

110TH CONGRESS
1ST SESSION

H. R. 3335

To establish the South Park National Heritage Area, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2007

Mr. LAMBORN introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To establish the South Park National Heritage Area, 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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “South Park National Heritage Area Act”.

6 (b) FINDINGS.—Congress finds that—

7 (1) the rich natural resources, the variety of
8 recreational opportunities, the cultural legacy, and
9 the unparalleled history of South Park, Colorado,
10 are of national importance and are deserving of rec-

1 ognition, conservation, interpretation, and con-
2 tinuing use;

3 (2) the people of South Park respect, protect
4 and defend the rights and desires of private property
5 owners, and support the power and right of individ-
6 uals to shape their own destiny;

7 (3) the South Park National Heritage Area
8 builds upon existing local initiatives to spur eco-
9 nomic development while conserving, preserving and
10 interpreting the resources on which the local econ-
11 omy depends;

12 (4) in 1997, the Governor of Colorado des-
13 ignated South Park as Colorado's second State Her-
14 itage Area;

15 (5) in 2006, the President of the United States
16 recognized and designated South Park as a Preserve
17 America Community that protects and celebrates its
18 heritage, uses its historic assets for economic devel-
19 opment and community revitalization, and encour-
20 ages people to experience and appreciate local his-
21 toric resources through education and heritage tour-
22 ism programs;

23 (6) the agrarian landscape, culture, and historic
24 resources of South Park assist citizens in experi-
25 encing how native peoples, early explorers, trappers,

1 miners, ranchers, and settlers lived on the frontiers
2 of the United States;

3 (7) the ideals of self governance and individ-
4 ualism of the United States gave rise to laws that—

5 (A) were developed within the remote land-
6 scape of South Park;

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

9 (C) reenforced the democratic traditions of
10 the United States;

11 (8) the average elevation of South Park exceeds
12 9,000 feet and ranks among the highest basins in
13 North America;

14 (9) native peoples have inhabited the landscape
15 of South Park for 10,000 years;

16 (10) Porcupine Cave and its wealth of animal
17 fossils, including a now-extinct North American
18 cheetah, is one of the most important paleontological
19 sites for the study of Ice Age vertebrates in the
20 world, and contains the richest and most diverse
21 vertebrate fauna known from the middle Pleistocene
22 on the North American continent;

23 (11) in addition to high summits, pristine
24 stream streams, and open prairies, the unmatched
25 landscape of the Heritage Area also contains—

1 (A) portions of the Lost Creek Wilderness
2 and Buffalo Peaks Wilderness Areas, featuring
3 disappearing streams, ancient pine trees, glob-
4 ally rare plants, and State-endangered boreal
5 toads;

6 (B) the Lost Creek National Natural
7 Landmark, characterized by stunning rock
8 spires and pinnacles, narrow ridges, steep nar-
9 row gorges, and a stream that disappears and
10 reappears at the surface at least nine times;

11 (C) National Forest System lands that are
12 home to the federally-threatened Penland Al-
13 pine fen mustard, Canadian lynx and greenback
14 cut-throat trout;

15 (D) 12 State wildlife areas that protect
16 large herds of elk, deer, pronghorn antelope,
17 and many other species;

18 (E) 45 miles of “Gold Medal” trout water
19 that provide world-class trout fishing opportuni-
20 ties;

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

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

1 (12) the South Park National Heritage Area of-
2 fers outstanding recreational opportunities for hik-
3 ing, fishing, camping, climbing, sightseeing, hunting,
4 wildlife viewing, and off-highway vehicle use;

5 (13) the South Park National Heritage Area
6 contains buildings, structures, sites, and stories that
7 preserve and interpret the frontier heritage of the
8 United States;

9 (14) the globally rare grassland of the valley
10 floor of South Park, composed primarily of Arizona
11 fescue and slimstem muhly, is the largest docu-
12 mented natural montane grassland community of
13 that type.

14 **SEC. 2. DEFINITIONS.**

15 For the purposes of this Act, the following definitions
16 apply:

17 (1) HERITAGE AREA.—The term “Heritage
18 Area” means the South Park National Heritage
19 Area established by section 4.

20 (2) BOARD.—The term “Board” means the
21 Board of Directors of the South Park National Her-
22 itage Area, comprised initially of the individuals,
23 agencies, organizations, and governments that were
24 involved in the planning and development of the

1 Heritage Area before the date of enactment of this
2 Act.

3 (3) Management Entity—The management entity
4 for the Heritage Area shall be the Park County
5 Tourism & Community Development Office, in
6 conjunction with the South Park National Heritage
7 Area Board of Directors.

8 (4) MANAGEMENT PLAN.—The term “manage-
9 ment plan” means the management plan for the
10 Heritage Area specified in section 5(b).

11 (5) PARTNER.—The term “partner” means—

12 (A) a Federal, State, or local governmental
13 entity; and

14 (B) an organization, private industry, or
15 individual involved in promoting the historical,
16 cultural, and recreational resources of the Her-
17 itage Area.

18 (6) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

20 (7) PARTICIPATING LOCALITY.—The term “par-
21 ticipating locality” means a unit of local government
22 which has formally requested to be included in the
23 Heritage Area, and has sent notification of such
24 pursuant to section 5(c)(1)(D).

1 **SEC. 3. PURPOSE.**

2 The purpose of the Heritage Area are—

3 (1) to support, and interpret the legacy of the
4 history of the United States created along the Herit-
5 age Area;

6 (2) to promote heritage, cultural, and rec-
7 reational tourism and to develop educational and
8 cultural programs for visitors and the general public;

9 (3) to promote the conservation, interpretation
10 and continuing use of the heritage resources of
11 South Park.

12 (4) to assist the State of Colorado and its units
13 of local government, the private sector, and area citi-
14 zens in supporting, enhancing, and interpreting the
15 significant natural, historic, cultural, and rec-
16 reational sites in the Heritage Area.

17 **SEC. 4. SOUTH PARK NATIONAL HERITAGE AREA.**

18 (a) ESTABLISHMENT.—There is hereby established
19 the South Park National Heritage Area.

20 (b) REGION ELIGIBLE FOR INCLUSION IN THE HER-
21 ITAGE AREA.—The Heritage Area shall consist of the
22 areas included in the map.

23 (c) MAP.—

24 (1) IN GENERAL.—A map of the Heritage Area
25 shall be—

26 (A) included in the management plan; and

1 (B) on file and available for public inspec-
2 tion in the appropriate offices of the National
3 Park Service and on the website the National
4 Park Service.

5 (2) PUBLICATION.—As soon as practical after
6 the date of the enactment of this Act, the Secretary
7 shall publish in the Federal Register a detailed de-
8 scription and map of the participating localities es-
9 tablished under this subsection.

10 (3) MANAGEMENT ENTITY.—The management
11 entity for the Heritage Area shall be the Park Coun-
12 ty Tourism & Community Development Office,
13 in conjunction with the South Park National Herit-
14 age Area Board of Directors.

15 **SEC. 5. AUTHORITIES AND DUTIES OF THE MANAGEMENT**
16 **ENTITY.**

17 (a) AUTHORITIES OF THE MANAGEMENT ENTITY.—

18 (1) AUTHORITY TO ACCEPT FUNDS.—The man-
19 agement entity may accept funds from any non-Fed-
20 eral source, including States and their political sub-
21 divisions, private organizations, nonprofit organiza-
22 tions, or any other person, to carry out its duties
23 under this Act.

24 (2) USE OF FUNDS.—The management entity
25 may use funds to prepare, update, and implement

1 the management plan developed under subsection
2 (b). The management entity may not make grants to
3 States or their political subdivisions. The manage-
4 ment entity may use funds for other purposes, in-
5 cluding the following:

6 (A) Making grants to, and entering into
7 cooperative agreements with, private organiza-
8 tions, non profit organizations, or any other pri-
9 vate individual.

10 (B) Hiring and compensating staff.

11 (C) Entering into contracts for goods and
12 services related to the production of maps, bro-
13 chures, and other educational and promotional
14 materials.

15 (3) MEETINGS.—All meetings conducted by the
16 management entity shall be open to the public and
17 minutes of each meeting shall be made available to
18 the public.

19 (b) MANAGEMENT PLAN.—The management entity
20 shall develop a management plan for the Heritage Area
21 that—

22 (1) presents comprehensive strategies and rec-
23 ommendations for promoting tourism within the
24 Heritage Area and educating the public about the
25 natural significance of the Heritage Area;

1 (2) takes into consideration existing State,
2 county, and local plans and involves residents, public
3 agencies, and private organizations working in the
4 Heritage Area;

5 (3) specifies the existing and potential sources
6 of funding to promote tourism within the Heritage
7 Area;

8 (4) includes an analysis of ways in which local,
9 State, and Federal programs can be best coordi-
10 nated to promote the purposes of this Act, including
11 recommendations to the State of Colorado and the
12 subdivisions thereof for the promotion, support, and
13 interpretation of the natural, cultural, and historical
14 resources of the Heritage Area;

15 (5) includes locations for visitor contact;

16 (6) includes recommendations to pursue devel-
17 opment of compatible economic opportunities and
18 heritage products;

19 (7) assist communities, organizations, and citi-
20 zens in the State of Colorado in identifying, pre-
21 serving, interpreting, developing, and promoting the
22 historical, cultural, scenic, recreational, agricultural,
23 and natural resources of the region for the edu-
24 cational, inspirational, and economic benefit of cur-
25 rent and future generations;

1 (8) ensure that the management plan, when im-
2 plemented, would not interfere with the property
3 rights, which includes any land use restrictions, of
4 those living within the Heritage Area.

5 (9) includes recommendations for the develop-
6 ment of educational outreach programs for students
7 of all ages to further the understanding of the vast
8 resources within the Heritage Area.

9 (c) DEADLINE; TERMINATION OF ASSISTANCE.—

10 (1) DEADLINE.—The management entity shall
11 submit the management plan to the Secretary not
12 later than 2 years after the enactment of this Act.
13 Prior to submitting the draft plan to the Secretary,
14 the management entity shall ensure that—

15 (A) the State of Colorado and any political
16 subdivision thereof that would be affected by
17 the plan, receive a copy of the draft plan;

18 (B) adequate notice of availability of the
19 draft plan is provided through publication in
20 the appropriate local newspapers in the area of
21 the Heritage Area;

22 (C) at least one public hearing conducted
23 by the management entity in each county that
24 is included in the region of potential inclusion
25 of the Heritage Area;

1 (D) each residential and commercial prop-
2 erty owner within a participating locality has
3 been notified, via United States Postal Service
4 first class letter, by the local unit of govern-
5 ment requesting inclusion in the Heritage Area;
6 and

7 (E) the Park County Tourism & Com-
8 munity Development Office and the South Park
9 National Heritage Area Board of Directors.

10 (2) TERMINATION OF ASSISTANCE.—If a man-
11 agement plan is not submitted to the Secretary in
12 accordance with this subsection, the Secretary shall
13 not, after that date, provide any assistance under
14 this Act with respect to the Heritage Area until such
15 management plan for the Heritage Area is sub-
16 mitted to the Secretary.

17 (d) DUTIES OF THE MANAGEMENT ENTITY.—The
18 management entity shall—

19 (1) give priority to implementing actions set
20 forth in the management plan;

21 (2) assist units of government and nonprofit or-
22 ganizations in—

23 (A) establishing and maintaining interpre-
24 tive materials and exhibits in the Heritage
25 Area;

1 (B) developing historical, cultural, natural,
2 and educational programs in the Heritage Area;

3 (C) increasing public awareness of and ap-
4 preciation for the natural, historical, and archi-
5 tectural resources and sites in the Heritage
6 Area;

7 (D) restoring any historic building relating
8 to the themes of the Heritage Area; and

9 (E) ensuring that clear signs identifying
10 access points and sites of interest are placed
11 throughout the Heritage Area; and

12 (F) consider the interests of diverse gov-
13 ernmental, business, and nonprofit groups with-
14 in the Heritage Area.

15 (e) CONSEQUENCES OF NONCOMPLIANCE.—If the
16 management entity does not comply with the provisions
17 of this Act, it shall cease to be the management entity
18 and its authority shall not be recognized, nor shall its
19 management plan or any other work product be used, to
20 implement this Act.

21 **SEC. 6. DUTIES AND AUTHORITIES OF THE SECRETARY.**

22 (a) TECHNICAL ASSISTANCE.—

23 (1) IN GENERAL.—The Secretary may, upon
24 the request of the management entity and subject to
25 the availability of resources, provide technical assist-

1 ance to the management entity to carry out its du-
2 ties under this Act, including updating and imple-
3 menting the management plan that is submitted
4 under section 5(b) and approved by the Secretary
5 and, prior to such approval, providing assistance for
6 initiatives.

7 (2) PRIORITY.—In assisting the management
8 entity, the Secretary shall give priority to actions
9 that assist in the—

10 (A) creation of the management plan;

11 (B) provision of educational assistance and
12 advice regarding promotion of the Heritage
13 Area; and

14 (C) design and fabrication of a wide range
15 of interpretive materials based on the manage-
16 ment plan, such as guide brochures, visitor dis-
17 plays, audio-visual, books, interpretive dia-
18 logues, interactive exhibits, and educational cur-
19 riculum materials for public education.

20 (b) APPROVAL AND DISAPPROVAL OF MANAGEMENT

21 PLANS.—The Secretary, in consultation with the Governor
22 of Colorado shall approve or disapprove a management
23 plan submitted under this Act not later than 180 days
24 after receiving such plan. In approving the plan, the Sec-
25 retary shall take into consideration the following criteria:

1 (1) The extent to which the management plan,
2 when implemented, would support and promote the
3 significant historical, natural, cultural, and rec-
4 reational resources of the Heritage Area.

5 (2) The level of public participation in the de-
6 velopment of the management plan.

7 (3) The extent to which the Park County Tour-
8 ism & Community Development Office and the
9 South Park National Heritage Area Board of Direc-
10 tors is representative of the local governments af-
11 fected and a wide range of interested organizations
12 and citizens.

13 (c) ACTION FOLLOWING DISAPPROVAL.—If the Sec-
14 retary disapproves a management plan, the Secretary shall
15 advise the management entity in writing of the reason(s)
16 for disapproval and shall make recommendations for revi-
17 sions in the management plan. The Secretary shall ap-
18 prove or disapprove a proposed revision not later than 90
19 days after the date it is submitted.

20 (d) APPROVING CHANGES.—Amendments to the ap-
21 proved management plan for the Heritage Area that make
22 substantial changes shall not be effective until approved
23 by the Secretary under the same time line as the manage-
24 ment plan was approved.

1 **SEC. 7. SUNSET.**

2 The Secretary may not provide any assistance under
3 this Act after the expiration of the 10-year period begin-
4 ning on the date of the enactment of this Act.

5 **SEC. 8. REQUIREMENTS FOR INCLUSION OF PRIVATE**
6 **PROPERTY.**

7 (a) NOTIFICATION AND CONSENT OF PROPERTY
8 OWNERS REQUIRED.—No privately owned property shall
9 be preserved or promoted under the management plan for
10 the Heritage Area until the owner of that private property
11 has—

12 (1) been notified in writing by the management
13 entity; and

14 (2) given written consent to the management
15 entity for such preservation or promotion.

16 (b) LANDOWNER WITHDRAWAL.—Any owner of pri-
17 vate property included within the boundary of the Herit-
18 age Area shall have their property immediately removed
19 from the boundary by submitting a written request to the
20 management entity.

21 (c) CHANGE OF OWNERSHIP.—If private property in-
22 cluded within the boundary of the Heritage Area has been
23 excluded from the Heritage Area or has not been pre-
24 served or promoted under the management plan for the
25 Heritage Area because the owner has not given or has
26 withdrawn consent, upon change of ownership of that pri-

1 vate property, the management entity may request consent
2 from the new owners.

3 **SEC. 9. PRIVATE PROPERTY PROTECTION.**

4 (a) ACCESS TO PRIVATE PROPERTY.—Nothing in
5 this Act shall be construed to—

6 (1) require any private property owner to allow
7 public access (including Federal, State, or local gov-
8 ernment access) to such private property; or

9 (2) modify any provision of Federal, State, or
10 local law with regard to public access to or use of
11 private property.

12 (a) LIABILITY.—Designation of the Heritage Area
13 shall not be considered to create any liability, or to have
14 any effect on any liability under any other law, of any pri-
15 vate property owner with respect to any persons injured
16 on such private property.

17 (b) RECOGNITION OF AUTHORITY TO CONTROL
18 LAND USE.—Nothing in this Act shall be construed to
19 modify the authority of Federal, State, or local govern-
20 ments to regulate land use.

21 (c) COMPENSATION FOR LOST USE.—If a local gov-
22 ernmental entity within the boundaries of the Heritage
23 Area promulgates new land use regulations following the
24 date of the enactment of this Act that restrict the use of
25 private property, or any interest therein, thereby reducing

1 the value of the property, then management entity shall
 2 pay the owner of the property just compensation in an
 3 amount no less than the fair market value of the lost use
 4 as of the date that the owner makes written request for
 5 compensation. The management entity shall compensate
 6 the property owner not later than 180 day after receiving
 7 the property owner's written request for compensation.

8 (d) FUNDAMENTAL RULE FOR COMPUTATION OF
 9 COMPENSATION.—Compensation due to the owner of a re-
 10 stricted property is the monetary sum which makes the
 11 owner whole as a practical matter, by placing the owner
 12 in a financial position after the land use regulations are
 13 implemented which is equivalent to the owner's financial
 14 position before the taking. The computation of compensa-
 15 tion shall be construed liberally for the benefit of the
 16 owner in order to effectuate its remedial purpose.

17 (e) SUBSIDIARY RULES FOR COMPUTATION.—The
 18 following rules for computation are to inform application
 19 of the fundamental rule of subsection (d), and shall be
 20 construed consistent with its remedial purpose:

21 (1) FAIR MARKET VALUE.—Subject to excep-
 22 tions stated herein or necessary to the fundamental
 23 rule of subsection (d), just compensation includes
 24 the fair market value of the property the day of en-
 25 actment of the land use regulations or the first day

1 of a governmental hearing on the issue of compensa-
2 tion, whichever is earlier.

3 (2) CHANGES IN VALUE CAUSED BY THE HER-
4 ITAGE AREA.—Compensation shall be computed
5 without regard to any decreases in value resulting
6 from public awareness of the Heritage Area, man-
7 agement plan, or land use regulations, regardless of
8 whether the management plan has been finalized,
9 authorized, or funded. In order to have such de-
10 creases disregarded in the computation of just com-
11 pensation, the owner need not prove any specific in-
12 tent to devalue by Federal or State actors or the
13 management entity, but only that the management
14 plan affected the real estate market or land use reg-
15 ulatory decisions affecting the property.

16 (3) BUSINESS LOSSES.—If land use regulations
17 damages a business within the Heritage Area, the
18 business owner shall be entitled to recover actual
19 and projected lost profits resulting from the land use
20 regulations and any moving costs that may occur.

21 (4) FARM INCOME.—Compensation shall also
22 include the present value of any actual and projected
23 loss of farm income resulting from land use regula-
24 tions.

1 (5) ATTORNEYS FEES AND OTHER COSTS.—

2 Compensation includes the owner's attorneys fees
3 and all costs, including those for independent ap-
4 praisals and other reports incurred by the property
5 owner which were reasonably necessary to
6 ascertaining and vindicating the property owner's
7 rights.

8 (f) FAILURE TO COMPLY.—Any local governmental
9 entity that fails to comply with subsection (d) shall not
10 be eligible to participate in the Heritage Area and shall
11 be barred from receiving any Federal funds for a period
12 of 3 years.

13 (g) PARTICIPATION OF PRIVATE PROPERTY OWNERS
14 IN HERITAGE AREA.—Nothing in this Act shall be con-
15 strued to require the owner of any private property located
16 within the boundaries of the Heritage Area to participate
17 in or be associated with the Heritage Area.

18 (h) EFFECT OF ESTABLISHMENT.—The boundaries
19 designated for the Heritage Area represent the area within
20 which specific, eligible localities have been included in the
21 area. The establishment of the Heritage Area and its
22 boundaries shall not be construed to provide any non-ex-
23 isting regulatory authority on land use within the Heritage

- 1 Area or its viewshed by the Secretary, the National Park
- 2 Service, or the management entity.

