (16 U.S.C.
3 1133(d)(4)) and the guidelines set forth in House
4 Report No. 96–1126.

5 **SEC. 224. WILDERNESS RELEASE.**

6 (a) FINDING.—Congress finds and directs that public
7 land administered by the Bureau of Land Management
8 within the Conservation Area in the county of Emery,
9 Utah, that is depicted on the map entitled “San Rafael
10 Swell National Heritage/Conservation Area Proposed”,
11 dated June 12, 1998, has been adequately studied for wil-
12 derness designation under section 603 of the Federal
13 Land Policy and Management Act of 1976 (43 U.S.C.
14 1782).

15 (b) RELEASE.—

16 (1) IN GENERAL.—Any public land adminis-
17 tered by the Bureau of Land Management within
18 the Conservation Area in the county of Emery,
19 Utah, that is depicted on the map entitled “San
20 Rafael Swell National Heritage/Conservation Area
21 Proposed”, dated June 12, 1998, and that is not
22 designated as wilderness by this subtitle shall, effec-
23 tive beginning on the date of enactment of this Act,
24 not be subject to section 603(c) of the Federal Land

1 Policy and Management Act of 1976 (43 U.S.C.
2 1782(c)).

3 (2) MANAGEMENT.—The land described in
4 paragraph (1) shall be managed—

5 (A) for multiple uses (as defined in section
6 103 of the Federal Land Policy and Manage-
7 ment Act of 1976 (43 U.S.C. 1702)); and

8 (B) in accordance with land management
9 plans adopted under section 202 of that Act
10 (43 U.S.C. 1712) and under this Act.

11 **Subtitle C—Other Special** 12 **Management Areas**

13 **SEC. 231. SAN RAFAEL SWELL DESERT BIGHORN SHEEP** 14 **MANAGEMENT AREA.**

15 (a) ESTABLISHMENT AND PURPOSES.—

16 (1) ESTABLISHMENT.—There is established
17 within the Conservation Area a management area to
18 be known as the “San Rafael Swell Desert Bighorn
19 Sheep Management Area” (referred to in this sec-
20 tion as the “Management Area”).

21 (2) PURPOSES.—The purposes of the Manage-
22 ment Area shall be—

23 (A) to provide for the prudent manage-
24 ment of Desert Bighorn Sheep and their habi-

1 tat in the Sid's Mountain area of the Conserva-
 2 tion Area;

3 (B) to provide opportunities for observa-
 4 tion of wildlife, hunting, and scientific study of
 5 Desert Bighorn Sheep and their habitat;

6 (C) to provide—

7 (i) a seed source for other Desert Big-
 8 horn Sheep herds; and

9 (ii) a gene pool to protect genetic di-
 10 versity within the Desert Bighorn Sheep
 11 species;

12 (D) to provide educational opportunities to
 13 the public concerning Desert Bighorn Sheep
 14 and their environs; and

15 (E) to maintain the natural qualities of the
 16 land and habitat of the Management Area to
 17 the extent practicable with prudent manage-
 18 ment of Desert Bighorn Sheep.

19 (b) INCLUDED AREA.—The Management Area shall
 20 consist of approximately 73,909 acres of federally owned
 21 land and interests in land managed by the Bureau of Land
 22 Management, as generally depicted on the map entitled
 23 “San Rafael Swell National Heritage/Conservation Area
 24 Proposed”, dated June 12, 1998.

25 (c) MANAGEMENT AND USE.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this section, the Management Area and use
3 of the Management Area shall be subject to all re-
4 quirements and restrictions that apply to the Con-
5 servation Area.

6 (2) MECHANIZED TRAVEL.—The Secretary
7 shall not allow any mechanized travel in the Man-
8 agement Area, except—

9 (A) mechanized travel that is in accord-
10 ance with the management plan developed for
11 the Management Area under subsection (d);
12 and

13 (B) mechanized travel by personnel of the
14 Utah Division of Wildlife Resources and the
15 Bureau of Land Management, including over-
16 flights of aircraft and landings of helicopters, to
17 the extent necessary to manage the Desert Big-
18 horn Sheep and their habitat.

19 (3) DESERT BIGHORN SHEEP MANAGEMENT.—
20 The Secretary and the Utah Division of Wildlife Re-
21 sources may use such management tools as are nec-
22 essary to provide for the sustainability of the Desert
23 Bighorn Sheep herd and the range resource of the
24 Management Area, including animal transplantation
25 (both into and out of the Management Area), hunt-

ing, water development, fencing, surveys, prescribed fire, control of noxious or invading weeds, and predator control.

(4) WILDLIFE OBSERVATION.—

(A) IN GENERAL.—Subject to subparagraph (B), in cooperation with the State of Utah and the Advisory Council, the Secretary shall manage the Management Area to provide opportunities for the public to observe Desert Bighorn Sheep in their natural habitat.

(B) LIMITATION.—The Secretary may restrict mechanized and nonmechanized visitation to sensitive areas during critical seasons as necessary to provide for the proper management of the Desert Bighorn Sheep herd of the Management Area.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall include a management plan for the Management Area in the management plan for the Conservation Area under section 203(c).

(2) CONTENTS.—The management plan for the Management Area shall establish goals and management measures to be taken within the Management

1 Area to achieve the purposes of the Management
 2 Area specified in subsection (a)(2).

3 (3) PARTICIPATION.—The Secretary shall co-
 4 operate with the Utah Division of Wildlife Resources
 5 and the Advisory Council in developing the manage-
 6 ment plan for the Management Area.

7 (e) FACILITIES.—

8 (1) IN GENERAL.—The Secretary may estab-
 9 lish, operate, and maintain in the Management Area
 10 such facilities as are necessary to provide for the
 11 management and safety of recreational users of the
 12 Management Area.

13 (2) OBSERVATION SITES.—Facilities under this
 14 subsection may include improved sheep observation
 15 sites around the periphery of the Management Area,
 16 if the sites do not interfere with the proper manage-
 17 ment of the sheep and their habitat.

18 (f) DEVELOPMENT OF HERITAGE SITES.—This sec-
 19 tion does not preclude the use, enhancement, and mainte-
 20 nance of National Heritage Area sites in the Management
 21 Area, if such activities do not conflict with the purposes
 22 of the Management Area specified in subsection (a)(2).

23 **SEC. 232. SEMI-PRIMITIVE NONMOTORIZED USE AREAS.**

24 (a) DESIGNATION AND PURPOSES.—

1 (1) DESIGNATION.—The Secretary shall des-
2 ignite areas within the Conservation Area as semi-
3 primitive nonmotorized use areas.

4 (2) PURPOSES.—The purposes of the semi-
5 primitive areas shall be—

6 (A) to provide opportunities for isolation
7 from the sights and sounds of humans (includ-
8 ing the sights and sounds of motorized vehi-
9 cles);

10 (B) to provide opportunities to have a high
11 degree of interaction with the natural environ-
12 ment; and

13 (C) to provide opportunities for rec-
14 reational users to practice outdoor skills in set-
15 tings that present moderate challenge and risk.

16 (b) INCLUDED AREA.—The semi-primitive areas shall
17 consist of approximately 120,695 acres of federally owned
18 land and interests in land within the Conservation Area
19 that are managed by the Bureau of Land Management,
20 as generally depicted on the map entitled “San Rafael
21 Swell National Heritage/Conservation Area Proposed”,
22 dated June 12, 1998.

23 (c) MANAGEMENT AND USE OF AREAS.—Except as
24 otherwise provided in this section, semi-primitive areas

1 shall be subject to all requirements and restrictions that
 2 apply to the Conservation Area.

3 (d) MANAGEMENT PLAN.—

4 (1) IN GENERAL.—The Secretary shall include
 5 a management plan for the semi-primitive areas in
 6 the management plan for the Conservation Area
 7 under section 203(c).

8 (2) CONTENTS.—The management plan for the
 9 semi-primitive areas shall establish goals and man-
 10 agement measures to be taken within the semi-
 11 primitive areas to achieve the purposes specified in
 12 subsection (a)(2).

13 (e) DEVELOPMENT OF HERITAGE SITES.—This sec-
 14 tion does not preclude the use, enhancement, and mainte-
 15 nance of National Heritage Area sites in any semi-primi-
 16 tive area, if such activities do not conflict with the pur-
 17 poses of the semi-primitive areas specified in subsection
 18 (a)(2).

19 **SEC. 233. SCENIC VISUAL AREA OF CRITICAL ENVIRON-**
 20 **MENTAL CONCERN.**

21 (a) DESIGNATION AND PURPOSE.—

22 (1) DESIGNATION.—The Secretary shall des-
 23 ignate areas within the Conservation Area as the
 24 scenic visual area of critical environmental concern

1 (referred to in this section as the “scenic visual
2 ACEC”).

3 (2) PURPOSE.—The purpose of the scenic visual
4 ACEC shall be to preserve the scenic value of the
5 Interstate Route 70 corridor within the Conservation
6 Area.

7 (b) INCLUDED AREA.—The scenic visual ACEC shall
8 consist of the approximately 27,670 acres of land and in-
9 terests in land within the Conservation Area bordering
10 Interstate Route 70 that are managed by the Bureau of
11 Land Management, as generally depicted on the map enti-
12 tled “San Rafael Swell National Heritage/Conservation
13 Area Proposed”, dated June 12, 1998.

14 (c) MANAGEMENT AND USE.—Except as otherwise
15 provided in this section, the scenic visual ACEC—

16 (1) shall be subject to all requirements and re-
17 strictions that apply to the Conservation Area; and

18 (2) shall be managed to protect scenic values in
19 accordance with the Bureau of Land Management
20 document entitled “San Rafael Resource Manage-
21 ment Plan, Utah, Moab District, San Rafael Re-
22 source Area, 1991”.

**TITLE III—GENERAL
MANAGEMENT PROVISIONS**

SEC. 301. LIVESTOCK GRAZING.

(a) AREAS OTHER THAN WILDERNESS.—

(1) IN GENERAL.—

(A) CONTINUANCE OF GRAZING.—Except as provided in subsection (b), the Secretary shall permit domestic livestock grazing within areas of the Conservation Area where grazing was established before the date of enactment of this Act.

(B) SOLE BASIS FOR CHANGE IN GRAZING.—Grazing in the areas shall not be reduced, increased, or withdrawn, except based solely on scientific analyses of range conditions.

(2) COMPLIANCE WITH APPLICABLE REQUIREMENTS.—Except as provided in subsection (b), any livestock grazing on public land within the Conservation Area, and such activities as the Secretary determines to be necessary to carry out proper and practical grazing management programs on the public land (such as animal damage control activities), shall be managed in accordance with—

1 (A) the Act of June 28, 1934 (commonly
2 known as the “Taylor Grazing Act”) (43
3 U.S.C. 315 et seq.);

4 (B) section 402 of the Federal Land Policy
5 and Management Act of 1976 (43 U.S.C.
6 1752);

7 (C) other laws applicable to livestock graz-
8 ing and grazing management programs on the
9 public lands; and

10 (D) the management plan for the Con-
11 servation Area.

12 (3) CERTAIN WATER FACILITIES NOT AF-
13 FECTED.—Nothing in this Act affects the mainte-
14 nance, repair, replacement, or improvement of, or in-
15 gress to or egress from, any water catchment, stor-
16 age, or conveyance facility in existence before the
17 date of enactment of this Act that is associated with
18 any livestock or wildlife purpose, whether located
19 within or outside the boundaries of areas designated
20 as part of the Conservation Area under this Act.

21 (b) WILDERNESS.—Subsection (a) shall not apply to
22 any wilderness designated by this Act.

23 **SEC. 302. CULTURAL AND PALEONTOLOGICAL RESOURCES.**

24 The Secretary shall authorize the discovery of, shall
25 protect, and may interpret cultural or paleontological re-

1 sources within areas designated as part of the Conserva-
 2 tion Area, to the extent consistent with the other provi-
 3 sions of this Act governing management of those areas.

4 **SEC. 303. LAND EXCHANGES RELATING TO SCHOOL AND IN-**
 5 **STITUTIONAL TRUST LANDS.**

6 (a) DEFINITIONS.—In this section:

7 (1) SCHOOL AND INSTITUTIONAL TRUST
 8 LANDS.—The term “school and institutional trust
 9 lands” means the properties granted by the United
 10 States in the Utah Enabling Act to the State of
 11 Utah in trust, and other lands that under State law
 12 are required to be managed for the benefit of the
 13 public school system or the institutions of the State
 14 that are designated by the Utah Enabling Act, that
 15 are within the Conservation Area.

16 (2) UTAH ENABLING ACT.—The term “Utah
 17 Enabling Act” means the Act entitled “An Act to
 18 enable the people of Utah to form a constitution and
 19 State government, and to be admitted into the
 20 Union on an equal footing with the original States”,
 21 approved July 16, 1894 (28 Stat. 107, chapter 138).

22 (b) AUTHORIZATION OF EXCHANGE.—

23 (1) IDENTIFICATION OF LANDS AND INTERESTS
 24 BY STATE.—Not later than 1 year after the date of
 25 enactment of this Act, the Governor of the State of

1 Utah may identify, describe, and notify the Sec-
 2 retary of any school and institutional trust lands—

3 (A) the value or economic potential of
 4 which may be diminished by establishment of
 5 the Conservation Area; and

6 (B) that the State would like to exchange
 7 for other Federal land or interests in land with-
 8 in the State of Utah.

9 (2) OFFER BY SECRETARY.—Not later than 1
 10 year after the date of receipt of notification under
 11 paragraph (1), and after seeking the advice of the
 12 Governor of the State of Utah on potential lands for
 13 exchange, the Secretary shall submit to the Governor
 14 a list of Federal lands or interests in land in the
 15 State of Utah that the Secretary determines to be
 16 approximately equal in value to the land described in
 17 paragraph (1), and shall offer the Federal lands or
 18 interests in land for exchange to the State for the
 19 land described in paragraph (1).

20 (c) EQUAL VALUE.—

21 (1) IN GENERAL.—In preparing the list under
 22 subsection (b)(2), the Secretary shall take such steps
 23 as are necessary and reasonable to ensure that the
 24 State of Utah agrees that the Federal lands or inter-
 25 ests in land offered by the Secretary are approxi-

1 mately equal in value to the lands identified and de-
2 scribed by the State under subsection (b)(1).

3 (2) ACCOUNTING FOR REVENUE SHARING.—If
4 the State of Utah shares revenue from the lands and
5 interests in land to be acquired by the State under
6 this section, the value of the lands and interests
7 shall be the value established under this section, re-
8 duced by a percentage that represents the Federal
9 revenue sharing obligation. The amount of the re-
10 duction shall not be considered to be a property
11 right of the State of Utah.

12 (d) PUBLIC INTEREST.—The exchange of lands in-
13 cluded in the list prepared under subsection (b)(2) shall
14 be deemed to satisfy the requirement of section 206(a) of
15 the Federal Land Policy and Management Act of 1976
16 (43 U.S.C. 1716) that exchanges of lands be in the public
17 interest.

18 **SEC. 304. WATER RIGHTS.**

19 (a) FINDINGS.—Congress finds that—

20 (1) the San Rafael Swell region of Utah has a
21 high desert climate with little annual precipitation
22 and scarce water resources;

23 (2) in order to preserve the limited amount of
24 water available to wildlife, the State of Utah has

1 granted to the Division of Wildlife Resources an
2 instream flow right in the San Rafael River; and

3 (3) this preserved right will guarantee that wet-
4 land and riparian habitats within the San Rafael re-
5 gion will be protected for designations such as wil-
6 derness, semi-primitive areas, bighorn sheep areas,
7 and other Federal land needs within the San Rafael
8 Swell region.

9 (b) NO FEDERAL RESERVATION.—Nothing in this
10 Act or any other Act of Congress constitutes an express
11 or implied Federal reservation of water or water rights
12 for any purpose arising from the designation of any area
13 as part of the Conservation Area or as a wilderness or
14 semi-primitive area under this Act.

15 (c) ACQUISITION AND EXERCISE OF WATER RIGHTS
16 UNDER UTAH LAW.—

17 (1) IN GENERAL.—The United States may ac-
18 quire and exercise such water rights as the United
19 States determines to be necessary to carry out its re-
20 sponsibilities on any land designated as part of the
21 Conservation Area under this Act in accordance with
22 the substantive and procedural requirements of the
23 State of Utah.

24 (2) EMINENT DOMAIN.—Nothing in this Act
25 authorizes the use of the power of eminent domain

1 by the United States to acquire water rights for land
2 described in paragraph (1).

3 (3) SUBSTANTIVE AND PROCEDURAL REQUIRE-
4 MENTS.—Within any land designated as part of the
5 Conservation Area under this Act, all rights to water
6 granted under the laws of the State of Utah may be
7 exercised in accordance with the substantive and
8 procedural requirements of the State of Utah.

9 (d) EXERCISE OF WATER RIGHTS UNDER UTAH
10 LAW.—Nothing in this Act limits the exercise of water
11 rights as provided under the law of the State of Utah.

12 (e) COLORADO RIVER.—Nothing in this Act—

13 (1) affects the operation of any private, local,
14 State, or federally owned dam, reservoir, or other
15 water works on the Colorado River or any tributary
16 of the river, that is in existence on the date of enact-
17 ment of this Act; or

18 (2) alters, amends, construes, supersedes, or
19 preempts—

20 (A) any local, State, or Federal law;

21 (B) any private, local, or State agreement
22 entered into before the date of enactment of
23 this Act; or

24 (C) any interstate compact or international
25 treaty;

1 pertaining to the waters of the Colorado River or
2 any tributary of the river.

3 **SEC. 305. MISCELLANEOUS.**

4 (a) STATE FISH AND WILDLIFE MANAGEMENT.—In
5 accordance with section 4(d)(7) of the Wilderness Act (16
6 U.S.C. 1133(d)(7)), nothing in this Act affects the juris-
7 diction or responsibilities of the State of Utah with respect
8 to fish and wildlife management activities, including water
9 development, predator control, transplantation of animals,
10 fish stocking, hunting, fishing, and trapping.

11 (b) PROHIBITION ON BUFFER ZONES.—

12 (1) IN GENERAL.—Congress—

13 (A) does not intend that the designation of
14 an area under this Act as part of the Conserva-
15 tion Area or a wilderness or semi-primitive area
16 lead to the creation of protective perimeters or
17 buffer zones around the area; and

18 (B) intends that any protective perimeter
19 or buffer zone be located wholly within such an
20 area.

21 (2) ACTIVITIES SEEN OR HEARD.—The fact
22 that nonconforming activities or uses can be seen or
23 heard from land within an area described in para-
24 graph (1)(A) shall not, of itself, preclude those ac-

1 tivities or uses outside and up to the boundaries of
2 the area.

3 (3) ASSESSMENT OF DEGRADATION.—Non-
4 conforming activities that occur outside the bound-
5 aries of an area described in paragraph (1)(A) shall
6 not be taken into account in assessing unnecessary
7 and undue degradation of such an area.

8 (c) ROADS AND RIGHTS-OF-WAY AS BOUNDARIES.—
9 Unless depicted otherwise on a map referred to in this Act,
10 in any case in which roads form the boundaries of an area
11 designated as part of the Conservation Area or a wilder-
12 ness or semi-primitive area under this Act, the boundary
13 of the area shall be set back from the center line of the
14 road as follows:

15 (1) A setback that corresponds to the boundary
16 of the right-of-way for Interstate 70.

17 (2) 150 feet for high standard roads.

18 (3) 100 feet for roads classified as County
19 Class B roads.

20 (4) 50 feet for roads equivalent to County Class
21 D roads.

22 (d) ACCESS.—

23 (1) IN GENERAL.—Subject to valid existing
24 rights, reasonable access described in paragraph (2)
25 shall be allowed to improvements, structures, and fa-

1 cilities in existence on the date of enactment of this
2 Act (including those related to water and grazing re-
3 sources) that are within the Conservation Area or a
4 wilderness or semi-primitive area designated under
5 this Act, whether located on Federal or non-Federal
6 land, in order that they may be operated, main-
7 tained, repaired, modified, or replaced as necessary.

8 (2) REASONABLE ACCESS.—The reasonable ac-
9 cess referred to in paragraph (1)—

10 (A) consists of a right of entry; and

11 (B) includes access by motorized transport
12 when necessarily, customarily, or historically
13 employed on routes in existence as of the date
14 of enactment of this Act.

15 (e) LAND ACQUISITION BY EXCHANGE OR PUR-
16 CHASE.—

17 (1) IN GENERAL.—The Secretary shall offer to
18 acquire from non-governmental entities land and in-
19 terests in land located in or adjacent to the Con-
20 servation Area or a wilderness or semi-primitive area
21 designated under this Act.

22 (2) METHOD OF ACQUISITION.—Land may be
23 acquired under this subsection only by exchange or
24 purchase from willing sellers.

25 (f) RIGHTS-OF-WAY.—

1 (1) RIGHT-OF-WAY CLAIMS NOT AFFECTED.—
2 Nothing in this Act, including any reference to or
3 depiction on the map entitled “San Rafael Swell Na-
4 tional Heritage/Conservation Area Proposed”, dated
5 June 12, 1998, affects any right-of-way claim that
6 arose under section 2477 of the Revised Statutes
7 (43 U.S.C. 932) (as in effect before October 21,
8 1976).

9 (2) DEPICTIONS NOT DETERMINATIVE.—Any
10 depiction or lack of depiction of a highway, road,
11 right-of-way, or trail on the map entitled “San
12 Rafael Swell National Heritage/Conservation Area
13 Proposed”, dated June 12, 1998, shall not be con-
14 sidered in any determination under that section as
15 to whether the highway, road, right-of-way, or trail
16 exists.

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