

106TH CONGRESS
1ST SESSION

H. R. 2795

To establish the Shivwits Plateau National Conservation Area in the State of Arizona, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

Mr. STUMP (for himself, Mr. HANSEN, Mr. MCKEON, Mr. WALDEN of Oregon, Mr. SHADEGG, Mrs. CUBIN, Mr. CALLAHAN, Mr. HAYWORTH, Mr. YOUNG of Alaska, Mr. BAKER, Mr. HEFLEY, Mr. DOOLITTLE, Mr. GIBBONS, Mr. HILL of Montana, Mr. EVERETT, Mr. SKEEN, Mr. HERGER, Mr. BURTON of Indiana, Mr. POMBO, Mr. SESSIONS, Mr. COLLINS, Mr. TAUZIN, Mr. COOKSEY, Mr. SALMON, Mr. TANCREDO, and Mr. SCHAFER) introduced the following bill; which was referred to the Committee on Resources

A BILL

To establish the Shivwits Plateau National Conservation Area in the State of Arizona, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Shivwits Plateau National Conservation Area Establish-
6 ment Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—SHIVWITS PLATEAU NATIONAL CONSERVATION AREA

Sec. 101. Definitions.

Sec. 102. Establishment of Shivwits Plateau National Conservation Area, Arizona.

Sec. 103. Administration of conservation area.

Sec. 104. Effect on existing and historical uses of Federal lands included in conservation area.

Sec. 105. Acquisition of land.

Sec. 106. Mineral assessment program and relationship to mining laws.

Sec. 107. Ecological restoration and protection.

Sec. 108. Effect on water rights.

Sec. 109. Road improvements to enhance access to conservation area.

Sec. 110. Archaeological, historical, and scientific survey.

Sec. 111. Authorization of appropriations.

TITLE II—LAND RESTORATION AND CONVEYANCES

Sec. 201. Public lands restoration and demonstration project, Arizona Strip/Southern Utah Restoration Area.

Sec. 202. Land conveyances, certain Bureau of Land Management lands in Arizona and Utah.

Sec. 203. Authorization of appropriations.

3 **TITLE I—SHIVWITS PLATEAU NA-**
 4 **TIONAL CONSERVATION AREA**

5 **SEC. 101. DEFINITIONS.**

6 In this title:

7 (1) CONSERVATION AREA.—The term “con-
 8 servation area” means the Shivwits Plateau National
 9 Conservation Area established by section 102.

10 (2) ADVISORY COMMITTEE.—The term “advi-
 11 sory committee” means the Shivwits Plateau Na-
 12 tional Conservation Area Advisory Committee estab-
 13 lished under section 103(d).

1 (3) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior, acting through the Bu-
3 reau of Land Management.

4 **SEC. 102. ESTABLISHMENT OF SHIVWITS PLATEAU NA-**
5 **TIONAL CONSERVATION AREA, ARIZONA.**

6 (a) ESTABLISHMENT.—In order to protect the re-
7 moteness, native biodiversity, and ecological richness of
8 the Federal lands in the area in the State of Arizona
9 known as the Shivwits Plateau and to increase the public
10 awareness, outdoor recreation use, and enjoyment of this
11 area, while also preserving the ranching lifestyle and
12 maintaining the existing, historic, and traditional multiple
13 uses of this area, there is hereby established the Shivwits
14 Plateau National Conservation Area in the State of Ari-
15 zona.

16 (b) AREA INCLUDED.—The conservation area shall
17 consist of the Federal lands and interests in lands depicted
18 on the map entitled “Shivwits Plateau National Conserva-
19 tion Area”, as revised April 19, 1999. The Secretary shall
20 revise the boundaries of the Lake Mead National Recre-
21 ation Area in the manner provided in section 2 of Public
22 Law 88–639 (16 U.S.C. 460n–1) to reflect the inclusion
23 in the conservation area of lands excluded from the Lake
24 Mead National Recreation Area by this subsection.

1 (c) PREPARATION OF LEGAL DESCRIPTIONS.—Not
2 later than 100 days after the date of the enactment of
3 this Act, the Secretary shall prepare legal descriptions of
4 the Federal lands and interests in lands included in the
5 conservation area under subsection (b). In case of a con-
6 flict between the map referred to in subsection (b) and
7 the legal descriptions, the map shall control.

8 (d) PUBLIC AVAILABILITY.—The map referred to in
9 subsection (b) and the legal descriptions prepared under
10 subsection (c) shall be on file and available for public in-
11 spection in the offices of the Secretary of the Interior, the
12 Arizona State Director of the Bureau of Land Manage-
13 ment, and the appropriate Bureau of Land Management
14 field offices.

15 **SEC. 103. ADMINISTRATION OF CONSERVATION AREA.**

16 (a) USE OF BUREAU OF LAND MANAGEMENT.—The
17 administration, protection, and development of the con-
18 servation area shall be exercised under the direction of the
19 Secretary by the Bureau of Land Management, subject
20 to this title.

21 (b) PROHIBITION ON USE OF OTHER DEPARTMENT
22 OF THE INTERIOR AGENCIES.—The Secretary may not
23 use the National Park Service or the Fish and Wildlife
24 Service to administer the conservation area or otherwise
25 include the conservation area, or any portion thereof, as

1 a unit of the National Park System or the National Wild-
2 life Refuge System, except by express authorization of
3 Congress contained in a law enacted after the date of the
4 enactment of this Act.

5 (c) MANAGEMENT PLAN.—Subject to the require-
6 ments of section 104, the Secretary shall prepare a man-
7 agement plan for administration and use of the conserva-
8 tion area. In preparing the plan, the Secretary shall com-
9 ply with the goals and objectives identified in the 1992
10 Arizona Strip Resource Management Plan, the Parashant
11 Interdisciplinary Plan, the Mt. Trumbull Interdisciplinary
12 Plan, and the Rangeland Standards and Guidelines devel-
13 oped by the Arizona Resource Advisory Council, which are
14 designed to ensure the protection of existing uses of the
15 lands included in the conservation area.

16 (d) ADVISORY COMMITTEE.—

17 (1) ESTABLISHMENT.—The Secretary shall es-
18 tablish an advisory committee for the conservation
19 area, to be known as the Shivwits Plateau National
20 Conservation Area Advisory Committee, whose pur-
21 pose shall be to advise the Secretary with respect to
22 the preparation and implementation of the manage-
23 ment plan required by subsection (c).

1 (2) REPRESENTATION.—The advisory com-
2 mittee shall consist of 9 members appointed by the
3 Secretary as follows:

4 (A) A grazing permittee in good standing
5 with the Bureau of Land Management who has
6 maintained a grazing allotment within the
7 boundaries of the conservation area for not less
8 than five years.

9 (B) The chairperson of the Kaibab Band
10 of Paiute Indians.

11 (C) An individual with a recognized back-
12 ground in ecological restoration, research, and
13 application, to be appointed from nominations
14 supplied by Northern Arizona University.

15 (D) The Arizona State Land Commis-
16 sioner.

17 (E) An Arizona State Game and Fish
18 Commissioner.

19 (F) A resident of the State of Utah not
20 holding an elected office, to be appointed from
21 nominations supplied by the Arizona Strip Re-
22 gional Planning Task Force.

23 (G) A representative of a recognized envi-
24 ronmental organization.

1 (H) A local elected official from the State
2 of Arizona, to be appointed from nominations
3 supplied by the Arizona Strip Regional Plan-
4 ning Task Force.

5 (I) A local elected official from the State
6 of Utah, to be appointed from nominations sup-
7 plied by the Arizona Strip Regional Planning
8 Task Force.

9 (3) TERMS.—Members of the advisory com-
10 mittee shall be appointed for terms of three years,
11 except that, of the members first appointed, 3 mem-
12 bers shall be appointed for a term of 1 year and 3
13 members shall be appointed for a term of 2 years.
14 A member may be reappointed to serve on the advi-
15 sory committee upon the expiration of the member's
16 current term.

17 **SEC. 104. EFFECT ON EXISTING AND HISTORICAL USES OF**
18 **FEDERAL LANDS INCLUDED IN CONSERVA-**
19 **TION AREA.**

20 (a) IN GENERAL.—The designation of the conserva-
21 tion area shall not be construed to alter the existing au-
22 thorized uses or rights to use of the Federal lands included
23 in the conservation area. For purposes of this subsection,
24 the Secretary shall treat a land use as an existing author-
25 ized land use if that land use was an authorized use as

1 of January 1, 1999, was an historical or traditional use
2 of lands included in the conservation area, or was a right
3 of use as of January 1, 1999.

4 (b) HUNTING, TRAPPING, AND FISHING.—The Sec-
5 retary shall permit hunting, trapping, and fishing on lands
6 and waters within the conservation area in accordance
7 with applicable State law.

8 (c) ACCESS TO STATE AND PRIVATE LANDS.—If any
9 State or privately owned land or any valid mining claim
10 or other valid occupancy is within the boundaries of the
11 conservation area, or if State or private subsurface rights
12 underlie public lands within the conservation area, the
13 Secretary shall provide the State or private owner, claim-
14 ant, or occupier and their successors in interest such
15 rights as may be necessary to assure adequate, reasonable,
16 and economically feasible access for economic and other
17 purposes to the site concerned.

18 (d) MAINTENANCE OF ROADS, TRAILS, AND STRUC-
19 TURES.—In the case of all existing and historical road-
20 ways, jeep trails, and paths located in the conservation
21 area, the Secretary shall maintain or allow the mainte-
22 nance of the roadways, trails, and paths to standards ca-
23 pable for sustaining at least the same level of use as in
24 existence as of the date of the enactment of this Act.

1 (e) GRAZING.—The Secretary shall permit grazing on
2 lands within the conservation area at least to the same
3 extent as was permitted on such lands during calendar
4 year 1998. The Secretary shall ensure that persons hold-
5 ing grazing permits for lands within the conservation area,
6 their designees, and their successors in interest have unre-
7 stricted access to buildings, stock tanks, corrals, and other
8 man-made structures within their allotments that are nec-
9 essary for their grazing operations. The Secretary shall
10 guarantee grazing permit holders the right to maintain ex-
11 isting improvements and to create new improvements
12 needed for grazing operations.

13 (f) OVERFLIGHTS.—The Secretary shall permit air-
14 craft and helicopter overflights of lands and landings with-
15 in the conservation area at least to the same extent as
16 was permitted over such lands during calendar year 1998.

17 **SEC. 105. ACQUISITION OF LAND.**

18 (a) ACQUISITION AUTHORIZED; METHODS.—The
19 Secretary shall acquire State or privately held land or in-
20 terests in land within the boundaries of the conservation
21 area only by—

22 (1) donation;

23 (2) purchase with donated or appropriated
24 funds from a willing seller; or

25 (3) exchange with a willing party.

1 (b) EXCHANGE.—During the 2-year period beginning
2 on the date of the enactment of this Act, the Secretary
3 shall make a diligent effort to acquire, by exchange, from
4 willing parties all private lands, subsurface rights, and
5 valid mining claims within the conservation area. If an ex-
6 change requested by a property owner is not completed
7 by the end of the period, the land owner who requested
8 the exchange may, at any time after the end of the period,
9 declare that the owner’s private lands, subsurface rights,
10 or valid mining claims within the conservation area have
11 been taken, or partially taken, by inverse condemnation
12 and seek compensation from the United States in the ap-
13 propriate United States district court in Arizona or Utah.

14 (c) VALUATION OF PRIVATE PROPERTY.—The
15 United States shall pay the fair market value for any in-
16 terests or partial interests in property acquired under this
17 section. The value of the property shall be assessed as if
18 the conservation area did not exist.

19 **SEC. 106. MINERAL ASSESSMENT PROGRAM AND RELA-**
20 **TIONSHIP TO MINING LAWS.**

21 (a) ASSESSMENT PROGRAM REQUIRED.—

22 (1) DESCRIPTION OF MINERAL ASSESSMENT.—
23 Not later than 2 years after the date of the enact-
24 ment of this Act, the Secretary shall assess the oil,
25 gas, coal, and other mineral potential on Federal

1 lands in the conservation area in order to expand the
2 data base with respect to the mineral potential of
3 the lands. The mineral assessment program shall in-
4 clude reconnaissance level geophysical mapping, re-
5 connaissance level geologic mapping, surface sam-
6 pling of soils, water, and rock for gold, silver, plat-
7 inum group metals, copper, zinc, lead, molybdenum,
8 and uranium. Those areas that are identified as hav-
9 ing one or more mineral anomalies shall be further
10 assessed using diamond core and test drilling and
11 laboratory analysis of selected core specimens.

12 (2) DEFINITION.—In paragraph (1), the term
13 “core and test drilling” means the extraction by
14 drilling of subsurface geologic samples in order to
15 assess the metalliferous or other mineral values of
16 geologic terrain, but shall not be construed as in-
17 cluding exploratory drilling of oil and gas test wells.

18 (b) CONSULTATION AND PEER REVIEW.—

19 (1) CONSULTATION AND EXCHANGE OF INFOR-
20 MATION.—To the maximum extent practicable, the
21 Secretary shall consult and exchange information
22 with the Governor of the State of Arizona and the
23 Arizona Department of Mines and Mineral Re-
24 sources regarding the responsibilities of the Sec-

1 retary under the mineral assessment program and
2 similar programs undertaken by the State.

3 (2) PEER REVIEW.—The mineral assessment
4 program shall be subject to review by the Arizona
5 State Department of Mines and Mineral Resources,
6 and shall not be deemed to have been completed
7 until the results of the assessment have been ap-
8 proved by the Arizona State Department of Mines
9 and Mineral Resources.

10 (c) IMPLEMENTATION OF ASSESSMENT PROGRAM.—
11 The Secretary may enter into contracts with public or pri-
12 vate entities to carry out all or any portion of the mineral
13 assessment program.

14 (d) CONDITIONS ON MINERAL WITHDRAWAL AU-
15 THORITY.—

16 (1) EFFECT OF MINERAL ASSESSMENT PRO-
17 GRAM.—The Secretary may not make, modify, or ex-
18 tend any mineral withdrawal authorized by section
19 204 of the Federal Land Policy and Management
20 Act of 1976 (43 U.S.C. 1714) or by any other law
21 within the boundaries of the conservation area after
22 January 1, 1999, until the assessment, consultation,
23 and peer review required by subsections (a) and (b)
24 are completed. If a mineral withdrawal was made,
25 modified, or extended between January 1, 1999, and

1 the date of the enactment of this Act, the with-
2 drawal shall be deemed to be vacated until the as-
3 sessment, consultation, and peer review required by
4 subsections (a) and (b) are completed.

5 (2) MINERAL LEASING.—After completion of
6 the assessment, consultation, and peer review re-
7 quired by this section, under existing and future reg-
8 ulations, the Secretary shall permit—

9 (A) the removal of the nonleasable mineral
10 from lands or interest in lands within the
11 boundaries of the conservation area in accord-
12 ance with section 10 of the Reclamation Project
13 Act of 1939 (43 U.S.C. 387); and

14 (B) the removal of leasable minerals from
15 lands or interests in lands within the conserva-
16 tion area in accordance with the Mineral Leas-
17 ing Act (30 U.S.C. 181 et seq.) or the Mineral
18 Leasing Act for Acquired Lands (30 U.S.C.
19 351 et seq.).

20 (e) DISPOSITION OF FUNDS FROM PERMITS AND
21 LEASES.—All receipts derived from permits and leases
22 issued on lands in the conservation area under the Mineral
23 Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leas-
24 ing Act for Acquired Lands (30 U.S.C. 351 et seq.) shall
25 be disposed of in accordance with the applicable Act. All

1 receipts from the disposition of nonleasable minerals with-
2 in the conservation area shall be disposed of in the same
3 manner as funds received from the sale of public lands.

4 (f) RELATION TO MINING LAWS.—Nothing in this
5 title shall affect the applicability of the United States min-
6 ing laws on the public lands within the conservation area.

7 (g) PROTECTION OF EXISTING SUBSURFACE MIN-
8 ERAL RIGHTS.—The establishment of the conservation
9 area shall not adversely affect the value of subsurface min-
10 eral rights owned by a third party as of the date of the
11 enactment of this Act, or the development, production, or
12 processing of such minerals with respect to lands included
13 in the conservation area.

14 **SEC. 107. ECOLOGICAL RESTORATION AND PROTECTION.**

15 (a) PROJECTS AUTHORIZED.—Subject to the avail-
16 ability of funds for this purpose, the Secretary shall de-
17 velop and carry out ecological resources restoration
18 projects within the conservation area.

19 (b) LIMITATIONS.—A restoration project undertaken
20 by the Secretary in the conservation area shall not ad-
21 versely affect grazing allotments for a period of more than
22 three years, unless an extension has been agreed upon by
23 the permittee. To the extent that a project affects a graz-
24 ing allotment, the Secretary shall provide alternative graz-
25 ing allotments within the same grazing district to affected

1 permittees so that the total number of animal unit months
2 is unaltered.

3 (c) CONTROL OF PLANT GROWTH.—To obtain the
4 appropriate interspersion of cover and forage on lands in
5 the conservation area, the Secretary may use, or permit
6 the use of, techniques to control plant growth, except that
7 the Secretary shall permit the continued use of those land
8 management practices regarding control of plant growth
9 that were authorized for use on such lands as of January
10 1, 1999, as well as new practices useful for restoring pro-
11 ductivity to the land.

12 **SEC. 108. EFFECT ON WATER RIGHTS.**

13 Nothing in this title shall be construed to establish
14 a new or implied reservation to the United States of any
15 water or water-related right with respect to lands included
16 in the conservation area. No provision of this title shall
17 be construed as authorizing the appropriation of water,
18 except in accordance with the substantive and procedural
19 law of the State of Arizona.

20 **SEC. 109. ROAD IMPROVEMENTS TO ENHANCE ACCESS TO**
21 **CONSERVATION AREA.**

22 The Secretary shall improve and maintain as all
23 weather roads the following:

1 (1) Bureau of Land Management roads 5 and
2 109, beginning at their intersections with Arizona
3 State Highway 389 to their common intersection.

4 (2) Bureau of Land Management road 5 from
5 its intersection with Bureau of Land Management
6 road 109 to its intersection with Bureau of Land
7 Management road 115.

8 (3) Bureau of Land Management road 115
9 from its intersection with Bureau of Land Manage-
10 ment road 5 to the Toroweap Overlook.

11 **SEC. 110. ARCHAEOLOGICAL, HISTORICAL, AND SCIENTIFIC**
12 **SURVEY.**

13 (a) SURVEY REQUIRED.—The Secretary shall con-
14 duct a survey of the conservation area, noting all sites of
15 archaeological, historical, or scientific interest.

16 (b) PUBLICATION OF RESULTS.—The Secretary shall
17 publish and make available to the public the results of the
18 survey required by subsection (a).

19 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

20 Effective for fiscal years beginning after September
21 30, 1999, there are authorized to be appropriated such
22 sums as may be necessary to carry out this title.

1 **TITLE II—LAND RESTORATION**
2 **AND CONVEYANCES**

3 **SEC. 201. PUBLIC LANDS RESTORATION AND DEMONSTRATION PROJECT, ARIZONA STRIP/SOUTHERN**
4 **UTAH RESTORATION AREA.**

6 (a) IMPLEMENTATION.—To the extent possible, the
7 Secretary of the Interior shall implement the recommenda-
8 tions contained in the April 1999 report of the Sonoran
9 Institute regarding the Arizona Strip/Southern Utah Res-
10 toration Area.

11 (b) DEMONSTRATION PROJECT.—

12 (1) AUTHORITY TO CONDUCT.—The Secretary
13 of Agriculture and the Secretary of Interior may
14 apply all or a part of the revenues received for tim-
15 ber and other resources removed from lands des-
16 ignated as the Arizona Strip/Southern Utah Res-
17 toration Area under stewardship end-result contracts
18 as an offset against the costs of stewardship serv-
19 ices, including silviculture, replanting, recreation,
20 wildlife habitat, range enhancement and soil con-
21 servation.

22 (2) APPLICABILITY OF ENVIRONMENTAL
23 LAWS.—The requirements of the National Environ-
24 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

1 shall apply to all projects conducted under sub-
2 section (a).

3 (3) REVIEW PANEL.—The Secretary of Agri-
4 culture and the Secretary of the Interior shall des-
5 ignate an independent scientific review panel, to be
6 appointed from representatives of universities and
7 other appropriate institutions and foundations, to re-
8 view and approve all projects conducted under sub-
9 section (a). The panel shall provide a detailed expla-
10 nation and review of each project to the Secretary
11 of Agriculture, the Secretary of the Interior, and
12 Congress, utilizing the services and funding made
13 available for those purposes to the Escalante Center
14 or other institutions designated by the Secretary of
15 Agriculture or the Secretary of the Interior.

16 (4) DURATION.—The authority to conduct
17 projects under subsection (a) shall terminate 7 years
18 after the date of the enactment of this Act.

19 **SEC. 202. LAND CONVEYANCES, CERTAIN BUREAU OF LAND**
20 **MANAGEMENT LANDS IN ARIZONA AND UTAH.**

21 (a) CONVEYANCES REQUIRED.—The Secretary of the
22 Interior shall convey, without consideration, all right, title,
23 and interest of the United States in and to the lands des-
24 ignated for conveyance on the map entitled
25 “ _____”, dated _____ to Colorado

1 City, Arizona, Fredonia, Arizona, Mohave County, Ari-
2 zona, and the Kaibab Band of Paiute Indians.

3 (b) DESCRIPTION OF PROPERTY.—The exact acreage
4 and legal description of the lands to be conveyed under
5 subsection (a) shall be determined by a survey satisfactory
6 to the Secretary. The cost of the survey shall be borne
7 by the recipient of the lands.

8 **SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

9 Effective for fiscal years beginning after September
10 30, 1999, there are authorized to be appropriated such
11 sums as may be necessary to carry out this title.

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