

ESTABLISHING THE SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA IN COCHISE COUNTY, ARIZONA, IN ORDER TO ASSURE PALEONTOLOGICAL, SCIENTIFIC, CULTURAL, EDUCATIONAL, AND RECREATIONAL RESOURCES OF THE CONSERVATION AREA, AND FOR OTHER PURPOSES

MARCH 12, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 568]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 568) to establish the San Pedro Riparian National Conservation Area in Cochise County, AZ, in order to assure paleontological, scientific, cultural, educational, and recreational resources of the conservation area, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 3, line 25, strike "riparian areas" and in lieu thereof insert "the San Pedro Riparian National Conservation Area."

Amend the title so as to read:

"To establish the San Pedro Riparian National Conservation Area in Cochise County, Arizona, in order to assure the protection of the riparian, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area, and for other purposes."

PURPOSE

H.R. 568 would establish a national conservation area, to be managed by the Bureau of Land Management, in order to protect the riparian area of the San Pedro River in Cochise County, AZ, and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the affected public lands.

BACKGROUND AND NEED

Riparian (streamside) areas, because of their abundance of water and cover, have historically been the richest wildlife habitats in the arid interior West of the United States. But the water that attracted wildlife also attracted development and utilization by man. Much of the West's aboriginal riparian habitat has suffered from development or past overuse that led to elimination of cover and forage, reduction of water flow due to habitat changes and water diversions, severe erosion problems, and invasion by alien weed species such as tamarisk. All of these factors have combined to greatly degrade the value of many of the West's riparian areas for wildlife habitat.

The San Pedro River is a fortunate exception. While it is by no means pristine, that portion of the river affected by H.R. 568 represents a uniquely long stretch of desert riparian habitat in good condition, as well as other significant resources which greatly enhance its importance as a public resource. The area designated as a national conservation area by H.R. 568 covers a 30 mile long, 48,700 acre corridor along the San Pedro River in southern Arizona.

This area is frequented by an outstanding diversity of wildlife, including more than 20 bird species. The river serves as a corridor for the entrance of many Mexican species into the area, including raptors such as the gray hawk, Harris hawk, zone-tailed hawk, black hawk, and aplomado falcon, which are only rarely seen in the United States.

This area also includes more than 120 archeological and historic sites. These include important 11,000 year-old Paleo-Indian sites, Native American sites dating from 7,000 years ago to historic times, the 18th-century Presidio of Santa Cruz de Terrenate, the site of the Mexican War's Battle of the Bulls, and several 19th-century ghost towns and mill sites. These sites provide unique opportunities for interpretation as well as for research.

The area also includes nine known vertebrate fossil sites, including two of important research significance.

In March, 1986, the Bureau of Land Management of the Department of the Interior acquired this area through exchange. The purpose of the exchange was, as stated by the Bureau at that time, "to place in public ownership high-value natural resources" of the area. This bill is intended to provide a mandate for the protection and enhancement of these resources and the other values of the area.

MANDATE FOR MANAGEMENT

The Congress has previously designated three other National Conservation Areas, each with its own mandate. The mandate provided for the San Pedro area in H.R. 568 is designed to fit the needs of this particular area, and provides specific management direction to protect the resources of this area.

The key provisions of H.R. 568 require the Secretary to manage this conservation area to protect its riparian area and the natural resources associated with it, including wildlife and wildlife habitat, and to protect the cultural and paleontological resources of the area. The bill also makes it clear that the primary uses of these

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resources in this area, consistent with the mandate of this legislation, are educational and scientific ones.

This mandate is intended to be as protective as possible of the natural and cultural resources referred to above. The bill provides that the Secretary may only allow such uses of the conservation area as will further the primary purposes for which it is designated, namely, as outlined in Section 1(a) of the bill, to protect the conservation area and its resources. The Secretary may, subject to this mandate, permit access for hunting to the extent permitted by the State of Arizona's laws and regulations governing that activity.

NONCONFORMING USES

The protections for the conservation area included in H.R. 568 include withdrawing the area from disposition under the public land laws, and from entry or disposition under the mining and mineral leasing laws.

The former private owners of the river corridor had leases with several commercial enterprises for use of the area that has now been acquired by the BLM. BLM agreed to honor those leases through their expiration. The Committee supports that arrangement.

There are two sand and gravel mining operations currently located near Lewis Springs, in the center of the remnant riparian forest within the conservation area. The Committee believes that the purposes and intent of H.R. 568, as set forth in the bill and in this report, make it clear that the continuance of these operations would not meet the "public interest" test of Section 1(3) of the Common Varieties Act (Ch. 406, 61 Stat. 681). The Committee urges the Bureau to aid the present lessees in finding appropriate alternative locations outside the conservation area for their operations.

The prior owners had also leased some of the lands in the conservation area for livestock grazing. BLM intends to honor these leases until the date of their expiration, and the Committee believes that this is appropriate.

However, H.R. 568 would preclude the Secretary from issuing any new grazing permits for the conservation area for a period of 15 years. Livestock grazing is a use with particular impact on riparian areas, because of the natural tendency of cattle to concentrate by available water and shade in the hot and arid southwest. If they are allowed to concentrate, livestock may fail to utilize forage over a large area and instead overgraze the immediate riparian area, with severe impacts on riparian vegetation and cover.

The control of such impact may require intensive and expensive management and facilities which might require diverting funds needed for livestock management in other areas, and which could materially interfere with the purposes for which these lands were acquired by the BLM.

During consideration of San Pedro legislation during the 99th Congress, the Committee and the bill's sponsors concluded that a 15 year ban on new grazing permits in the conservation area would significantly add to the scientific value of the conservation area by providing a benchmark for the study, evaluation, and monitoring of this riparian area in the absence of grazing. H.R. 568 includes pro-

visions related to grazing similar to those in the bill reported by the Committee and passed by the House in the 99th Congress.

The Committee does not intend to imply that livestock grazing must or should be reintroduced into the conservation area in 10 years. At that point, the decision on whether livestock grazing would be an appropriate use of the area can be made based on an assessment of the effect of renewed grazing use on the environmental health of the conservation area, consistent with the general provisions of H.R. 568.

Concerns have been voiced that the grazing moratorium in H.R. 568 establishes a precedent as to grazing on BLM lands. This concern is misplaced. The Committee's action is not intended to have any direct effect on the administration of BLM lands generally. Furthermore, the Committee notes that there is no general body of law or regulation governing the management of BLM conservation areas and therefore the Committee, in considering any proposals for designating additional such areas, intends to examine each on its own merits and tailor the management directives according to its own needs.

THE COMMITTEE AMENDMENT

The Committee amendment is essentially technical. It is intended to make clear that the provisions of the bill relating to a moratorium on issuance of grazing permits have been shaped in response to the characteristics of the San Pedro area rather than any other riparian area.

The Committee also recommends that the title of the bill be amended to correct an apparent typographical error.

ADMINISTRATIVE CLOSURE

The Committee notes that the BLM has closed most or all of the area affected by H.R. 568 from public entry to protect its resources and the existing uses of the area by private lessees, pending completion of a management plan to be prepared with full public participation. The Committee does not intend for this legislation to overturn or in any way affect that order or cast doubt on the BLM's authority to issue it. The bill (in section 2(b)) supplements existing law by providing specific authority to the Secretary to limit public use.

SECTION-BY-SECTION ANALYSIS

Section 1 establishes a San Pedro Riparian National Conservation Area of approximately 48,707 acres in southern Arizona, as depicted on a referenced map.

Section 2 deals with management of the conservation area. It has five subsections, as follows:

Subsection (a) provides that the conservation area shall be managed by the Secretary of the Interior to conserve, protect, and enhance its resources. Management is to be guided by the bill and (where not inconsistent with the bill) by the Federal Land Policy and Management Act of 1976.

Subsection (b) allows only such uses of the conservation area as will further the purposes of the area, restrict motorized vehicle use

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designated roads except for emergency and administrative purposes, and allows the Secretary to limit visitation and use of the area to protect resources.

Subsection (c) prohibits the issuance, for 15 years, of any new permits for livestock grazing in the conservation area.

Subsection (d) withdraws the conservation area from disposition or entry under the public land, mining, mineral leasing or geothermal leasing laws.

Subsection (e) provides penalties for violation of the bill after its enactment or of regulations promulgated to implement it.

Section 3 provides for completion of a management plan, developed with full public participation, in 2 years, and for cooperative agreements or research needed for the preparation or implementation of the plan.

Section 4 provides for an advisory committee to advise the Secretary on development and implementation of the management plan.

Section 5 provides authority to acquire inholdings with the consent of the landowner, and precludes any condemnations.

Section 6 requires reports to the Congress from the Secretary on the implementation of this bill.

Section 7 authorizes the appropriation of such sums as may be necessary to carry out the bill's provisions.

OVERSIGHT STATEMENT

The Committee on Interior and Insular Affairs will have continuing responsibility for oversight of the implementation of H.R. 568 after its enactment. No reports or recommendations were received by the Committee pursuant to Rule X, clause 2(b)(2) of the Rules of the House of Representatives.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee finds that enactment of H.R. 568 will have no inflationary impact on the national economy.

COST AND BUDGET ACT COMPLIANCE

In the opinion of the Committee, enactment of H.R. 568 will involve only costs reasonable in terms of the benefits derived. No timely submission of the estimate of the Congressional Budget Office was received by the Committee prior to filing this report.

LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATION

H.R. 568 is identical to a bill (H.R. 411) passed by the House in the 99th Congress after favorable reporting by the Committee. It was introduced by Representative Kolbe, for himself and Representatives Kyl, Rhodes, and Udall, on January 8, 1987. On March 10, 1987, the Subcommittee on National Parks and Public Lands held a hearing and markup on the bill and ordered it favorably referred to the full Committee. On March 11, 1987, the Committee on Interior and Insular Affairs ordered the bill favorably reported to the House by a voice vote.

