

112TH CONGRESS
2D SESSION

S. 3375

To designate the Berryessa Snow Mountain National Conservation Area in the State of California, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 11, 2012

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To designate the Berryessa Snow Mountain National Conservation Area in the State of California, 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 “Berryessa Snow Mountain National Conservation Area
6 Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Definitions.

Sec. 3. Establishment of Berryessa Snow Mountain National Conservation Area, California.

Sec. 4. Access and buffer zones.

Sec. 5. Management of Federal lands in conservation area.

Sec. 6. Berryessa Snow Mountain National Conservation Area Advisory Council.

Sec. 7. Water.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ADVISORY COUNCIL.**—The term “advisory
4 council” means the Berryessa Snow Mountain Na-
5 tional Conservation Area Advisory Council.

6 (2) **CONSERVATION AREA.**—The term “con-
7 servation area” means the Berryessa Snow Moun-
8 tain National Conservation Area.

9 (3) **SECRETARY.**—The term “Secretary”
10 means—

11 (A) the Secretary of Agriculture, with re-
12 spect to those conservation area lands under
13 the jurisdiction of the Secretary of Agriculture;
14 and

15 (B) the Secretary of the Interior, with re-
16 spect to those conservation area lands under
17 the jurisdiction of the Secretary of the Interior.

18 (4) **SECRETARIES.**—The term “Secretaries”
19 mean the Secretary of Agriculture and the Secretary
20 of the Interior acting jointly.

21 (5) **STATE.**—The term “State” means the State
22 of California.

1 (6) MOTOR VEHICLE USE MAPS.—The term
 2 “motor vehicle use maps” means the maps produced
 3 by the Forest Service titled “Motor Vehicle Use
 4 Map, Mendocino National Forest, SOUTH MAP,
 5 California, 2008” and “Motor Vehicle Use Map,
 6 Mendocino National Forest, SOUTH CENTRAL
 7 MAP, California, 2008” and any amendments to
 8 those maps.

9 **SEC. 3. ESTABLISHMENT OF BERRYESSA SNOW MOUNTAIN**
 10 **NATIONAL CONSERVATION AREA, CALI-**
 11 **FORNIA.**

12 (a) ESTABLISHMENT.—Subject to valid existing
 13 rights, there is hereby established the Berryessa Snow
 14 Mountain National Conservation Area in the State.

15 (b) PURPOSE.—The purpose of the Berryessa Snow
 16 Mountain National Conservation Area is to conserve, pro-
 17 tect, and enhance for the benefit and enjoyment of present
 18 and future generations the ecological, scenic, wildlife, rec-
 19 reational, cultural, historical, natural, educational, and
 20 scientific resources of the lands included in the conserva-
 21 tion area.

22 (c) AREA INCLUDED.—The conservation area con-
 23 sists of approximately 319,300 acres of Federal land and
 24 interests in Federal land within Napa, Lake, Mendocino,
 25 and Yolo Counties, California, as depicted on the map en-

1 titled “Berryessa Snow Mountain National Conservation
2 Area” and dated May 2, 2012.

3 (d) LEGAL DESCRIPTIONS; CORRECTIONS OF ER-
4 RORS.—

5 (1) PREPARATION.—As soon as practical after
6 the date of enactment of this Act, but in no event
7 later than two years after such date, the Secretaries
8 shall prepare final maps and legal descriptions of the
9 conservation area.

10 (2) SUBMISSION.—As soon as practicable after
11 the preparation of the maps and legal descriptions
12 under paragraph (1), the Secretaries shall submit
13 the maps and legal descriptions to the Committee on
14 Natural Resources of the House of Representatives
15 and to the Committee on Energy and Natural Re-
16 sources of the Senate.

17 (3) PUBLIC AVAILABILITY.—The maps and
18 legal descriptions prepared under paragraph (1)
19 shall be available for public inspection at appropriate
20 offices of the Bureau of Land Management and For-
21 est Service.

22 (4) LEGAL EFFECT.—The maps and legal de-
23 scriptions of the conservation area shall have the
24 same force and effect as if included in this Act, ex-
25 cept that the Secretaries may correct clerical and ty-

1 pographical errors in the maps and legal descrip-
2 tions.

3 **SEC. 4. ACCESS AND BUFFER ZONES.**

4 (a) ACCESS.—The Secretary shall continue to provide
5 private landowners adequate access to inholdings in the
6 conservation area.

7 (b) BUFFER ZONES.—

8 (1) IN GENERAL.—Nothing in this Act creates
9 a protective perimeter of buffer zone around the con-
10 servation area.

11 (2) ACTIVITIES OUTSIDE OF CONSERVATION
12 AREA.—The fact that any activities or uses outside
13 of areas designated by this Act can be seen or heard
14 within the conservation area shall not preclude the
15 activities or uses outside of the conservation area.

16 **SEC. 5. MANAGEMENT OF FEDERAL LANDS IN CONSERVA-**
17 **TION AREA.**

18 (a) BASIS OF MANAGEMENT.—

19 (1) APPLICABLE LAWS.—The Secretary shall
20 manage the conservation area in a manner that con-
21 serves, protects, and enhances the natural resources
22 and values of the conservation area, in accordance
23 with—

24 (A) this Act;

1 (B) the Federal Land Policy and Manage-
2 ment Act of 1976 (43 U.S.C. 1701 et seq.) for
3 lands managed by the Bureau of Land Manage-
4 ment;

5 (C) the Wilderness Act (16 U.S.C. 1131 et
6 seq.);

7 (D) the Act of June 17, 1902 (commonly
8 known as the Reclamation Act of 1902; 32
9 Stat. 388) and Acts amendatory thereof and
10 supplemental thereto;

11 (E) other laws (including regulations) ap-
12 plicable to the National Forest System for land
13 managed by the Forest Service; and

14 (F) other applicable law (including regula-
15 tions).

16 (2) RESOLUTION OF CONFLICTS.—If there is a
17 conflict between a provision of this Act and a provi-
18 sion of one of the other laws specified in paragraph
19 (1), the more restrictive provision shall control.

20 (b) USES.—The Secretary shall allow only such uses
21 of the conservation area as the Secretary determines
22 would further the purposes for which the conservation
23 area is established.

1 (c) TRIBAL CULTURAL USES.—Nothing in this Act
2 shall be construed to enlarge or diminish the rights of any
3 Indian tribe.

4 (d) RECREATION.—The Secretary shall continue to
5 authorize, maintain, and enhance the recreational use of
6 the conservation area, including hunting, fishing, camping,
7 hiking, hang gliding, sightseeing, nature study, horseback
8 riding, mountain biking, rafting, motorized recreation on
9 authorized routes, and other recreational activities, so long
10 as such recreational use is consistent with the purposes
11 of the conservation area, this section, other applicable law
12 (including regulations), and applicable management plans.

13 (e) MANAGEMENT PLAN.—

14 (1) IN GENERAL.—Within three years after the
15 date of enactment of this Act, the Secretaries shall
16 develop a comprehensive plan for the protection and
17 management of the Federal lands included within
18 the conservation area that fulfills the purposes for
19 which the conservation area is established. In imple-
20 menting the management plan and in considering
21 any recommendations from the advisory council, the
22 Secretaries shall consult on a regular basis.

23 (2) PURPOSES.—The management plan shall—

24 (A) describe the appropriate uses and
25 management of the conservation area;

1 (B) be developed with extensive public
2 input;

3 (C) take into consideration any informa-
4 tion developed in studies of the land within the
5 conservation area;

6 (D) assess the impacts of climate change
7 on the conservation area and establish policies
8 and procedures to ensure the preservation of
9 wildlife corridors and facilitate species migra-
10 tion;

11 (E) include a comprehensive weed manage-
12 ment strategy (including use of grazing where
13 appropriate) to guide noxious weed control ef-
14 forts and activities;

15 (F) identify and prioritize habitat restora-
16 tion opportunities and strategies within the con-
17 servation area;

18 (G) identify opportunities to enhance rec-
19 reational opportunities throughout the conserva-
20 tion area;

21 (H) identify areas outside of designated
22 wilderness where non-motorized recreation will
23 be emphasized;

1 (I) identify opportunities to improve fish
2 passage and habitat quality for native fish spe-
3 cies;

4 (J) include a plan to address the public
5 safety and environmental clean-up issues associ-
6 ated with illegal marijuana production within
7 the conservation area;

8 (K) identify opportunities to promote vol-
9 untary cooperative conservation projects with
10 State, local, and private interests; and

11 (L) take into consideration existing land
12 uses (including grazing) on the Federal lands
13 within the conservation area.

14 (3) OTHER PLANS.—In developing the manage-
15 ment plan, and to the extent consistent with this
16 section, the Secretary may incorporate any provision
17 from a resource management plan, land and re-
18 source management plan, or any other plan applica-
19 ble to the conservation area.

20 (4) COOPERATIVE AGREEMENTS.—In carrying
21 out this Act, the Secretary may make grants to, or
22 enter into cooperative agreements with, State, tribal,
23 and local governmental entities and private entities
24 to conduct research, develop scientific analyses, and

1 carry out any other initiative relating to the restora-
2 tion or conservation of the conservation area.

3 (f) FISH AND WILDLIFE.—Nothing in this Act af-
4 fects the jurisdiction of the State with respect to fish and
5 wildlife located on public land in the State, except that
6 the Secretary, after consultation with the California De-
7 partment of Fish and Game, may designate zones in the
8 conservation area where, and periods when, hunting shall
9 not be allowed for reasons of public safety, administration,
10 or public use and enjoyment.

11 (g) MOTORIZED VEHICLES.—

12 (1) IN GENERAL.—Except where needed for ad-
13 ministrative purposes or to respond to an emer-
14 gency, the use of motorized vehicles on lands within
15 the conservation area shall be permitted only on des-
16 ignated roads and trails.

17 (2) ADDITIONAL REQUIREMENT.—In developing
18 the management plan required by this section, and
19 to the extent consistent with this section, the Sec-
20 retary, for lands under jurisdiction of Forest Serv-
21 ice, shall incorporate the motor vehicle use maps. In
22 developing the management plan (and making any
23 subsequent amendment to the management plan),
24 the Secretary shall explicitly analyze and docu-
25 ment—

1 (A) each instance in which the require-
2 ments of this section or other applicable law
3 makes it necessary to alter the motor vehicle
4 use maps; and

5 (B) the manner in which the motor vehicle
6 use maps are consistent with the requirements
7 of this section.

8 (h) INCORPORATION OF ACQUIRED LANDS AND IN-
9 TERESTS.—

10 (1) AUTHORITY.—The Secretary may acquire
11 non-Federal land within the boundaries of the con-
12 servation area only through exchange, donation, or
13 purchase from a willing seller.

14 (2) MANAGEMENT.—Any land or interest in
15 land that is located within the conservation area that
16 is acquired by the United States shall—

17 (A) become part of the conservation area;
18 and

19 (B) be managed in accordance with this
20 Act.

21 (i) WITHDRAWAL.—Subject to valid existing rights,
22 all Federal land within the conservation area is withdrawn
23 from—

24 (1) entry, appropriation, or disposal under the
25 public land laws;

1 (2) location, entry, and patent under the mining
2 laws; and

3 (3) leasing or disposition under all laws relating
4 to—

5 (A) minerals; and

6 (B) operation of the mineral leasing, min-
7 eral materials, and geothermal leasing laws.

8 (j) GRAZING.—

9 (1) PERMITTED.—The Secretary shall permit
10 grazing within the conservation area—

11 (A) where established before the date of
12 enactment of this Act; or

13 (B) through the issuance of annual permits
14 for non-commercial grazing for the purposes of
15 control of noxious weeds within the conservation
16 area.

17 (2) REQUIREMENT.—Grazing permitted under
18 paragraph (1) shall be—

19 (A) subject to all applicable laws (including
20 regulations); and

21 (B) consistent with the purposes of the
22 conservation area.

23 (k) WILDLAND FIRE OPERATIONS.—Nothing in this
24 section prohibits the Secretary, in cooperation with other
25 Federal, State, and local agencies, as appropriate, from

1 conducting wildland fire operations in the conservation
2 area, consistent with the purposes of the conservation
3 area.

4 (l) HORSES.—Subject to any terms and conditions
5 determined to be necessary by the Secretary, nothing in
6 this Act precludes horseback riding in, or the entry of rec-
7 reational or commercial saddle or pack stock into, the con-
8 servation area where such use is consistent with the pur-
9 poses of the conservation area and other applicable law
10 (including regulations).

11 **SEC. 6. BERRYESSA SNOW MOUNTAIN NATIONAL CON-**
12 **SERVATION AREA ADVISORY COUNCIL.**

13 (a) ESTABLISHMENT.—Not less than 180 days after
14 the date of enactment of this Act, the Secretaries shall
15 establish an advisory council, to be known as the
16 “Berryessa Snow Mountain National Conservation Area
17 Advisory Council”.

18 (b) DUTIES.—The advisory council shall advise the
19 Secretaries with respect to the preparation and implemen-
20 tation of the management plan for the conservation area.

21 (c) APPLICABLE LAW.—The advisory council shall be
22 subject to—

23 (1) the Federal Advisory Committee Act (5
24 U.S.C. App.);

1 (2) the Federal Land Policy and Management
2 Act of 1976 (43 U.S.C. 1701 et seq.); and

3 (3) all other applicable law.

4 (d) MEMBERS.—The advisory council shall include 11
5 members, to be appointed by the Secretaries, of whom,
6 to the extent practicable—

7 (1) one member shall be appointed after consid-
8 ering the recommendations of the Lake County
9 Board of Supervisors;

10 (2) one member shall be appointed after consid-
11 ering the recommendations of the Napa County
12 Board of Supervisors;

13 (3) one member shall be appointed after consid-
14 ering the recommendations of the Yolo County
15 Board of Supervisors;

16 (4) one member shall be appointed after consid-
17 ering the recommendations of the Mendocino County
18 Board of Supervisors;

19 (5) one member shall be appointed after consid-
20 ering the recommendations of the head of the Cali-
21 fornia Resources Agency;

22 (6) one member shall be appointed to represent
23 Native American Tribes;

24 (7) five members shall reside in, or within rea-
25 sonable proximity to, Yolo County, Napa County,

1 Mendocino County, or Lake County, California, with
2 backgrounds that reflect—

3 (A) the purposes for which the conserva-
4 tion area was established; and

5 (B) the interest of the stakeholders that
6 are affected by the planning and management
7 of the conservation area.

8 (e) REPRESENTATION.—The Secretaries shall ensure
9 that the membership of the advisory council is fairly bal-
10 anced in terms of the points of view represented and the
11 functions to be performed by the advisory council.

12 (f) TERMS.—

13 (1) STAGGERED TERMS.—Members of the advi-
14 sory council shall be appointed for terms of 3 years,
15 except that, of the members first appointed, 4 of the
16 members shall be appointed for a term of 1 year and
17 4 of the members shall be appointed for a term of
18 2 years.

19 (2) REAPPOINTMENT.—A member may be re-
20 appointed to serve on the advisory council upon the
21 expiration of the member's current term.

22 (3) VACANCY.—A vacancy on the advisory
23 council shall be filled in the same manner as the
24 original appointment.

1 (g) QUORUM.—A quorum shall be six members of the
2 advisory council. The operations of the advisory council
3 shall not be impaired by the fact that a member has not
4 yet been appointed as long as a quorum has been attained.

5 (h) CHAIRPERSON AND PROCEDURES.—The advisory
6 council shall elect a chairperson and establish such rules
7 and procedures as it deems necessary or desirable.

8 (i) SERVICE WITHOUT COMPENSATION.—Members of
9 the advisory council shall serve without pay.

10 (j) TERMINATION.—The advisory committee shall
11 cease to exist—

12 (1) on the date that is five years after the date
13 on which the management plan is officially adopted
14 by the Secretaries; or

15 (2) on such later date as the Secretaries con-
16 sider appropriate.

17 **SEC. 7. WATER.**

18 Nothing in this Act—

19 (1) affects the use or allocation, in existence on
20 the date of enactment of this Act, of any water,
21 water right, or interest in water;

22 (2) affects any vested absolute or decreed condi-
23 tional water right in existence on the date of enact-
24 ment of this Act, including any water right held by
25 the United States;

1 (3) affects any interstate water compact in ex-
2 istence on the date of enactment of this Act;

3 (4) authorizes or imposes any new reserved
4 Federal water rights;

5 (5) relinquishes or reduces any water rights re-
6 served or appropriated by the United States in the
7 State on or before the date of enactment of this Act;

8 (6) impairs the ability of the Bureau of Rec-
9 lamation and its managing partners to operate,
10 maintain, or manage Monticello Dam, Lake
11 Berryessa, and other Solano Project facilities in ac-
12 cordance with the purposes of such project; or

13 (7) modifies, changes, or supersedes any water
14 contract or agreements approved or administered by
15 the Bureau of Reclamation or Solano County Water
16 Agency or Solano Irrigation District.

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