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SENATE

{ REPORT
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RÍO GRANDE DEL NORTE NATIONAL CONSERVATION AREA ESTABLISHMENT

JUNE 27, 2013.—Ordered to be printed

Mr. WYDEN, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 241]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 241) to establish the Río Grande del Norte National Conservation Area in the State of New Mexico, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Cerros del Norte Conservation Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term “map” means the map entitled “Río Grande del Norte National Monument Proposed Wilderness Areas” and dated May 2, 2013.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(3) WILDERNESS AREA.—The term “wilderness area” means a wilderness area designated by section 3(a).

SEC. 3. DESIGNATION OF RÍO GRANDE DEL NORTE WILDERNESS AREAS.

(a) IN GENERAL.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the Río Grande del Norte National Monument are designated as wilderness and as components of the National Wilderness Preservation System:

(1) CERRO DEL YUTA WILDERNESS.—Certain land administered by the Bureau of Land Management in Taos County, New Mexico, comprising approximately 13,420 acres as generally depicted on the map, which shall be known as the “Cerro del Yuta Wilderness”.

(2) RÍO SAN ANTONIO WILDERNESS.—Certain land administered by the Bureau of Land Management in Río Arriba County, New Mexico, comprising approxi-

- mately 8,000 acres, as generally depicted on the map, which shall be known as the "Río San Antonio Wilderness".
- (b) **MANAGEMENT OF WILDERNESS AREAS.**—Subject to valid existing rights, the wilderness areas shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that with respect to the wilderness areas designated by this Act—
- (1) any reference to the effective date of the Wilderness Act shall be considered to be a reference to the date of enactment of this Act; and
 - (2) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary.
- (c) **INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.**—Any land or interest in land within the boundary of the wilderness areas that is acquired by the United States shall—
- (1) become part of the wilderness area in which the land is located; and
 - (2) be managed in accordance with—
 - (A) the Wilderness Act (16 U.S.C. 1131 et seq.);
 - (B) this Act; and
 - (C) any other applicable laws.
- (d) **GRAZING.**—Grazing of livestock in the wilderness areas, where established before the date of enactment of this Act, shall be administered in accordance with—
- (1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and
 - (2) the guidelines set forth in appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101-405).
- (e) **BUFFER ZONES.**—
- (1) **IN GENERAL.**—Nothing in this Act creates a protective perimeter or buffer zone around the wilderness areas.
 - (2) **ACTIVITIES OUTSIDE WILDERNESS AREAS.**—The fact that an activity or use on land outside a wilderness area can be seen or heard within the wilderness area shall not preclude the activity or use outside the boundary of the wilderness area.
- (f) **RELEASE OF WILDERNESS STUDY AREAS.**—Congress finds that, for purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the public land within the San Antonio Wilderness Study Area not designated as wilderness by this section—
- (1) has been adequately studied for wilderness designation;
 - (2) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and
 - (3) shall be managed in accordance with this Act.
- (g) **MAPS AND LEGAL DESCRIPTIONS.**—
- (1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall file the map and legal descriptions of the wilderness areas with—
 - (A) the Committee on Energy and Natural Resources of the Senate; and
 - (B) the Committee on Natural Resources of the House of Representatives.
 - (2) **FORCE OF LAW.**—The map and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the legal description and map.
 - (3) **PUBLIC AVAILABILITY.**—The map and legal descriptions filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.
- (h) **NATIONAL LANDSCAPE CONSERVATION SYSTEM.**—The wilderness areas shall be administered as components of the National Landscape Conservation System.
- (i) **FISH AND WILDLIFE.**—Nothing in this Act affects the jurisdiction of the State of New Mexico with respect to fish and wildlife located on public land in the State.
- (j) **WITHDRAWALS.**—Subject to valid existing rights, any Federal land within the wilderness areas designated by subsection (a), including any land or interest in land that is acquired by the United States after the date of enactment of this Act, is withdrawn from—
- (1) entry, appropriation, or disposal under the public land laws;
 - (2) location, entry, and patent under the mining laws; and
 - (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.
- (k) **TREATY RIGHTS.**—Nothing in this Act enlarges, diminishes, or otherwise modifies any treaty rights.

2. Amend the title so as to read: "A bill to establish certain wilderness areas in the Río Grande del Norte National Monument, New Mexico, and for other purposes."

PURPOSE

The purpose of S. 241, as ordered reported, is to designate the 13,420-acre Cerro del Yuta Wilderness and 8,000-acre Río San Antonio Wilderness within the Río Grande del Norte National Monument in New Mexico.

BACKGROUND AND NEED

On March 25, 2013, President Obama established the Río Grande del Norte National Monument by Presidential proclamation. The Río Grande del Norte National Monument encompasses approximately 242,555 acres and lies north of Taos on the border with Colorado and straddles Taos and Río Arriba Counties. The area includes the Cerro de la Olla, Cerro San Antonio, and Cerro del Yuta volcanic cones. Between these mountains is the Río Grande Wild & Scenic River gorge.

As introduced, S. 241 would have designated a national conservation area including approximately the same lands covered by the national monument designation. The legislation also designated two wilderness areas within the proposed national conservation area, the 13,420-acre Cerro del Yuta Wilderness and the 8,000-acre Río San Antonio Wilderness. These areas are largely untouched by humans, have outstanding opportunities for solitude and contain important geological, biological, and scientific features—criteria outlined in the Wilderness Act of 1964—and are currently administered as a Wilderness Study Areas.

Since wilderness areas may only be designated by an Act of Congress, legislation is necessary to designate Río San Antonio Wilderness and Cerro del Yuta Wilderness within the Río Grande del Norte National Monument.

LEGISLATIVE HISTORY

S. 241 was introduced by Senators Udall of New Mexico and Heinrich on February 7, 2013. The Subcommittee on Public Lands, Forests, and Mining held a hearing on the bill on April 25, 2013. At its business meeting on May 16, 2013, the Committee ordered S. 241 favorably reported with an amendment in the nature of a substitute.

In the 112th Congress, the Committee held a hearing on S. 667 on March 29, 2011 (S. Hrg. 112–39). At its business meeting on November 10, 2011, the Committee on Energy and Natural Resources ordered S. 667 favorably reported (S. Rept. 112–113).

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on May 16, 2013, by majority vote of a quorum present, recommends that the Senate pass S. 241, if amended as described herein.

The rollcall vote on reporting the measure was 15 yeas, 7 nays as follows:

Yeas	Nays
Mr. Wyden	Ms. Murkowski
Mr. Johnson	Mr. Barrasso
Ms. Landrieu	Mr. Risch
Ms. Cantwell	Mr. Lee *
Mr. Sanders *	Mr. Flake
Ms. Stabenow	Mr. Scott
Mr. Udall *	Mr. Hoeven
Mr. Franken	
Mr. Manchin	
Mr. Coons *	
Mr. Schatz	
Mr. Heinrich	
Mr. Heller *	
Mr. Alexander	
Mr. Portman *	

* Indicates vote by proxy.

COMMITTEE AMENDMENTS

During its consideration of S. 241, the Committee adopted an amendment in the nature of a substitute. As originally introduced, S. 241 would have established the Río Grande del Norte National Conservation Area and would have designated wilderness areas within the conservation area. The Río Grande del Norte National Monument was established by Presidential Proclamation 8946 on March 25, 2013 (78 FR 18783). With the establishment of the Río Grande del Norte National Monument, the provision in S. 241 establishing the conservation area was no longer necessary. However, the substitute amendment retained the designation of the two wilderness areas with the monument, and made other technical and conforming change. The substitute amendment is described in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the “Cerros del Norte Conservation Act.”

Section 2 defines key terms used in the bill.

Section 3(a)(1) designates 13,420 acres of land managed by the Bureau of Land Management in Taos County, New Mexico, as the Cerro del Yuta wilderness and as a component of National Wilderness Preservation System.

Paragraph (2) designates 8,000 acres of land administered by the Bureau of Land Management in Río Arriba County, New Mexico, as the Río San Antonio wilderness and as component of the National Wilderness Preservation System.

Subsection (b) requires that the wilderness area be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that any reference to the effective date of the Wilderness Act shall be considered to be a reference to the date of enactment of this act and any reference to the Secretary of Agriculture shall be a reference to the Secretary of Interior (Secretary).

Subsection (c) requires that any land or interest in land acquired by the United States that is within the boundary of the wilderness area become part of the wilderness area and be managed in accordance with all applicable laws.

Subsection (d) authorizes grazing within the wilderness area where established prior to the enactment of this Act, in accordance

with section 4(d)(4) of the Wilderness Act and the guidelines set forth in appendix A of the Report of the Committee on Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101-405).

Subsection (e) clarifies that the Act does not create any buffer zones around the wilderness areas and that activities outside the wilderness boundaries shall not be precluded by the fact they can be seen or heard within the boundary.

Subsection (f) releases those public lands within the San Antonio Wilderness study area not designated as wilderness by this Act from the wilderness study provisions of Section 603(c) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

Subsection (g) requires that the Secretary file a map and legal descriptions of the wilderness areas with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives and that the map and legal descriptions be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

Subsection (h) directs the Secretary to manage the wilderness areas as components of the National Landscape Conservation System.

Subsection (j) removes any land within the areas designated by this Act, except where subject to valid existing rights, from entry, appropriation, or disposal under the public lands laws, location, entry, and patent under the mining laws, and operation of the mineral leasing, mineral materials, and geothermal leasing laws.

Subsection (k) states that nothing in this Act enlarges, diminishes, or otherwise modifies any treaty rights.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 241—Cerros del Norte Conservation Act

S. 241 would designate two parcels of land within the Río Grande del Norte National Monument as wilderness areas. Based on information provided by the Bureau of Land Management (BLM), CBO estimates that implementing the legislation would have no significant impact on the federal budget. Enacting S. 241 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Under S. 241, about 21,000 acres of federal land would be designated as part of the National Wilderness Preservation System. BLM, which manages the affected acreage, would be required to create new maps for the area. In addition, under the bill, the affected lands would not be available for developing natural resources but would still be available for grazing under existing agreements.

Because the affected lands are already protected for conservation and wilderness values, CBO estimates that implementing the bill would have no significant effect on the cost of administering the area. We also expect that any costs to modify existing maps and other materials would be minimal. Finally, because the affected lands currently produce no income (and are not expected to do so

in the future), we estimate that enacting the bill would not affect offsetting receipts.

S. 241 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 241.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 241, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 241, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Land Management at the April 25, 2013, Subcommittee on Public Lands and Forests hearing on S. 241 follows:

STATEMENT OF JAMIE CONNELL, ACTING DEPUTY DIRECTOR,
BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on S. 241, the Río Grande del Norte National Conservation Area Establishment Act. On March 25, 2013, President Obama designated the Río Grande del Norte National Monument on 242,000 acres of land administered by the Bureau of Land Management (BLM) in northern New Mexico. This designation closely mirrors the National Conservation Area (NCA) designation in S. 241. However, section 4 of S. 241 also includes the designation of two wilderness areas within the new Río Grande del Norte National Monument—the proposed 13,320-acre Cerro del Yuta Wilderness and 8,000-acre Río San Antonio Wilderness. The Department supports the designation of these two new wilderness areas.

Background

The Río Grande del Norte National Monument lies north of Taos on the border with Colorado and straddles New Mexico's Taos and Río Arriba Counties. Rising in stark contrast from the monument's broad expanse, the Cerro de la Olla, Cerro San Antonio, and Cerro del Yuta volcanic

cones provide visible reminders of the area's volatile past. Between these mountains, the dramatic gorge of the Río Grande Wild & Scenic River is carved into the landscape, revealing the dark basalt beneath the surface of the Taos plateau.

The proposed Cerro del Yuta Wilderness has at its centerpiece a symmetrical volcanic dome soaring to over 10,000 feet in altitude. Covered by ponderosa, Douglas fir, aspen, and spruce on the north side, and pinyon and juniper on the south side, the mountain provides important habitat for wildlife, including the herds of elk that draw hunters to the area. The volcanic dome provides an outstanding opportunity for peak climbing and the forested slopes create a strong sense of solitude.

The proposed Río San Antonio Wilderness consists of a flat plain bisected by the Río San Antonio. This grassland plain is dotted with occasional juniper, while the river sits two-hundred feet below the surface of the plateau at the bottom of a rugged gorge, the depths of which provide a microclimate for riparian vegetation, Douglas fir, and spruce. Visitors can find outstanding opportunities for solitude as they explore the gorge, which abruptly drops out of sight from the rest of the area. Protecting these characteristics will help to ensure that tourists will continue to visit the area, bringing economic benefits to the local community.

S. 241, Section 4

S. 241 (section 4) designates two wilderness areas on BLM-managed lands within the new national monument—the proposed 13,420-acre Cerro del Yuta Wilderness and 8,000-acre Río San Antonio Wilderness. Both of these areas meet the definition of wilderness outlined in the Wilderness Act of 1964: they are largely untouched by humans, have outstanding opportunities for solitude and primitive and unconfined recreation, are over 5,000 acres in size, and contain important geological, biological, and scientific features. We support the designation of these areas as wilderness. The BLM would be happy to work with the Sponsor and the Committee to create a new map for the legislation reflecting both the existing national monument and the two proposed wilderness areas.

Conclusion

President Obama's designation of the Río Grande del Norte National Monument was a tribute to both the area's extraordinary value and the steadfast support for protecting this magnificent place. The Department supports S. 241 in its designation of some of the new national monument's wildest lands as wilderness.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 241, as ordered reported.

