

109TH CONGRESS  
2D SESSION

# S. 3858

To authorize the Secretary of Interior to cancel certain grazing leases on land in Cascade-Siskiyou National Monument that are voluntarily waived by the lessees, to provide for the exchange of certain Monument land in exchange for private land, to designate certain Monument land as wilderness, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6, 2006

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

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## A BILL

To authorize the Secretary of Interior to cancel certain grazing leases on land in Cascade-Siskiyou National Monument that are voluntarily waived by the lessees, to provide for the exchange of certain Monument land in exchange for private land, to designate certain Monument land as wilderness, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Cascade-Siskiyou Na-  
3 tional Monument Voluntary and Equitable Grazing Con-  
4 flict Resolution Act”.

5 **SEC. 2. FINDINGS AND PURPOSES.**

6       (a) FINDINGS.—Congress finds that—

7           (1) Presidential Proclamation Number 7318,  
8       dated June 13, 2000 (65 Fed. Reg. 37247), which  
9       established the Cascade-Siskiyou National Monu-  
10      ment, created unique regulatory and statutory over-  
11      lays with respect to the Monument;

12          (2) compensating lessees that voluntarily waive  
13      their grazing leases and end livestock grazing on  
14      Federal land in and near the Monument would pro-  
15      vide lessees new economic opportunities, including  
16      opportunities to—

17           (A) restructure ranch operations;

18           (B) start new businesses; or

19           (C) retire with security;

20          (3) regardless of the legal merits of continued  
21      grazing on the Monument, there is support from the  
22      ranching, environmental, and other local commu-  
23      nities and government officials for a fair and equi-  
24      table resolution of grazing conflicts;

25          (4) the land exchange authorized under this Act  
26      is in the public interest because the exchange—

1 (A) furthers the protective purposes of the  
2 Monument;

3 (B) provides for consolidated land owner-  
4 ship;

5 (C) improves land and resource manage-  
6 ment;

7 (D) decreases management costs; and

8 (E) resolves public conflict;

9 (5) the waiver of grazing leases under this Act  
10 is not intended to reflect on—

11 (A) the legal or ecological merit of contin-  
12 ued grazing within the Monument; or

13 (B) the merit of proposals to limit or retire  
14 grazing permits in the State of Oregon or any  
15 other State; and

16 (6) designating certain portions of the Monu-  
17 ment as wilderness would ensure that an increasing  
18 population, expanding settlement, and increasing  
19 mechanization would not modify those portions in a  
20 manner that would cumulatively deny future genera-  
21 tions the opportunity to the wilderness experience.

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

23 (1) to maintain the economic viability of cattle  
24 ranching in the vicinity of the Monument;

1           (2) to authorize the permanent retirement of  
2       certain grazing leases and associated allotments  
3       within and in the vicinity of the Monument; and

4           (3) to protect unique ecological diversity and  
5       high quality outdoor recreational opportunities in  
6       the wildest portions of the Monument by designating  
7       the portions as the Soda Mountain Wilderness.

8   **SEC. 3. DEFINITIONS.**

9       In this Act:

10           (1) BUREAU OF LAND MANAGEMENT LAND.—

11       The term “Bureau of Land Management land”  
12       means the approximately 40 acres of land under the  
13       jurisdiction of the Bureau of Land Management in  
14       the Monument, as generally depicted on the land ex-  
15       change map.

16           (2) GRAZING ALLOTMENT.—The term “grazing  
17       allotment” means the Box R, Buck Lake, Buck  
18       Mountain, Buck Point, Conde Creek, Cove Creek,  
19       Cove Creek Ranch, Deadwood, Dixie, Grizzly, How-  
20       ard Prairie, Jenny Creek, Keene Creek, North Cove  
21       Creek, and Soda Mountain grazing allotments in the  
22       State.

23           (3) GRAZING LEASE.—The term “grazing  
24       lease” means any document authorizing the use of

1 a grazing allotment for the purpose of grazing do-  
 2 mestic livestock for commercial purposes.

3 (4) LAND EXCHANGE MAP.—The term “land  
 4 exchange map” means the map entitled “Box R  
 5 Ranch Land Exchange” and dated [\_\_\_\_], 2006.

6 (5) LANDOWNER.—The term “Landowner”  
 7 means Box-R Ranch in the State.

8 (6) LESSEE.—The term “lessee” means a live-  
 9 stock operator that holds a valid term grazing lease  
 10 for a grazing allotment.

11 (7) LIVESTOCK.—The term “livestock” does not  
 12 include beasts of burden used for recreational pur-  
 13 poses in the Monument.

14 (8) MONUMENT.—The term “Monument”  
 15 means the Cascade-Siskiyou National Monument in  
 16 the State.

17 (9) RANGE DEVELOPMENT.—

18 (A) IN GENERAL.—The term “range devel-  
 19 opment” means any structure, fence, water de-  
 20 velopment, or other permanent fixture placed  
 21 on a grazing allotment relating to grazing do-  
 22 mestic livestock.

23 (B) EXCLUSIONS.—The term “range devel-  
 24 opment” does not include any rolling stock, live-

1 stock, or diversions of water from Federal land  
2 onto non-Federal land.

3 (10) ROWLETT PARCEL.—The term “Rowlett  
4 parcel” means the parcel of approximately 40 acres  
5 of private land, as depicted on the land exchange  
6 map.

7 (11) SECRETARY.—The term “Secretary”  
8 means the Secretary of the Interior.

9 (12) STATE.—The term “State” means the  
10 State of Oregon.

11 (13) WILDERNESS.—The term “Wilderness”  
12 means the Soda Mountain Wilderness designated by  
13 section 6(a).

14 (14) WILDERNESS MAP.—The term “wilderness  
15 map” means the map entitled “Soda Mountain Wil-  
16 derness” and dated [\_\_\_\_], 2006.

17 **SEC. 4. VOLUNTARY GRAZING LEASE WAIVER PROGRAM.**

18 (a) EXISTING GRAZING LEASES.—

19 (1) WAIVER.—The Secretary—

20 (A) shall, subject to the availability of  
21 funds, offer to provide compensation to a lessee  
22 in exchange for the waiver by a lessee of a graz-  
23 ing lease; and

24 (B) if the lessee accepts the offer in ac-  
25 cordance with this section, shall, not later than

1           30 days after the date on which the lessee ac-  
 2           cepts the offer, simultaneously—

3                   (i) provide to the lessee the compensa-  
 4                   tion specified in paragraph (2);

5                   (ii) terminate the grazing lease  
 6                   waived; and

7                   (iii) permanently retire the associated  
 8                   grazing allotment or portion of the grazing  
 9                   allotment from livestock grazing use.

10           (2) AMOUNT OF COMPENSATION.—Compensa-  
 11           tion for the waiver of a grazing lease under para-  
 12           graph (1) shall be equal to \$300 per authorized ani-  
 13           mal unit month.

14           (3) PARTIAL ALLOTMENT RETIREMENTS.—If a  
 15           lessee offers to waive only the Monument portion of  
 16           a grazing lease for a grazing allotment that is par-  
 17           tially in the Monument, the Secretary shall, at full  
 18           Federal expense, construct and maintain a fence to  
 19           exclude livestock from the portion of the grazing al-  
 20           lotment that is within the boundaries of the Monu-  
 21           ment.

22           (4) JOINT LEASE.—If a grazing allotment is  
 23           jointly leased to more than 1 lessee—

24                   (A) the Secretary shall not accept waiver  
 25                   of a joint grazing lease unless all lessees subject

1 to the grazing lease exercise the option to waive  
 2 the grazing lease under paragraph (1); or

3 (B) if the option is not exercised by all the  
 4 lessees under paragraph (1), the Secretary  
 5 shall—

6 (i) in communication, consultation,  
 7 and cooperation with any lessees that do  
 8 not exercise the option under paragraph  
 9 (1), construct and maintain a fence at  
 10 Federal expense for the purpose of keeping  
 11 livestock within a reduced area of the graz-  
 12 ing allotment that is commercially and sea-  
 13 sonally proportional with the remaining au-  
 14 thorized animal unit months in the grazing  
 15 allotment, including private land used as  
 16 exchange of use on the date of enactment  
 17 of this Act; and

18 (ii) accept the waived portion of the  
 19 joint lease from any joint lessees that have  
 20 exercised the option under paragraph (1).

21 (5) LIMITATIONS.—The Secretary—

22 (A) with respect to the Agate, Emigrant  
 23 Creek, and Siskiyou allotments in and near the  
 24 Monument as of the date of enactment of this  
 25 Act—



1 (i) shall not issue grazing leases; and

2 (ii) shall permanently retire the allot-  
3 ments from livestock grazing use; and

4 (B) shall not establish any new allotments  
5 that include—

6 (i) any Federal land within a grazing  
7 allotment or an allotment described in sub-  
8 paragraph (A); or

9 (ii) any Monument land (whether  
10 leased or not leased for grazing on the date  
11 of enactment of this Act).

12 (6) DEADLINE.—To waive a grazing lease in  
13 accordance with this section, a lessee shall exercise  
14 the right to waive the grazing lease by not later than  
15 the date that is 3 years after the date of enactment  
16 of this Act.

17 (7) EFFECT OF WAIVER.—A lessee who receives  
18 compensation for voluntarily waiving a grazing lease  
19 under this section shall be considered to have waived  
20 any claim to all range developments on the associ-  
21 ated grazing allotments.

22 (8) DONATION OF GRAZING LEASES.—

23 (A) IN GENERAL.—Nothing in this section  
24 prevents a lessee from donating to the Sec-  
25 retary, at any time, a grazing lease without

1 Federal compensation, in accordance with this  
2 section.

3 (B) ACCEPTANCE BY.—If a lessee donates  
4 a grazing lease to the Secretary, the Secretary  
5 shall accept the donation in accordance with  
6 clauses (ii) and (iii) of paragraph (1)(B).

7 (b) ADDITIONAL ALLOCATIONS.—Beginning on the  
8 date of enactment of this Act, the Secretary shall not au-  
9 thorize any allotments for livestock grazing on Monument  
10 land that are not in existence on the date of enactment  
11 of this Act.

12 **SEC. 5. LAND EXCHANGE.**

13 (a) IN GENERAL.—For the purpose of protecting and  
14 consolidating Federal land within the Monument, the Sec-  
15 retary—

16 (1) may offer to convey to the Landowner the  
17 Bureau of Land Management land in exchange for  
18 the Rowlett parcel; and

19 (2) if the Landowner accepts the offer, not later  
20 than 70 days after the date on which the Landowner  
21 conveys acceptable title to the Rowlett parcel to the  
22 Secretary, shall convey to the Landowner all right,  
23 title, and interest of the United States in and to the  
24 Bureau of Land Management land.

25 (b) SURVEYS.—

1           (1) IN GENERAL.—The exact acreage and legal  
2       description of the Bureau of Land Management land  
3       and the Rowlett parcel shall be determined by sur-  
4       veys approved by the Secretary.

5           (2) COSTS.—The Secretary shall be responsible  
6       for paying the costs of—

7                 (A) any survey conducted under paragraph  
8       (1); and

9                 (B) any other administrative costs relating  
10      to the land exchange authorized under this sec-  
11      tion.

12      (c) CONDITIONS.—

13           (1) IN GENERAL.—The conveyance of Bureau  
14      of Land Management land and the Rowlett parcel  
15      under subsection (a) shall be subject to valid exist-  
16      ing rights.

17           (2) TITLE APPROVAL.—Title to the Rowlett  
18      parcel shall conform with the title approval stand-  
19      ards applicable to Federal land acquisitions.

20      (d) APPLICABLE LAW.—

21           (1) IN GENERAL.—Except as otherwise pro-  
22      vided in this section, the conveyance of Bureau of  
23      Land Management land under this section is subject  
24      to any laws (including regulations) applicable to the

1 conveyance and acquisition of land under the juris-  
2 diction of the Bureau of Land Management.

3 (2) EXEMPTION.—The exchange of land au-  
4 thorized under this section shall not—

5 (A) require the promulgation of additional  
6 regulations by the Secretary; or

7 (B) be subject to the notice and comment  
8 provisions of section 553 of title 5, United  
9 States Code.

10 **SEC. 6. SODA MOUNTAIN WILDERNESS.**

11 (a) DESIGNATION.—In accordance with the Wilder-  
12 ness Act (16 U.S.C. 1131 et seq.), approximately 23,000  
13 acres of Monument land, as generally depicted on the wil-  
14 derness map, is designated as wilderness and as a compo-  
15 nent of the National Wilderness Preservation System, to  
16 be known as the “Soda Mountain Wilderness”.

17 (b) MAP AND LEGAL DESCRIPTION.—

18 (1) SUBMISSION OF MAP AND LEGAL DESCRIP-  
19 TION.—As soon as practicable after the date of en-  
20 actment of this Act, the Secretary shall file a map  
21 and legal description of the Wilderness with—

22 (A) the Committee on Energy and Natural  
23 Resources of the Senate; and

24 (B) the Committee on Resources of the  
25 House of Representatives.

1 (2) FORCE AND EFFECT.—

2 (A) IN GENERAL.—The map and legal de-  
3 scription filed under paragraph (1) shall have  
4 the same force and effect as if included in this  
5 Act, except that the Secretary may correct any  
6 clerical or typographical error in the map or  
7 legal description.

8 (B) NOTIFICATION.—The Secretary shall  
9 submit to Congress notice of any changes made  
10 in the map or legal description under subpara-  
11 graph (A), including notice of the reason for  
12 the change.

13 (3) PUBLIC AVAILABILITY.—The map and legal  
14 description filed under paragraph (1) shall be on file  
15 and available for public inspection in—

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

18 (B) the Office of the Oregon State Direc-  
19 tor of the Bureau of Land Management; and

20 (C) the Medford District Office of the Bu-  
21 reau of Land Management.

22 (c) ADMINISTRATION OF WILDERNESS.—

23 (1) IN GENERAL.—Subject to valid existing  
24 rights, the Wilderness shall be administered by the  
25 Secretary in accordance with the Wilderness Act (16

1 U.S.C. 1131 et seq.), except that any reference in  
2 the Wilderness Act to the effective date of the Wil-  
3 derness Act shall be considered to be a reference to  
4 the date of enactment of this Act.

5 (2) FIRE, INSECT, AND DISEASE MANAGEMENT  
6 ACTIVITIES.—The Secretary may take such meas-  
7 ures in the Wilderness as are necessary to control  
8 and prevent fire, insects, and diseases, as provided  
9 in section 4(d)(1) of the Wilderness Act (16 U.S.C.  
10 1133(d)(1)) and the guidelines contained in [the  
11 Report of the Committee on Interior and Insular Af-  
12 fairs (H. Report 98–40) to accompany the California  
13 Wilderness Act of 1984 (Public Law 98–425; 16  
14 U.S.C. 1131 note).]

15 (3) LIVESTOCK.—

16 (A) ADMINISTRATION.—Except as pro-  
17 vided in section 4 and Presidential Proclama-  
18 tion Number 7318, dated June 13, 2000 (65  
19 Fed. Reg. 37247), any grazing of livestock and  
20 the maintenance of range development in the  
21 Wilderness established before the date of enact-  
22 ment of this Act shall be permitted to continue  
23 in accordance with—

24 (i) section 4(d)(4) of the Wilderness  
25 Act (16 U.S.C. 1133(d)(4)); and

(ii) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(B) RETIREMENT OF CERTAIN PERMITS.—

On the retirement of any grazing lease applicable to any portion of the Wilderness, grazing of domestic livestock in the applicable portion of the Wilderness shall be prohibited.

(4) FISH AND WILDLIFE MANAGEMENT.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act affects the jurisdiction of the State with respect to fish and wildlife on public land in the State.

(5) ADJACENT MANAGEMENT.—

(A) IN GENERAL.—Nothing in this Act creates a protective perimeter or buffer zone around the Wilderness.

(B) ACTIVITIES OUTSIDE WILDERNESS.—

The fact that a nonwilderness activity or use can be seen or heard from the Wilderness shall not preclude the conduct of the activity or use outside the boundary of the Wilderness.

1 **SEC. 7. EFFECT.**

2 Nothing in this Act—

3 (1) affects the authority of a Federal agency to  
4 otherwise modify or terminate grazing permits or  
5 leases without compensation;

6 (2) authorizes the use of eminent domain;

7 (3) creates a property right in any grazing per-  
8 mit or lease on Federal land;

9 (4) establishes a precedent for future grazing  
10 permit or lease buyout programs; or

11 (5) affects the allocation, ownership, interest, or  
12 control, in existence on the date of enactment of this  
13 Act, of any water, water right, or any other valid ex-  
14 isting right held by the United States, an Indian  
15 tribe, a State, or a private individual, partnership, or  
16 corporation.

17 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) IN GENERAL.—There is authorized to be appro-  
19 priated to the Secretary—

20 (1) \$2,000,000 to provide compensation to les-  
21 sees that waive grazing leases under section 4; and

22 (2) \$1,500,000 for fence construction and other  
23 methods of livestock control in and near the Monu-  
24 ment, of which \$150,000 shall be made available for  
25 fiscal year 2007 and each fiscal year thereafter (ad-  
26 justed for inflation) for the purpose of preventing



1 domestic livestock from entering the Federal land  
2 described in section 4(a).

3 (b) LIMITATION.—None of the amounts made avail-  
4 able under subsection (a) shall be used by any Federal  
5 agency for administrative costs incurred in carrying out  
6 this Act.

7 (c) AVAILABILITY.—Amounts made available under  
8 subsection (a) shall remain available until expended.

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