

# Committee on Natural Resources

Rob Bishop Chairman  
Markup Memorandum

September 24, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff— Brandon Miller and Leah Baker  
Subcommittee on Federal Lands (x67736)

Markup: **H.R. 5727 (Rep. John R. Curtis)**, to establish the San Rafael Swell Western Heritage and Historic Mining National Conservation Area in the State of Utah, to designate wilderness areas in the State, to provide for certain land conveyances, and for other purposes.  
**September 26, 2018, 10:15 PM; 1324 Longworth House Office Building**

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*H.R. 5727, “Emery County Public Land Management Act of 2018”*

## **Summary of the Bill**

H.R. 5727, introduced by Representative John R. Curtis (R-UT-03), establishes the San Rafael Swell Western Heritage and Historic Mining National Conservation Area in the State of Utah, designates wilderness areas in the State, and provides for certain land conveyances.

## **Cosponsors**

Rep. Colleen Hanabusa [D-HI-01]

## **Background**

H.R. 5727 represents a locally-driven effort to bring resolution and certainty to longstanding federal land management challenges facing Emery County, Utah. For over two decades, Emery County has worked to fine-tune this legislation by engaging with a wide array of local leaders and interest groups. This legislation is the product of that outreach effort, and has been crafted to incorporate the input of these local, conservationist, recreationist, and scientific stakeholders. It has gained support from a broad coalition of supporters who have commended the inclusive crafting process, and who have also praised the legislation for its balanced approach.

This bill resolves a number of access and permitted-use issues in Emery County. It establishes nearly one-million acres of conservation lands through wilderness designations, a national monument, and a National Conservation Area. This bill also exchanges roughly 100,000 acres of Utah School and Institutional Trust Lands Administration (SITLA) land to help fund Utah’s schools. Allowing SITLA to trade out 100,000 acres from checkerboard lands in this area will provide more economically viable lands to fund Utah’s schools.

There are 436,643 acres of land currently designated as Wilderness Study Areas (WSA) in Emery County. This bill converts over 97% of the WSAs into wilderness. After the SITLA exchange facilitated by this legislation, Emery County will see a net increase of 140,000 acres of land under wilderness level protection. This legislation also establishes the 383,380-acre San Rafael Swell Western Heritage and Historic Mining Conservation Area.

Goblin Valley State Park will be expanded by 10,000 acres under this legislation. The new addition will remain as federal land, but the State will be given additional authority to manage the lands via a Recreation and Public Purposes Act agreement. Finally, this legislation will also create the Jurassic National Monument, a 2,543-acre dinosaur fossil site.

Senator Orrin G. Hatch (R-UT) has introduced similar legislation, S. 2809.

### [Map of Proposed Changes](#)

### **Submitted Letters of Support or Positive Comments Regarding the Process**

Emery County Commission; Governor Gary Herbert, Governor of Utah; The Pew Charitable Trusts; The Conservation Alliance; Outdoor Industry Association; Outdoor Alliance; American Whitewater; The Access Fund; Emery County Historic Preservation Commission; and Utah Association of Counties.

### **Major Provisions of H.R. 5727**

## **TITLE I—SAN RAFAEL SWELL WESTERN HERITAGE AND HISTORIC MINING NATIONAL CONSERVATION AREA**

### **Sec. 101. Establishment of Conservation Area.**

This section establishes the San Rafael Swell Western Heritage and Historic Mining National Conservation Area, consisting of 336,467 acres of BLM land in Utah. The purposes of the area are to “conserve, protect, and enhance the recreational, cultural, historical, educational, natural, scenic, and wildlife resources” of the area.

### **Sec. 102. Management of Conservation Area.**

With respect to the newly established conservation area:

- the Secretary of the Interior shall allow only uses that further the purposes of the area;
- the Secretary of the Interior shall develop a management plan no later than three years after enactment;
- commercial services, including outfitting and guide activities, may be authorized to the extent necessary for activities that fulfill the area’s recreational or other purposes;
- in general, motorized vehicles are allowed only on designated roads and motorized routes, and no additional roads or motorized routes shall be built;
- if already established, livestock grazing shall be allowed to continue, subject to regulations, policies, and practices as determined by the Secretary of the Interior, in accordance with specified authorities;

- the Secretary of the Interior shall manage the area in a manner that preserves Cold War sites; and the “casual collection” (for noncommercial personal use) of common invertebrate and plant paleontological resources or rocks and minerals may be allowed.

**Sec. 103. San Rafael Swell Western Heritage and Historic National Conservation Area Advisory Council.**

The Secretary of the Interior shall establish an advisory council within 180 days after enactment. This “San Rafael Swell Western Heritage and Historic Mining National Conservation Area Advisory Council” shall advise the Secretary on preparing and implementing the management plan.

**TITLE II—WILDERNESS AREAS**

**Sec. 201. Additions to National Wilderness Preservation System.**

This section designates over 500,000 acres of BLM and U.S. Forest Service land in Utah as national wilderness areas, including Candland Mountain, Crack Canyon, Desolation Canyon, Devil's Canyon, Horseshoe Canyon (North), Mexican Mountain, Muddy Creek, Nelson Mountain, San Rafael Reef, and Sid's Mountain.

**Sec. 202. Administration.**

The newly established wilderness areas shall be managed by the relevant Secretary—the Secretary of the Interior in the case of BLM land and the Secretary of Agriculture in the case of U.S. Forest Service land—in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.). Specifications include:

- if already established, livestock grazing shall be allowed to continue, subject to regulations, policies, and practices as determined by the relevant Secretary, in accordance with specified authorities;
- commercial services, including outfitting and guide activities, may be authorized to the extent necessary for activities that fulfill the areas’ recreational or other purposes;
- the “casual collection” (for noncommercial personal use) of common invertebrate and plant paleontological resources or rocks and minerals may be allowed; and
- the development of any new water resource facility is generally limited.

**Sec. 203. Fish and Wildlife Management.**

This section states Title II does not affect Utah’s jurisdiction regarding fish and wildlife on public land in the State. It also states that the relevant Secretary may undertake activities to maintain or restore fish and wildlife populations in the wilderness areas, if the activities are in accordance with specified authorities.

#### **Sec. 204. Release of Land for Nonwilderness Use.**

Approximately 14,779 acres of BLM land in Emery County are released from wilderness study area status for future non-wilderness use.

### **TITLE III—WILD AND SCENIC RIVER DESIGNATION**

#### **Sec. 301. Green River Wild and Scenic River Designation.**

Title III amends the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) to designate 54 miles of the Green River under the Act. The designated river segments would be administered in accordance with the classifications shown on a specified map.

### **TITLE IV—LAND MANAGEMENT AND CONVEYANCES**

#### **Sec. 401. Temple Mountain Cooperative Management Area.**

At Utah's request, the Secretary of the Interior may enter into a cooperative agreement with Utah for the management of 7,792 acres of BLM land, to be known as the Temple Mountain Cooperative Management Area. The purposes of the area are to promote and manage outdoor recreation and conserve recreational and scenic resources. The section specifies that the agreement shall apply only to recreational activities, including motorized, mechanized, equestrian, and human-powered uses, and contains other terms related to the agreement.

#### **Sec. 402. Goblin Valley State Park Recreation and Public Purpose Agreement.**

At Utah's request, the Secretary of the Interior shall offer to enter into a recreation and public purposes agreement that provides for:

- the Goblin Valley State Park expansion to be managed by Utah as a State park, and
- a reversion of the land to the Secretary if the land is no longer being managed as a State park.

#### **Sec. 403. Jurassic National Monument.**

This section establishes 2,543 acres of land in Utah as the Jurassic National Monument. The monument is to be managed by BLM as a unit of the National Landscape Conservation System. The Secretary of the Interior is to develop a monument management plan no later than two years after enactment and shall allow only uses that further the purposes of the area. These purposes include "to conserve, interpret, and enhance for the benefit of present and future generations the paleontological, scientific, educational, and recreational resources."

#### **Sec. 404. Public Land Disposal and Acquisition.**

The Secretary of the Interior is authorized to sell public land in Emery County that was identified in resource management plans as suitable for potential disposal. Proceeds from land

sales are to be deposited in a new Treasury account, and available to the Secretary (without further appropriation) to purchase lands or interests in lands within a wilderness area or the conservation area established by Title I.

#### **Sec. 405. Public Purpose Conveyances.**

On request of the applicable local government entity, the Secretary of the Interior shall convey, without consideration, the following parcels of public land to be used for public purposes: the Emery City Recreation Area (640 acres), Huntington Airport (1,400 acres), State Road 6 Emery County Sheriff's Office substation site (640 acres), and Buckhorn Information Center (65 acres).

#### **Sec. 406. Exchange of School and Institutional Trusts Lands Administration Land.**

This section provides a process for Utah, with the approval of the Secretary of the Interior, to relinquish State land grant parcels within a wilderness area or the conservation area established under Title I, and in exchange select unappropriated public land in the State for conveyance to the State. In general, conveyances are to be done under applicable law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Lands to be conveyed may contain minerals. For State land grant parcels and unappropriated public land parcels, this section sets out the procedure for determining value, authority to include the conveyance of water rights, and management of existing livestock grazing.

#### **Cost**

A Congressional Budget Office cost estimate has not yet been completed for this bill.

#### **Administration Position**

The Administration supports the legislation.

#### **Anticipated Amendments**

Congressman Curtis will offer an amendment in the nature of a substitute (ANS). The ANS will:

- In place of creating a new National Conservation Area (NCA), creates a National Recreation Area (NRA).
- Add “ecological” resources to the list of purposes, and reorders purposes to make clear to BLM that conservation is a goal.
- Clarify in the definitions that BLM will manage the NRA.

- Directs BLM to create the NRA management plan consistent with the 2017 settlement agreement regarding the 2008 travel management plan.
- Extend the timeframe to create the NRA management plan to 5 years.
- Add 3 members to the San Rafael Swell Western Heritage and Historic Mining National Conservation Area Advisory Council.
  - One from the local conservation advocacy community
  - One Native American Tribal leader with expertise in cultural resources
  - One with expertise of the historical uses of the NRA
- Allows the management Council to continue to operate in an advisory role to the Secretary after the management plan is complete.
- Creates separate wilderness areas in places where the wilderness areas are bifurcated by roads (for example, what was “Desolation Canyon Wilderness” is now “Desolation Canyon Wilderness” and “Turtle Canyon”. There is no change in acreage).
- Adds language to clarify the treatment of fixed climbing anchors in wilderness.
- Allows excess land disposal funds to be used for cultural resource protection in Emery County.
- Adds standardized language creating a wilderness hiking and equestrian trail system.
- Adds standard language to study nonmotorized trail opportunities in the NRA.
- Strikes Sec. 401 Temple Mountain Cooperative Management Area.
- Removes casual collection language in the NRA and wilderness and adds language to prevent SITLA from trading into land managed for wilderness characteristics.
- Adds language to allow SITLA to select a portion of current leases with consent of the lessee.
- Adds language to allow SITLA to select into minerals but not the surface estate of land.
- Adds language to prevent SITLA from trading into Tribal land and language to ensure all existing Tribal rights (including water) are unaffected.
- Adds various technical changes from the Department of the Interior (DOI), adjusts acreages to DOI official calculations and inserts map citations.

**Effect on Current Law (Ramseyer)**