

113TH CONGRESS
1ST SESSION

S. _____

To provide for the protection of sage-grouse habitat, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. REID (for himself and Mr. HELLER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide for the protection of sage-grouse habitat, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Nevada Sagebrush Landscape Conservation and Eco-
6 nomic Development Act of 2013”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—ECONOMIC DEVELOPMENT AND COMMUNITY
ENHANCEMENT

- Sec. 101. Definition of geothermal resources.
- Sec. 102. Development of geothermal resources on public land in Nevada.
- Sec. 103. Land conveyances.
- Sec. 104. Local land conveyances.

TITLE II—SAGEBRUSH-STEPPE LANDSCAPE CONSERVATION

- Sec. 201. Additions to National Wilderness Preservation System.
- Sec. 202. Administration.
- Sec. 203. Wildlife management.
- Sec. 204. Native American cultural and religious uses.
- Sec. 205. Rehabilitation of sage-grouse habitat in wilderness areas.
- Sec. 206. Conservation fees.

TITLE III—DISPOSITION OF PROCEEDS

- Sec. 301. Disposition of proceeds.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (2) STATE.—The term “State” means the State
6 of Nevada.

7 **TITLE I—ECONOMIC DEVELOP-** 8 **MENT AND COMMUNITY EN-** 9 **HANCEMENT**

10 **SEC. 101. DEFINITION OF GEOTHERMAL RESOURCES.**

11 In this title, the term “geothermal resources” has the
12 meaning given the term in section 2 of the Geothermal
13 Steam Act of 1970 (30 U.S.C. 1001).

14 **SEC. 102. DEVELOPMENT OF GEOTHERMAL RESOURCES ON** 15 **PUBLIC LAND IN NEVADA.**

16 (a) GEOTHERMAL DEVELOPMENT SITES.—

17 (1) IN GENERAL.—Not later than 90 days after
18 the date of enactment of this Act, the Secretary

1 shall select 1 site in each of the following counties
2 in the State for the development of geothermal re-
3 sources projects, taking into consideration the mul-
4 tiple resource values of the land:

5 (A) Churchill County.

6 (B) Elko County.

7 (C) Pershing County.

8 (2) SITE SELECTION.—In carrying out para-
9 graph (1), the Secretary shall select sites—

10 (A) for which there is likely to be a high
11 level of industry interest;

12 (B) that have a comparatively low value
13 for other resources; and

14 (C) on which geothermal resources are
15 likely to be developed for commercial and direct
16 use on the site.

17 (3) PROGRAMMATIC ENVIRONMENTAL IMPACT
18 STATEMENT.—

19 (A) IN GENERAL.—Not later than 1 year
20 after the date of enactment of this Act, the Sec-
21 retary shall complete a programmatic environ-
22 mental impact statement or similar analysis re-
23 quired under the National Environmental Pol-
24 icy Act of 1969 (42 U.S.C. 4321 et seq.) for
25 the 3 selected sites.

1 (B) COMPLIANCE.—The programmatic en-
2 vironmental impact statement completed under
3 subparagraph (A) shall be considered sufficient
4 to comply with all requirements under that Act
5 for the development of geothermal resources on
6 the 3 selected sites.

7 (4) LEASE SALES.—On completion of the pro-
8 grammatic environmental impact statement under
9 paragraph (3), the Secretary shall offer the land for
10 competitive lease sales in accordance with section 4
11 of the Geothermal Steam Act of 1970 (30 U.S.C.
12 1003).

13 **SEC. 103. LAND CONVEYANCES.**

14 *【Client note: This section reserved for directed land*
15 *conveyances at or above fair market value for development*
16 *purposes.】*

17 **SEC. 104. LOCAL LAND CONVEYANCES.**

18 *【Client note: This section reserved for targeted land*
19 *conveyances—through R&PP or for fair market value—to*
20 *local governments in Nevada.】*

1 **TITLE II—SAGEBRUSH-STEPPE**
2 **LANDSCAPE CONSERVATION**

3 **SEC. 201. ADDITIONS TO NATIONAL WILDERNESS PRESER-**
4 **VATION SYSTEM.**

5 (a) ADDITIONS.—In accordance with the Wilderness
6 Act (16 U.S.C. 1131 et seq.), the following parcels of Fed-
7 eral land are designated as wilderness and as components
8 of the National Wilderness Preservation System:

9 【(1) *Client note: This section reserved for the*
10 *resolution of current Wilderness Study Areas and*
11 *Inventoried Roadless Areas that overlap with sage-*
12 *grouse habitat as “Wilderness”.】*

13 (b) BOUNDARY.—The boundary of any portion of a
14 wilderness area designated by subsection (a) that is bor-
15 dered by a road shall be 100 feet from the edge of the
16 road.

17 (c) MAP AND LEGAL DESCRIPTION.—

18 (1) IN GENERAL.—As soon as practicable after
19 the date of enactment of this Act, the Secretary
20 shall file a map and legal description of each wilder-
21 ness area designated by subsection (a).

22 (2) EFFECT.—Each map and legal description
23 prepared under paragraph (1) shall have the same
24 force and effect as if included in this Act, except

1 that the Secretary may correct any clerical or typo-
2 graphical error in such a map or legal description.

3 (3) AVAILABILITY.—Each map and legal de-
4 scription prepared under paragraph (1) shall be on
5 file and available for public inspection in the appro-
6 priate offices of the Bureau of Land Management.

7 (d) WITHDRAWAL.—Subject to valid existing rights,
8 the wilderness areas designated by subsection (a) are with-
9 drawn from—

10 (1) all forms of entry, appropriation, and dis-
11 posal under the public land laws;

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

14 (3) disposition under all laws relating to min-
15 eral and geothermal leasing or mineral materials.

16 **SEC. 202. ADMINISTRATION.**

17 (a) MANAGEMENT.—Subject to valid existing rights,
18 each area designated as wilderness by section 201(a) shall
19 be administered by the Secretary in accordance with the
20 Wilderness Act (16 U.S.C. 1131 et seq.), except that—

21 (1) any reference in that Act to the effective
22 date shall be considered to be a reference to the date
23 of enactment of this Act; and

1 (2) any reference in that Act to the Secretary
2 of Agriculture shall be considered to be a reference
3 to the Secretary.

4 (b) LIVESTOCK.—Any grazing of livestock in a wil-
5 derness area designated by section 201(a) that commenced
6 before the date of enactment of this Act shall be allowed
7 to continue, subject to such reasonable regulations, poli-
8 cies, and practices as the Secretary considers to be nec-
9 essary in accordance with—

10 (1) section 4(d)(4) of the Wilderness Act (16
11 U.S.C. 1133(d)(4)); and

12 (2) the guidelines set forth in Appendix A of
13 the report of the Committee on Interior and Insular
14 Affairs of the House of Representatives accom-
15 panying H.R. 2570 of the 101st Congress (House
16 Report 101–405).

17 (c) INCORPORATION OF ACQUIRED LAND AND INTER-
18 ESTS.—Any land or interest in land within the boundaries
19 of a wilderness area designated by section 201(a) that is
20 acquired by the United States after the date of enactment
21 of this Act shall be added to, and administered as part
22 of, the wilderness (as defined in section 2 of the Wilder-
23 ness Act (16 U.S.C. 1131)).

24 (d) ADJACENT MANAGEMENT.—

1 (1) SENSE OF CONGRESS REGARDING EFFECT
2 OF DESIGNATION.—It is the sense of Congress that
3 the designation of a wilderness area by section
4 201(a) should not establish any protective perimeter
5 or buffer zone around the wilderness area.

6 (2) NONWILDERNESS ACTIVITIES.—The fact
7 that nonwilderness activities or uses can be seen or
8 heard from areas within a wilderness area des-
9 ignated by section 201(a) shall not preclude the con-
10 duct of those activities or uses outside the boundary
11 of the wilderness area.

12 (e) MILITARY OVERFLIGHTS.—Nothing in this Act
13 restricts or precludes—

14 (1) low-level overflights of military aircraft over
15 any wilderness area designated by section 201(a), in-
16 cluding military overflights that can be seen or
17 heard within the wilderness area;

18 (2) flight testing and evaluation; or

19 (3) the designation or establishment of a new
20 unit of special use airspace, or the establishment of
21 a military flight training route, over the wilderness
22 area.

23 (f) WILDFIRE, INSECT, AND DISEASE MANAGE-
24 MENT.—In accordance with section 4(d)(1) of the Wilder-
25 ness Act (16 U.S.C. 1133(d)(1)), the Secretary may carry

1 out such measures in a wilderness area designated by sec-
2 tion 201(a) as are necessary for the control of fire, insects,
3 and diseases (including, as the Secretary determines to be
4 appropriate, the coordination of the activities with a State
5 or local agency).

6 (g) CLIMATOLOGICAL DATA COLLECTION.—In ac-
7 cordance with the Wilderness Act (16 U.S.C. 1131 et seq.)
8 and subject to such terms and conditions as the Secretary
9 may prescribe, the Secretary may authorize the installa-
10 tion and maintenance of hydrologic, meteorologic, or cli-
11 matological collection devices in a wilderness area des-
12 ignated by section 201(a) if the Secretary determines that
13 the facilities and access to the facilities are essential to
14 flood warning, flood control, or water reservoir operation
15 activities.

16 (h) WATER RIGHTS.—

17 (1) FINDINGS.—Congress finds that the land
18 designated as wilderness by section 201(a)—

19 (A) is located—

20 (i) in the semiarid region of the Great
21 Basin; and

22 (ii) at the headwaters of the streams
23 and rivers on land with respect to which
24 there exist few, if any—

1 (I) actual or proposed water re-
2 source facilities located upstream; or

3 (II) opportunities for diversion,
4 storage, or other uses of water occur-
5 ring outside the land that would ad-
6 versely affect the wilderness values of
7 the land;

8 (B) is generally not suitable for use or de-
9 velopment of new water resource facilities; and

10 (C) possesses a unique nature such that it
11 is possible to provide for proper management
12 and protection of the wilderness and other val-
13 ues of land by means different from the means
14 used in other laws.

15 (2) PURPOSE.—The purpose of this subsection
16 is to protect the wilderness values of the land des-
17 ignated as wilderness by section 201(a) by means
18 other than a federally reserved water right.

19 (3) STATUTORY CONSTRUCTION.—Nothing in
20 this Act—

21 (A) constitutes an express or implied res-
22 ervation by the United States of any water or
23 water rights with respect to a wilderness area
24 designated by section 201(a);

1 (B) affects any water rights in the State
2 (including any water rights held by the United
3 States) in existence on the date of enactment of
4 this Act;

5 (C) establishes a precedent with regard to
6 any future wilderness designation;

7 (D) affects the interpretation of, or any
8 designation made under, any other Act; or

9 (E) limits, alters, modifies, or amends any
10 interstate compact or equitable apportionment
11 decree that apportions water among and be-
12 tween the State and any other State.

13 (4) NEVADA WATER LAW.—The Secretary shall
14 follow the procedural and substantive requirements
15 of the law of the State in order to obtain and hold
16 any water rights not in existence on the date of en-
17 actment of this Act with respect to a wilderness area
18 designated by section 201(a).

19 (5) NEW PROJECTS.—

20 (A) DEFINITION OF WATER RESOURCE FA-
21 CILITY.—

22 (i) IN GENERAL.—In this paragraph,
23 the term “water resource facility” means—

24 (I) an irrigation and pumping fa-
25 cility;

12

- 1 (II) a reservoir;
- 2 (III) a water conservation works;
- 3 (IV) an aqueduct;
- 4 (V) a canal;
- 5 (VI) a ditch;
- 6 (VII) a pipeline;
- 7 (VIII) a well;
- 8 (IX) a hydropower project;
- 9 (X) a transmission or other ancil-
- 10 lary facility; and
- 11 (XI) any other water diversion,
- 12 storage, and carriage structure.

13 (ii) EXCLUSION.—The term “water

14 resource facility” does not include a wild-

15 life guzzler.

16 (B) RESTRICTION ON NEW WATER RE-

17 SOURCE FACILITIES.—Except as otherwise pro-

18 vided in this Act, on and after the date of en-

19 actment of this Act, neither the President nor

20 any other officer, employee, or agent of the

21 United States shall fund, assist, authorize, or

22 issue a license or permit for the development of

23 any new water resource facility within any wil-

24 derness areas designated by this Act.

1 **SEC. 203. WILDLIFE MANAGEMENT.**

2 (a) IN GENERAL.—In accordance with section
3 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)),
4 nothing in this Act affects or diminishes the jurisdiction
5 of the State with respect to fish and wildlife management,
6 including the regulation of hunting, fishing, and trapping,
7 in a wilderness area designated by section 201(a).

8 (b) MANAGEMENT ACTIVITIES.—In support of the
9 purposes and principles of the Wilderness Act (16 U.S.C.
10 1131 et seq.), the Secretary may conduct any management
11 activity in a wilderness area designated by section 201(a)
12 that is necessary to maintain or restore fish and wildlife
13 populations and the habitats to support those populations,
14 if the activity is carried out—

15 (1) consistent with relevant wilderness manage-
16 ment plans; and

17 (2) in accordance with—

18 (A) the Wilderness Act (16 U.S.C. 1131 et
19 seq.); and

20 (B) appropriate policies, such as those set
21 forth in Appendix B of the report of the Com-
22 mittee on Interior and Insular Affairs of the
23 House of Representatives accompanying H.R.
24 2570 of the 101st Congress (House Report
25 101–405), including the occasional and tem-
26 porary use of motorized vehicles if the use, as

1 determined by the Secretary, would promote
2 healthy, viable, and more naturally distributed
3 wildlife populations that would enhance wilder-
4 ness values with the minimal impact necessary
5 to reasonably accomplish those tasks.

6 (c) **EXISTING ACTIVITIES.**—Consistent with section
7 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) and
8 in accordance with appropriate policies, such as those set
9 forth in Appendix B of the Committee on Interior and In-
10 sular Affairs of the House of Representatives accom-
11 panying H.R. 2570 of the 101st Congress (House Report
12 101–405), the State may continue to use aircraft, includ-
13 ing helicopters, to survey, capture, transplant, monitor,
14 and provide water for wildlife populations, specifically
15 sage-grouse, in any wilderness area designated by section
16 201(a).

17 (d) **WILDLIFE WATER DEVELOPMENT PROJECTS.**—
18 Subject to subsection (f), the Secretary shall authorize
19 structures and facilities, including existing structures and
20 facilities, for wildlife water development projects, including
21 guzzlers, in the wilderness areas designated by section
22 201(a) if—

23 (1) the structures and facilities will, as deter-
24 mined by the Secretary, enhance wilderness values

1 by promoting healthy, viable, and more naturally
2 distributed wildlife populations; and

3 (2) the visual impacts of the structures and fa-
4 cilities on the wilderness areas can reasonably be
5 minimized.

6 (e) HUNTING, FISHING, AND TRAPPING.—

7 (1) IN GENERAL.—The Secretary may des-
8 ignate areas in which, and establish periods during
9 which, for reasons of public safety, administration,
10 or compliance with applicable laws, no hunting, fish-
11 ing, or trapping will be permitted in the wilderness
12 areas designated by section 201(a).

13 (2) CONSULTATION.—Except in an emergency
14 situation, before taking any action under paragraph
15 (1), the Secretary shall—

16 (A) consult with the appropriate agency of
17 the State; and

18 (B) notify the public.

19 (f) COOPERATIVE AGREEMENT.—

20 (1) IN GENERAL.—The State, including a des-
21 ignee of the State, may conduct wildlife management
22 activities in the wilderness areas designated by sec-
23 tion 201(a)—

24 (A) in accordance with the terms and con-
25 ditions specified in the cooperative agreement

1 between the Secretary and the State entitled
2 “Memorandum of Understanding between the
3 Bureau of Land Management and the Nevada
4 Department of Wildlife Supplement No. 9”, and
5 signed November and December 2003, includ-
6 ing any amendments to the cooperative agree-
7 ment agreed to by the Secretary and the State;
8 and

9 (B) subject to all applicable laws (including
10 regulations).

11 (2) REFERENCES TO CLARK COUNTY.—For the
12 purposes of this subsection, any references to Clark
13 County in the cooperative agreement described in
14 paragraph (1)(A) shall be considered to be a ref-
15 erence to the applicable wilderness.

16 **SEC. 204. NATIVE AMERICAN CULTURAL AND RELIGIOUS**
17 **USES.**

18 Nothing in this Act alters or diminishes the treaty
19 rights of any Indian tribe (as defined in section 4 of the
20 Indian Self-Determination and Education Assistance Act
21 (25 U.S.C. 450b)).

22 **SEC. 205. REHABILITATION OF SAGE-GROUSE HABITAT IN**
23 **WILDERNESS AREAS.**

24 (a) DESIGNATION OF POTENTIAL WILDERNESS.—

1 (1) IN GENERAL.—In support of the purposes
2 of the Wilderness Act (16 U.S.C. 1131 et seq.), the
3 following land in the State is designated as potential
4 wilderness:

5 (A) **【***Client note: This section reserved for*
6 *the resolution of current Wilderness Study Areas*
7 *and Inventoried Roadless Areas that overlap*
8 *with sage-grouse habitat, but also require habitat*
9 *restoration as “Potential Wilderness”.***】**

10 (2) INTERIM MANAGEMENT.—Except as pro-
11 vided in paragraph (3) and subject to valid existing
12 rights, the Secretary shall manage the potential wil-
13 derness areas designated by paragraph (1) in ac-
14 cordance with the Wilderness Act (16 U.S.C. 1131
15 et seq.).

16 (3) ECOLOGICAL RESTORATION.—For purposes
17 of ecological restoration (including the restoration
18 and improvement of sage-grouse habitat, elimination
19 of nonnative species, wildfire presuppression, and
20 any other activity necessary to restore the natural
21 ecosystems in the potential wilderness area), the
22 Secretary may use motorized equipment and mecha-
23 nized transport in the potential wilderness areas
24 until the date on which the potential wilderness

1 areas are incorporated into the National Wilderness
2 Preservation System.

3 (b) DESIGNATION OF WILDERNESS.—Each potential
4 wilderness area designated under subsection (a)(1) shall
5 be designated as wilderness, and as a component of the
6 National Wilderness Preservation System, on the earlier
7 of—

8 (1) the date on which the Secretary publishes in
9 the Federal Register a notice that sufficient restora-
10 tion of sage-grouse habitat has been completed; or

11 (2) the date that is 10 years after the date of
12 enactment of this Act.

13 **SEC. 206. CONSERVATION FEES.**

14 (a) IN GENERAL.—The Secretary shall assess con-
15 servation fees for development on the land identified on
16 the maps entitled **[_____]**, and dated
17 **[_____]**, as “Priority Sage-Grouse Habitat” and
18 “General Sage-Grouse Habitat” in an amount equal to—

19 (1) \$750 per acre developed of Priority Sage-
20 Grouse Habitat; and

21 (2) \$500 per acre developed of General Sage-
22 Grouse Habitat.

23 (b) EXCEPTION.—The conservation fee shall be
24 issued to all development, with the exception of valid exist-

1 ing rights, including any future upgrades to those existing
2 rights, on the date of enactment of this Act.

3 (c) DISPOSITION OF PROCEEDS.—The amounts col-
4 lected under this section shall be disposed of in accordance
5 with section 301(c).

6 **TITLE III—DISPOSITION OF** 7 **PROCEEDS**

8 **SEC. 301. DISPOSITION OF PROCEEDS.**

9 (a) ESTABLISHMENT OF SPECIAL ACCOUNT.—There
10 is established in the Treasury of the United States an ac-
11 count (referred to in this section as the “special account”),
12 to be available without fiscal year limitation and not sub-
13 ject to appropriation, for use in accordance with this sec-
14 tion.

15 (b) PROCEEDS FROM LAND SALES AND CONSERVA-
16 TION FEES.—With the exception of lease sales conducted
17 under section 102, of the gross proceeds from sales of land
18 conducted, and conservation fees assessed, under this Act
19 for each fiscal year—

20 (1) 15 percent shall be paid directly to the
21 State for use in the sagebrush ecosystem mitigation
22 plan of the State; and

23 (2) the remainder shall be deposited in the spe-
24 cial account.

25 (c) AVAILABILITY OF SPECIAL ACCOUNT.—

1 (1) IN GENERAL.—Amounts deposited in the
2 special account may be used by the Secretary for—

3 (A) ecological restoration of sage-grouse
4 habitat within the State, including the removal
5 and control of invasive and nonnative species,
6 removal and control of Pinyon-Juniper, and
7 sagebrush restoration and reclamation;

8 (B) fire presuppression efforts in sage-
9 grouse habitat within the State;

10 (C) implementation of currently accepted
11 proper grazing practices and livestock manage-
12 ment;

13 (D) science-based sage-grouse predator
14 control; and

15 (E) pilot projects determining best prac-
16 tices in the categories described in subpara-
17 graphs (A) through (D).

18 (2) PROCEDURES.—The Secretary shall coordi-
19 nate the use of the special account with the Sec-
20 retary of Agriculture, the State (through the Nevada
21 Sagebrush Ecosystem Council), local governments,
22 and other interested individuals and entities to en-
23 sure accountability and demonstrated results .

24 (3) LIMITATION.—Not more than \$25,000,000
25 of the amounts made available to the Secretary from

1 the special account may be used in any fiscal year,
2 except for emergency projects carried out under
3 paragraph (1).

4 (4) INVESTMENT OF SPECIAL ACCOUNT.—

5 (A) IN GENERAL.—All amounts deposited
6 as principal in the special account shall earn in-
7 terest in the amount determined by the Sec-
8 retary of the Treasury on the basis of the cur-
9 rent average market yield on outstanding mar-
10 ketable obligations of the United States of com-
11 parable maturities.

12 (B) TREATMENT OF INTEREST.—The in-
13 terest shall be—

14 (i) added to the principal of the spe-
15 cial account; and

16 (ii) expended in accordance with para-
17 graph (1).

18 (d) ANNUAL REPORTS.—

19 (1) IN GENERAL.—Not later than 60 days after
20 the end of each fiscal year beginning with fiscal year
21 2014, the Secretary shall submit to the Committee
22 on Appropriations of the House of Representatives,
23 the Committee on Appropriations of the Senate, and
24 the appropriate authorizing committees a report on

1 the operation of the special account during the fiscal
2 year.

3 (2) CONTENTS.—Each report shall include, for
4 the fiscal year covered by the report, the following:

5 (A) A statement of the amounts deposited
6 into the special account.

7 (B) A description of the expenditures made
8 from the special account for the fiscal year, in-
9 cluding the purpose of the expenditures.

10 (C) Recommendations for additional au-
11 thorities to fulfill the purpose of the special ac-
12 count.

13 (D) A statement of the balance remaining
14 in the special account at the end of the fiscal
15 year.