Public Law 94-199
94th Congress

An Act

To establish the Hells Canyon National Recreation Area in the States of Oregon and Idaho, and for other purposes.

Dec. 31, 1975
[S. 322]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) to assure that the natural beauty, and historical and archeological values of the Hells Canyon area and the seventy-one-mile segment of the Snake River between Hells Canyon Dam and the Oregon-Washington border, together with portions of certain of its tributaries and adjacent lands, are preserved for this and future generations, and that the recreational and ecologic values and public enjoyment of the area are thereby enhanced, there is hereby established the Hells Canyon National Recreation Area.

Hells Canyon National Recreation Area, Oreg.-Idaho. Establishment. 16 USC 460gg.

(b) The Hells Canyon National Recreation Area (hereinafter referred to as the "recreation area"), which includes the Hells Canyon Wilderness (hereinafter referred to as the "wilderness"), the components of the Wild and Scenic Rivers System designated in section 3 of this Act, and the wilderness study areas designated in subsections 8(d) of this Act, shall comprise the lands and waters generally depicted on the map entitled "Hells Canyon National Recreation Area" dated September 1975, which shall be on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as "the Secretary"), shall, as soon as practicable, but no later than eighteen months after the date of enactment of this Act, publish a detailed boundary description of the recreation area, the wilderness study areas designated in subsection 8(d) of this Act, and the wilderness established in section 2 of this Act in the Federal Register.

Publication in Federal Register.

SEC. 2. (a) The lands depicted as the "Hells Canyon Wilderness" on the map referred to in subsection 1(b) of this Act are hereby designated as wilderness.

Hells Canyon Wilderness, designation. 16 USC 460gg-1.

(b) The wilderness designated by this Act shall be administered by the Secretary in accordance with the provisions of this Act or in accordance with the provisions of the Wilderness Act (78 Stat. 890), whichever is the more restrictive, except that any reference in such provisions of the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of this Act. The provisions of section 9(b) and section 11 of this Act shall apply to the wilderness. The Secretary shall make such boundary revisions to the wilderness as may be necessary due to the exercise of his authority under subsection 3(b) of this Act.

16 USC 1131 note.

SEC. 3. (a) Subsection 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906) is hereby amended by adding at the end thereof the following clauses:

16 USC 1274.

"(11) Rapid River, Idaho.—The segment from the headwaters of the main stem to the national forest boundary and the segment of the West Fork from the wilderness boundary downstream to the confluence with the main stem, as a wild river.

"(12) Snake, Idaho and Oregon.—The segment from Hells Canyon Dam downstream to Pittsburgh Landing, as a wild river; and the

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segment from Pittsburgh Landing downstream to an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, as a scenic river.".

16 USC 1274 note.

(b) The segments of the Snake River and the Rapid River designated as wild or scenic river areas by this Act shall be administered by the Secretary in accordance with the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), as amended, and the Secretary shall establish detailed boundaries of the Snake River segments thereof in accordance with subsection 3(b) of that Act: *Provided*, That the Secretary shall establish a corridor along the segments of the Rapid River and may not undertake or permit to be undertaken any activities on adjacent public lands which would impair the water quality of the Rapid River segment: *Provided further*, That the Secretary is authorized to make such minor boundary revisions in the corridors as he deems necessary for the provision of such facilities as are permitted under the applicable provisions of the Wild and Scenic Rivers Act (82 Stat. 906).

16 USC 1271 note

16 USC 1274.

16 USC 460gg-2.

SEC. 4. (a) Notwithstanding any other provision of law, or any authorization heretofore given pursuant to law, the Federal Power Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), within the recreation area: *Provided*, That the provisions of the Federal Power Act (41 Stat. 1063) shall continue to apply to any project (as defined in such Act), and all of the facilities and improvements required or used in connection with the operation and maintenance of said project, in existence within the recreation area which project is already constructed or under construction on the date of enactment of this Act.

16 USC 791a.

(b) No department or agency of the United States may assist by loan, grant, license, or otherwise the construction of any water resource facility within the recreation area which the Secretary determines would have a direct and adverse effect on the values for which the waters of the area are protected.

16 USC 1276.

SEC. 5. (a) Section 5(a) of the Act of October 2, 1968 (82 Stat. 906), as amended, is further amended by adding the following new paragraph:

"(57) Snake, Washington, Oregon, and Idaho: the segment from an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, downstream to the town of Asotin, Washington.".

Asotin Dam, deauthorization.

(b) The Asotin Dam, authorized under the provisions of the Flood Control Act of 1962 (76 Stat. 1173), is hereby deauthorized.

16 USC 460gg-3.

SEC. 6. (a) No provision of the Wild and Scenic Rivers Act (82 Stat. 906), nor of this Act, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial uses, whether consumptive or nonconsumptive, now or hereafter existing, including, but not limited to, domestic, municipal, stockwater, irrigation, mining, power, or industrial uses.

(b) No flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), of this Act, or any guidelines, rules, or regulations adopted pursuant thereto.

Administration.

16 USC 460gg-4.

SEC. 7. Except as otherwise provided in sections 2 and 3 of this Act, and subject to the provisions of section 10 of this Act, the Secretary

shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forests for public outdoor recreation in a manner compatible with the following objectives:

(1) the maintenance and protection of the free-flowing nature of the rivers within the recreation area;

(2) conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit;

(3) preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial, and atmospheric habitats, and the rare combinations of outstanding and diverse ecosystems and parts of ecosystems associated therewith;

(4) protection and maintenance of fish and wildlife habitat;

(5) protection of archeological and paleontologic sites and interpretation of these sites for the public benefit and knowledge insofar as it is compatible with protection;

(6) preservation and restoration of historic sites associated with and typifying the economic and social history of the region and the American West; and

(7) such management, utilization, and disposal of natural resources on federally owned lands, including, but not limited to, timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of this Act.

Management plan, submittal to congressional committees. 16 USC 460gg-5.

SEC. 8. (a) Within five years from the date of enactment of this Act the Secretary shall develop and submit to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives a comprehensive management plan for the recreation area which shall provide for a broad range of land uses and recreation opportunities.

(b) In the development of such plan, the Secretary shall consider the historic, archeological, and paleontological resources within the recreation area which offer significant opportunities for anthropological research. The Secretary shall inventory such resources and may recommend such areas as he deems suitable for listing in the National Register of Historic Places. The Secretary's comprehensive plan shall include recommendations for future protection and controlled research use of all such resources.

Scenic roads, study.

(c) The Secretary shall, as a part of his comprehensive planning process, conduct a detailed study of the need for, and alternative routes of, scenic roads and other means of transit to and within the recreation area. In conducting such study the Secretary shall consider the alternative for upgrading existing roads and shall, in particular, study the need for and alternative routes of roads or other means of transit providing access to scenic views of and from the Western rim of Hells Canyon.

Wilderness suitability review, report to President.

Recommendations to Congress.

Public notice of meetings.

(d) The Secretary shall review, as to their suitability or nonsuitability for preservation as wilderness, the areas generally depicted on the map referred to in section 1 of this Act as the "Lord Flat-Somers Point Plateau Wilderness Study Area", and the "West Side Reservoir Face Wilderness Study Area", and the "Mountain Sheep Wilderness Study Area" and report his findings to the President. The Secretary shall complete his review and the President shall, within five years from the date of enactment of this Act, advise the United States Senate and House of Representatives of his recommendations with respect to the designation of lands within such area as wilderness. In conducting his review the Secretary shall comply with the provisions of section

16 USC 1132.

3(d) of the Wilderness Act and shall give public notice at least sixty days in advance of any hearing or other public meeting concerning the wilderness study area. The Secretary shall administer all Federal lands within the study areas so as not to preclude their possible future designation by the Congress as wilderness. Nothing contained herein shall limit the President in proposing, as part of this recommendation to Congress, the designation as wilderness of any additional area within the recreation area which is predominately of wilderness value.

(e) In conducting the reviews and preparing the comprehensive management plan required by this section, the Secretary shall provide for full public participation and shall consider the views of all interested agencies, organizations, and individuals including but not limited to, the Nez Perce Tribe of Indians, and the States of Idaho, Oregon, and Washington. The Secretaries or Directors of all Federal departments, agencies, and commissions having a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his review and to make such studies as the Secretary may request on a cost reimbursable basis.

(f) Such activities as are as compatible with the provisions of this Act, but not limited to, timber harvesting by selective cutting, mining, and grazing may continue during development of the comprehensive management plan, at current levels of activity and in areas of such activity at the time of enactment of this Act. Further, in development of the management plan, the Secretary shall give full consideration to continuation of these ongoing activities in their respective areas.

Land acquisition. 16 USC 460gg-6.

SEC. 9. (a) The Secretary is authorized to acquire such lands or interests in land (including, but not limited to, scenic easements) as he deems necessary to accomplish the purposes of this Act by purchase with donated or appropriated funds with the consent of the owner, donation, or exchange.

(b) The Secretary is further authorized to acquire by purchase with donated or appropriated funds such lands or interests in lands without the consent of the owner only if (1) he deems that all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and (2) the total acreage of all other lands within the recreation area to which he has acquired fee simple title or, lesser interests therein without the consent of the owner is less than 5 per centum of the total acreage which is privately owned within the recreation area on the date of enactment of this Act: *Provided*, That the Secretary may acquire scenic easements in lands without the consent of the owner and without restriction to such 5 per centum limitation: *Provided further*, That the Secretary may only acquire scenic easements in lands without the consent of the owner after the date of publication of the regulations required by section 10 of this Act when he determines that such lands are being used, or are in imminent danger of being used, in a manner incompatible with such regulations.

Scenic easements.

(c) Any land or interest in land owned by the State of Oregon or any of its political subdivisions may be acquired only by donation. Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired only by donation or exchange.

"Scenic easement."

(d) As used in this Act the term "scenic easement" means the right to control the use of land in order to protect esthetic values for the purposes of this Act, but shall not preclude the continuation of any farming or pastoral use exercised by the owner as of the date of enactment of this Act.

(e) The Secretary shall give prompt and careful consideration to any offer made by a person owning land within the recreation area

to sell such land to the United States. The Secretary shall specifically consider any hardship to such person which might result from an undue delay in acquiring his property.

(f) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the recreation area and, notwithstanding any other provision of law, he may convey in exchange therefor any federally owned property within the same State which he classifies as suitable for exchange and which is under his administrative jurisdiction: *Provided*, That the values of the properties so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the United States as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(g) Notwithstanding any other provision of law, the Secretary is authorized to acquire mineral interests in lands within the recreation area, with or without the consent of the owner. Upon acquisition of any such interest, the lands and/or minerals covered by such interest are by this Act withdrawn from entry or appropriation under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(h) Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act. Lands acquired by the Secretary or transferred to his administrative jurisdiction within the recreation area shall become parts of the national forest within or adjacent to which they are located.

Rules and regulations. 16 USC 460gg-7.

SEC. 10. The Secretary shall promulgate, and may amend, such rules and regulations as he deems necessary to accomplish the purposes of this Act. Such rules and regulations shall include, but are not limited to—

(a) standards for the use and development of privately owned property within the recreation area, which rules or regulations the Secretary may, to the extent he deems advisable, implement with the authorities delegated to him in section 9 of this Act, and which may differ among the various parcels of land within the recreation area;

(b) standards and guidelines to insure the full protection and preservation of the historic, archeological, and paleontological resources in the recreation area;

(c) provision for the control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of any Federal land within the recreation area;

(d) provision for the control of the use and number of motorized and nonmotorized river craft: *Provided*, That the use of such craft is hereby recognized as a valid use of the Snake River within the recreation area; and

(e) standards for such management, utilization, and disposal of natural resources on federally owned lands, including but not limited to, timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of this Act.

16 USC 460gg-8.
16 USC 1133.

SEC. 11. Notwithstanding the provisions of section 4(d)(2) of the Wilderness Act and subject to valid existing rights, all Federal lands located in the recreation area are hereby withdrawn from all forms of location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Hunting and fishing.
16 USC 460gg-9.

SEC. 12. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States wherein the lands and waters are located except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons for public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

Recreation area, traditional and valid uses.
16 USC 460gg-10.

SEC. 13. Ranching, grazing, farming, timber harvesting, and the occupation of homes and lands associated therewith, as they exist on the date of enactment of this Act, are recognized as traditional and valid uses of the recreation area.

Civil and criminal jurisdiction.
16 USC 460gg-11.

SEC. 14. Nothing in this Act shall diminish, enlarge, or modify any right of the States of Idaho, Oregon, or any political subdivisions thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area.

16 USC 460gg-12.

SEC. 15. The Secretary may cooperate with other Federal agencies, with State and local public agencies, and with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of this Act, including, but not limited to, restoration and maintenance of the historic setting and background of towns and settlements within the recreation area.

Appropriation authorization.
16 USC 460gg-13.

SEC. 16. (a) There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the acquisition of lands and interests in lands within the recreation area.

(b) There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the development of recreation facilities within the recreation area.

(c) There is hereby authorized to be appropriated the sum of not more than $1,500,000 for the inventory, identification, development, and protection of the historic and archeological sites described in section 5 of this Act.

SEC. 17. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

Separability. 16 USC 460gg note.

Approved December 31, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-607 accompanying H.R. 30 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-153 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 121 (1975):
June 2, considered and passed Senate.
Nov. 18, considered and passed House, amended, in lieu of H.R. 30.
Dec. 12, Senate concurred in House amendment with amendments.
Dec. 19, House concurred in Senate amendments.