

111TH CONGRESS  
1ST SESSION

# S. 874

To establish El Río Grande Del Norte National Conservation Area in the State of New Mexico, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 23, 2009

Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To establish El Río Grande Del Norte National Conservation Area in the State of New Mexico, 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.**

4        This Act may be cited as “El Río Grande Del Norte  
5        National Conservation Area Establishment Act”.

6        **SEC. 2. DEFINITIONS.**

7        In this Act:

8                (1) CONSERVATION AREA.—The term “Con-  
9        servation Area” means El Río Grande Del Norte

1 National Conservation Area established by section  
2 3(a)(1).

3 (2) LAND GRANT COMMUNITY.—The term  
4 “land grant community” means a member of the  
5 Board of Trustees of confirmed and nonconfirmed  
6 community land grants within the Conservation  
7 Area.

8 (3) MANAGEMENT PLAN.—The term “manage-  
9 ment plan” means the management plan for the  
10 Conservation Area developed under section 3(d).

11 (4) MAP.—The term “map” means the map en-  
12 titled “El Río Grande Del Norte National Conserva-  
13 tion Area” and dated March 23, 2009.

14 (5) SECRETARY.—The term “Secretary” means  
15 the Secretary of the Interior.

16 (6) STATE.—The term “State” means the State  
17 of New Mexico.

18 **SEC. 3. ESTABLISHMENT OF NATIONAL CONSERVATION**

19 **AREA.**

20 (a) ESTABLISHMENT.—

21 (1) IN GENERAL.—There is established El Río  
22 Grande Del Norte National Conservation Area in the  
23 State.

24 (2) AREA INCLUDED.—The Conservation Area  
25 shall consist of approximately 235,980 acres of pub-

1       lic land in Taos and Rio Arriba counties in the  
2       State, as generally depicted on the map.

3       (b) PURPOSES.—The purposes of the Conservation  
4 Area are to conserve, protect, and enhance for the benefit  
5 and enjoyment of present and future generations the cul-  
6 tural, archaeological, natural, scientific, geological, histor-  
7 ical, biological, wildlife, educational, recreational, and sce-  
8 nic resources of the Conservation Area.

9       (c) MANAGEMENT.—

10           (1) IN GENERAL.—The Secretary shall manage  
11 the Conservation Area—

12                   (A) in a manner that conserves, protects,  
13 and enhances the resources of the Conservation  
14 Area; and

15                   (B) in accordance with—

16                           (i) the Federal Land Policy and Man-  
17 agement Act of 1976 (43 U.S.C. 1701 et  
18 seq.);

19                           (ii) this Act; and

20                           (iii) any other applicable laws.

21           (2) USES.—

22                   (A) IN GENERAL.—The Secretary shall  
23 allow only such uses of the Conservation Area  
24 that the Secretary determines would further the  
25 purposes described in subsection (b).

1 (B) USE OF MOTORIZED VEHICLES.—

2 (i) IN GENERAL.—Except as needed  
3 for administrative purposes or to respond  
4 to an emergency, the use of motorized ve-  
5 hicles in the Conservation Area shall be  
6 permitted only on roads designated for use  
7 by motorized vehicles in the management  
8 plan.

9 (ii) NEW ROADS.—No additional road  
10 shall be built within the Conservation Area  
11 after the date of enactment of this Act un-  
12 less the road is needed for public safety or  
13 natural resource protection.

14 (C) GRAZING.—The Secretary shall permit  
15 grazing within the Conservation Area, where es-  
16 tablished before the date of enactment of this  
17 Act—

18 (i) subject to all applicable laws (in-  
19 cluding regulations) and Executive orders;  
20 and

21 (ii) consistent with the purposes de-  
22 scribed in subsection (b).

23 (D) COLLECTION OF PIÑON NUTS AND  
24 FIREWOOD.—Nothing in this Act precludes the  
25 traditional collection of firewood and piñon nuts

1 for noncommercial personal use within the Con-  
2 servation Area—

3 (i) in accordance with any applicable  
4 laws; and

5 (ii) subject to such terms and condi-  
6 tions as the Secretary determines to be ap-  
7 propriate.

8 (E) UTILITY CORRIDOR UPGRADES.—

9 Nothing in this Act precludes the Secretary  
10 from authorizing the upgrading of an existing  
11 utility corridor (including the widening of an  
12 existing easement) through the Conservation  
13 Area—

14 (i) in accordance with any applicable  
15 laws; and

16 (ii) subject to such terms and condi-  
17 tions as the Secretary determines to be ap-  
18 propriate.

19 (F) TRIBAL CULTURAL USES.—

20 (i) ACCESS.—The Secretary shall, in  
21 consultation with Indian tribes or pueb-  
22 los—

23 (I) ensure the protection of reli-  
24 gious and cultural sites; and

1 (II) provide occasional access to  
2 the sites by members of Indian tribes  
3 or pueblos for traditional cultural and  
4 customary uses, consistent with Public  
5 Law 95–341 (commonly known as the  
6 “American Indian Religious Freedom  
7 Act”) (42 U.S.C. 1996).

8 (ii) TEMPORARY CLOSURES.—In ac-  
9 cordance with Public Law 95–341 (com-  
10 monly known as the “American Indian Re-  
11 ligious Freedom Act”) (42 U.S.C. 1996),  
12 the Secretary, on request of an Indian  
13 tribe or pueblo, may temporarily close to  
14 general public use 1 or more specific areas  
15 of the Conservation Area in order to pro-  
16 tect traditional cultural and customary  
17 uses in those areas by members of the In-  
18 dian tribe or the pueblo.

19 (d) MANAGEMENT PLAN.—

20 (1) IN GENERAL.—Not later than 3 years after  
21 the date of enactment of this Act, the Secretary  
22 shall develop a management plan for the Conserva-  
23 tion Area.

24 (2) OTHER PLANS.—To the extent consistent  
25 with this Act, the plan may incorporate in the man-

1       agement plan the Rio Grande Corridor Management  
2       Plan in effect on the date of enactment of this Act.

3           (3) CONSULTATION.—The management plan  
4       shall be developed in consultation with—

5                   (A) State and local governments;

6                   (B) tribal governmental entities;

7                   (C) land grant communities; and

8                   (D) the public.

9           (4) CONSIDERATIONS.—In preparing and imple-  
10       menting the management plan, the Secretary shall  
11       consider the recommendations of Indian tribes and  
12       pueblos on methods for—

13                   (A) ensuring access to religious and cul-  
14       tural sites;

15                   (B) enhancing the privacy and continuity  
16       of traditional cultural and religious activities in  
17       the Conservation Area; and

18                   (C) protecting traditional cultural and reli-  
19       gious sites in the Conservation Area.

20       (e) INCORPORATION OF ACQUIRED LAND AND INTER-  
21       ESTS IN LAND.—Any land that is within the boundary of  
22       the Conservation Area that is acquired by the United  
23       States shall—

24                   (1) become part of the Conservation Area; and

25                   (2) be managed in accordance with—

1 (A) this Act; and

2 (B) any other applicable laws.

3 (f) SPECIAL MANAGEMENT AREAS.—

4 (1) IN GENERAL.—The establishment of the  
5 Conservation Area shall not change the management  
6 status of any area within the boundary of the Con-  
7 servation Area that is—

8 (A) designated as a component of the Na-  
9 tional Wild and Scenic Rivers System under the  
10 Wild and Scenic Rivers Act (16 U.S.C. 1271 et  
11 seq.); or

12 (B) managed as an area of critical environ-  
13 mental concern.

14 (2) CONFLICT OF LAWS.—If there is a conflict  
15 between the laws applicable to the areas described in  
16 paragraph (1) and this Act, the more restrictive pro-  
17 vision shall control.

18 **SEC. 4. DESIGNATION OF WILDERNESS AREAS.**

19 (a) IN GENERAL.—In accordance with the Wilderness  
20 Act (16 U.S.C. 1131 et seq.), the following areas in the  
21 Conservation Area are designated as wilderness and as  
22 components of the National Wilderness Preservation Sys-  
23 tem:

24 (1) CERRO DEL YUTA WILDERNESS.—Certain  
25 land administered by the Bureau of Land Manage-

1       ment in Taos County, New Mexico, comprising ap-  
2       proximately 13,420 acres as generally depicted on  
3       the map, which shall be known as the “Cerro del  
4       Yuta Wilderness”.

5               (2) RÍO SAN ANTONIO WILDERNESS.—Certain  
6       land administered by the Bureau of Land Manage-  
7       ment in Rio Arriba County, New Mexico, comprising  
8       approximately 8,000 acres, as generally depicted on  
9       the map, which shall be known as the “Río San An-  
10      tonio Wilderness”.

11           (b) MANAGEMENT OF WILDERNESS AREAS.—Subject  
12      to valid existing rights, the wilderness areas designated  
13      by subsection (a) shall be administered in accordance with  
14      the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act,  
15      except that with respect to the wilderness areas designated  
16      by this Act—

17               (1) any reference to the effective date of the  
18      Wilderness Act shall be considered to be a reference  
19      to the date of enactment of this Act; and

20               (2) any reference in the Wilderness Act to the  
21      Secretary of Agriculture shall be considered to be a  
22      reference to the Secretary.

23           (c) INCORPORATION OF ACQUIRED LAND AND INTER-  
24      ESTS IN LAND.—Any land or interest in land within the

1 boundary of the wilderness areas designated by subsection  
2 (a) that is acquired by the United States shall—

3 (1) become part of the wilderness area in which  
4 the land is located; and

5 (2) be managed in accordance with—

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

8 (B) this Act; and

9 (C) any other applicable laws.

10 (d) GRAZING.—Grazing of livestock in the wilderness  
11 areas designated by subsection (a), where established be-  
12 fore the date of enactment of this Act, shall be adminis-  
13 tered in accordance with—

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

16 (2) the guidelines set forth in Appendix A of  
17 the Report of the Committee on Interior and Insular  
18 Affairs to accompany H.R. 2570 of the 101st Con-  
19 gress (H. Rept. 101–405).

20 (e) BUFFER ZONES.—

21 (1) IN GENERAL.—Nothing in this section cre-  
22 ates a protective perimeter or buffer zone around  
23 any wilderness area designated by subsection (a).

24 (2) ACTIVITIES OUTSIDE WILDERNESS  
25 AREAS.—The fact that an activity or use on land

1 outside any wilderness area designated by subsection  
2 (a) can be seen or heard within the wilderness area  
3 shall not preclude the activity or use outside the  
4 boundary of the wilderness area.

5 (f) RELEASE OF WILDERNESS STUDY AREAS.—Con-  
6 gress finds that, for purposes of section 603(c) of the Fed-  
7 eral Land Policy and Management Act of 1976 (43 U.S.C.  
8 1782(c)), the public land within the San Antonio Wilder-  
9 ness Study Area not designated as wilderness by this sec-  
10 tion—

11 (1) has been adequately studied for wilderness  
12 designation;

13 (2) is no longer subject to section 603(c) of the  
14 Federal Land Policy and Management Act of 1976  
15 (43 U.S.C. 1782(c)); and

16 (3) shall be managed in accordance with this  
17 Act.

18 **SEC. 5. GENERAL PROVISIONS.**

19 (a) MAPS AND LEGAL DESCRIPTIONS.—

20 (1) IN GENERAL.—As soon as practicable after  
21 the date of enactment of this Act, the Secretary  
22 shall file the map and legal descriptions of the Con-  
23 servation Area and the wilderness areas designated  
24 by section 4(a) with—

1 (A) the Committee on Energy and Natural  
2 Resources of the Senate; and

3 (B) the Committee on Natural Resources  
4 of the House of Representatives.

5 (2) FORCE OF LAW.—The map and legal de-  
6 scriptions filed under paragraph (1) shall have the  
7 same force and effect as if included in this Act, ex-  
8 cept that the Secretary may correct errors in the  
9 legal description and map.

10 (3) PUBLIC AVAILABILITY.—The map and legal  
11 descriptions filed under paragraph (1) shall be on  
12 file and available for public inspection in the appro-  
13 priate offices of the Bureau of Land Management.

14 (b) NATIONAL LANDSCAPE CONSERVATION SYS-  
15 TEM.—The Conservation Area and the wilderness areas  
16 designated by section 4(a) shall be administered as compo-  
17 nents of the National Landscape Conservation System.

18 (c) FISH AND WILDLIFE.—Nothing in this Act af-  
19 fects the jurisdiction of the State with respect to fish and  
20 wildlife located on public land in the State, except that  
21 the Secretary, after consultation with the New Mexico De-  
22 partment of Game and Fish, may designate zones where,  
23 and establishing periods when, hunting shall not be al-  
24 lowed for reasons of public safety, administration, or pub-  
25 lic use and enjoyment.

1 (d) WITHDRAWALS.—Subject to valid existing rights,  
2 any Federal land within the Conservation Area and the  
3 wilderness areas designated by section 4(a), including any  
4 land or interest in land that is acquired by the United  
5 States after the date of enactment of this Act, is with-  
6 drawn from—

7 (1) entry, appropriation, or disposal under the  
8 public land laws;

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

11 (3) operation of the mineral leasing, mineral  
12 materials, and geothermal leasing laws.

13 (e) TREATY RIGHTS.—Nothing in this Act enlarges,  
14 diminishes, or otherwise modifies any treaty rights.

15 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated such sums  
17 as are necessary to carry out this Act.

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